

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2326 Hoover Lane)		
11 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Jerry Bentley, Jr.	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2016-0194-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 Jerry Bentley, Jr., legal owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §400.3 to permit an existing garage with a height of 18 ft., in lieu of the required 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

Jerry Bentley appeared in support of the Petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). A condition will be included in the Order below to address that comment.

The subject property is 3.70 acres and zoned RC 5. The property is improved with a single family dwelling (SFD) and a one-story garage situated to the rear of the dwelling. Petitioner constructed the garage without a permit, and in applying for the permit was informed a variance was needed for the 18’ height of the existing garage.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical

difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is irregularly shaped and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be required to raze the garage. 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 26th day of **April, 2016**, 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 to permit an existing garage with a height of 18 ft., in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to 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 Petitioner or subsequent owners shall not convert the accessory structure (garage) into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure (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.

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

JEB/sln