

IN RE: PETITION FOR VARIANCE
(2105 Edmondson Avenue)
1st Election District
1st Council District
Joseph R. Steneman
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2016-0019-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 on behalf of Joseph R. Steneman, the legal owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 1B02.3.C.1 to permit a side yard setback of 18 ft. and a side yard combination of 33 ft., a lot width of 80 ft. and a lot containing 16,000 sq. ft. in lieu of the required 25 ft., 40 ft., 100 ft., and 20,000 sq. ft., and to approve an undersized lot. The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioner’s Exhibit 1.

Owner Joseph R. Steneman appeared in support of the Petition. 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 Department of Planning (DOP). That agency did not oppose the request, although it did provide suggested conditions for inclusion in the final Order.

The subject property is approximately 16,000 square feet and is zoned DR 2. The lot was created in 1948 by the Graham Place subdivision plat. The owner proposes to construct a single family dwelling on the lot, but requires zoning relief.

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).

Petitioner has met this test. The lot was created by a plat recorded in 1948, before the adoption of the zoning regulations. 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 a dwelling on the lot. 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.

As discussed at the hearing, the request “to approve an undersized lot per Section 304” is both inapposite and unnecessary. The grant of variance relief (under §307) will entitle Petitioner to construct a dwelling on the lot. In addition, §304 would be inapplicable in this case, since the “height and area regulations” (e.g., side yard setbacks) would not be satisfied; which necessitates the variance petition. As such, that aspect of relief will not be granted.

THEREFORE, IT IS ORDERED, this 25th day of September, 2015, 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.”) § 1B02.3.C.1 to permit a side yard setback of 18 ft. and a side yard combination of 33 ft., a lot width of 80 ft. and a lot containing 16,000 sq. ft. in lieu of the required 25 ft., 40 ft., 100 ft., and 20,000 sq. 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 provide landscaping at the site, as determined in the sole discretion of the Baltimore County Landscape Architect.

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