

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1923 Brady Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
1923 Brady Avenue, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2019-0109-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by 1923 Brady Avenue, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit an existing single family dwelling on a lot with a width of 50 feet and a side yard setback as close as 7 feet in lieu of the required 55 feet and 10 feet, respectively.

Kyle O’Hara, Michael Grace and Patrick Grace 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 reviewing County agencies.

The site is approximately 6,959 square feet in size and zoned DR 5.5. The property is improved with a single-family dwelling constructed in 1951. At the time it was constructed the lot width and side yard setbacks were in compliance with the applicable regulations. But upon adoption of the DR zones in 1970 the property became (lawfully) nonconforming. As such the request in this case is simply to legitimize the existing conditions at the site.

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).

Petitioner must contend with long-existing site improvements and thus the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be required to raze or relocate the 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 27th day of **November, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit an existing single family dwelling on a lot with a width of 50 feet and a side yard setback as close as 7 feet in lieu of the required 55 feet and 10 feet, respectively, 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