

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(6941 Mount Vista Road)	*	OFFICE OF
11 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
Saida M. Guevara Arias	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2019-0283-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 Saida M. Guevara Arias, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a proposed garage 1,536 square feet in size, which is larger than the residence. In addition, a Petition for Variance was filed pursuant to BCZR Section 400.3 to permit the height of the garage to be 18.5 ft. in lieu of the permitted 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Petitioner appeared in support of the requests. A neighbor attended the hearing to obtain additional information regarding 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.

SPECIAL HEARING

The subject property is 2.2 acres in size and is zoned RC-5. The property is located in the Kingsville area and improved with a small single-family dwelling constructed in 1986. While the state tax records indicate the dwelling is 720 sq. ft. in size, that is the ground floor area of the home. Petitioner confirmed the dwelling is two-story; as such the house in fact contains 1,440 sq. ft. of

above-grade living space. Petitioner proposes to construct a pole building in the northwest corner of the lot, in the rear of the existing dwelling. Petitioner stated the garage would be used for storage of a camper, lawn equipment, ATVs and other household items. Given the size of the property and the proposed location of the garage, I do not believe granting the request would have a detrimental impact upon the community.

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/boundaries and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the proposed 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 15th day of **May, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to approve a garage 1,536 square feet in size, which is larger than the residence, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit the height of the garage to be 18.5 ft. in lieu of the 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 her 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 or subsequent owners shall not convert the proposed accessory building (detached garage) into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The proposed 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