

**IN RE: PETITION FOR VARIANCE**

(910 Middle Road)  
15<sup>th</sup> Election District  
6<sup>th</sup> Council District  
Daniel N. Thomas  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2017-0012-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) to reduce the minimum side yard to 7 ft. in lieu of the required 10 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).

The subject property is approximately 16,482 square feet and is zoned DR 3.5. The property is improved with a single-family dwelling constructed in 1952. The dwelling is situated on Lots 75 & 76 of the plat of Rovelea Beach, recorded in 1920. Petitioner also owns Lot 74, which was the subject of Case No. 2017-0011-A, a companion case combined for hearing with the present matter. The relief sought herein is required only because the Petitioner proposes to construct a dwelling on Lot 74, which will render the existing side yard deficient; i.e., it would no

longer be an “internal” lot line.

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 Petitioner must contend with long-existing site conditions and improvements. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be required to raze or relocate the existing 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 Baltimore County and/or community opposition.

In its ZAC comment the DOP suggested Petitioner provide two off-street parking spaces or demonstrate that the current parking arrangement does not pose safety or traffic concerns. As noted in Case No. 2017-0011-A, a paved area exists which is sufficient for both the existing home at 910 Middle Road and the proposed home at 908 Middle Road. Mr. Hoff explained this is a community street which has only a small volume of traffic, and I believe the existing parking arrangement is sufficient and will not have a detrimental impact on the community.

THEREFORE, IT IS ORDERED, this 23<sup>rd</sup> 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 reduce the minimum side yard to 7 ft. in lieu of the required 10 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:slh