

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(611 George Avenue)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Councilman District		
Charlene M. and William Klapka, Jr.	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2014-0002-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 Jason T. Vettori, Esquire, on behalf of the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 ft. in lieu of the minimum lot width of 55 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was William and Charlene Klapka. Jason Vettori, Esquire with Smith, Gildea & Schmidt, LLC, appeared as counsel and represented the Petitioners. Charles Atkinson, who resides at 609 George Avenue, attended the hearing to obtain clarification of the relief being sought. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations.

The only Zoning Advisory Committee (ZAC) comment received was from the Department of Planning (DOP). That agency does not oppose the Petition, but requested that the Petitioners submit building elevations of the proposed dwelling to the DOP for review and approval prior to the issuance of any building permits.

Testimony and evidence revealed that the subject property is approximately 7,500 square feet and is zoned DR 5.5. The subject property is unimproved, although the Petitioners would like the option of constructing a single-family dwelling on the site, which would require variance relief.

Based upon the testimony and evidence presented, I will grant the request. Under *Cromwell* and its progeny, 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).

Petitioners have met this test. The lot was created before the adoption of the B.C.Z.R., and thus the property is unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct a dwelling on the lot (or at least have the option of doing so). 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 County opposition.

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 4<sup>th</sup> day of September, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit a minimum lot width of 50 ft. in lieu of the minimum lot width of 55 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must submit for approval to DOP building elevations of any dwelling proposed to be constructed on the lot, prior to the issuance of any building permits for same.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw