

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(602 Oakdean Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Classic, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2017-0079-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 Classic, LLC, 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 permit a replacement dwelling with a side yard setback of 10 ft. with a sum of 20 ft. in lieu of the required side yard setbacks of 10 ft. and a sum of 25 ft.; (2) to permit an existing accessory structure (shed) to be located on the waterfront side; and (3) to permit a proposed detached garage on the road side with a height of 24 ft. in lieu of the maximum allowed 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

David Billingsley and William Hardy 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 Planning (DOP), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies opposed the requests.

The property is approximately 0.296 acres in size and is zoned DR 3.5. The waterfront property is improved with a single-family dwelling and several accessory buildings. Petitioner

proposes to raze the existing dwelling and construct a new home in roughly the same location. Petitioner would raze the garage closest to Oakdean Road and plans to add a second story on the existing 36' x 25' garage, for storage of household items. To do so, variances are 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 waterfront lot is narrow and deep (approximately 50' x 250') and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed improvements. 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 21<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) as follows: (1) to permit a replacement dwelling with a side yard setback of 10 ft. with a sum of 20 ft. in lieu of the required side yard setbacks of 10 ft. and a sum of 25 ft.; (2) to permit an existing accessory structure (shed) to be located on the waterfront side; and (3) to permit a proposed detached garage on the road side with a height of 24 ft. in lieu of the maximum allowed 15 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 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. Petitioner must prior to issuance of permits comply with critical area and flood protection 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