

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(6502 Steerforth Court)		
3rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Babak & Mahshid Sophia Zarabaian	*	HEARINGS OF
	*	BALTLIMORE COUNTY
Legal Owners/Petitioners	*	CASE NO. 2020-0245-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Babak and Mahshid Sophia Zarabaian for property located at 6502 Steerforth Court. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.B to permit 2 proposed additions with a side setback as close as 5 ft. in lieu of the minimum setback of 10 ft. and a sum of 14.3 ft. in lieu of the required 20 ft. and a rear setback of 11 ft. in lieu of the required 30 ft. respectively

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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit B.

Petitioners Babak and Mahshid Sophia Zarabian appeared at the hearing. Donny Ankri also attended and was accepted as an expert in architecture. Petitioners were represented by Dino LaFiandra, Esquire. Three adjoining property owners attended the hearing to voice their opposition to the requested variances.

Mr. Ankri presented the proposed plan. The subject property is approximately 7,650 square feet and is zoned DR 5.5. Mr. Ankri explained that the Petitioners wish to expand the size of the home in order to accommodate a larger kosher kitchen and increase the number of bedrooms from

3 to 5. They also propose to construct a mudroom on one side of the house and an entry foyer on the other. Finally, a deck is proposed off of the family room at the back of the house. Mr. Ankri testified that the shape and dimensions of the lot necessitate the variance relief requested at the south west portion of the lot. The rear yard variance is necessitated by the proposed dimensions of the addition.

Mr. and Mrs. Zarabian testified that they have five children who are currently sharing two bedrooms. Their two eldest sons share one room; and their daughter and two younger sons share the other. It has become more and more unmanageable as the children grow older. They explained that they desire to maintain the one story ranch style of the home for several reasons: First, it will be easier to supervise their teenagers if their bedrooms are on the same floor. Second, they are looking toward the future and don't want to have to navigate steps in their later years. Third, it would not be feasible financially to build a second story addition. Mr. Zarabian testified that they would be willing to plant additional vegetative screening and/or fencing to mitigate the impacts on the adjoining properties.

The three adjoining neighbors testified that they have no problems with the Zarabians as neighbors but they strongly object to the requested variances because of the substantial impacts this proposed addition would have on their property. They pointed out that the proposed addition would almost double the size of the house and that this lot is simply too small to accommodate it. They note that the proposed addition would be almost right on their property lines. They pointed out that many homes in the neighborhood are two stories and this is what would be appropriate on this lot if the Zarabians need to expand.

The general rule is that "the authority to grant a variance should be exercised sparingly and only under exceptional circumstances." *Mueller v. People's Counsel for Baltimore County*, 177

Md. App. 43, 71(2007). This is because “a variance is an authorization for that which is prohibited by a zoning ordinance.” *Cromwell v. Ward*, 102 Md. App. 691, 699 (1995). And because “citizens [of a given county or municipality] are entitled to strict enforcement of the existing zoning regulations.” *Salisbury Bd. Of Zoning Appeals v. Bounds*, 240 Md. 547, 555-56 (1965). Therefore, “[t]he burden is on the applicant to show facts to warrant a variance,” and “the specific need for the variance must be substantial and urgent and not merely for the convenience of the applicant.” *Mueller v. People’s Counsel for Baltimore County*, 177 Md. App. at 70.

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, supra. Finally, “unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.” *Mueller, supra*, 177 Md. App. at 70.

Though it would be a stretch, the property in question could arguably be deemed unique in that it is somewhat irregularly shaped and smaller than the other lots on the cul-de-sac. However, only one of the requested variances is related to the unique shape of the lot – the variance on the south west side of the lot, which pinches in on the proposed addition. The principal variance requested is the rear yard variance seeking to reduce the setback from 30 feet down to 11 feet. And the only thing that necessitates the variance relief is the size of the proposed addition. The Petitioners have therefore failed to demonstrate that the uniqueness of the property necessitates the relief – at least not with respect to the rear yard setback variance. Further, even if I were to reach

the second prong, the record evidence does not support a finding that Petitioners' need for this variance is "substantial and urgent." Rather, it shows that the variance request is "merely for the convenience of the applicant." *Mueller, supra*, 177 Md. App. at 70. I sympathize with the Zarabian's need to enlarge the size of their home, but they could do so by adding a second story addition rather than the proposed addition which would occupy virtually the entire back yard. I do not believe that fencing or landscaping could adequately mitigate the substantial adverse impacts on the adjoining neighbors. I also do not believe this drastic variance relief is within the spirit and intent of the BCZR.

THEREFORE, IT IS ORDERED, this 10th day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the Baltimore County Zoning Regulations ("BCZR") §1B02.3.B to permit 2 proposed additions with a side setback as close as 5 ft. in lieu of the minimum setback of 10 ft. and a sum of 14.3 ft. in lieu of the required 20 ft. and a rear setback of 11 ft. in lieu of the required 30 ft., respectively, is hereby DENIED.

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/dlm