

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(1431 A Providence Road)</b>		
9 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Ingrid West	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2015-0254-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 the legal owner of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B01.2.3.C.1 to permit a new single family dwelling with a side yard setback of 10 ft. in lieu of the required 15 ft. and a total of side yards of 35 ft. in lieu of the permitted 40 ft. The subject property and requested relief is more fully depicted on the site plan marked as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the request was Ingrid West. The petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received. There were no Protestants or interested citizens in attendance.

The subject property (unimproved) is approximately .464 acres and is zoned DR 2. Petitioner purchased the lot two months ago, and designed a single family dwelling to be constructed on the property. It was later determined that the lot was in fact smaller than as represented on the plat filed with the County. Petitioner seeks variance relief for side yard setbacks so she can construct the new home as designed.

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. The property is of irregular dimensions and shares a driveway with several other homes. As such it is unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given she would be unable to construct the proposed dwelling. 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 14<sup>th</sup> 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.") §1B01.2.3.C.1 to permit a new single family dwelling with a side yard setback of 10 ft. in lieu of the required 15 ft. and a total of side yards of 35 ft. in lieu of the permitted 40 ft., 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 her 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.

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