

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(346 Wye Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
Raymond D. Havard	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2019-0091-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Raymond D. Havard, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a minimum side yard setback of 10 ft. with a sum of 20 ft, in lieu of the required 10 ft. and 25 ft., respectively, for a replacement dwelling. A site plan was marked as Petitioner’s Exhibit 1.

Raymond D. Havard 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. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the County reviewing agencies.

The site is approximately 10,625 square feet in size and zoned DR 3.5. The property is improved with a small (1,142 square feet) single-family dwelling constructed in 1930. Petitioner stated the house is in poor condition and he proposes to raze the structure and construct a replacement dwelling in roughly the same footprint.

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 lot was created upon the filing of the Plat of Middleborough, recorded in 1916, and Petitioner must contend with long-existing site conditions. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed replacement 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 3<sup>rd</sup> day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a minimum side yard setback of 10 ft. with a sum of 20 ft, in lieu of the required 10 ft. and 25 ft., respectively, for a replacement dwelling, 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.
- (2) Prior to issuance of permits Petitioner must comply with Chesapeake Bay Critical Area regulations.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB/sln