

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7100 Upper Mills Cir.)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Councilman District		
David & Marilyn Cox	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0231-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David & Marilyn Cox, the legal owners of the subject property. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to permit a window to property line setback of 10 ft. in lieu of the required 15 ft., and; (2) to amend the FDP of “Ellicott Mills”, Lot #30 only. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Though originally filed as an Administrative Variance, a neighbor requested (in a timely fashion) a formal hearing on this matter. The hearing was subsequently scheduled for Friday, June 20, 2014 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson.

Appearing at the public hearing in support of the request was Jim Cabral, the contractor assisting Petitioners with the process. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants in attendance. Mr. Cabral indicated that the Petitioners spoke with Mr. Fenwick (who filed the request for hearing), and that his concerns have been addressed. There were no Zoning Advisory Committee (ZAC) comments received.

The property is approximately 10,491 square feet and is zoned DR 2. The property is improved with a single family dwelling (constructed in 1982), and Petitioners engaged a contractor to construct an addition on the home. The addition will occupy the same footprint as an existing deck (open projection), but given the different setbacks variance relief is required.

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).

Petitioners have met this test. The property has an irregular shape and is bounded by two public roads. As such, it is unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, because they would be unable to construct the proposed addition. The variance can be granted in harmony with the B.C.Z.R. and without negatively impacting the health, safety and welfare of the community.

THEREFORE, IT IS ORDERED, this 23rd day of June, 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.) as follows: (1) to permit a window to property line setback of 10 ft. in lieu of the required 15 ft. and; (2) to amend the FDP of "Ellicott Mills", Lot #30(Section # S2) only, in accordance with the terms of this Order, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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