

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1809 Emory Road)	*	OFFICE OF
4 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Robert E. & Leslie J. Knisley		
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0213-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Robert and Leslie Knisley, the legal owners. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to confirm the continuation of the non-conforming use of the property for stabling and pasturing of up to 3 horses. The variance petition seeks relief from B.C.Z.R. § 100.6 to permit the “stabling and pasturing” of up to 3 horses on a RC 2 residential property of 2.2 acres, which is not “a commercial agricultural operation” in lieu of the minimum required 3 acres of land.

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 requests was Robert and Leslie Knisley. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, nor does the file contain any letters of opposition. In fact, the Petitioners submitted a document with signatures of more than ten (10) neighbors, all of whom support the request. There were no substantive Zoning Advisory Committee (ZAC) comments received.

This is an interesting case, in that a portion of Petitioners’ property (2.2 acres, zoned RC 2) is situated in Baltimore County, while another portion (1.0 acre) lies in Carroll County. The

Petitioners' lot totals 3.2 acres in the aggregate. The property is improved with a single family dwelling which is located in Carroll County, while the balance of the property (including a horse barn and pasture) is within Baltimore County. The Petitioners are in the process of listing their home for sale, and the realtor recommended they obtain zoning relief to clarify that horses may be kept on the Baltimore County portion of the property.

As an initial matter, Petitioners do not need both special hearing and variance relief. If Petitioners established a lawful nonconforming use (which is disfavored in the law) they would not also need a variance to have the three (3) horses. Thus, I believe the petition for variance is the appropriate mechanism to provide for the stabling or keeping of the three (3) horses on the property.

Having said that, I do not believe Petitioners require zoning relief in the first instance. The request is for three (3) horses on 3.2 acres of land. B.C.Z.R. §100.6 permits three (3) horses on three (3) acres of land. It is irrelevant that a portion of the land (1 acre) is in Carroll County; zoning laws concern permissible uses on particular parcels of land, and here the Petitioners in fact own a suitably-sized property for keeping three horses. Even so, and out of an abundance of caution since the Petitioners are selling their home, I will address the petition for variance.

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

To obtain variance relief a petitioner must show:

- (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 property is of irregular dimensions and straddles the Baltimore/Carroll County line. Thus, the property is indeed quite unique. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty, given that Petitioners would be

unable to keep horses on this rural property. 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 and/or community opposition.

THEREFORE, IT IS ORDERED this 11th day of June, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to confirm the continuation of the non-conforming use of the property for stabling and pasturing of up to 3 horses, be and is hereby DISMISSED WITHOUT PREJUDICE, as unnecessary;

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §100.6 to permit the “stabling and pasturing” of up to 3 horses on a RC 2 residential property of 2.2 acres which is not “a commercial agricultural operation,” in lieu of the minimum required 3 acres of land, be and is hereby GRANTED.

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