

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
NW corner of Franklinville Road		
and Gerwell Court	*	OFFICE OF ADMINISTRATIVE
11 th Election District		
3 rd Council District	*	HEARINGS FOR
(11618 Franklinville Road)		
	*	BALTIMORE COUNTY
John W. Powers, Jr. and Sharon A. Powers		
<i>Petitioners</i>		CASE NO. 2012-0088-SPH

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as Petition for Special Hearing filed by the legal owners of the property, John W. Powers, Jr. and Sharon A. Powers. The Petitioners are requesting Special Hearing relief pursuant to Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition necessitating a side yard setback of 30 feet in lieu of the required 50 feet. 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 held for this case were Petitioner Sharon A. Powers and Reubens Glick with ABG Carpentry who is assisting the Petitioners in the permit process. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance at the hearing.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. Comments were received from the Department of Environmental Protection and Sustainability (DEPS), dated October 7, 2011, which indicated that a future building permit for an addition on this site will require review by Groundwater Management. There were no other

comments received from any of the County reviewing agencies.

Ruebens Glick of ABG Carpentry testified on behalf of the Petitioners. He described the subject site as 3.37 acres zoned RC 5. The property is improved by a two story residence and a garage. There is already an existing deck and a front porch. Although at first blush Petitioners would seem to be in need of a variance to setback regulations, they were advised by the Zoning Review Office to secure his request by way of a special hearing. To that end, the witness produced a plan to accompany his Petition (Petitioners' Exhibit 1) and various exhibits (Petitioners' Exhibit 3), setting out the constraints to the construction of the requested construction of the existing structure which require a variance. He stated that the core building presents a unique situation as it already has an existing deck and porch on two sides of the building. A new 32 foot x 28 foot garage has recently been constructed on the third side; all of which leaves only the remaining side as a viable location for the extension. The proposed extension will be 28 foot 6 inches x 20 foot on one floor only, and will be enclosed in vinyl siding to match the rest of structure as well as the other homes in the general area.

He noted that although a side setback variance will still be required if the extension is to be built, the outer wall of the planned extension will, upon more recent calculations, be 38 feet from the property line, not 30 feet as originally requested. Accordingly, the requested variance will be that much less.

The witness then addressed the requirements set out in Section 502.1 of the B.C.Z.R. He opined that as a one family structure there was no harm to the health, safety or general welfare of the community; that only four people reside in the residence so there was no danger of congestion in roads, streets or alleys; construction would be done according to Code such that there was no potential hazard from fire or panic; that no overcrowding or concentration of population would

result; it would not be detrimental to schools, parks, water, sewer nor interfere with light and air; as a small extension to an already existing permitted structure, it is not inconsistent with the spirit, intent or letter of the property's zoning, nor will it require any additional impermeable surface. Although it is located in an RC zone, it is not potentially detrimental to the environment or natural resources of the subject site or its vicinity.

I find that the Petitioners have established sufficient facts to convince me that a special hearing as requested should be granted. Moreover, I find that circumstances and conditions exist that are unique to the subject property; and that, due to these unique conditions, strict enforcement of the B.C.Z.R. would cause the Petitioner to suffer a practical difficulty. Finally, I find that the relief requested will not result in any adverse impact on the surrounding area; rather, the proposed improvement will be a positive addition to the subject property and the surrounding locale.

Finally, I find that the variances requested 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 for the reasons set forth above, the relief requested is granted.

THEREFORE, IT IS ORDERED, this ___9th___ day of December, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition necessitating have a side yard setback of 30 feet in lieu of the required 50 feet, be and is hereby GRANTED, subject to the following:

1. The 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The comment from the Department of Environmental Protection and Sustainability (DEPS), dated October 7, 2011, stating that before a permit can be granted the matter must be reviewed and approved by Groundwater Management of the Department of Environmental Protection and Sustainability.

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:pz