

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(14009 Fox Land Road) *	OFFICE OF
10 th Election District *	ADMINISTRATIVE HEARINGS
3 rd Council District	
Keith E. and Cyndy L. Ronald, *	FOR BALTIMORE COUNTY
<i>Legal Owners</i>	
Petitioners *	Case No. 2019-0495-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 Keith and Cyndy Ronald , legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 404.B.1 of the Baltimore County Zoning Regulations (“BCZR”) to propose an accessory structure to be used as an accessory apartment. In addition, a Petition for Variance was filed pursuant to BCZR §§ 400.1 and 400.3: (1) to permit a proposed accessory structure to be used as an accessory apartment located in the side yard in lieu of the rear yard; and (2) to permit a height of 20 ft. in lieu of the maximum height of 15 ft. A redlined site plan was marked and accepted into evidence as Petitioners’ Exhibit 1. The property is zoned RC5.

Keith and Cyndy Ronald appeared in support of the requests. They were represented by John Gontrum, Esq. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). Neither agency opposed the requested relief.

SPECIAL HEARING

Because there were no Protestants Mr. Gontrum was permitted to proffer the evidence. He explained that Mr. Ronald has a degenerative disease that necessitates the requested relief. Mr. and Mrs. Ronald will occupy the proposed accessory residential structure and their daughter and son-in-law will occupy the principal residence. The accessory structure must be located to the side of the principal residence rather than in the back because the residence relies on private well and septic and the well is behind the residence, as depicted on the site plan. The Ronalds need the 1400 square foot structure in order to accommodate wheelchair access throughout the interior, which necessitates wider doorways and hallways. The 20 foot height is needed in order to make the structure architecturally compatible with the existing residence and the others in the neighborhood. Aerial photographs of the existing residence and the surrounding properties were admitted as Petitioners' Exhibits 2A and 2B. Floor plans of the proposed accessory apartment were admitted as Petitioners' Exhibits 3A and 3B.

Based on the record evidence I find that Petitioners are entitled to the relief requested in the Special Hearing. The requested relief can be granted within the spirit and intent of the BCZR and without being injurious to the public, health, safety and welfare. I specifically find that the requested relief meets all the conditions of BCZR Sec. 502.1 and that no particular conditions or restrictions are required in order to protect the surrounding properties.

VARIANCE

A variance can be granted under BCZR Sec. 307.1 and under Maryland common law if a two prong legal test is met:

- (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 Ronalds' home is on an irregularly shaped lot and is accessed by a long panhandle driveway. It has a large septic reserve area in the front yard and a well in the rear. 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 accessory apartment in a manner that will accommodate their present and future needs. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and 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 **10th** day of **December, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to propose an accessory structure to be used as an accessory apartment, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to permit a proposed accessory structure to be used as an accessory apartment located in the side yard in lieu of the rear yard; and (2) to permit a height of 20 ft. in the maximum 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. The accessory structure shall not be used as a principal residence or for commercial purposes.
3. No separate utility meter shall be permitted.
4. Prior to issuance of permits, Petitioners must comply with the ZAC comment

submitted by the (“DEPS”), a copy of which is attached hereto and made a part hereof.

5. Petitioners shall execute and file, along with a copy of this Order, within the land records of Baltimore County, a Declaration of Understanding that conforms with BCZR Sec. 400.4.A.1 and

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln