

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(215 Melancthon Avenue)		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Matthew Cimino & Jessica Lehson	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2019-0039-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 Matthew Cimino & Jessica Lehson, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) to allow chickens to be kept on a lot 0.93 acres in size in lieu of the required one (1) acre. A site plan was marked as Petitioners’ Exhibit 1.

Matthew Cimino & Jessica Lehson appeared in support of the petition. Eric Rockel, president of the Greater Timonium Community Council, Inc. (GTCC) and a member of the Lutherville Community Association (LCA), attended the hearing to obtain additional information regarding the request. 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”). That agency did not object to the request.

The site is approximately 0.93 acres in size and zoned DR 2. The property is improved with a single-family dwelling constructed in 1887. Petitioners have lived at the property for nearly four (4) years, and for the last year or so they have kept chickens on the premises. Baltimore County issued to Petitioners a code enforcement correction notice and they were instructed to seek zoning relief to allow them to keep chickens on the property. Mr. Rockel testified the community association met and decided to take no position on this case, although he stated that

if the request was granted a condition should be included in the order limiting the number of chickens (hens) which can be kept of the property.

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 subject property is unique in that it is larger than most other building lots in Historic Lutherville, most of which are ¼ acre in size. In addition, the lots immediately adjoining the subject property are each slightly larger than one acre in size. Petitioners submitted an historic plat which shows that their lot was also originally in excess of one acre, although the County acquired a portion of their land many years ago for construction and maintenance of Melancthon Ave. I believe this fact also renders the property unique.

If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to keep chickens on the large property, which is just shy of the required one acre. 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 opposition and the support of all neighbors in the immediate vicinity of the subject property. Letters of support were also received from two members of the LCA Board.

THEREFORE, IT IS ORDERED, this 12<sup>th</sup> day of **October, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to allow chickens to be kept on a lot 0.93 acres in size in lieu of the required one (1) acre, 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. A maximum of 15 chickens may be kept at the property.
3. No roosters may be kept at the property.
4. Petitioners must keep the chicken coop and surrounding area clean and remove promptly all waste and other debris.

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