

IN RE: PETITION FOR VARIANCE
(20309 Gore Mill Road)
6th Election District
3rd Council District
James Wilcox,
Legal Owner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS OF
* BALTIMORE COUNTY
*
* **CASE NO. 2021-0208-A**

Petitioner

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by the Petitioner James Wilcox (the “Petitioner”) for property located at 20309 Gore Mill Rd., Freeland (the “Property”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §400.1 to approve an accessory structure (garage) in the front yard in lieu of the required rear yard.

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. Petitioner appeared at the hearing, *pro se*, in support of the Petition. There were no Protestants or interested citizens that appeared at the hearing. Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Environmental Protection and Sustainability (“DEPS”) and Development Plans Review (“DPR”) which agencies did not oppose the requested relief.

The Property is approximately 51.186 acres +/- and is located at the top of two (2) hills, which form part of a valley wall. A site plan, prepared and sealed by Little & Associates, was submitted. (Pet. Ex. 3). The Property is not visible from the street. It is zoned Environmental Enhancement (RC 8). Mr. Wilcox explained that he is in the process of building a replacement

home pursuant to Building Permit B-969975. (Pet. Ex. 1). A Forest Buffer variance was approved for the home. The Petitioner proposes to construct a detached, 1,600 sq. ft., 3-car garage with a height of 14 ft., in the front yard because it is the only other open, flat area. Access to the Property is via windy, private driveway up a hill from Gore Mill Rd. As shown on the Site Plan, the rear and sides of the Property are consumed with Forest Buffer, floodplains and wetlands due to the location of Little Falls which runs through the Property. Moreover, the topography of both the rear and side yards forms the steep hills surrounding the home. In addition to the environmental features, the shape of the Property on the Site Plan is very peculiar.

The proposed garage meets the side and rear yard setbacks under BCZR, §400.1. Architectural elevations were submitted showing 3 overhead doors in the front to park his personal vehicles, and 3 overhead doors in the rear to parked farm/utility vehicles. (Pet. Ex. 4). The garage will have a sealed concrete floor and an electric car lift. The purpose of the garage is to store vehicles and not to repair or work on them. There will be no separate water, no separate electric or utility lines; all such connections will run from the home.

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 a 'textbook' example of a property with a unique shape. It is remarkably irregular as compared to the surrounding properties. In addition to the shape, the topography consisting of 2 hills and the flat surface area on the crest, with environmental areas consuming the hill sides, and Little Falls running through it, only adds to its peculiarity.

Because of the Property's uniqueness, I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the proposed garage could not be constructed in the front yard because there is no other flat area, and the majority of the Property is either a hill or a restricted environmental area. The replacement home already needed a forest buffer variance due to its proximity to the Forest Buffer. As such, an attached garage is not an option. I also find that the requested variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this 12th day of **October 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, §400.1 to approve an accessory structure (garage) in the front yard in lieu of the required rear yard, be, and it 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 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, Petitioner would be required to return the subject property to its original condition.
2. Petitioner 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, or kitchen facilities.
3. There shall be no second utility and/or electric meter(s). There shall be no separate water line to the garage. All utility, electric and water lines shall connect to the house.
4. The proposed garage shall not be used for commercial purposes.

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

Signed _____
MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm