

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(10136 Falls Road)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Rockpool Property Acquisition Trust	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0071-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 Rockpool Property Acquisition Trust, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a proposed addition with a side yard setback of 18 ft. and a sum of side yard setbacks of 40 ft. in lieu of the minimum required 20 ft. and sum of 50 ft., respectively. A site plan was marked as Petitioner’s Exhibit 1.

Architect Peter W. Ratcliffe 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. A substantive Zoning Advisory Committee (ZAC) comment were received from the Department of Planning (“DOP”). That agency did not object to the request.

The site is approximately 1.03 acres in size and zoned DR 1. The property is improved with an historic dwelling constructed in 1775, which is included on the Baltimore County Final Landmarks List. In response to the DOP’s ZAC comment, Mr. Ratcliffe stated the Baltimore County Landmarks Preservation Commission recently granted approval for the proposed improvements.

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 has an irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to complete the proposed improvements. 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 10th day of **January, 2018**, 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 proposed addition with a side yard setback of 18 ft. and a sum of side yard setbacks of 40 ft. in lieu of the minimum required 20 ft. and sum of 50 ft., respectively, 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