

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2124 Alma Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Craig Andes	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0025-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Craig Andes, the legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an accessory structure (garage) to be located in the front yard in lieu of the required rear yard and to permit a front street setback of 6 ft. in lieu of the required 25 ft. A site plan was marked as Petitioner’s Exhibit 1.

Craig Andes 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. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS).

The site is approximately 0.30 acres in size and zoned DR 5.5. The property is improved with a single family dwelling constructed in 1938. Given the shape of the lot and the small rear yard, the front yard is the only feasible location for the accessory structure.

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 property is shaped like a bullet, and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct an accessory building on the lot. 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 12th day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 to permit an accessory structure (garage) to be located in the front yard in lieu of the required rear yard and to permit a front street setback of 6 ft. in lieu of the required 25 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 must prior to issuance of permits comply with the critical area regulations.
3. Petitioner must provide vegetative screening along the property line in common with 2114 Alma Avenue.

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