

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(6721 Mt. Vista Road) *	OFFICE OF
11 th Election District	
5 th Council District *	ADMINISTRATIVE HEARINGS
Monica Watts, <i>Legal Owner</i>	
	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2020-0044-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 Monica Watts, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to allow an accessory building (garage) temporarily in the front yard without a principal dwelling. In the alternative, a Petition for Variance was filed pursuant to BCZR §§400.3 and 400.1 to approve an accessory building (garage) at total height of 24 ft.in lieu of the required maximum height of 15 ft. and to approve an accessory building (garage) in the future front yard of dwelling in lieu of the required rear yard only. Finally, the Petitioner also asks that an existing barn structure on the property be permitted to remain. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Monica Watts appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from Department of Planning (“DOP”). They do not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

SPECIAL HEARING

Under BCZR § 500.7 relief can be granted provided that the requested relief does not run counter to the spirit and intent of the BCZR or cause harm to the public health, safety or welfare. In my view, this is such a case and the relief should and will be granted. The property in question consists of two parcels. As noted by the DOP, a lot line adjustment will be required in order to site the proposed residence and garage structure on the same parcel. Petitioner testified that the proposed garage structure is part of the architectural layout and will form an “L” with the principal residential structure. As noted by the DOP, the property in question is in a rural area of the County where large garage/barn structures are common. Further, the proposed house and garage are set well back from the road. In addition, the architectural elevations show that the structure will have the appearance of a traditional horse barn so it will be compatible with this rural area. Finally, I believe the existing barn can remain on the property without causing any harm to the public health, safety, and welfare, and within the spirit of the BCZR, even though after the lot line adjustment it will be on a parcel without a residence.

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 subject property is made up of two parcels and is irregularly shaped. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the proposed garage. Finally, I find

that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED this 17th day of **July, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to §500.7 of the BCZR to allow an accessory building (garage) temporarily in the front yard without a principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to approve an accessory building (garage) at total height of 24 ft.in lieu of the required maximum height of 15 ft. and to approve an accessory building (garage) in the future front yard of dwelling in lieu of the required rear yard only, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of Permits, Petitioner must comply with ZAC comments submitted by the DOP, a copy of which is attached hereto and made a part hereof.
3. The existing barn shall be permitted to remain but shall not be used for residential or commercial purposes.

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

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