

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(15 Belfast Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
15 Belfast Road, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0337-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by 15 Belfast Road, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit for an existing improved lot, a minimum lot width of 50 ft. in lieu of the 55 ft. required; and (2) to permit, for an existing dwelling, a corner side street setback of 13 ft. in lieu of the 25 ft. (front yard) required. A site plan was marked as Petitioner’s Exhibit 1.

Professional surveyor Geoffrey Schultz appeared in support of the petition. Howard L. Alderman, Jr., Esq. represented the Petitioner. 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 reviewing county agencies.

The site is approximately 10,625 square feet in size and zoned DR 5.5. The property is improved with a single-family dwelling constructed in 1942. Petitioner proposes to construct an addition to the existing dwelling, although zoning relief is required to do so.

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 dwelling was constructed before adoption of the BCZR and the subject property is a corner lot. In this scenario, the Zoning Commissioner's Policy Manual ("ZCPM") indicates that the side street setback is "the same as the required front yard setback," which in this case is 25 ft. ZCPM, p. 1B-26 As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the addition. 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 6th day of **August, 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"): (1) to permit for an existing improved lot, a minimum lot width of 50 ft. in lieu of the 55 ft. required; and (2) to permit, for an existing dwelling, a corner side street setback of 13 ft. in lieu of the 25 ft. (front yard) required, 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.

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