

IN RE: PETITION FOR VARIANCE
(1808 Hanford Road)
14th Election District
7th Councilman District
Caroline M. & Raymond W. Brewer
Petitioners

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0137-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Caroline M. and Raymond W. Brewer, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition on the side of the dwelling with a side yard setback of 2 ft. 9 in. and a sum of side yard setbacks of 12 ft. 9 in. in lieu of the required 7 ft. and 17 ft, 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 of the requests were Caroline and William Brewer. 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. In fact, the Petitioners submitted letters from several of their neighbors (including their immediate neighbors), all of whom expressed support for the petition.

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

Testimony and evidence revealed that the subject property is 5,500 square feet and is zoned DR 5.5. The Petitioners have two children, one of which is disabled and requires use of a wheelchair and walker. The Petitioners explained their rear yard is frequently muddy, making it inaccessible to their son's wheelchair. They constructed a modest addition (7' x 16') onto their home so that their son would have room to move about and observe outside activities and such.

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 Petitioners' subdivision, Kenwood, was approved by the Baltimore County Planning Commission, in 1953, before the adoption of the B.C.Z.R. That, and the narrow width of the lot, renders the property unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty and/or hardship. They would be required to dismantle the addition which is used almost exclusively by their disabled son. 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 amply demonstrated by the lack of opposition from County agencies and the strong support of their neighbors.

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 20th day of February, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition on the side of the dwelling with a side yard setback of 2 ft. 9 in. and a sum of side yard setbacks of 12 ft. 9 in. in lieu of the required 7 ft. and 17 ft, respectively, 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