IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(11 Lynbrook Road)		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Luke Star, LLC	*	HEARINGS OF
Legal Owner	*	BALTIMORE COUNTY
Petitioner	*	**CASE NO: 2021-0109-A**

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by Luke Star, LLC (the "Petitioner") for property located at 11 Lynbrook Road. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations ("BCZR") § 400.3 to allow an accessory structure (garage) to be 20' height in lieu of the permitted 15' height.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Jenni Lau, a member of the Petitioner appeared in support of the Petition along with Patrick ("Rick") Richardson, PE of Richardson Engineering who prepared and sealed a site plan (the "Site Plan"). Dino La Fiandra, Esquire represented the Petitioner at the hearing. There were no Protestants or interested citizens that appeared at the hearing.

Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and the Department of Environmental Protection and Sustainability ("DEPS"), which agencies did not oppose the requested relief.

The Property is .72 acres +/- (33, 944 sf.) and is zoned Business-Local (BL). It is contained within a Limited Development Area ("LDA") of the Chesapeake Bay Critical Area ("CBCA")

ORDER RECEIVED FOR FILING
Date 7/20/21
By

adjacent to a large Intensely Developed Area ("IDA"). (Pet. Ex. 4). The Property is improved with a dwelling which is currently being leased for residential use. Lynbrook Rd. has limited traffic and direct access to Martin State Airport.

Mr. Richardson explained that the proposed detached garage has already been constructed. (Pet. Ex. 3). The Petitioner will use the garage to store merchandise for a tea business which is run off-site by Ms. Lau. It has 2 bay doors, one larger than the other in order to accommodate a delivery truck and/or boat. Ms. Lau receives the delivery every 3-5 months. The shipment containers can be between 20-40 ft.

The BCZR Section under which variance relief is sought, BCZR, §400, is entitled '*Accessory Buildings in Residence Zones*'. As previously stated, the Property is zoned BL. Notwithstanding the fact that the Property has a dwelling on it and is currently being leased as a residence, the lease status of a building does not control the bulk regulations applicable for a zoning classification. Mr. Richardson opined, based on his expertise in civil engineering that BCZR, §400 does not apply to a BL zone and I agree. If the Petitioner had leased the dwelling to a business, I do not believe that BCZR, §400 would have been raised. BCZR, §400 only applies in residence zones. Accordingly, the Variance relief will be dismissed as moot.

THEREFORE, IT IS ORDERED, this **20th** day of **July, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §400.3 to allow an accessory structure (garage) to be 20' height in lieu of the permitted 15' height is hereby **DISMISSED AS MOOT.** The garage shall be permitted to remain as constructed and no additional building permit shall be required.

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

ORDER RECEIVED FOR FILING
Date 7/20/21
By D Mignon

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, Petitioner would be required to return the subject property to its original condition.

2. Petitioner and subsequent owners shall not convert the garage into a dwelling unit or apartment. The proposed garage shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.

3. The proposed garage may be used for commercial purposes.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Maureen E. Murphy

MAUREEN E. MUPRHY
Administrative Law Judge
for Baltimore County

MEM/dlm

ORDER RECEIVED FOR FILING
Date 7/20/21
By D Mignon

JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

July 20, 2021

Dino LaFiandra, Esquire – dcl@lafiandralaw.com

RE: Petition for Variance
Case No. 2021-0109-A
Property: 11 Lynbrook Road

Dear Mr. LaFiandra:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

Maureen E. Murphy

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlm
Enclosure
C: Wai-Yi Lau and Jenni Lau – wai421@gmail.com
Patrick "Rick" Richardson – rick@richardsonengineering.net