

IN RE: PETITION FOR VARIANCE
(621 George Avenue)
15th Election District
7th Councilman District
Gloria J. Fair-Pineda
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0136-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Gloria J. Fair-Pineda, the legal owner of the subject property. The Petitioner is requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling to be built on a lot with a 50 ft. width in lieu of the required 55 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Gloria J. Fair-Pineda. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no interested citizens in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the record of this case. There were no substantive comments from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 7,500 square feet and is zoned DR 5.5. The property is vacant, although Petitioner indicated she may construct a dwelling on the lot, and realized she would need variance relief to do so.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioners have met this test. The property is part of a subdivision known as "Landa's Subdivision," which was created in 1920, long before the adoption of the B.C.Z.R. The Petitioner testified that she grew up on an adjoining street, and she stated that all of the lots in the neighborhood are 50' wide, and that this property is one of the last vacant lots in the subdivision. Thus, the property is unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship, since she would be unable to construct a dwelling on the lot. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of opposition from County reviewing agencies.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 14th day of February, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 1B02.3.C.1. of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling to be built on a lot with a 50 ft. width in lieu of the required 55 ft, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:slh