

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(15901 Trenton Road)		
5 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Councilmanic District		
Michael Barrett	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0164 -A

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Michael Barrett. The Petitioner is requesting Variance relief from § 100.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit the accessory pasturing of chickens (hens) on a tract of land which is 21,692 sq. ft. in size in lieu of the required 1 acre.

The subject property and requested relief is more fully depicted on the amended site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of February 4, 2013. On February 12, 2013, the Office of Administrative Hearings requested a formal hearing on this matter.

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

Appearing at the public hearing in support for this case was Michael Barrett, property owner. There were no interested citizens in attendance, and the file does not contain any letters of protest or opposition. In fact, the Petitioner indicated his neighbors supported his request.

Testimony and evidence revealed that the subject property is 21,692 square feet and is zoned RC 2. The Petitioner would like to have chickens to provide his family with healthy meat and eggs. As shown on the site plan, Petitioner proposes to have a coop and run at the rear of his lot to house no more than 10 chickens.

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. The Petitioner's lot is of irregular dimensions, and is bordered by 80 & 100 acre farms. As such it is unique for zoning purposes. If the regulations were strictly enforced, the Petitioner would experience a practical difficulty, given that he would be unable to provide healthy, affordable, chemical free poultry & eggs for his family. The grant of relief is appropriate in this case, and will not negatively impact the health and welfare of the neighborhood. The property is zoned RC 2, and the regulations indicate that agricultural uses are welcomed in such a zone. B.C.Z.R. §1A01.1. In addition, the Petitioner's property is bordered by 100 and 80 acre farms, so the setting is particularly appropriate for the proposed use.

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

THEREFORE, IT IS ORDERED, this 28th day of March, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §100.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit the accessory pasturing of chickens (hens) on a tract of land which is 21,692 sq. ft. in size in lieu of the required 1 acre, be and is hereby GRANTED.

The relief granted herein shall be subject to and expressly conditioned upon the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and to be responsible for returning, said property to its original condition.
2. The Petitioner shall be limited to no more than ten (10) hens on the property.
3. No roosters shall be kept on the subject property.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County