

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(2616 W. Woodwell Road)		
12 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
L & S Home Remodeling, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0296-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 L & S Home Remodeling, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit side setback of an existing foundation that are 9 ft. to the north side yard and 5 ft. to the southeast rear corner side yard in lieu of the required 10 ft. side yard due to the construction of a replacement home on an existing foundation. A site plan was marked as Petitioner’s Exhibit 1.

Charles Merritt and Edwin Sanchez 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 Planning (“DOP”). That agency did not oppose the request.

The site is approximately 4,515 square feet in size and is zoned DR 5.5. Petitioner proposes to construct a replacement dwelling on the same footprint/foundation as an existing home. Though initially issued a building permit to begin construction, County inspectors later told Petitioner variances would be required.

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).

Petitioner must contend with long-existing site conditions. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed replacement home. 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 10<sup>th</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”) to permit side setbacks of an existing foundation that are 9 ft. to the north side yard and 5 ft. to the southeast rear corner side yard in lieu of the required 10 ft. side yard due to the construction of a replacement home on an existing foundation, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.

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