

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
<b>(20320 West Liberty Road)</b>	*	OFFICE OF
7 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARING
Michael W. Golder &		
Monica L. Golder	*	FOR BALTIMORE COUNTY
<i>Legal Owners/Petitioners</i>	*	<b>Case No. 2021-0099-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Special Hearing and a Variance filed by the Petitioners Michael W. Golder and Monica L. Golder (the “Petitioners”) for property located at 20320 West Liberty Road (the “Property”). The Special Hearing was filed to request a waiver pursuant to the Baltimore County Zoning Regulations (“BCZR”) §500.7 to permit a proposed rear yard accessory structure with a footprint larger than the primary residence. Variance relief was also requested from the BCZR §400.3 to permit the proposed rear yard accessory structure to have a height of 19 feet in lieu of the maximum allowed height of 15 feet.

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. Petitioners appeared at the hearing along with John M. Altmeyer who prepared a site plan and assisted the Petitioners at the hearing (the “Site Plan”). There were no Protestants or interested citizens that attended the hearing.

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

The Property is approximately 1 acre +/- and is improved with a 1 ½ story log cabin built in 1986 and used as a single family dwelling by the Petitioners. The home measures 984 sf (24 ft. x 41 ft.) without including a 15 ft. deck or its front porch. (Pet. Exs. 1, 2). The home is 26 ft. in height. The Property is zoned Agricultural (RC 2). There is an existing 240 sf shed (12 ft. x 20 ft.). The Petitioners seek relief to construct a 1-story accessory building in the rear yard which measures 1,020 sf (30 ft. x 34 ft.) which measurement includes a front porch having a depth of 6 ft. (Pet. Ex. 8). Although the proposed structure is 1-story, it has a pitched roof measuring 19 ft. in height. (Pet. Ex. 9).

Mr. Altmeyer explained that the Office of Zoning Review included the proposed front porch in the total building footprint of the accessory structure but did not include the front porch or deck of the home in its total square footage. Because of this, the proposed accessory building has a larger footprint than the home. If the 6 ft. front porch of the accessory building were not included, it would be 816 sf and 168 sf less than the home. Architectural renderings of the accessory building front, side and rear elevations were provided. (Pet. Exs. 6-9).

The Petitioners explained that the purpose of the accessory building is for storage of personal equipment including automotive equipment, lawn equipment and woodworking tools. Due to the small size of the home, the accessory building is also needed to provide additional space for the personal hobbies of the Petitioners. Mr. Golder does woodworking and needs space for not only the wood but also for his tools. Mr. Golder emphasized that he is finance manager and is not in the business of carpentry or woodworking, and has no intention of selling any woodworking products that he makes. In addition, Mrs. Golder needs a space for craft projects and painting. It will not be used as a garage for vehicles. The existing shed is full with equipment, tools and furniture. The accessory building will not connect to any water lines. It will connect to the

electric/utility in the home.

Adjacent to the Property to the west is the home of Andrew and Molly Capp (20314 West Liberty Rd.) who provided a letter of support for the Petition. (Pet. Ex. 11). To the east of the Property is the home of Dennis and Shirley Openshaw (20324 West Liberty Rd.) who also provided a letter of support. (Pet. Ex. 10).

### SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). Based on the evidence, I find that the Special Hearing relief to permit an accessory structure with a footprint larger than the primary residence should be granted because as a practical matter, without the proposed 6 ft. porch, the footprint of the accessory structure is smaller than the primary residence and the total square feet of the primary residence was measured without including its front porch or side deck. The purpose of the front porch on the accessory structure is to make it similar in design to the primary residence. I also find that the requested Special Hearing relief 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 letters of support from the neighbors on each side of the Property.

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 shape and the peculiar log cabin house which serves as the primary residence. The Variance relief requested here is for a roof height which is 4 ft. taller than is permitted by BCZR in order that the roof pitch matches the primary residence. The Petitioners are not proposing a second floor; the upper window shown in the right side elevation is simply to provide light. I find that due to the uniqueness of the Property that the Petitioners would suffer a practical difficulty if the variance was not granted in that they would not be able to build this modest sized accessory structure for their personal hobbies and storage. I also find that the requested variance relief 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 1<sup>st</sup> day of **June 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing from the BCZR §500.7 to permit a proposed rear yard accessory structure with a footprint larger than the principle use residence is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Petition for Variance from the BCZR §400.3 to permit the proposed rear yard accessory structure to have a height of 19 feet in lieu of the maximum allowed height of 15 feet 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. Petitioners and/or subsequent owners shall not convert the garage into a dwelling unit or apartment. The proposed garage shall not contain any bathroom, sleeping quarters, living area, or kitchen facilities.
3. The accessory structure shall not be any connected to water, sewer or septic. It shall connect to the electric/utility in the house and shall not have a separate electric/utility connection.
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.

Signed \_\_\_\_\_  
MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm