

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(105 Dihedral Drive)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Veronica Gardner & Anthony Bugar	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0190-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Veronica Gardner & Anthony Bugar, 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 addition with a rear yard setback of 23' in lieu of the required 30' and to permit an existing side setback of 7' in lieu of the required 10'. A site plan was marked as Petitioners’ Exhibit 1.

Veronica Gardner 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 reviewing agencies.

The site is approximately 0.115 acres in size and is zoned DR 5.5. The property is improved with a small single family dwelling constructed in 1941. Petitioners have three children and would like to increase the size of their home, although zoning relief is required 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 the improvements were constructed more than 75 years ago, before the adoption of the BCZR. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to complete the proposed addition. 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 29th day of **March, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed addition with a rear yard setback of 23' in lieu of the required 30' and to permit an existing side setback of 7' in lieu of the required 10', 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.

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