

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(909 Cold Spring Avenue)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Robert S. Cooper, <i>Legal Owner</i>	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2017-0033-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Robert S. Cooper, owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit a new dwelling with a side yard setback of 10 ft. and sum of both sides of 20 ft. in lieu of the required 15 ft. and 25 ft. respectively, and to allow a lot width of 50 ft. in lieu of the required 70 ft. A site plan was marked as Petitioner’s Exhibit 1.

Robert S. Cooper and surveyor Scott Dallas 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 Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). Neither agency opposed the requests, and conditions will be included in the Order below to address the concerns raised in those comments.

The subject property is approximately 12,050 sq. ft. and is zoned DR 3.5. The waterfront property is unimproved, and Mr. Dallas noted this is the only such lot on either side of the street. Petitioner proposes to construct a new single-family dwelling but requires variance relief to do so.

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 was created by the Plat of Long Beach Estates, recorded in 1910, long before the adoption of the B.C.Z.R. 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 community opposition. In addition, the proposed dwelling would be situated on a 50 ft. wide lot, as are nearly all of the other homes in this community.

THEREFORE, IT IS ORDERED, this 1<sup>st</sup> day of November, **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 permit a new dwelling with a side yard setback of 10 ft. and sum of both sides of 20 ft. in lieu of the required 15 ft. and 25 ft. respectively, and to allow a lot width of 50 ft. in lieu of the required 70 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 and flood protection regulations.

3. Prior to issuance of permits Petitioner must contact the Department of Public Works to determine the flood protection elevation.

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:sln