

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(12533 Ulrich Avenue) *	OFFICE OF
15 th Election District	
6 th Council District *	ADMINISTRATIVE HEARINGS
Charles T. & Teresa L. Jerscheid	
<i>Legal Owners</i> *	FOR BALTIMORE COUNTY
Petitioners *	Case No. 2015-0047-SPHA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the conversion of an existing garage into an accessory in-law apartment. In addition, a Petition for Variance seeks the following: (1) to permit a front addition with a setback of 20' in lieu of the required 25', and; (2) to permit an existing garage with a height of 16' in lieu of the required 15', pursuant to B.C.Z.R. §§ 1B01.2.C.1(b) and 400.3.

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. Appearing at the public hearing in support of the requests was Charles Jerscheid. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments dated September 24, 2014 were submitted by the Department of Planning (DOP), which did not object to the requests.

The subject property is approximately 13,242 square feet and is zoned DR 5.5. The property is improved with a single family dwelling constructed in 1998, and a detached garage is located in the rear yard. Petitioners propose to construct an addition to the front of the single family dwelling (which necessitates the front setback variance request) and to enlarge the

detached garage and convert it to an accessory apartment for the owners' parents. The existing garage is 16 feet in height, and a variance is sought to permit the 16 feet in lieu of the maximum 15 feet. Finally, since the proposed accessory apartment is in a detached structure, special hearing relief is required.

Based upon the testimony and evidence presented, I will grant the petition for variance.

To obtain variance relief a petitioner must show:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioners have met this test. The property is narrow and deep (68' x 195') and is therefore unique. The Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would not be able to construct the addition to the front of their home, and would also need to lower the height of the garage by one foot, even though it has existed in its present configuration for many years without complaint. Finally, the relief will not be injurious to the public welfare, as demonstrated by the lack of county and/or community opposition.

With regard to the accessory apartment, the Petitioners submitted a floor plan of the proposed unit, which would be approximately 700 sq. ft. Petitioners' Exhibit 2. The apartment would have one bedroom, kitchen, and bathroom. The Petitioners' parents will occupy the apartment, and Petitioners understand (as provided in the B.C.Z.R. and the Declaration of Understanding which will be filed with the Department of Permits, Approvals and Inspections (PAI)), that a use permit is required and must be renewed every two years, and that the structure can only be used as an accessory apartment for so long as it is occupied by immediate family members related to Petitioners by blood, marriage and adoption. The use of the apartment, when

conducted in accordance with the conditions below and the Declaration of Understanding, will not have a detrimental impact upon surrounding and neighboring properties, and will conform with B.C.Z.R. §502.1.

THEREFORE, IT IS ORDERED this 30th day of October, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve the conversion of an existing garage into an accessory apartment, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking the following: (1) to permit a front addition with a setback of 20' in lieu of the required 25', and; (2) to permit an existing garage with a height of 16' in lieu of the required 15', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for 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. Petitioners must obtain from the Department of PAI a use permit for the accessory apartment, which permit must be renewed every two years.
3. The accessory apartment may not have separate utility and/or water meters, pursuant to B.C.Z.R. §400.4.B.

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

JEB/sln

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County