

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(14910 Joyce Lane)		
8th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Andrew E. Jones & Catherine E. Jones	*	HEARINGS OF
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2021-0092-A
* * * * *		

AMENDED OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Andrew E. Jones and Catherine E. Jones, Petitioners for property located at 14910 Joyce Lane. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to permit an accessory structure in the front yard in lieu of the rear yard. Upon motion made by counsel the petition was amended to also request a variance from BCZR § 400.3 to allow an accessory structure with a height of 25 feet in lieu of the prescribed 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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 2.

A Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

The Petitioners, Andrew E. Jones and Catherine E. Jones appeared at the hearing. John B. Gontrum, Esquire represented the Petitioners at the hearing, as did their builder, Ben Battaglia Project Manager, Mitchell Ensor, and Property Line Surveyor, C. Dudley Campbell were also in

attendance. Petitioners were represented by John Gontrum, Esq. of Whiteford, Taylor & Preston, LLP. There were no opponents or other interested persons in attendance. The subject property is approximately 12.63 acres and is zoned RC 2. Mr. Gontrum referenced the site plan and explained that the site is bordered by roads on three sides so that the proposed accessory structure is not actually in the rear yard. He also noted that it is an irregular triangular shape and has significant grade changes. A series of site photos were admitted as Petitioners' Exhibit 5 and Mr. Gontrum pointed out that there are mature trees and other vegetation that screen the accessory structure from the adjoining properties to the east, and that those dwellings are quite distant. Finally, he explained that the height variance will allow the pitch of the roof of the accessory structure to be architecturally compatible with the residence, and will provide needed storage space. The structure will be used solely for the storage of vehicles on the first floor and storage on the second.

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 site is unique for a variety of reasons, as described above. These features dictate the only suitable location for the proposed structure. If the variance relief were denied the Petitioners would suffer practical difficulty and hardship because they would be unable to construct the accessory building they need. I find that the requested relief is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this 26th day of **May 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 400.1 to permit an accessory structure in the front yard in lieu of the rear yard is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Variance from BCZR § 400.3 to allow an accessory structure with a height of 25 feet in lieu of the prescribed 15 feet is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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.
- Petitioners must comply with the DOP ZAC comment, a copy of which is attached hereto and make a part thereof.
- Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, or kitchen facilities.
- The proposed garage shall not be used for commercial purposes, other than as a home office space.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm