

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2927 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. 2018-0265-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”): (1) to permit an existing dwelling with a side street setback of 11 ft. in lieu of the required 25 ft.; and (2) to permit a lot width of 50 ft. in lieu of the required 55 ft. A site plan was marked as Petitioners’ Exhibit 2. This case was combined for hearing with Case No. 2018-0264-A, which concerned the adjoining property.

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

The site is 6,250 sq. ft. in size and zoned DR 5.5. The property is improved with a single family dwelling constructed in 1925. Petitioners are not proposing any changes to the property or dwelling. Petitioners also own the adjacent unimproved property, which was the subject of Case No. 2018-0264-A. Zoning relief was granted in that case to construct a single family

dwelling on a 50 ft. wide lot in lieu of the required 55 ft. As a consequence of that proposal, the lot width of 2927 Illinois becomes deficient; i.e., 50 ft. in lieu of the required 55 ft.

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 required to raze or relocate the existing 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 County and/or community opposition.

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”): (1) to permit an existing dwelling with a side street setback of 11 ft. in lieu of the required 25 ft.; and (2) to permit a lot width of 50 ft. in lieu of the required 55 ft., be and is hereby GRANTED.

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