

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(13026 Harford Road)	*	OFFICE OF
11 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
David Turner & Rebecca Taylor		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2020-0061-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 David Turner and Rebecca Taylor, legal owners (“Petitioners”). The Special Hearing was filed pursuant to §§ 500.7 and 101 of the Baltimore County Zoning Regulations (“BCZR”) and § 400.1.e of the Zoning Commissioner’s Policy Manual (“ZCPM”), to approve an accessory structure (garage 60 ft. x 40 ft.) to be larger than the primary structure which is 30 ft. x 32 ft. In addition, a Petition for Variance was filed pursuant to § 400.3, to approve an accessory structure (garage 60 ft. x 40 ft.) at a height of 27 ft. in lieu of the required maximum height of 15 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

David Turner appeared in support of the requests. John M. Altmeyer, assisted with presenting the case. There were no protestants or interested person in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Public Works (“DPW”), State Highway Administration (“SHA”) and the Department of Environmental Protection and Sustainability (“DEPS”)

The property is approximately 2.72 acres and is zoned RC 2. As noted by the DOP, the area is rural residential and agricultural. Harford Road is a county scenic byway, but based on their site visit DOP is comfortable with the proposed siting of this garage structure because it will not be very visible from the road. The DOP expressed concern about the proximity of the structure to the property to the south. Mr. Turner testified that he discussed his plans with that neighbor and she is in agreement that this site is preferable given the topography of the site and specifically an existing tree line that will shield the structure from view. Mr. Turner testified that the structure will be used to store equipment, tools, household items, and a large recreational vehicle.

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 parcel in question is irregularly shaped with steep and varying topography. The property is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the proposed garage structure. 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. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this **23rd** day of **July, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief pursuant to §§ 500.7 and 101 of the Baltimore County Zoning Regulations (“BCZR”) and § 400.1.e of the Zoning Commissioner’s

Policy Manual (“ZCPM”), to approve an accessory structure (garage 60 ft. x 40 ft.) larger than the primary structure (30 ft. x 32 ft.), be and hereby is GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief pursuant to § 400.3, to approve an accessory structure (garage 60 ft. x 40 ft.) at a height of 27 ft. in lieu of the required maximum height of 15 ft., be and hereby is 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 structure shall not be used for commercial or residential purposes; shall not contain kitchen or bathroom facilities; and shall not have separate utility meters.

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/dlw