

IN RE: PETITION FOR ADMIN. VARIANCE
N side of Streamwood Drive; 107 feet E of
the c/l of Balmoral Circle
2nd Election District
2nd Councilmanic District
(8260 Streamwood Drive)

Angela and Henry Putty
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0320-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 owners of the subject property, Angela and Henry Putty for property located at 8260 Streamwood Drive. The variance request is from Sections 208.3 and 301.1 (1955 to 1970) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 3 foot side yard setback in lieu of the required 7.5 feet for a proposed open patio with roof addition. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners propose an open patio with roof addition (9' x 23') to be located on the existing paved area. This proposed addition would extend from the side of the home that faces Balmoral Circle. Petitioners indicated that this addition will ensure adequate seating and comfort as well as enhance beauty of area, however, could not be located elsewhere due to the internal layout of the house.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated June 17, 2009 which indicates that Baltimore County has a drainage and utility easement (deed ref 5167/458) that runs parallel to the property line from which the setback variance is being requested. It is not shown on the Petitioner's plan. Since no permanent structure may be placed in the easement, the following options are available: 1) Reduce the size of the structure such that it

does not fall within the easement. In this case, the side yard setback would be 5 feet instead of 3 feet and the open deck and roof addition would be 7 feet by 23 feet. Or, 2) Petition the County to release the easement. Contact the Bureau of Land Acquisition at 410-887-3259 to get the cost and length of time for the release. The variance should not be granted until one of the above options is fully exercised.

On July 15, 2009, a letter was sent to the Petitioners transmitting the Bureau of Development Plans Review comments. The Petitioners were asked to review the matter and provide a response. On July 27, 2009, the Undersigned received a response from the Petitioners wherein they decided to reduce the size of the structure so that it does not fall within the County easement. The side yard setback will now be 5 feet instead of 3 feet, and the open deck and roof addition will be 7 feet x 23 feet in size.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 21, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners 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, photographs, 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 27th day of July, 2009 that a variance from Sections 208.3 and 301.1 (1955 to 1970) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 5 foot side yard setback in lieu of the required 7.5 feet for a proposed open patio with roof addition is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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