

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1120 Freeland Road)	*	OFFICE OF
6 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Jeffrey W. Abel		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	<b>Case No. 2019-0260-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 Jeffrey W. Abel, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a pole barn, accessory building addition and garage with a footprint bigger than the principal dwelling. In addition, a Petition for Variance seeks: (1) to permit an existing pole building with a setback of 0 ft. in lieu of the required 2.5 ft. and with a height of 19 ft. in lieu of the required 15 ft.; (2) to permit a proposed accessory building addition with a height of 22 ft. in lieu of the required 15 ft.; and (3) to permit an existing detached garage to be located in the side yard in lieu of the required rear yard and with a height of 19 ft. in lieu of the required 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

Jeffrey W. Abel and surveyor Bruce Doak appeared in support of the requests. There were no protestants or interested citizens in attendance. 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 subject property is approximately 3.04 acres in size and zoned RC-2. The property

is improved with a single-family dwelling, garage and pole barn. Those three structures were built 25+ years ago and Petitioner does not propose any changes to them. Petitioner recently began construction of an addition that would connect the garage and pole building. It would essentially constitute another bay for the garage, as shown in photos submitted at the hearing. Pet. Ex. 4D & 4E. Petitioner intends to store a recreational vehicle in this space. Based on an anonymous complaint Petitioner was issued a code enforcement citation and instructed to obtain zoning relief and a building permit for the garage addition.

### SPECIAL HEARING

The special hearing is required only because Petitioner proposes to connect the existing garage to the pole building, such that they become one structure. Considered as such the footprint of these adjoining accessory structures will be larger than the footprint of the single-family dwelling. However, as noted above, with the exception of the small addition under construction these buildings were constructed over 25 years ago and the appearance of the site will therefore not change. In addition, this property is in a rural setting and an aerial photograph (Pet. Ex. 3B) submitted at the hearing shows Petitioner's closest neighbors are approximately 460' and 870' away. As such, I do not believe granting the request would have any discernable impact upon either and the petition will therefore 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 subject property is accessed by a long panhandle drive, which renders it unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to construct the proposed addition to the 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 lack of County and/or community opposition.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of **May, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a pole barn, accessory building addition and garage with a footprint bigger than the principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to permit an existing pole building with a setback of 0 ft. in lieu of the required 2.5 ft. and with a height of 19 ft. in lieu of the required 15 ft.; (2) to permit a proposed accessory building addition with a height of 22 ft. in lieu of the required 15 ft.; and (3) to permit an existing detached garage to be located in the side yard in lieu of the required rear yard and with a height of 19 ft. in lieu of the required 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.

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