

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(5 Dutton Avenue)		
1 st Election District	*	OFFICE OF ADMINISTRATIVE
1 st Council District		
Marc A. & Abigail C. Randell	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2018-0170-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Marc A. and Abigail C. Randell (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit a replacement of a garage in the rear yard of an existing single family dwelling with a height of 23 ft. in lieu of the required 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment, dated January 10, 2018, was received from the Development Plans Review (“DPR”) section indicating the following:

“Show and label the existing 10-foot Drainage & Utility Easement along the rear property line. To avoid encroachment into the existing easement revised proposed garage dimensions accordingly.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 28, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Although the Department of Planning did not make any recommendations related to the proposed replacement garage's height and usage, I will impose conditions that the garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, or used for commercial purposes.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 19th day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("BCZR"), to permit a replacement of a garage in the rear yard of an existing single family dwelling with a height of 23 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners or subsequent owners shall not convert the replacement garage into a dwelling unit or apartment. The replacement garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The replacement garage shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment received from DPR, dated January 10, 2018; a copy of which is attached hereto and made a part hereof.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw