

IN RE: PETITION FOR VARIANCE
(7022 Bellona Avenue)
9th Election District
5th Council District
Suat Yelken
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NOS. 2014-0272-A
& 2014-0273-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner of the subject property. The property is approximately 1 acre in size, zoned DR 3.5, and is improved with an existing single family dwelling that has suffered extensive fire damage. The Petitioner proposes to subdivide the property and create a three (3) lot subdivision. The subdivision process is separate from this case, which concerns only the lot width of proposed Lots 2 & 3. The Petition seeks variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit a minimum lot width of 45 feet in lieu of the required 70 feet for proposed Lots 2 & 3. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing in support of the requests was Suat Yelken. Bruce Doak, whose firm prepared the site plan, assisted the Petitioner. Several neighbors attended the hearing and opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated July 29, 2014, indicating that agency is supportive of the requests.

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 not met this test.

No evidence was presented concerning the uniqueness of the property. In addition, no testimony was presented showing that Petitioner would experience a practical difficulty or hardship if the regulations were strictly interpreted.

Petitioner proposes to create two (2) 45' wide lots, both of which would fall well short of the 70' lot width required in the zone. In these circumstances, the need for variance relief is self-imposed; i.e., the Petitioner could subdivide the one (1) acre parcel into two (2) lots without needing zoning relief. While it is understandable a property owner desires to increase the return on his investment, variance relief cannot be granted to accommodate this goal.

THEREFORE, IT IS ORDERED, this 9th day of September, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from B.C.Z.R. §1B02.3.C.1 to permit a minimum lot width of 45 feet in lieu of the required 70 feet for proposed Lots 2 & 3, be and is hereby DENIED.

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