

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(344 Miles Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Roberta L. Jenkins and	*	HEARINGS FOR
Paul R. Jenkins (Deceased)		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Shane Snyder & Jody Costa		
<i>Contract Purchasers</i>	*	CASE NO. 2018-0202-A
Petitioners		

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Robert L. Jenkins and Paul R. Jenkins (Deceased), legal owners of the subject property and Shane Snyder and Jody Costa, contract purchasers (“Petitioners”). The Petition seeks variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow side yard setbacks of 10 ft. for a total of 20 ft. in lieu of the required 25 ft. total side yard setbacks and a lot width of 50 ft. in lieu of the required 70 ft. A site plan was marked as Petitioners’ Exhibit 1.

Jody Costa, Shane Snyder and professional engineer Rick Richardson 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”) and the Department of Environmental Protection and Sustainability (“DEPS”).

The site is approximately 11,101 sq. ft. in size and zoned DR 3.5. The property is unimproved and the contract purchasers propose to construct a single-family dwelling on the lot, which was created by the Plat of Middleborough, recorded long before adoption of the zoning regulations.

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 property is narrow and deep and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct a dwelling on the lot. 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. The proposed single-family dwelling and building lot would be similar in size to those in the neighborhood, and I do not believe granting the request will have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this 20th day of **March, 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 allow side yard setbacks of 10 ft. for a total of 20 ft. in lieu of the required 25 ft. total side yard setbacks and a lot width of 50 ft. in lieu of the required 70 ft., 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 prior to issuance of permits comply with CBCA and flood protection regulations.

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