

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(21023 Slab Bridge Road)		
6 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Michael & Julie Eagan	*	HEARINGS FOR
<i>Trustee/Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2020-0233-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Michael & Julie Eagan, Trustees (“Petitioners”) for property located at 21023 Slab Bridge Road (the “Property”). The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) §400.1 to allow an accessory structure (garage) to be located in the front/side yard of a 15.09 acre corner property in lieu of the rear yard and in lieu of the 1/3 area of the rear yard farthest removed from a street, and also from BCZR, §400.3 to allow an accessory structure (garage) with a height of 23 ft. in lieu of the maximum 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. Petitioner Michael Eagan appeared at the hearing along with Bruce E. Doak of Bruce E. Doak Consulting, LLC, a registered property surveyor, who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). There were no protestants or interested citizens who appeared.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection Sustainability (“DEPS”) and from the Department of Planning (“DOP”). Those agencies did not oppose the requested relief.

FACTS AND EVIDENCE

The Property is a 15.09 acre parcel which was originally part of a farm. It is zoned resource-conservation (RC-8). As shown on the Site Plan (Pet. Ex. 1) and in the aerial photo (Pet. Ex. 2), the Property abuts Slab Bridge Rd. on two (2) sides. The Property is improved with a home which sits at a 45 degree angle; it is not perpendicular to either road. (Pet. Exs. 1 and 3). One access driveway is located along the northeast side of the Property where 2 roll-off sheds and part of a concrete block foundation, can be seen in photographs. (Pet. Exs. 1-4). A well is located near the access driveway in the front/side yards; a septic reserve area is in the southeastern portion of the Property behind the home. In the eastern/rear portion of the Property, the grading drops significantly down a hill where it ends at the bottom in a stream and wetlands. (Pet. Exs. 1, 3, 4C and 4F).

The proposal here is for a detached garage to be located where the concrete block foundation is seen off the driveway. (Pet. Exs. 4A and 4E). This area is considered to be both the front and side yard of the Property. Mr. Doak testified that this particular location is necessary in order to avoid the amount of grading and additional impervious surface that would be necessary to build into the steep slope in the rear. (Pet. Ex. 4A - 4F).

The proposed garage will be a 2-story, 60 by 30 ft. structure with a height of 23 ft. (in lieu of the required 15 ft.). The proposed height will accommodate the installation of a lift (22-25 ft. clearance) needed to store items on the second floor. Additionally, the requested height is necessary to accommodate the garage roof pitch which will mirror the pitch on the house. The siding and garage doors will reflect an architectural style similar to the house. Renderings of the proposed structure were provided. (Pet. Ex. 5).

DECISION

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).

As described above, I find that the Property is unique as a result of the following physical characteristics of the Property: the double frontage on Slab Bridge Rd., the steep slope in the rear, the location of the septic reserve area in the rear, and the stream/wetland area at the bottom of the hill. (Pet. Exs. 1 and 3). This uniqueness makes the construction of a detached garage in any location other than where it is proposed on the driveway (as reflected in the photographs) both practically impossible, and unusable, under BCZR, §400.1 (i.e. in either the rear yard or in the one-third of the lot farthest removed from Slab Bridge Rd.). I find that the proposed height of the garage is not only consistent with the architecture and roof pitch of the home, but also necessary to construct a lift for storage in the second floor of garage. I find that Petitioners would suffer a practical difficulty and an unreasonable hardship if the variance relief (as to both the location and height) is denied because the Petitioners would not be able to build a reasonably sized, useable, detached garage along the driveway. I also find that the variance relief can be granted within the spirit and intent of the BCZR and without harming the public health, safety, or welfare.

THEREFORE, IT IS ORDERED, this 25th day of **January 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, §400.1 to allow an accessory structure (garage) to be located in the front yard of a 15.09 acre corner property in lieu of the rear yard, or in the 1/3 area of the rear yard farthest removed from a street, as well as

from BCZR, §400.3 to allow an accessory structure (garage) with a height of 23 ft. in lieu of the maximum height of 15 ft. 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 Petitioner and subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen but may contain a bathroom without a shower and shall not be used for commercial purposes.
3. Petitioners must comply with the DEPS and DOP ZAC comments, copies of which are attached hereto and made a part thereof.

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

Signed
MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm