

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1418 Second Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
2 ND 1418, LLC	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2019-0540-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by 2ND 1418, LLC, 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 approve a lot size of 4,944 sq. ft. in lieu of the required 6,000 sq. ft. lot width of 48 ft. in lieu of the required 55 ft. and an 8 ft. side yard setback in lieu of the required 10 ft., for an existing dwelling, and an open projection of 15.2 ft. in lieu of 18.75 ft. A site plan was marked as Petitioner’s Exhibit 1.

The property owner, William Kluttz, appeared in support of the petition. Timothy Kotroco, Esq. represented Petitioner. 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”) comment were received from the Department of Environmental Protection and Sustainability (“DEPS”) and from the Department of Planning (“DOP”).

The site is approximately 4,944 square feet in size and is zoned DR 5.5. It is within the Stansbury Manor development plat which was recorded in 1946. These lots are all 50 feet wide or less and are all approximately 5,000 sq. feet. The plat pre-dates the current zoning. The site has an existing home on it and the owner is simply renovating the interior and exterior of that

home, which will improve its appearance and property value.

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 is within a community of small homes on small lots that were built during and after World War II to house workers at Martin Aeronautics Company. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to complete the renovation of the residence on the property. 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, or County agency opposition.

THEREFORE, IT IS ORDERED, this **17th** day of **January, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to approve a lot size of 4,944 sq. ft. in lieu of the required 6,000 sq. ft. lot width of 48 ft. in lieu of the required 55 ft. and an 8 ft. side yard setback in lieu of the required 10 ft., for an existing dwelling, and an open projection of 15.2 ft. in lieu of 18.75 ft., 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 its 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.

2. Prior to issuance of Permits, Petitioner must comply with ZAC comments submitted by the DEPS, and the DOP, copies of which are 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