

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(3309 E. Joppa Road)		
11th Election District	*	OFFICE OF ADMINISTRATIVE
5th Council District		
Meher, LLC c/o Alireza Nejad	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2020-0059-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Variance filed by the legal owners of the subject property, Meher, LLC c/o Alirez Nejad (“Petitioner”). The Petitioner is requesting Variance relief pursuant to Baltimore County Zoning Regulations (“BZCR”) § 1B01.3.C.1 to allow a front setback of 7.0 ft. in lieu of 18.75 ft. for an open projection (porch) and 10.6 ft. in lieu of 25 ft. for a dwelling. A site plan was marked as Petitioner’s Exhibit 1.

Due to the COVID-19 pandemic, a WebEx hearing was conducted remotely by computer and/or phone participation. Petitioner Meher, LLC, c/o Alireza Nejad, appeared in support of the requested relief. Timothy M. Kotroco, Esq. appeared on behalf of the Petitioner. There were no protestants in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) on June 5, 2020. They did not oppose the requested relief. However the DOP noted that the property is a current CZMP Issue 5-5005 which proposes to change the zoning from DR 5.5 CB (Commercial Business). The Planning Board voted to approve the requested change, however the final zoning decision has yet to be made by the County Council.

Mr. Kotroco advised that his client purchased the property in 2019 with the intention of selling or leasing the property as a home business location such as a Tax Service or Art Studio. Mr. Kotroco explained that the need for variance relief arises out of the incremental widening of Joppa Road over the years. Mr. Kotroco explained that Joppa Road was once a Native American hunting trail and over the years it has become a 5 lane highway. The subject residence was built in 1922 and whereas it used to have a substantial front yard it now sits much closer to the road due to the road widening.

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 12,599 in size and zones DR 5.5. The property was originally fairly symmetrical with the house sited in the center, but as noted above, due to the ever widening Joppa Road the house now sits quite close to the road. As such the property is unique. It is this road widening that necessitates the requested front setback variances.

THEREFORE, IT IS ORDERED, this day 25th of **August, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to § 1B01.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to allow a front setback of 7.0 ft. in lieu of 18.75 ft. for an open projection (porch) and 10.6 ft. in lieu of 25 ft. for a dwelling is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that

proceeding at this time is at his 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
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm