

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3118 Northwind Road)		
11 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Carlo & Theresa Gizzi	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2018-0242-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Carlo & Theresa Gizzi, the legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from Sections 100.6 & 400.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit the stabling of chickens on a lot 0.960 acres in size with two detached accessory structures (garage/shed and chicken coop) located in the front yard in lieu of the minimum required one (1) acre and required rear yard location. A site plan was marked as Petitioners’ Exhibit 1.

Carlo & Theresa Gizzi appeared in support of the petition. Two neighbors attended the hearing to express concern with the chickens leaving their enclosure and wandering across their property. The Petition was advertised and posted as required by the BCZR. A Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”).

The site is approximately 0.960 acres in size and split-zoned DR 2 & DR 3.5. The property is improved with a single-family dwelling constructed in 1992. Petitioners have resided in their home for over 20 years and acquired several chickens last year. The neighbors in attendance at the hearing stated they did not object to Petitioners having chickens; they simply wanted to ensure that the chickens were kept within the enclosure and coop. Petitioners stated they received a violation notice from Baltimore County on January 30, 2018, and as a result they no longer allow

the chickens to roam. The neighbors confirmed that fact. As explained by the undersigned, the County's Bureau of Code Enforcement (410-887-3351) will respond to complaints if this condition is not observed.

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 is L-shaped and split-zoned and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to keep their chickens and would be required to relocate the shed. 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 community opposition.

THEREFORE, IT IS ORDERED, this **30th** day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit the stabling of chickens on a lot 0.960 acres in size with two detached accessory structures (garage/shed and chicken coop) located in the front yard in lieu of the minimum required one (1) acre and required rear yard location, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may keep on the premises no more than seven (7) chickens. No roosters may be kept on the subject property.
2. The chickens must at all times be kept within their enclosure, and the coop and enclosure must be kept clean and free of animal waste or other debris.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:slh

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