

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(847 Kellogg Road)</b>		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>th</sup> Councilman District		
Richard R. & Sheryl Morris	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2014-0104-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Richard R. & Sheryl Morris, the legal owners of the subject property. The Petitioners are requesting variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing carport located partially in the side yard with a setback of 1 ft. in lieu of the required rear yard placement and 2.5 ft. minimum setback. 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.

Appearing at the public hearing in support of the requests was Luke Canfield, the contractor who is assisting the Petitioners with the process. The file reveals that the Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition.

There were no Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 10,640 square feet and is zoned DR 3.5. The Petitioners hired a contractor to construct a carport at their home, in the same location as a previous carport which collapsed. They later learned that variance relief was required.

Based upon the testimony and evidence presented, I will grant the petition for variance.

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).

Petitioners have met this test. As shown on the site plan, the property is of irregular dimensions, and is therefore unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would indeed suffer a practical difficulty, given they would be required to dismantle the completed carport. 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 demonstrated by the lack of County agency opposition, and the support of the community association and adjoining neighbor. Exhibits 3 & 4.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 20<sup>th</sup> day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing carport located partially in the side yard with a setback of 1 ft. in lieu of the required rear yard placement and 2.5 ft. minimum setback, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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:sln