

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(9321 North Point Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Thomas & Frances Gray	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2018-0255-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 Thomas & Frances Gray, legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from §§1B02.3.C.1 and 102.4 of the Baltimore County Zoning Regulations (“BCZR”) to permit a new dwelling to be constructed on a 50 ft. wide lot in lieu of the required 55 ft. with an area of 6,250 sq. ft. in lieu of the 20,000 sq. ft. required for a lot that does not abut on a right-of-way at least 30 ft. wide over which the public has an easement of travel. A site plan was marked as Petitioner’s Exhibit 1.

Frances Gray and 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. Zoning Advisory Committee (“ZAC”) comments were received from the Bureau of Development Plans Review (DPR), the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP).

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).

These lots are narrow and deep and were created in a plat recorded in 1918. *See* Plat of North Point Terrace, Ex. 4. As such the property is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct a single-family dwelling on the property. 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.

In its ZAC comment the Bureau of DPR requested the owner to construct a 24-foot wide road within the 40-foot wide Walnut Street right-of-way. Mr. Billingsley explained Walnut Street, though shown on the 1918 plat, was never in fact constructed. Petitioners propose to access the dwelling by way of a driveway approximately 12 ft. wide and 114.5 ft. in length. This is sufficient for access to one dwelling, and under the law an owner cannot be required to construct a roadway (to county construction standards) at its own expense when constructing just one new dwelling. *Howard County v. JJM, Inc.*, 301 Md. 256 (1984) (must be a reasonable nexus between the exaction and the proposed subdivision).

THEREFORE, IT IS ORDERED, this 4<sup>th</sup> day of **May, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §§1B02.3.C.1 and 102.4 of the Baltimore County Zoning Regulations (“BCZR”) to permit a new dwelling to be constructed on a 50 ft. wide lot in lieu of the required 55 ft. with an area of 6,250 sq. ft. in lieu of the 20,000 sq. ft. required for a lot that does not abut on a right-of-way at least 30 ft. wide over which the public has an easement of travel, 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 the critical area 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