IN RE: PETITION FOR VARIANCE   *   BEFORE THE OFFICE

     (7325 Waldman Avenue)

     15th Election District   *   OF ADMINISTRATIVE

     7th Council District

     Darsan, LLC   *   HEARINGS FOR

     Legal Owner

     *   BALTIMORE COUNTY

     Petitioner

     *   **CASE NO. 2016-0206-A**

*   *   *   *   *   *   *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Darsan, LLC, legal owner of the subject property ("Petitioner"). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.)§1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the required 55 ft. for a new single-family dwelling. A site plan was marked as Petitioner's Exhibit 1.

David Billingsley appeared in support of the Petition. Mark Van Bavel, Esq. represented Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is 10,000 square feet and zoned DR 5.5. The property is improved with a large (approximately 5,500 sq. ft.) two-story building that was most recently used as an apartment complex. The building is in very poor condition, and the property has been the subject of several code enforcement citations. This property adjoins a vacant lot (7327 Waldman Ave.) that functioned as the parking lot for the tenants at the apartment. The vacant lot is also owned by Petitioner, and Case No. 2016-0207-A involving that property was combined for hearing with the

present matter. Petitioner proposes to raze the existing structure and in its place construct a modest two-story single-family dwelling.

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 lot is narrow and deep (50' x 200') and was created by the Plat of Chesapeake Terrace, recorded in 1917. Petitioner's Ex. 6. As such it is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would not be able to construct the proposed single-family 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. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this **10th** day of **May, 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.") §1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the required 55 ft. for a new single-family dwelling, 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.

2. Prior to issuance of permits Petitioner must comply with the Critical Area Regulations.

3. Petitioner must comply with the ZAC comment submitted by the DOP, a copy of which is attached hereto.

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