

IN RE: PETITION FOR ADMIN. VARIANCE
E and W side of Armstrong Road; 50 feet W
of the c/l of Park Road
15th Election District
6th Councilmanic District
(407 Armstrong Road)

Michael E.L. and Sheila L. Herrman
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0080-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 waterfront property, Michael E.L. and Sheila L. Herrman for property located at 407 Armstrong Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (storage shed) to have a height of 23 ½ feet in lieu of the maximum allowed 15 feet.¹ The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners wish to construct a garage measuring 30 feet x 30 feet. As the property fronts on Armstrong Creek, the existing dwelling does not have a basement and additional storage space is needed. The second floor of the garage will have adequate storage space for the family. An elevation drawing submitted with the Petition shows an attractive three car garage with dormer windows.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated September 18, 2009, which recommends that the accessory structure not be converted into a dwelling unit or

¹ The Petition for Administrative Variance describes the accessory structure as a "storage shed"; however the site plan and elevation drawing submitted with the Petition, as well as the Office of Planning comment, clearly reveals that the subject accessory structure will be a garage with storage on the second floor.

apartment, not contain any sleeping quarters, living area or kitchen facilities, and not be used for commercial purposes. Comments were received from the Department of Environmental Protection and Resource Management dated October 13, 2009 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. The property is within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 5,053 square feet and development on site is already very close to this limit. Fifteen percent (15%) afforestation must be addressed on site.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 13, 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 19th day of October 2009 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (garage) to have a

height of 23 ½ feet in lieu of the maximum allowed 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 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 a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 5,053 square feet and development on site is already very close to this limit.
6. Fifteen percent (15%) afforestation must be addressed on site.
7. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
8. The flood protection elevation for this site is 10.4 feet.
9. 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.
10. 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.
11. The building engineer shall require a permit for this project.
12. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
13. 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