

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(8520 Castlemill Circle)		
11th Election District	*	OFFICE OF ADMINISTRATIVE
5th Council District		
Dominion Rental Holdings, LLC	*	HEARINGS OF
Legal Owner/Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0019-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Dominion Rental Property Holdings, LLC (the “Petitioner”) for property located at 8520 Castlemill Circle, Perry Hall (the “Property”). The Petitioner is requesting variance relief from Baltimore County Zoning Regulations (“BCZR”), §1B01.2.C.1 (amended from Petition) to allow a proposed dwelling addition with a rear yard setback of 27 ft. in lieu of the required 30 ft., and from BCZR §301.1 to allow an open projection (deck) to have a rear yard setback of 15.5 ft. in lieu of the required 22.5 ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Patrick Richardson, Jr., PE of Richardson Engineering, LLC appeared on behalf of the Petitioner and prepared a site plan (the “Site Plan”). (Pet. Ex. 2). Mr. Richardson was accepted as an expert professional engineer. (Pet. 1). Jennifer R. Busse, Esquire and Whiteford, Taylor and Preston, LLP appeared and represented the Petitioner. There were no opposing parties or interested citizens in attendance.

The Property is approximately 0.05 acres +/- (2,246 sf) and is improved with a 2-story townhome with an existing rear deck measuring 18.5 ft. by 12 ft., 3 inches. (Pet. Exs. 1, 2 and 3). The Property is zoned density residential (DR 16). (Pet. Ex. 3). The Petitioner recently purchased

the Property and intended to renovate it. However, upon application for a building permit, the Petitioner was informed that the rear deck was not in compliance with the BCZR setbacks. Apparently, a rear addition was constructed by a prior owner and 2 building permits were issued for the addition. The size of that addition forced the rear deck to project further out into the rear yard.

Mr. Richardson explained that the front of the home is not even with the other townhomes along the same row. (Pet. Ex. 3B). It is staggered and setback from the other townhomes on either side of it, and as a result, the backyard area is reduced. The home is also not positioned within the Property line boundaries. (Pet. Ex. 3B). Additionally, the rear yard of the Property opens up to a large area behind this townhome and the other townhomes in the same row (Pet. Ex. 3A, 3B). Mr. Richardson explained that the closest point of the rear deck to the rear Property line is 15.5 ft.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The Property is unique here because this home is setback from the townhomes on either side in a staggered pattern which has reduced the rear yard area and setback, thus driving the need for the variance here. I also find that the Property is unique as a result of the green area behind the home which green area is bound by Perryhall Blvd. I find this green area behind the Property gives the appearance of a larger backyard. Because there are no homes to the rear of the Property, I find that the reduced rear setbacks here will not adversely impact other homes. The Petitioner would suffer a practical difficulty if the setbacks were required to be met because the Petitioner

would have to reduce the existing rear deck. A standard deck is 8 ft. and reducing this rear deck would make it impractical to use. I also find that the requested variance relief is within the strict harmony with the spirit and intent of the BCZR and can be granted without injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this 27th day of **April 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §1B01.2.C.1 (amended Petitioner) to allow a proposed dwelling addition with a rear yard setback of 27 ft. in lieu of the required 30 ft. and pursuant to BCZR, §301.1 to allow an open projection (deck) with a rear yard setback of 15.5 ft. in lieu of the required 22.5 ft. is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm