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| IN RE: PETITION FOR ADMIN. VARIANCE | * | BEFORE THE |
| (106 Woodbrook Lane) | | |
| 9 th Election District | * | OFFICE OF ADMINISTRATIVE |
| 2 nd Council District | | |
| Alexandra Berney & Evan M. Berney | * | HEARINGS FOR |
| Petitioners | | |
| | * | BALTIMORE COUNTY |
| | * | CASE NO. 2021-0148-A |

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property, Alexandra & Evan Berney (“Petitioners”). The Petitioners are requesting Variance relief from § 100.6 to permit the stabling and pasturing of poultry on a lot with 34,483 sq. ft. in area in lieu of the required 43,560 sq. ft. (1 acre) minimum of lot area. 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.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies. However, it is to be noted that a letter of support was received on May 27, 2021 from adjacent property owner Graham McPhail, 104 Woodbrook Lane, indicating full support of Petitioners’ zoning request.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 21, 2021, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (“BCC”). They have also submitted a letter of support from the adjoining

neighbor and have attested to the support of other neighbors. They have also submitted photos of the site and surrounding properties which show that the proposed coops are distant and well buffered from the adjoining properties. (Petitioners' Exhibit 2).

Under BCZR Sec. 307, and Maryland common law, in order to be entitled to variance relief the Petitioners must satisfy a two-step legal analysis, 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).

In the instant case, the Site Plan, photographs, and testimony show that the property is unique in a zoning sense because it is irregularly shaped, has significant grade changes, and is traversed by a drainage and utility easement. I find that the petitioners will suffer practical difficulty and hardship if the variance is denied because they will be unable to maintain their chicken coops, which they are using for food and as a deer tick deterrent. I further find that the variance relief is within the spirit and intent of the BCZR because this site is nearly an acre and the coops are well buffered from the surrounding properties.

THEREFORE, IT IS ORDERED, this 9th day of **June 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 100.6 of the Baltimore County Zoning Regulations ("BCZR") to permit the raising of Fowl or Poultry (chickens) on a lot of 34,483 sq. ft. in lieu of the 1 acre minimum lot, be and hereby is GRANTED.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw