

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(873 Ivy Hill Road)</b>		
8 <sup>th</sup> Election District	*	OFFICE OF
2 <sup>nd</sup> Council District		
George S. Nyquist, Jr.	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioner</b>		
	*	<b>Case No. 2019-0434-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Hearing filed on behalf of George S. Nyquist, Jr., legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.6 of the Baltimore County Zoning Regulations (“BCZR”) for a waiver pursuant to Part 125.2 Building Code, and Sections 32-4-414, 32-4-107(a)(2) and 32-8-301 of the BCC to permit a replacement attached garage in a riverine flood plain. A site plan and an amended site plan were marked and admitted as Petitioner’s Exhibit 1, and 1A, respectively.

The Petitioner, George S. Nyquist, and Rick Richardson from Richardson Engineering, LLC appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Public Works (“DPW”).

**SPECIAL HEARING**

Mr. Richardson explained that Petitioner’s Exhibit 1A is the accurate depiction of the site and shows that the proposed garage will be located in the footprint of the previously existing

attached garage. Exhibit 2 is an aerial photograph from 2014 that shows the attached garage before it was removed. The owner, Mr. Nyquist, purchased the property in 2017 and at that time the garage had been removed. Nyquist testified that he had spoken with the previous two owners of the property and had been assured that neither the house nor the garage had ever experienced any flooding. He explained that he wants to rebuild the garage in order to enhance the livability of the house. Both witnesses acknowledged that if the requested waiver is granted that they will still have to comply with all applicable Code and Building Code restrictions, including those in BCC Sec. 32-8-207, as well as with all the ZAC Comments.

Based on the record evidence I find that the requested riverine floodplain waiver can be granted under BCC Sec. 32-4-107(a) because the size, scope and nature of the proposed reconstruction of the attached garage does not justify strict compliance with the BCZR. Further, as noted above, per the ZAC comments, the reconstruction of the garage will be in strict compliance with all other County laws and regulations. Finally, I find that this waiver can be granted within the spirit and intent of the BCZR and without harming the public health, safety and general welfare.

THEREFORE, IT IS ORDERED this **20th** day of **November, 2019** by this Administrative Law Judge, that the Petition for Special Hearing for a waiver pursuant to Section 500.6, Part 125.2 Building Code, and Section 32-4-107(a) of the BCC to permit a replacement attached garage in a riverine flood plain 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 its 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.

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

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Signed  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM:sln