

IN RE: PETITION FOR VARIANCE
(123 Oakmere Road)
4th Election District
4th Council District
Lusine Ayrapetian
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2015-0253-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner, Lusine Ayrapetian, for property located at 123 Oakmere Road. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition with a front yard setback of 25 ft. in lieu of the required front yard average of 37.3 ft. A revised petition was filed to permit a front setback of 31.6 feet in lieu of the required 37.3 ft. front average.

This matter was originally filed as an Administrative Variance, with a closing date of June 8, 2015. On June 4, 2015, Donald Wheeler (neighbor) requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, July 16, 2015 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. No substantive Zoning Advisory Committee comments were received.

The subject property is approximately 16,926 square feet, and is improved with a small single family dwelling. The present zoning is DR 3.5, although the home was constructed in 1955 and is part of the Cedarmere subdivision. The plat for the subdivision was approved by the Baltimore County Planning Commission in 1955, at which time the zoning was R6. Under the

B.C.Z.R., it is the 1955 regulations that are applicable here. B.C.Z.R. §1B02.3.A.1. Under those regulations the required front yard setback is determined by averaging the setbacks of the adjoining dwellings. According to the plan, 125 Oakmere has a 35' setback, while 121 Oakmere has a setback of 53'. The average of those figures is 44', which is the required setback. County staff determined that the required setback was 37.3', but I believe that figure was obtained by averaging the front yards of all dwellings within 200' of the subject property, instead of only the adjoining improved lots.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

I do not believe Petitioner has satisfied the requirements under Maryland law for variance relief. No evidence was presented that the property itself is unique, and the lot is similar in size and shape to the many others in this large subdivision. In addition, while the relief would be economically advantageous for Petitioner, the law requires more than inconvenience or increased expenses.

THEREFORE, IT IS ORDERED, this 23rd day of July, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 1B02.3.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition with a front yard setback of 25 ft. in lieu of the required front yard average of 44 ft., 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