

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(11505 Jerome Avenue)</b>		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Isaac Properties, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2016-0169-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 Isaac Properties, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to allow a front yard setback of 40 ft. in lieu of the required average setback of 60 ft. maximum required, pursuant to B.C.Z.R. §303.1; and (2) to allow a rear yard setback of 30 ft. in lieu of the required 40 ft., pursuant to B.C.Z.R. §1B02.3.C.1. A site plan was marked as Petitioner’s Exhibit 1.

Jake Ruppert and professional engineer Rick Richardson appeared in support of the Petition. One neighbor attended the hearing to obtain additional information regarding the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The subject property is approximately 110,847 square feet and is zoned DR 2 and DR 3.5. Petitioner proposes to subdivide the property to create a three lot subdivision (one lot with an existing SFD and two new lots). 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).

Petitioner has met this test. The property is irregularly shaped (i.e., triangular) and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed improvements. 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 28<sup>th</sup> 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.”) as follows: (1) to allow a front yard setback of 40 ft. in lieu of the required average setback of 60 ft. maximum required, pursuant to §303.1; and (2) to allow a rear yard setback of 30 ft. in lieu of the required 40 ft., pursuant to §1B02.3.C.1, 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.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB/sln