

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(12351 Long Green Pike) *	OFFICE OF
11 th Election District	
3 rd Council District *	ADMINISTRATIVE HEARINGS
Michael & Geraldine Harris	
<i>Legal Owners</i> *	FOR BALTIMORE COUNTY
Petitioners *	Case No. 2015-0087-SPHA
* * * * *	

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 owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an accessory building for use as an in-law apartment pursuant to an approved Declaration of Understanding, and to permit a separate electric meter. In addition, a Petition for Variance seeks to permit an accessory structure with a height of 30 ft. in lieu of the 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. Appearing at the public hearing in support of the requests was Michael & Geraldine Harris. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment dated November 10, 2014 was submitted by the Department of Planning (DOP). That agency conducted a visit to the site and did not oppose the relief.

The subject property is approximately 23.11 acres and is zoned RC 2. A large portion of the property is used for farming, and an existing single family dwelling is situated towards the

rear of the lot. The Petitioners would like to construct a detached garage with a second story accessory apartment. To do so requires zoning relief.

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

To obtain variance relief a petitioner must show:

- (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 large property is irregularly shaped and is therefore unique. The Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would not be able to construct the garage/accessory apartment as proposed. Finally, the relief will not be injurious to the public welfare, as demonstrated by the lack of county and/or community opposition. In fact, Petitioners submitted signatures from each of their contiguous neighbors, expressing support for the request.

The Petitioners' mother will occupy the apartment, and Petitioners understand (as provided in the B.C.Z.R. and the Declaration of Understanding which will be filed with the Department of Permits, Approvals and Inspections (PAI)), that a use permit is required and must be renewed every two years, and that the structure can only be used as an accessory apartment for so long as it is occupied by immediate family members related to Petitioners by blood, marriage and/or adoption. The use of the apartment, when conducted in accordance with the conditions below and the Declaration of Understanding, will not have a detrimental impact upon surrounding and neighboring properties, and will conform with B.C.Z.R. §502.1. The Baltimore Gas and Electric (BGE) has informed Petitioners that a separate or auxiliary service (with meter) is required for the proposed accessory building, due to the electricity demand from the HVAC

system. In my opinion, this finding entitles Petitioners to a separate electric meter for the accessory structure, pursuant to B.C.Z.R. § 400.4.B.4.

THEREFORE, IT IS ORDERED this 24th day of November, 2014, 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 approve an accessory building for use as an in-law apartment pursuant to an approved Declaration of Understanding, and to permit a separate electric meter, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an accessory structure with a height of 30 ft. in lieu of the permitted 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.
2. Petitioners must obtain from the Department of PAI a use permit for the accessory apartment, which permit must be renewed every two years.
3. Petitioners must within 30 days of the date hereof file among the Land Records of Baltimore County the Declaration of Understanding filed with the Petition.

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