

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(Dogwood Road)		
2 nd Election District	*	OF ADMINISTRATIVE
4 th Council District		
Sher Ahmad & Zardana Noori	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0276-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Sher Ahmad & Zardana Noori, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 1A07.8.B.5.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a dwelling with a setback of 150 ft. to the property line of a property that was cultivated or used for pasture land in the last three years (NW side of property) in lieu of the required 200 ft. setback. A site plan was marked as Petitioners’ Exhibit 1.

Sher Ahmad and architect Mohammed Mufti appeared in support of the petition. Two neighbors attended the hearing to obtain additional information regarding the request. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”). Neither agency opposed the request.

The site is approximately 16.324 acres in size and is zoned RC-6. Petitioners propose to construct a single-family dwelling on the lot but require zoning relief due to the 200 ft. setback requirement in the RC-6 regulations.

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 large tract is more than four times deeper than it is wide. 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 a dwelling in the location proposed, which is essentially in the center of the lot. 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 **13th** day of **May, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR”) to permit a dwelling with a setback of 150 ft. to the property line of a property that was cultivated or used for pasture land in the last three years (NW side of property) in lieu of the required 200 ft. setback, 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 the ZAC comments submitted by the DOP and DEPS, copies of which are attached.
3. The adjoining property is in active agricultural use and Petitioners may be subject to noise, odors, fumes and similar discomforts. Such agricultural operation shall not be considered a public or private nuisance provided it is operated in compliance with

federal, state and/or county requirements.

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