

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(3825 Bay Drive)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6th Council District		
Paul and Michelle Oliver	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2017-0227-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 Paul and Michelle Oliver, owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from §§ 1A04.3.A, 1A04.3.B.2.b, 1A04.3.B.3 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to permit a dwelling with a height of 45 ft. in lieu of the maximum permitted 35 feet; (2) to permit a dwelling with a front yard setback of 40 feet from the center of a road or street in lieu of the required 75 ft. and side yard setbacks of 27 ft. and 15 ft., in lieu of the required 50 ft. and 50 ft.; (3) to permit a building coverage of 21.5% in lieu of the permitted 15%; and (4) to permit an open porch with side yard setbacks of 20 ft. and 30 ft., in lieu of the required 37.5 ft. and 37.5 ft. A site plan was marked as Petitioners’ Exhibit 1.

Paul Oliver and David Billingsley appeared in support of the petition. Timothy Kotroco, Esq., represented the Petitioners. 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). Neither agency opposed the requests.

The site is approximately 31,750 sq. ft. in size and zoned RC-5. The waterfront property is comprised of Lots 248, 249 and 250 as shown on the Plat of Bowleys Quarters. Though the property was improved with a dwelling, that structure was razed in the last few years. Petitioners propose to construct a new single-family dwelling on the property, although 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).

Petitioners have met this test. The lots are narrow and deep, which renders the property unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed single-family dwelling. Finally, I find that the variances 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 24<sup>th</sup> day of **April, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to §§ 1A04.3.A, 1A04.3.B.2.b, 1A04.3.B.3 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to permit a dwelling with a height of 45 ft. in lieu of the maximum permitted 35 feet; (2) to permit a dwelling with a front yard setback of 40 feet from the center of a road or street in lieu of the required 75 ft. and side yard setbacks of 27 ft. and 15 ft., in lieu of the required 50 ft. and 50 ft.; (3) to permit a building coverage of 21.5% in lieu of the permitted 15%; and (4) to

permit an open porch with side yard setbacks of 20 ft. and 30 ft., in lieu of the required 37.5 ft. and 37.5 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 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, Petitioners would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioners must submit to the DOP architectural elevations of the proposed improvements which will enable that agency to make the requisite finding under the RC-5 performance standards.
3. Prior to issuance of permits Petitioners must 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:dlw