

**IN RE: PETITION FOR VARIANCE**  
N Side of Lennox Avenue, 140' E of  
c/line of Jefferson Avenue  
9<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
**(307 Lennox Avenue)**

Margaret C. Cook  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2011-0337-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 Margaret C. Cook, legal owner. The Petitioner requested variance relief from Sections 1B02.3A.5 and 1B02.3.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed dwelling (replacement) with 4 feet side setbacks and a 45 feet rear setback in lieu of the required 10 feet and 50 feet, respectively. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

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 June 22, 2011, which indicate as follows:

“The subject is located in the East Towson Design Review Panel area. The applicant has provided architectural elevations and building materials, which have been reviewed for conformance with the East Towson Design Guidelines.

The Office of Planning and Chair of the Design Review Panel have approved the design. The applicant has also received approval from Adelaide Bentley, the president of the East Towson Community Association. Therefore, the Office of Planning recommends approval of the requested relief.”

Appearing at the public hearing in support of the Petition was Margaret C. Cook, legal owner, and David Bowles, Architect with DKMB & Associates, who prepared the site plan and is assisting the Petitioner with the permitting process. Also attending the hearing in support of the Petitioner's request were many of her surrounding neighbors from East Towson, all of whom signed in on the Citizen's Sign In Sheet and whose names are too numerous to mention in the body of this Order. Reference is made to the Citizen's Sign In Sheet dated June 30, 2011, which contains the many names of the local residents who appeared in support of Ms. Cook's Petitioner. Appearing in opposition to the Petitioner's request was Patricia Bentz, who appeared on behalf of and spoke for Neil and Judy Cohen, adjacent property owners.

Testimony and evidence offered at the hearing demonstrated that the property which is the subject of this variance request consists of 0.104 acre (4,550 square feet) and is zoned DR 10.5. The subject property is located at 307 Lennox Avenue in the East Towson area of Baltimore County. Ms. Cook, the owner of the property, testified that the subject house and property have been in her family since 1903. Ms. Cook testified that the house was most recently lived in by her mother, but has been vacant for the last couple years due to the fact that her mother had taken ill and had to vacate the home. She stated that her mother recently passed last year and she is now in a position to build a new home on the property to replace the home that had been in her family for well over 100 years. The house that exists on the property at the present time must be razed and a new house constructed thereon. The current house is beyond renovation due to its inferior foundation system and that it no longer conforms to modern building codes. Ms. Cook is in a position to build a new home on the property which she hopes to pass down to the future generations of her family. In order to proceed with constructing a new home on the property, the variance is necessary.

Additional testimony offered by Ms. Cook as well as David Bowles, the architect hired by Ms. Cook to assist her in designing and constructing a new home, demonstrated that the house which is going to be constructed on the property is 26 feet 2 inches in width. This new house is only approximately 1 foot wider than the house that exists on the property today.

Also appearing in support of the Petitioner's request were the adjacent property owners, Ryan and Heather Jordan. The Jordans own the two story dwelling located at 309 Lennox Avenue. Their testimony was that they were concerned at first regarding the setback, but after finding that the replacement house is basically the same width as the house that exists on the property today, and that the setbacks will remain fairly consistent with what exists today, they had no opposition to Ms. Cook's plans to replace the old house on the property with a new home. Therefore, they offered their support of the variance request at the hearing.

As stated previously, a Patricia Bentz appeared at the hearing on behalf of Neil and Judy Cohen, the owners of the property located at 305 Lennox Avenue. Ms. Bentz presented for the record a letter of opposition authored by Mr. and Mrs. Cohen which was accepted into evidence as Protestant's Exhibit 1. The Cohens are opposed to the granting of the variance relief for the reasons stated within their letter.

It should be noted that Ms. Cook has had to negotiate many obstacles in order to move forward with the construction of a new home on this property. The subject property is located in the East Towson area of Baltimore County which is a historic district, and the home to be built on the property was reviewed and approved by the Design Review Panel for Baltimore County. The Design Review Panel, the Office of Planning, as well as the East Towson Community Association by Ms. Adelaide C. Bentley, Director, reviewed and approved the design and placement of the new home for the property.

After considering all the testimony and evidence presented at the hearing, I am persuaded to grant the request for 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 also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance 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 the Petition held, and for the reasons set forth above, the Petition for Variance should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge of Baltimore County, this 22 day of July, 2011 that the Petition for Variance from Sections 1B02.3A.5 and 1B02.3.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed dwelling (replacement) with 4 feet side setbacks and a 45 feet rear setback in lieu of the required 10 feet and 50 feet, respectively, be and is hereby GRANTED, subject to the following restriction:

1. 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, 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  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK:pz