

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(40 Caveswood Lane)	*	OFFICE OF
4 th Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
Marcy J. Stempler	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0107-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 Marcy J. Stempler, 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 existing breezeway (covered walkway) 52 ft. in length to proposed attached addition (garage). A petition for variance seeks to permit a proposed detached accessory structure (garage) to be located in the front yard in lieu of the required rear yard. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Michael Humphrey 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing county agencies.

SPECIAL HEARING

The County Office of Zoning Review (OZR) has adopted a policy whereby an accessory building (usually a garage) will be considered attached to the principal dwelling if connected by a breezeway 20 ft. in length or less. This would allow, for example, an owner to have a garage in the

front yard without obtaining a variance, provided the garage is connected to the home with a breezeway.

Petitioner has a breezeway (covered walkway) which is 52 ft. in length, connecting her home with the driveway where vehicles are parked. Petitioner proposes to construct a one-story garage on a portion of her driveway, and it would be connected (for aesthetic and structural purposes) to the existing breezeway. The special hearing request seeks to approve an “existing breezeway . . . 52 feet in length.” I am unaware of any rule or regulation which would restrict the length of a covered walkway, and thus the petition for special hearing will be granted. Even so, since the breezeway is more than 20 ft. in length, I believe a variance is also required to allow the front yard location of the proposed garage. In other words, as reflected in the order below, the garage will be considered “detached” because the breezeway connecting it to the dwelling exceeds the length permitted under OZR policy.

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).

Petitioner has met this test. The large property has a very irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the proposed garage. 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. In addition, the lot is wooded and the nearest home is over 150 ft. away. As such I do not believe granting the petition will have any negative impact whatsoever.

THEREFORE, IT IS ORDERED this 8th day of **December, 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 existing breezeway (covered walkway) 52 ft. in length to proposed attached addition (garage), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking to permit a proposed detached (i.e., connected to the principal dwelling with a breezeway greater than 20 ft. in length) accessory structure (garage) to be located in the front yard in lieu of the required rear yard, 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 her 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.

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