

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3444 Yorkway)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Gary & Nancy Lambert	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0114-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 Gary & Nancy Lambert, owners of the subject property (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit an existing addition with a side yard setback as close as 3 ft. and a rear yard setback as close as 10 ft. in lieu of the minimum required 10 ft. and 30 ft., respectively. A site plan was marked as Petitioners’ Exhibit 1.

Owners Gary and Nancy Lambert 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the county agencies.

The subject property is approximately 6,448 square feet and is zoned DR 5.5. The property is improved with a single family dwelling constructed in 1953. Petitioners purchased the property recently, and began to renovate the home prior to occupancy. They later learned that a building permit was required, and though the deficient setbacks are existing conditions Petitioners were instructed to obtain 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 is pie-shaped, which creates the need for variance relief. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to renovate the existing dwelling, parts of which are in poor condition. 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.

THEREFORE, IT IS ORDERED, this 5th day of January, 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.”) §1B02.3.C.1 to permit an existing addition with a side yard setback as close as 3 ft. and a rear yard setback as close as 10 ft. in lieu of the minimum required 10 ft. and 30 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