

IN RE: PETITION FOR VARIANCE
(20500 Old York Road)
7th Election District
3rd Councilman District
Brian Balish and Amanda Laatsch
Petitioners

*
*
*
*
*

BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0129-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by the legal owners of the subject property, Brian Balish and Amanda Laatsch, for property located at 20500 Old York Road. The Petitioners are requesting Variance relief from Section 427.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing fence of 50 inches in the side/rear yard of the subject property which is located along the property line in the front yard of an adjoining property, in lieu of the maximum permitted height of 42 inches. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests were Brian Balish and Amanda Laatsch, Petitioners. 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 interested citizens in attendance and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the record of this case. There were no objections or substantive comments from any County agencies.

Testimony and evidence revealed that the subject property is 1.2100 acres and is zoned RC 2. The Petitioners purchased the home in April 2012, and explained they are first-time homeowners. They constructed the fence at issue in September 2012, and engaged Winkler Fence Company to complete the installation.

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).

Petitioners have met this test. The property is a corner lot situated at the intersection of Old York Road and Jordan Mill Ct., and is in a rural (RC2) setting. These attributes make the property unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty and/or hardship. The Petitioners explained they own two (2) small breed dogs while their immediate neighbor owns large breed (Mastif) dogs that occasionally are off leash. The Petitioners wanted to ensure their dogs were safe, and that is why the fence was constructed. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of opposition from County agencies and the community.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 12th day of February, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 427.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing fence of 50 inches in the side/rear yard of the subject property which is located along the property line in the front yard of an adjoining property, in lieu of the maximum permitted height of 42 inches, be and is hereby GRANTED.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln