

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(11420 Reisberg Lane)	*	OFFICE OF
2 nd Election District		
4 th Council District	*	ADMINISTRATIVE HEARINGS
John Liepold	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0269-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 John Liepold, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a proposed rear yard accessory structure (storage building for farm equipment) with a footprint larger than the primary structure.

A petition for variance seeks to permit a proposed rear yard accessory structure to have a height of 22 ft. in lieu of the maximum allowed height of 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

John Liepold and David Forsythe 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”).

SPECIAL HEARING

The subject property is approximately 11.5 acres in size and is zoned RC-2. The property is improved with a single-family dwelling constructed in 1969. Petitioner indicated the dwelling

is one of the smallest houses he has ever seen, and tax records reflect the home has just 576 square feet of living space. Petitioner plans to conduct forestry operations on the site, and the proposed metal pole building would be used for storage of farm equipment, tools, etc.

The new building would be larger than the existing single-family dwelling which necessitates the petition for special hearing. The site plan indicates the pole building would be positioned 60 feet from the property boundary and over 100 ft. from the nearest neighbor. Petitioner stated he spoke with all of his neighbors and they each expressed support for the request. In these circumstances I do not believe granting the request will have any detrimental impact upon the community and the 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 property has an irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed accessory structure. 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 absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this 25th day of **May, 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 a proposed rear yard accessory structure (storage building for farm equipment) with a footprint larger than the primary structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a proposed rear yard accessory structure to have a height of 22 ft. in lieu of the maximum allowed height of 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 the DEPS ZAC comment, dated April 24, 2018; a copy of which is attached hereto and made a part hereof.
- 3. The accessory building shall not have a bathroom, kitchen and/or living quarters.

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