

IN RE: PETITION FOR VARIANCE

(3 Oak Hollow Court)

3rd Election District

3rd Council District

Anna Oster,

Legal Owner

Petitioner

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BEFORE THE

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2020-0043-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Anna Oster for property located at 3 Oak Hollow Court. The Petitioner is requesting variance relief from § 205.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit an addition with a side yard setback of 4 ft. 6 in. and to permit an addition with a side yard setback of 13 ft. 8 in. in lieu of the required 15 ft. respectively. In open hearing, the Petitioner dropped the request for the 13 ft. 8 in. setback and is only pursuing the 4 ft. 6 in. setback variance. The original site plan was marked as Petitioner’s Exhibit 1.

Due to the COVID-19 pandemic, a WebEx hearing was conducted remotely by computer and/or phone participation. Petitioner, Anna Oster, appeared in support of the requested relief. Architect Adam Carballo appeared on behalf of the Petitioner. Irina Bondar was a protestant in attendance. The Petition was advertised and posted as required by the BCZR. There were no adverse ZAC comments received by any of the County reviewing agencies.

Mr. Carballo noted that the property was constructed under the “old RC 2 zoning, has 17,700 sq. ft. and is undersized for the present RC 2 zoning. He stated that the site is improved by a one-story residence with a carport. Petitioner wishes to change the carport into a garage and extend it. He testified that the request was being made in order to construct and provide safe

storage and privacy for the owner. He then noted in the hearing that the Petitioner was abandoning the 13 ft. 8 in. variance request and was proceeding only as to the 4 ft. 6 in. variance request.

Mr. Carballo described the lots in the general area as generally undersized, which would not meet today's DR 2 requirements. He described the other lots in the area as primarily square or rectangle, with only four (4) garages among some 42 houses; whereas the subject lot is "tapered", rendering it unique and making the variance request necessary.

The Protestant has several issues, including her "fire hazard from the construction of the proposed new garage being so close to her property line; as well as her concern as to the runoff of water from the proposed new structure onto her property.

In response, Mr. Carballo stated, on behalf of the Petitioner, she would construct the new garage with approved "fire wall" construction and that the extended new garage will not change the runoff of water from the property; and, in fact, stated that the downspouts and gutters planned for the construction will direct water to the center of the subject property and not towards that of the Protestant.

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 is what necessitates the requested 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).

I find that the subject property, with its relationship to other sites in the area as well as its "tapered" character, render it unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the proposed garage. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR,

and in such manner as to grant relief without injury to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED, this 21st day of August, 2020 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from BCZR § 205.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit an addition with a side yard setback of 4 ft. 6 in. in lieu of the required 15 ft., be and is hereby GRANTED.

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

Signed
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw