

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(3313 Carroll Avenue)		
4 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Moshe Loecher & Lauren S. Sontag	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2016-0130-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed for property located at 3313 Carroll Avenue. Petitioners originally requested variance relief from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition (garage, mudroom, office) with side yard setbacks of 2 feet and 11 ½ feet in lieu of the required 35 feet each. After discussions with the adjoining neighbor the petition was amended to seek variance relief permitting side yard setbacks of 11 ft. and 11.5 ft.

This matter was originally filed as an Administrative Variance, with a closing date of December 21, 2015. On December 21, 2015, Thomas Seibold at 3311 Carroll Avenue requested a hearing. The hearing was held on Thursday March 31, 2016 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.

The subject property is approximately 18,730 square feet and is zoned RC 2. The property is improved with a small single-family dwelling (1,052 SF) constructed in 1951. Petitioners would like to construct an addition to accommodate their growing family, but require variance relief to do so. As noted above, the site plan was amended (dated March 31, 2016, “Loecher Addition—Revision 2.0”) to increase the setback between the proposed addition and Mr. Seibold’s property.

That plan indicates the addition will be located 13 feet from Mr. Seibold's property at the northwest corner, and due to the shape of the lot the setback will taper to 11 feet at the southwest corner.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity necessitates variance relief; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioners have met this test. The property is irregularly shaped, like a parallelogram. As such it is unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would not be able to construct the proposed addition. 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.

THEREFORE, IT IS ORDERED, this 14th day of April, **2016**, by this Administrative Law Judge, that the Petition for Variance to permit a proposed addition (garage, mudroom, office) with side yard setbacks of 11 feet and 11 ½ feet in lieu of the required 35 feet each, 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.

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