

IN RE: PETITION FOR VARIANCE
(19430 Vernon Road)
7th Election District
3rd Councilmanic District
Michael K. and Barbara Forster
Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0184-A**

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners of the property, Michael K. and Barbara Forster, for property located at 19430 Vernon Road. The Variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a garage in the side yard of an existing single family dwelling with a height of 22' in lieu of the rear yard and the required 15', respectively. The subject property and requested relief are more particularly described on Petitioners’ Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of March 4, 2013. On March 13, 2013, Administrative Law Judge Stahl requested a formal hearing on this matter. The hearing was subsequently scheduled for Friday, April 26, 2013 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

There were no substantive Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

Appearing at the public hearing in support for this case was Michael and Barbara Forster. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. In fact, the Petitioners submitted letters from their adjoining neighbors, both of whom are supportive of the Petition.

Testimony and evidence revealed that the subject property is 4.52 acres and is zoned RC 2. The Petitioners purchased the home in 2006, and are the original owners. They recently purchased a 5th wheel recreational trailer and truck, and the proposed garage will be used to store these vehicles.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, 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).

The Petitioners have met this test. As shown on the site plan, the property is of irregular dimensions, and is served by a common driveway that accesses two other homes on large lots. As such, it is unique for zoning purposes. The Petitioners would experience a practical difficulty if the regulations were strictly enforced, since they would be unable to properly store their recreational vehicle and truck. The grant of relief will in no way be injurious to the public's health, safety & welfare, as demonstrated by the lack of County opposition and support of the adjoining neighbors.

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a

dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence, I find that Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED, this **6th** day of May, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a garage in the side yard of an existing single family dwelling with a height of 22' in lieu of the rear yard and the required 15', respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure 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