

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(6526 Blackhead Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Jana May Leonard	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0291-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Jana May Leonard, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §1A01.3.B.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a front yard setback of 68 ft. from the centerline of any street and side yard setbacks of 28 ft. and 17 ft. in lieu of the required 75 ft., 35 ft., and 35 ft., respectively, for a new dwelling attached to an existing garage. A site plan was marked as Petitioner’s Exhibit 1.

Jana May Leonard 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”), indicating Petitioner must comply with Chesapeake Bay Critical Area (“CBCA”) regulations.

The site is approximately 26,800 square feet in size and zoned RC-2. The property (comprised of Lots 15-18 as shown on the Plat of Bird River Beach) is improved with a single-family dwelling constructed in 1925 and a newer detached garage. Petitioner proposes to raze the existing dwelling and in its place construct a new home which will be connected to the

existing garage.

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).

These waterfront lots were created by a plat filed in 1923, long before adoption of the BCZR. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the new 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 **18th** day of **June, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a front yard setback of 68 ft. from the centerline of any street and side yard setbacks of 28 ft. and 17 ft. in lieu of the required 75 ft., 35 ft., and 35 ft., respectively, for a new dwelling attached to an existing garage, 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 her 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 Chesapeake Bay 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