

|                                     |   |                             |
|-------------------------------------|---|-----------------------------|
| <b>IN RE: PETITION FOR VARIANCE</b> | * | BEFORE THE OFFICE           |
| (911 Army Road)                     |   |                             |
| 9 <sup>th</sup> Election District   | * | OF ADMINISTRATIVE           |
| 2 <sup>nd</sup> Council District    |   |                             |
| Kathleen Lawman Lamb & James Lamb   | * | HEARINGS FOR                |
| <i>Legal Owners</i>                 |   |                             |
| Petitioners                         | * | BALTIMORE COUNTY            |
|                                     | * | <b>CASE NO. 2019-0215-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 Kathleen Lawman Lamb & James Lamb, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Sections 103.1 and 1B03.B of the Baltimore County Zoning Regulations (“BCZR”) to permit a front yard setback of 13 feet for a one story garage addition in lieu of the required 25 feet. A site plan was marked as Petitioners’ Exhibit 1. A revised site plan was submitted which shows Petitioners also propose to construct an addition (one story, 28’ x 28’) on the other side of the dwelling. That addition would be 17 ft. from the property boundary and thus the original variance request does not need to be amended.

Surveyor Bruce Doak, architect L.J. Link, Jr. and contractor Tim Hartman 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 21,780 square feet in size and is zoned DR.2. The property is improved with a small single family dwelling constructed in 1952. Petitioners propose to enlarge

the dwelling 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).

This property has a significant change of grade across the site, and the dwelling is situated at a 45° angle to the property boundaries. 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 additions. 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.

The DOP's ZAC comment included proposed conditions regarding the design and detailing of the proposed improvements. Mr. Link, an architect, provided floorplans and an elevation drawing (Petitioners' Exhibit Nos. 4-6) for the project and stated the design would address and incorporate the DOP's comments. The DOP also requested that existing vegetation along the road frontage be preserved to the extent possible. Mr. Hartman stated he did not believe there would be any impacts to the vegetation in that area.

THEREFORE, IT IS ORDERED, this 26<sup>th</sup> day of **March, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 103.1 and 1B03.B of the Baltimore County Zoning Regulations ("BCZR") to permit a front yard setback of 13 feet for a one story garage addition in lieu of the required 25 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.

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:dlw