

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(9026 Hinton Avenue)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Richard & Cathy Stryjewski	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2018-0262-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 Richard & Cathy Stryjewski, legal owners of the subject property (“Petitioners”). The Petition seeks variance relief from §§ 1B02.3.C.1, 301.1 and 303 of the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to permit a replacement dwelling with a front yard (water side) and rear yard (street side) setbacks of 39 ft. and 39 ft., respectively (for a double frontage lot) in lieu of the minimum required averaged setback of 40 ft. (for both); (2) to permit side yard setbacks of 7 ft. and 8 ft., respectively, in lieu of the minimum required 10 ft.; and (3) to permit an open projection (deck) setback of 21 ft. in lieu of the minimum required 30 ft. A site plan was marked as Petitioners’ Exhibit 1.

Richard Stryjewski and professional engineer William Bafitis 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 Planning (“DOP”), the Bureau of Development Plans Review (“DPR”) and the Department of Environmental Protection and Sustainability (“DEPS”).

The site is approximately 7,400 square feet in size and zoned DR 5.5. The property is

improved with a modest single family dwelling which has been owned by Petitioners' family for over 60 years. Petitioners now use the property as a weekend retreat, but they plan to raze the existing dwelling and construct a new, larger single family dwelling on the lot.

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 lot is narrow and deep, and the property is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the new single family 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 Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this 29<sup>th</sup> day of **May, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance: (1) to permit a replacement dwelling with a front yard (water side) and rear yard (street side) setbacks of 39 ft. and 39 ft., respectively (for a double frontage lot) in lieu of the minimum required averaged setback of 40 ft. (for both); (2) to permit side yard setbacks of 7 ft. and 8 ft., respectively, in lieu of the minimum required 10 ft.; and (3) to permit an open projection (deck) setback of 21 ft. in lieu of the minimum required 30 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. Prior to issuance of permits Petitioners must comply with critical area and flood protection regulations.
3. As noted in the DOP's ZAC comment, Petitioners shall not be permitted to use or store items on the County-owned property adjacent to the subject property.
4. Prior to issuance of permits Petitioners shall be required to install a vegetative buffer extending southeasterly 25 ft. from the existing fence.

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

Signed—

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JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln