

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(9614 Oak Summit Avenue)		
11 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Editha S. Bardoguillo	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0303-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of Editha S. Bardoguillo, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 415.3 C (1) of the Baltimore County Zoning Regulations (“B.C.Z.R) as follows: (1) to allow a utility trailer to be parked in the front half of the lot in lieu of the required rear half of the lot; (2) to approve a setback of 12 ft. from the front property line for a utility trailer in lieu of the required 25 ft. setback from the property line; and (3) to permit an existing garage located in the front yard. A site plan was marked as Petitioner’s Exhibit 1.

Mark Scherer (Petitioner’s husband) 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request concerning the garage but opposed the variance request related to the utility trailer.

The site is approximately 26,136 square feet in size and zoned DR 5.5. The property is improved with a single family dwelling constructed in 1956, and a detached garage which appears to be of the same vintage.

The petition filed in this case contains a two-page attachment wherein Petitioner provides justification for the requests. Mr. Scherer elaborated on those points at the hearing, and presented photos of the property and utility trailer in question.

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).

The subject property has irregular dimensions (Petitioner describes it as “long and slender”) and is accessed via a 200± ft. driveway shared with two other dwellings. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be required to raze or relocate the garage. In addition, to store the trailer in compliance with the Regulations she would need to remove fencing and create additional impervious surface (i.e., a driveway).

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. Petitioner’s home is located over 200 ± ft. from the public road, and the garage and trailer are visible only to the two other owners sharing this driveway. While the trailer is by no means attractive, it at the same time is not an eyesore, and I do not believe granting the variance would have a detrimental impact upon the neighborhood.

I do not disagree with the DOP’s assessment that Petitioner has ample room in the rear yard to store the trailer. But as Mr. Scherer described, to do so would require Petitioner to remove one or more sections of fencing and three newly planted trees. The rear yard is entirely lawn/grass,

and to store the trailer Petitioner would need to create a driveway or parking pad, either of which would result in additional impervious coverage on the site. The trailer is now stored on a large asphalt apron in front of the existing garage, and I agree with Mr. Scherer this is not an unreasonable location for the trailer. Indeed, accessory buildings are required to be in the rear yard (and are customarily located there) and if that were the case here the trailer could be properly stored in front of the garage.

THEREFORE, IT IS ORDERED, this 1st day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 415.3 C (1) of the Baltimore County Zoning Regulations (“B.C.Z.R) as follows: (1) to allow a utility trailer to be parked in the front half of the lot in lieu of the required rear half of the lot; (2) to approve a setback of 12 ft. from the front property line for a utility trailer in lieu of the required 25 ft. setback from the property line; and (3) to permit an existing garage located in the front yard, 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. No long term (i.e., more than ten days) storage of equipment, tools or materials on the trailer shall be permitted.
3. The variance granted herein shall be personal to Petitioner, and shall not “run with the land.”
4. The variance granted herein shall permit storage in the front half of the lot only the white utility trailer owned at the present time by Petitioner and/or her husband. Should that trailer be sold, become inoperable, or is salvaged, the relief granted herein shall automatically terminate.

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