

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(17825 Marshall Mill Road)		
5 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Brian M. & Susan L. Harris	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2020-0264-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 subject property, Brian M. and Susan L. Harris (“Petitioners”). The Petitioners are requesting Variance relief pursuant to Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit an accessory use (detached garage/pole barn) in the rear yard with a proposed height of 23 ft. in lieu of the required 15 ft. maximum height. 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. The property is subject to Critical Area requirements as noted in the ZAC comment dated November 5, 2020 submitted by the Department of Environmental Protection and Sustainability (“DEPS”).

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 7, 2020, 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 accessory structure (detached garage/pole barn) height and usage, I will impose conditions that the detached garage/pole barn 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 25th day of **November, 2020**, 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 use (detached garage/pole barn) in the rear yard with a proposed height of 23 ft. in lieu of the required 15 ft. maximum height, 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 or subsequent owners shall not convert the detached garage/pole barn into a dwelling unit or apartment. The proposed detached garage/pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The proposed detached garage/pole barn shall not be used for commercial purposes.
- Petitioners shall comply with the DEPS ZAC comment, dated November 5, 2020; a copy of which is attached hereto and made a part hereof.

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

Signed
PAUL M. MAYHEW
Administrative Law Judge for
Baltimore County

PMM:dlw