

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(830 Seneca Park Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Gordon K. & Katherine K. Harden	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2016-0256-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 Gordon K. and Katherine K. Harden, legal owners of the subject property (“Petitioners”). Petitioners request Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit side yard setbacks of 10 ft. with sum of 20 ft. in lieu of the required 10 ft. and 25 ft. respectively for a replacement dwelling. A site plan was marked as Petitioner’s Exhibit 1.

Gordon and Katherine Harden and David Billingsley 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. Zoning Advisory Committee (ZAC) comments were submitted by the Department of Environmental Protection and Sustainability (DEPS) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 15,675 square feet and is zoned DR 3.5. The property is improved with a small dwelling constructed in 1929. Petitioners propose to raze the existing structure and in its place construct a new single-family dwelling. To do so Petitioners require zoning 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 is narrow and deep and was created by a plat recorded in 1926. Exhibit 4 (Plat of Seneca Park Beach). As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the replacement 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.

THEREFORE, IT IS ORDERED, this 15th day of **June, 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) §1B02.3.C.1 to permit side yard setbacks of 10 ft. with sum of 20 ft. in lieu of the required 10 ft. and 25 ft. respectively for a replacement dwelling, 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 Chesapeake Bay Critical Area (CBCA) regulations.
3. Prior to issuance of permits Petitioners must contact the Department of Public Works (DPW) to determine the flood protection elevation for the property.

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/sln