

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(16529 Dubbs Road)	*	OFFICE OF
5 th Election District		
3 rd Councilmanic District	*	ADMINISTRATIVE HEARINGS
Dwight R. Heinmuller		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0013-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Dwight R. Heinmuller, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve a second detached accessory structure with a summation of the base square footage of both buildings greater than that of the principal dwelling. The Variance petition seeks relief from B.C.Z.R. §400.3 to permit a proposed detached accessory structure to have a height of 18.5 ft. in lieu of the maximum allowed 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Dwight R. Heinmuller. The file reveals that the Petition was advertised and the site was posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance.

Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) indicating that the petitioner or subsequent owners shall not convert the subject accessory building into a dwelling or apartment unit and the accessory structure shall not be used for commercial purposes.

The subject property is 2.44 acres in size and is zoned RC 2. The site is heavily wooded and rural. The Petitioner collects and maintains antique automobiles, and would like to have a garage with a vehicle lift dedicated to that purpose. Zoning relief is required before he can do so.

Based upon the testimony and evidence presented, I will grant the Petition for variance.

Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

The Petitioner has met this test. This lot is of very irregular dimensions, and is thus unique. The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since he would be unable to construct the proposed garage. The Petitioner presented letters of support from nearly all of the neighbors on his street, and I therefore believe the granting of the petitions would in no way endanger the public's health, safety and welfare.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 9th day of September 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of

the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve a second detached accessory structure with a summation of the base square footage of both buildings greater than that of the principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner’s request for Variance relief to permit a proposed detached accessory structure to have a height of 18.5 ft. in lieu of the maximum allowed 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure 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
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln