

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(2531 Barrison Point Road)</b>	*	OFFICE OF ADMINISTRATIVE
15th Election District	*	HEARINGS OF
7th Council District	*	BALTIMORE COUNTY
James W. & Cushla M. Srour	*	<b>CASE NO. 2020-0280-A</b>
Legal Owners/Petitioners	*	

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by James W. Srour and Cushla M. Srour (the “Petitioners”) for property located at 2531 Barrison Point Road (the “Property”). The Petitioners are requesting variance relief from: (1) Baltimore County Zoning Regulations (“BCZR”) §1A04.3 to permit a lot in an RC-5 zone with a lot coverage of 20% building coverage in lieu of the required 15% maximum building lot coverage; (2) BCZR § 400.1 to permit a proposed accessory use garage structure in the front yard or street side of a waterfront lot in lieu of the required rear yard; and (3) BCZR § 400.3 to permit a proposed accessory use garage structure with a height of 17 ft. in lieu of the required 15 ft. height maximum.

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. The Petitioners appeared at the hearing. There were no opposing parties or interested citizens in attendance.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) which indicates that the subject property is located within the Limited Development Area (“LDA”) and the maximum Critical Area defined lot coverage allowance for this Property is 5,594 sq. ft. with mitigation for any new amount over

25%. A ZAC comment was also received from the Department of Planning (“DOP”) which did not oppose the requested relief.

The Property is waterfront property on Hawk Cove. (Pet. Ex. 2). It is approximately 19,200 sq. ft. and zoned RC 5. (Pet. Ex. 1, 5 and 6). It is improved with a renovated single family home (2,236 sq. ft.) originally built in 1961 which faces the water (Pet. Ex. 4b and 4c) and a detached garage on Barrison Point Rd. (Pet. Ex. 4a). The Petitioners seek approval to remove the existing garage and replace it with one which is 672 sq. ft. 17 ft. tall in the same location. (Pet. Ex. 7). The garage will have a large garage door on the street side for vehicles accessed by concrete drive, and another smaller garage door on the waterfront side for water sports equipment (17 ft. kayak and 12 ft. row boat) and lawn equipment accessed via a ramp of compacted earth. (Pet. Ex. 8). The proposed garage will have a second story for storage which is needed because storage is lacking in the home. The extra height is also needed to accommodate the height of a wind surfer. The elevations of the garage show a structure designed to complement the architectural style of the home. (Pet. Ex. 8).

In addition to the proposed garage and concrete driveway, the Petitioners are proposing a new driveway to the garage and a sidewalk to the front door of the home. (Pet. Ex. 7).

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 because it slopes from Barrison Point Rd. toward the water. The house has peculiar architectural features and unlike other waterfront homes, it is ‘L’ shaped. I

find the Petitioners will suffer a practical difficulty if they had to construct the detached garage on the rear yard (water side) under BCZR, §400.1. For waterfront properties, the water side is treated as the front yard because it faces the water. Constructing a garage between the home and water is contrary to the Chesapeake Bay Criteria Area regulations ('CBCA') which seeks to locate impervious surfaces away from the water. In addition, I find the Petitioners would also suffer a practical difficulty in not being able to construct a garage which is 17 ft. in height in lieu of the required 15 ft. The second floor of the garage will be storage which is lacking in the 1961 home. The Petitioners have several pieces of water sports equipment and lawn equipment which need protection from the weather as well as being shielded from view when not being used in the water. Additionally, by constructing a taller garage, less ground coverage is being used which is consistent with CBCA lot coverage limits.

Lastly, given that the proposed total lot coverage is 5,147 sq. ft., I find the proposed Site Plan meets the 5,594 sq. ft. lot coverage allowance under CBCA and therefore the DEPS ZAC comment has been satisfied. With regard to the maximum building lot coverage for RC5 property of 15% (2,685 sq. ft.) as required by BCZR, §1A04.3, the Site Plan proposes building lot coverage of 3,160 sq. ft. (home 2,488 sq. ft. plus proposed garage of 672 sq. ft.). I find that the Petitioners will suffer an unreasonable hardship in having to reduce either the footprint of the home or the proposed garage to comply with 475 sf. The variances requested can be granted within the spirit and intent of the BCZR and without injury to the health, safety and general welfare.

THEREFORE, IT IS ORDERED, this 18<sup>th</sup> day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petitions for Variance pursuant to Baltimore County Zoning Regulations ("BCZR") from:

- (1) BCZR, §1A04.3 to permit a lot in an RC-5 zone with a lot coverage of 20% building coverage in lieu of the required 15% maximum building lot coverage be, and it is

hereby GRANTED.

(2) BCZR, §400.1 to permit a proposed accessory use garage structure in the front yard or street side of a waterfront lot in lieu of the required rear yard be, and it is hereby GRANTED.

(3) BCZR § 400.3 to permit a proposed accessory use garage structure with a height of 17 ft. in lieu of the required 15 ft. height maximum be, and it 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 all subsequent owners shall not convert the proposed garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
3. The proposed garage shall not be used for commercial purposes.
4. Petitioners must comply with the DOP and DEPS ZAC comments, copies of which are attached hereto and make a part thereof.



MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm