

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(8103 Dundalk Avenue)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Thomas Charles Ogden	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2019-0502-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Thomas Charles Ogden, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an addition to connect the existing detached garage building to the dwelling with a side yard setback of 4 ft. and a rear yard setback of 7.5 ft. in lieu of the required 10 and 30 ft., respectively. A site plan was marked as Petitioner’s Exhibit 1.

Thomas Charles Ogden 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. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”). Neither agency opposed the request.

The site is approximately 6,000 square feet in size and is zoned DR 5.5. Mr. Ogden testified that he purchased this property, 8103 Dundalk Avenue, in 2014. He further explained that he has owned the house next door at 8105 Dundalk Avenue since 1993, and that his brother James Ogden owns the other adjoining property at 8101 Dundalk Avenue. Mr. Ogden explained

that he was not aware that by connecting the subject existing garage with the house that he was required to have greater side and rear setbacks. Mr. Ogden produced six letters from his surrounding neighbors stating that they are in support of the requested variance relief. These were admitted collectively as Petitioner's Exhibit 2. Photographs of the garage addition were admitted as Petitioner's Exhibit 3 and show that the addition is architecturally compatible with the style of the principal residence.

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 lot has a small portion of tidal floodplain at the rear and is crossed diagonally by overhead power lines. Mr. Ogden testified that this property is on slightly higher ground than the surrounding houses on the street and he has never experienced flooding, even during Hurricane Isabel. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would have to tear down the garage addition. 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 and the absence of County agency opposition.

THEREFORE, IT IS ORDERED, this 17th 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 addition to connect the existing detached garage building to the

dwelling with a side yard setback of 4 ft. and a rear yard setback of 7.5 ft. in lieu of the required 10 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.

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