

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(615 Westminster Pike) *	OFFICE OF
4 th Election District	
4 th Council District *	ADMINISTRATIVE HEARINGS
Bradley Bayliff, <i>Owner</i>	
Petitioner *	FOR BALTIMORE COUNTY
	Case No. 2016-0065-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 Bradley Bayliff, legal owner (“Petitioner”). The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an accessory apartment in an accessory building with a separate electrical meter. In addition, a Petition for Variance seeks to permit the height of 23 ft. of an existing accessory structure in lieu of the maximum of 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Bradley Bayliff and Bruce Doak, a licensed surveyor who assisted the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP). There were no Protestants or interested citizens in attendance.

The subject property is 4.25 acres and zoned RC-4. Petitioner purchased the property this year, and the site is improved with a single family dwelling, detached garage and barn. SDAT records indicate the house is more than 100 years old. Petitioner wants to use the garage as an accessory apartment for his mother which requires special hearing relief since the structure is

detached. Also, the garage height (existing) is 23 ft. which necessitates the variance. Following a discussion at the hearing, the Petition was amended to include an additional variance request under B.C.Z.R. §400, to permit the garage to be located (as it has been for many years) in the side yard as opposed to the required rear yard.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The large, rural property is irregularly shaped, and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given he would need to raze the existing (and legally nonconforming) garage. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County opposition and by the support of the only immediate neighbor, who resides at 619 Westminster Pike. Exhibit 6.

THEREFORE, IT IS ORDERED this 10th day of November, 2015, 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 permit an accessory apartment in an accessory building, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit: (1) an existing accessory structure 23 ft. in height in lieu of the maximum of 15 ft.; and (2) an existing detached

accessory structure to be located in the side yard, in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioner must contact the DEPS to obtain approval from the Ground Water Management section.

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