

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(8 Barn Gate Ct.)		
4 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Councilmanic District		
Alexandra Jones(Polyakor),	*	HEARINGS FOR
Katherine Polyakor & Robert Jones, Jr.	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2013-0287-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners of the property, Alexandra Jones (Polyakor), Katherine Polyakor and Robert Jones, Jr., for property located at 8 Barn Gate Ct. The Variance request is from § 1B01.2.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): (1) to permit a building to property line setback of 4' and a building to building setback of 10', in lieu of the required 5' and 20', and; (2) to amend the Final Development Plan (FDP) of Glyndon Gate, for Lot 11. 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 June 24, 2013. On June 18, 2013, William R Spedden, Jr., a neighbor at 7 Barn Gate Ct. requested a formal hearing on this matter. The hearing was subsequently scheduled for Monday, August 5, 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 Zoning Advisory Committee (ZAC) comments received.

Appearing at the public hearing in support for this case was Katherine Polyakov and Robert and Alexandra Jones. William and Susan Spedden attended the hearing and opposed the petition, as more fully described in the statement marked as Protestants' Exhibit 1.

Testimony and evidence revealed that the subject property is approximately 5,863 square feet and is zoned DR 3.5. The property is improved with a small single-family dwelling (1,470 square feet) the Petitioners have owned since 2005. The Petitioners are expecting another child in February, and would like to construct a 14' x 15' addition to their home, which requires variance relief. The adjoining neighbors, William and Susan Spedden at 7 Barn Gate Court, testified that they oppose the relief, primarily because it would result in their home being positioned 10' (or less) from Petitioners' house.

Based upon the testimony and evidence presented, I will deny 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' property is somewhat unique, at least in that it is of irregular shape and dimensions. But their neighbors' lot (at 7 Barn Gate Court) is of a similar shape, resulting from the positioning of these two lots at the back of the cul-de-sac. And if the regulations were strictly enforced, I believe Petitioners would experience at least a practical difficulty, which is all that is required for an area variance.

But the sticking point is that I believe the grant of relief would be injurious to the public's (most particularly, the Speddens) health, safety and welfare. Mr. Spedden indicated the houses are 22 ½' apart, and the Petitioners propose a 14' wide addition. This would mean the houses

would then be just 8 ½' apart, which in my opinion would simply be too crowded. Mr. Spedden submitted a Google Earth photo, showing the seven existing single-family dwellings on Barn Gate Court, and it is apparent that Lots 10 and 11 enjoy the least “elbow room,” given their positioning at the end of the court. While I am sympathetic to the Petitioners’ plight, I believe the grant of relief would not be consistent with the spirit and intent of the B.C.Z.R., and would negatively impact the Speddens’ use and enjoyment of their home.

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 denied.

THEREFORE, IT IS ORDERED, this 7th day of August, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 1B01.2.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): (1) to permit a building to property line setback of 4' and a building to building setback of 10', in lieu of the required 5' and 20', and; (2) to amend the Final Development Plan (FDP) of Glyndon Gate, for Lot 11, be and is hereby DENIED.

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:dlw