

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2 Fifth Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
DTMPTKJC, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0224-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.) §§ 204.3.A.1 & 1B02.3.C.1 to permit a rear yard setback of 20 ft. in lieu of the required 30 ft. The subject property and requested relief is more fully depicted on the site plan marked as Petitioner’s Exhibit 1.

Michael Grace, Esq. appeared in support of the petition. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received. There were no Protestants or interested citizens in attendance.

The subject property is approximately 6,178 square feet and is zoned R.O. Petitioner proposes to construct a single family dwelling on the site, but requires 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).

Petitioner has met this test. The property has an irregular shape and is therefore unique. If the

B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would be unable to construct an appropriate single family dwelling on the lot. 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 5th 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.”) §§204.3.A.1 & 1B02.3.C.1 to permit a rear yard setback of 20 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 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.

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