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| IN RE: PETITIONS FOR SPECIAL HEARING | * | BEFORE THE |
| AND VARIANCE | | |
| (931 Susquehanna Avenue) | * | OFFICE OF |
| 15 th Election District | | |
| 6 th Council District | * | ADMINISTRATIVE HEARINGS |
| | | |
| Tyler J. Williamson | * | FOR BALTIMORE COUNTY |
| <i>Legal Owner</i> | | |
| Petitioner | * | Case No. 2018-0065-SPHA |

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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 Tyler J. Williamson, 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 (garage) with a footprint larger than the principal structure (dwelling). A Petition for Variance seeks to permit an accessory structure (garage) with a height of 24 ft. in lieu of the maximum allowed 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Tyler Williamson and David Billingsley 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). Neither agency opposed the requests.

SPECIAL HEARING

The subject property is approximately 1.29 acres in size and zoned DR 3.5. The property is located in the Bowley’s Quarters community and is improved with a single family dwelling

constructed in 2005. The dwelling is modest, with a 1,152 sq. ft. footprint. The proposed garage would be 2,040 sq. ft., and would be situated at the rear of the lot behind the dwelling.

The proposed building would be used to store large tractors, vehicles and other equipment used in the farming operations on the adjoining property which is owned by Petitioner's parents. The accessory building will be attractive and constructed of quality materials, as shown on the elevation drawings submitted as Exhibit 7. I do not believe the size of the accessory building (or the fact it would be larger than the existing dwelling) will have a detrimental impact upon the community and 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 Petitioner's lot was created by the Plat of Long Beach Estates (Ex. No. 4), recorded in 1914 long before adoption of the B.C.Z.R. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed garage with a sufficient height to accommodate large farm equipment. Finally, I find that the variance 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 10th 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 (garage) with a footprint larger than the principal structure (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 24 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 or subsequent owners shall not convert the accessory structure into a dwelling unit or apartment. The accessory structures shall not contain any sleeping quarters and/or living area.
- 3. The accessory structure shall not have a separate electric meter.
- 4. 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.

____ Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln