

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(3708 Patapsco Avenue)		
15th Election District	*	OFFICE OF ADMINISTRATIVE
6th Council District		
Herman F. & Mollie S. Bellew	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Chesapeake Custom Properties, LLC	*	Case No: 2020-0162-A
<i>Contract Purchaser/Lessee</i>	*	
Petitioners	*	

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Lisa L. Morris, acting under a Durable Power of Attorney for her deceased parents, Herman F. and Mollie S. Bellew for property located at 3708 Patapsco Avenue. The Petitioners and contract purchasers, Chesapeake Custom Properties, LLC, are requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed new dwelling on an existing lot of record with a side yard setback of 10 feet and 10 feet in lieu of the required 10 feet and 15 feet minimum; and to permit a proposed new dwelling on an existing lot of record with a side yard setback sum of 20 feet in lieu of the required 25 feet minimum; and a proposed new dwelling on an existing lot of record with a lot width of 50 feet in lieu of the required 70 feet minimum lot width.

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 Environmental Protection Sustainability (“DEPS”) which indicated the property is located within the Chesapeake Bay Critical Area (“CBCA”) and is subject to Critical Area requirements. In addition, a ZAC comment was received from the Department of Planning (“DOP”) they did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

Charles Wolinski from Chesapeake Custom Properties appeared in support of the requested relief. David Billingsley, the licensed surveyor who prepared the site plan also appeared on behalf of the Petitioners. They were represented by Adam Rosenblatt, Esquire, of Venable, LLC.

The subject property is approximately 14,000 square feet and zoned DR 3.5. Mr. Rosenblatt preferred that the subject property is part of the Seneca Creek waterfront community whose record plat dates to 1926, which predates the BCZR. He further explained that all of the lots in the neighborhood are only fifty feet wide, and all but one on this street have single family homes on them. There is an existing residential foundation on the lot and the proposed new home will be sited in essentially the same footprint.

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 subject property is unique in that it is part of a community that was laid out and platted well before the current zoning regulations were enacted. The petitioner would suffer practical difficulty and hardship if the variance relief was denied because they would be unable to construct

any dwelling on the lot. I find that the variances can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare. The property is served by public water and sewer. Further, the DEPS and DOP both noted that the subject lot is within the Chesapeake Bay Critical Area, however, the petitioners are aware that environmental and flooding concerns must be addressed prior to the issuance of building permits.

THEREFORE, IT IS ORDERED, this **17th** day of **November, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to (“BCZR”) § 1B02.3.C.1 to permit a new dwelling on an existing lot of record with side yard setbacks of 10 feet and 10 feet in lieu of the required 10 feet and 15 feet minimum; to permit a new dwelling on an existing lot of record with a side yard setback sum of 20 feet in lieu of required 25 feet minimum; and to permit a new dwelling on an existing lot of record with a lot width of 50 feet in lieu of the required 70 feet minimum lot width 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 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

PMM/dlm