

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SE side of Mandel Court, 190' NE of		
c/line of Sugarcone Road	*	OFFICE OF ADMINISTRATIVE
3 rd Election District		
2 nd Councilmanic District	*	HEARINGS FOR
(5 Mandel Way)		
	*	BALTIMORE COUNTY
Ronald M. and Stephanie Attman		
<i>Petitioners</i>	*	CASE NO. 2011-0373-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 Ronald M. and Stephanie Attman, legal owners of the subject property. Petitioners request Variance relief from Sections 1B02.3.B and 1B02.3.C(1) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the following:

- A minimum sum of side yard widths of 17 feet in lieu of the minimum sum of side yard widths of 40 feet; and
- A minimum width of individual side yard of 2 feet in lieu of the minimum width of individual side yard of 15 feet; and
- For such other relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Richard E. Matz, of Colbert Matz Rosenfelt, Inc., the consulting firm who prepared the site plan. Jason Vettori, Esquire of Smith, Gildea & Schmidt, LLC appeared as counsel for the Petitioners. There were no Protestants or other interested parties in attendance.

Testimony and evidence offered revealed that the property is zoned D.R.2 and is located in the Green Gate Community in Baltimore County. The property contains 0.3547 acres more or less

and is improved with a single family dwelling with a street address of 5 Mandel Court. The Petitioner are proposing to construct an addition onto the west side of their dwelling, along with a garage.

Originally the owners proposed the improvements to be located on the side of their dwelling just 2 feet from their common property line shared with their neighbors to the west, the Silverman's. The neighbors met to discuss the proposal, and the Silvermans asked if they could move their proposed garage and screened porch further to the rear of their property. The Attmans agreed and the site plan submitted now shows the proposed improvements to be located further to the rear of their property and as a result, less imposing upon their neighbor's property.

Accordingly, as a result of moving the improvements, the variance request changed to allow a side yard setback of 8 feet in lieu of the required 15 feet, a sum of the side yards of 23 feet in lieu of the required 40 feet, and a rear yard setback of 9 feet in lieu of the required 40 feet.

The Petitioner submitted into evidence as Petitioners' Exhibit 2 a letter of support from their neighbors Steven and Freddie Silverman who have no objections to the new request.

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, received July 26, 2011 which recommends as follows:

“The Office of Planning recommends approval provided the following changes occur to the architectural elevation drawings and landscape plan:

1. Include window treatment and decorative hardware on the front elevation of the garage door to break up the mass of the 2-car garage.
2. Provide three trellises covered with clematis and equally spaced instead of two on the left side elevation as shown on the landscape plan.”

Comments were also received from the Bureau of Development Plans Review, dated July 18, 2011, which indicate as follows:

“Permanent structures are not permitted in the drainage and utility easement. Proposed structure shall be set back to be at least 6 feet away from the property line.”

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. Additionally, I find that strict enforcement of the B.C.Z.R. would cause the Petitioners to suffer practical difficulty and undue hardship.

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 this petition held, and after considering the testimony and evidence offered by Petitioners, I find that Petitioners’ variance request should be granted.

THEREFORE, IT IS ORDERED this ____18____ day of October, 2011 by this Administrative Law Judge that Petitioners’ amended Variance request from Sections 1B02.3.B and 1B02.3.C(1) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the following:

- A minimum sum of side yard widths of 23 feet in lieu of the required side yard widths of 40 feet; and
- A minimum width of individual side yard of 8 feet in lieu of the minimum width of individual side yard of 15 feet; and
- A rear yard setback of 9 feet in lieu of the minimum required 40 feet,

be and are hereby GRANTED, subject to the following:

1. 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the ZAC comments from the Office of Planning dated July 22, 2011, as amended due to the modification of the site plan due to moving the improvements further to the rear of the property.

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