

**IN RE: PETITION FOR VARIANCE**  
**(17 Garnet Avenue)**  
1<sup>st</sup> Election District  
1<sup>st</sup> Council District  
210 Warfield Road, LLC  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2015-0030-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 on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit a proposed dwelling addition (enclosure of existing open carport) to have a side yard setback of 1.5 ft. in lieu of the minimum required 10 ft. 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 Angie DeLuca. Sean Bittinger, Esquire, represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP), and that agency’s recommendations will be imposed as a condition of the final Order. There were no protestants or interested citizens in attendance.

The subject property is approximately 0.13 acres and is zoned DR 5.5. The property is improved with a modest single family dwelling (approximately 1,100 sq. ft.) constructed in 1953. Petitioner proposes to renovate and enlarge the dwelling (by enclosing the carport and constructing a master bedroom above) but requires variance relief to do so.

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. The lot is just 50' wide, and the dwelling was constructed before the adoption of the B.C.Z.R. As such, the property is unique. Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since it would be unable to improve and market the home. The relief can be granted without a detrimental impact upon the community, as demonstrated by the support of the adjoining neighbors. Petitioner's Ex. Nos. 3 & 4.

THEREFORE, IT IS ORDERED, this 29<sup>th</sup> day of September, 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 permit a proposed dwelling addition (enclosure of existing open carport) to have a side yard setback of 1.5 ft. in lieu of the minimum required 10 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The side wall of the newly constructed addition must be architecturally articulated with windows and/or other design features.

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

JEB:sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County