

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1317 Western Run Road)	*	OFFICE OF
8 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Michael S. & Jennifer L. Cordes	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	<b>Case No. 2019-0169-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 Michael S. and Jennifer L. Cordes, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing barn (accessory structure) located on a lot without a principal structure. In addition, a Petition for Variance was filed pursuant to BCZR Section 400.3 to permit an existing accessory building with a height of 26' in lieu of the maximum height of 15'. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Michael S. Cordes appeared in support of the requests. One neighbor attended the hearing to express support for 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 Environmental Protection and Sustainability (“DEPS”), and the Department of Planning (“DOP”). Neither of the reviewing agencies oppose the request.

**SPECIAL HEARING**

The special hearing request concerns an accessory structure (existing barn) located on a building lot without a principal structure. The property (shown as Lot 2 on a subdivision plat

recorded at PB 40, p. 108) is 5.889 acres in size and zoned RC 7. Mr. Cordes purchased the property in 2016, at which time a single family dwelling was located on the lot. He razed the dwelling and constructed a barn in essentially the same location. Since there is no longer a single family dwelling on the lot, the Office of Zoning Review informed Petitioners a special hearing was necessary. Mr. Cordes does not at present have plans to construct a dwelling on this lot, although he retains the right to do so since this is a “lot of record” shown on the plat. The barn is well-screened from the few homes located in the vicinity and there is no indication granting the request will have any discernable impact upon the community. As such, the request 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).

The property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be required to raze or reconstruct the barn. 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 opposition and the support of Petitioners’ neighbor.

THEREFORE, IT IS ORDERED this 15<sup>th</sup> day of **January, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from Section 500.7 of the

Baltimore County Zoning Regulations (“BCZR”) to permit an existing barn (accessory structure) located on a lot without a principal structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from BCZR Section 400.3 to permit an existing accessory building with a height of 26' in lieu of the maximum height of 15', 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 comment submitted by the DEPS, a copy of which is attached hereto and incorporated herein.

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:dlw