

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(2125 Benson Mill Road)	*	OFFICE OF
5 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Taylor Shoffner & Susan Kennan	*	FOR BALTIMORE COUNTY
Legal Owners		
	*	<b>Case No. 2018-0200-SPHA</b>
<b>Petitioners</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 Taylor Shoffner & Susan Kennan, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an in-law apartment in a detached accessory structure.

In addition, a petition for variance seeks to permit an in-law apartment in an accessory structure with a total square footage of 1872 sq. ft. in lieu of the permitted 1200 sq. ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Taylor Shoffner & Susan Kennan 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 BCZR permits accessory apartments inside of dwellings and in accessory buildings on the same lot as the principal dwelling. BCZR §400.4. In the latter scenario a public hearing is required. Petitioners submitted a floorplan of the proposed apartment, which would be occupied by the owners' parents. The subject property is over five acres in size and is located in a rural area. As such, I do not believe the accessory apartment will have detrimental impact upon the community and the petition for special hearing will be granted.

## 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).

As noted in a prior Order involving this property (Case No. 2016-0321-SPHA), the lot has an irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed accessory building. Finally, I find that the variance 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED this 5<sup>th</sup> day of **April, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("BCZR") to approve an in-law apartment in a detached accessory structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an in-law apartment (not to exceed 1,200 square feet) within a 1,872 square feet detached accessory structure, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached hereto.
3. The accessory building containing the in-law apartment shall not be served by a separate electric meter.
4. The in-law apartment within the 1,872 SF accessory building shall occupy no more than 1,200 SF thereof.

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