

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(4027 Osborn Road)</b>		
4 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Johnathan E. & Stephanie M. Krouse	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2015-0307-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners, Jonathan E. and Stephanie M. Krouse, for property located at 4027 Osborn Road. The Petitioners are requesting variance relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a garage to be located in the front yard with a height of 22 ft. in lieu of the permitted 15 ft. and required rear yard.

This matter was originally filed as an Administrative Variance, with a closing date of July 27, 2015. On July 27, 2015, Edward C. Massagli (neighbor) requested a formal hearing. A hearing was held on Monday, September 14, 2015 at 2:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. Jonathan Krouse attended in support of the request and Mr. Massagli attended the hearing and opposed the request. 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 3.640 acres and is zoned RC 2. Mr. Krouse has 5 children, and he presented photos which show the large number of vehicles, bicycles, tools and other household items owned by Petitioners. They would

like to construct a garage to store these items, but given the topography of the site a front yard location is the only feasible option. As such, the petition for variance was filed.

Based upon the testimony and evidence presented, I will grant 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 met this test. The rural property has irregular dimensions and shape and is therefore unique. If the regulations were strictly interpreted, Petitioners would experience a practical difficulty given that it would be prohibitively expensive (and would require a great deal of excavation and potential environmental degradation) to construct a garage in the rear yard. I also believe the variance can be granted without negatively impacting the health, safety and welfare of the community.

While Mr. Massagli did not as a general matter object to Petitioners constructing a garage on their property, he was concerned that some sort of commercial enterprise would be operated out of the structure. Mr. Massagli testified that Petitioner's wife told him that her husband was a custom fabricator who constructed and sold on the internet motorcycle parts and components. As noted at the hearing, it is illegal in Baltimore County to operate a business or other commercial enterprise from one's home, other than in limited circumstances not applicable here, i.e., a doctor, dentist or other "professional person" is permitted in some cases to have a home office. The operation of such a business at the subject property would be unlawful and could subject Petitioners to substantial fines. Petitioner denies having any intention at the present time, but does not want to "box himself in" by making a blanket statement that he will never seek to conduct

some sort of home business at the property. While it is true (as also discussed at the hearing) that certain commercial enterprises are permitted in the RC-2 zone by “special exception” (B.C.Z.R. §1A01.2.C.) that requires a separate public hearing at which a petitioner must satisfy the requirements set forth at B.C.Z.R. §502.1, among other things.

THEREFORE, IT IS ORDERED, this 16<sup>th</sup> day of September, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from B.C.Z.R. Sections 400.1 and 400.3 to permit a garage to be located in the front yard with a height of 22 ft. in lieu of the permitted 15 ft. and required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. The garage shall not contain bathroom facilities or living quarters of any kind.
3. The garage shall not be used for commercial purposes.

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

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Signed \_\_\_\_\_

JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln