

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2901 Chokeberry Court)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Meir Strobel & Sara Gerstenfeld	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2018-0151-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Meir Strobel & Sara Gerstenfeld, the legal owners of the subject property (“Petitioners”). Petitioners originally sought variance relief from Sections 1B02.3.C.1 & 301 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit two proposed additions to both sides of the dwelling with side yard setbacks of 3 & 2 ft., a sum of both sides of 5 ft., and a front yard setback of 18.5 ft. in lieu of the required 8, a sum of 20 ft. and a front yard setback of 25 ft.; and (2) to permit a covered porch addition to the side of the dwelling with a 7 ft. setback and an open deck addition to the rear of the house with side and rear yard setbacks of 4 & 9 ft. in lieu of the required 7.5, 7.5 and 22.5 ft., respectively. These setbacks are shown on the original site plan marked as Petitioners’ Ex. 1.

Owners Meir Strobel and Sara Gerstenfeld and architect Donny Ankri appeared in support of the petition. Several neighbors opposed the request as set forth in the original zoning petition. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

The site is approximately 9,020 sq. ft. in size and zoned DR 5.5. The property is improved with a modest single-family dwelling constructed in 1959. Petitioners have a growing family and propose to enlarge the home to accommodate their needs. The neighbors objected to the original

variance request, which proposed side yards of three (3) and two (2) feet. Following the hearing the parties met to discuss the matter further, and Mr. Ankri prepared a revised site plan (Exhibit 2) showing enlarged side yard setbacks which met with approval from the neighbors.

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 property has an irregular (diamond) shape and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to complete the proposed addition. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED, this 8th day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the **amended** Petition for Variance: (1) to permit additions to both sides of the dwelling with a side yard setback of 8 ft., a sum of both sides of 18 ft., a front yard setback of 18.5 ft. and a rear yard setback of 12 ft. in lieu of the required 10 ft. individual side yard, a sum of side yards of 20 ft., front yard setback of 25 ft., and rear yard setback of 30 ft., respectively, 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.

JEB:sln

____ Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County