

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(7126 Dogwood Road) *	OFFICE OF
2 <sup>nd</sup> Election District	
4 <sup>th</sup> Council District *	ADMINISTRATIVE HEARINGS
Eduardo Dubois	
	FOR BALTIMORE COUNTY
Petitioner *	<b>Case No. 2015-0209-SPHA</b>
* * * * *	* *

**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 the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow existing and proposed detached accessory structures with a combined area footprint greater than that of the principal building. In addition, a Petition for Variance pursuant to B.C.Z.R. §400.3 seeks to permit a proposed detached accessory structure (storage building) with a height of 24 feet in lieu of the maximum allowed 15 feet. 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 Eduardo Dubois. There were no Protestants or interested citizens in attendance, and the Petitioner indicated his adjoining neighbors support the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP), and that agency’s recommendations will be included as conditions in the Order below.

## PETITION FOR SPECIAL HEARING

Petitioner purchased the subject property two years ago, at which time it was improved with a small single family dwelling in poor condition. He razed that dwelling and constructed in its place a much larger new home. Petitioner collects and restores vintage autos, and would like to have a garage for this purpose. Though the proposed garage is large (50' x 100'), the site (1+/- acre) and new dwelling (6,300 sq. ft.) are also substantial, and the accessory structure will therefore be compatible with its surroundings. As such, the petition for special hearing will be granted.

### VARIANCE

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).

Petitioner has met this test. The property is of irregular dimensions and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given he would be unable to construct the proposed garage. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED this 8<sup>th</sup> day of May, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to allow existing and proposed detached accessory structures with a combined area footprint greater than that of the principal building, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §400.3 to permit a proposed detached accessory structure (storage building) with a height of 24 feet in lieu of the maximum allowed 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 Petitioner or subsequent owners shall not convert the subject garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.
4. Petitioner shall provide appropriate landscaping or vegetative screening between the proposed garage and the property at 7130 Dogwood Road, as determined in the sole discretion of the DOP.

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

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County