

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3402 Slade Avenue)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Yitzchak Khoshkeraman &	*	HEARINGS FOR
Aviva Askarinam		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2019-0148-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Yitzchak Khoshkeraman and Aviva Askarinam, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed replacement single family dwelling with a front yard setback of 34.5' in lieu of the required 40' and a side setback of 4' in lieu of the minimum required setback of 15' with a sum of 14' in lieu of the required 40', respectively. A site plan was marked as Petitioner’s Exhibit 1.

Yitzchak Khoshkeraman and Donny Ankri 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. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the requests.

The site is approximately 20,000 square feet in size and is zoned DR 2. The property is improved with a single family dwelling constructed in 1979. Petitioners were told enlarging the existing home would be problematic due to its age and configuration. As such, they plan to raze that structure and in its place construct a new single family dwelling.

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 is fairly narrow and deep, and is accessed by a long panhandle drive. As such, the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct the proposed 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.

In its ZAC comment, the DOP emphasized that specimen trees on site should be preserved whenever possible. Mr. Ankri (an architect) did not believe many trees would be impacted by the construction and the owner also stressed (as did the DOP) he wanted to preserve the existing trees which provide a natural buffer between adjacent homes. The Bureau of Development Plans Review (“DPR”) suggested the proposed dwelling be shifted farther away from the 10’ wide drainage and utility easement, which is shown on the plan. Mr. Ankri noted the proposed dwelling does not encroach upon the County easement, and the lot is simply not wide enough to shift the house to the west; i.e., the proposed side yard setback at that location is 4’ 8”, and I do not believe the structure should be situated any closer to the property boundary.

THEREFORE, IT IS ORDERED, this **14th** day of **January, 2019**, 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 34.5’ in lieu of the required 40’ and a side

setback of 4' in lieu of the minimum required setback of 15' with a sum of 14' in lieu of the required 40', respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

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:dlw