

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(22 Right Elevator Drive)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Sharon Zamrzla	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0216-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Sharon Zamrzla, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed accessory structure (detached carport) in the front and side yard in lieu of the required rear yard and to permit a side setback of 1 ft. in lieu of the required 2 ½ ft. setback. A site plan was marked as Petitioner’s Exhibit 1.

Sharon Zamrzla appeared in support of the petition. An adjoining neighbor opposed 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 oppose the request.

The site is approximately 5,280 square feet in size and is zoned DR 10.5. The property is improved with a small single family dwelling constructed in 1942. Petitioner had installed by a contractor a metal carport, which is located in the front yard of the dwelling. Petitioner received from the code enforcement bureau of Baltimore County a correction notice and was advised a variance would be required to keep the structure in its current location.

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).

While I am sympathetic to Petitioner's plight, the requirements for variance relief are not satisfied in this case. No evidence was presented to show the subject property or improvements are unique or unlike those in the community. Petitioner's home is part of the Victory Villa community, a subdivision constructed after World War II which features houses and lots of similar size and configuration. Under Maryland law, variances can only be granted "sparingly" since it is "an authorization for [that] ... which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. In the absence of such evidence the petition for variance must be denied. To allow Petitioner to make arrangements to relocate/remove the structure the order below will provide a 60 day "grace period."

THEREFORE, IT IS ORDERED, this **3rd** day of **April, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 1B02.3.B of the Baltimore County Zoning Regulations ("BCZR") to permit a proposed accessory structure (detached carport) in the front and side yard in lieu of the required rear yard and to permit a side setback of 1 ft. in lieu of the required 2 1/2 ft. setback., be and is hereby DENIED.

IT IS FURTHER ORDERED Petitioner shall relocate (in compliance with the BCZR) or remove the carport structure within 60 days of the date hereof.

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