

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(143 Othoridge Road)		
9 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Theresa Foster	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0237-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 Theresa Foster, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 415A.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a recreational vehicle in the side yard and situated 9 feet into the front yard in lieu of the permitted 8 feet to the rear of the front foundation wall. A site plan was marked as Petitioner’s Exhibit 1.

Theresa Foster and Frank Cordley appeared in support of the petition. A number of Protestants from the immediate community, including Steve Lippy assistant to the President of the Orchard Hills Community Association appeared at the hearing to oppose Petitioners 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 opposed the request.

The site is approximately 10,033 square feet in size and is zoned DR 5.5.

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).

Petitioner stated that they could not comply with the existing regulations due to the size of their recreational vehicle, as well as the location of their garage. They admitted that they had not consulted the law prior to their purchase of the subject vehicle.

Protestants presented a letter from the President of their community association as well as testimony from Mr. Lippy, both in opposition to the variance request; consistent with the DOP's concerns and reasons for its opposition to the granting of the variance.

While I am sympathetic to Petitioners 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 Orchard Hill Community, which features homes 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 the subject recreational vehicle the order below will provide a 45 day "grace period."

THEREFORE, IT IS ORDERED, this 20<sup>th</sup> day of **June, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to permit a recreational vehicle in the side yard and situated 9 feet into the front yard in lieu of the permitted 8 feet to the rear of the front foundation wall, be and is hereby DENIED.

IT IS FURTHER ORDERED Petitioner shall relocate (in compliance with the BCZR), the subject recreational vehicle within 45 days of the date hereof.

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

Signed \_\_\_\_\_  
LAWRENCE M. STAHL  
Administrative Law Judge for  
Baltimore County

LMS/sln