

IN RE: PETITION FOR VARIANCE
(359 Stillwater Road)
15th Election District
7th Council District
Reggie & Josie Dowell
Legal Owners

Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
*
* **CASE NO. 2020-0120-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Reggie & Josie Dowell for property located at 359 Stillwater Road. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to allow a lot width of 50 ft. in lieu of the required 55 ft. in a DR 5.5. zone.

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.

Petitioners Reggie and Josie Dowell, appeared in support of the requested relief. William N. Bafitis, P.E. appeared and assisted the Petitioners. There were no protestants in attendance.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the agency did not oppose the requested relief.

The subject property is approximately .229 acres and is zoned DR-5.5. Mr. Bafitis explained that the parcel was originally recorded in 1913 as part of the Back River Highlands subdivision plat. This subdivision predates the BCZR and all of the lots are 50 feet wide, which fails to meet the current 55 foot minimum width required under BCZR § 1B02.3.C.1. The lot in

question is, however, 200 feet deep and, as depicted on the site plan, all setback requirements will be met. The Petitioners intend to construct a home on the lot that will be their primary residence.

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 is what necessitates the requested 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).

As noted above, the subject property is unique because it is part of a subdivision that was laid out and recorded prior to the enactment of the BCZR. The petitioners would experience practical difficulty and hardship if the variance were denied because they would be able to build on their lot. I find that the variance can be granted within the spirit and intent of the BCZR, and specifically in conformance with BCZR § 304.1, which “grandfathers” narrow lots such as this provided that all other area and setback requirements are met.

THEREFORE, IT IS ORDERED, this 22nd day of **October, 2020** by the Administrative Law Judge for Baltimore County, that the Petition for Variance from, BCZR § 1B02.3.C.1 to allow a lot width of 50’ in lieu of the required 55’ in a DR 5.5 zone be and is hereby GRANTED.

- 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.

Signed _____

PAUL M. MAYHEW
Managing Administrative Law Judge for
Baltimore County

PMM:dlm