

| | | |
|-------------------------------------|---|-----------------------------|
| IN RE: PETITION FOR VARIANCE | * | BEFORE THE OFFICE |
| (4304 Highview Avenue) | | |
| 13 th Election District | * | OF ADMINISTRATIVE |
| 1 st Council District | | |
| Leah W. Paslick, <i>Legal Owner</i> | * | HEARINGS FOR |
| | | |
| Petitioner | * | BALTIMORE COUNTY |
| | | |
| | * | CASE NO. 2019-0436-A |

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Leah W. Paslick, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Sections 402.1 and 409.6 of the Baltimore County Zoning Regulations (“BCZR”) as follows: **(1)** to permit a single family conversion to a duplex that is zoned DR 5.5 and has a front building lot width of 53 ft. in lieu of the required 80 ft.; and **(2)** to permit two (2) parking spaces in lieu of the required four (4) [or 2 per dwelling unit]. A site plan was marked as Petitioner’s Exhibit 1.

Leah W. Paslick 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 opposes the request.

The site is approximately 18,786 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 now includes an addition previously constructed with a separate entrance, including handicap access, and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to carry out the internal modifications needed to create the duplex. 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 community opposition.

THEREFORE, IT IS ORDERED, this 5th day of **November, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief as follows: **(1)** to permit a single family conversion to a duplex that is zoned DR 5.5 and has a front building lot width of 53 ft. in lieu of the required 80 ft.; and **(2)** to permit two (2) parking spaces in lieu of the required four (4) [or 2 per dwelling unit], be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 her 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.

Signed _____
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:sln/dlw