

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2692-2698 Paper Mill Road)		
10 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Robert & Colleen Nelson, <i>et al</i> ,	*	HEARINGS FOR
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2019-0327-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Robert and Colleen Nelson, *et al*, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 1A07.8.B.5.a.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed dwelling with a rear setback of 30 ft. in lieu of the required 50 ft. A site plan was marked as Petitioners’ Exhibit 1.

Robert Nelson and Jeffrey Duerbeck 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. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

This case involves two unimproved lots created by a minor subdivision plan. The lots are shown as Lot Nos. 2 and 3 on the Hayes Property Plan, identified as PDM #07-077-M and approved in 2007. Due to grade changes across the site and the need to locate well and septic facilities, Petitioners determined the only desirable location for a new dwelling would be as shown on the site plan. The proposed dwelling would straddle the property boundary separating Lot 2 and Lot 3 (each of which is 1.5 acres in size) and be located in the northern portion of the

tract approximately 200 ft. +/- from Paper Mill Road.

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 property has an irregular shape and significant grade changes across the site. 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 the proposed dwelling. 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. According to the site plan the nearest home is 220 ft. +/- away and is not visible from the subject property. As such I do not believe granting the request would have any impact upon the community.

THEREFORE, IT IS ORDERED, this 17th day of **July, 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 proposed dwelling with a rear setback of 30 ft. in lieu of the required 50 ft., 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.

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