

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(635 W. Seminary Avenue)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Susan J. Landis, <i>Legal Owner</i>	*	HEARINGS FOR
C.G. Homes, Inc., <i>Contract Purchaser</i>	*	BALTIMORE COUNTY
Petitioners	*	
	*	CASE NO. 2016-0024-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 Susan Landis, legal owner of the subject property, and C.G. Homes, Inc., contract purchaser (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 1B02.3.C.1 and Zoning Commissioner’s Policy Manual (Z.C.P.M.) § 1B02.3.C.1.a to permit a proposed single-family dwelling with a side street setback of 23 ft. in lieu of the required 25 ft. A site plan was marked as Petitioners’ Exhibit 1.

Tom Faust (of C.G. Homes) and professional engineer Don Hicks appeared in support of the petition. J. Neil Lanzi, Esq., represented the Petitioners. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. The Department of Planning (DOP) submitted a ZAC comment indicating that agency did not oppose the request, and its comment regarding landscaping will be included as a condition in the Order below. In response to the DOP’s comment, the Petitioners prepared and submitted a redline site plan (Exhibit 2) which shows screening between Lots 1 & 3.

The subject property is approximately 0.67 acres and is zoned DR 5.5. The property was improved with a dwelling constructed in 1912, which was recently razed. In its place Petitioners

propose to construct a new single family dwelling, but require variance relief to do so.

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).

Petitioners have met this test. As noted by Mr. Hicks, the property is irregularly shaped and the site is constrained by a drainage swale. Therefore, the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they could not construct a suitable replacement dwelling on the lot. 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 2nd day of October, 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.) §1B02.3.C.1 and Z.C.P.M. §1B02.3.C.1.a to permit a proposed single-family dwelling with a side street setback of 23 ft. in lieu of the required 25 ft., 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. Petitioners shall comply with the DOP ZAC comment which is attached hereto and incorporated herein.

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