

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(9916 Fox Hill Road)		
11 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Brian Furletti	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0538-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Brian Furletti. The Petitioner is requesting Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling addition with a side yard setback of 10 feet in lieu of the minimum required 15 ft. A site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of January 6, 2020. On December 26, 2019, neighbor Elton Jones requested a hearing. The hearing was held on Monday, February 3, 2020 at 1:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”).

Brian Furletti, Petitioner appeared in support of the request. Several neighbors appeared and voiced their opposition to the relief requested. The immediate next door neighbor, Elizabeth Miller, testified that she does not want the addition to be any closer to her house than is permitted and she is concerned that if the variance is granted and the proposed addition is built that close to the property line that it will devalue her home. The other immediate neighbor, Elton Jones,

submitted a letter enumerating his reasons for opposing the variance request. The letter and accompanying photos were admitted into evidence as Protestants' Exhibits 1 and 2.

The subject property is approximately 23,448 square feet and is zoned DR 2.

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 necessitates 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). Further, the general rule is that variances are not favored because "citizens [of a given county or municipality] are entitled to strict enforcement of the existing zoning regulations." Salisbury Board of Zoning Appeals v. Bounds, 240 Md. 547, 555-56 (1965). Finally, a variance must comply with the spirit and intent of the Baltimore County zoning regulations and cannot be detrimental to the general public's health, safety, or welfare.

In the instant case the Petitioner, Mr. Furletti, explained that he and his wife are living with their three children in the existing 2 bedroom house on the property. They want to build the proposed addition in order to accommodate their family and to house a three car garage. While I am sympathetic to their wishes, I must also weigh the Protestants' opposition. I also note that the Petitioner acknowledged that the plans for the proposed addition could be modified so that the variance would not be necessary.

Applying the legal standards I must deny the variance request.

THEREFORE, IT IS ORDERED, this 3rd day of **February, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling addition with a side yard setback of 10 feet in lieu of the minimum required 15 ft., be and is hereby DENIED.

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:slh