

IN RE: PETITION FOR ADMIN. VARIANCE

SW side of Chesapeake Avenue, N
of Chester Avenue
15th Election District
6th Councilmanic District
(1320 Chesapeake Avenue)

Robert James Evans
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0097-A**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owner of the subject property, Robert James Evans for property located at 1320 Chesapeake Avenue. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (pole building) with a height of 20 feet in lieu of the permitted 15 feet height. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner proposes to construct an accessory structure measuring 30 feet x 40 feet x 20 feet high. The structure height is needed to comply with the Baltimore County maximum snow weight requirement of 30 lbs. per square foot. The adjacent property at 1318 Chesapeake Avenue (Case No. 04-117-A) was also granted an Administrative Variance for an accessory structure 20 feet high.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated October 20, 2011, which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code

which adopts the International Building Code. Comments were received from the Department of Environmental Protection and Sustainability dated November 2, 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, we offer the following comments:

1. The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area lot coverage requirements. The applicant is proposing to exceed the height limits for a shed. To minimize impacts on water quality, lot coverage requirements must be met. Additional storage on a second level, rather than an expanded footprint, help reduce lot coverage. By meeting the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is waterfront, but the proposed shed is not within the 100-foot buffer. It is unclear from the applicant's plan accompanying this zoning petition whether the requested relief will exceed the lot coverage limit on site. If the proposal does not exceed lot coverage limits, it will help conserve fish habitat in Middle River.
3. If lot coverage limits are met, then the applicant's proposal is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 16, 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 8 day of November, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (pole building) with a height of 20 feet in lieu of the permitted 15 feet height, 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. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated October 20, 2011, and the Department of Environmental Protection and Sustainability dated November 2, 2011; copies of which are 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 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/pz