

IN RE: PETITION FOR VARIANCE
(1043 Chester Road)
15th Election District
6th Council District
Lillian & Jeremy Lauer
Petitioners

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2014-0246-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 David Billingsley, on behalf of the legal owners of the subject property. Petitioners are requesting variance relief from §417.4 of Baltimore County Zoning Regulations (B.C.Z.R.) to permit a boat lift with two single mooring piles with a setback of two feet from the divisional property line in lieu of the required ten feet. 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.

Appearing at the public hearing in support of the request was Jeremy Lauer and David Billingsley, whose firm prepared the site plan. 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.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP), dated June 24, 2014. That agency expressed concern about whether the grant of relief would in any way prevent the adjoining owner (at 1041 Chester Road) from in the future constructing a boat pier on her property. Mr. Billingsley responded by e-mail to the DOP (Exhibit 7), explaining that a boat lift could indeed be constructed on that property

without interference from the proposed pier/lift at 1043 Chester Road. Mr. Billingsley also submitted to the DOP a plan showing that such a pier could at a later date be built at 1041 Chester. Exhibit 8.

The property is approximately 12,050 square feet and is zoned DR 3.5. The property is improved with a modest single family dwelling constructed in 1952, and has a pier with a single boat lift. Petitioners would like to construct an additional lift, but to do so requires zoning relief.

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 waterfront property is narrow and deep, and is therefore unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, because they would be unable to construct the additional boat lift. 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. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 11th day of July, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Baltimore County Zoning Regulation (B.C.Z.R.) § 417.4 of Baltimore County Zoning Regulations (B.C.Z.R.) to permit a boat lift with two single mooring piles with a setback of two (2) feet from the divisional property line in lieu of the required ten (10) feet, 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