

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(923 Bowleys Quarters Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
John & Colby Celmer	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2018-0228-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by John & Colby Celmer, the legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from Sections 1A04.3.A and 301.1 A of the Baltimore County Zoning Regulations (“BCZR”) to permit a structure (dwelling) with a height of 43 ft. and an open porch/stair with a side yard of 6 ft. in lieu of the maximum permitted 35 ft., respectively. A site plan was marked as Petitioners’ Exhibit 1.

David Billingsley and John Celmer 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”), Bureau of Development Plans Review (“DPR”) and the Department of Planning (“DOP”). None of the reviewing agencies opposed the requests.

The site is approximately 16,017 sq. ft. in size and zoned RC-5. The waterfront lot is unimproved, and is shown as Lot 71 on the 1921 Plat of Bowleys Quarters. Petitioners propose to construct a single-family dwelling on the lot but require variance relief to do so given the significant setbacks imposed by the RC 5 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).

This lot is narrow (50') and deep (approximately 320') 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 13th day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a structure (dwelling) with a height of 43 ft. and an open porch/stair with a side yard of 6 ft. in lieu of the maximum permitted 35 ft., respectively, 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. Prior to issuance of permits Petitioners must comply with Critical Area and flood protection regulations.

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