

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(8117 Bellona Avenue)</b>		
9 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Gerard & Theresa Athaide	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2015-0176-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 the legal owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 as follows: (1) to permit a lot width of 95 ft. in lieu of the required 100 ft.; (2) to permit a side yard setback of 10 ft. in lieu of the required 25 ft.; and (3) to permit a side yard setback sum of 16 ft. in lieu of the required 40 ft. side yard setback sum. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioners’ Exhibit 1.

Owners Gerard & Theresa Athaide appeared in support of the petition. Bruce E. Doak, from Bruce E. Doak Consulting, LLC, whose firm prepared the site plan, appeared on behalf of the Petitioners. The Petition was advertised and posted as required by the B.C.Z.R. Peggy Squitieri, of the Ruxton Riderwood Lake Roland Area Improvement Association, Inc. (RRLRAIA) attended to obtain additional information regarding the requests.

The subject property is approximately 22,506 square feet and is zoned DR 2. The property is improved with a single family dwelling constructed in 1959. The variance relief requested herein is simply to “legitimize” conditions that have existed for over 50 years. This case is a

companion to Case No. 2015-0175-SPHA, involving the adjoining (unimproved) property on which the Petitioners propose to construct a single family dwelling.

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. Petitioners must contend with long existing site conditions and the property is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would need to reconfigure their home to comply with current zoning setbacks. 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 Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this 5<sup>th</sup> day of June, 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 as follows: (1) to permit a lot width of 95 ft. in lieu of the required 100 ft.; (2) to permit a side yard setback of 10 ft. in lieu of the required 25 ft.; and (3) to permit a side yard setback sum of 16 ft. in lieu of the required 40 ft. side yard setback sum, be and is hereby GRANTED.

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

JEB: sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County