

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(11800 Harford Road)	*	OFFICE OF
11 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Jayne A. Heck-Hackley & Frank A. Hackley,	*	FOR BALTIMORE COUNTY
	*	
<i>Legal Owners</i>		
Petitioners	*	<b>Case No. 2019-0332-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 Jayne A. Heck-Hackley and Frank A. Hackley, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed accessory use garage 2,000 sq. ft. in size, which is larger than the existing primary structure that is 1,829 square feet. In addition, a Petition for Variance was filed to permit an accessory use garage 30 ft. in height in lieu of permitted 15 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Frank and Jayne Hackley and surveyor Scott Dallas 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. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

**SPECIAL HEARING**

The existing single-family dwelling was constructed in 1959 and is relatively modest in size. The proposed garage would have a slightly larger footprint and the owners explained it would be used to store classic vehicles and household items. The garage would be over 300’

from Harford Road and to the rear of the existing dwelling. In these circumstances I do not believe granting the request would have any impact upon surrounding properties.

VARIANCE

As to the variance, it requires 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 an irregular shape and the grade changes significantly from the front to the rear of the parcel. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they 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 absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this 23<sup>rd</sup> day of **July, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to permit a proposed accessory use garage 2,000 sq. ft. in size, which is larger than the existing primary structure that is 1,829 square feet, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an accessory use garage 30 ft. in height in lieu of permitted 15 ft., 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 or subsequent owners shall not convert the accessory building (detached garage) into a dwelling unit or apartment. The accessory building (detached garage) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln