

IN RE: PETITION FOR VARIANCE
(404 Campbell Lane)
9th Election District
5th Council District
Marguerite W. Forner
Petitioner

*
*
*
*
*

BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2015-0063-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 400.3 and 400.1 as follows: (1) to permit a height of 22 ft. for a proposed garage in lieu of the required 15 ft.; and (2) to permit a proposed garage to be located in the side yard instead of the required rear yard. At the hearing, the Petition was amended to reflect that the proposed height of the garage will be 20' instead of 22'. 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 request was Marguerite W. Forner and Bruce Doak, from Bruce E. Doak Consulting, the firm that prepared the site plan. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants or interested citizens in attendance. There were no substantive Zoning Advisory Committee (ZAC) comments received.

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 irregularly shaped and is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given she would be unable to construct the garage in the most appropriate location. 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 6th day of November, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §§ 400.3 and 400.1 as follows: (1) to permit a height of 20 ft. for a proposed garage in lieu of the required 15 ft.; and (2) to permit a proposed garage to be located in the side yard instead of the required rear yard , 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 her 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.

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

JEB:sln

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County