

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7305 Cheryl Avenue)		
11 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Robert P. Wilhelm, Jr.	*	HEARINGS FOR
<i>Legal Owner</i>		
Stephen DeAngelis	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2015-0154-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 Robert P. Wilhelm, Jr., legal owner and Stephen DeAngelis, contract purchaser (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1A04.3.B.2.b to permit a proposed addition with a side yard setback of 7 ft., 11 in., and a centerline of street setback of 54 ft., 3 in. in lieu of the required 50 ft. and 75 ft., respectively. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was Steven DeAngelis. No Protestants or interested citizens were in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency recommended that the relief be granted, and did not believe the modest enlargement of the home would be detrimental to the health, safety or general welfare of the community.

The subject property is approximately 17,728 square feet and is zoned RC 5. The property is improved with a single family dwelling (1,677 sq. ft.) constructed in 1952. Mr. DeAngelis plans to purchase the home from his grandmother, who is in poor health and lives in a

convalescent home. To accommodate the needs of his family and add an additional bathroom, he proposes to construct an addition to the side of the dwelling. To do so, Petitioners require variance 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).

Petitioner has met this test. The existing dwelling is situated to the northeast side of the lot. As such, the property is unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to construct the proposed addition. 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 absence of community opposition and the support of the DOP.

THEREFORE, IT IS ORDERED, this 3rd day of March, 2015, 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) §1A04.3.B.2.b to permit a proposed addition with a side yard setback of 7 ft., 11 in., and a centerline of street setback of 54 ft., 3 in. in lieu of the required 50 ft. and 75 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject 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