

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(704 Riverside Dr.)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Councilman District		
Lise E. Criswell & Jason J. Glanville	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0076-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David Billingsley, on behalf of Lise Criswell and Jason Glanville, the legal owners of the subject property. The Petitioners are requesting variance relief from Section 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit two boat lifts with a setback of 3' and a platform and mooring pile with a setback of 2', all in lieu of the required 10' from a divisional property line. 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 Lise Criswell, Mona Dinsmore, and David Billingsley from Central Drafting & Design, who is assisting the Petitioners with the process. 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. A neighbor (Richard McNally) attended the hearing to obtain additional information regarding the Petitioners' request.

The only substantive Zoning Advisory Committee (ZAC) comments received were received from the Department of Environmental Protection and Sustainability (DEPS) dated

February 18, 2014 and the Department of Planning (DOP) dated February 26, 2014. DEPS noted Petitioners are obliged to comply with Critical Area regulations, the DOP indicated it supports Petitioners' request. Initially, the DOP and a neighbor objected to the proposal. To address those concerns, the Petitioners revised their plan and shortened the proposed pier from 150' to 120'. *See* Exhibits 1 and 7. As such, the proposed pier and boat lifts will not encroach beyond the divisional property line.

Testimony and evidence revealed that the subject property is approximately 16,950 square feet and is zoned DR 5.5. The Petitioners purchased the property in 2007, and would like to construct a pier for their boat, which is now stored in their yard. Exhibit 6B. As shown on the aerial photo in the file (Exhibit 5A), the waterfront property owned by Petitioners and one other neighbor are the only ones in the vicinity which are not improved with piers.

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. The subject property is narrow and deep (50' x 340'), and is situated along a curved portion of Back River. As such, the property is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct a pier and boat lifts. 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 community and/or county agency opposition.

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 26th day of March, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit two boat lifts with a setback of 3 ft. and a platform and mooring pile with a setback of 2 ft., all in lieu of the required 10 ft. from a divisional property line, 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw