

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(11117 Bird River Grove Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Stacey Haines	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0132-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 Stacey Haines, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) to permit keeping chickens on a property of 0.507 acres in lieu of the minimum required 1 acre pursuant to BCZR Section 100.6. A site plan was marked as Petitioner’s Exhibit 1.

Stacey Haines 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. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). Neither agency opposed the requests.

The site is approximately 0.507 acres in size and is zoned RC-2. The property is improved with a single-family dwelling constructed in 1967. Petitioner has for the last two years kept chickens on her property. An anonymous complaint was filed recently with the Bureau of Code Enforcement, and Petitioner was instructed to seek 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 irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to keep chickens on her property. 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 and/or community opposition. Petitioner also noted her property borders Richardson Farms, a large agricultural operation of long-standing in eastern Baltimore County. As such, I do not believe granting the petition will have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this 4<sup>th</sup> day of **January, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit keeping chickens on a property of 0.507 acres in lieu of the minimum required 1 acre, 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 her 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 ZAC comment submitted by DEPS, a copy of which is attached hereto and made a part hereof.
3. No more than twelve (12) chickens may be kept on the property. No roosters shall be kept on the property.

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