

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(14012 Phoenix Road)		
6th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Arthur W. Nauman & Sahar Farouk	*	HEARINGS OF
Nauman		
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2020-0220-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Arthur W. Nauman and Sahar Farouk Nauman for property located at 14012 Phoenix Road. The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) § 400.3 to permit an accessory structure (garage) with a height of 18 ft. in lieu of the maximum allowed height of 15 ft.

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”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

Arthur W. Nauman & Sahar Farouk Nauman appeared at the hearing. Bruce E. Doak, the licensed land surveyor who prepared the site plan also appeared and assisted in presenting the petition. There was no opposition. The subject property is approximately 2 acres and is zoned RC 6. Mr. Doak explained that he was advised by the zoning office that the rear yard only limitations

of BCZR § 400.1 are not applicable in the RC 6 zone. The plain language of BCZR § 1A07.8.C.g confirms this interpretation. Therefore, the only variance relief requested in the petition is the 3 foot height 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).

The site is unique for a variety of reasons. First, the principal structure is sited at an angle on the lot and is accessed via a panhandle driveway. The topography is steep and the septic system is located to the rear of the residence. The Petitioners would suffer practical difficulty and hardship if the variance relief is denied because they would be unable to build the proposed accessory structure because the side yard location is the only feasible one. I find that this variance can be granted within the spirit and intent of the BCZR and without harming the public health, safety, or welfare. Specifically, as described by Mr. Doak and as documented by the photos in Petitioner's Exhibit 6, there is ample forest buffer and space between the proposed garage and all the adjoining properties. Further, the architectural elevations shown in Petitioner's Exhibit 7 show that the proposed structure will be compatible with the existing residence and the surrounding residences.

THEREFORE, IT IS ORDERED, this 12th day of **January 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to § 400.3 to permit an accessory structure (garage) with a height of 18 ft. in lieu of the maximum allowed height of 15 ft. 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 accessory structure into a dwelling unit or apartment. The proposed accessory structure shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The proposed accessory structure shall not be used for commercial purposes.

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

PMM/dlm