

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(11638 Greenspring Avenue)	*	OFFICE OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Joshua & Ashley Hines	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	<b>Case No. 2018-0313-SPHA</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 Joshua & Ashley Hines, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a proposed dwelling addition with a side yard setback of 3 ft. in lieu of the minimum required 50 ft. In addition, a petition for Variance seeks to permit an existing accessory building (detached garage) to be located in the side and rear in lieu of the required rear yard. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Joshua and Ashley Hines 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”). That agency did not oppose the requests.

**SPECIAL HEARING**

The subject property is approximately 1.59 acres in size and zoned RC-5. The property is improved with a single-family dwelling constructed in 1946 and a detached garage. Petitioners

propose to construct a 2-story addition (approximately 32' x 22') off the rear of the dwelling. The existing single-family dwelling is situated approximately 3-4' from the property boundary and the new addition would be constructed in line with the side foundation wall and would maintain the 3-4' setback. As such the petition for 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).

Petitioners must contend with long-existing site improvements and thus 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 dwelling addition. 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 18<sup>th</sup> day of **July, 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 dwelling addition with a side yard setback of 3 ft. in lieu of the minimum required 50 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an existing accessory building (detached garage) to be located in the side and rear 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 or subsequent owners shall not convert the detached garage into a dwelling unit or apartment. The detached garage shall not contain any sleeping quarters, living area, kitchen and/or bathroom facilities.
3. The detached garage shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment from DEPS, a copy of which is attached hereto and made a part hereof.

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