

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(23 Granny Smith Ct.)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Huynh Long and Luu Mai Long	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2017-0265-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Huynh Vu and Luu Mai L, owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an existing second story deck with a setback of 19 ft. in lieu of the required 30 ft. A site plan was marked as Petitioners’ Exhibit 1.

Huynh Long 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing agencies.

The site is approximately 6,000 square feet in size and zoned D.R 3.5. The property is improved with a single family dwelling constructed in 2000. Petitioners constructed a deck off of the second floor in the rear of their home. They were cited by Baltimore County Code Enforcement for construction without a permit and were advised to obtain a variance prior to applying for the requisite permit(s).

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 lot has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be required to raze the existing deck. 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.

THEREFORE, IT IS ORDERED, this 25<sup>th</sup> day of **May, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit an existing second story deck with a setback of 19 ft. in lieu of the required 30 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln