

IN THE MATTER OF
WINSOME BECKFORD
8659 Winands Road
2nd Election District ; 4th Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 16-314-A
*

RE: Petition for Variance relief from Baltimore
County Zoning Regulations 100.6 to permit
the accessory stabling of poultry on a tract
of land of 9,997 square feet in lieu of the
minimum required 43,560 square feet
(1 acre)

* * * * *

OPINION

This matter comes to the Board of Appeals on appeal by Winsome Beckford (the “Petitioner”) of (a) the Opinion and Order issued by John E. Beverungen, Administrative Law Judge for Baltimore County, dated August 8, 2016 denying Petitioner’s request for variance relief from Baltimore County Zoning Regulations (“BCZR”) Section 100.6 to permit the accessory stabling of poultry on a tract of land of 9,997 square feet in lieu of the minimum required 43,560 square feet (1 acre) and (b) the Order issued by Judge Beverungen dated September 9, 2016 denying the Petitioner’s Motion for Reconsideration.

In the proceedings before the Board, the Petitioner was not represented by counsel. Petitioner’s neighbor, Muriel Howard, attended the hearing and opposed the request for variance relief.

A hearing was held before the Board on November 17, 2016, and the Board held a public deliberation on January 19, 2017.

STATEMENT OF FACTS

The Petitioner is the owner of the property located at 8659 Winands Road, Randallstown, Maryland 21133 (the “Property”). The Property is 9,997 square feet in size and is zoned DR 3.5.

The Property further is improved with a single family dwelling, and the rear yard of the Property is fenced and includes a coop for housing chickens. Petitioner testified at the hearing that, since April 2015, she has kept up to six chickens in her rear yard to produce organic eggs for her daughter, who suffers from kidney failure and requires a special diet that includes organic eggs or foods prepared with organic eggs. Petitioner also testified that, at the time that she purchased her chickens, she had been unaware of any zoning restrictions that would preclude her from raising chickens in her yard.

DECISION

BCZR § 100.6 establishes a minimum lot size of one acre – or 43,560 square feet – for the “stabling and pasturing” of chickens in Baltimore County. Because the Property is only 9,997 square feet in size, Petitioner seeks a variance from the requirements of Section 100.6. Pursuant to BCZR § 307.1, the Board has the power to grant a variance from the BCZR’s area regulations “only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.”

The Court of Special Appeals has set forth the analytical framework for considering a request for a variance:

[I]t is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or

unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists.

Cromwell, 102 Md. App. at 694-95, 651 A.2d at 426.

The *Cromwell* Court emphasized that “[t]he need for a variance must be due to the unique circumstances of the property and not to the general conditions in the neighborhood.” *Id.* at 717, 651 A.2d at 437. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *Id.* at 710, 651 A.2d at 433-34. Moreover, variance relief cannot be “based on reasons personal to the applicant,” rather than the uniqueness of the property in question. *Id.* at 720, 651 A.2d at 438.

In the case before the Board, there was no evidence presented by the Petitioner that the Property itself is unique. To the contrary, the Property appears to be similar in all material respects to the other properties in the neighborhood. Rather than the unique characteristics of the Property itself, the driving force behind Petitioner's request for a variance to maintain chickens on the Property is the health of her daughter. While unanimous in its sympathy for the Petitioner and the significant health challenges that her daughter faces, the Board is constrained to apply the law relating to variances as instructed by the Court of Special Appeals. The *Cromwell* Court specifically observed that “a variance granted to take care of some hardship personal to the applicant is not a unique hardship resulting from circumstances peculiar to the piece of land.” 102 Md. App. at 720-21, 651 A.2d at 439. Because the Property is not “in any way peculiar,

unusual, or unique when compared to other properties in the neighborhood,” the Board must deny the Petitioner’s request for a variance under BCZR § 307.1. *Id.* at 726, 651 A.2d at 441.

ORDER

THEREFORE, it is this 18th day of April, 2017, by the Board of Appeals of Baltimore County,

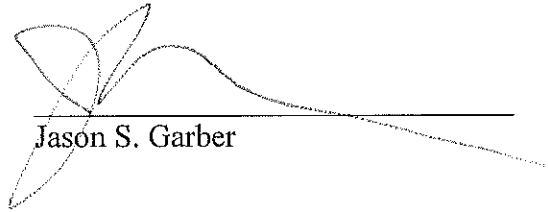
ORDERED, that the Petition for Variance seeking relief from Section 100.6 of the Baltimore County Zoning Regulations to permit the accessory stabling of poultry on the property located at 8659 Winands Road – a tract of land of 9,997 square feet in lieu of the minimum required 43,560 square feet (1 acre) – be and is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



Jason S. Garber



James H. West



Board of Appeals of Baltimore County

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April 18, 2017

Ms. Winsome Beckford
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Randallstown, Maryland 21133

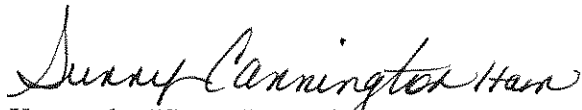
RE: *In the Matter of: Winsome Beckford*
Case No.: 16-314-A

Dear Ms. Beckford:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure

c: Susan McCormick
Muriel R. Howard
Saralee Bernstein
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law