

IN RE: PETITION FOR VARIANCE

SW corner Edgemoor Road of
Sweetbrier Lane
8th Election District
3rd Councilmanic District
(27 Edgemoor Road)

Jeremiah Paul Hosford
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2011-0228-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the subject waterfront property, Jeremiah Paul Hosford. Petitioner is requesting Variance relief under Section 307 Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed two-family dwelling with a corner street setback of 23 feet in lieu of the minimum required 25 feet. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Jeremiah Paul Hosford and his representative Patrick O’Keefe, Sr. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the house was originally built in 1954. A previous Administrative Variance was granted in 1994 at the request of prior owners of the property relative to the side and rear setbacks for a proposed detached garage. Unfortunately, at that time, it was noted that the residence had a corner street setback of 23 feet as opposed to the

required 25 feet. The Petitioner, pursuant to his request for a building permit from the Department of Permits, Approvals and Inspections to change the occupancy of the dwelling to two families as well as other requested changes pursuant to the conversion table of 402.1 of the B.C.Z.R., did a location survey of the property and discovered the corner street setback anomaly. Although it appears that the conversion request meets all other required regulations, Petitioner cannot proceed unless the requested variance is granted.

Further evidence revealed that the property is situated on a corner and is unique in its size, shape, and configuration relative to the other lots in its immediate surrounding area. Moreover, it is bounded by two streets, a situation not shared with the other lots in the area. Finally, it does not actually face one street, but is obliquely positioned between Edgemoor Road and Sweetbrier Lane. Testimony was also elicited that, but for the requested variance, he will qualify for conversion within the location's DR 5.5 zone, which is a permitted use. Finally, testimony revealed that in all other manner and respects the property and request for conversion conforms to all other required Baltimore County zoning and land use regulations.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find

that the variance requested can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R. as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 16th day of March, 2011 by this Administrative Law Judge that Petitioner's Variance requests from Section 307 Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed two-family dwelling with a corner street setback of 23 feet in lieu of the minimum required 25 feet be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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 _____
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz