

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(16600 Old York Road)</b>		
10 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
James M. & Rachel R. Earlbeck	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0414-A</b>

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**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 subject property, James M. and Rachel R. Earlbeck (“Petitioners”). The Petitioners are requesting Variance relief pursuant to Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit an accessory structure (detached garage) with a height of 25 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 was received from the Department of Environmental Protection and Sustainability (“DEPS”) dated August 7, 2019, indicating the following:

“Ground Water Management must review any proposed building permit for a garage, since the property is served by well and septic, and since a bathroom is being proposed to go within the accessory structure.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 9, 2019, 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 Section 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 Section 307.1 of the BCZR. Furthermore, strict compliance with the BCZR 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 detached 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.

The petition in this case, as was proper, sought relief from the height restrictions set forth in B.C.Z.R. § 400.3. That is the extent of the relief permitted in a variance case. The decision to permit (or not) bathroom facilities must be made by the County’s zoning, public works and (in the case of a property served by well and septic) environmental departments.

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 **10<sup>th</sup>** day of **September, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit an accessory structure (detached garage) with a height of 25 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must comply with the DEPS ZAC comment dated August 7, 2019; a copy of which is attached hereto and made a part hereof.
- Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities. Should the aforementioned agencies permit a bathroom and wet bar in this structure, that aspect of Condition No. 3 shall be considered stricken.
- The proposed 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  
LAWRENCE M. STAHL  
Administrative Law Judge for  
Baltimore County

LMS:dlw