

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(Wilson Road)	*	OFFICE OF
7 th Election District	*	
3 rd Council District	*	ADMINISTRATIVE HEARINGS
	*	
Harold Jolle & John Grewe	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>	*	
	*	
Masen Jolle	*	
<i>Contract Purchaser</i>	*	
	*	
Petitioners	*	Case No. 2018-0011-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 Harold Jolle & John Grewe, legal owners, and Masen Jolle, contract purchaser (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an accessory building (garage) as a temporary dwelling (with full kitchen and full bath) during the period of construction for the proposed principal use single family dwelling. In addition, a Petition for Variance seeks to permit an accessory building (garage) with a height of 28 ft. in lieu of the maximum allowed 15 ft.

A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1. At the hearing the contract purchaser indicated his septic contractor suggested the proposed garage be repositioned slightly to avoid interfering with the septic drainage field(s). An amended plan (*See* Ex. 3) was submitted which reflects this change.

Masen Jolle 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. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). The comments from those agencies will be included as conditions in the Order which follows.

SPECIAL HEARING

The subject property is approximately 73.4 acres in size and zoned RC-2. The property is in a rural setting in northern Baltimore County. The site is wooded and only a few other dwellings can be seen from the subject property. Petitioners plan to construct an accessory building to use as a temporary apartment while they construct the principal dwelling on the lot, which they estimated would take about two years. This is a reasonable request, especially on a parcel this size. As such 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).

The large parcel has irregular dimensions and is subject to an easement held by the Gunpowder Valley Conservancy. *See Ex. 2*. As such it is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they 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 absence of County and/or

community opposition. In addition, the Gunpowder Conservancy approved the request to construct a temporary apartment, with the understanding the living quarters in the garage will be dismantled upon completion of the principal dwelling. *See* Ex. 2.

THEREFORE, IT IS ORDERED this 12th day of **September, 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 an accessory building (garage) as a temporary dwelling (with full kitchen and full bath) during the period of construction for the proposed principal use single family dwelling (for a period not to exceed three (3) years), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance to permit an accessory building (garage) with a height of 28 ft. in lieu of the maximum allowed 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 must comply with the ZAC comments of DOP, DEPS and DPR, copies of which are attached hereto and incorporated herein.

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