

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1334 Goose Neck Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Goose Neck Homes, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0137-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 Goose Neck Homes, LLC, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 1A04.3.A & 1A04.3.B.2.b to permit a building height of 50 ft. and side yards of 25 ft. and 25 ft. in lieu of the required 35 ft., 50 ft. and 50 ft. for a replacement dwelling. A site plan was marked as Petitioner’s Exhibit 1.

Mary Snellinger, a principal of the entity owner, appeared in support of the Petition. David Billingsley from Central Drafting & Design, Inc. assisted the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is approximately 23,450 square feet and is zoned RC 5. The property is improved with a small single-family dwelling which was constructed in 1928, and is comprised of two lots (Lots 250 and 251), each of which is 50 ft. wide. The Petitioner proposes to raze the existing home and construct a larger dwelling straddling the lot lines, which will have the legal

effect of merging the lots.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property was subdivided long before the adoption of the B.C.Z.R., and Petitioner must also contend with existing site conditions. As such, the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to build a replacement dwelling on the lots. 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 Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this 17th day of **February, 2016**, 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.”) §§ 1A04.3.A & 1A04.3.B.2.b to permit a building height of 50 ft. and side yards of 25 ft. and 25 ft. in lieu of the required 35 ft., 50 ft. and 50 ft. respectively, for a replacement dwelling, 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.

2. Petitioner must prior to issuance of permits comply with the Critical Area and flood protection regulations.

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:/dlw