

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(41 Left Wing Drive)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Ralph & Colleen Baugher	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2015-0136-A</b>

\* \* \* \* \*

**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 owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1: to permit an existing attached garage with a side yard setback of 3 ft. in lieu of the minimum 10 ft. side yard setback. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioners’ Exhibit 1.

Ralph and Colleen Baugher appeared in support of the requests. There were no Protestants or interested citizens in attendance at the hearing. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request provided the exterior of the garage matches the exterior of the single family dwelling.

The subject property is approximately 5,000 square feet and is zoned DR 5.5. The Petitioners obtained in September, 2013 a building permit to construct a carport attached to their home, in the same location as the garage (which is under construction). Petitioners decided they wanted an enclosed garage, but were unaware they needed a new building permit before doing so, since the prior permit was for a carport “open on 3 sides.” After they received a code

enforcement correction notice, the Petitioners were instructed to apply for 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 Petitioners must contend with existing site conditions and the property is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be required to dismantle the garage. 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 6<sup>th</sup> day of February, 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: to permit an existing attached garage with a side yard setback of 3 ft. in lieu of the minimum 10 ft. side yard setback, 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. The exterior materials on the garage addition must match the exterior of the existing single family dwelling.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB: sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County