

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Huntersworth Court, 96 feet E		
of Huntersworth Lane	*	DEPUTY ZONING
4 th Election District		
2 nd Councilmanic District	*	COMMISSIONER
(5 Huntersworth Court)		
	*	FOR BALTIMORE COUNTY
Arthur H. Adler		
<i>Petitioner</i>	*	Case No. 2010-0356-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, Arthur H. Adler for property located at 5 Huntersworth Court. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure in a side yard in lieu of a rear yard and with a height of 25 feet in lieu of the permitted 15 feet. The subject property and requested relief are more particularly described on the site plan marked as Petitioner’s Exhibit No. 1. According to the Petitioner’s affidavit in support of the variance, the grade of the rear yard in addition to the Maryland Environmental Trust easement do not permit a garage to be located in the rear yard. As depicted on the site plan, the rear yard is also encumbered with retaining walls, as well as other accessory uses including a basketball court, shuffleboard court, walkways, in-ground swimming pool and pool house, and playhouse and play area. In addition, Petitioner indicates that the pitch of the proposed garage roof is designed to architecturally match that of the existing dwelling, which explains the request for a height in excess of 15 feet. Finally, the property contains 4.80 acres and is served by private water and sewer.

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 July 7, 2010 which states that the property is a lot in the approved subdivision of Huntington Section 3, vested prior to the effective date of Bill 55-04, R.C.5 performance standards. That Office does not oppose the Petitioner's requested variance as the structure is for the most part to the rear of the closest neighbor's existing deck. The proposed garage is not visible from the street as there is a berm and vegetation along the road frontage. The Planning Office 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. Comments were received from the Department of Environmental Protection and Resource Management (DEPRM) dated July 14, 2010 which indicates that development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. Compliance with the covenants restricting the existing Forest Buffer Easement will be checked by EIR as part of the permit review. The proposed building permit application must also be reviewed by Groundwater Management.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on June 27, 2010 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 19th day of July, 2010 that a variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure in a side yard in lieu of a rear yard and with a height of 25 feet in lieu of the permitted 15 feet is hereby GRANTED, subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 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.
4. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
5. Compliance with the covenants restricting the existing Forest Buffer Easement will be checked by the Environmental Impact Review (EIR) Division of DEPRM.
6. The proposed building permit application must be reviewed by the Groundwater Management Division of DEPRM.

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