

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
NE side of Thornton Mill Road	*	OFFICE OF ADMINISTRATIVE
8 th Election District		
3 rd Councilmanic District	*	HEARINGS FOR
(14423 Thornton Mill Road)		
	*	BALTIMORE COUNTY
Sandra Joan and Donald E. Warrener, Jr.		
Petitioners	*	CASE NO. 2011-0355-SPHA

* * * * *

OPINION AND ORDER

This matter comes before this Administrative Law Judge for consideration of a Petition for Special Hearing filed by Sandra Joan and Donald E. Warrener, Jr., legal owners of the subject property. The Petition for Special Hearing was filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a detached accessory structure (proposed garage) in an M.L. zoned portion of a residential (R.C.6 zoned) lot and also approve the size to be larger than the principal dwelling (2,606 square feet as compared to the 1,464 square feet dwelling) as limited by the definition of an accessory building structure under Section 101.1 of the B.C.Z.R. In addition, Variance relief is being requested from Section 400.3 of the B.C.Z.R. to permit a garage (detached accessory) building with a height of 22.5 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners’ Exhibit 1.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management.¹ A Code Inspections and Enforcement Correction Notice was issued to Petitioners on April 21, 2011 requiring valid permit for pole barn and grading plan per Sediment Control. Hence, Petitioners filed the instant variance request.

¹ CO-0092041

Appearing at the public hearing on this Petition were Donald E. and Sandra Joan Warrener, legal owners, and their son, Jason Warrener. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other persons present.

The Zoning Advisory Committee (ZAC) comments were made a part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

Testimony and evidence presented demonstrated that the property which is the subject of this special hearing and variance request consists of 1.2421 acres, more or less, and is split zoned RC 6 and ML. The owner's 18 year old son, Jason, received a permit and constructed a 2,606 square feet pole barn on the portion of the property zoned ML. He hopes to use the pole barn for storage and for his hobbies. The actual building is larger and taller than that which was originally applied for, so the instant Petitions are filed to bring the building into compliance with the permit. In addition, the pole barn is larger than the dwelling located on the property.

I find that the special hearing relief should be granted as the approval of this request will not adversely impact the surrounding community. Pole barns, especially in the rural areas of the County such as this, are typically larger than the dwelling on the property. As such, the special hearing shall be granted.

As to the variance relief, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners. As stated earlier, pole barns built in the rural areas typically exceed 15 feet in height. It should also be noted that while this lot is not a farm in and of itself, it is adjacent to and contiguous to other lands owned by the Warrener family.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the subject property and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 25 day of July, 2011, that the Petitioners' request for Special Hearing relief, filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a detached accessory structure (proposed garage) in an M.L. zoned portion of a residential (R.C.6 zoned) lot and also approve the size to be larger than the principal dwelling (2,606 square feet as compared to the 1,464 square feet dwelling) as limited by the definition of an accessory building structure under Section 101.1 of the B.C.Z.R., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Variance request pursuant to Section 400.3 of the B.C.Z.R. to permit a garage (detached accessory) building with a height of 22.5 feet in lieu of the maximum allowed 15 feet, be and is hereby GRANTED, subject to the following:

1. Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day Appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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

____ Signed _____
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw