IN RE: PETITION FOR ADMIN. VARIANCE   *   BEFORE THE
    (20 Wyndcrest Avenue)

    1st Election District   *   OFFICE OF ADMINISTRATIVE

    1st Council District

    Matthew D. Czapanskiy   *   HEARINGS FOR

    Petitioner

                                  *   BALTIMORE COUNTY

                                  *   **CASE NO. 2019-0442-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 owner of the subject property, Matthew D. Czapanskiy ("Petitioner"). The Petitioner is requesting Variance relief pursuant to Section 400.3 of the Baltimore County Zoning Regulations ("BCZR"), to permit a proposed detached accessory structure (garage) to have a height of 22 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 received from any of the County reviewing agencies. However, it is to be noted that correspondence was received from adjacent neighbors residing at 17 and 18 Wyndcrest Avenue, who have indicated their support of Petitioner's zoning request.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 8, 2019, 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 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 Petitioner.

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.

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 **4th** day of **October, 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 a proposed detached accessory structure (garage) to have a height of 22 ft. in lieu of the maximum allowed 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

- Petitioner or subsequent owners shall not convert the garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

- 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.

_____Signed_____
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw