

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(20 Wesley Woods Court)		
11 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Stephen T. and Lucia B. Zabrenski	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0302-A

* * * * *

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 owners of the property, Stephen T. and Lucia B. Zabrenski. The Petitioners are requesting Variance relief pursuant to Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (“B.C.Z.R), to permit a side addition for an in-law apartment with a side yard setback of 25 ft. in lieu of the required 50 ft. 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.

It is to be noted that this administrative variance case closed on July 8, 2013 but was not received by OAH until July 25, 2013; the whereabouts of the case file between these dates is unknown.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 23, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have 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 Petitioners.

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 30th day of July, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (“B.C.Z.R), to permit a side addition for an in-law apartment with a side yard setback of 25 ft. in lieu of the required 50 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits 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. The relief granted herein pertains only to the side yard setback requirements of the RC 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.

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:dlw