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| IN RE: PETITION FOR VARIANCE | * | BEFORE THE OFFICE |
| (4003 Bay Dr.) | | |
| 15 th Election District | * | OF ADMINISTRATIVE |
| 6 th Council District | | |
| Katrina Koch | * | HEARINGS FOR |
| <i>Legal Owner</i> | | |
| Brian Stachorowski | * | BALTIMORE COUNTY |
| <i>Contract Purchaser</i> | | |
| Petitioners | * | CASE NO. 2018-0273-A |

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Katrina Koch, legal owner of the subject property and Brian Stachorowski, contract purchaser (“Petitioners”). The Petition seeks variance relief from §1A04.3.B of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with side yard setbacks of 10 ft. and 5 ft. in lieu of the required 50 ft., and building coverage of 18% in lieu of the maximum permitted 15%. A site plan was marked as Petitioners’ Exhibit 1.

Brian Stachorowski and David Billingsley appeared in support of the petition. Several citizens attended the hearing to obtain additional information regarding the requests. 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”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the requests.

The site is approximately 11,150 square feet in size and zoned RC-5. The lot was created by the Plat of Bowleys Quarters filed in 1925. Ex. 4. The lot was improved with a single-family dwelling, although it had to be razed after sustaining flood damage in Hurricane Isabel in 2003. Petitioners propose to construct a new single-family dwelling on the unimproved lot but require variance relief given the significant setback requirements in the RC-5 zone.

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 property is narrow and deep and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed 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 4th day of **June, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §1A04.3.B of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with side yard setbacks of 10 ft. and 5 ft. in lieu of the required 50 ft., and building coverage of 18% in lieu of the maximum 15%, 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 flood protection and 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