

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(912 Frog Mortar Road)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Richard & Connie Huber	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0225-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 Richard and Connie Huber, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 1B01.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed replacement dwelling with a side set back of 7 feet in lieu of the required minimum side setback of 10 feet with a sum of side setbacks of 14 feet in lieu of the required 25 feet, and a lot width of 50 feet in lieu of the required 70 feet. A site plan was marked as Petitioners’ Exhibit 1.

Connie Huber and professional engineer William N. Bafitis 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 Bureau of Development Plans Review (“DPR”) and the Department of Environmental Protection and Sustainability (“DEPS”). Neither agency opposed the request.

The site is approximately 10,000 (50’ x 200’) sq. ft. in size and is zoned DR 3.5. The property is improved with a small (1,135 sq. ft.) single family dwelling constructed in 1924. Petitioners propose to raze the existing structure and construct in its place a 1,603 sq. ft. 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 lots were created by the plat of Revolea Beach, recorded in 1920 long 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 construct the proposed replacement 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.

THEREFORE, IT IS ORDERED, this **16<sup>th</sup>** day of **April, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 1B01.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed replacement dwelling with a side set back of 7 feet in lieu of the required minimum side setback of 10 feet with a sum of side yard setbacks of 14 feet in lieu of the required 25 feet, and a lot width of 50 feet in lieu of the required 70 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.
2. Prior to issuance of permits, Petitioners must comply with CBCA and flood protection regulations.

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:dlw