

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(4228 Osborn Road)	*	OFFICE OF
4 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Ricky Lee Fowble		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2020-0024-SPHA
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Ricky Lee Fowble, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”), to permit an accessory structure (barn) larger than the principle structure. In addition, a Petition for Variance was filed pursuant to § 400.3, to permit a proposed accessory structure (pole barn) in the side street yard in lieu of the required rear yard in the third of the lot farthest removed from any street and to permit a height of 25 ft. in the lieu of the required 15 ft. A site plan prepared by A.L. Snyder, a licensed property line surveyor, was marked and accepted into evidence as Petitioner’s Exhibit 1.

Due to the COVID-19 pandemic, a WebEx hearing was conducted remotely by computer and/or phone participation.

Ricky Fowble appeared in support of the requests. There were no protestants or interested persons in attendance. The Petition was advertised and posted as required by the BCZR. A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). The agency did not oppose the requested relief but requested certain conditions which will be incorporated into this Order.

The property is approximately 1.0061 acres and is zoned RC 2. The area is rural residential. There is a residence directly across Osborn Road from where the proposed pole barn will be constructed but Mr. Fowble explained that this portion of his property is well wooded. He also agreed that he would provide a row of evergreen screening along that portion of Osborn Road in order to provide further visual screening from this neighbor. Mr. Fowble explained that he has outgrown the existing shed and that he needs this pole barn structure for storage.

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 irregularly shaped and is on a curve at the end of a dead end road. The property is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to construct the pole barn he needs for storage. I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of County and/or community opposition. I further find that the Special Hearing relief should also be granted. The proposed pole barn (30 x 40 ft.) will be only marginally larger than the residence (26 x 40 ft.) and will not be incompatible in scale, especially since it will be a good distance from the residence.

THEREFORE, IT IS ORDERED this 1st day of **September, 2020**, by this Administrative

Law Judge, that the Petition for Special Hearing seeking relief pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”), to permit an accessory structure (barn) larger than the principle structure, be and hereby is GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief pursuant to § 400.3, to permit a proposed accessory structure (pole barn) in the side street yard in lieu of the required rear yard in the third of the lot farthest removed from any street and to permit a height of 25 ft. in the lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. The pole barn shall not be used for residential or commercial purposes and shall not have a separate utility meter.
3. Petitioner shall provide evergreen screening along the Osborn Road side of the pole barn in order to screen the structure from the neighbor’s property across Osborn Road.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlw