

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(9136 Cowenton Avenue)</b>		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Jacy Butcher	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner	*	<b>CASE NO. 2016-0211-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 Jacy Butcher, legal owner of the subject property (“Petitioner”). Petitioner requests Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 259.9.B.3 and 259.9.B.4.d to permit a proposed dwelling on a lot 75 ft. wide with a summation of side yard setbacks of 19 ft. in lieu of the minimum required 85 ft. and summation of 20 ft. respectively. A site plan was marked as Petitioner’s Exhibit 1.

Jacy Butcher 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 Planning (DOP) and Department of Environmental Protection and Sustainability (DEPS). The DEPS indicated review by the Ground Water Management (GWM) section may be required, assuming the public sewer had not yet been completed. Petitioner advised the sewer was completed in October 2015 and thus the DEPS comment is satisfied. A condition regarding review of architectural elevations will be included in the Order below in response to the DOP comment.

The subject property is approximately 32,670 square feet and is zoned DR 3.5-H. The property is unimproved, and Petitioner proposes to construct a single-family dwelling on the lot.

To do so variance relief is 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 lot is narrow and extremely deep, and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would be unable to construct an appropriate dwelling on the property. 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 17<sup>th</sup> day of **May, 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.”) §§ 259.9.B.3 and 259.9.B.4.d to permit a proposed dwelling on a lot 75 ft. wide with a summation of side yard setbacks of 19 ft. in lieu of the minimum required 85 ft. and summation of 20 ft., respectively, 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.
2. Prior to issuance of permits Petitioner must submit for approval by the DOP architectural elevations of the proposed single-family dwelling.

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