

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(10904 Liberty Road)		
2 nd Election District	*	OFFICE OF
4 th Councilmanic District		
David A. and Annette Schloss	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0066-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, David A. and Annette Schloss. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a garage in the rear yard of an existing single-family dwelling with a height of 21 feet in lieu of the required 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. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated October 3, 2012, indicating any future building permit will need review by Groundwater Management, since the house is served by well and septic. A ZAC comment was also received from the State Highway Administration (SHA) dated September 27, 2012, indicating that Petitioners must contact Tom Fountain, Resident Maintenance Engineer, to obtain a residential access permit to pave the apron of this existing entrance on MD 26.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 22, 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, this 31st day of October, 2012 by the Administrative Law Judge for Baltimore County that the Petition for Variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a garage in the rear yard of an existing single-family dwelling with a height of 21 feet in lieu of the required 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for any appropriate permits 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 garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comments received from DEPS and SHA; copies of which are attached hereto and incorporated herein.

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

Signed _____
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/dlw