

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(20061 Middletown Road)		
6 th Election District	*	OFFICE OF
3 rd Council District		
Richard W. Windsor	*	ADMINISTRATIVE HEARINGS
& Kathleen R. Windsor		
	*	FOR BALTIMORE COUNTY
Legal Owners/Petitioners		
	*	Case No. 2021-0013-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Special Hearing filed by Richard W. Windsor and Kathleen R. Windsor. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) §500.7, to permit an accessory building (detached garage) with a building footprint larger than the footprint of the principal dwelling.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Richard Windsor appeared at the hearing along with Charles F. White of Broadway Builders, Inc., who assisted the Petitioners in preparation of a site plan (the “Site Plan”). (Pet. Ex. 1). Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Environmental Protection and Sustainability (“DEPS”) and State Highway Administration (“SHA”) which agencies did not oppose the requested relief. There were no opposing parties or interested citizens.

The Property is approximately 1.31 acres and is zoned Resource Conservation – Agricultural (RC 2). Mr. White explained that the Petitioners own and reside in the single-family home which measures 66x25 sf with an attached garage, pool and shed in the rear. The existing

shed in the rear measures 12 x 10 sf and will be removed. A macadam driveway extends from Middletown Rd. into the Property. The Petitioners plan to convert the attached garage into additional living space. Accordingly, they propose to build a 'Shirk' pole building (detached garage) measuring 40 x 50 x 14 ft., 10 1/2 in. The total square footage of the home is more than total square feet of the proposed garage. Because the footprint of the garage is larger than the footprint of the home, Petitioners were instructed to file the instant relief.

The proposed garage will be located in the rear of the Property. (Pet. Ex. 1, 8). Specifications and elevations of the proposed garage were provided. (Pet. Exs. 2, 3 4). It will have 3 overhead doors and will be made of steel. (Pet. Ex. 3). It will be constructed into the grade. (Pet. Exs. 3, 4). Detailed drawings of the garage construction were provided. (Pet. Ex. 5, 6). Street view photographs of the Property and the proposed location were provided. (Pet. Exs. 9, 10). There is a berm along the rear of the Property and then the grade slopes down beyond the garage location. (*Id.*). Mr. Windsor added that the 200 amp service in the home is sufficient to provide electricity for the garage. Accordingly, there will not be separate electrical meters or connections to the garage.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). Based on the evidence, I find that the Special Hearing relief to permit the detached garage with a footprint larger than the footprint of the dwelling should be granted. The area is agricultural and residential. The Bulk Regulations for the RC2 zone do not limit the size of a detached garage or require that it have a smaller footprint than the dwelling. BCZR, §1A01.3. Indeed, the Petitioner meets the height and area regulations. (*Id.*). However, the definition of accessory structure in BCZR, §101.1 states that an accessory structure should be 'subordinate in area' to the principal dwelling. In this case, although the footprint of the proposed garage is larger than the dwelling, the total size of the garage is smaller than the dwelling. Accordingly, I find that the proposed garage meets the BCZR definition and is 'subordinate in area' to the existing dwelling.

I find the proposed garage will not be detrimental to the health, safety or general welfare of the locality. It will be a benefit to the neighborhood to have a structure to house the Petitioners' vehicles and equipment. The pole-barn style garage is reflective of the rural character of the area. The garage will also permit the Petitioners to convert the existing attached garage to living space.

THEREFORE, IT IS ORDERED, this 14th day of **April 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing from the Baltimore County Zoning Regulations ("BCZR") §500.7 to permit an accessory building (detached garage) with a building footprint larger than the footprint of the principal use dwelling is hereby **GRANTED**.

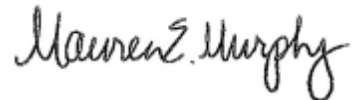
The relief granted herein shall be subject to the following:

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 garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities. The garage shall also not be used for commercial or industrial purposes.

3. The garage shall not have a separate utility or electric connection but shall connect to the electrical in the home.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm