

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(3448 Butler Road)		
4 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Folly Farm, Inc.	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0133-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Folly Farm, Inc. The Petitioner is requesting Variance relief from § 1A01.3.B.3 to permit a proposed addition (study/office) to have a side yard setback as close as 15 ft. in lieu of the required 35 ft. 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 February 9, 2015 indicating their Department does not oppose Petitioner’s request provided the following conditions are met: Create a buffer of evergreen trees between the proposed addition and the lot line shielding the view of neighboring properties located at 3454, 3456, and 3466 Butler Road. Erwin Greenberg submitted (at the request of the OAH) a signed and notarized Affidavit indicating he is the sole/majority shareholder of the corporate entity owner, no other person or entity has an interest in the operation and/or affairs of the property, that he resides year round and actually occupies the property known as 3448 Butler Road and considers it to be his principal residence.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 1, 2015, 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 12th day of **March, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1A01.3.B.3 to permit a proposed addition (study/office) to have a side yard setback as close as 15 ft. in lieu of the required 35 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must comply with ZAC comments from DOP dated February 9, 2015; a copy of which is attached hereto and made a part thereof.

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

JEB:dlw

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County