

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(2911 Rain Tree Court)		
4 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Charles H. Horich	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2018-0222-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 Charles H. Horich, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §1A04.3.B.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed addition (bedroom) with a side yard setback of 39 ft. in lieu of the minimum required 50 ft.; and to amend the Final Development Plan of RAINTREE FARM, lot #6 only. A site plan was marked as Petitioner’s Exhibit 1.

Charles H. Horich and surveyor Bruce E. Doak 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 BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (DEPS), indicating Petitioner would need approval from the Bureau of Ground Water Management, since the property is served by well and septic.

The site is approximately 1.685 acres in size and zoned RC-5. The property is improved with a single-family dwelling constructed in 2007. Petitioner and his wife have difficulty climbing stairs and would like to have their bedroom on the first floor. To do so requires zoning 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 an irregular shape and is therefore unique. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct 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. This is demonstrated by the absence of County or community opposition.

THEREFORE, IT IS ORDERED, this 27<sup>th</sup> day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §1A04.3.B.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed addition (bedroom) with a side yard setback of 39 ft. in lieu of the minimum required 50 ft.; and to amend the Final Development Plan of RAINTREE FARM, lot #6 only, 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 his 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. Petitioner must comply with the DEPS ZAC comment, a copy of which is attached hereto.

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