

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(820 Upper Glencoe Road)	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Christopher Bowers	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2019-0161-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 Christopher Bowers, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed detached accessory structure on a lot without a principal use dwelling. In addition, a Petition for Variance was filed pursuant to Section 1A08.6.C.2.f of the BCZR, to permit a proposed detached accessory structure (barn) to be located in the front yard of a proposed (permit recently acquired) single family dwelling in lieu of the required rear yard only. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Christopher Bowers and surveyor David Ransone appeared in support of the requests. Several neighbors attended the hearing to obtain additional information regarding the requests. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”).

SPECIAL HEARING

As discussed at the hearing, the Petition for Special Hearing is no longer required. A building permit has been issued for the proposed single family dwelling, and Petitioner indicated construction is underway. As such, the petition will be dismissed.

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 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 barn in the proposed location. 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 County and/or community opposition. Although the community opposed the variance for the barn in the location initially proposed, Petitioner agreed to relocate the structure as shown on the redlined site plan and the community no longer opposes the request.

THEREFORE, IT IS ORDERED this 11th day of **January, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from Section 500.7 of the BCZR to permit a proposed detached accessory structure on a lot without a principal use dwelling, be and is hereby DISMISSED with Prejudice.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1A08.6.C.2.f of the BCZR, to permit a proposed detached accessory structure (barn) to be located in the front yard of a proposed (permit recently acquired) single family dwelling in lieu of the required rear yard only, 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. Petitioner must comply with the ZAC comment submitted by the DEPS; a copy of which is attached hereto.
3. As requested in the DOP's ZAC comment, Petitioner shall within 15 days of the date hereof amend the site plan with a redlined note that the dwelling may be subject to inconveniences arising from agricultural operations, pursuant to BCZR Section 1A08.7.

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:dlw