

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4900 Black Rock Road)		
5 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
George & Shirl Scaletta	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2017-0082-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by George and Shirl Scaletta, owners of the subject property (“Petitioners”). The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to allow a rear yard shed to be built with a height of 22 ft. in lieu of the maximum allowed 15 ft. and to allow the shed to be built prior to the primary residence being completed. A site plan was marked as Petitioners’ Exhibit 1.

George Scaletta appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received from County review agencies.

The property is approximately 2.4 acres in size and is zoned RC 2. A single-family dwelling is being constructed on the property, and Mr. Scaletta stated it would be completed within the next month or so. Petitioners would like to construct a garage in their rear yard for storage of motor vehicles, tractors and other household items. Petitioners also own an RV and the 22 ft. height is required to accommodate that vehicle.

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).

Petitioners have met this test. The property is irregularly shaped and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed 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 Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this 22nd day of **November, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“B.C.Z.R) to allow a rear yard shed to be built with a height of 22 ft. in lieu of the maximum allowed 15 ft. and to allow the shed to be built prior to the primary residence being completed, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

3. The garage shall not be used for commercial purposes.

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

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

JEB:sln