

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(1304 2<sup>nd</sup> Road)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Chaim More	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2016-0340-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Chaim More, 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) to permit an addition with a front yard average setback of 12 ft. in lieu of the required front yard average setback of 18.5 ft.; and (2) to permit an addition with a rear yard setback of 26 ft. in lieu of the required setback of 30 ft. A site plan was marked as Petitioner’s Exhibit 1.

Owner Chaim More and Professional Engineer Robin Hoory 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS), noting Petitioner must comply with the Critical Area Regulations.

The subject property is approximately 4,944 square feet and is zoned DR 5.5. The property is improved with a small single family dwelling (approximately 1,000 SF) constructed in 1942. Petitioner recently [purchased the home and would like to create additional living space for his family.

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).

Petitioner has met this test. The Petitioner must contend with site conditions and improvements which have existed for over 70 years. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to construct the proposed addition. 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 community opposition. In fact, Petitioner submitted letters (Petitioner's Exhibit 2) from adjoining neighbors, both of whom indicated they did not object to the requests.

THEREFORE, IT IS ORDERED, this 16th 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) to permit an addition with a front yard average setback of 12 ft. in lieu of the required front yard average setback of 18.5 ft.; and (2) to permit an addition with a rear yard setback of 26 ft. in lieu of the required setback of 30 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.
2. Prior to issuance of permits Petitioner must comply with the Critical Area Regulations.

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