

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(2735 Waldor Drive)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Ann-Louise & Michael Hardesty	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2016-0174-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed for property located at 2735 Waldor Drive. Petitioners are requesting variance relief from Section 100.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit chickens to be kept on a residential property that is 0.51 acres in size in lieu of the minimum required size of 1 acre.

This matter was originally filed as an Administrative Variance, with a closing date of February 22, 2016. On February 17, 2016, James Frost who lives at 2710 Waldor Drive requested a hearing. The hearing was held on Friday April 1, 2016 at 11:00 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 22,246 square feet and is zoned DR 3.5. Ms. Hardesty explained she lives at the property with her husband and child, and would like to have 2 chickens. The chickens would be kept within an enclosed coop, and Ms. Hardesty believes they would confer health benefits and teach her child about nature and raising animals. Three neighbors attended the hearing and opposed the request. They believe the chickens could encourage

predatory animals (i.e., hawks, foxes) to frequent the area, and they also worry that granting the request could lead to more chickens or other farm animals in the area, which would disrupt the quiet residential community.

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 not met this test. While Ms. Hardesty testified her property was unique in that it was located next to an unimproved street (i.e., a paper road), that factor does not generate the need for variance relief. A petitioner requesting a variance faces an uphill battle. In fact, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a variance. Under Maryland law, variances should be granted “sparingly” since it is “an authorization for [that] ...which is prohibited by a zoning ordinance.” Cromwell, 102 Md. App. at 699.

THEREFORE, IT IS ORDERED, this 5<sup>th</sup> day of April, **2016**, by this Administrative Law Judge, that the Petition for Variance to permit chickens to be kept on a residential property that is 0.51 acres in size in lieu of the minimum required size of 1 acre, be and is hereby DENIED.

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:slh