

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(6907 Ebenezer Road)	*	OFFICE OF
15 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Joshua Martin Kiesling	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2017-0314-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 Joshua Martin Kiesling, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure that is larger than the principal structure (single family dwelling). In addition, a Petition for Variance seeks to permit a garage on a corner lot that is not on the 1/3 of the lot farthest removed from both streets with a height of 26 ft. in lieu of the maximum 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Joshua Martin Kiesling 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 request.

The subject property is approximately 0.75 acres in size and zoned DR 5.5. The property is improved with a single-family dwelling constructed in 1899. Petitioner proposes to construct

a pole building (approximately 2,000 sq. ft.) in the rear yard, for storage of a boat, car and other household items.

SPECIAL HEARING

The petition for special hearing was filed because the footprint of the accessory building (which is customarily smaller than any principal structures on the lot) is larger than the ground floor area of the dwelling. Even so, the subject property is relatively large (3/4 acre) and open, and the pole building will in no way overcrowd the lot or negatively impact adjacent neighbors. As such the petition will be granted.

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 has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed accessory building. 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 3rd day of **August, 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 structure that is larger than the principal structure (single family dwelling), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a garage on a corner lot that is not on the 1/3 of the lot farthest removed from both streets with a height of 26 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. Petitioner or subsequent owners shall not convert the proposed 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 building shall not be used for commercial purposes.
4. Prior to issuance of permits Petitioner must submit for approval by the DOP architectural elevations of the proposed accessory building.

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