

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(303 Lochview Terrace)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Kent B. & Joyce R. Miller	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0168-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owner of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1: (1) if necessary, to permit a proposed 15 x 20 ft. porch addition with a setback of 46 ft. in lieu of the required 50 ft.; and (2) to amend the site plan filed in Case No. 2003-0163-A. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioners' Exhibit 1.

Owner Kent Miller appeared in support of the petition. There were no Protestants or interested citizens in attendance at the hearing, and Mr. Miller presented an exhibit which reflects the Pot Spring Community Association supports the request. Exhibit 3. The Petition was advertised and posted as required by the B.C.Z.R. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency supports the request but requested that landscaping be installed along the rear property line.

The subject property is approximately 35,063 square feet and is zoned DR-1. The property is improved with a large single family dwelling, and the Petitioners propose to construct a porch addition on the rear of their home. To do so requires variance relief.

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 southern property boundary does not run in a straight line (as noted in the DOP ZAC comment) which renders the property unique and also generates the need for modest rear yard setback relief. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be unable to construct the proposed 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. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 13th day of April, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §1B02.3.C.1: (1) to permit a proposed 15 ft. x 20 ft. porch addition with a setback of 46 ft. in lieu of the required 50 ft.; and (2) to amend the site plan filed in Case No. 2003-0163-A, in accordance with the terms of this Order and the site plan admitted as Exhibit 1, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners shall provide landscaping (i.e., shrubs or other vegetation to serve as screening) along a portion of the rear property boundary, as indicated by the asterisks shown on Exhibit 1.

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