

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S/S of Glenwood Road at the distance of 687'		
SW of the c/line of Oakdean Road	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(3501 Glennwood Road)		
	*	FOR BALTIMORE COUNTY
James K. Warrington, Jr.		
<i>Petitioner</i>	*	Case No. 2012-0055-A

* * * * *

ORDER AND OPINION

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owner of the subject property, James K. Warrington, Jr. for property located at 3501 Glennwood Road. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing detached garage with a setback of 1 foot (+/-) and located in the side/rear yard in lieu of the required 2-1/2 feet and rear yard, respectively, and to permit a second story addition on existing detached garage with a height of 30 feet in lieu of the require 15 feet. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner states that existing garage (27' x 21' x 15') was built over 70 years ago and is subjected to constant flooding. This flooding is due to its location at the end of the street and situated at the low end of the peninsula. Petitioner desires to remove and replace second floor of existing garage, raise the overall height from 15 to 30 feet and raise the existing floor by approximately 2 feet. The proposed garage (27' x 24' x30') will be used as a workshop and for storage. The Petitioner offered seven (7) letters of support from various residents in the community stating that they had no objection to the garage renovations. The subject property is .21 acres or 9,504 square feet, zoned D.R.5.5 and is located in the Frog Mortar Point subdivision of Bowleys Quarters in Baltimore County.

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 (DEPS), dated September 22, 2011. DEPS has indicated the following:

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. Based on the plan and information provided, the proposed garage improvements will result in no increase in the lot coverage on the property and impacts to water quality can be minimized.

2. Conserve fish, wildlife, and plant habitat; and

This waterfront property is located within a Buffer Management Area (BMA) of the Critical Area. The applicant's plan accompanying this zoning petition shows that the proposed garage work is located outside of the 100-foot tidal buffer. By meeting BMA, lot coverage, and planting requirements, buffer functions can be maintained and conserve fish habitat in Frog Mortar Creek.

3. Be consistent with established land use policies 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 applicant's proposal can be consistent with this goal and with established land-use policies provided that the applicant meets the requirements stated above.

There were no other comments received from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 4, 2011, 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 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 22nd day of September, 2011 that a Variance pursuant to Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing detached garage with a setback of 1 foot (+/-) and located in the side/rear yard in lieu of the required 2-1/2 feet and rear yard, respectively, and to permit a second story addition on existing detached garage with a height of 30 feet in lieu of the require 15 feet, be and 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. Prior to the issuance of any building permit, Petitioner shall comply with the ZAC comment submitted by the Department of Environmental Protection and Sustainability (DEPS), dated September 22, 2011; a copy of which is attached hereto and made a part hereof.
5. When applying for a building permit, the site plan filed must reference this case and set forth and address the conditions and restrictions of this Order.

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

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw