

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
W side of Knollwood Road, 240' S of		
Aigburth Road	*	OFFICE OF ADMINISTRATIVE
9 <sup>th</sup> Election District		
5 <sup>th</sup> Council District	*	HEARINGS FOR
<b>(7512 Knollwood Road)</b>		
	*	BALTIMORE COUNTY
James C. Turner		
<i>Petitioner</i>	*	<b>CASE NO. 2011-0353-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Administrative Variance filed by James C. Turner, legal owner of the above property. The Petitioner is requesting Variance relief under Section 1B02.3.B (Section III.A.13.a. of the 1945 Zoning Regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed accessory structure (detached carport) to be located in the side yard with a ½ foot side yard setback in lieu of the required rear yard only location with a side yard setback of between ½ foot and 2 feet in lieu of the required rear yard only location. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of July 4, 2011. On July 7, 2011, Lawrence M. Stahl, Managing Administrative Law Judge, called for a formal hearing on this matter based on a review of the file and correspondence received from a neighborhood resident, Aaron Tsui. The hearing was subsequently scheduled for Wednesday, August 3, 2011 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of

the hearing.

Appearing at the public hearing in support of the variance request was Petitioner James Turner. There were no Protestants or other interested persons in attendance.

Testimony and evidence revealed that the subject property is located in the Knollwood community. The Petitioner seeks to install a prefabricated carport on the east side of his lot. The Petitioner currently has a garage and shed in the rear of his home, and he explained that this carport will most likely be a temporary addition, which is why he decided to purchase a freestanding, prefabricated unit.

The carport would be located next to 7514 Knollwood Road, and the Petitioner testified he has a friendly relationship with that neighbor, and that he did not object to the variance. In addition, Petitioner presented letters of support from four adjoining neighbors. See Exhibit 3. According to tax records, the dwelling was constructed in 1952 and contains approximately 1,436 square feet.

Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

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 Petitioner has met this test when the subject property is compared to the other lots in this and the adjoining subdivision (Donnybrook). Indeed, Petitioner's rear yard contains two accessory structures, which creates a unique scenario whereby the side yard is the only possible location for the carport.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship.

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 amply demonstrated by the strong showing of support from Petitioner's neighbors.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 11 day of August, 2011 by this Administrative Law Judge that Petitioner's Variance request from Section 1B02.3.B (Section III.A.13.a. of the 1945 Zoning Regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed accessory structure (detached carport) to be located in the side yard with a side yard setback of between ½ and 2 feet, in lieu of the required rear yard only location, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order. However the Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason this Order

is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.

2. Access to Petitioner's rear and side yards is to be provided by the existing driveway, and Petitioner shall not be permitted to install a second driveway (with associated curb cut) on the premises.

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

Order.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:pz