

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7 Barstad Ct.)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Leonard C. Redmond, III &	*	HEARINGS FOR
Shelley R. Redmond		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2018-0299-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Leonard C. Redmond, III, and Shelley R. Redmond, the legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from §400.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing garage (accessory structure) located in the front yard in lieu of the required rear yard. A site plan was marked as Petitioners’ Exhibit 1.

Leonard & Shelley Redmond appeared in support of the petition. The adjacent neighbors attended the hearing and opposed the request. The Petition was advertised and posted as required by the BCZR. The Department of Planning (“DOP”) indicated in its zoning comment that it does not object to the requested variance.

The site is approximately 2.61 acres in size and split-zoned RC-5 & RC-2. The property is improved with a single-family dwelling constructed in 1955. Petitioners purchased the property in 2016, and last year they constructed (without obtaining a permit) a garage in the front of their home. The adjacent neighbors contend the garage has interfered with the view from their home and that the roof of the structure casts a reflection directly into their house.

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).

Cromwell and similar cases emphasize that it is the physical attributes of the property itself which must be examined to determine if a variance is justified.

The subject property has irregular dimensions, environmental features including a stream and wetlands, and a significant grade change from the front to the rear of the lot. In my opinion these attributes render the property unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be required to locate the garage in the rear of their home which (in addition to steep slopes) has an existing in-ground pool and septic reserve area which greatly constrain the available building envelope. 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. I am mindful of the concerns expressed by the neighbors and as noted below Petitioners will be required to provide a vegetative buffer to screen their view of the garage.

THEREFORE, IT IS ORDERED, this 25th day of **June, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §400.1 to permit an existing garage (accessory structure) 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. 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 shall submit for approval by the Baltimore County landscape architect (within 45 days of the date hereof) a landscape plan which provides a vegetative buffer between the garage and the dwelling at 3 Barstad Ct.

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