IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(6716 Chippewa Drive)		
3rd Election District	*	OFFICE OF ADMINISTRATIVE
2nd Council District		
Mark & Hadassah Kohen	*	HEARINGS FOR
Petitioners	*	BALTIMORE COUNTY
	*	**CASE NO. 2022-0176-A**

* * * * * * * * *

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, Mark and Hadassah Kohen ("Petitioners") for the property located at 6716 Chippewa Drive, Baltimore, Maryland (the "Property"). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations ("BCZR"), §1B02.3.B (Section III.C.3 of the 1954 Zoning Regulations): To approve an addition on the right side of a dwelling with a side setback of 4 ft. in lieu of the required minimum side setbacks of 10 ft. The Property and requested relief is more fully depicted on the site plan (the "Site Plan") which was marked and accepted into evidence as Petitioner's Exhibit 1. Street view photographs were submitted showing the existing house and proposed addition. (Pet. Ex. 2).

There were no adverse Zoning Advisory Committee ("ZAC") comments contained in the case file from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the Property having been posted on August 5, 2022, 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").

ORDER RECEIVED FOR FILING
Date 9/6/22
By DMagnon

Based upon the information available, there is no evidence in the file to indicate that this Property is at all unique, nor are any physical characteristics of the Property in any way different from the adjoining or neighboring properties, thereby necessitating the imposition into the 10 ft side yard setback. This is a rectangle/square shaped lot like others lots on either side of it and throughout this neighborhood. (Pet. Ex. 1). These homes were constructed in 1955 a part of Plat of Valley Stream as recorded in Land Records of Baltimore County (B: GLB 20, P: 85). 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). There must be a nexus between the Variance requested and the unique attributes of the Property. In this case, no connection was provided, nor can any nexus be gleaned from the facts here. *Dan's Mountain Wind Force, LLC v. Allegheny Cnty. Bd. of Zoning Appeals*, 236 Md. App. 483, 492-493, 182 A.3d 252 (2018). *Trinity Assembly of God of Balt. City v. People's Counsel of Balt. Cnty*, 407 Md. 53, 82, 962 A.2d 404 (2008). *Cromwell* at 695, 651 A.2d 424. Additionally, the practical difficulty alleged by the Petitioners is not the type of practical difficulty required by case law. Indeed, Petitioners are not prevented from constructing an addition in place of the carport, provided it does not encroach into the required 10 ft. side yard setback. I also find that the requested Variance relief is not within the spirit or intent of the BCZR given the existing minimal side yard setbacks in this neighborhood.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance will be denied.

ORDER RECEIVED FOR FILING
Date 9/10/22
By D Mugnon

THEREFORE, IT IS ORDERED, this **6th** day of **September, 2022**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the Baltimore County Zoning Regulations ("BCZR"), §1B02.3.B (Section III.C.3 of the 1954 Zoning Regulations): To approve an addition on the right side of a dwelling with a side setback of 4 ft. in lieu of the required minimum side setbacks of 10 ft., be and it is hereby **DENIED**.

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

Maureen E. Murphy

MAUREEN M. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw

ORDER RECEIVED FOR FILING
Date 9/10/22
By DMugnon

JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

September 6, 2022

Mark and Hadassah Kohen – elikohen@comcast.net
6716 Chippewa Drive
Baltimore, MD 21209

RE: Petition for Administrative Variance
Case No. 2022-0176-A
Property: 6716 Chippewa Drive

Dear Petitioners:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

Maureen E. Murphy

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

c: Donny Ankri – da@donnyankri.com

Donna Mignon

From: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Sent: Tuesday, September 6, 2022 3:36 PM
To: elikohen@comcast.net
Cc: Donny; Debra Wiley; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; PAI Zoning; Peoples Counsel; Peter Max Zimmerman; Rebecca Wheatley; Vishnubhai K Desai
Subject: Case No: 2022-0176-A 6716 Chippewa Drive
Attachments: 2022-0176-A.pdf

Good Afternoon,

Please find attached ALJ Murphy's Opinion and Order in reference to the above matter.

Have a great and safe day.

Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868