

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(301 Greenspring Valley Road)</b>		
3 <sup>rd</sup> Election District	*	OFFICE OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
David K. and Laurence C. Weis	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2016-0177-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 301 Greenspring Valley Road. Petitioners are requesting variance relief from §1A01.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition with a side setback of 24 ft. in lieu of the required 35 ft.

This matter was originally filed as an Administrative Variance, with a closing date of February 29, 2016. On February 23, 2016, Jay Price Stump who lives at 4 Cliffholm Road requested a hearing. The hearing was held on Friday April 8, 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 43,685 square feet (approximately 1 acre) in size and is zoned RC 2. The property is improved with a single-family dwelling (2,263 SF) constructed in 1953. Petitioners propose to construct a one-story addition to their home, but require variance relief to do so.

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 it is arguable Petitioners would experience a practical difficulty if the regulations were strictly interpreted, it does not appear the property qualifies as “unique” as that term is defined in the case law. Although the request is modest, the reality is that when a variance is opposed, requiring a rigorous application of the variance standard, the petitioner 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 14<sup>th</sup> day of April, 2016, by this Administrative Law Judge, that the Petition for Variance to permit a side yard addition with a side setback of 24 ft. in lieu of the required 35 ft., be and is hereby DENIED.

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

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Signed \_\_\_\_\_

JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln