

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1206 Limekiln Road)		
9 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
CR of Maryland, LLC	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2016-0334-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 CR of Maryland, LLC, owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) for a proposed condition, a sum of side yard setbacks of 36.8 ft. in lieu of the required 50 ft.; (2) for the following existing conditions: (a) lot width of 100 ft. in lieu of the 150 ft. required; (b) front yard of 49.9 ft. in lieu of 50 ft. required; and (c) side yard of 15 ft. in lieu of 20 ft. required; (3) the amendment of Hampton Village FDP (if any) consistent with the relief requested hereby; and (4) for such additional relief as the nature of this case may require for approval of the proposed replacement of a screened porch with a permanent addition as shown on the plan which accompanied this Petition. A site plan was marked as Petitioner’s Exhibit 1.

Grant Anderson and Alexander Cruz appeared in support of the petition. Howard L. Alderman, Jr., Esq. represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No protestants or interested citizens attended the hearing. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR) indicating existing landscaping at the site should remain.

The subject property is approximately 15,000 sq. ft. and zoned DR-1. The property is improved with a single-family dwelling constructed in 1953. Petitioner recently purchased the property and is undertaking substantial renovations, including the addition of a second story to the home. During the course of construction it was determined zoning relief was necessary for certain of the improvements.

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. With the exception of the first request, all of the relief requested pertains to conditions which have existed for over 60 years. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed improvements. 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 **13th day** of September, 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) for a proposed condition, a sum of side yard setbacks of 36.8 ft. in lieu of the required 50 ft.; (2) for the following existing conditions: (a) lot width of 100 ft. in lieu of the 150 ft. required; (b) front yard of 49.9 ft. in lieu of 50 ft. required; and (c) side yard of 15 ft. in lieu of 20 ft. required; and (3) the amendment of the Hampton Village

FDP (if any) consistent with the relief requested hereby, 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 its 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.
2. Petitioner must comply with the ZAC comment of DPR, a copy of which is attached hereto.

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

JEB: sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County