

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(705 Weil Mandel Way)</b>		
8th Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Eskandar Yazaji	*	HEARINGS OF
Legal Owner/Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2020-0301-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Eskandar Yazaji (the “Petitioner”) for the property located at 705 Weil Mandel Way (the “Property”). The Petitioner is requesting Variance relief from Baltimore County Zoning Regulations (“BCZR”) §400.1 to permit an accessory use detached garage in the side yard of a residential lot in lieu of the required rear yard. This case was originally an Administrative Variance and a formal demand was filed by Ashraf Mostafa, 709 Weil Mandel Way.

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. Eskandar Yazaji, MD appeared at the hearing. Mr. Mostafa did not appear at the hearing. There were no Zoning Advisory Committee (“ZAC”) comment which opposed the requested relief.

The Property is approximately 5.069 acres, is zoned RC 4 and is one of 4 homes on a court. Mr. Mostafa’s home is not located on the court but on the road leading into the court. (Pet. Ex. 1). Dr. Yazaji proceeded through photos of his Property and of Mr. Mostafa’s home which are separated by large mature trees. (Pet. Ex. 2). Dr. Yazaji marked the aerial photo with the proposed location of the garage which will be 846 sf. (Pet. Ex. 1). A Site Plan was also provided showing the location of the proposed garage. (*Id.*). Dr. Yazaji also provided the distance between the

location of the proposed garage and Mr. Mostafa's home which measured 235 ft. (Pet. Ex. 2). In addition, the Hunt Valley Architectural Committee provided a letter indicating that it had no objection to the proposed garage. Lastly, Dr. Yazaji testified that it was physically impossible to construct a garage in the rear yard because two (2) septic systems are located in the rear.

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 size. I find that due to the location of the septic systems in the rear of the Property, the Petitioner would suffer a practical difficulty and unreasonable hardship if the requested variance relief were denied. I also find that the proposed garage will be 235 ft from Mr. Mostafa's home and is shielded and buffered by the row of mature trees. Therefore, the variance can be granted within the spirit and intent of the BCZR and without injuring the health, safety and general welfare of the neighbors. The Property is a large, secluded lot surrounded by mature trees.

THEREFORE, IT IS ORDERED, this **18th** day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the Baltimore County Zoning Regulations ("BCZR") §400.1 to permit an accessory use detached garage in the side yard of a residential lot in lieu of the required rear yard 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,

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 be used for commercial purposes.



MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm