

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(16304 Falls Road)		
5 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Brandon & Deon Harvey	*	HEARINGS FOR
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0132-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 owners of the property, Brandon and Deon Harvey (“Petitioners”). The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to permit an accessory structure in the side yard of the principal structure in lieu of the required rear yard, and from § 400.3 to permit an accessory structure 28 ft. in height in lieu of the allowed maximum feet of 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 June 2, 2021, indicating that the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains and the Forest Conservation Regulations. In addition, it is to be noted that two (2) letters of support were contained in the case file from neighbors at 16302 and 16306 Falls Road, who indicated they had no objections to the Petitioners’ zoning request.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 9, 2021, 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 § 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 Petitioners.

Although the Department of Planning did not make any recommendations related to the detached garage height and usage, I will impose conditions that the detached 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 7th day of **June, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1 to permit an accessory structure in the side yard of the principal structure in lieu of the required rear yard, and from § 400.3 to permit an accessory structure 28 ft. in height in lieu of the allowed maximum feet of 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
- Petitioners or subsequent owners shall not convert the detached garage into a dwelling unit or apartment. The detached garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The detached garage shall not be used for commercial purposes.
- Petitioners must comply with the DEPS ZAC comment, a copy of which are attached hereto and make a part thereof.

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:dlw