

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8929 Philadelphia Road)	*	OFFICE OF
15 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Wayne & Debra Sullivan	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	Case No. 2018-0285-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 Wayne & Debra Sullivan, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a proposed accessory building (garage) with a building footprint (3,000 sq. ft.) that is greater than the principal use dwelling (1,155 sq. ft.). A petition for variance seeks to permit a proposed accessory building (garage) with a height of 25 ft. in lieu of the maximum allowed 15 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Wayne Sullivan 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 Planning (“DOP”). That agency did not oppose the request.

SPECIAL HEARING

The special hearing request seeks approval for a garage with a ground floor area (i.e., “footprint”) larger than the single-family dwelling on the lot. Petitioner indicated the garage would be used to store a 45 ft. long motor home as well as several antique/collector cars. The subject property is one acre in size, and the garage would be situated approximately 150 ft. from Philadelphia Road. As such, I do not believe the structure would overcrowd the lot or have a detrimental impact upon the community.

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 dwelling on the subject property was constructed in 1935, long before the adoption of the BCZR. As such the property is 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 15th day of **June, 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 accessory building (garage) with a building footprint (3,000 sq. ft.) that is greater than the principal use dwelling (1,155 sq. ft.), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a proposed accessory building (garage) with a height of 25 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. 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 or subsequent owners shall not convert the detached garage into a dwelling unit or apartment. The proposed detached garage shall not contain any sleeping quarters, living area, kitchen and/or bathroom facilities.
3. The proposed detached garage shall not be used for commercial purposes.

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