

IN RE: PETITION FOR VARIANCE
(1 Belle Grove Road)
1st Election District
1st Councilmanic District
Michael Blue & Amanda Setser
Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2015-0060-A**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners, Michael Blue and Amanda Setser, for property located at 1 Belle Grove Road. The Petitioners are requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (garage) to have a height of 25.75 ft. in lieu of the maximum allowed 15 ft.

A hearing was held on Friday, November 7, 2014 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. Michael Blue attended in support of the request, and David and Yvette Ridenour, the next door neighbors, attended and opposed the Petition. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 0.56 acres and is zoned DR 3.5. Petitioners would like to construct a garage in their yard, with a height of 25.75 feet. To do so requires variance relief.

Based upon the testimony and evidence presented, I will deny the petition for 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).

Petitioners have not met this test. No evidence or argument was presented at the hearing concerning whether or not the subject property is unique. This is an indispensable element in a variance case, and Maryland law provides that variances should be rarely granted.

While in many cases variances are granted if the petition is unopposed (assuming the relief requested would not have a detrimental impact upon the community), in this case the Paradise Community Association opposes the request (Protestants' Exhibit 1) and a petition in opposition was submitted by thirteen (13) neighbors (Protestants' Exhibit 3). The Ridenours expressed concern with the size of the proposed structure, which they said would be like having a second dwelling on the lot. Given the lack of evidence concerning the uniqueness of the subject property, and the potential impact upon the community, the petition will be denied.

THEREFORE, IT IS ORDERED, this 14th day of November, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from B.C.Z.R. Section 400.3 to permit a proposed detached accessory structure (garage) to have a height of 25.75 ft. in lieu of the maximum allowed 15 ft., be and is hereby DENIED.

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