

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(14 Gerwell Court)		
11 th Election District	*	OFFICE OF
5th Council District		
Justin Sapp, Sr., &	*	ADMINISTRATIVE HEARINGS
Crystal Sapp	*	FOR BALTIMORE COUNTY
Legal Owners/Petitioners	*	Case No. 2021-0017-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Special Hearing and a Variance filed by the Petitioners Richard W. Windsor and Kathleen R. Windsor. The Special Hearing was filed to request a waiver pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to permit a proposed home office living space with a half bath in a detached accessory use structure on a residential lot.

A Variance from the BCZR § 400.1 to permit an accessory use detached structure in the side yard in lieu of the required rear yard. From BCZR § 400.3 to permit an accessory use detached structure with a height of 20 ft. in lieu of the required 15 ft. maximum height.

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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) and from the Department of Environmental Protection Sustainability (“DEPS”) which did not oppose the requested relief subject to proposed conditions.

The Petitioners, Justin Sapp, Sr., and Crystal Sapp appeared at the hearing. Michael Tobias, an adjacent property owner, also attended and testified that he is not opposed to the

requested relief. The subject property is approximately 1.56 acres and is zoned RC 5. Mr. Sapp explained that he and his wife both have home offices and that they are outgrowing the available space in their home. The proposed accessory structure will have three parking stalls on the ground floor and storage and office space on the second floor. A half bath is also proposed. Mr. Sapp confirmed that the structure will not be used for commercial or residential purposes. He has a home inspection company and he will be using the office strictly for administrative purposes. No clients will come to the premises. He explained, and the site plan shows, that the proposed structure will be built where there is an existing parking pad. He further explained that this proposed side yard site is necessary because their dwelling is sited in a sideways fashion on the lot due to the long narrow shape of the lot.

A variance request involves 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 subject property is unique in that it is long and narrow and is accessed via a panhandle driveway. Because of the shape of the lot the side of the existing residence faces the cul-de-sac. This necessitates placing the proposed accessory structure in the side yard. The height variance is needed in order to construct a structure that is architecturally compatible with the existing dwelling. Petitioners will experience practical difficulty and hardship if the variances are denied because they would be unable to build the proposed accessory structure, which they need for storage and office purposes. I find that the relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare – especially since they

will be required to comply with the ZAC comments of DOP and DEPS.

THEREFORE, IT IS ORDERED, this 13th 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 a proposed home office space with a half bath in a detached accessory use structure on a residential lot is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Petition for Variance if necessary from the BCZR § 400.1 to permit an accessory use detached structure in the side yard in lieu of the required rear yard and from BCZR § 400.3 to permit an accessory use detached structure with a height of 20 ft. in lieu of the required 15 ft. maximum height is hereby **GRANTED**

The relief granted herein shall be subject to the following:

- 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.
- 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, or kitchen facilities.
- The proposed garage shall not be used for commercial purposes, other than as a home office space.
- Petitioners must comply with the DOP and DEPS ZAC comments, copies of which are attached hereto and make a part thereof.

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/dlm