

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(3000 New York Avenue)</b>		
13th Election District	*	OFFICE OF ADMINISTRATIVE
1st Council District		
MMGE Properties, LLC	*	HEARINGS OF
Legal Owner	*	BALTIMORE COUNTY
<b>Petitioner</b>	*	<b>CASE NO. 2021-0075-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by MMGE Properties, LLC, Petitioner for property located at 3000 New York Avenue. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to permit an existing dwelling and a proposed rear yard addition with a side street setback of 10 ft. in lieu of the required 25 ft.

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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

There were no protestants or interested citizens that appeared at the hearing.

The Petitioner appeared at the hearing. Adam Carballo of Carballo Architects also appeared and assisted at the hearing. The subject property is approximately 6,250 square feet and is zoned DR 5.5. Mr. Carballo explained the site plan in some detail. Specifically, he explained that the proposed addition will be on the same plane as the existing structure and therefore no closer to the property line. He also noted that since this is a corner lot there is no adjoining residence that would be impacted.

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 site is unique for a variety of reasons, including the fact that it is a corner lot with an existing dwelling that predates the zoning regulations. If the requested variance were denied the petitioner would suffer practical difficulty and hardship because it would be unable to construct the proposed improvements. I find that the variance can be granted within the spirit and intent of the BCZR and without causing harm to the general health, safety or welfare. This finding is buttressed by the lack of agency or community opposition.

THEREFORE, IT IS ORDERED, this 17th day of **May 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 1B02.3.C.1 to permit an existing dwelling and a proposed rear yard addition with a side street setback of 10 ft. in lieu of the required 25 ft. 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.

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

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Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM/dlm