

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(6884 Leslie Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Zachary & Rachael Belcher	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0227-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 the legal owners of the subject property. The Petition as originally filed sought Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§1A01.3.B.3 & 400.1 as follows: (1) to permit a proposed replacement dwelling with a side setback of 11 ft. and a front setback to the center line of the road of 59 ft. in lieu of the required 35 ft. and 75 ft., respectively; and (2) to permit an existing accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard placement. The Petition was amended at the hearing to include a variance request for a 7' side yard setback and strike the variance request for the detached garage located in the side yard. That garage is in fact located on its own lot (Lot #1 "Earl Plat"), and is therefore not located within the side yard of Lot #2 where the replacement dwelling will be located. A site plan was marked as Petitioners' Exhibit 1.

Owners Zachary & Rachael Belcher appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). Neither agency opposed the request, and their suggested conditions are included in the Order which

follows.

The subject property is approximately 14,575 square feet and is zoned RC 2. The property (known as Lot #2 on the Earl Plat) was improved with a modest single-family dwelling constructed in 1929. That home was destroyed by a fire in March, 2015 and the Petitioners propose to construct a new single family dwelling in approximately the same location, but require variance relief to do so.

To obtain variance relief requires a showing that the property is unique and that petitioner will experience a practical difficulty if the regulations were strictly interpreted. *Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008). Petitioners have met this test. The property is narrow and extremely deep (50' x 282') and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be unable to reconstruct their home on 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 lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 16th day of July, 2015, 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.") §§1A01.3.B.3 & 400.1 to permit a proposed replacement dwelling with side setbacks of 11 ft. and 7 ft. and a setback to the center line of the road of 59 ft. in lieu of the required 35 ft. and 75 ft., respectively, 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 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, Petitioners would be required to return the subject property to its original condition.

2. Prior to the issuance of building and/or occupancy permits Petitioners must clear the site of all debris and remnants of the original dwelling which was destroyed in a fire.
3. Prior to issuance of permits, Petitioners must contact the Department of Public Works to determine a flood protection elevation for the site.

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