

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1309 Old Eastern Avenue)	*	OFFICE OF
15 <sup>th</sup> Election District		
7 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
William and Mary Streeter		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	<b>Case No. 2017-0195-SPHA</b>

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**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 William and Mary Streeter, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a proposed accessory structure (pole barn) to be erected on an unimproved parcel of land without a principal structure. In addition, a Petition for Variance seeks to permit a proposed accessory structure (pole barn) to have a height of 24 ft. in lieu of the maximum allowed height of 15 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

William Streeter appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the requests but suggested certain conditions which will be included in the Order below.

The subject property is approximately 11,250 sq. ft. in size and is zoned DR 5.5. The property is unimproved, and Petitioners propose to have constructed on the site a pole barn building, as shown in the elevation drawings marked as Petitioners’ Exhibit 3. Petitioners will use the building to store a

recreational vehicle (RV) they recently acquired. The RV is approximately 15 ft. tall, which required Petitioners to seek a variance for the additional height needed to safely store the vehicle.

SPECIAL HEARING

The petition for special hearing is required in this case since the proposed pole building would be located on an unimproved lot. In other words, it would be an “accessory” building on a lot without a “principal” use or dwelling. Even so, these requests are commonly granted and the Petitioners own a single-family dwelling on the lot immediately adjacent to the subject property. As such this request will be granted.

VARIANCE

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 has irregular dimensions and is accessed by way of a private easement. As such it is unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to construct the proposed pole building. Finally, as demonstrated by the lack of County and/or community opposition, I do not believe granting the requests would have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 22<sup>nd</sup> day of March, **2017**, 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 a proposed accessory structure (pole barn) to be erected on an unimproved parcel of land without a principal structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance to permit a proposed accessory structure (pole barn) to have a height of 24 ft. in lieu of the maximum allowed height of 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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. The accessory building shall not contain living quarters or a separate utility meter.
3. The accessory building 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.

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County