

<b>2IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(607 Round Oak Road)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Timothy and Andrea Tenne	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2016-0012-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Timothy and Andrea Tenne for property located at 607 Round Oak Road. The Petitioners are requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed garage with a height of 21 ft. in lieu of the maximum height of 15 ft.

This matter was originally filed as an Administrative Variance, with a closing date of August 10, 2015. On July 30, 2015, Damon A. Trazzi (a neighbor) requested a hearing, which was held on Tuesday, September 29, 2015 at 12:00 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. Timothy and Andrea Tenne (along with several other neighbors) attended in support of the request and Mr. Trazzi (along with two other neighbors) 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.

The subject property is approximately 10,635 square feet and is zoned DR 5.5. Petitioners recently purchased the house and have undertaken a series of renovation projects to improve their home and property. At present, Petitioners are constructing an addition on their home and a

detached garage in the rear yard. Photos were submitted showing the garage construction is well under way (it is “under roof”), and at present it complies with the 15 ft. height limitation. Petitioners would like to add a second floor for storage, which would result in a structure 21 ft. in height. For this reason, the variance petition was filed.

Based upon the testimony and evidence presented, I will deny the petition for variance. 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 necessitates 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).

I do not believe Petitioners can meet this test. While the property does have unique attributes (i.e., it is a corner lot and has irregular dimensions and shape) those “special circumstances” in and of themselves do not drive the need for the height variance. The additional height would be beneficial to Petitioners, and I believe based on the architect’s renderings it would also be an attractive addition to the neighborhood. But those factors cannot justify a variance, which can only be granted “sparingly and under exceptional circumstances.” Cromwell, 102 Md. App. 691.

In Kennerly v. City of Balto., 247 Md. 601, 606-07 (1967), the court denied a request for a height variance even though the evidence showed the building would be desirable for the neighborhood and would not cause harm to the community. I believe the evidence in this case would support similar findings. But the Kennerly court held the evidence must show an “urgent necessity, hardship peculiar to the particular property.” The reality is that the standard for variance relief (at least in contested cases, such as this) is exceedingly high; so stringent in fact that there are only a few reported cases in Maryland where the grant of a variance has been upheld.

THEREFORE, IT IS ORDERED, this 5<sup>th</sup> day of October, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from B.C.Z.R. Section 400.3 to permit a proposed garage with a height of 21 ft. in lieu of the maximum height of 15 ft., be and is hereby DENIED.

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