

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(11964 Park Heights Avenue)		
4 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Adam & Elizabeth Gerber	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2019-0083-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Adam & Elizabeth Gerber, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed replacement single-family dwelling with setbacks of 25 ft. each in lieu of the minimum required 50 ft. A site plan was marked as Petitioners’ Exhibit 1.

Adam Gerber and surveyor Bruce E. Doak 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”).

The site is approximately 1.63 acres in size and zoned RC-5. The site was improved with a small cottage constructed in 1928 that was razed recently. Petitioners propose to construct a replacement single-family dwelling on the lot.

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 triangular in shape and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed replacement single-family 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 30th day of **November, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a proposed replacement single-family dwelling with setbacks of 25 ft. in lieu of the minimum required 50 ft., 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) Petitioners must comply with the DEPS ZAC comment, a copy of which is attached hereto and made a part hereof.

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