

IN RE: PETITION FOR VARIANCE
(1702 Lenore Ct.)
1st Election District
1st Council District
Lisa Ann Hurowitz
Legal Owner
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2016-0049-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Lisa Ann Hurowitz for property located at 1702 Lenore Ct. The Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition (open projection carport) with a side yard setback of 2 ft. in lieu of the required 7.5 ft.

This matter was originally filed as an Administrative Variance, with a closing date of September 21, 2015. On September 25, 2015, Administrative Law Judge John Beverungen requested a hearing, based on a comment from the Department of Public Works (DPW) concerning a riverine floodplain in the vicinity of the property. The hearing was held on Monday, November 9, 2015 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no protestants or interested citizens in attendance.

The subject property is approximately 10,370 square feet and is zoned DR 5.5. The property is improved with a small single family dwelling which was constructed in 1959. Petitioner would like to construct a carport to provide shelter from inclement weather. To do so requires variance relief. In addition, and based upon the comment from DPW, the Petition was

amended at the hearing to include a request for a waiver under Baltimore County Code (B.C.C.) § 32-4-414 and Part 125 of the Building Code (pertaining to the floodplain regulations).

Based upon the testimony and evidence presented, I will grant the petition for variance. A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity necessitates variance relief; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has this test. The property is irregularly shaped and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would not be able to construct the proposed carport. 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 lack of Baltimore County and/or community opposition.

In addition, the request for a waiver of the floodplain requirements will also be granted. The DPW reviewed the request and does not object to the waiver. Based on a review of the maps in the file, support columns for the carport will be the only “structure” within the floodplain setback, and I believe their impact will be negligible.

THEREFORE, IT IS ORDERED, this 9th day of November, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from B.C.Z.R. Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition (open projection carport) with a side yard setback of 2 ft. in lieu of the required 7.5 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that a waiver of the floodplain regulations (as set forth in BCC §32-4-414 and Part 125 of the Building Code), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her 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.
2. Petitioner must comply with the ZAC comment of DPW, a copy of which is attached hereto.

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