

IN RE: PETITION FOR VARIANCE
(1 Holmes Avenue)
1st Election District
1st Councilman District
Stuart N. Foote
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2014-0199-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Stuart N. Foote, the legal owner of the subject property. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §415A.1.A to permit a recreational vehicle (small boat on trailer) to be stored in the side yard driveway up to 15 ft. forward of the front foundation line of the dwelling in lieu of the required minimum distance of at least 8 ft. behind the front foundation line of the dwelling. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the request was Stuart N. Foote. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants in attendance and the file does not contain any letters of opposition. In fact, all of the Petitioner’s adjacent neighbors signed a statement indicating support for the request. Petitioner’s Exhibit 3. There were no substantive Zoning Advisory Committee (ZAC) comments received.

Based upon the testimony and evidence presented, I will grant the petition for variance.

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).

Petitioner has met this test. As seen on the plan, the property is irregularly shaped and is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given he would be required to rent storage space for the boat, since there is no alternate location available at the subject property. 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 support of Petitioner's neighbors, and the lack of County opposition.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 30th day of May, 2014, 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.) §415A.1.A to permit a recreational vehicle (small boat on trailer) to be stored in the side yard driveway up to 15 ft. forward of the front foundation line of the dwelling in lieu of the required minimum distance of at least 8 ft. behind the front foundation line of the dwelling, be and is hereby GRANTED.

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

JEB:slh

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County