

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2274 Monocacy Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
David M. & Susan E. Evans	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0239-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by David M. & Susan E. Evans, 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”): (1) to approve an 11 ft. setback inside yard in lieu of the required 15 ft. side setback for sum of 22 ft. in lieu of the required 25 ft. total for both sides; (2) to approve lot width of 50 ft. in lieu of the required 70 ft.; and (3) to approve 9,000 sq. ft. lot area in lieu of the required 10,000 sq. ft. lot area. A revised site plan was marked as Petitioners’ Exhibit 1.

David & Susan Evans and professional engineer William 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. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”).

The site is approximately 9,000 square ft. in size and is zoned DR 3.5. The property is improved with a small (901 sq. ft.) single-family dwelling constructed in 1929. Petitioners propose to raze the existing structure and construct in essentially the same location a new

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 lot and improvements thereon long predated 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 19th day of **April, 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”): (1) to approve an 11 ft. setback inside yard in lieu of the required 15 ft. side setback for sum of 22 ft. in lieu of the required 25 ft. total for both sides; (2) to approve lot width of 50 ft. in lieu of the required 70 ft.; and (3) to approve 9,000 sq. ft. lot area in lieu of the required 10,000 sq. ft. lot area, 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 critical area regulations.

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