

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(3504 Chapman Road)	*	OFFICE OF
2 nd Election District		
4 th Council District	*	ADMINISTRATIVE HEARINGS
Casey & Joann Carvell, <i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2018-0358-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 Casey & Joann Carvell, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a proposed accessory structure (garage) on a contiguously owned lot without a primary structure with a footprint larger than the supporting primary structure. A Petition for Variance seeks to permit a proposed accessory structure (garage) to have a height of 25 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.

Casey Carvell 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 BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). Neither agency opposed the requests.

SPECIAL HEARING

As noted above, the proposed garage would be larger than the existing single-family dwelling. In these circumstances the zoning office requires an owner to obtain special hearing

approval, since the garage is arguably not “subordinate” or “accessory” to the dwelling in such a scenario.

This site is improved with a single-family dwelling constructed in 1951, and a detached garage most likely constructed at or about that time. Petitioners propose to enlarge the existing garage, which is situated far away from the dwelling and will be located at least partially on an unimproved lot at the rear of the site also owned by Petitioners. An automobile dealership and inventory storage area adjoins the site to the rear. I do not believe the garage would have a detrimental impact upon the community or adjoining uses, and the Petitioners’ property is of sufficient size to accommodate both structures without appearing overcrowded. As such 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).

The subject property is narrow and deep (approximately 75' x 400') 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 addition to the existing garage. 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. In addition, the site

plan (Exhibit 1) is signed by the neighbors residing on both sides of the subject property indicating their support for the request.

THEREFORE, IT IS ORDERED this 27th day of **September, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve a proposed accessory structure (garage) on a contiguously owned lot without a primary structure with a footprint larger than the supporting primary structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking to permit a proposed accessory structure (garage) to have a height of 25 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. 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 comments submitted by DOP and DEPS, copies of which are attached hereto.

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