

IN RE: PETITION FOR VARIANCE
(3462 Loganview Dr.)
12th Election District
7th Councilman District
John & Beate Reynolds
Petitioners

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2014-0049-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by John & Beate Reynolds, the legal owners of the subject property. The Petitioners are requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition with a setback of 3 ft. in lieu of the required 10 ft. 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 John & Beate Reynolds. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations. There were no protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. The Petitioners last year sought variance relief for a one (1) foot setback in lieu of the required 10'. At that time, the DOP expressed concerns with the Petition and the neighbors (Mr. & Mrs. DelaCruz) also opposed the relief. That petition was denied. In this case, the Petitioners propose to locate the structure 3 feet from the property line, and neither the DOP nor the neighbors oppose the petition.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP), which did not oppose the request, but suggested the parties

consider a 10 foot maintenance and utility easement along the property line with the reduced side yard setback (between 3462 and 3460 Loganview Drive).

Testimony and evidence revealed that the subject property is approximately 5,000 square feet and is zoned DR 5.5. As shown on the site plan, the lot is only 50 feet wide. Mr. Reynolds indicated his health is failing, and that the proposed addition will accommodate his medical needs. Mrs. Reynolds stated she spoke with their neighbors (who previously opposed the petition for variance in the 2013 case), and indicated they did not object to the requested relief.

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. Mr. Reynolds is disabled and requires living space on one floor, and given the small lot size and configuration, the addition can only be located where proposed.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct the improvements. 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.

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 13th day of November, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit a side yard addition with a setback of

3 ft. in lieu of the required 10 ft., 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:sln