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|-------------------------------------|---|-----------------------------|
| <b>IN RE: PETITION FOR VARIANCE</b> | * | BEFORE THE OFFICE           |
| <b>(3462 Logan View Drive)</b>      |   |                             |
| 12 <sup>th</sup> Election District  | * | OF ADMINISTRATIVE           |
| 7 <sup>th</sup> Councilman District |   |                             |
| John & Beate Reynolds               | * | HEARINGS FOR                |
| <i>Legal Owners</i>                 |   |                             |
| Petitioners                         | * | BALTIMORE COUNTY            |
|                                     | * | <b>CASE NO. 2013-0226-A</b> |

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by John & Beate Reynolds, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 1B01.2.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing addition with a side yard setback of 1 ft. in lieu of the required 10 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 John & Beate Reynolds and Henry and Wendy Tiburzi. Mr. and Mrs. Delacruz, the adjoining neighbors, attended the hearing and opposed the relief. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from Department of Planning (DOP), which indicated it “was concerned about the Petitioners’ Variance request.”

This property is the subject of violation case # CO012447 for building an addition on the side of the house without permits.

Testimony and evidence revealed that the subject property is approximately 5,000 square feet and is zoned DR 5.5. Mr. and Mrs. Reynolds stated that they wanted to complete the addition to give themselves some additional living space for their retirement years. They both indicated they were unaware a building permit (or variance relief) was needed before construction of the addition. Mr. and Mrs. DelaCruz, who resides at 3460 Logan View Drive, object to the petition, and they both expressed concern with the addition (which is now essentially complete) being just 1' from the property boundary. They stated that the contractor who built the addition stood in their yard to complete the construction, and they questioned why the Petitioners did not construct the addition off the rear of the home rather than on the side facing their home.

Based upon the testimony and evidence presented, I will deny the Petition for variance.

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 failed to satisfy this test. There was no testimony or evidence of any kind tending to show that the property is "unique," and I am therefore obliged to deny the Petition.

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 denied.

THEREFORE, IT IS ORDERED, this 5<sup>th</sup> day of June, 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 an existing addition with a side yard setback of 1 ft. in lieu of the required 10 ft., be and is hereby DENIED.

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