

**IN RE: PETITION FOR VARIANCE**  
**(321 & 323 Townsend Road)**  
15<sup>th</sup> Election District  
7<sup>th</sup> Council District  
KFI Statutory Trust  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NOS. 2015-0021-A**  
**& 2015-0022-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 on behalf of the legal owner of the subject properties. This matter involves two (2) adjoining 50' wide lots, and the cases were consolidated for hearing. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 1B02.3.C.1 to permit an existing dwelling on a lot of record (321 Townsend Road) having a lot width of 50 ft. in lieu of the required 55 ft., and to permit a proposed single family dwelling on a lot (323 Townsend Road) having a width of 50' in lieu of required 55'. The subject property (zoned DR 5.5) and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the request was Thomas Kane and Bernadette Moskunus, whose firm prepared the site plan. Benjamin L. Polakoff, Esquire, represented the Petitioner. 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) dated August 18, 2014.

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. These lots (one of which is improved with a single family dwelling constructed in 1924) were platted in 1911, long before the adoption of the B.C.Z.R. As such, they are unique.

If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given it would be unable to construct a dwelling on the unimproved lot. I also 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. Most of the homes in the community are situated on 50' wide lots, and thus this proposal will be consistent with the neighborhood.

The DOP's ZAC comment identified three issues, all of which have been addressed by Petitioner. As requested by the DOP, the existing dwelling is being remodeled, and the Petitioner has removed the dilapidated shed/garage that was situated on the unimproved lot. Finally, the Petitioner has removed the fence that ran along Townsend Road at the front of the properties, and the neighbor at 325 Townsend submitted a letter indicated the fence in her side yard is needed to contain her dogs.

THEREFORE, IT IS ORDERED, this 10th day of September, 2014, 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 an existing dwelling (known as 321 Townsend Road) on a lot of record having a lot width of 50 ft. in lieu of the required 55 ft., and to permit a proposed single family dwelling (to be known as 323 Townsend) to be constructed on a 50' wide lot in lieu of the required 55', be and is hereby

GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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.

JEB:sln

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County