

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(807 Bengies Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Marsha Denise Noble	*	HEARINGS FOR
<i>Legal Owner</i>		
Robert E. Click	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2017-0054-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Marsha Denise Noble, legal owner of the subject property and Robert E. Click, contract purchaser (“Petitioners”). The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit side yard setbacks of 8 ft. minimum with a sum of 16 ft. in lieu of the required 15 ft. and 40 ft. respectively, for a replacement dwelling. A site plan was marked as Petitioners’ Exhibit 1.

Robert Click and David Billingsley appeared in support of the petition. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received from any of the county agencies.

The subject property is approximately 0.539 acres and is zoned DR-2. The property is improved with a small single-family dwelling which is in poor condition. The contract purchaser proposes to raze the existing structure and construct in its place a new single-family dwelling. To do so a variance 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).

Petitioners have met this test. The property is irregularly shaped and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the replacement dwelling. 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 17th day of October, **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.”) to permit side yard setbacks of 8 ft. minimum with a sum of 16 ft. in lieu of the required 15 ft. and 40 ft. respectively, for a replacement dwelling, 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:sln