

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(12 N. Beaumont Avenue)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Councilman District		
Peter W. and Delores L. Rusta	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0197-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Peter W. and Delores L. Rusta, the legal owners of the subject property. The Petitioners are requesting variance relief from §100.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit chickens on a 0.578 acre tract of land in lieu of the minimum required 1 acre. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was Peter Rusta. The Petition was advertised and posted as required by the B.C.Z.R. Two neighbors attended the hearing, and though they did not oppose the request, they did request conditions to be imposed if relief is granted.

The only Substantive Zoning Advisory Committee (ZAC) comment was received from the DOP, which noted the County is currently considering the regulations pertaining to keeping chickens in residential areas.

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. The single family dwelling is nearly 100 years old, and is situated next to St. Timothy's Parish. It is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioners would experience a practical difficulty, given they would be unable to keep chickens on the premises, which they have done since 2010. 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. I will impose a limitation of four (4) chickens, which was the same restriction imposed in Case # 2013-0304-A, for property at 9 N. Beaumont Ave., which is across the street from the subject property.

THEREFORE, IT IS ORDERED, this 3rd day of June, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Baltimore County Zoning Regulation (B.C.Z.R.) §100.6 to permit chickens on a 0.578 acre tract of land in lieu of the minimum required 1 acre, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may keep a maximum of four (4) chickens on the premises. No roosters may be kept on the premises.
- The chickens shall be housed in the enclosure shown on the photographs, which shall be situated a minimum of 10 feet from any property line.

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