

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(2417 Estelle Avenue)</b>		
15 <sup>h</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Cynthia & Richard Detorie	*	HEARINGS FOR
<i>Legal Owners</i>		
Kevin R. Ralston	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	<b>CASE NO. 2015-0218-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 Cynthia & Richard Detorie, legal owners and Kevin R. Ralston, 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 new single family dwelling with a rear setback of 14 ft. in lieu of the required 30 ft. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was Kevin Ralston and Bernadette Moskunus, whose firm prepared the plan. A neighbor (Justin Jones) who resides at 2416 Estelle Avenue attended the hearing and expressed support for the request. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is approximately 6,541 square feet and is zoned D.R. 5.5. The property is unimproved, and is shown as Lot #60 on the plat of waterview (Exhibit 2) from 1926.

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 property is of irregular dimensions and has an unusual shape. It is therefore 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.

DEPS indicated the property is situated within the Critical Area. As such, the Petitioners will need to comply with the Critical Area Regulations, and Mr. Ralston acknowledged this requirement. The DOP opposed the request and noted the lot is “substandard,” which is of course correct. That agency indicated that the correct scenario is “more in keeping with the established pattern of the neighborhood.” I respectfully disagree, and Ms. Moskunas submitted a My Neighborhood Map (Exhibit 4) showing the lot sizes of nearby properties improved with a single family dwelling. This exhibit reveals that several of the homes in the immediate vicinity are situated on lots no bigger than the one owned by Petitioners, and the overall pattern of the neighborhood reflects the majority of the homes are constructed on the 50' wide lots created by the 1926 plat. Mr. Jones, who resides immediately across the street from the subject property, stated he was in favor of the proposal and believed new home construction would be a benefit to the area, which is comprised of many small and old cottage-type homes.

THEREFORE, IT IS ORDERED, this 28<sup>th</sup> day of May, 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 new single family dwelling with

a rear setback of 14 ft. in lieu of the required 30 ft., 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the Chesapeake Bay Critical Area (CBCA) Regulations.
3. Prior to issuance of a building permit, Petitioners must submit for approval by the DOP architectural elevations of the proposed dwelling, to ensure the design, size & scale of the structure are in keeping with homes in the community.

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