

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(18115 Schoolhouse Road)		
7 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Francis & Nancy Murry	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0040-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Francis & Nancy Murry, owners of the subject property (“Petitioners”). The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to allow an accessory building (detached garage) in the front yard. A site plan was marked as Petitioners’ Exhibit 1.

Francis Murry and landscape architect Thomas Hoff 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). That agency did not object to the request and conditions will be included below to address the concern identified in the comment.

The subject property is approximately 3.014 acres and is zoned RC-2. The property is unimproved although Petitioners are in the process of constructing a single-family dwelling and detached garage on the lot. Given certain site constraints Petitioners propose to construct the garage in the front yard. To do so a variance is required.

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).

Petitioners have met this test. As Mr. Hoff explained, the property has steep slopes which dictate the placement of the accessory building. As such the property is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct, without great difficulty and/or expense, a detached garage on the property. 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 Baltimore County and community opposition.

THEREFORE, IT IS ORDERED, this 3rd day of October, **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.”) to allow an accessory building (detached garage) in the front 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. Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln