

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(703 Fuselage Avenue)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Michael and Marla Jones	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0465-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 Michael and Marla Jones, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Sections 1B02.3.B and 303.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an addition with a front yard setback of 12 ft. in lieu of the front yard average of 16 ft. A site plan was marked as Petitioners’ Exhibit 1.

Michael Jones appeared in support of the petition. 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.

The site is approximately 5,000 sq. ft. in size and is split- zoned DR 5.5 and DR 10.5. There were no Protestants or interested citizens in attendance. Mr. Jones testified that he also owns the property next door at 705 Fuselage Avenue and he recently purchased the subject property at 703 Fuselage Avenue in order to renovate it so that his son can move in. He testified that the subject site was extremely overgrown, as depicted in Petitioner’s Exhibit 4 – a photo of the site. Mr. Jones testified that he has already removed most of the overgrown foliage and wants to proceed with the structural renovations and improvements. He submitted architectural

drawings of the planned renovations and additions (Petitioners' Exhibit 2), and also submitted a My Neighborhood zoning map (Petitioners' Exhibit 3).

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 site is long and narrow and abuts lots that are slightly larger. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to build the front porch that is part of the planned improvements to the structure. 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 conclusion is supported by the fact that there is no objection from any of the County agencies or from any neighbors.

**THEREFORE, IT IS ORDERED, this 22<sup>nd</sup> day of November, 2019, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 1B02.3.B and 303.1 of the Baltimore County Zoning Regulations ("BCZR") to permit an addition with a front yard setback of 12 ft. in lieu of the front yard average of 16 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 \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
For Baltimore County

PMM:sln