

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(26, 28 & 30 Shipley Road)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
St. Ambrose Housing Aid Center, Inc.	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0018-A
		2018-0019-A
		2018-0020-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by St. Ambrose Housing Aid Center Inc., legal owner of the subject property (“Petitioner”). These cases concern three separate dwellings, but they were combined for hearing and all exhibits will be retained in the case file for No. 2018-0018-A. Petitioner is requesting variance relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to permit a side yard setback for a two story addition of 8.5 ft., in lieu of the required 10.0 ft. (26 Shipley Road); (2) to permit a side yard setback for a two story addition of 8.0 ft. in lieu of the required 10.0 ft. (28 Shipley Road); and (3) to permit a side yard setback for a two story addition of 8.0 ft. in lieu of the required 10.0 ft. (30 Shipley Road). Site plans for each of the homes were marked as Petitioner’s Exhibit 2A, 2B & 2C.

Robert Wood, Kevin O’Reilly, David Sann and Bruce Doak appeared in support of the petition. Gary Brooks, Esq. represented Petitioner. 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 reviewing county agencies.

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).

As Mr. Doak noted, these homes were constructed in approximately 1911, more than 10 years prior to the recording of the Winter Heights Plat. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to complete the proposed additions. 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 support of both the community and Baltimore County.

THEREFORE, IT IS ORDERED, this 14th day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from B.C.Z.R. §1B02.3.C.1 as follows: (1) to permit a side yard setback for a two story addition of 8.5 ft., in lieu of the required 10.0 ft. (26 Shipley road); (2) to permit a side yard setback for a two story addition of 8.0 ft. in lieu of the required 10.0 ft. (28 Shipley Road); and (3) to permit a side yard setback for a two story addition of 8.0 ft. in lieu of the required 10.0 ft. (30 Shipley Road), 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.

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