

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4 Grenadier Ct.)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
4 Grenadier Court, LLC, <i>Legal Owner</i>	*	HEARINGS FOR
Howard L. Castleman,		
<i>Contract Purchaser</i>	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2019-0312-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by 4 Grenadier Court, LLC, legal owner of the subject property and Howard L. Castleman, contract purchaser (“Petitioners”). Petitioners are requesting variance relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (“BCZR”) to permit a front yard setback of 30 ft. in lieu of the required 50 ft. setback. A site plan was marked as Petitioners’ Exhibit 1.

Howard L. Alderman, Esq. represented Petitioners and was accompanied by Bruce E. Doak of Bruce E. Doak Consulting, LLC. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comment was received from any of the County reviewing agencies except the office of Planning.

The site is approximately 3.75 acres in size and is zoned RC-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).

Evidence was presented that the existing structure on the site was built without a garage. Petitioners wish to construct a three (3) car garage connected to the existing structure by a breezeway. Exhibits and testimonies established that the property trapezoidal in shape, includes considerable topographical sloping, and that the existing septic field and well consume considerable space and therefore dictate and limit the available area for the requested garage and breezeway connection to the existing structure.

Bruce Doak, who produced the site plan, was accepted as an expert in zoning. He opined that the topographical configuration of the site, along with the location of the well and septic field rendered the property unique and presented practical difficulty in placing the requested garage in a very limited area of the site, necessitating the variance.

The only substantive comment was made by the Department of Planning (“DOP”), which had no objection to the requested variance, conditioned upon the proposed garage and breezeway using similar materials and design elements to complement the existing dwelling. The elevation drawing submitted by the Petitioner noted clearly that the materials used would in fact match the existing structure.

Based upon the above, I find that the property is in fact unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the proposed garage and breezeway. 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.

THEREFORE, IT IS ORDERED, this 20th 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 front yard setback of 30 ft. in lieu of the required 50 ft. setback, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. The proposed garage addition and breezeway shall use similar materials and design elements that are complementary to the existing dwelling.

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