

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7222 Holabird Avenue)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Delmaris, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2019-0242-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Delmaris, LLC, legal owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from Sections 202.3.A.1 and 1B02.1.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing dwelling on an undersized lot of 5,009 sq. ft. in lieu of the required 10,000 sq. ft., lot width of 43 feet in lieu of the required 70 feet, a side yard setback of 8 feet in lieu of the required 10 feet and a determination that the merger doctrine does not prohibit the granting of the requested relief. A site plan was marked as Petitioner’s Exhibit 1.

Nikolaus Klosteridis appeared in support of the petition. James Heise, Esq. represented Petitioner. 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 subject property is approximately 5,009 square feet in size and is zoned R.O.A. The property is improved with a single-family dwelling constructed in 1919, which is now used for a law office. The property is comprised of Lot No. 582 as shown on the plat of Kimberly Farms. No changes are proposed to the subject property or structure. Petitioner owns the adjoining

property and in a companion zoning case (No. 2019-0241-A) seeks variance relief to construct a dwelling thereon. As such, this case was filed largely for housekeeping purposes since it is clear the dwelling/Class A office on the subject property would qualify as a lawful nonconforming use in any event.

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 was created long before the adoption of the BCZR. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to raze the structure which has existed at the site for over 100 years. 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.

Petitioner also requested a determination that the merger doctrine does not bar the variance relief sought herein. As discussed more completely in the companion case (No. 2019-241-A), I do not believe the adjoining properties have merged and the relief sought in both cases is therefore appropriate.

THEREFORE, IT IS ORDERED, this 1st day of **May, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Sections 202.3.A.1 and 1B02.1.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing dwelling on an undersized lot of 5,009 sq. ft. in lieu of the required 10,000 sq. ft., lot width of 43 feet in

lieu of the required 70 feet, a side yard setback of 8 feet in lieu of the required 10 feet, and a determination that the merger doctrine does not prohibit the granting of the requested relief, be and is hereby GRANTED.

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