

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(134 Winters Lane)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Esel Shemmeri	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0304-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Esel Shemmeri, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing dwelling with a side yard setback of 2 ft. in lieu of the minimum required setback of 10 ft. and to permit a rear yard addition with a 1 ft. side setback and a 15 ft. rear yard setback in lieu of the required 10 ft. and 30 ft., respectively.

Bryan Wynn representing Colossal Management Group on behalf of the Petitioners 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 9,660 square feet in size and is zoned DR 5.5.

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 subject property already has an existing dwelling with a 2 foot side yard setback. Petitioner wishes to extend the property in the rear, but the existing structure is situated in an extremely slight angle to the property line. Based upon the angle of that existing structure, the placement of the addition requested renders it unique. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to expand the structure in line with the existing building line. 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.

Although the Department of Planning has no objection, it conditions its approval upon the removal or relocation of an existing shed on the property. In his testimony, Mr. Wynn stated that the shed will in fact be removed and will not be relocated on the site.

THEREFORE, IT IS ORDERED, this 17th day of **June, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to permit an existing dwelling with a side yard setback of 2 ft. in lieu of the minimum required setback of 10 ft. and to permit a rear yard addition with a 1 ft. side setback and a 15 ft. rear yard setback in lieu of the required 10 ft. and 30 ft., respectively, 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 his 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.

2. The existing shed on the property shall be removed and not relocated on the site.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS/sln