

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(9410 Park Heights Avenue)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Richard M. and Carolyn P. Susel	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0488-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Richard and Carolyn Susel, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Section 1A04.3.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing principal dwelling building with a front yard setback of 30 ft. in lieu of the required 50 ft. A site plan was marked as Petitioners’ Exhibit 1.

Landscape architect, Matt Bishop, appeared in support of the petition on behalf of the Petitioners. Timothy M. Kotroco, Esq. represented Petitioners. 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 Environmental Protection and Sustainability (“DEPS”).

The site is approximately 12.31 acres in size and is zoned RC-5. Petitioners are in the process of a minor subdivision of this estate property. This subdivision necessitates the variance relief requested. The site is approximately 12.31 acres in size and is zoned RC-5. Petitioners are in the process of a minor subdivision of this estate property into three parcels.

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 lot is irregularly shaped and its perimeter is in floodplain and forest buffers. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to meet the setback requirements for the existing main residence. 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 relief will maintain the integrity of the estate and have no adverse impact on the surrounding properties or the environment.

THEREFORE, IT IS ORDERED, this **11th** day of **December, 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 principal dwelling building with a front yard 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.
2. Prior to issuance of permits, Petitioners must comply with the ZAC comments made by the DEPS, a copy of which is attached hereto and made a part hereof.

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