

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(221 Oak Avenue)	*	OFFICE OF
15 <sup>th</sup> Election District		
7 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Henry W. Long	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	<b>Case No. 2018-0042-SPHA</b>

\* \* \* \* \*

**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 Henry Long, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an accessory structure on a lot that does not have a principal dwelling. A Petition for Variance seeks to permit an accessory structure (garage) with a height of 35 ft. in lieu of the maximum allowed 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Henry Long and his son Ron 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) and the Department of Environmental Protection and Sustainability (DEPS).

**SPECIAL HEARING**

The subject property is approximately 9,000 sq. ft. and zoned DR 3.5. The property is situated in the Middleborough community and the lot was created by the Plat of Recreation Grove, Middle River, which was recorded in 1922. Petitioner’s Ex. 2. The lot is unimproved,

although Petitioner lives across the street on Middleborough Road. Petitioner proposes to construct a 48' x 50' garage at the rear of the lot, farthest removed from Oak Avenue. The Petitioner and his son enjoy collecting and restoring vintage automobiles, and the garage will be used for this purpose.

The Petitioner presented elevation sketches of the proposed building, which will be attractive and constructed of durable materials. Petitioner noted several such garages are located in the immediate vicinity of the subject property, and I believe granting the special hearing request will not have a detrimental impact upon the community.

#### 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 lot was created long before adoption of the B.C.Z.R. and the property is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed 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.

THEREFORE, IT IS ORDERED this 3<sup>rd</sup> day of **October, 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 structure on a lot that does not have a principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an accessory structure (garage) with a height of 35 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. 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 ZAC comment of DOP, a copy of which is attached hereto.
- 3. Petitioner must prior to issuance of permits comply with the critical area regulations.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln