

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Foreston Road, 65 feet E of the	*	DEPUTY ZONING
extension of Tracys Store Road	*	COMMISSIONER
5 th Election District	*	FOR BALTIMORE COUNTY
3 rd Councilmanic District	*	
(17736 Foreston Road)	*	Case No. 2009-0189-A
Wheelock Winspear and Karen Warmkessel		
<i>Petitioners</i>		

* * * * *

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 owners of the subject property, Wheelock Winspear and Karen Warmkessel for property located at 17736 Foreston Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a pole barn with a height of 18.6 feet in lieu of the permitted 15 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners have 6.7 acres, however there is only one location on the property with proper access and drainage to build the pole barn. The backyard has a slope and a portion of the property is wooded. The barn is to be built on a level area behind the house and shielded from view from the next door neighbor's house by a row of trees. They propose to build a pole barn measuring 40 feet x 39 feet with 14 feet sliding doors with an open shed on the side to store two tractors, tools and other gardening equipment that they use to grow sweet corn and other produce each summer. The barn will also store a recreational vehicle. Petitioners have tried to minimize the small increase in height by placing the slider doors on the gable end of the building to allow for the lowest possible trusses with a 4/12 pitch. The 18 feet height is a crucial part of the design of both the barn and the shed. It allows Petitioners to use 14 foot doors which will provide enough clearance for an A Class RV and to build the open shed.

Without the additional height, Petitioners could not build the shed because the roof would be too low. Petitioners advise that the pole barn will be aesthetically pleasing with light gray walls, dark green roof and a cupola. The building will look like a barn, not a garage, and would blend in well with the property and surrounding houses. Petitioners moved from Baltimore City to Foreston Ridge with its 5 to 7 acre lots because they wanted to live in a farming-oriented community. Petitioners believe the barn will enhance the value of their property and give them much-needed storage space for equipment. The barn is well designed and will fit in well with Foreston Ridge and the rural nature of the community.

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning March 12, 2009 which recommends 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 Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on January 25, 2009 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. 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 Petitioners.

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 12th day of March, 2009 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a pole barn with a height of 18.6 feet in lieu of the permitted 15 feet is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners 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.

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