

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(332 Miles Road)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Councilman District		
Darryl R. & Sharon Hitt	*	HEARINGS FOR
<i>Legal Owners</i>		
Petitioners	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0239-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Darryl R. and Sharon Hitt, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard of 10 ft. and a sum of side yard setbacks of 20 ft. in lieu of the required 10 ft. minimum and 25 ft. total, and to allow a lot width of 50 ft. in lieu of the required 70 ft.

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 Darryl Hitt and Rick Richardson, the engineer that prepared the site plan. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from Department of Environmental Protection and Sustainability (DEPS), which noted Petitioners must comply with the Critical Area regulations.

Testimony and evidence revealed that the subject property is approximately 0.261 acres and is zoned DR 3.5. The site is improved with an existing single family dwelling (1,030 SF)

originally constructed in 1929. Petitioners propose to raze that dwelling and construct in its place a two-story dwelling (1,260 SF). To do so requires variance relief.

Based upon the testimony and evidence presented, I will grant the Petition 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 Petitioners must contend with existing site conditions (i.e., deficient setbacks and lot width) which renders the property unique for zoning purposes.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, given they 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 County and/or community opposition.

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 8th day of July, 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 side yard of 10 ft. and a sum of side yard setbacks of 20 ft. in lieu of the required 10 ft. minimum and 25 ft. total, and to allow a lot width of 50 ft. in lieu of the required 70 ft., be and is hereby GRANTED.

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 their 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.
- Petitioners must comply with the ZAC comments submitted by DEPS (dated May 9, 2013), a copy of which is attached hereto.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln