

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(2918 Willoughby Road)	*	OFFICE OF
9 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Nicholas Murray, <i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
	*	
Petitioner	*	Case No. 2018-0040-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 Nicholas Murray, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an existing detached accessory structure (garage) to be converted into an accessory (in-law) apartment. A Petition for Variance was filed to permit two existing detached accessory structures, garage and shed; the garage having a rear yard setback of 2 ft. in lieu of the required 2.5 ft. and the shed being located in the side yard with a setback of 1 ft. in lieu of the required rear yard and required 2.5 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 5.

Nicholas Murray and professional engineer Rick Richardson appeared in support of the requests. Michael J. Moran, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

SPECIAL HEARING

The subject property is 6,250 square feet in size and zoned DR 5.5. The property is improved with a single-family dwelling, detached garage and shed. Petitioner proposes to convert the garage into an accessory apartment for his father, who has had serious medical issues in recent years. Petitioner described the structure and indicated a recent inspection was done to confirm the gas connections and utilities were proper and safe. Exhibit 2. Mr. Richardson opined the Petitioner satisfied all requirements for accessory apartments contained in BCZR §§ 400.4 and 502.1. In the absence of any evidence to the contrary the petition for special hearing 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 garage and shed in question (for which the setback variances are sought) have been in their present location for 40+ years, and Petitioner must contend with these existing site conditions. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be required to raze or relocate the garage and shed. Finally, I find that the variances can be granted in harmony with the spirit and intent of the BCZR, 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 County and/or community opposition.

THEREFORE, IT IS ORDERED this 25th day of **June, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to approve an existing detached accessory structure (garage) to be converted into an accessory (in-law) apartment, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance filed to permit two existing detached accessory structures, garage and shed; the garage having a rear yard setback of 2 ft. in lieu of the required 2.5 ft. and the shed being located in the side yard with a setback of 1 ft. in lieu of the required rear yard and required 2.5 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 comply with the ZAC comment submitted by the DOP, a copy of which is attached hereto.

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