

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(5625 Ashbourne Road)		
13 th Election District	*	OFFICE OF ADMINISTRATIVE
1st Council District		
Christian Clifton	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2020-0173-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, Christian Clifton (“Petitioner”). The Petitioner is requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BZCR”) § 1B02.3.1 to permit a garage addition with a side setback of 2.5 ft. in lieu of the required 10 ft. rear setback. 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 dated July 31, 2020, submitted by the Department of Environmental Protection and Sustainability (“DEPS”) were received and are made part of the record of this case. According to DEPS, there is a stream which runs along the northern boundary of the property. The site is therefore subject to Baltimore County Code §§ 33-3-101 through 33-3-120, which govern the Protection of Water Quality, Streams, Wetlands and Floodplains. As such, DEPS notes that a variance from these regulations may be required in order to build the proposed garage structure. Further, on August 20, 2020 the Office of Administrative Hearings received an email from the Office of People’s Counsel forwarding an email People’s Counsel had received from Terry Curtis, Jr., an Engineer in the Department of

Public Works (“DPW”). In his email, dated August 13, 2020, Mr. Curtis advises that the proposed garage structure location “is within the riverine flood plain. A flood study is required to establish the flood plain delineation and the site must adhere to the Baltimore County DPR Policy Manual, the Building Code and the Design Manual.”

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on August 2, 2020, 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”). However, based upon the information available, I cannot grant the requested Variance without potentially causing an adverse impact on the health, safety or general welfare of the public. As noted by DPW, the garage as proposed appears to be located within a flood plain, and under the Baltimore County Code and Baltimore County Building Code, no buildings are permitted within a riverine flood plain.

Pursuant to Baltimore County Code §32-303(c):

THEREFORE, IT IS ORDERED, this **24th** day of **August, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Administrative Variance seeking relief from BZCR § 1B02.3.1 to permit a garage addition with a side setback of 2.5 ft. in lieu of the required 10 ft. rear setback, be and is hereby DENIED WITHOUT PREJUDICE; and it is further

ORDERED, that a public hearing on the Petition be scheduled pursuant to B.C.C. §32-303(c)(2).

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

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

PMM:dlm