

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(Lot 85, Gum Spring Farm, Rossville Blvd.)		
14 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Michael Marzullo	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2015-0135-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owner, Michael Marzullo (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.B & C as follows: (1) to permit the construction of a dwelling on a lot 60 ft. wide in lieu of required 70 ft.; (2) to permit a front yard setback of 25 ft. in lieu of the required 30 ft.; and (3) to permit a side yard setback from a public street right-of-way of 15 ft. in lieu of the required 30 ft. A site plan for the project was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the request was Michael Marzullo and Galen Wallace, the builder. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the relief, but proposed two conditions that will be included in the final Order.

The subject property is approximately 10,800 square feet and is zoned DR 3.5. The property was purchased in 1979 by Petitioner’s parents. It is unimproved, and Petitioner proposes to construct a single family dwelling on the lot. Variance relief is required to construct

an appropriate dwelling on the lot.

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 lot is "pie shaped," which renders it unique. Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since he would be unable to construct a suitable single family dwelling on the property. 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 or community opposition.

THEREFORE, IT IS ORDERED, this 6th day of February, 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.B & C as follows: (1) to permit the construction of a dwelling on a lot 60 ft. wide in lieu of the required 70 ft.; (2) to permit a front yard setback of 25 ft. in lieu of the required 30 ft.; and (3) to permit a side yard setback from a public street right-of-way of 15 ft. in lieu of the required 30 ft. , be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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.
2. Petitioner must comply with the ZAC comments submitted by the DOP, a copy of which is attached.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County