

IN RE: PETITION FOR ADMIN. VARIANCE
NE side of Sliver Spring Road; 250 feet NW
of Honeygo Blvd.
11th Election District
5th Councilmanic District
(4812 Silver Spring Road)

Michael E. and Barbara C. Wagner
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0093-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, Michael E. and Barbara C. Wagner for property located at 4812 Silver Spring Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory building (detached garage) with a height of 20 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a garage with additional height for storage of the family's belongings. Petitioners have been involved in karate for over 25 years and the additional garage height is necessary for their family workout space. Photographs submitted with the Petition clearly show the dense vegetation surrounding the proposed location of the garage. The subject property contains 0.9740 acre zoned DR 3.5.

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 24, 2009, which recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area or kitchen 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 September 27, 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 20th 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 accessory building (detached garage) with a height of 20 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 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 or kitchen 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