

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(808 Walker Station Court)		
6 th Election District	*	OF ADMINISTRATIVE
3 th Council District		
Brian & Erika Wodka	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0196-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Brian & Erika Wodka, legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to permit two accessory structures (shade structure and a pool house) and a pool to be located in the side yard in lieu of the required rear yard; and (2) to permit an accessory structure (shade structure) with a height of 16 ft. in lieu of the maximum 15 ft. A site plan was marked as Petitioners’ Exhibit 1.

Owners Brian & Erika Wodka and Bruce Doak, land surveyor 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 Environmental Protection and Sustainability (DEPS).

The site is approximately 1.4311 acres in size and zoned RC-4. The property is improved with a single-family dwelling constructed in 2008. Petitioners propose to construct a pool, pool house and shade pavilion at the subject property. Due to site constraints the proposed improvements would be in the side yard, which necessitates variance 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).

The property has irregular dimensions and there is a significant grade change from the front to the rear of the site. As such the property is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed improvements. 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. This is demonstrated by the absence of Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this **14th** day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R”): (1) to permit two accessory structures (shade structure and a pool house) and a pool to be located in the side yard in lieu of the required rear yard; and (2) to permit an accessory structure (shade structure) with a height of 16 ft. in lieu of the required 15 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.

2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached.

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:slm