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August 11, 2021

VIA Email: mmurphy@baltimorecountymd.gov
Maureen E. Murphy, Administrative Law Judge
Baltimore County Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: 11 Lynbrook Road – Case 2021-109-A

Dear Judge Murphy:

I am in receipt of Mr. Zimmerman's Motion for Reconsideration. Please accept this response. In light of the fact that Mr. Zimmerman does not object to the height variance for which the Petition for Variance was initially filed, the path of least resistance for the Petitioner would seem to be to leave the Motion for Reconsideration to your reasoned judgment. For the reasons stated on the record at the hearing, it is our position that BCZR §400.3 does not apply, and you were fully within your jurisdiction to so conclude. Nonetheless, if after reviewing Mr. Zimmerman's Motion, you are inclined to reconsider your ruling, we do not object.

That being said, as you recall, Petitioner's expert witness, Rick Richardson, testified at the hearing that the property is unique and that practical difficulties would arise if the relief sought were not granted. To recap briefly, Mr. Richardson testified that the property was uniquely split zoned BL and DR 16, that it is in the Chesapeake Bay Critical Area, that it is uniquely primarily business zoned *and* in the LDA use category of the Critical Area regulations which is very uncommon, it is an irregular shape in that it is long and narrow (which, in fact, drove the placement of the garage as located), and that the property is uniquely encumbered by a large 100 year floodplain. The practical difficulty for the height variance for the garage is primarily a result of the need for flexibility to store boats on trailers within the garage during the winter months, given the proximity of the property to the water. These facts appear on the record and justify the height variance sought in the Petition. Unless you need more evidence to justify the height variance for this accessory building, we would ask that you rule on the Motion for Reconsideration and issue an Order granting the height variance without another hearing, as you are entitled to do under Rule 4K. This has been a long and costly process for Ms. Lau and her Lucky Star, LLC, and I note again that Mr. Zimmerman has stated he does not oppose the height variance. Nonetheless, if after consideration of the Motion you wish to hear from the Petitioner with regard to uniqueness and practical difficulty, then obviously, we will be prepared to present that to you in an evidentiary hearing at your request.

Lastly, the Petitioner does not need a side yard setback variance for the garage. If we view BCZR §400 as applicable even though the property is in a BL zone, then §400.1 requires that the accessory garage be in the rear yard and not closer than 2.5 feet from the property line.

The BCZR defines "Yard, rear" as "a yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building." The site plan submitted with the petition clearly shows that the garage is behind the rear foundation wall of main building and therefore within the rear yard. The garage is set back more than 17 feet from the northern property line. Accordingly, no setback variance is required for the accessory garage.

Thank you for your consideration. We look forward to your ruling.

Sincerely,

Dino C. La Fiandra

C: People's Counsel, Peter M. Zimmerman (by email)

Debra Wiley

From: Dino La Fiandra <dcl@lafiandralaw.com>
Sent: Wednesday, August 11, 2021 5:14 PM
To: Administrative Hearings; Maureen E Murphy; Peter Max Zimmerman
Subject: 11 Lynbrook Road - Case 2021-109-A
Attachments: Response to Motion for Reconsideration 081121.pdf

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Dear Judge Murphy,

I've attached my response to Mr. Zimmerman's Motion for Reconsideration in the above-referenced case. Please let me know if you need anything else.

Regards,
Dino La Fiandra