

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7508 Days Woods Road)		
11 th Election District	*	OF ADMINISTRATIVE
Justin & Heather Woody		
<i>Legal Owners</i>	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0079-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 owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 400.1 & 400.3 to permit an accessory structure (garage) to be placed in the side yard in lieu of the required rear yard placement with a height of 20 ft. in lieu of the maximum permitted 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Justin Woody and builder Marc Johnston appeared in support of the requests. No Protestants or interested citizens attended the hearing. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 4.382 acres and is zoned RC-5. The Petitioner stated he had 3 children and needed additional storage space for household items. The site plan (Exhibit 1) indicates that a new single family dwelling and detached garage are presently under construction on the property. The garage will be in the side yard, which requires variance relief.

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 met this test. The property is irregularly shaped and is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioners would suffer a practical difficulty, given they would need to relocate the proposed garage. 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 or community opposition.

THEREFORE, IT IS ORDERED, this 21st 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.") §§ 400.1 & 400.3 to permit an accessory structure (garage) to be placed in the side yard in lieu of the required rear yard placement with a height of 20 ft. in lieu of the maximum permitted 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, 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.

JEB:sln

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