

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(11903 Long Green Pike)	*	OFFICE OF
11 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Joseph F. & Annette L. Lavezza		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2017-0263-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 Joseph & Annette Lavezza, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve a detached accessory structure (garage) with a footprint greater than that of the principal dwelling. In addition, a Petition for Variance seeks: (1) to permit a replacement open projection (deck) with a side yard setback as close as 1 ft. in lieu of the required 37.5 ft.; and (2) to permit additions to an existing detached accessory structure (garage) with a side yard setback as close as 1 ft. in lieu of the required 2.5 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Owner Joseph Lavezza and surveyor J. Scott Dallas 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing agencies.

The subject property is approximately 17,315 square feet in size and is split-zoned RC-5 and RC-2. The Petitioners have owned the property since 1994, and Mr. Dallas noted the lot was created by deed in 1950. The existing single-family dwelling (36' x 28') was constructed in 1951. Petitioners

propose to construct additions to an existing shed and deck, although variances are required before they can do so.

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 rural property is unique in that the lot is just 54 feet wide, which is seldom seen in an RC zone in northern Baltimore County. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to construct the proposed improvements. 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.

The special hearing request seeks approval for the garage to have a larger footprint than the principal dwelling. Both the house and garage are modest sized structures, and are located in a sparsely populated rural portion of the County. I do not believe granting the relief would be injurious in any way to the surrounding community. As such the petition will be granted.

THEREFORE, IT IS ORDERED this 26th day of **May, 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 approve a detached accessory structure (garage) with a footprint greater than that of the principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance: (1) to permit a replacement open projection (deck) with a side yard setback as close as 1 ft. in lieu of the required 37.5 ft.; and (2) to permit additions to an existing detached accessory structure (garage) with a side yard setback as close as 1 ft. in lieu of the required 2.5 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.

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