

**IN RE: PETITION FOR VARIANCE**  
NE side of Country Farm Road, 1,200'  
W of Red Lion Road  
11<sup>th</sup> Election District  
5<sup>th</sup> Council District  
**(5600, 5601, 5603 & 5605 Country  
Farm Road)**

Red Lion Farm, LLC  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2012-0288-A**

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner, Red Lion Farm, LLC. The Petitioner is requesting Variance relief from §1B01.2.C.1.b of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a minimum distance of 17' from the rear building face to rear property line in lieu of the required 30' for Lots 34-37. These lots are shown on a final development plan approved in 2008 (Exhibit 2) for a project known as Red Lion Farm, which will contain 61 single family dwellings. At present, Lots 34-37 are unimproved. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1. There were no ZAC comments received from any of the County reviewing agencies.

Appearing at the public hearing in support for this case were David Actfeld with Southern Land Company, Matthew A. Bishop and Dean Hoover with Morris & Ritchie Associates, Inc., the consulting firm that prepared the site plan, and Jason Brant with Ryan Homes. Timothy M. Kotroco, Esquire appeared as Counsel for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

Testimony and evidence revealed that the subject property is 0.73 acres (32,011 square feet) and zoned DR 3.5. As noted, this case concerns only four lots within the subdivision, and Counsel explained these are the only lots that require variance relief. The need for variance relief for these lots became apparent only when the final environmental and engineering studies were completed in “Phase 2” of the Baltimore County development process. At that juncture, the builder realized it could not construct homes on these lots without variance relief, due to the environmental and stormwater management constraints shown on Exhibit 1.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People’s Counsel*, 407 Md. 53, 80 (2008).

Petitioner has met this test.

Petitioner presented the testimony of Matt Bishop (via proffer), a professional landscape architect who was accepted as an expert in land use matters and the zoning regulations. Mr. Bishop explained the subject properties are unique in that they are located on a curve in the road, which results in radial, rather than linear, lot lines. Also, as seen on Exhibits 1 and 2, the lots in question are somewhat pie-shaped, due to the curvature of the front and rear lot lines. These lots are also unique when compared to the others in the subdivision because they are positioned on the lowest portion of the overall 36+/- acre tract. This topography also dictated that the stormwater management features be positioned in this area, which “compressed” the size of the lots and necessitated variance relief.

In terms of practical difficulty, Mr. Bishop explained that without variance relief the owner could not construct compatible dwellings on these lots. Mr. Bishop stressed that the grant of

variance relief would in no way increase the residential density, but would simply allow the owners to build out the subdivision approved by Deputy Zoning Commissioner Murphy in Case No. XI-976.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 28 day of June, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 1B01.2.C.1.b of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a minimum distance of 17' from the rear building face to rear property line in lieu of the required 30' for Lots 34-37, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order. However the Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.

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

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:pz