

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(134 Cockeysville Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
134 Cockeysville, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0111-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 of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§255.1, 238.1 and 238.2 to permit a proposed building (storage shed) with side and rear setbacks of 3 ft., a rear building to front building setback of 35 ft. and a side building to side building setback of 17 ft. in lieu of the required 30 ft., 55 ft. and 60 ft., respectively. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Rick Richardson, a licensed professional engineer whose firm prepared the plan, attended the hearing in support of the request. David Preller, Esquire, represented the Petitioner. There were no Protestants 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 Bureau of Development Plans Review (DPR), and that agency noted a landscape plan would be required prior to permit approval.

The subject property is approximately 0.699 acres and is zoned ML-IM. The property is improved with a large single family dwelling constructed in 1906, which the Petitioner has restored. The Petitioner owns and operates a commercial landscaping company, and will use the

renovated dwelling as an office for the business. In addition, the Petitioner would like to store equipment and materials in a storage building on the site. The proposed building must be situated to the rear of the lot, to accommodate trucks and trailers for pick-up and loading of materials. This necessitates the side and rear yard variances.

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 site is very narrow and deep, and is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given it would be unable to construct the shed in an accessible location. 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 and/or community opposition.

THEREFORE, IT IS ORDERED, this 23rd day of January, 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.") §§255.1, 238.1 and 238.2 to permit a proposed building (storage shed) with side and rear setbacks of 3 ft., a rear building to front building setback of 35 ft. and a side building to side building setback of 17 ft. in lieu of the required 30 ft., 55 ft. and 60 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 its 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 submit for approval by the County's landscape architect a landscape plan for the site.

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