

IN RE: PETITION FOR VARIANCE
(1914 Clearwood Road)
9th Election District
5th Councilman District
Aaron J. and Susana M. Tsui
Petitioners

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2015-0010-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 by David Billingsley on behalf of Aaron J. and Susana M. Tsui. Resolution 56-14 concerning the public disclosure of Aaron K. Tsui, an employee of the Baltimore County Department of Permits, Approvals and Inspections, was approved at the County Council meeting held on July 7, 2014. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) Section 1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the required 55 ft. for the subdivision of an existing lot of record. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was Aaron Tsui, legal owner, and David Billingsley, with Central Drafting and Design, who prepared the site plan. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no interested citizens in attendance, and the file does not contain any letters of protest or opposition. There were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

The subject property is approximately 13,000 square feet and zoned DR 5.5. The property is improved with an existing single family dwelling known as 1914 Clearwood Road. Petitioners propose to subdivide the lot and construct a new single family dwelling (known as 1915B). To do so requires variance relief.

Based upon the testimony and evidence presented, I will grant the request for variance relief. 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 deep and narrow, and was created by a plat recorded in 1927 (Exhibit 4), long before the adoption of the B.C.Z.R. If the B.C.Z.R. were strictly enforced, the Petitioners would suffer a practical difficulty, since they would be unable to subdivide 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 absence of County and/or community opposition. In addition, Clearwood Road is a relatively short road that begins at Oakleigh Road and terminates at Putty Hill Park. As shown on the plan and aerial photo (Exhibit 6) nearly all of the homes in the vicinity are situated on narrow lots of roughly the same size as proposed Lot 2 (6,363 SF). As such, I believe the request is consistent with the spirit and intent of the regulations and the existing pattern of the neighborhood.

THEREFORE, IT IS ORDERED, this 8th day of September, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") Section 1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the

required 55 ft. for the subdivision of an existing lot of record, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln