

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(9 Huntersworth Court)		
4th Election District	*	OFFICE OF ADMINISTRATIVE
2nd Council District		
Harold M. Walter & Ann H. Walter	*	HEARINGS OF
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2021-0078-A
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Harold M. Walter and Ann H. Walter, Petitioners for property located at 9 Huntersworth Court. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1A04.3.B.2.b to permit a proposed addition to the existing dwelling with a side yard setback of 41 ft. in lieu of the required side yard setback of 50 ft. and as shown on the plat entitled "Resubdivision of Lots 35 thru 44 Huntington Section 3" and recorded in Plat Book 65, page 44.

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.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), and the Department of Environmental Protection and Sustainability (“DEPS”). They did not oppose the requested relief, subject to proposed conditions by DEPS, which will be incorporated into the Order. There were no protestants or interested citizens that appeared at the hearing.

The Petitioners, Harold and Ann Walter appeared at the hearing. Bruce Doak of Bruce E.

Doak Consulting also appeared and assisted the Petitioners at the hearing. The subject property is approximately two acres and is zoned RC-5, RC-2. Mr. Doak explained the site plan and other exhibits in detail. He also explained the unique site features, including the topography and the presence of a stream and forest buffers. As shown in the photos of the site, there is mature landscaping and substantial vegetative buffers between the proposed addition and the nearest adjoining residence. Mr. Walter testified that he and his wife are making these proposed improvements, including an elevator, so that they can “age in place” at their home, which they love.

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, as described above. Petitioners would suffer practical difficulty and hardship if the variance relief were denied because they would be unable to construct the proposed improvements. I find that the variance relief can be granted within the spirit and intent of the BCZR and without harming the public health, safety or welfare. This finding is buttressed by the fact that the adjacent neighbors have all voiced their support (Petitioners’ Exhibit 9).

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 § 1A04.3.B.2.b to permit a proposed addition to the existing dwelling with a side yard setback of 41 ft. in lieu of the required side yard setback of 50 ft. and as shown on the plat entitled "Resubdivision of Lots 35

thru 44 Huntington Section 3" and recorded in Plat Book 65, page 44 is 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.
- Petitioners must comply with the DEPS ZAC comment, a copy of which is attached hereto and make a part 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

PMM/dlm