

IN RE: PETITION FOR VARIANCE
(2934 Kuntz Road)
2nd Election District
4th Council District
Michael Sterling
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2016-0332-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 Craig Rodgers with Craig Consulting, LLC, on behalf of Michael Sterling, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1A07.8.B.5b to permit a proposed single family dwelling (SFD) to have a building envelope of 20 ft. from an adjacent property with a pasture in lieu of the required 200 ft. A revised site plan was marked as Petitioner’s Exhibit 1A. The Petitioner originally sought approval for a 20 ft. setback, but the petition was amended to increase the setback to 50ft., as requested by the Department of Planning (DOP).

Owner Dawn Sterling along with Craig Rodgers, whose firm prepared the site plan, appeared in support of the petition. Mike Pierce, an interested citizen, attended the hearing to obtain additional information regarding the project. The Petition was advertised and posted as required by the B.C.Z.R. Other than as noted above regarding the increased setback as requested by the DOP, there were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 36,000 square feet and is zoned RC-6. At present the property is unimproved, although Petitioner would like to construct a dwelling on the site. Although Petitioner is able to comply with nearly all of the RC-6 zone requirements, relief is needed for the 200 ft. setback found in the Regulations.

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 rural site has irregular dimensions and the RC-6 regulations contain setback requirements that are much greater than those found in other residential zones. As such I believe the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because they would be unable to construct a 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 22nd 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.”) §1A07.8.B.5b to permit a building envelope for a proposed single-family dwelling to have a setback of 50 ft. from an adjacent property with a pasture, in lieu of the required 200 ft., 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 his 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____
LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:sln