

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2408 Bauernschmidt Drive)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Charles C. and Mary Formby	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0210-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, Charles C. and Mary Formby. The Petitioners are requesting Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed addition with a side yard setback of 9 ft. and a combination of side yard setbacks of 20 ft. in lieu of the minimum required 10 ft. and a sum of 25 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.

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 Bureau of Development Plans Review (DPR) dated March 31, 2015 indicating that prior to building permit application, the petitioner must contact the Office of the Director of the Department of Public Works to determine the flood protection elevation, so that the floor elevation can be set. It is to be noted that a letter of support was signed by adjacent neighbor H. Duane Steelberg who resides at 2406 Bauernschmidt Drive.

In addition, Mary Formby submitted (at the request of the OAH) a signed and notarized Affidavit indicating that the residence is owned by Charles C. and Mary Formby, that no other person or entity has an interest in the operation and/or affairs of 2408 Bauernschmidt Drive, and that she resides year round and actually occupies the property known as 2408 Bauernschmidt Drive and considers it to be her principal residence.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 1, 2015, 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 4th day of **May, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed addition with a side yard setback of 9 ft. and a combination of side yard setbacks of 20 ft. in lieu of the minimum required 10 ft. and a sum of 25 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the ZAC comments from DPR; a copy of which is attached and made a part hereof.

3. Petitioners must comply with Critical Area regulations prior to building permit application.

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

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

JEB:dlw