

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(1639 Hopewell Avenue)</b>		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Toro Services, LLC	*	HEARINGS FOR
Legal Owner		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2020-0236-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Toro Services, LLC for property located at 1639 Hopewell Road. The Petitioner is requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the minimum required 100 ft. and side yard setbacks of 10 ft. and 20 ft. with a sum of 20 in lieu of the minimum required 15 ft. with a minimum sum of 40 ft. respectively.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”) which indicates that the subject property is located with the Chesapeake Bay Critical Area (“CBCA”). Subject to certain conditions, which will be incorporated in this Order, neither agency opposes the relief.

Jose Urbina appeared on behalf of Toro Services, LLC at the hearing. David Billingsley also appeared on behalf of the Petitioners, and the site plan he prepared was admitted as Petitioner’s Exhibit 1. Gary Berger, Esquire, represented the Petitioner. The adjoining property

owners, Crystal Francis, and Darby Bonsall, attended the hearing and voiced their opposition to the requested variances. The subject property is approximately 26,700 sq. ft. and is zoned DR 2.

Mr. Billingsley explained that the lot was created in 1954. It is irregularly shaped because a 50' x 140' portion of the original parcel was "saved and excepted." On that lot is 1641 Hopewell Avenue, Ms. Bonsall's home. In addition, the portion of the subject property that is 100' wide, and that could accommodate the required setbacks, is subject to a Chesapeake Bay Critical Area Easement, and therefore cannot be built on.

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 property is unique within the meaning of the law. Although it is more than half an acre in square footage, the portion of the lot that is not subject to the CBCA easement is only 50 feet wide. Therefore, if the variance relief is not granted the Petitioner will be unable to build anything on the lot. As the photos and plats show, there are numerous other 50' lots with homes on the street so this proposed residential structure will be compatible with the neighborhood. Further, the DEPS has concluded that the proposed structure will not be harmful to the environment provided the CBCA and LDA restrictions are complied with.

THEREFORE, IT IS ORDERED, this **17th** day of **February 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations ("BCZR") § 1B02.3.C.1 to permit a lot width of 50 ft. in lieu of the minimum required 100 ft. and side yard setbacks of 10 ft. and 20 ft. with a sum of 20 in lieu of the minimum

required 15 ft. with a minimum sum of 40 ft. respectively 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 their 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 DEPS and DOP ZAC comments, copies of which are attached hereto and made a part hereof.

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