

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(307 Deep Dale Drive)		
8th Election District	*	OFFICE OF ADMINISTRATIVE
2nd Council District		
Britta Costello and Joshua Yocum	*	HEARINGS OF
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO: 2021-0253-A

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by the Petitioners, Britta Costello and Joshua Yocum for property located at 307 Deep Dale Drive. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to approve an accessory building (pergola) in the side yard in lieu of the required rear yard only.

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 1.

The Petitioners, Britta Costello and Joshua Yocum appeared at the hearing. Joe Milano, their builder also appeared and assisted the Petitioners. The subject property is approximately 10,150 sq. ft. and is zoned DR 3.5 and DR 5.5. Ms. Costello explained that the existing deck and canopy structure on the side of the house was there when they purchased the house. She further explained that the deck is rotting and dangerous and that the cloth canopy has been a maintenance headache. She, Mr. Yocum, and Mr. Milano explained that the site is on a cul-de-sac and is a narrow trapezoidal shape. Ms. Costello explained that if they placed the proposed pergola in the rear yard there would be very little room for their children to play. They intend to construct the proposed pergola in the footprint of the existing deck structure. Finally, they testified that they

have spoken with all their neighbors on the cul-de-sac and no one objects to the proposed pergola.

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 site is unique in that it is a narrow trapezoidal shape on a cul-de-sac. The Petitioners would suffer practical difficulty and hardship if the variance were denied because they would lose the use of their backyard if the pergola were placed there. I find that the side yard variance is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this 9th day of **November 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 400.1 to approve an accessory building (pergola) in the side yard in lieu of the required rear yard only.is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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.

PMM:dlm

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