

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(2817 Sparrows Point Road)		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Emmanuel K. Holmes &	*	HEARINGS OF
Lauren Holmes		
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2021-0104-A
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Emmanuel K. Holmes and Lauren Holmes (the “Petitioners”) for property located at 2817 Sparrows Point Road (the “Property”). The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”), §1B02.3.C.1 to allow a side street setback of 15 ft. in lieu of the required 25 ft. (street corner side yard), and a front yard setback of 8 ft. in lieu of the required 14 ft. average front street setback.

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. Patrick “Rick” Richardson of Richardson Engineering, appeared and prepared a site plan (the “Site Plan”). (Pet. Ex. 1). There were no opposing parties or interested citizens.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief.

Mr. Richardson explained that the Property is 0.14 acres +/- (5,946, sf +/-) and is zoned Density Residential (DR 5.5). It is a corner lot fronting on Sparrows Point Rd. and Orth Rd. The Lot was created as part of a record plat in 1947. (Pet. Ex. 2, 3). Under current BCZR, it is

undersized with a width of 52.3 ft. Mr. Richardson explained that the original home built in 1929 burned down. Photographs of the home and yard were provided. (Pet. Ex.4). The Property also has two (2) carports and a garage. The carport along Orth Rd will be removed; the carport and garage accessed by private driveway in the rear will remain. (Pet. Ex. 1).

The Petitioners desire to construct a replacement dwelling in or about the same location as the original home except that the replacement home is proposed to be located 8 ft. from the front property line and 15 ft. from the boundary with Orth Rd. (Pet. Ex. 1). The proposed front setback of 8 ft. will enable the front of the replacement dwelling to be equal with the front building line of the adjacent home located at 2815 Sparrows Point Rd. The proposed home will meet the 10 ft. side yard setback facing that adjacent home. Mr. Richardson explained that in order to build a useable, modern home, it needs to be wider than the former one and therefore, needs to be setback 15 ft. from the boundary of Orth Rd.

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 in that it is a corner lot bounded by 2 streets, and was previously improved with a long narrow house. It is also improved with 2 carports and a garage. I find that the Petitioners would suffer practical difficulty and unreasonable hardship if the variance relief for the front setback was not granted because the front of proposed house would not line up evenly with the home at 2815 Sparrows Point Rd. I further find that the requested side yard setback of 15 ft. is appropriate in order to build a home which is wider and therefore more usable than the

original home. I further find that because the requested side yard setback is from Orth Rd., it will not be injurious to any property owners. Additionally, the existing carport along Orth Rd. is currently set very close to Orth Rd. and will be removed. As such, the requested side yard setback along Orth Rd. will have less adverse impact than the carport. I find that the requested front and side yard setback variances are within the spirit and intent of the BCZR and that they will not harm the public health, safety, and welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this 18th day of **June 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, §1B02.3.C.1 to allow a side street setback of 15 ft. in lieu of the required 25 ft. (street corner side yard), and a front yard setback of 8 ft. in lieu of the required 14 ft. average front street setback, be and they are hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are 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, Petitioners would be required to return the subject property to its original condition.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm