

RE: PETITION FOR ADMIN. VARIANCE
NE side of Dark Head Road, 66 feet SE
of the c/l of Coralthorn Road
15th Election District
6th Councilmanic District
(345 Dark Head Road)

Joyce H. and James T. Sears
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0271-A**

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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, Joyce H. and James T. Sears for property located at 345 Dark Head Road. The variance request is from Sections 400.1 and 400.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory building (garage) to occupy 53.5% of the rear yard, side yards setbacks of 1 foot and 1 foot, and a 10 foot setback from the center of an alley in lieu of the required 40%, 2.5 feet and 15 feet, respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners wish to construct a detached garage measuring 14 feet x 22 feet. The proposed garage will protect a vehicle and provide storage which will be lost by the removal of an existing shed. Adhering to the 2.5 foot side yard setbacks and coverage will severely restrict the width of the garage and the storage space within.

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 May 29, 2009 which indicates the property must comply with the Chesapeake Bay Critical Area Regulations. The property is within an Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The 10% pollutant reduction requirement

applies in the IDA. In addition, the proposed garage location is within the 100 foot tidal buffer. A Critical Area Variance (CAV) has been applied for. The garage cannot be located in the buffer without the approval of the CAV. Comments were received from the Bureau of Development Plans Review dated April 24, 2009. 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.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 19, 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 2nd day of June, 2009 that a variance from Sections 400.1 and 400.2 of the Baltimore County

Zoning Regulations (B.C.Z.R.) to permit an accessory building (garage) to occupy 53.5% of the rear yard, side yards setbacks of 1 foot and 1 foot, and a 10 foot setback from the center of an alley in lieu of the required 40%, 2.5 feet and 15 feet, respectively 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. 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).
3. The property is within an Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The 10% pollutant reduction requirement applies in the IDA. In addition, the proposed garage location is within the 100 foot tidal buffer. A Critical Area Variance (CAV) has been applied for. The garage cannot be located in the buffer without the approval of the CAV.
4. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
5. The flood protection elevation for this site is 11.2 feet.
6. 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.
7. 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 elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. 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