

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Jerusalem Road, 32 feet E
from Jerusalem Glen Court
11th Election District
3rd Councilmanic District
(12126 Jerusalem Road)

Diana Dudek
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0277-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Diana Dudek for property located at 12126 Jerusalem Road. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 15 feet in lieu of the required 50 feet and/or 37 feet as permitted in previous zoning Case No. 1973-0298. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner wishes to construct a one-story basement level addition containing 758 square feet. The location of the addition as proposed is the only practical location. Placing the addition to the rear of the existing dwelling will interfere with the location of the existing septic system and access to the garage. The interior layout and original design of the existing dwelling does not lend itself to a second story addition. The addition as proposed at the basement level will have the least visual effect to the adjacent properties. The accompanying photographs show that the existing landscape will screen the proposed addition from neighboring properties. The property contains 23,477 square feet zoned RC 5.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated May 13, 2009 which indicates that they do not oppose the Petitioner's request provided certain conditions are met. Regarding the request for an in-law apartment, when the family member residing in the in-law apartment no longer occupies the space, the kitchen facility must be removed and the apartment/addition be incorporated into the rest of the principle dwelling and not used as a separate dwelling unit or apartment.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on April 26, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 20th day of May, 2009 that a Variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 15 feet in lieu of the required 50 feet and/or 37 feet as permitted in previous zoning Case No. 1973-0298 be and is hereby GRANTED, subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. When the family member residing in the in-law apartment no longer occupies the space, the kitchen facility must be removed and the apartment/addition shall be incorporated into the rest of the principle dwelling and shall not used as a separate dwelling unit or apartment.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz