

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(21510 Orwig Road)		
7 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Stephen & Wendy Mooney	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0229-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Stephen and Wendy Mooney, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit an accessory structure (detached garage) with a height of 25' in lieu of the permitted 15'. A site plan was marked as Petitioners’ Exhibit 1.

Stephen and Wendy Mooney appeared in support of the petition. Ronald Danielson and Sarah Sullivan who live at 21600 Orwig Road opposed the request. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the county reviewing agencies.

The site is approximately 4.89 acres in size and is zoned RC-2. The property is improved with a single-family dwelling constructed by Petitioners in 1997. Petitioners recently purchased a large motor home and would like to construct a detached garage to store the vehicle.

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).

While I am sympathetic to the Petitioners' plight, I do not believe they can satisfy the requirements for variance relief. There was no evidence presented to establish the property as unique or unlike neighboring parcels. In addition, Petitioners have an existing 3-car garage; as such, denial of the variance request would not in my opinion cause a hardship. Under Maryland law, a variance must be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this 9th day of **April, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 400.3 of the Baltimore County Zoning Regulations ("BCZR") to permit an accessory structure (detached garage) with a height of 25' in lieu of the permitted 15', be and is hereby DENIED.

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