

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8417 Greenspring Avenue)	*	OFFICE OF
3 rd Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
Thomas & Leslie Ries		
Legal Owners	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2021-0192-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Thomas and Leslie Ries Petitioners. The Special Hearing was filed pursuant to the From the Baltimore County Zoning Regulations (“BCZR”) § 1A04.3.B.1.b(1) to approve an existing recorded lot which was in existence prior to September 2, 2003, that does not meet the current minimum acreage requirement or the setback requirements.

In addition, a request for variance relief from BCZR § 1A04.3.2.b to permit an existing dwelling to have a rear setback of 20 ft. in lieu of the required 50 ft. To permit a proposed addition to have a rear setback of 10 ft. in lieu of the required 50 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 Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”), they did not oppose the relief subject to proposed conditions, which will be incorporated into the Order.

Thomas Ries and Leslie Ries appeared at the hearing. Bruce E. Doak of Bruce Doak Consulting appeared and assisted the Petitioners. The site plan he prepared was admitted as Petitioner's Exhibit 1.

RECORD EVIDENCE

The property is approximately 1.4717 acres and is zoned RC 5. Mr. Doak explained that the dwelling on the property was built in 1934 and the lot was created in 1949. The lot is long, narrow and irregularly shaped with steep topography. Due to the topography the house is built partially into the wooded slope at its rear. Currently there is an open deck on the back of the house. The proposed 9 x 14 addition will essentially be in the footprint of the deck, which will be removed. With reference to Petitioners' Exhibit 5, an aerial photo, Mr. Doak demonstrated that the subject lot is surrounded by mature forest and that the proposed addition will not adversely impact any neighboring properties. The variance relief is needed due to the siting of the dwelling near the rear property line – again, due to the topography of the site.

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).

As noted above, the site is unique in that it is long and narrow with steep slopes. These dimensions and topography necessitate the variance relief. I find that the Petitioners would suffer practical difficulty and hardship if the variance relief was denied because they would be unable to proceed with their project. I further find that the variance 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 **30th** day of **September 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR § 1A04.3.B.1.b(1) to approve an existing recorded lot which was in existence prior to September 2, 2003, that does not meet the current minimum acreage requirement or the setback requirements.is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Variance from BCZR, § 1A04.3.2.b to permit an existing dwelling to have a rear setback of 20 ft. in lieu of the required 50 ft. To permit a proposed addition to have a rear setback of 10 ft. in lieu of the required 50 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 DEPS ZAC comment, 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.

PMM/dlm

Signed

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County