

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1722 Beechwood Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
PTL Re Corp.	*	HEARINGS FOR
<i>Legal Owner</i>		
Matthew W. Baumgartner &	*	BALTIMORE COUNTY
Shannon Kief, <i>Contract Purchasers</i>		
	*	CASE NO. 2019-0058-A
Petitioners		
	* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by PTL RE CORP, legal owner of the subject property and Matthew W. Baumgartner & Shannon Kief, contract purchasers (“Petitioners”). Petitioners are requesting variance relief from Sections 1A04.3.A and 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a building height of 38 ft. and side yard setbacks of 20 ft. and 20 ft. in lieu of the maximum permitted 35 ft. and required 50 ft. and 50 ft. respectively for a single-family dwelling on existing lots of record. A site plan was marked as Petitioners’ Exhibit 1.

Shannon Kief 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. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the requests.

The site is approximately 16,850 sq. ft. in size and zoned RC-5. The property is unimproved and is comprised of two 50' wide lots created by the Plat of Evergreen Park recorded in 1924. Petitioners’ Exhibit 5. Petitioners propose to construct a single-family dwelling on the lots

although variance relief is needed due to the substantial setbacks required by the RC-5 regulations.

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).

Cromwell and similar cases emphasize that it is the physical attributes of the property itself which must be examined to determine if a variance is justified. The subject 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 a single-family dwelling on the property. 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.

THEREFORE, IT IS ORDERED, this 11th day of **October, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR Sections 1A04.3.A and 1A04.3.B.2.b to permit a building height of 38 ft. and side yard setbacks of 20 ft. and 20 ft. in lieu of the maximum permitted 35 ft. and required 50 ft. and 50 ft. respectively for a single-family dwelling on existing lots of record, 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 critical area and flood protection 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