

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(10208 Greenside Drive)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilman District		
G & Z Land Corporation Inc.,	*	HEARINGS FOR
George & Zoe Perdikakis		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2013-0216-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by George and Zoe Perdikakis, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 450.4 Attachment 1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed addition (garage) to have a side yard setback of 6 ft. (combination of setbacks: 21 ft.) in lieu of the minimum required 8 ft (combination of setbacks: 20 ft.)

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 was Charles Phillips. Several neighbors attend the hearing, including Gilles Boisvert, Mark and Esther Fedner. 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 substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 6,487 square feet and is zoned DR 5.5. Mr. Phillips indicated the Petitioners want to construct a one story (approximately 12' in height from grade) addition on the north side of the dwelling adjoining 200

Wickersham Way (Lot #8), and owned by the Fedners. Mr. Fedner expressed concern with the potential for storm water drainage onto his property, which he said sits lower than Petitioners' parcel (Lot #9). Mr. Phillips explained that when the Petitioners apply for building permits, they will need to demonstrate that storm drainage from the proposed addition will not flow onto neighboring properties.

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. Mr. Phillips noted that the property is of irregular dimensions, which can be seen on the county zoning map. Thus, the property is unique for zoning purposes.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct the proposed addition. 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.

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 23rd day of May, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit a proposed addition (garage) to have a side yard setback of 6 ft. (combination of setbacks: 21 ft.) in lieu of the minimum required 8 ft

(combination of setbacks: 20 ft.), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must prior to issuance of any permits demonstrate to the satisfaction of Baltimore County that storm water drainage from the proposed addition will not flow onto neighboring properties.

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