

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(126 Forest Dr.)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Daniel S. Cohen & Jodie A. Groth	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2017-0166-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Daniel S. Cohen and Jodie A. Groth, owners of the subject property (“Petitioners”). The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit the accessory stabling/pasturing of chickens on a dwelling lot of 0.39 acres in lieu of the minimum required 1 acre. A site plan was marked as Petitioners’ Exhibit 1.

Owners Daniel S. Cohen & Jodie A. Groth appeared in support of the petition. Several neighbors also attended the hearing to express support for the Petitioners. 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 object to the request, but suggested certain measures be taken to ensure the enclosure and hens would not attract pests or rodents.

The property is approximately 0.39 acres and is zoned DR-2. The property is improved with a single-family dwelling and Petitioners have for several years kept a small number of chickens in a coop located in their rear yard. An anonymous complaint was filed with the Bureau of Code Enforcement and Petitioners were advised to seek zoning relief.

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).

Petitioners have met this test. The subject property is an irregularly shaped corner lot bounded on two sides by public roadways. As such, it is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to keep chickens on their property. Finally, I find that the variances 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 community and/or Baltimore County opposition. In addition, Petitioners presented photographs which reveal the chicken coop is clean and well protected from both predators and rodents. The coop is situated 6 ½ feet from the rear property line, which is more than sufficient. As such, I believe the chickens will be well cared for and will not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this **13th** day of **February, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit the accessory stabling/pasturing of chickens on a dwelling lot of 0.39 acres in lieu of the minimum required 1 acre, 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. Petitioners may keep no more than six (6) chickens on the property.
3. No roosters may be kept on the property.

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:slh