

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(5633 Patterson Road)		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Charles & Katherine Albertson	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2017-0283-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Charles & Katherine Albertson, owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from §400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an accessory structure/barn in the rear yard of a single-family dwelling under construction with a height of 21 ft. in lieu of the required 15 ft. A site plan was marked as Petitioners’ Exhibit 1.

Charles Albertson 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The site is approximately 11.49 acres in size and zoned RC 2. The large lot is unimproved, although Petitioners are currently in the process of constructing a single-family dwelling. Petitioners propose to construct a barn in their rear yard to accommodate horses, pigs and chickens. To compliment the design of their home, Petitioners would like to have a roof pitch on the accessory building which would be 21 feet in height, for which a variance is required.

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 lot is narrow and deep (approximately 300 ft. x 1400 ft.); this irregular shape renders the property unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed barn. Finally, I find that the variances 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 14<sup>th</sup> day of **June, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit an accessory structure/barn in the rear yard of a single-family dwelling under construction with a height of 21 ft. in lieu of the maximum 15 ft., 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 barn/accessory building into a dwelling unit or apartment. The accessory building shall not contain any sleeping quarters, living area or kitchen facilities.
3. The accessory structure 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