

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1041-1043 Chester Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Jeremy E. & Kimberly M. Lauer	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2017-0074-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 Jeremy & Kimberly Lauer, owners of the subject property (“Petitioners”). The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit a proposed replacement single-family dwelling to have side yard setbacks of 10 ft. and 10 ft. with a sum of 20 ft., in lieu of 10 ft. and 15 ft. with a sum of 25 ft. A site plan was marked as Petitioners’ Exhibit 1.

Jeremy Lauer and Dave Billingsley 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).

The property is approximately 0.456 acres in size and is zoned DR 3.5. The property is improved with two single-family dwellings, known as 1041 and 1043 Chester Road, and is shown on the plat of Long Beach Estates. Petitioners propose to raze both of these dwellings and construct one new single-family dwelling on the property. To do so zoning 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).

Petitioners have met this test. The waterfront lots are narrow and deep and the property is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed 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.

THEREFORE, IT IS ORDERED, this 15<sup>th</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 proposed replacement single-family dwelling to have side yard setbacks of 10 ft. and 10 ft. with a sum of 20 ft., in lieu of the required 10 ft. and 15 ft. with a sum of 25 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must prior to obtaining permits contact the Department of Public Works to determine the flood protection elevation for the property.
3. Petitioners must prior to obtaining permits 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:sln