

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2025 River Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Alice Lambert, Personal Representative	*	HEARINGS FOR
<i>Legal Owner</i>		
Taylor Lambert	*	BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2018-0182-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Alice Lambert (Personal Representative for Candie Maxwell), legal owner of the subject property and Taylor Lambert, contract purchaser (“Petitioners”). The Petition seeks variance relief from §§1A04.3.B.2.b and 1A03.3.B.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with side yard setbacks of 19 ft. and a rear yard setback of 43 ft. in lieu of the required 50 ft., and to permit a front street setback of 35 ft. to the centerline in lieu of the required 75 ft. and to permit 30% lot coverage in lieu of the maximum 15%. A site plan was marked as Petitioners’ Exhibit 1.

Alice Lambert and Taylor Lampert 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 BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP).

The subject property is 12,708 square feet in size and zoned RC-5. The property is improved with a single-family dwelling constructed in 1947 and is shown on the plat of Cedar Beach, recorded in 1942. Petitioners propose to raze the existing dwelling (which is in poor

condition) and construct a new single-family dwelling on the property. Given the substantial setback requirements in the RC 5 zone variance relief is required.

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 irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they 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 BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of Baltimore County and/or community opposition.

While the petition seeks approval for 30% lot coverage in lieu of the permitted 15%, in reality (as discussed at the hearing) it is likely that only between 20-25% of the lot would be “covered by buildings” per BCZR §1A04.3.B.3. The coverage permitted by the aforementioned regulation is calculated differently than the “lot coverage” restrictions in the Critical Area regulations. Even so, the relief will be granted as requested to eliminate any potential discrepancies that might arise. In addition, while it is arguably not required (since this lot was “created” 75 years ago), relief will be granted to permit a lot size of 12,708 SF in lieu of the 1.5 acre minimum lot size in the RC-5 zone. BCZR §1A04.3.B.1.

THEREFORE, IT IS ORDERED, this 9th day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from

§§1A04.3.B.2.b and 1A03.3.B.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with side setbacks of 19 ft. and a rear yard setback of 43 ft. in lieu of the required 50 ft., front street setback of 35 ft. to the centerline in lieu of the required 75 ft., 30% lot coverage in lieu of the maximum 15%, and a lot size of 12,708 SF in lieu of the required 1.5 acres, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the Chesapeake Bay Critical Area Regulations.
3. Prior to issuance of permits Petitioners must obtain from the DOP a positive finding the RC 5 performance standards have been satisfied.

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