

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(29 Hydroplane Drive)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Ronald L. Sauer	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0294-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Ronald L. Sauer, owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from §303.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a proposed single-family dwelling with a front yard, center line of road setback of 34.8 ft. in lieu of the maximum required front yard average setback of 40 ft. in a D.R. 5.5 zone. A site plan was marked as Petitioner’s Exhibit 1.

Ronald L. Sauer appeared in support of the petition. There were no protestants or interested citizens in attendance. Petitioner submitted a letter from his next door neighbor (Timothy Wilcox, at 31 Hydroplane Drive) who indicated he did not oppose the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The site is approximately 5,950 square feet in size and zoned DR 5.5. The property is shown as Lot No. 152 on the Plat of Victory Villa, recorded at PB No. 22, folio 112. The Plat was approved by the Baltimore County Planning Board on January 30, 1956. The lot was improved with a modest single-family dwelling constructed in 1942, although Petitioner recently

razed that structure. In its place, Petitioner proposes to construct a new dwelling.

Even though the present zoning is D.R. 5.5, the zoning office noted on the site plan Petitioner was entitled to “vested” status under the former R6 Residence Zone designation (which was in place when the dwelling was constructed and the plat approved). I concur, since the Regulations expressly state that the applicable zoning regulations are those in effect at the time the plat “was approved by the Planning Board.” B.C.Z.R. §1B02.3.B.

However, in addition to the front yard setback identified in the Petition, the R6 zone specified a minimum lot area of 6,000 square feet, minimum lot width of 55 feet, and a minimum individual side yard of 8 feet with a sum of not less than 20 for both side yards. B.C.Z.R. (1955) §211. Although the site plan indicates Petitioner satisfies the side yard setbacks (i.e., 8 feet individual side yard, sum of 20 feet) both lot area and lot width are deficient under the R6 zone requirements. As such, the petition was amended at the hearing to address these additional deficiencies.

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).

The lot is narrow and deep, and the irregular dimensions render the property unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed 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 20th day of **June, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition to permit a proposed single-family dwelling with a front yard, center line of road setback of 34.8 ft. in lieu of the maximum required front yard average setback of 40 ft., a lot area of 5,950 square feet in lieu of the required 6,000 square feet, and a lot width of 50 ft. in lieu of the required 55 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.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln