

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(9218 Liberty Road)		
2 nd Election District	*	OF ADMINISTRATIVE
4 th Councilmanic District		
LaFayette Homes, Inc.	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0211-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Edward J. Gilliss, Esquire, of Royston, Mueller, McLean & Reid, LLP on behalf of the legal owner, LaFayette Homes, Inc., Petitioner. The Variance was filed pursuant to §303.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to allow for a front yard setback of 23 ft. in lieu of the 35 ft. required due to front yard averaging. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Emilio Frederick and Dwight Little, professional engineer from Little & Associates, Inc., the firm that prepared the site plan. Edward J. Gilliss, Esquire, appeared as counsel and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, and the file does not contain any letters of opposition.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated May 2, 2014, indicating that agency supports the Petitioner’s request. The DOP raised an issue about construction of sidewalks along Liberty Road, and Mr. Frederick confirmed that the State Highway Administration (SHA) has in fact

completed construction of the sidewalk adjacent to this property.

The subject property is approximately 7,197 sf. and is zoned RO. The property is improved with a dilapidated single family dwelling which, according to State records, is over 100 years old. The Petitioner proposes to construct a new single family dwelling in its place, but requires variance relief for the front setback under the front yard averaging rules.

Based upon the testimony and evidence presented, I will grant the petition for variance.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioner has met this test. The property is bounded by both Liberty and Chapman Roads, the latter of which bends or curves in front of the site. This feature renders the site unique. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, since it would be unable to construct a suitable single family dwelling on the site. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of County and/or community opposition. In addition, as noted by the DOP, the proposed home would be in line with the setbacks of nearby homes, which is the goal of the front yard averaging regulations.

THEREFORE, IT IS ORDERED, this **10th** day of June, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to §303.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") to allow for a front yard setback of 23 ft. in lieu of the 35 ft. required due to front yard averaging, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB: sln