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| IN RE: PETITIONS FOR SPECIAL HEARING | * | BEFORE THE |
| AND VARIANCE | | |
| (19030 Middletown Road) | * | OFFICE OF |
| 6 th Election District | | |
| 3 rd Council District | * | ADMINISTRATIVE HEARINGS |
| Paul Greene | | |
| Petitioner | * | FOR BALTIMORE COUNTY |
| | * | Case No. 2015-0308-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 owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an accessory structure on a vacant lot. In addition, a Petition for Variance was filed pursuant to B.C.Z.R. § 400.3 to permit an accessory building with a height of 21 ft. 6 in. in lieu of the permitted 15 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Paul Greene. Bruce E. Doak, a licensed surveyor, assisted the Petitioner. 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 was submitted by the Department of Planning (DOP). That agency did not oppose the relief, but suggested certain conditions be included in any final Order granting relief.

PETITION FOR SPECIAL HEARING

The petition for special hearing seeks to permit an accessory structure on a lot without a dwelling or principal use. This is a fairly common request in the rural zones, where barns, sheds and other buildings are located some distance from the dwelling. Here the pool house would

occupy just a small portion (less than 1 acre) of a 55.6± acre parcel, which for the most part is in agricultural use. As such, the petition will be granted.

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).

Petitioner has met this test. The property has irregular boundaries and topographical changes throughout the site. As such it is unique.

If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given he would be unable to construct the structure as planned. Finally, 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 17th day of **September, 2015**, 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 structure on a vacant lot, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. § 400.3 to permit an accessory building with a height of 21 ft. 6 in. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. The accessory structure shall not contain living quarters and shall not be used for residential purposes.

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