

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4 Silver Maple Ct.)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Arthur C. Douglas &	*	HEARINGS FOR
Vicki J. Douglas (Trustees)		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0289-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 Arthur & Vicki Douglas, legal owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §301.1: (1) to permit a carport (open projection) with a setback of 5 ft. in lieu of the required 11.5 ft.; and (2) to amend the Final Development Plan (FDP) Golden Acres for Lot No. 12 only. A site plan was marked as Petitioners’ Exhibit 1.

William N. Bafitis, a professional engineer whose firm prepared the site plan, appeared and assisted the Petitioners. There were no Protestants in attendance. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 7,752 square feet and is zoned DR 3.5. The property is improved with a single family dwelling (SFD) constructed in 1983. The subject property is known as Lot 12 of the Golden Acres subdivision created by plat in 1978 (recorded at Liber 43 folio 141).

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 construct the carport as planned. 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. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 14th day of August, 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.") §301.1: (1) to permit a carport (open projection) with a setback of 5 ft. in lieu of the required 11.5 ft.; and (2) to amend the Final Development Plan (FDP) Golden Acres for Lot No. 12 only, in accordance with the terms of this Order, 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.
2. The carport must remain open on three sides.
3. The carport must match the existing dwelling in terms of design and materials.

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

____ Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB: sln