

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(925-929 Milford Mill Road)		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Chadlyn, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0173-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 Chadlyn, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Sections 1B01.2.C.1.b and 303.1 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit a 25' front yard setback from a public street right of way on a minor arterial road in lieu of the required 40' front yard setback for Lots 1, 2 & 3; and (2) to permit a 10' side building face to tract boundary setback in lieu of the required 15' for Lot 3 only. A site plan was marked as Petitioner’s Exhibit 1.

Landscape architect Matt Bishop appeared in support of the petition. Timothy M. Kotroco, Esquire represented Petitioner. Two neighbors attended the hearing to obtain additional information regarding the requests. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Bureau of Development Plans Review (“DPR”). That agency did not oppose the requests.

The site is approximately 3.2 acres in size and is zoned DR 5.5. The property is unimproved and contains a large wetlands area. Petitioner proposes to construct a duplex and a single-family dwelling (i.e., a total of 3 dwelling units) on the northern portion of the lot adjacent to Milford Mill Road. To do so requires variance relief.

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 site is constrained by environmental features. 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 the proposed homes. 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 29<sup>th</sup> day of **January, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 1B01.2.C.1.b and 303.1 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit a 25' front yard setback from a public street right of way on a minor arterial road in lieu of the required 40' front yard setback for Lots 1, 2 & 3; and (2) to permit a 10' side building face to tract boundary setback in lieu of the required 15' for Lot 3 only, 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.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln