

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(9 Fieldstream Ct.)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Councilmanic District		
Edwin & Dolly Brake	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0118-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, Edwin and Dolly Brake, for property located at 9 Fieldstream Court. The Petitioners are requesting variance relief from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.): (1) to permit two proposed open projections (front porch addition and a roof over an existing rear patio) with side setbacks of 11 ft. and 6 ft. 3 in., in lieu of the required 11.25 ft.; and (2) to amend the Final Development Plan (FDP) of Lot #19 only.

This matter was originally filed as an Administrative Variance, with a closing date of December 9, 2013. On January 29, 2014, Administrative Law Judge Lawrence M. Stahl requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, March 6, 2014 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The file reveals that the Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

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

Appearing at the public hearing in support of the petition was Edwin Brake, legal owner. There were no Protestants or interested citizens in attendance.

By e-mail dated January 28, 2014, Petitioners' neighbors at 7 Fieldstream Ct. (Mr. & Mrs. Jones) objected to the proposed rear porch addition. Subsequently, after discussions between the neighbors, the Jones' submitted to the OAH another e-mail indicating that the Petitioners agreed to amend the plan to remove the rear porch addition, and that they did not object to the front porch addition. The site plan (Ex. No. 1) was amended, and the proposed rear porch addition was crossed out and initialed by the undersigned. The neighbors at 11 Fieldstream Court (Geoffrey Bloomfield and Linda Alexander) also indicated they were not opposed to the revised plan.

Testimony and evidence revealed that the subject property is approximately .24 acres and is zoned DR 2. Mr. Brake indicated he is active in his community association (The Fields at Seminary), and that the proposed front porch addition would in fact resemble one of the models offered by the builder when the subdivision was built. The Petitioner stated he would only be replacing the existing rear patio (which has been damaged by the extreme weather) but would not be covering or enlarging it as originally proposed.

Based upon the testimony and evidence presented, I will grant the revised 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 property is irregularly shaped, and is therefore unique. The Petitioners would experience a practical difficulty if the regulations were strictly interpreted, in that they would be unable to construct the proposed front porch addition. The grant of relief would not be injurious in any way to the community.

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 (as amended at the hearing) should be granted.

THEREFORE, IT IS ORDERED, this 6th day of March, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."): (1) to permit a front porch addition (open projection) with a side setback of 6 ft. 3 in., in lieu of the required 11.25 ft.; and (2) to amend the Final Development Plan (FDP) of Lot #19 only in accordance with the terms of this Order, 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:slh