

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
E side of Montemar Avenue, 660' of	*	OFFICE OF
c/line of Bloomsbury Avenue		
1 <sup>st</sup> Election District	*	ADMINISTRATIVE HEARINGS
1 <sup>st</sup> Councilmanic District		
<b>(407 Montemar Avenue)</b>	*	FOR BALTIMORE COUNTY
Omer Sheikh	*	<b>CASE NO. 2012-0128-SPHA</b>
<i>Legal Owner</i>		

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by the legal property owner, Omer Sheikh. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a boarding or rooming house. In addition, the Petitioner is requesting variance relief from Sections 408.B.1.D and 409.6.A.1 of the B.C.Z.R. to permit two (2) parking spaces to be located in the front and side yard in lieu of the required four (4) spaces and side and rear yard. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the Special Hearing and Variance requests was Omer Sheikh. Numerous neighboring owners appeared and opposed the requests, and their names and addresses are listed on the sign-in-sheet included in the case file. It appears the Petitions were properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

It should be noted that this matter came before the OAH as a result of an active violation case with the Code Enforcement Division of the Department of Permits, Approvals and

Inspections<sup>1</sup>. A Code Enforcement Correction Notice was issued to the Petitioner on September 15, 2011, indicating (among other things) that Petitioner's home was occupied by more than two unrelated individuals, which required him to obtain approval of a rooming/boarding house. Hence, Petitioner filed requests for zoning relief.

Testimony and evidence offered revealed that the subject property consists of a one-story brick and frame dwelling (6,820 square feet), zoned D.R.2 and is located in the Catonsville area of the County. The house is situated in a community of similar single-family dwellings, and is located near UMBC and the Community College of Baltimore County. Petitioner testified he is the owner, and that he has recently experienced financial troubles that required him to rent the home. He stated he was unable to find a family to lease the entire home, and he therefore rented the home to four tenants, one of whom is Petitioner's brother.

Several neighbors testified at the hearing, including Berchie Manley, Cynthia Wills, Douglas Trettiem, Kellie Griffin, Joann Cricchi and Walter Dustmann. Though each identified specific concerns they had with the requests, common themes certainly emerged. Area residents complained about excessive noise, the large number of cars parked on the street, and (primarily) that allowing a boarding house would be inappropriate and out of character for this neighborhood of single-family dwellings, and would set a dangerous precedent for the similar conversion of other homes, especially given the proximity to two local colleges.

By letter dated January 4, 2012, three of the neighbors who testified at the hearing in this case submitted to the undersigned certain additional "information" for inclusion in the record. Under long-standing procedure, documents or additional evidence submitted after a case is heard and concluded are not considered, and I therefore was obliged to disregard this submission.

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<sup>1</sup> Case No: CO-0100707

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Planning on December 7, 2011, as follows:

“The Department of Planning has reviewed the petitioner’s request and accompanying site plan. The Department of Planning recommends **denial** of the petitioner’s special hearing request. A rooming and boarding land use on the subject property is not consistent with existing surrounding single-family uses. Furthermore, the Department of Planning recommends **denial** of any variances. Rooming and boarding houses should comply with all applicable requirements of the BCZR.

This department does not support the provision of off-street parking in the rear yard of the subject property. Providing parking spaces in the rear yard would not be compatible with the adjacent properties and the surrounding neighborhood due to the fact that:

1. The arrangement and location of the parking spaces would not be patterned in a similar manner to those in the neighborhood.
2. The rear yard open space would be inconsistent with the open space patterns of the neighborhood, and it would not complement the rear yard open space of the adjacent properties.”

Under the B.C.Z.R., a boarding house (at least in these circumstances, where Petitioner does not reside on the premises) is a building occupied (for compensation) by three or more individuals who are not related to each other by blood, marriage or adoption. B.C.Z.R. § 101.1. The dwelling at 407 Montemar is therefore a “boarding house”, given that four tenants reside therein. The procedure to obtain approval for a boarding house in a residential zone is found in § 408B of the B.C.Z.R.

That regulation requires that the applicant demonstrate the use will be consistent with the surrounding community, and that the operation of the boarding house will satisfy the special exception standards set forth at B.C.Z.R. § 502.1. In this case, the Petitioner failed to present any evidence or testimony concerning how the operation of the boarding house would satisfy the

numerous requirements and standards set forth in B.C.Z.R. § 502.1. The Petitioner appeared pro se, and was articulate and forthcoming. But the zoning regulations impose onerous requirements in cases of this nature, and the Petitioner would have been greatly assisted in this process by an attorney. While I am certainly sympathetic to his plight and the financial woes he is experiencing, I am nonetheless constrained by the law in this scenario, and am unable to approve the request unless the requisite showing has been made.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions, and after considering the testimony and evidence offered by the parties, I find that Petitioner's requests for Special Hearing and Variance should be denied.

THEREFORE, IT IS ORDERED this \_\_\_\_12th\_\_\_\_ day of January, 2012 by the Administrative Law Judge, that Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a boarding or rooming house, be and is hereby DENIED; and

IT IS FURTHER ORDERED that the Variance relief requested pursuant to Sections 408.B.1.D and 409.6.A.1 of the B.C.Z.R. to permit two (2) parking spaces to be located in the front and side yard in lieu of the required four (4) spaces and side and rear yard, be and is hereby DENIED AS MOOT given the denial of the Special Hearing relief.

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

JEB:dlw

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County