

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(9 Spring Green Lane)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilman District		
David C. & Elizabeth J. White	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0007-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 the legal owners of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a 35 ft. side yard setback in lieu of the required 50 ft. setback per §1A00.3.B.3, the R.D.P. Regulations of 1974. 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 David and Elizabeth White. Bruce E. Doak from Bruce E. Doak Consulting, LLC appeared on behalf of the Petitioners. The Petition was advertised and posted as required by the B.C.Z.R. Several neighbors from the community attended the hearing. There were no substantive Zoning Advisory Committee (ZAC) comments received from any of the county agencies.

The subject property is approximately 2.08 acres and is zoned RC 7. The property is unimproved, and is apparently the last such lot in the Greencroft Community, which has 80 single family dwellings. The subdivision was approved in 1974, at which time the property was zoned RDP. The RDP zone imposes a 50' side yard setback, and the Petitioners seek variance

relief to allow a 35' side yard setback. The Petition as originally filed sought a 20' side yard setback, although following discussions with the neighbors at 10 Spring Green Lane (the Butlers), the Petition was amended at the hearing to reflect a 35' side yard setback.

As noted earlier, several community members attended the hearing. John Rietz, who lives at 1 Spring Green Lane, expressed concern that the proposed home, given the topography, would “dominate” or loom large over the neighboring property owned by the Butlers (at 10 Spring Green Lane). John Griffith, who resides at 14012 Greencroft Lane, expressed concern that granting the variance would open “Pandora’s Box,” and that other owners would file requests to expand and enlarge their homes. Robert Coelho, who resides at 14004 Greencroft Lane, stated he was supportive of the request and thought it would be good to “complete the neighborhood.” In addition, there were two letters of support in the case file from the Shaffers (at 8 Spring Green Lane) and the McGuigans (14009 Greencroft Lane), and the Greencroft Community Association submitted a letter (Ex. No. 9) indicating it had approved the plans for the construction of the proposed dwelling.

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 topography of the site is such that a majority (approximately 60%) of the subject property contains steep slopes (i.e., greater than 25%). This factor greatly constrains the available building envelope, and likely explains why this lot was the last one to be developed. Mr. Doak testified that other lots in the community do not have such a concentration of steep slopes. In addition, the property will be subject to environmental regulations that were

not in existence when the other 80 homes in the community were constructed. As such, it is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would suffer a practical difficulty, given they would be unable to construct the proposed single family dwelling within the available envelope. Based on my review of the Greencroft Plat (Ex. No. 2), the Petitioners' lot is similarly sized to the others in the community, which range between 1.2 and 3.5 acres. And the dwelling proposed, as detailed in the Community Association's letter (Ex. No. 9), would be in keeping with the other homes in the community. In light of these facts, 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.

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

THEREFORE, IT IS ORDERED, this 25th day of August, 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.") to allow a 35 ft. side yard setback in lieu of the required 50 ft. setback per §1A00.3.B.3, the R.D.P. Regulations of 1974, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County