

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(600 Oakdean Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Patton Holdings, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0177-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Patton Holdings, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing accessory structure (garage) to be raised to height 28' in lieu of the maximum permitted 15'. A site plan was marked as Petitioner’s Exhibit 1.

Daniel Patton and David Billingsley 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. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Bureau of Development Plans Review (“DPR”) and the Department of Planning (“DOP”). Neither agency opposed the request.

The site is approximately 21,537 sq. ft. in size and is zoned DR 3.5. The property is improved with a single-family dwelling and detached garage. As noted in the Bureau of DPR ZAC comment, the property is located within a flood hazard area. As such, Petitioner explained he would like to add a second story to the existing garage, which will allow for safe storage of household and personal items. Mr. Billingsley noted the immediately adjoining owner obtained

a variance in the last few years to construct a second story onto an existing garage.

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 it would be unable to construct the garage 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 absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 26th day of **February, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing accessory structure (garage) to be raised to a height 28 ft. in lieu of the maximum permitted 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 its 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 prior to issuance of permits comply with flood protection and critical area regulations.

3. The garage addition shall be completed in a way that results in a uniform finish of the building.
4. Petitioner or subsequent owners shall not convert the proposed accessory building (detached garage) into a dwelling unit or apartment. The proposed accessory building (detached garage) shall not contain any sleeping quarters, living area, or kitchen facilities.
5. The proposed accessory building (detached 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln