

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(5433 Joppa Road)		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Toro Services, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2018-0227-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 Toro Services, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §301.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an open deck with a rear yard setback of 6 ft. in lieu of the required 30 ft. A site plan was marked as Petitioner’s Exhibit 1.

David Billingsley 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. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the reviewing county agencies.

The site is approximately 24,698 square feet in size and zoned DR 2H. Petitioner purchased the home in 2017 and undertook substantial renovations, including a garage addition. Prospective purchasers requested that a deck be added off the rear of the home, which necessitated the filing of this petition.

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).

This 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 construct the proposed deck. 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 or community opposition.

THEREFORE, IT IS ORDERED, this 13<sup>th</sup> day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §301.1 of the Baltimore County Zoning Regulations (“BCZR) to permit an open deck with a rear yard setback of 6 ft. in lieu of the required 30 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.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln