

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1925 Brady Avenue)		
13 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
1923 Brady Avenue, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2019-0110-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 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 a proposed single family dwelling on a lot with a width of 50 feet in lieu of the required 55 feet.

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. A substantive Zoning Advisory Committee (ZAC) comments was received from the Department of Planning (“DOP”). That agency did not oppose the request.

The site is approximately 7,700 square feet in size and zoned DR 5.5. The property is unimproved and the lot was created by the Plat of Oak Park recorded in 1911 at PB 3, page 145. Petitioner proposes to construct a single-family dwelling on the lot.

As discussed at the hearing this case would be more appropriately resolved under BCZR Section 304, entitled “Use of Undersized Single-Family Lots.” That section permits construction of a single-family dwelling on a lot created prior to 1955, provided the only deficiency is lot area or lot width. Unlike a variance request under BCZR Section 307, a petitioner in a Section 304

case does not need to establish the property is unique. *Mueller v. People's Counsel*, 177 Md. App. 43 (2007). In this case there was no opposition and the petition will therefore be considered as filed; for a variance under BCZR 307.

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 has irregular dimensions and the lot is long and narrow. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct a dwelling on the lot. 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. In addition, all of the homes in the immediate vicinity in this neighborhood are on 50 ft. wide lots; as such, I believe the proposed dwelling would be compatible with the community.

THEREFORE, IT IS ORDERED, this 27<sup>th</sup> day of **November, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a proposed single-family dwelling on a lot with a width of 50 feet in lieu of the required 55 feet, 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.

(2) Prior to issuance of permits Petitioner must comply with the DOP 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