

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(3014 Willow Avenue)</b>		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Kenneth M. Vicari, Estate	*	HEARINGS OF
Legal Owner		
Jerry Ciezkowski	*	BALTIMORE COUNTY
Contract Purchaser		
<b>Petitioners</b>	*	<b>CASE NO: 2021-0256-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Kenneth M. Vicari, Estate (“legal owners”) and Jerry Ciezkowski (“contract purchaser/lessee”) Petitioners for property located at 3014 Willow Avenue. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §§ 1B02.3.C.1, 303.1 and 301.1 to permit a proposed dwelling with a front yard setback of 13 ft. in lieu of the required 27.5 ft.; a rear yard setback of 23 ft. in lieu of the required 30 ft., an open porch with a front yard setback of 8 ft. in lieu of the required 18.75 ft., and an open deck with a rear yard setback of 11 ft. in lieu of the required 22.5 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 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 who attended the hearing.

The Petitioner Jerry Ciezkowski appeared at the hearing. David Billingsley, appeared and assisted the Petitioner. The subject property is 6,363 square feet. It is zoned DR 5.5. It is lot 19 of the Triple Union Annex subdivision that was recorded in 1938, prior to the enactment of the Baltimore County Zoning Regulations.

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 a couple respects. It is an irregular trapezoidal shape and is very shallow. And, as noted above, the lot was created prior to the adoption of the BCZR. The shallow dimensions of the lot necessitate the setback variances. If the variances were denied the Petitioner would suffer practical difficulty and hardship because he would be unable to build the proposed dwelling. I find that the variances are within the spirit and intent of the BCZR and that the requested relief will not harm the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this **24th** day of **November 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §§ 1B02.3.C.1, 303.1 and 301.1 to permit a proposed dwelling with a front yard setback of 13 ft. in lieu of the required 27.5 ft.; a rear yard setback of 23 ft. in lieu of the required 30 ft., an open porch with a front yard setback of 8 ft. in lieu of the required 18.75 ft., and an open deck with a rear yard setback of 11 ft. in lieu of the required 22.5 ft. is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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.
- Petitioners must comply with the DOP and DPR ZAC comments, copies of which are attached hereto and make a part 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