

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(6111 Hutschenreuter Road)		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Robert & Sharon Stark	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2018-0216-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Robert & Sharon Stark, the legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed replacement dwelling with a street centerline setback of 49 ft. in lieu of the minimum required 75 ft. A site plan was marked as Petitioners’ Exhibit 1.

R. Craig Rodgers 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. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”).

The site is approximately 43,743 sq. ft. in size and zoned RC-2. The property was improved with a single-family dwelling constructed in 1973, although that dwelling was razed in 2013. See Exhibit 2. Petitioners propose to construct a replacement dwelling in essentially the same location on the lot, although zoning relief is needed for the front street line setback.

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, triangular shape 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 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 3<sup>rd</sup> day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a proposed replacement dwelling with a street centerline setback of 49 ft. in lieu of the minimum required 75 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 comply with the ZAC comment of DEPS, a copy of which is attached.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:sln

\_\_\_\_\_  
Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County