

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
N side of Gephardt Avenue; 195 feet W		
of North Dakota Avenue	*	OFFICE OF
15 th Election District		
7 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(7304 Gephardt Avenue)		
	*	FOR BALTIMORE COUNTY
Michael S. and Deborah Loncala		
<i>Petitioners</i>	*	Case No. 2012-0220-A

* * * * *

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 waterfront property, Michael S. and Deborah Loncala. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building in the front yard of the existing dwelling in lieu of rear yard, and to allow a height of 20 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1.

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 April 19, 2012, which state:

“EPS 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 requirements. The applicant is proposing to allow an 896 square foot accessory structure in the front yard and to exceed the height limits. The lot is waterfront and contains the existing dwelling. The accessory structure is not proposed within the 100-foot buffer. Lot coverage on the entirety of this property is limited to 5,445 square feet. The accessory structure is to be

placed partially over the existing driveway. Based on our information, current lot coverage is 4,096 square feet. By meeting the lot coverage requirements, BMA 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. If lot coverage and afforestation requirements are met, that will help conserve fish habitat in the Chesapeake Bay.

Based on the information provided, this office has determined that the applicant's proposal is consistent with this goal. Provided that the applicants meet the requirements stated above, the relief requested will be consistent with established land-use policies."

Comments were received from the Bureau of Development Plans Review dated March 21, 2012. The comments 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, with exceptions, the International Building Code.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 25, 2012, 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 19 day of April, 2012 that a variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building in the front yard of the existing dwelling in lieu of rear yard, and to allow a height of 20 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. Compliance with the ZAC comments made by the Department of Environmental Protection and Sustainability dated April 19, 2012, a copy of which is attached hereto and made a part hereof.
5. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated March 21, 2012, a copy of which is attached hereto and made a part hereof.

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