

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(7611 Fitch Lane)		
14 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Randy McMonigle	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0116-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 Randy McMonigle, legal owner of the subject property (“Petitioner”). As amended by the undersigned at the outset of the hearing (to add a fourth variance request pertaining to the width of an access driveway), Petitioner is requesting variance relief from Sections 255.1, 238.1, 238.2 and 409 of the Baltimore County Zoning Regulations (“BCZR”): (1) for a front yard setback of 14' in lieu of the required 25'; (2) for a side yard setback of 27' in lieu of the required 30'; (3) for a rear yard setback of 15' in lieu of the required 30'; and (4) for a two-way driveway width of 12' in lieu of the required 20'. A site plan was marked as Petitioner’s Exhibit 1.

Professional engineer Rick Richardson and Randy McMonigle 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’s reviewing agencies.

The site is approximately 0.36 acres in size and is zoned ML-IM. The property is unimproved and Petitioner proposes to construct a small (1,500 SF) one-story commercial/industrial building on the site. Given the shape of the property variances are required

before he can do so.

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 a unique shape, which drives the need for variance relief. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct a building on this 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.

THEREFORE, IT IS ORDERED, this 12<sup>th</sup> day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Amended Petition for Variance pursuant to BCZR Sections 255.1, 238.1, 238.2 and 409: (1) for a front yard setback of 14' in lieu of the required 25'; (2) for a side yard setback of 27' in lieu of the required 30'; (3) for a rear yard setback of 15' in lieu of the required 30'; and (4) for a two-way driveway with a width of 12' in lieu of the required 20', 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.

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