

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(1718 Hunter Mill Road)</b>		
10 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
John J. and Janet S. Selway	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0228-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, John J. and Janet S. Selway. The Petitioners are requesting Variance relief from §§ 1A01.3.B.3 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (garage) to be located in the side and front yards in lieu of the required rear yard. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 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 April 22, 2013, indicating that a future building permit for a garage must be reviewed by Groundwater Management, since the house is served by well and septic. Also, a well variance will be needed to have a building closer than 30 feet from the existing well.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 16, 2013, 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 § 32-3-303 of the Baltimore County Code (B.C.C.). 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 Department of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory building 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 15<sup>th</sup> day of May, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from §§ 1A01.3.B.3 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (garage) to be located in the side and front yards in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for their 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, 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. The Petitioners must comply with the ZAC comment received from DEPS dated April 22, 2013; 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:dlw