

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4501 Wilkens Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
Robert Estes and Christine Zeng	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0143-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Robert Estes and Christine Zeng, owners of the subject property (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B01.2.C.1.b to permit a 5 ft. side setback on the existing structure in lieu of the required 10 ft., and to permit a side yard addition with a side setback of 2 ft. 7 in. and rear setback of 3 ft. in lieu of the required 10 ft. and 50 ft., respectively. A site plan was marked as Petitioners’ Exhibit 1.

Owner Christine Zeng appeared in support of the Petition. The Petition was advertised and posted as required by the B.C.Z.R. No protestants or interested citizens attended the hearing. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 2,808 square feet and is zoned DR 10.5. The Petitioners recently purchased the home, which is in poor condition. They propose to renovate the existing single family dwelling and construct an addition thereto. To do so requires variance relief.

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 must necessitate 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 has a triangular shape, which renders it unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the proposed improvements. 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 Baltimore County and/or community opposition. The Department of Planning in its ZAC comment requested Petitioners to remove from the property a deteriorated chain link fence. Ms. Zeng indicated that has been done.

THEREFORE, IT IS ORDERED, this 25th day of February, 2016, 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.”) §1B01.2.C.1.b to permit a 5 ft. side setback on the existing structure in lieu of the required 10 ft., and to permit a side yard addition with a side setback of 2 ft. 7 in. and rear setback of 3 ft. in lieu of the required 10 ft. and 50 ft., respectively, 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