

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(410 Belfast Road)		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
James Pitcher	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2019-0093-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by James Pitcher, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed detached accessory structure (garage) with a height up to 26 ft. in lieu of the maximum allowed 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

Surveyor Bruce Doak appeared in support of the petition. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

The site is approximately 1.093 acres in size and zoned RC-2. The property is improved with a single-family dwelling, which is at present undergoing substantial renovations. Petitioner proposes to construct a garage in the rear yard, and to achieve a roof line that will complement the single-family dwelling the accessory structure would be 26 ft. in height.

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 irregular dimensions 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 detached 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 absence of County and/or community opposition. In addition Petitioner submitted a letter from the adjoining neighbors indicating they support the request. Petitioners Exhibit 5.

THEREFORE, IT IS ORDERED, this 3<sup>rd</sup> day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a proposed detached accessory structure (garage) with a height up to 26 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) 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) Petitioners or subsequent owners shall not convert the proposed accessory structure (garage) into a dwelling unit or apartment. The proposed accessory structure (garage) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- (3) The proposed accessory structure (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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB/sln