

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(1302 Monkton Road)</b>		
7th Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Monkton Ridge Farm LLC	*	HEARINGS OF
Legal Owner	*	BALTIMORE COUNTY
<b>Petitioner</b>	*	<b>CASE NO. 2021-0064-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Monkton Ridge Farm, LLC (the “Petitioner”) for property located at 1302 Monkton Road (the “Property”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §400.1 to permit a proposed accessory building (detached garage) in the front yard of a residential lot in lieu of the required rear yard, and from BCZR §400.3 to permit an accessory building (detached garage) on a residential lot that will be 26 ft. in height in lieu of the required 15 ft. maximum height.

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. Max Conover, a member of Monkton Ridge Farm, LLC, appeared in support of the Petition along with Geoff Schultz, professional land surveyor with Polaris Land Consultants, as well as Peter Ratcliffe, architect. Howard Alderman, Jr., Esquire represented the Petitioner. There were no Protestants or interested citizens that appeared at the hearing.

A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”) which agency did not oppose the requested

relief.

The case proceeded by way of proffer by Mr. Alderman. Geoff Schultz was accepted as an expert in surveying, planning, zoning and development. Mr. Schultz prepared and sealed a site plan (the "Site Plan"). (Pet. Ex. 1). The Property is zoned Resource Preservation (RC7). (Pet. Ex. 2). It is a single lot comprised of 31 acres. It is improved with a single family home built in 1962, a detached garage (32ft x 28ft) located in the front yard, and private use-in-common driveway which connects to the house and garage. The Property is served by private well and septic.

Mr. Alderman explained that the topography of the Property renders it unusable as a produce farm. Instead, it is used as a Christmas tree farm. The land is relatively flat where the home and garage are located. However, to the rear of the Property, there is 240 ft. vertical drop which extends into the rear of the Property ending near Gunpowder Falls. (Pet. Ex. 3). It is an oddly shaped lot. (Pet. Ex. 1).

The Petitioner seeks to replace the existing garage as depicted in the photos (Pet. Exs. 4A-4C), with a 2-story, 3-bay garage measuring 45ft x 48 ft as shown in the architectural elevations. (Pet. Ex. 5A-5F). The design of the proposed replacement garage resembles a barn. It is large enough to house 6 vehicles on the first floor. (Pet. Ex. 5C). The Petitioner owns large farm equipment and classic cars. The upper level is for storage. (Pet. Ex. 5D). The Petitioner proposes to install 2 hydraulic lifts to work on the farm equipment and cars.

Mr. Alderman explained that the proposed garage is in the same location as the existing garage and that, due to the topography in the rear of the home, it is not possible to construct the garage in the rear of the Property. The height variance is needed to accommodate the hydraulic lifts.

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 Property is unique due to its odd shape and topography. Although it is zoned RC7, the severe slope prevents it from being used as farm. A garage has previously existed for years in the front yard due to the severe slope in the rear. A paved driveway already exists to connect the house and garage to Monkton Rd. Given these facts and the uniqueness of the Property, I find that the Petitioner would suffer a practical difficulty if a replacement garage was not permitted to be constructed where the existing garage is located in the front yard. While the replacement garage is 2,160 sf and the existing garage is 896 sf, the Petitioner is in need additional space to store farm equipment used for the Christmas tree farm, as well as vehicles. The additional space on the first floor, as well as the requested 26 ft height is also needed for hydraulic lifts used to work on the farm equipment and vehicles. I also find that the requested variance relief in regard to the front yard and height of the detached garage can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this **11th** day of **June 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §400.1 to permit a proposed accessory building (detached garage) in the front yard of a residential lot in lieu of the required rear yard location, and from BCZR §400.3 to permit an accessory building (detached garage) on a residential lot that will be 26 ft. in height in lieu of the required 15 ft. maximum height

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 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, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must comply with the DEPS ZAC comment, a copy of which is attached hereto and make a part thereof.
3. Petitioner and subsequent owners shall not convert the garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, kitchen facilities or bathrooms. The proposed garage shall not have a connection to water. The proposed garage shall not have a separate electric/utility connection but shall connect the existing line in the home.
4. The proposed garage shall not be used for commercial purposes.

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



MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm