

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1708 Beechwood Avenue)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Chesapeake Custom Properties, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2018-0272-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 Chesapeake Custom Properties Properties, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §§ 1A04.3.A and 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a height of 38 ft. and side yard setbacks of 10 ft. and 10 ft. in lieu of the maximum permitted 35 ft., 50 ft., and 50 ft., respectively, for a replacement dwelling on an existing lot of record. A site plan was marked as Petitioner’s Exhibit 1.

Charles Wolinski 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. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”).

The site is approximately 10,200 square feet in size and zoned RC-5. The property is improved with a single family dwelling that is in poor condition. Petitioner proposes to raze the existing structure and in its place construct a new single family dwelling. Given the substantial setback requirements in the RC-5 zone, variance relief is required.

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 (50' x 200') and the property is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed replacement 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 pursuant to Sections 1A04.3.A and 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a height of 38 ft. and side yard setbacks of 10 ft. and 10 ft. in lieu of the maximum permitted 35 ft., 50 ft., and 50 ft., respectively, for a replacement dwelling on an existing lot of record, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioner must comply with the CBCA 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