

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(339 Nicholson Road)</b>		
15 <sup>h</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
William J., John L. & Frank Comotto	*	HEARINGS FOR
<i>Legal Owners</i>		
Jenkins Builder, LLC	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	<b>CASE NO. 2015-0182-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of William, John & Frank Comotto, legal owners and Jenkins Builder, LLC, contract purchaser (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the required 55 ft. for a new residence. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was William Comotto and David Billingsley, whose firm prepared the plan. No Protestants or interested citizens were in attendance. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 10,000 square feet and is zoned D.R. 5.5. The property is unimproved and is 50' wide, as are nearly all of the lots in the Back River Highlands (Petitioners’ Exhibit 4), the plat which was approved in 1913. Petitioners propose to construct an attractive single family dwelling (a rendering of which was admitted as Exhibit 8) on the lot but require variance relief to do so.

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 established by a plat filed in 1913, long before the adoption of the B.C.Z.R. As such the property is unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to construct the new residence at the site. 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.

THEREFORE, IT IS ORDERED, this 20<sup>th</sup> day of April, 2015, 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.) §1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the required 55 ft. for a new residence, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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, Petitioner 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.

JEB:slh

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County