

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1153 Seneca Road)	*	OFFICE OF
15 <sup>th</sup> Election District		
6 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Jimmy & Jayne Shannon		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	<b>Case No. 2017-0234-SPHA</b>

\* \* \* \* \*

**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 Jimmy & Jayne Shannon, legal owners, (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to approve an addition with a non-conforming setback that extends more than 25% of the ground area of the original structure; and (2) to permit an accessory (in-law) apartment as living quarters in an existing detached accessory structure. In the alternative, a Petition for Variance seeks to permit a proposed addition with a side yard setback as close as 9 ft. in lieu of the minimum required 50 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Jimmy Shannon appeared in support of the requests. John Gontrum, Esq. represented the Petitioners. 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 were received from the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is approximately 14,150 square feet in size and zoned RC-5. The property is improved with a modest single-family dwelling constructed in 1932 and a detached two-story garage

in the rear yard. Petitioners propose to construct an addition (approximately 12' x 26') at the rear of the existing dwelling. In addition, Petitioners seek approval for an accessory apartment in the two-story garage, which would be used by their son.

#### SPECIAL HEARING

The accessory apartment (formerly known as an “in-law apartment”) is permitted under B.C.Z.R. §400.4, subject to a public hearing. Here the existing garage will be used for the apartment, so no new construction is proposed. Petitioners submitted letters of support from each of the adjacent neighbors. See Exhibit 4. In these circumstances I do not believe the use would be detrimental to the neighborhood and the petition 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 waterfront lot is narrow and deep (approximately 50' x 295') and is therefore unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to construct the proposed addition. 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 **26<sup>th</sup>** day of **April, 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 an accessory (in-law) apartment as living quarters in an existing detached accessory structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for special hearing to approve an addition with a non-conforming setback that extends more than 25% of the ground area of the original structure, be and is hereby DISMISSED without prejudice as moot;

IT IS FURTHER ORDERED that the petition for variance to permit a proposed addition to an existing single-family dwelling with a side yard setback as close as 9 ft. in lieu of the minimum required 50 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. Petitioners must prior to issuance of permits comply with critical area and flood protection regulations.
3. Petitioners must file among the land records of Baltimore County the requisite Declaration of Understanding pertaining to the accessory apartment, and obtain from the Department of Permits, Approvals, and Inspections a use permit (which must be renewed every 2 years) for the apartment.

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