

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4102 Benson Avenue)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
2R Properties, LLC	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2019-0544-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by 2R Properties, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from §§ 255.1 and 238.2 of the Baltimore County Zoning Regulations (“BCZR”) for a side setback of 10 ft. in lieu of required 30 ft. for a rear setback of 10 ft. in lieu of the required 30 ft. A site plan was marked as Petitioner’s Exhibit 1.

Joseph Budelis from Ruff Roofing, Inc., and Rick Richardson from Richardson Engineering 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”) regarding the architectural and landscape designs. That agency did not oppose the request.

The site is approximately 1.98 acres in size and is zoned ML-IM. Ruff Roofing also owns the adjoining properties on either side of this parcel. There is a “hodge podge” of industrial buildings on the parcel which will be razed and replaced by this one proposed commercial building, which will be used for storage and for light manufacturing and fabrication associated

with the owner's roofing business. The existing buildings on the site are actually closer to the property lines than the proposed new building.

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 is in a light industrial area in southwestern Baltimore County. There is a residential property on one side, which is also owned by Ruff Roofing, and an industrial property on the other side owned by Ruff Roofing. The existing structures on the subject parcel have been built over a long period of time – some probably prior to the adoption of the BCZR. The existing buildings do not conform to the BCZR setback requirements. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed commercial structure for its business. 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. In fact, the evidence presented establishes that razing the existing structures on the parcel and replacing them with this one modern structure will enhance the appearance, safety, and value of the property. It will also enable this Baltimore County business to continue to grow.

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 for a side setback of 10 ft. in lieu of required 30 ft. for a rear setback of 10 ft.

in lieu of the required 30 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 DOP, 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