

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(619 Seminary Avenue W.)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Charles A. Brown	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2019-0052-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Charles A. Brown, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a rear yard addition with side setbacks of 5 feet on both sides in lieu of the required 10 feet on both sides. A site plan was marked as Petitioner’s Exhibit 1.

Lee Giroux 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 Planning (“DOP”). That agency did not oppose the zoning request.

The site is approximately 9,000 square feet in size and zoned DR 5.5. The property is improved with a small single-family dwelling constructed in 1902. Petitioner proposes to construct an addition at the rear of the dwelling and requests side yard variances to do so. In reality, the existing setbacks are deficient and the proposed addition will not decrease the width of the existing setbacks. As such, the dwelling likely constitutes a nonconforming structure under BCZR Section 104 which could be enlarged as stated in that section. Even so, the petition seeks variance relief

and the case will be considered on that basis.

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 deep (approximately 30' x 300') and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed 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 11th day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a rear yard addition with side setbacks of 5 feet on both sides in lieu of the required 10 feet on both sides, 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 his 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