

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Park Heights Avenue; 2600 feet
N of the c/l of Greenspring Valley Road
3rd Election District
2nd Councilmanic District
(10705 Park Heights Avenue)

Mark Wilson
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0129-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 owner of the subject property, Mark Wilson for property located at 10705 Park Heights Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow an accessory structure (garage) in the side yard rather than rear yard. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct an addition to the existing garage. The property is encumbered by private well and septic systems and the forest conservation easement. The property contains 7.0017 acres.

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 October 18, 2010 which states that the County’s GIS system has a different lot configuration than what has been shown on the plat accompanying the administrative variance. Cadastral layer shows the garage on the adjacent lot known as 10715 Park Heights Avenue. Even if the cadastral layer is incorrect, the Petitioner’s site plan shows a portion of the existing garage as well as the addition on off-site property owned by Cody Property LLC. A note has been placed on the plan access and construction easement to benefit Lot 1 to be recorded. The Planning Office would prefer to have a

lot line adjustment to include the area shown as access and construction easement as part of Lot 1. The Office is not aware of the ability of the County to approve an easement for the construction of a new structure/addition. If granted, architectural elevation drawings should be submitted for review and approval prior to applying for any building permit.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 17, 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.

Although the Office of Planning did not make any recommendations related to the garage 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.

The Undersigned spoke with the Petitioner's attorney, Michael R. McCann, Esquire, who states that the property at 10715 Park Heights Avenue, which is owned by Cody Property LLC, an entity in which the Petitioners are the sole members. The mailing address for this property according to the Maryland SDAT is the Petitioner's address of 10705 Park Heights Avenue. Mr. McCann will supply documentation to this effect to be placed in the case file.

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 8th day of November, 2010 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow an accessory structure (garage) in the side yard rather than rear yard 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 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. Architectural elevation drawings shall be submitted to the Office of Planning for review and approval prior to applying for any building permit.
5. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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