

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(2613 Brannan Avenue)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Lloyd & Sheila Shafferman	*	HEARINGS FOR
<i>Legal Owners</i>		
Michael Jenkins	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	<b>CASE NO. 2016-0276-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Lloyd and Sheila Shafferman, owners of the subject property, and Michael Jenkins, contract purchaser (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit a proposed single family dwelling with a side street setback of 11 ft. in lieu of the minimum required 25 ft. A site plan was marked as Petitioners’ Exhibit 1.

Lloyd & Sheila Shafferman and David Billingsley appeared in support of the petition. Edward Crizer, a neighbor, opposed the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability.

The subject property is approximately 8,331 square feet and is zoned DR 5.5. The unimproved property is shown as Lot 7 on the “Brannan Plat,” recorded in 1937. Ex. 4. Petitioners propose to construct a modest single-family dwelling on the lot, 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 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 not met this test. Based on a review of the site plan and photographs (Exs. 6A-6D) submitted at the hearing, I do not believe the property is unique as that term has been construed in Maryland case law. In Baltimore County variance requests are frequently granted when reasonable and unopposed by the community. But the procedure is quite different when, as here, neighbors oppose the request and insist upon a rigorous application of the variance standard. In those circumstances, the petitioner faces an uphill battle. In fact, there does not appear to be 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 28<sup>th</sup> day of June, 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 a proposed single family dwelling with a side street setback of 11 ft. in lieu of the minimum required 25 ft., be and is hereby DENIED.

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

JEB:sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County