

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(3717 Century Avenue)		
13 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
Kenneth, Jr. and Kathleen L. Callis	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0454-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 Kenneth and Kathleen Callis, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 100.6 of the Baltimore County Zoning Regulations (“BCZR”) to permit housing of pigeons on a lot with .22 acres in lieu of the required 1 acre.

Kenneth and Kathleen Callis appeared in support of the petition. There were no protestants but there were several interested citizens who attended the hearing to voice their support for the requested variance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Public Works (“DPW”).

The site is approximately .22 acres in size and is zoned DR-16. After an anonymous complaint was filed with the Bureau of Code Enforcement Petitioners were instructed to seek zoning relief. Mr. Callis testified that he is a member of the Chesapeake Rollers Pigeon Club and that he raises and trains approximately 125 pigeons. He explained that although he has only about a quarter acre lot it is surrounded by larger lots and that the whole area has a rural feel. He testified

that he keeps his pigeons in neat and orderly “lofts” that he cleans weekly and that he takes all waste to the nearby County landfill. He explained that his birds only fly for short periods of time and that he has them trained to return to their “lofts” on his command. He testified that there are several neighborhood kids (some of whom are disabled) who enjoy helping him care for and train the birds. He submitted numerous letters of support from his neighbors, which were admitted as Petitioners’ Exhibit 1. He also submitted a series of photos of the “lofts” and of his and the surrounding properties, which were admitted as Petitioners’ Exhibit 2. He and his wife both testified that no one in the neighborhood has ever complained to them about the pigeons and that all the neighbors they know have no objection to the birds. This is borne out by the numerous letters in Exhibit 1.

Linda Pohuski, testified that her elderly father owns approximately 5 acres of adjoining property to the rear of the Callis’ property and that her father likes having the birds there. She explained that it is a rural setting that is mainly forested all the way down to the Patapsco River and that the pigeons have plenty of room to fly and that they don’t bother anyone.

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 in question is a smaller, irregularly shaped lot surrounded by larger lots. Although it is zoned DR 16 it is not a densely developed area. The property is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to keep their prized pigeons. The evidence establishes that Mr.

Callis is an experienced and skilled pigeon enthusiast. He has thoroughly trained his birds so that they respond to his commands and he takes meticulous care of them. The Department of Planning questioned what measures Mr. Callis takes to control and clean up after the pigeons. I am satisfied by the testimony and evidence in this case that Mr. Callis is responsible in controlling the birds both on the ground and in the air and that he meticulously cleans up after them and properly disposes of all associated waste. 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 fact that the community has voiced unanimous support for the requested variance relief.

THEREFORE, IT IS ORDERED, this 15<sup>th</sup> day of **November, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to permit housing of pigeons on a lot with .22 acres in lieu of the require 1 acre, 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.

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

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM/sln