

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
SE side of Briar Point Road, 225 feet NE		
from Briar Point Road	*	DEPUTY ZONING
15 th Election District		
6 th Councilmanic District	*	COMMISSIONER
(4021 Briar Point Road)		
	*	FOR BALTIMORE COUNTY
Kimberly Jane Dugan		
<i>Petitioner</i>	*	Case No. 2009-0075-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Kimberly Jane Dugan for property located at 4021 Briar Point Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an existing accessory structure (garage) in the front and side yard in lieu of the required rear yard, and a height of 20 feet in lieu if the required 15 feet for a new accessory structure. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct a detached garage measuring 24 feet x 36 feet x 20 feet on the street side of the dwelling. The side yard contains a swimming pool and the year yard contains an existing shed. The rear yard is 140 feet from the dwelling to the Chesapeake Bay. The additional garage height is necessary for storage of the family’s belongings. Photographs submitted by the Petitioner demonstrate that there are many similar detached garages in the front/side yards of dwellings in the neighborhood. These garages also appear to be higher than 15 feet.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated October 17, 2008, which indicates that the property must comply

with the Chesapeake Bay Critical Area Regulations. The property is within the Limited Development Area and a Buffer Management Area (BMA). Lot coverage is limited to 5,445 square feet and the 15% afforestation must be met. In addition, any proposed development in the 100 foot buffer must meet all BMA provisions. Comments were received from the Bureau of Development Plans Review dated September 24, 2008. The comments indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 28, 2008 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 Section 32-3-303 of the Baltimore County Code. 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 Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 27th day of October, 2008 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an existing accessory structure (garage) in the front and side yard in lieu of the required rear yard, and a height of 20 feet in lieu if the required 15 feet for a new accessory structure is hereby GRANTED, subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.
4. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
5. The property is within the Limited Development Area and a Buffer Management Area (BMA). Lot coverage is limited to 5,445 square feet and the 15% afforestation must be met. In addition, any proposed development in the 100 foot buffer must meet all BMA provisions.
6. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
7. The flood protection elevation for this site is 11.2 feet.
8. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
9. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby

10. The building engineer shall require a permit for this project.
11. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
12. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz