

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
NW side of Chestnut Hill Lane; 95 feet SE		
of Condor Court	*	OFFICE OF
4 <sup>th</sup> Election District		
2 <sup>nd</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
<b>(104 East Chestnut Hill Lane)</b>	*	FOR BALTIMORE COUNTY
Mary Anne and Raymond A. Pearson, Jr.		
<i>Petitioners</i>	*	<b>Case No. 2012-0004-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Mary Anne and Raymond A. Pearson, Jr. for property located at 104 East Chestnut Hill Lane. Resolution 77-11 concerning the public disclosure of Mary Anne Pearson, an employee of the Baltimore County Public Schools, was approved at the County Council meeting held on August 1, 2011. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing detached garage with a height of 21 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 have an existing garage measuring 30 feet x 28 feet x 21 feet high. Petitioners state that at the time the permit was filed an error was made wherein the permit was approved with a maximum 15 feet height; however, the drawings indicated 21 feet height for the proposed garage. Not realizing the error in the height on the permit, Petitioners constructed the garage. The Building Inspector informed the Petitioners of the problem and also advised them to seek the subject variance request. Petitioners need the additional garage storage space as the attic and basement in the dwelling are not adequate. Petitioners state that they tried to architecturally match the lines of the dwelling. The property contains 1.13 acres zoned DR 3.5.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case.

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

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   10   day of August, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing detached garage with a height of 21 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 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.

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