

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3108 River Drive Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Ryan and Laura Williams	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2016-0316-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 Ryan and Laura Williams, legal owners of the subject property (“Petitioners”). Petitioners request variance relief from the Baltimore County Zoning Regulations (“B.C.Z.R.”) §§ 1B02.3.C.1 and 400.1: (1) to permit an existing single-family dwelling with a side yard setback of 5 ft. and a lot width of 50 ft. in lieu of the required 10 ft. and 55 ft., respectively; and (2) to permit an existing detached accessory structure (garage) to be located in the front yard in lieu of the required rear yard. A site plan was marked as Petitioners’ Exhibit 1.

Douglas L. Burgess, Esq. represented the Petitioners. No Protestants or interested citizens attended the hearing. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS). Neither agency opposed the requests.

The subject property is approximately 8,450 sq. ft. and is zoned DR 5.5. The property is improved with a single-family dwelling which was constructed in 1950. Newton Williams, an attorney with nearly 50 years’ experience, provided testimony on behalf of Petitioners and opined

the house qualified as a nonconforming structure under B.C.Z.R. § 104 and as such variance relief was not required. I concur, but will also address the petition as drafted.

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).

Petitioners have met this test. The waterfront property is narrow and deep and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be required to raze or relocate their home. 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 community opposition, and DEPS noted allowing the existing structures to remain would have no discernable impact on water quality and would be consistent with the Critical Area regulations.

THEREFORE, IT IS ORDERED, this 9th day of August **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”) §§ 1B02.3.C.1 and 400.1: (1) to permit an existing single- family dwelling with a side yard setback of 5 ft. and a lot width of 50 ft. in lieu of the required 10 ft. and 55 ft., respectively; and (2) to permit an existing detached accessory structure (garage) to be located in the front yard in lieu of the required rear yard, be and is hereby GRANTED.

IT IS FURTHER ORDERED that 3108 River Drive Road, constructed in or about 1950, qualifies as a nonconforming use/structure under B.C.Z.R. § 104.

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/dlw