

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(3925 Dance Mill Road)	*	OFFICE OF
10 th Election District		
3rd Council District	*	ADMINISTRATIVE HEARINGS
Sara S. Rowan		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2020-0119-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 Sara S. Rowan, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”), to allow a 1,186 sq. ft. accessory apartment to be occupied by the parents of the property owner in accordance with BCZR § 400.4. In addition, a Petition for Variance was filed pursuant to § 400.1, of the BCZR to permit an accessory structure to be located in the side yard in lieu of the rear yard; and per § 400.3 of the BCZR to permit an accessory structure with a height not to exceed 26.5 in lieu of the 15 ft. maximum height limit.

Due to 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 6.

Susan Rowan and her father John Rowan appeared in support of the requests. Robert S. Glushakow, Esq. represented the Petitioner. John Mariani Architecture, PA prepared the site plan. There were no protestants or interested persons in attendance. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and from the Department of Environmental Protection and Sustainability Development

Coordination (“DEPS”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

Special Hearing

The property is approximately 2.11 acres and is zoned RC-6. The Rowans and counsel explained that Sara Rowan is the single mother of a three and a half year old son. Her parents care for the child several days a week so that she can work. They confirmed that they are aware of the parameters of this “in law” apartment use and they submitted the Declaration of Understanding required under BCZR § 400.4, which was admitted as Petitioner’s Exhibit 11. In addition they submitted a petition signed by all the adjoining properties owners voicing their support for the requested relief. (Petitioner’s Exhibit 10. The Rowans further acknowledged the conditions proposed by the DOP and confirmed that they agreed to them.¹

I find that the Rowans have satisfied all the requirements of BCZR § 400.4 and BCZR § 502.1 and that the special hearing relief can be granted within the spirit and intent of the BCZR, and without causing harm to the public health, safety, or welfare.

Variance

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).

¹ The DEPS comment notes that it is possible that the proposed in-law apartment may require a separate septic system. If that is the case then the Rowans will not be bound by the DOP condition restricting separate septic systems.

Counsel explained that the site is irregularly shaped and has somewhat steep topography. It is also well forested with mature trees and shrubs which provide excellent buffering from the adjoining neighbors. The property is therefore unique. In addition, the siting of the existing residence makes it quite impractical to construct the proposed apartment in the rear of the residence. Mr. Rowan pointed out that to do so would also require a much longer driveway, with more impervious surface, and would also make connections to the existing well and septic systems more difficult. I find that the side yard variance relief is therefore necessitated by these unique features, and that practical difficulty and hardship would result if the relief were denied. Finally, the height variance is needed in order to construct a livable apartment for the Rowans. Counsel explained that the proposed structure is now only 22 ft. in height rather than the 26.5 ft. requested in the petition. In sum, I find that the variance relief can also be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare.

THEREFORE, IT IS ORDERED this 1st day of **December, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”), to allow a 1,186 sq. ft. accessory apartment to be occupied by the parents of the property owner is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief pursuant to § 400.1, of the BCZR to permit an accessory structure to be located in the side yard in lieu of the rear yard; and per § 400.3 of the BCZR to permit an accessory structure with a height not to exceed 22 ft. in lieu of the 15 ft. maximum height are also 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 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