

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(300 East Burke Avenue)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Derek C. Hasselhoff	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0196-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Derek C. Hasselhoff. The Petitioner is requesting Variance relief pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R), to permit a proposed addition (garage and in-law apartment) with a side yard setback of 3 feet in lieu of the required 10 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.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Planning (DOP) dated March 8, 2013, indicating that the proposal is not a boarding house and will comply with B.C.Z.R. Sections 101 and 400.4, and that the occupants of the accessory apartment and principal single-family dwelling shall be immediate family, related as grandparents, parents, or parents’ children by blood, marriage or adoption.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 10, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). 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 Administrative Law Judge, 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, this 2<sup>nd</sup> day of April, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R), to permit a proposed addition (garage) with a side yard setback of 3 feet in lieu of the required 10 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for any appropriate permits 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.
2. The relief granted herein pertains only to the side yard setback requirements of the DR 5.5 zone. The administrative special hearing procedure can only be utilized for variances of height and area regulations. As such, approval for an in-law apartment will require a use permit and/or special hearing in the OAH, as set forth in Baltimore County Council Bill No. 49-11.

3. The Petitioner must comply with the ZAC comment received from the Department of Planning (DOP) dated March 8, 2013; a copy of which is attached hereto and made a part hereof.

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

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

JEB:dlw