

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1232 S. 48 th Street)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Carroll E. Hoffstetter, Jr.	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0077-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Carroll E. Hoffstetter, Jr., owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit two recreational vehicles on one lot in lieu of the permitted one. A site plan was marked as Petitioner’s Exhibit 1.

Carroll Hoffstetter and Stephanie Blasek appeared in support of the petition. A neighbor, James Batton, opposed the request. 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 did not support the request.

The property is approximately 0.52 acres in size and is zoned DR 5.5. The property is improved with a single-family dwelling and two accessory buildings. Petitioner also owns a travel trailer and boat, both of which are stored at the property.

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 must necessitate 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).

I do not believe Petitioner can satisfy this standard, and no evidence was presented to show the property is unique. As such I believe the Petition must be denied. In fact, it is unclear whether the Administrative Law Judge (ALJ) even has the authority to grant a “variance” of the sort requested herein. Section 307 of the B.C.Z.R. states variances may only be granted with respect to height and area, off-street parking and sign regulations. This request does not involve any of these enumerated matters, and the B.C.Z.R. states the ALJ shall have “no power to grant any other variances.”

Even though the variance will be denied, it may be Petitioner is entitled to keep two recreational vehicles on this property. Petitioner indicated at the hearing the property is comprised of three lots, and that fact is confirmed by state tax records. The property is shown as Lot Nos. 24, 25 and 26 on the “Plat of John Miller’s land,” recorded on December 1, 1920. The regulation in question provides that “one recreational vehicle may be stored on a residential lot.” B.C.Z.R. §415A.1 (emphasis added). The same regulation provides certain setbacks for storing a recreational vehicle on a “lot occupied by a single-family detached . . . dwelling,” which implicitly recognizes such a vehicle could be stored on a vacant or unimproved lot.

As such, if in fact the recreational vehicles owned by Petitioner are stored on separate “lots” (this point was not explored at the hearing) that would appear to be permissible under the B.C.Z.R. Petitioner indicated he was issued a code enforcement violation notice concerning the two recreational vehicles, and that matter was stayed during the pendency of this case. A copy of this Order will be provided to the code enforcement inspector, and it will be up to the Department of Permits, Approvals & Inspections (PAI)--and perhaps ultimately the ALJ hearing the code enforcement case--to determine whether Petitioner is in compliance with B.C.Z.R. §415A.

THEREFORE, IT IS ORDERED, this **21st** day of November, **2016**, 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 two recreational vehicles on one lot in lieu of the permitted one, be and is hereby DENIED.

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