

IN RE: PETITION FOR VARIANCE
(8004 Hillendale Road)
9th Election District
6th Council District
Dixon Avenue LLC
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2017-0001-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 Dixon Avenue, LLC., owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the construction of a single family dwelling on a lot with a lot width of 50 ft. at the front foundation line in lieu of the required 55 ft. A site plan was marked as Petitioner’s Exhibit 1.

Charles Merritt appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the county agencies.

The subject property is approximately 14,000 square feet and is zoned DR 5.5. The property (known as Lot Nos. 661 and 662 on the Hillendale Park plat) is improved with a single-family dwelling constructed in 1938, which is uninhabitable. Petitioner proposes to raze the structure and construct in its place a new home. Proposed elevation drawings were submitted (Petitioner’s Ex. 5), and counsel indicated they were also reviewed and approved by the Department of Planning (DOP).

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 lots were created by the plat of Hillendale Park, recorded in 1928. 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 a dwelling on the property. 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.

THEREFORE, IT IS ORDERED, this 23rd 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.”) to approve the construction of a single family dwelling on a lot with a lot width of 50 ft. at the front foundation line in lieu of the required 55 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 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.

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