

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(20804 York Road)		
7 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Terrence L. & Mary J. Boegner	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0354-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Terrence L. and Mary J. Boegner (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed pole barn with a height of 21 ft. in lieu of the maximum allowed height of 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Planning (“DOP”) dated June 17, 2019, indicating no objection to granting the zoning relief but recommended the structure not to be used for principal residence or commercial purposes.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 14, 2019, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (“BCC”). Based upon the information available, there is no evidence in

the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 12th day of **July, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed pole barn with a height of 21 ft. in lieu of the maximum allowed height of 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 pole barn into a dwelling unit or apartment. The proposed pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The pole barn 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.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County