

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1712 Beechwood Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Mary Linda Haddaway	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0012-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Mary Linda Haddaway, the legal owner of the subject property (“Petitioner”). As originally filed, the Petition sought variance relief from §§1A04.3.B.2.b, 1A04.3.B.3 and 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit side yard setbacks of 10 ft., a rear yard setback of 38 ft., a building coverage of 21.5% and an accessory building (garage) to be located in the front yard in lieu of the required 50 ft., 50 ft., 50 ft., maximum permitted 15% and rear yard location for the accessory building, for a replacement dwelling and garage on an existing lot of record.

The petition was amended slightly at the hearing: a detached garage will no longer be constructed, the proposed dwelling will be 40 ft. in height in lieu of the permitted 35, and building coverage is reduced to 17.1% in lieu of the maximum 15%. The proposed side and rear yard setbacks remained the same. A redlined site plan was marked as Petitioner’s Exhibit 6.

Mary Haddaway and 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. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR), Department of Environmental Protection and

Sustainability (DEPS) and the Department of Planning (DOP). None of the reviewing agencies opposed the requests.

The site is approximately 0.220 acres in size and zoned RC 5. The property is improved with a single family dwelling constructed in 1926 and a detached garage, both of which will be razed. Petitioner proposes to construct a new single family dwelling on the lot.

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 waterfront lot is narrow and deep and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct a replacement dwelling on the lot given the RC-5 setback requirements. 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 12th day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the amended Petition for Variance seeking relief from B.C.Z.R. §§1A04.3, 1A04.3.B.2.b, and 1A04.3.B.3 to permit a height of 40 feet, side yard setbacks of 10 ft., a rear yard setback of 38 ft., a building coverage of 17.1% in lieu of the maximum permitted 35 feet, required 50 ft., 50 ft., and 50 ft., and maximum permitted 15%, respectively, for a replacement 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.
2. Petitioner must prior to issuance of permits comply with the critical area and flood protection regulations.
3. Prior to construction of the proposed single family dwelling Petitioner must satisfy the RC5 performance standards, as determined in the sole discretion of the DOP.

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