

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(101 Compass Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
John P. Rea & Betty M. Kruse-Rea	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0240-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by John P. Rea & Betty M. Kruse-Rea, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 415A of the Baltimore County Zoning Regulations (“BCZR”) to allow a recreational vehicle to be parked in the side yard in lieu of the required 8 ft. to the rear of the front foundation of the dwelling. A site plan was marked as Petitioners’ Exhibit 1.

John Rea & Betty Kruse-Rea 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. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). That agency opposed the request.

The site is approximately 6,375 sq. ft. in size and is zoned DR 5.5. The property is improved with a small (approximately 672 sq. ft.) single-family dwelling constructed in 1942. Petitioners have owned the property for 10+ years and recently purchased a travel trailer which is stored in their driveway. After an anonymous complaint was filed with the Bureau of Code Enforcement Petitioners were instructed to seek zoning relief.

As an initial matter, I do not believe Petitioners require a variance to store the trailer in its

current location. The subject property is a corner lot and the dwelling is situated at a 45° angle relative to the property boundaries. The BCZR states a recreational vehicle must be stored at least 8 ft. behind the “lateral projection of the front foundation line of the dwelling.” BCZR §415A.1.A. Based on a review of the photos submitted at the hearing (Pet. Ex. 2) and the site plan, Petitioners’ trailer would appear to be stored in a manner that complies with the BCZR. Based on Mr. Rea’s testimony (who was home at the time the property was inspected by Baltimore County) I believe the code enforcement inspector mistakenly extended at a right angle the front foundation wall of the dwelling, which caused him to issue a correction notice to Petitioners.

Even though I do not believe a variance is required in this case I will address the issue as sought in the petition. 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 a corner lot with irregular dimensions and the dwelling is not situated perpendicular or parallel to the lot lines. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to store their recreational vehicle on the subject 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. The only neighbor whose view could be potentially impacted by the trailer is Daniel Onheiser, who lives at and owns the property at 103 Compass Road. Mr. Onheiser submitted a letter (Pet. Ex. 3) stating he did not

object to the trailer being parked in the side yard of the subject property.

THEREFORE, IT IS ORDERED, this 26th day of **April, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 415A of the Baltimore County Zoning Regulations (“BCZR”) to allow a recreational vehicle to be parked in the side yard in lieu of the required 8 ft. to the rear of the front foundation of the dwelling, be and is hereby GRANTED.

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