

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(812 Creek Road)</b>		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
C & P Continental Construction, LLC	*	HEARINGS OF
Legal Owner	*	BALTIMORE COUNTY
<b>Petitioner</b>	*	<b>CASE NO: 2021-0136-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by C & P Continental Construction, LLC for property located at 812 Creek Road. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to permit a buildable DR 5.5 lot width of 48 ft., and side yard setback of 8 ft. in lieu of the required 55 ft. and 10 ft., respectively.

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, which will be incorporated into the Order.

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

The Petitioner, Carlos Vinicio Chacon Arevalo appeared at the hearing. J. Scott Dallas attended and assisted the Petitioner at the hearing. The subject property is approximately 12,322 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 is an irregular trapezoid shape and has water frontage. It is also subject to the Chesapeake Bay Critical Area (“CBCA”) regulations. If the variances were denied the Petitioner would suffer practical difficulty and hardship because the lot would be unbuildable. I find that the modest variances are within the spirit and intent of the BCZR and that the relief will not harm the public health, safety, and welfare; especially since the relief is conditioned on compliance with the DEPS comments concerning the CBCA.

THEREFORE, IT IS ORDERED, this **6<sup>th</sup>** day of **July 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 1B02.3.C.1 to permit a buildable DR 5.5 lot width of 48 ft., and side yard setback of 8 ft. in lieu of the required 55 ft. and 10 ft., respectively 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 DEP ZAC comments, a copy of which are attached hereto and made a part thereof.

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