

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(6302 Chesworth Road)		
1 <sup>st</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
Nasir Hamidy	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2019-0098-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 Nasir Hamidy, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a side yard addition with a side setback of 5.8 ft. in lieu of the required 10 ft.

Nasir Hamidy appeared in support of the petition. The adjoining neighbors opposed the request. 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 8,568 square feet in size and zoned DR 3.5. The property is improved with a single-family dwelling constructed in 1970. Petitioner recently purchased the home and would like to construct a 2-story addition with a garage and additional living space for his family. The adjoining neighbors are concerned about the size of the proposed addition and the potential impact it may have upon the value of their home.

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 similar in size and shape to the majority of the other properties in the Woodbridge Valley subdivision. As such I do not believe the property qualifies as “unique” as that term is used in the law. In a contested variance case the petitioner faces an uphill battle. In Maryland, variances must be granted “sparingly” since it is “an authorization for [that] ... which is prohibited by a zoning ordinance.” *Cromwell*, 102 Md. App. at 699. While the Petitioner’s request is reasonable and the proposed addition (as shown on the elevations submitted at the hearing) would be attractive and constructed of quality materials, those are not sufficient reasons to grant a variance. As such the petition must be denied.

THEREFORE, IT IS ORDERED, this 7<sup>th</sup> day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a side yard addition with a side setback of 5.8 ft. in lieu of the required 10 ft., be and is hereby DENIED.

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/sln