

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(12428 Harford Road)</b>		
11 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Paul A. Moskunas	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0060-A</b>

\* \* \* \* \*

**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 owner of the property, Paul A. Moskunas (“Petitioner”). The Petitioner is requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed replacement detached accessory structure (garage) with a height of 35 ft. in lieu of the maximum allowed 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. There were no adverse ZAC comments submitted by any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 1, 2018, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (“BCC”). 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 BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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 BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this **18<sup>th</sup>** day of **September, 2018**, 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 proposed replacement detached accessory structure (garage) with a height of 35 ft. in lieu of the maximum allowed 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. Petitioner 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.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw