

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(201 S. Patapsco Avenue)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Good Luck Homes, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0193-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Good Luck Homes, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from § 400 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing garage with a side setback as close as 0 ft. in lieu of the required 2.5 ft., and to allow a rear setback of 7.5 ft. to the center of the alleyway in lieu of the minimum required 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

Architect Adam Carballo 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 was received from the Bureau of Development Plans Review (DPR).

The site is approximately 6,000 sq. ft. in size and zoned DR 5.5. The property is improved with a single-family dwelling constructed in 1889 and a detached garage. Petitioner is in the process of renovating the dwelling and garage, and discovered when applying for permits the garage had deficient setbacks.

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).

Petitioner must contend with long-existing (and lawfully nonconforming) site conditions which render the property unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be required to raze or relocate the garage. Finally, I find that the variance 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 County and/or community opposition.

THEREFORE, IT IS ORDERED, this 16th day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §400 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an existing garage with a side setback as close as 0 ft. in lieu of the required 2.5 ft., and to allow a rear setback of 7.5 ft. to the center of the alleyway in lieu of the minimum required 15 ft., 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.
2. Petitioner must submit to the Office of Administrative Hearings within 30 days of the date hereof a redlined site plan showing the 6" sanitary sewer at the rear of the property, as noted in the ZAC comment submitted by the Bureau of DPR dated February 12, 2018.

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