

IN RE: PETITION FOR ADMIN. VARIANCE
SW side of Seneca Park Road; SW corner.
of Seneca Park Road and Beach Road
15th Election District
6th Councilmanic District
(874 Seneca Park Road)

John J. and Donna M. Carbone
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0085-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 owners of the subject property, John J. and Donna M. Carbone for property located at 874 Seneca Park Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a second story addition to an existing accessory building with a height of 18 feet 9 inches 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 12 feet x 25 feet second story addition onto the existing garage to provide much needed storage.

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 (DEPRM) dated October 25, 2010. DEPRM has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. This lot is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). Relief to the maximum height for a roof replacement will not affect the Critical Area requirements and therefore will have no adverse impacts on water quality that result from development activities.

2. The proposed development must comply with all LDA and BMA requirements. Replacing an existing roof will not have any impacts on fish, wildlife, and plant habitat.
3. Replacing an existing roof is consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 26, 2010 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.

The case file contains a memorandum from Aaron Tsui, Planner II, in the Zoning Review Office dated August 26, 2010 which states that Timothy Kotroco, Director of Permits and Development Management, issued a provisional zoning permit for the Petitioners to proceed with the desired work at their own risk.

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions 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.

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 4th day of November, 2010 that an Administrative Variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a second story addition to an existing accessory building with a height of 18 feet 9 inches 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