

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(13816 Cripplegate Road)		
10 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Councilmanic District		
James L. Lekin & Kathleen Ryan Lekin	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0285-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners of the property, James L. Lekin and Kathleen Ryan Lekin, for property located at 13816 Cripplegate Road. The Petitioners are requesting Variance relief from Sections 103.1 and 103.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), (1) to permit a proposed dwelling addition with a side yard setback of 40 ft. in lieu of the minimum required 50 ft.; and (2) to amend the Final Development Plan (FDP) for Plat 3, addition of Greenlands of Hunt Valley, Lot 6 only.

This matter was originally filed as an Administrative Variance, with a closing date of July 21, 2014. On July 9, 2014, Jeff and Jenny Realo, adjacent neighbors, requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, September 18, 2014 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. 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 for this case was owner/Petitioner James L. Lekin and G. Scott Barhight, Esquire, his counsel. There were no other participants present.

The subject property is approximately 5.635 acres and is zoned RC 6.

The Petitioners, looking toward their senior years, wish to construct a bedroom, bath and laundry room on the first floor of their existing multi-story structure.

Counsel for the Respondent submitted a topographical map of the subject site (Petitioner's Exhibit 1), illustrating that the property has a significant slope. The existing structure, along with its well and private septic system, is constructed on a small portion of the property above the crest of the hill. Counsel proffer that the topographical constraints imposed constitute ample evidence of the uniqueness of the site.

He further offered that if the variance relief requested is denied the Petitioner would be unable to lawfully utilize his property and construct the planned addition. As a result, Counsel requested permission to amend the present variance request to reflect a 40 ft. side yard setback in lieu of the required 50 ft. rather than the original request of 26 ft.; and submitted an Amended Site Plan in support. Permission was granted and the amended site plan was made part of the file (Petitioner's Exhibit #3). Finally, Counsel submitted a Letter Agreement, executed by Petitioner's and the Realos (Petitioner's Exhibit #4), confirming the agreement of all concerned to the requested amended 40' foot side yard variance request, and withdrawing all objections previously filed by the Realos.

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).

The subject property is "unique," in that, any further construction is limited topographically to a small portion of the lot.

The Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since they would not be able to build the addition. Finally, the grant of relief will not be detrimental to the community.

THEREFORE, IT IS ORDERED, this 23rd day of September, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Sections 103.1 and 103.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), (1) to permit a proposed dwelling addition with a side yard setback of 40 ft. in lieu of the minimum required 50 ft.; and (2) to amend the Final Development Plan (FDP) for Plat 3, addition of Greenlands of Hunt Valley, Lot 6 only, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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 _____
LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:sln