

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2830 Louisiana Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
Kennard Huster	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0178-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Kennard Huster, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with a side yard setback of 8 ft. in lieu of the minimum required 10 ft. and to permit a lot width of 40 ft. in lieu of the minimum required 55 ft. A site plan was marked as Petitioner’s Exhibit 1.

Kennard Huster 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”) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

The site is approximately 7,040 sq. ft. in size and is zoned DR 5.5. The property is comprised of two lots (Nos. 41 & 42) created by the Plat of Rosemont. The property is unimproved and Petitioner proposes to construct a new dwelling on the lots. To do so requires zoning 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 is narrow and deep (40' x 176') and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to construct a single-family dwelling on the lots. 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, Petitioner submitted several photos (Pet. Exhibit 2) of homes in the neighborhood constructed in the past several years on 40 ft. wide lots. As such I believe the proposed dwelling will be compatible with the community.

THEREFORE, IT IS ORDERED, this 26th day of **February, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with a side yard setback of 8 ft. in lieu of the minimum required 10 ft. and to permit a lot width of 40 ft. in lieu of the minimum required 55 ft., 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.
2. Prior to issuance of permits Petitioner must submit for approval by the DOP elevations of the proposed dwelling.

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