

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(8710 Roper Road)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Vernon & Kathleen Villaluz	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0266-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 Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.B to permit a carport addition with a side yard setback of 0 ft. in lieu of the required 7 ft. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioners’ Exhibit 1.

Owners Vernon & Kathleen Villaluz appeared in support of the petition. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and Bureau of Development Plans Review (DPR). Neither agency opposed the request.

This matter is currently the subject of a violation case (Case No. CB1500242) before the Office of Administrative Hearings, and a copy of the code enforcement complaint was included in the zoning hearing file. A correction notice was issued to Petitioners for undertaking construction activity without proper permits. Petitioners were instructed to seek zoning relief.

The subject property is approximately 6,324 square feet and is zoned DR-5.5. The property

is improved with a single-family dwelling constructed in 1954. Petitioners have lived at the property for many years, and their home and grounds are attractive and well-maintained. Petitioners engaged a contractor to construct a carport attached to their home and later discovered variance relief was 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 is of irregular dimensions and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be unable to keep the carport in its current location. Finally, 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. Indeed, the owners submitted a letter signed by their adjoining neighbor, Kim Brown, 8708 Roper Road, expressing support for the request.

THEREFORE, IT IS ORDERED, this 15th day of July, 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.") §1B02.3.B to permit a carport addition with a side yard setback of 0 ft. in lieu of the required 7 ft., 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, Petitioners 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