

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(6817 Fifth Avenue – Lots 14 & 15)	*	OFFICE OF ADMINISTRATIVE
12th Election District	*	HEARINGS OF
7th Council District	*	BALTIMORE COUNTY
1735 Searles, LLC	*	CASE NO: 2021-0164-A
Legal Owner	*	
Petitioner	*	
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by 1735 Searles, LLC for property located at 6817 Fifth Avenue – Lots 14 & 15. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to permit a side street setback of 17 ft. in lieu of the required minimum 25 ft., and any other variances deemed necessary by the Administrative Law Judge (“ALJ”).

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.

A Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) they did not oppose the requested relief however conditions will be made in the Order.

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

The Petitioner, James Gay appeared at the hearing. J. Scott Dallas, a licensed property line surveyor, also attended and assisted the Petitioner at the hearing. The subject property is approximately 6,875 sq. ft. and is zoned DR 5.5. Mr. Dallas explained the site plan and the need for the variance relief. 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 in that it consists of a double lot in a subdivision that was recorded in 1917, far before the adoption of the BCZR. It is also a corner lot with double frontage on two public streets, which necessitates the variance relief. Therefore, if the relief were denied the Petitioner would suffer practical difficulty and hardship. I find that the variance can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this 16th day of **August 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 1B02.3.C.1 to permit a side street setback of 17 ft. in lieu of the required minimum 25 ft. be and hereby is, **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.
- Prior to issuance of permits the Petitioner shall submit architectural elevations to the Department of Planning for their review and comment.
- The mature tree on the property shall be preserved unless it is shown that it is diseased and a hazard.

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

A handwritten signature in black ink, appearing to read "Paul M. Mayhew". The signature is written in a cursive, flowing style.

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm