

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(2406 Holly Neck Road)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Wendy Zukerberg Mendelson	*	HEARINGS FOR
<i>Legal Owner</i>		
Kristie Hausner	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	<b>CASE NO. 2016-0113-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 Wendy Zukerberg Mendelson, owner of the subject property, and Kristie Hausner, contract purchaser (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§302.1, 1A04.3.B.1 and 1A04.3.B.2.6 to permit a proposed dwelling with a lot size of 1.34 acres in lieu of the required 1.5 acres and a front building line setback of 65 ft. to the center line of a collector road in lieu of the required 150 ft. A site plan was marked as Petitioners’ Exhibit 1.

Kristie Hausner appeared in support of the petition. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS). That agency noted Petitioners must comply with the Critical Area regulations prior to issuance of permits.

The subject property is approximately 51,748 square feet and is zoned RC 5/BL. The property is unimproved, and Ms. Hausner would like to construct a two-story single family dwelling on the lot, which is shown on the Plat of Cedar Grove. To do so requires variance relief.

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).

Petitioners have met this test. The lot has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the dwelling proposed. 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 5<sup>th</sup> day of January, 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.”) §§302.1, 1A04.3.B.1 and 1A04.3.B.2.6 to permit a proposed dwelling with a lot size of 1.34 acres in lieu of the required 1.5 acres and a front building line setback of 65 ft. to the center line of a collector road in lieu of the required 150 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. Prior to issuance of permits Petitioners must comply with the Critical Area Regulations.

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