

**IN RE: PETITION FOR ADMIN. VARIANCE**

SW side of Sue Grove Road, 890 feet S  
of c/l of Turkey Point Road  
15<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District  
**(732 Sue Grove Road)**

William R. and Wendy A. Stumpe  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2011-0236-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, William R. and Wendy A. Stumpe for property located at 732 Sue Grove 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 22 feet 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 new garage with the additional height to be used for storage. The existing shed on the property will be razed.

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 Sustainability dated March 1, 2011. DEPS 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, DEPS offers the following comments:

1. This waterfront property is located in a Limited Development Area within the Chesapeake Bay Critical Area. Development of this property must comply with a maximum lot coverage limit of 31.25% with mitigation for the lot coverage amount over 25%, and must meet a 15% tree cover requirement (minimum of 6 trees). In

addition, a 100-foot tidal buffer measured off mean high water encompasses about ¼ of the property, and the site must meet all requirements of COMAR 27.01.09 Habitat Protection Areas in the Critical Area including determination and recordation of a Critical Area buffer with a declaration of protective covenants and planting of the buffer. A Critical Area administrative variance may be required for reduction of the buffer, reduction of the primary structure setback, and continued existing uses. Please be advised that all criteria must be met for any variance approval. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements. Mitigation requirements may include removal of lot coverage, the planting of native trees and shrubs, and the recordation of a Critical Area buffer (a non-disturbance area).

2. The subject development can meet the requirement to conserve fish, wildlife, and plant habitat by bringing the site into compliance with all Critical Area requirements and through mitigation.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property is limited. Compliance with the Critical Area requirements, including recordation of a buffer and mitigation can allow the subject development to be consistent with established land use policy 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 Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 20, 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. In the opinion of the Administrative Law Judge, 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 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 Administrative Law Judge for Baltimore County, this 15<sup>th</sup> day of March, 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 22 feet 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, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.
4. This waterfront property is located in a Limited Development Area within the Chesapeake Bay Critical Area. Development of this property must comply with a maximum lot coverage limit of 31.25% with mitigation for the lot coverage amount over 25%, and must meet a 15% tree cover requirement (minimum of 6 trees).
5. In addition, a 100-foot tidal buffer measured off mean high water encompasses about ¼ of the property, and the site must meet all requirements of COMAR 27.01.09 Habitat Protection Areas in the Critical Area including determination and recordation of a Critical Area buffer with a declaration of protective covenants and planting of the buffer.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK:pz