

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(Kenwood Avenue)		
14 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
Bishop C.N. Bailey and his Successor	*	HEARINGS FOR
Trustees, as Trustee for the United House		
Of Prayer for all People of the Church	*	BALTIMORE COUNTY
On the Rock of the Apostolic Faith		
	*	Case No: 2020-0210-A
Petitioner		
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Bishop C. N. Bailey and his Successor Trustees, as Trustee for the United House of Prayer for all People of the Church on the Rock of the Apostolic Faith legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 303.2 of the Baltimore County Zoning Regulations (“BCZR”) to allow front yard depth of 22 feet, which is less than the 35.5 feet average depth of the front yards of all lots within 100 feet on each side. A site plan was marked as Petitioner’s Exhibit 1.

The Pastor, Elder Charles Weathers, appeared in support of the petition. Edward Gillis, Esq. represented Petitioner and was assisted by John Gonzalez, the licensed engineer who prepared the site plan. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order. Special Hearing and other variance relief was previously granted in Case No. 2019-0420-SPHA. Mr. Gillis explained that when the previous zoning relief was requested the Office of Zoning Review did not identify the need for relief from BCZR § 303.2.

The site is approximately .7946 acres in size and is zoned in BL, AS, DR 5.5.

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).

Under principles of *res judicata* and issue preclusion these elements have already been satisfied by the Order in Case No. 2019-0420-SPHA. Based on the proffer of Mr. Gilliss I find that this additional incremental setback relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this **9th** day of **February, 2021** by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 303.2 of the Baltimore County Zoning Regulations (“BCZR”) to allow front yard depth of 22 feet in lieu of the required 35.5 foot front yard average be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.
- Petitioner must comply with the DOP and DEPS Zac comments, copies of which are attached hereto and make a party thereof.

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