

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(201 Sudbrook Lane)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Edward C. Riemer, <i>Legal Owner</i>	*	HEARINGS FOR
Thomas Scherr, <i>Contract Purchaser</i>	*	BALTIMORE COUNTY
Petitioners	*	
	*	CASE NO. 2016-0030-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 Edward C. Riemer, legal owner of the subject property, and Thomas Scherr, contract purchaser (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 1B02.3.C.1 to permit a rear yard depth of 11 ft. in lieu of the required 30 ft. for a proposed single family dwelling. A redline site plan was marked as Petitioners’ Exhibit 1.

Edward Riemer, Thomas Scherr and Max Vidaver, whose firm prepared the site plan, appeared on behalf of the Petitioners. Jennifer R. Busse, 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. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 0.890 acres and is zoned DR 5.5. The property is improved with a single family dwelling that has fallen into disrepair and is being renovated. Petitioners are completing a 3 lot minor subdivision of the property; i.e., 2 new lots with the existing single family dwelling on the other lot. The variance sought in this case concerns only the proposed dwelling to be constructed on Lot #2, to be known as 120 Waldron Avenue.

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. The property is irregularly shaped and is therefore unique. In fact, it is the curvature of the northern property boundary line that drives the need for variance relief. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would need to orient the houses on the proposed lots in such a fashion that would not be compatible with the existing homes in the community. 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 5th 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 to permit a rear yard depth of 11 ft. in lieu of the required 30 ft. for the proposed single family dwelling to be known as 120 Waldron Avenue, 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.

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:slh