

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(140 Laverne Avenue)</b>		
13 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
Landsdowne Volunteer Fire Association	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2016-0166-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 Landsdowne Volunteer Fire Association, legal owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 1B01.2.C.1.a & 400.3 to permit an existing structure with a rear setback of 2.5 ft. and a side setback of 4 ft. in lieu of the required 30 ft. and 20 ft., respectively, and to permit a height of 17 ft. in lieu of the maximum 15 ft. height. A site plan was marked as Petitioner’s Exhibit 1.

Jon Schneckenburger and professional surveyor Stephen Hall appeared in support of the Petition. Herbert Burgunder, III, Esquire represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. There were no protestants or interested citizens in attendance. No substantive Zoning Advisory Committee (ZAC) comments were received.

The subject property is approximately 10,800 square feet and is zoned DR 5.5. Petitioner explained that approximately 90% of its calls for service seek EMS response, as opposed to fire suppression. As a result, Petitioner needed to acquire a second ambulance, and purchased a prefabricated garage which it installed on the subject property for storage of the ambulance and other emergency response equipment. The Petitioner was issued by the County a correction notice

for erecting the building without a permit, and County reviewers also informed Petitioner that zoning relief was required.

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 is significantly larger than the other lots in this residential area, and as Petitioner notes there is a berm at the front of the site which essentially dictated where the garage could be located. As such, the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to remove the building. 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 **28th** day of **March, 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.”) §§ 1B01.2.C.1.a & 400.3 to permit an existing structure with a rear setback of 2.5 ft. and a side setback of 4 ft. in lieu of the required 30 ft. and 20 ft., respectively, and to permit a height of 17 ft. in lieu of the maximum 15 ft. height, 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.

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