

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2925 Illinois Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
David Schafer and	*	HEARINGS FOR
Douglas E. Schafer		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Eric L. Bers		
<i>Contract Purchaser</i>	*	CASE NO. 2018-0264-A
Petitioners		

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by David Schafer and Douglas E. Schafer, legal owners of the subject property and Eric L. Bers, contract purchaser (“Petitioners”). The Petition seeks variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a dwelling with a lot width of 50 ft. in lieu of the required 55 ft. A site plan was marked as Petitioners’ Exhibit 1.

Eric L. Bers 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 B.C.Z.R. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The site is 6,250 sq. ft. in size and zoned DR 5.5. The property is unimproved and is comprised of two 25 ft. wide lots (Lot Nos 55 & 56) originally shown on the Plat of Baltimore Highlands, P.B. 2 Folio 379. Petitioners propose to construct a single-family dwelling on the property, and Mr. Bers noted most of the homes in the community are situated on 50 ft. wide lots.

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 lots are 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 a dwelling on the lot. 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. The proposed single-family dwelling and building lot would be similar in size to those in the neighborhood, and I do not believe granting the request will have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this 15th day of **May, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a dwelling with a lot width of 50 ft. in lieu of the required 55 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 at the time of building permit application provide to the DOP for review and approval elevation drawings of the proposed dwelling.

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