

IN RE: PETITION FOR VARIANCE

(908 Middle Road)
15th Election District
6th Council District
Daniel N. Thomas
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2017-0011-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 Daniel N. Thomas, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to reduce the lot area to 8,637 sq. ft. in lieu of the required 10,000 sq. ft.; (2) to reduce lot width to 50 ft. in lieu of the required 70 ft.; (3) to reduce the sum of the side yards to 20 ft. in lieu of the required 25 ft.; and (4) to reduce the front yard setback to 35 ft., in lieu of the required 50 ft. A site plan was marked as Petitioner’s Exhibit 1.

Landscape architect Thomas Hoff appeared in support of the petition. 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 Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP). Conditions will be included in the final order to address the concerns identified by those agencies.

The subject property is approximately 8,637 square feet and is zoned DR 3.5. The property is unimproved, and Petitioner proposes to construct a single-family dwelling on the lot. To do so variance relief is required.

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 175') and was created by the plat of Revolea Beach in 1920. 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 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.

In its ZAC comment the DOP suggested (in addition to screening, which is addressed in the order below) Petitioner provide two off-street parking spaces for Lot 74. Mr. Hoff submitted an aerial photo which shows an existing parking pad straddling Lots 74/75 (Ex. 4) which is sufficient to accommodate four vehicles. I believe this area provides enough off-street parking for both the existing home on Lot 75 and the proposed dwelling on Lot 74.

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.") as follows: (1) to approve a lot area of 8,637 sq. ft. in lieu of the required 10,000 sq. ft.; (2) to approve a lot width of 50 ft. in lieu of the required 70 ft.; (3) to approve a sum of side yards of 20 ft. in lieu of the required 25 ft.; and (4) to approve a front

yard setback of 35 ft., in lieu of the required 50 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. Prior to issuance of permits Petitioner must comply with the critical area regulations.
3. Prior to issuance of permits Petitioner must provide a 6 foot high privacy fence or vegetative screening along the common lot line between Lots 75/76 in the area of the existing dwelling.

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