

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
N side of Bird River Road; 1,065 feet		
W of the c/l of Ebenezer Road	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(10606 Bird River Road)	*	FOR BALTIMORE COUNTY
James D. and Kimberly M. Bass	*	Case No. 2012-0076-A
<i>Petitioners</i>		

* * * * *

OPINION AND ORDER

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, James D. and Kimberly M. Bass for property located at 10606 Bird River Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) in the rear yard of an existing single family dwelling with a height of 25 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 garage measuring 32 feet x 48 feet with an attic for storage of personal belongings. The dwelling was constructed in 1937, contains 1,081 square feet and lacks the storage space of a modern home. The property contains 1.05 acres zoned RC 3 and RC 2.

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 October 7, 2011. The comments indicate that a future building permit at this site will require review by Groundwater Management since the property is served by private septic.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 25, 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 shed 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 18th day of October, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (garage) in the rear yard of an existing single family dwelling with a height of 25 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. The building permit for this project will require review by Groundwater Management since the property is served by private septic.

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:pz