

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(803 Bengies Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Marsha Noble	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0328-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of Marsha Noble, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a lot width of 50 ft., side yard setbacks of 10 ft. minimum with a sum of 20 ft. and a lot area of 10,200 Sq. ft. in lieu of the required 100 ft., 15 ft., 40 ft., and 20,000 sq. ft., respectively for an existing dwelling on an existing lot of record. A site plan was marked as Petitioner’s Exhibit 1.

David 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the county reviewing agencies.

The site is approximately 10,200 square feet in size and zoned DR 2. The property is improved with a single-family dwelling constructed in 1957. Petitioner also owns the adjoining, unimproved lot (805 Bengies Road), which she intends to sell to Robert Click. Mr. Click proposes to construct a single-family dwelling on the 805 Bengies Road property, and that case (Case No. 2017-0329-SPHA) was combined for hearing with this matter. Since Petitioner owned

both lots the zoning office requested she file the petition in this case to “legitimize” the existing site conditions, which would appear to be lawfully nonconforming.

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 property is narrow and deep (approximately 50 ft. x 200 ft.) and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be required to raze or relocate her home. 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 31st day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a lot width of 50 ft., side yard setbacks of 10 ft. minimum with a sum of 20 ft. and a lot area of 10,200 Sq. ft. in lieu of the required 100 ft., 15 ft., 40 ft., and 20,000 sq. ft., respectively, for an existing dwelling on an existing lot of record, 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 her 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