

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2919 Virginia Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Councilman District		
Robert L. & Lois J. Donaldson	*	HEARINGS FOR
<i>Legal Owners</i>		
2919 Virginia Avenue, LLC	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2014-0026-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Robert L. and Lois J. Donaldson, owners, and 2919 Virginia Avenue, LLC, contract purchaser. The Petitioners are requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 ft. in lieu of the required 55 ft. minimum. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Bryan Helmstetter and Michael Trice. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition.

Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP). DOP requested that the Petitioners submit building elevations to their department for review and approval prior to the issuance of any building permits and to provide landscaping along the public road, if applicable.

Testimony and evidence revealed that the subject property is approximately 6,250 square

feet and is zoned DR 5.5. The property is improved with a two story frame dwelling, which is in poor condition. The Petitioners propose to raze this dwelling and construct in its place a new dwelling (30' x 42').

Based upon the testimony and evidence presented, I will grant the petition for variance.

Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioners have met this test. The property is comprised of two (2) 25' wide lots shown on a plat which is over 100 years old, long before the adoption of the B.C.Z.R. As such, the property is unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct the proposed 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. As noted by the DOP, many homes in the area are situated on 50' wide lots, and thus the proposed dwelling will be compatible with the neighborhood.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 1st day of October, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit a lot width of 50 ft. in lieu of the required 55 ft. minimum, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must submit for approval by DOP building elevations of the proposed single family dwelling, prior to the issuance of building permits.

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