

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(5943 Loreley Beach Road)</b>		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Councilman District		
Donald C. Wright	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2014-0160-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Donald C. Wright, the legal owner of the subject property. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.), as follows:

1. To permit a front yard setback of 53' to the centerline of the road in lieu of the required 75' from § 1A01.3.B.3,
2. To permit side yard setbacks of 17' and 29' in lieu of the required 35' on each side from § 1A01.3.b.3, and
3. To permit a side yard open projection (patio) with a side setback of 10' in lieu of the required 26.25' for an open projection from § 301.1.A.

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 request was Tracey Wright and Bernadette Moskunas with Site Rite Surveying, Inc., the firm that prepared the site plan. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants in attendance and the file does not contain any letters of opposition.

Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Resource Management (DEPS) and the Department of Planning (DOP). DEPS noted Petitioner is obliged to comply with Critical Area regulations, and the DOP indicated it supports Petitioner's request.

Testimony and evidence revealed that the subject property is approximately 22,473 sq. ft. and is zoned R.C. 2. The property is comprised of two 50' wide lots (Lots 50 and 51) created by the Plat of Lorely Beach in 1929. Exhibit 3. The property is improved with a modest single-family dwelling that is in poor condition. The Petitioner proposes to raze the existing home, and construct in its place a new single-family dwelling, elevations for which are shown on the plan. Exhibit 1. The DOP indicated it had reviewed and approved of the elevations, and Petitioner needs zoning relief to start construction.

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 subject property is situated on the Bird River and has a slanted or diagonal waterfront boundary. As such, the property is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioner would indeed suffer a practical difficulty, given he would be unable to replace the existing dwelling. 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 lack of community and/or County agency opposition. In addition, the

proposed dwelling will be set back further from Loreley Beach Road than the existing single-family dwelling, which will improve the appearance of the neighborhood.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 31<sup>st</sup> day of March, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.), as follows:

1. To permit a front yard setback of 53' to the centerline of the road in lieu of the required 75' from § 1A01.3.B.3,
2. To permit side yard setbacks of 17' and 29' in lieu of the required 35' on each side, from § 1A01.3.b.3, and
3. To permit a side yard open projection (patio) with a side setback of 10' in lieu of the required 26.25' for an open projection from § 301.1.A,

be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 his 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.

JEB:dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County