

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(908 Lutz Avenue)	*	OFFICE OF
15 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
Stanley John & Wanda Lee Wolinski	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	Case No. 2017-0308-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 Stanley John and Wanda Lee Wolinski, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the footprint of an accessory structure (garage) to be larger than the footprint of the principal structure (dwelling). In addition, a Petition for Variance seeks to permit an accessory structure (garage) with a height of 18 ft. in lieu of the maximum 15 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Stanley J. Wolinski and Bruce E. Doak 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 county agencies.

SPECIAL HEARING

Petitioners submitted an exhibit (Petitioners’ Exhibit 7) indicating the existing dwelling (constructed in 1929) footprint is 724 sq. ft. while the recently constructed garage footprint is 1,260 sq. ft. The existing dwelling is quite small and the improvements are situated on a lot 10,000 sq.

ft. in size and zoned DR 5.5. The structures are not crowded on the lot and Petitioners submitted letters of support from each of the neighbors in the vicinity. Petitioners' Exhibit 8. As such the petition will be granted.

Mr. Wolinski noted he intends to raze the existing dwelling, which is in very poor condition. He would like to construct a new dwelling on the lot but is unsure at this juncture whether the new home's footprint would be smaller or larger than the existing garage. As explained at the hearing, Petitioners would not need to again seek zoning relief if the new dwelling (footprint) was in fact smaller than the existing garage; the special hearing relief granted below would be applicable in that instance.

VARIANCES

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).

The subject property is narrow and deep (50 ft. x 200 ft.) and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would need to reconstruct the garage. 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. Mr. Wolinski explained he secured a building permit prior to constructing the garage, but unbeknownst to him the contractor changed slightly

the pitch of the roof (as shown on Petitioners' Exhibit 6) which resulted in a height of 18 ft., which exceeded the maximum allowed height of 15 ft.

THEREFORE, IT IS ORDERED this 7th day of **July, 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 the footprint of an accessory structure (garage) to be larger than the footprint of the principal structure (dwelling), whether the existing dwelling or a replacement dwelling constructed in the future, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance to permit an accessory structure (garage) with a height of 18 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.

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:dlw