

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Circle Road, 1405 feet west of
Ruxton Road
9th Election District
2nd Councilmanic District
(1725 Circle Road)

Gregory S. and Lauren B. Hurlbrink
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0216-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Gregory S. and Lauren B. Hurlbrink for property located at 1725 Circle Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a replacement accessory building (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 the site plan submitted with the Petition. The proposed garage will be in the same location as the existing structure with dimensions of 27 feet wide x 33 feet long to accommodate a car, tractor and general storage. The existing structure is beyond repair and a tree has fallen on the roof. Photographs submitted with the Petition depict an existing accessory structure that is an advanced state of disrepair. The property contains 2.49 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 February 8, 2011, 2011, which indicate that the property is within the Ruxton Riderwood Lake Roland residential design review area. Minor improvements are not subject to review by the Design Review Panel, but are reviewed by the Office of Planning. The Petitioners indicated the garage will be constructed of board and batten siding with shingles to match the dwelling. The Planning Office

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. That Office also requires that architectural elevations be submitted for review and approval prior to the issuance of any building permits. Comments were received from the Department of Environmental Protection and Sustainability dated February 15, 2011, that indicate development of the property must comply with the Regulations for the Protection of Water Quality, Streams and Wetlands. There may be an existing stream and wetland within 25 feet of the proposed garage, which may require review and approval of the garage and associated driveway from State/Federal agencies prior to issuance of a permit from Baltimore County. This office recommends redesigning the expanded garage to avoid stream, wetland, and/or buffer impacts or find another location onsite for the expanded garage and vehicular access to the garage.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on January 18, 2011, 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. The information, photographs, and affidavits submitted provide sufficient facts indicating compliance 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, this 16th day of February, 2011, that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a replacement accessory building (garage) with a height of 20 feet in lieu of the maximum allowed 15 feet, be and 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, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.
4. Architectural elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits.
5. 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).
6. 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 _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz