

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1306 Monkton Road)		
7 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Stephen J. McNamara &	*	HEARINGS FOR
Pamela A. Villeneuve		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2021-0193-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Motion for Reconsideration filed by Maureen Kelly, Ratcliffe Architects, on behalf of the Petitioners, Stephen J. McNamara and Pamela A. Villeneuve. The Petitioners originally filed an Administrative Variance for property located at 1306 Monkton Road. The relief requested was from BCZR § 400.1, to allow an accessory building (garage) in the side yard rather than the rear yard, and from BCZR § 400.3 to allow an accessory building (garage) at a total height of 18 ft. in lieu of the required maximum height of 15 ft. By Opinion and Order dated July 28, 2021, the undersigned granted the Administrative Variance request as to the height variance, but due to oversight did not grant the side yard variance. In addition, the Order contained certain conditions, including that “the proposed detached garage shall not contain any sleeping quarters, living area, and kitchen *or bathroom facilities.*” (emphasis added).

On August 12, 2021, Ms. Kelly filed a timely Motion for Reconsideration of the July 28, 2021 Order. In the Motion, the Petitioners pointed out that the side yard variance had been specifically requested in their variance petition and they further note that a full bathroom is depicted on the architectural plans that accompanied the petition. Finally, they note that their petition explained that the bathroom facilities will enable them to more easily and properly care for their special needs child when the child is using the second floor recreational space.

I find that the Motion for Reconsideration is well founded and that the relief requested was properly requested in the original variance petition, but was not included in the original Order due to an oversight. The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (“BCC”). I further find that the site plan, architectural drawings, photographs, and affidavits submitted provide sufficient grounds to satisfy the requirements of BCZR § 307.1. Furthermore, strict compliance with the BCZR would cause practical difficulty and/or unreasonable hardship for the Petitioners. 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 24th day of **August, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to allow an accessory building (garage) in a side yard, and from BCZR § 400.3 to approve an accessory building (garage) at a total height of 18 ft. in lieu of the required maximum height of 15 ft., 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 into a dwelling unit or apartment. The proposed detached garage shall not contain any sleeping quarters, or kitchen facilities. A full bathroom is permitted in accordance with the submitted plans.
- The proposed detached garage shall not be used for commercial purposes.
- Petitioners must comply with the DEPS ZAC comments, dated July 15, 2021, 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.

PMM:dlw

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