

IN RE: PETITION FOR ADMIN. VARIANCE

SW side of Allender Road, 25 feet SW
of Station Road
11th Election District
5th Councilmanic District
(5701 Allender Road)

James Djunia Osborne
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0192-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, James Djunia Osborne for property located at 5701 Allender Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building (garage) with a height of 17 feet in lieu of the maximum permitted 15 feet. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. The garage measures 40 feet x 30 feet in size. The additional garage height will allow the Petitioner to store his 4x4 pick up truck. Also, the roof pitch should help to prevent snow build up during a snowstorm. The file contains four letters of support from the Petitioner’s neighbors. The property contains 0.869 acre or 37,848 square feet zoned D.R. 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 January 4, 2011, which recommends 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 Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on December 26, 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 13th day of January, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building (garage) with a height of 17 feet in lieu of the maximum 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 Petitioner or subsequent owner 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_____
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:pz