

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(2209 Sparrow Point Road)</b>		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Eric Taylor	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner	*	<b>CASE NO. 2020-0088-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Eric Taylor for property located at 2209 Sparrow Point Road. The Petitioner is requesting variance relief from § 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to approve an accessory structure (garage) of 17 ft. in lieu of the required 15 ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) which indicates that the subject property is located with the Chesapeake Bay Critical Area (“CBCA”). A ZAC comment was also received from the Department of Planning (“DOP”) which did not oppose the requested relief.

Eric Taylor appeared. Bruce Doak, the licensed land surveyor who prepared the site plan appeared on his behalf. There were no protestants in attendance. However, there were letters in support of the variance relief from the adjoining neighbors. (Petitioner’s Exhibit 4). Mr. Taylor

testified that he purchased the property in 2019 for his elderly father to line in. He has done extensive refurbishing of the residence. He explained that his elderly father wanted a garage for storage and that his father purchased this pre-fab structure in Pennsylvania, and that it was trucked down in two pieces and constructed on site in a few hours. Mr. Taylor testified that he was unaware that any County permits were required under these circumstances. As the photos in Petitioner's Exhibit 3 depict, this is an aesthetically attractive structure that is compatible in style and scale with the residence and the surrounding properties. The structure meets all required setbacks.

Mr. Doak explained that the neighborhood is a mix of commercial, light manufacturing and residential uses. The subject property is approximately .46 acres and is zoned RO. The "Knights of the Road" motorcycle club is on one side of the subject property and a well maintained residence is on the other. A propeller manufacturer and a boat trailer manufacturer are across the street. As noted by DEPS, the site is within the Chesapeake Bay Critical Area ("CBCA") and within the Limited Development Area ("LDA"). It is therefore subject to various County and State environmental regulations, including restrictions on lot coverage, and reforestation requirements. The garage structure and residence are the only two structures on the site, and combined with the impervious paving they are still well under the applicable lot coverage restrictions.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

As described above, the site is unique for a variety of reasons. The Petitioner will suffer practical difficulty and hardship if the variance relief is denied because he has already constructed

the subject garage. I find that the two foot height variance can be granted within the spirit and intent of the BCZR and without causing harm to the general health, safety, and welfare. I note that the relief is supported by all the surrounding residential neighbors and is not opposed by any County agencies. Finally, the reforestation requirements referenced in the DEPS comments are addressed in the conditions of this Order below.

THEREFORE, IT IS ORDERED, this **23rd** day of **September 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to permit the height of an accessory structure (garage) of 17 ft. in lieu of the required 15 ft. per BCZR § 400.3 and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 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, Petitioner would be required to return the subject property to its original condition.
- Petitioner must comply with the reforestation requirements set forth in the ZAC comments, which are attached hereto and expressly incorporated. Specifically, Petitioner shall within 30 days submit to DEPS for approval a plan showing a minimum of six (6) trees planted at the site.

Any appeal of this decision must be made 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/dlm