

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1342 Riverside Avenue)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
James F., Jr. & Kristin E. Cox	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0287-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 James F., Jr. & Kristin E. Cox, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Sections 1A04.3.A, 1A04.3.B.2.b and 301.1 of the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to approve a new single family dwelling with a lot size of 19,760 sq. ft. in lieu of the required 1.5 acre; (2) to allow a side yard setback of 10 ft. on each side in lieu of the required 50 ft., respectively; (3) to allow a height of 45 ft., in lieu of the max height of 35 ft.; (4) to allow a covered porch on the right side of the house with a 4 ft. setback in lieu of the required 37½ ft. setback; (5) increase lot coverage to 30.9463% in lieu of the max 15% lot coverage; and (6) to allow an accessory structure (garage) in front yard in lieu of the required rear yard. A site plan was marked as Petitioners’ Exhibit 1.

James F. Cox, Jr., appeared in support of the petition. There were no protestants or interested citizens in attendance. Mr. Cox presented letters of support from both of his adjoining neighbors. Pet. Ex. 3. 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”) the Department of Environmental Protection and Sustainability (“DEPS”),

and the Bureau of Development Plans Review (“DPR”). None of the agencies opposed the request.

The waterfront property is approximately 19,760 square feet in size and is zoned RC-5. The property is improved with a single-family dwelling constructed in 1939. Petitioners have a growing family and propose to raze the existing home and construct in essentially the same footprint a slightly larger dwelling. Given the significant setbacks required in the RC-5 zone Petitioners require zoning relief to construct the proposed 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 is narrow and deep and was created by a plat filed 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 a replacement dwelling on 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 3<sup>rd</sup> day of **June, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to approve a new single family dwelling with a lot size of 19,760 sq. ft. in lieu of the required 1.5 acre; (2) to allow a side yard setback of 10 ft. on each side in lieu of the required 50 ft., respectively; (3) to allow a height of 45 ft., in lieu of the max height of 35 ft.; (4) to allow a covered porch on the right side of the house with a 4 ft. setback

in lieu of the required 37½ ft. setback; (5) increase lot coverage to 30.9463% in lieu of the max 15% lot coverage; and (6) to allow an accessory structure (garage) in front yard in lieu of the required rear yard, 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 and flood protection regulations as well as the RC-5 performance standards.
3. The proposed detached garage shall not be used as a separate dwelling or for commercial purposes.

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