

**IN RE: PETITION FOR VARIANCE**  
**(11215 Beach Road)**  
11<sup>th</sup> Election District  
6<sup>th</sup> Council District  
Judy C. Walter  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2016-0331-A**

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David Billingsley with Central Drafting & Design, Inc., on behalf of Judy C. Walter, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) from § 1A01.3.B.3 to permit side yard setbacks of 9 ft. and 13 ft. in lieu of the required 35 ft. for a dwelling addition; (2) from § 301.1.A to permit an open porch with setbacks of 5 ft. and 8 ft. in lieu of the required 26.25 ft.; (3) from §§ 400.1 and 400.3 to permit an accessory structure (garage) in the front yard with a height of 26 ft. in lieu of the required rear yard and 15 ft.; and (4) from § 427.1.B.1 and 2 to permit a fence in a front yard with a height of 6 ft. in lieu of the allowed 42 in. A site plan was marked as Petitioner’s Exhibit 1.

Owner Judy C. Walter and David Billingsley, whose firm prepared the site plan, appeared in support of the petition. Two neighbors attended the hearing and opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS). Neither agency opposed the Petition.

The subject property is approximately 11,750 square feet and is zoned Resource Conservation – Agricultural (R.C. 2). The property is improved with a small single-family dwelling constructed in 1932. Petitioner purchased the property last year and would like to enlarge the dwelling and construct a detached garage. To do so zoning 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).

In this case I do not believe the property is unique as that term is defined under Maryland law, and the petition must therefore be denied.

I understand and appreciate why the Petitioner seeks to renovate and enlarge the dwelling, which is nearly 85 years old and contains just 625 sq. ft. of living space. And the plan and elevation drawings (Petitioner’s Exhibits 1, 7 & 8) reflect the addition and garage would be attractive and well-designed. But zoning variances are not a matter of right, and Maryland law indicates they should seldom be granted, and only in situations where the property at issue is unlike neighboring lots in terms of size, shape, topography, etc. The court in *Cromwell* stated variances should be granted “sparingly” since it is “an authorization for [that] ...which is prohibited by a zoning ordinance.” *Cromwell*, 102 Md. App. at 699. The reality is Petitioner’s lot is the same shape and size as most of the other lots shown on the plat of Bird River Beach (Exhibit 4). For that reason, I believe the request must be denied.

THEREFORE, IT IS ORDERED, this 17<sup>th</sup> 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.”) as follows: (1) from § 1A01.3.B.3 to permit side yard setbacks of 9 ft. and 13 ft. in lieu of the required 35 ft. for a dwelling addition; (2) from § 301.1.A to permit an open porch with setbacks of 5 ft. and 8 ft. in lieu of the required 26.25 ft.; (3) from §§ 400.1 and 400.3 to permit an accessory structure (garage) in the front yard with a height of 26 ft. in lieu of the required rear yard and 15 ft.; and (4) from § 427.1.B.1 and 2 to permit a fence in a front yard with a height of 6 ft. in lieu of the allowed 42 in., be and is hereby DENIED.

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