

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(19700 York Road)</b>		
7th Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
2 <sup>nd</sup> Baltimore Acquisition, LLC	*	HEARINGS OF
Legal Owner/Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2020-0288-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by 2<sup>nd</sup> Baltimore Acquisition, LLC (the “Petitioner”) for property located at 19700 York Road (the “Property”). The Petitioner is requesting variance relief from Baltimore County Zoning Regulations (“BCZR”), §400.3 to permit an accessory use garage in the rear yard of a residential lot with a height of 23 ft. in lieu of the required 15 ft. max 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. David Pfeiffer, project manager for the Petitioner appeared at the hearing and prepared a site plan of the Property (the “Site Plan”). (Pet. Ex. 1). Sheza Nasir, Esquire represented the Petitioner. There were several neighbors in attendance who opposed the Petition. Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEP”) which agencies did not oppose the requested relief.

The Property is approximately 0.4 acres (17,424 sf) acres (100 ft. wide, 150 ft. length) and is zoned RC 5. It is improved with a 1 ½ story home built in 1926. Although it is not the subject of this Petition, the home is being renovated to 3 stories within the 35 ft. height regulation

of BCZR, §1A04.3.A. (Pet. Exs. 1, 3). On the western boundary is the Susquehanna Trail measuring 15 ft wide and sits within the Property line. Over top of the Susquehanna Trail is an access road which extends from York Rd. to the subdivision built in 1986 located behind the Property. The Petitioner is also constructing a driveway from the access road, along the front of the home and to the proposed detached garage in the rear. (Pet. Ex. 1). Petitioner is proposing to construct a 2-car garage within the footprint of a demolished pole barn (20 x 30.3) but with a second story for storage. Due to the second story on the garage, a variance for an additional 8 ft. in height is needed. The architectural style of the proposed barn matches the renovated home in terms of a barn-like appearance. (Pet. Ex. 2). Additionally, the grade is higher in the location of the proposed garage as compared to the home which contributes to the need for a height variance. (Pet. Ex. 4). The garage is proposed to be connected to the electrical system in the home and will not have a separate electric meter.

David Barber, 19634 York Rd. testified and asked questions. Mr. Barber lives in the subdivision behind the Property and uses the access road to drive to his home. Mr. Barber objected to the height of the garage as being out of character because it will sit higher than other structures in the neighborhood. Mr. Barber added that the Property was too small to add the garage. Holly Barber echoed her husband's testimony and questioned whether the home and garage meet the setbacks. Victoria Woodward, 19632 York Rd. also lives in the subdivision behind the Property and objected to the height of the garage. David Loetz, 19636 York Rd. reiterated Ms. Woodward's comment and stated that he would be able to see the proposed garage from his home. Everett Harless, 19704 York Rd. resides in the home on the northeastern side of the Property. Mr. Harless' property is enclosed with a fence and has a shed located next to that boundary line.

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 is smaller than other properties in the area, is bound by the Susquehanna Trail on the south western boundary which also serves as an access driveway, has a home built prior to the enactment of the RC5 zone with a well in the rear yard. The front of the Property is consumed with septic reserve area. The height variance is requested due to the increased grade beneath the proposed garage which adds to the peculiarity of this Property and contributes to the need for a height variance. I find that strict compliance with the height regulations in the RC5 zone will cause a practical difficulty and unreasonable hardship in not being able to construct a garage with a second floor within the same footprint of the former pole barn. The renovation of the existing 1926 home and matching barn style garage will be an improvement to the existing structures on the Property and therefore will benefit the neighborhood. I find that the height variance requested can be granted within the spirit and intent of the RC5 BCZR and without injuring the health, safety and general welfare of the neighborhood.

THEREFORE, IT IS ORDERED, this **22nd** day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the Baltimore County Zoning Regulations (“BCZR”) § 400.3 to permit an accessory use garage in the rear yard of a residential lot with a height of 23 ft. in lieu of the required 15 ft. max height 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 subsequent owners shall not convert the 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 have a separate electric or utility connection and shall be connected to the existing electric/utility in the home.
4. The proposed garage shall not be used for commercial purposes.

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

MEM/dlm