

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(208 Woodbrook Lane)		
9 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Neil W. Didriksen & Jane C. Brown	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2019-0120-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Neil W. Didriksen & Jane C. Brown, 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 a front yard setback of 32.8 feet in lieu of the required 50 feet. A site plan was marked as Petitioners’ Exhibit 1.

Professional engineer Rick Richardson and architect Charles Alexander appeared in support of the petition. Adam Baker, Esq. represented Petitioners. Tom George, from Ruxton-Riderwood Lake Roland Area Improvement Association (“RRLRAIA”), attended the hearing to obtain additional information regarding the project. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comment were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). Neither agency opposed the request.

The site is approximately 2 acres in size and zoned DR-1. The property is unimproved although a single-family dwelling (which has recently been razed) was on the site for many years. Petitioners propose to construct a new single-family dwelling on the lot, although a front setback

variance is needed before they 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 significant grade change across the site. As such it is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the single-family dwelling in the location proposed. Both Mr. Richardson and Mr. Alexander explained that if the proposed dwelling was moved to the north to satisfy the 50' setback the Petitioners would be required to perform significant grading into the slope at that location. Both witnesses also noted that a home in that location would necessitate a 16' retaining wall and could also result in the loss of specimen trees. In my opinion these are also practical difficulties (if not hardships) Petitioners would experience if the regulations were strictly interpreted.

I received and reviewed letters of opposition from two (2) adjoining neighbors, both of whom suggest the proposed home should be relocated on the site closer to where the original dwelling stood. Even if that was done Petitioners would still require a front setback variance given the obstacles noted above which would also come into play if the proposed house was moved westward on the site. The Design Review Panel (DRP) held a public hearing and approved the site plan, and I will include in the Order below the conditions proposed by that panel. 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 testimony summarized above and the absence of County agency opposition.

THEREFORE, IT IS ORDERED, this 13th day of **December, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a proposed replacement single family dwelling with a front yard setback of 32.8 feet in lieu of the required 50 feet, 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.
- (3) Petitioners must comply with Conditions 1-5 imposed by the DRP at its meeting on October 10, 2018 and referenced as agenda Item 2 on the correspondence attached hereto.

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