

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1202 2nd Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Richard & Darlene Iammarino	*	HEARINGS FOR
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2016-0309-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 Richard and Darlene Iammarino, owners of the subject property (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §400.1 to permit an existing garage (accessory structure) with a side yard setback of 2 ft. in lieu of the required 2.5 ft. and located in the side yard in lieu of the required rear yard. A site plan was marked as Petitioner’s Exhibit 1.

Owners Richard and Darlene Iammarino appeared in support of the Petition. There were no protestants or interested citizens in attendance. 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 (DEPS), noting Petitioners are obligated to comply with Critical Area regulations.

The subject property is approximately 4,944 sq. ft. and zoned DR 5.5. The property is improved with a small (1,064 sq. ft.) single-family dwelling constructed in 1942. To provide additional storage space Petitioners engaged a contractor to construct a small detached garage/accessory building in the side yard of their home. Petitioners stated the building was constructed on April 16, 2012, and has been in place for over 4 years without complaint.

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 irregular dimensions and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be required to raze or relocate the garage. 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. In fact, Petitioners' neighbor Alan Schaech, who has lived in the neighborhood for over 40 years, stated he did not oppose the request and that the garage was an attractive addition to the community.

THEREFORE, IT IS ORDERED, this 5th day of August, 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.") §400.1 to permit an existing garage (accessory structure) with a side yard setback of 2 ft. in lieu of the required 2.5 ft. and located in the side yard in lieu of the required rear yard, be and is hereby GRANTED.

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

JEB: sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County