

**IN RE: PETITION FOR VARIANCE**  
E/side of Cornwall Road, 254' S of  
Dunmanway  
12<sup>th</sup> Election District  
7<sup>th</sup> Council District  
**(2919 Cornwall Road)**

Theresa A. Spiegel  
Petitioner

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2012-0297-A**

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner, Theresa A. Spiegel. The Petitioner is requesting Variance relief from §§ 100.6 and 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit the accessory stabling of pigeons on a lot containing 0.052 acres and to permit an accessory structure (pigeon coop) with a side yard setback of 1' in lieu of the required minimum 1 acre lot size and 2.5' setback, respectively. 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.

Appearing at the public hearing in support for this case was Petitioner Theresa A. Spiegel, Andre Smith and Quajea Carswell. There were no Protestants or other interested parties in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no adverse ZAC comments from any of the County reviewing agencies.

This matter is currently the subject of a violation case (Case No. CO-107857) before the Office of Administrative Hearings, and a copy of the Code Enforcement file was made a part of the zoning hearing file. It should be noted that the fact that a code violation is issued is generally not considered in a zoning case. Zoning enforcement is conducted by the Department of Permits,

Approvals, and Inspections, which has the authority to issue Correction Notices and Citations and to impose fines and other penalties for violation of law. On the other hand, the role of the Administrative Law Judge in this matter is to decide the discreet legal issue of whether the Petitioner is entitled to the requested zoning relief.

Testimony and evidence revealed that the subject property is 2,280 square feet and is zoned DR 10.5. The Petitioner purchased the home about a year ago, and erected a pigeon coop in or about January, 2012. Ms. Spiegel explained that she is an educator, and uses the pigeons to provide learning experiences for “at risk” students in the area. She advised that she partners with the County school system, and will have small groups of elementary and middle school children to her home to teach them about pigeons’ habitat, breeding and historical uses. The Petitioner also explained that using pigeons in this fashion has had a demonstrative and positive effect upon children, and she presented a magazine article that featured an outreach program similar to hers.

The Petitioner presented an exhibit with approximately 75 signatures of area residents, expressing support for her operation (Exhibit 2). The Petitioner also presented several letters of support from neighbors and the Dundalk Community Association (Exhibit 3). Finally, several color photos of Petitioner’s home and rear yard were admitted (Exhibit 4) and they show that Petitioner’s home is well maintained and the pigeon coop is kept clean and sanitary.

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.

The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since she would be unable to continue with her pigeon instructional program, which is providing a much-needed activity for youngsters in the area. Finally, I do not believe the zoning relief will be detrimental to the community's health, safety and welfare.

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 3<sup>rd</sup> day of August, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from §§ 100.6 and 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit the accessory stabling of pigeons on a lot containing 0.052 acres and to permit an accessory structure (pigeon coop) with a side yard setback of 1' in lieu of the required minimum 1 acre lot size and 2.5' setback, respectively, 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 her 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:dlw