

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(2720 Merrymans Mill Road)	*	OFFICE OF
10 th Election District	*	ADMINISTRATIVE HEARINGS
3 rd Council District		
	*	FOR BALTIMORE COUNTY
Anne S. Riepe		
Petitioner	*	Case No. 2019-0352-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 Anne S. Riepe (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an existing barn to be converted into an accessory (sibling) apartment on the same owner occupied lot as the principal dwelling, and any other relief that the Administrative Law Judge (“ALJ”) deems to be necessary.

In addition, a Petition for Variance was filed pursuant to BCZR Sections 400.4.B.2 and 400.3 to permit an existing barn to be converted to an accessory (sibling) apartment with a footprint of 2,000 sq. ft. in lieu of the maximum 1,200 sq. ft., and 40 ft. in height in lieu of the maximum 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Anne S. Riepe and surveyor Bruce Doak appeared in support of the requests. There were no protestants or other interested persons in attendance. The Petition was advertised and posted as required by the BCZR. No substantive ZAC comments were received from any of the County reviewing agencies.

SPECIAL HEARING

The subject property is 10 acres in size and split-zoned RC4/RC6. The large tract is improved with a dwelling constructed in 1851 and several outbuildings, including a large bank barn. Petitioner proposes to renovate the barn to provide living quarters for two of her siblings who are disabled. Petitioner submitted renderings of both the dwelling and existing barn, and the site is rural with a large number of mature trees which screen the property. I do not believe granting the request (*i.e.*, an accessory apartment in a detached structure) would have any discernable impact upon the surrounding community.

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 large tract has an irregular shape and there are grade changes across the site. As such, the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would be unable to construct the proposed accessory apartment in the barn. 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 19th day of **August, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to approve an existing barn to be converted into

an accessory (sibling) apartment on the same owner occupied lot as the principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to BCZR Sections 400.4.B.2 and 400.3 to permit an existing barn to be converted to an accessory (sibling) apartment with a footprint of 2,000 sq. ft. in lieu of the maximum 1,200 sq. ft., and 40 ft. in height in lieu of the maximum 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.
- Petitioner must within 30 days of the date hereof record among the Baltimore County land records the Declaration of Understanding, a copy of which is attached hereto as Exhibit A.
- No separate utility meter shall be permitted in conjunction with the accessory apartment.

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