

IN RE: PETITION FOR VARIANCE
(1216 Susquehanna Avenue)
15th Election District
6th Council District
Richard Pasko, Jr.
Legal Owner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS OF
* BALTIMORE COUNTY
*
* **CASE NO: 2021-0260-A**

Petitioner

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Richard Pasko, Jr. Petitioner for property located at 1216 Susquehanna Avenue. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §§ 1B02.3.B.1 and 400.1 to permit a proposed addition with a side setback of 8 ft. with a sum of 20 ft. in lieu of the required 10 ft. with the sum of 25 ft., and to allow an existing accessory structure located in the front yard in lieu of the required rear yard.

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 5.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”), and from Development Plans Review. These agencies did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order. There were no protestants or interest citizens who attended the hearing.

The Petitioner Richard Pasko, Jr., appeared at the hearing. Bernadette Moskunas of Site Rite, Inc., appeared and assisted the Petitioner. The subject property is approximately 14,150 sq.

ft. and is zoned DR 3.5. The lot has frontage on Frog Mortar Creek. Ms. Moskunas explained that this lot is part of a subdivision plat that was recorded in 1910, prior to the enactment of the Baltimore County Zoning Regulations. It is long and very narrow. The Petitioner is reconstructing the existing dwelling that was recently heavily damaged. It will be built on the existing foundation and within the existing footprint. Petitioner is also building a two story addition on the water side of the dwelling.

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 for a variety of reasons. It is long and narrow and waterfront. It is part of a subdivision that was recorded long before the adoption of the BCZR. Petitioner would suffer practical difficulty and hardship if the variance relief were denied because the lot is not wide enough to meet the DR 3.5 setbacks and without the variances the proposed improvements could not be built. I find that the requested relief is within the spirit and intent of the BCZR and that it 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.B.1 and 400.1 to permit a proposed addition with a side setback of 8 ft. with a sum of 20 ft. in lieu of the required 10 ft. with the sum of 25 ft., and to allow an existing accessory structure located in the front yard in lieu of the required rear yard.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 DEPS and DPR ZAC comments, copies 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.

Signed

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm