

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7894 Harold Road)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Cheryl Nelson	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0354-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 Cheryl Nelson, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a pool to be located in that portion of the rear yard not farthest removed from both streets, 7.5 ft. from the side property line. A site plan was marked as Petitioner’s Exhibit 1.

Cheryl Nelson 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 County reviewing agencies.

The site is approximately 4,500 square feet in size and zoned DR 10.5. The property is improved with an end-of-group townhouse, and the grounds are clean and well-maintained. Petitioner stated her son saved money all year to purchase the pool, which was installed in June 2017 by a contractor. Petitioner suspects her neighbor lodged an anonymous complaint with the County that the pool was constructed without permits. The neighbor did not complain about the location of the pool.

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).

Petitioner must contend with long-existing site conditions and thus the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be required to relocate the pool. 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 Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 29th day of **August, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a pool to be located in that portion of the rear yard not farthest removed from both streets, 7.5 ft. from the side property line, 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.

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