

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3015 Edrich Way)		
2 nd Election District	*	OF ADMINISTRATIVE
4 th Councilman District		
Jamille & Antwaun R. Lee	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0231-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Jamille & Antwaun R. Lee, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit (1) a proposed single family dwelling with a side yard setback of 45 ft. in lieu of the required 50 ft.; and (2) to amend the Final Development Plan of Edrich Manor East, Lot #17 only.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Morgan C. Kelly, a builder who is assisting the Petitioners. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from Department of Planning (DOP) dated May 2, 2013 indicating certain information must be submitted to the DOP in order for it to complete the findings required by the B.C.Z.R. for

development in an RC 5 zone.

Testimony and evidence revealed that the subject property is approximately 1.501 acres and is zoned RC 5. The owners of the lot have hired a builder and designed a house they like. Given the configuration of the lot and the relatively large setbacks required in the RC 5 zone, the Petitioners need variance relief before they can begin the project.

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 lot (#17 on Exhibit 1) has very irregular dimensions, and the northern property line follows the curvature of Edrich Way. Thus, the property is unique, and in a way that is germane to the need for variance relief.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they would be unable to construct the home they have designed. 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.

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 7th day of June, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit a proposed single family dwelling with side yard setbacks of 45 ft. in lieu of the required 50 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Final Development Plan for Edrich Manor East, Lot # 17 only, be and hereby is AMENDED in accordance with the terms of this Order.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Prior to issuance of a building permit the Petitioners must submit the requested materials to the DOP and obtain from that agency a positive finding that the development satisfies the performance standards set forth in B.C.Z.R. § 1A04.4

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:sln