

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1011 Wagner Road)		
9 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Anne Dalsheimer Milch	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0328-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Anne Dalsheimer Milch, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a minimum lot width in a DR 1 zone of 135 ft. in lieu of the required 150 ft. A site plan was marked as Petitioner’s Exhibit 1.

Surveyor Bruce Doak appeared in support of the petition. A neighbor attended the hearing to obtain additional information regarding the request. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”).

The site is approximately 1.29 acres in size and zoned DR 1. The property is unimproved although for many years a barn (converted to a single-family dwelling) was located on the lot. The subject property is a “lot of record,” having been created by deed in 1953, prior to the adoption of the BCZR. Pet. Exhibit 4.

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 property is narrow and long (approximately 135' x 381') and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she 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. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this **24th** day of **July, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a minimum lot width in a DR 1 zone of 135 ft. in lieu of the required 150 ft., 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. New construction on the property will be subject to review by the Design Review Panel, which must review and approve elevation drawings prior to the issuance of a building permit.

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