

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(77 A Bond Avenue)		
4 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Edgar Rodriquez	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0016-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Edgar Rodriquez, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit a proposed addition with a rear yard setback of 22 ft. in lieu of the required 30 ft. A site plan was marked as Petitioner’s Exhibit 1.

Owner Edgar Rodriquez appeared in support of the petition. An adjoining neighbor attended the hearing to obtain additional information regarding the request. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and Department of Planning (DOP). Neither agency opposed the request.

The subject property is approximately 1.08 acres and is zoned DR 3.5. The property is improved with a small single-family dwelling constructed in 1944, which is apparently in very poor condition. The DOP noted the “dilapidated condition of the property” and Petitioner (who recently purchased the home) explained he is in the process of renovating the property. Petitioner proposes to construct an addition at the rear of the dwelling. A neighbor (Oscar Mack) indicated he did not oppose the zoning request, although he stated the subject property is land-locked, and

that an easement is needed for driveway access across his property. As explained at the hearing, the question of legal access to the property is a title issue that cannot be resolved within the context of a zoning hearing.

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 property is narrow and deep (approximately 118' x 400'), which renders it 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.

THEREFORE, IT IS ORDERED, this **28th** 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 permit a proposed addition with a rear yard setback of 22 ft. in lieu of the required 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. Petitioner must maintain in good condition the existing fence at the property.

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