

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(2419 Crestnoll Road)		
8th Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Isham, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2020-0072-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Isham, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §§1A04.3.B.4 and 1A04.3.2.b to permit a side yard to street setback of 30 ft. in lieu of the required 50 ft. and a side yard street to centerline setback of 57 ft. in lieu of the required 75 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 Petitioner’s Exhibit 1.

Ida Shamis, appeared in support of the petition on behalf of the Petitioner. There were no protestants or interested citizens in attendance. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). Ms. Shamis testified that she is the home owner, although the home is titled in the name of an LLC she owns. She explained that this is her primary residence and that her elderly parents also reside there.

The site is approximately .088 acres in size and is zoned RC-5. Petitioner desires to construct an attached garage on a portion of the existing driveway in order to accommodate

ingress and egress to the residence for her and her parents. She testified, and the site plan depicts, that the subject lot is on a corner and that the proposed garage structure would not be in proximity to any other residences.

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. The lot is long and rectangular. The existing residence is sited at angles to Dover and Crestnoll Roads, rather than facing either one. If the Petitioner is not afforded the requested variance relief she will experience hardship because she will be unable to construct the garage she needs in order to transport herself and her parents in and out of the residence safely in all weather conditions.

THEREFORE, IT IS ORDERED, this **22nd** day of **September, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §§1A04.3.B.4 and 1A04.3.2.b of the Baltimore County Zoning Regulations (“BCZR”) to permit a side to street setback of 30 ft. in lieu of the required 50 ft. and a side street to centerline setback of 57 ft. in lieu of the required 75 ft., be and 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 her 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.
- Prior to issuance of permits, Petitioner must comply with the ZAC comments made by the DOP, a copy of which is attached hereto and made a part hereof.

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