

**IN RE: PETITION FOR VARIANCE**  
**(11907 Woodberry Place)**  
11<sup>th</sup> Election District  
3<sup>rd</sup> Councilmanic District  
Barry and Sara Pipino  
Petitioners

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2014-0281-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owners of the property, Barry and Sara Pipino, for property located at 11907 Woodberry Place. The Petitioners are requesting Variance relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition with a 12' side setback in lieu of the required 50'<sup>1</sup>.

This matter was originally filed as an Administrative Variance, with a closing date of August 4, 2014. On July 21, 2014, William and Melinda Colonna, neighbors, requested a formal hearing. The hearing was subsequently scheduled for Thursday, October 2, 2014 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received. Appearing at the public hearing in support for this case was Barry and Sara Pipino. Several neighbors (whose names are reflected on the sign in sheet) attended the hearing to obtain additional information concerning the request.

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<sup>1</sup> As filed, the Petition proposed a 2 foot side yard setback, which the Petitioners indicated was mistaken. The Petition was amended at the hearing (and initialed by the undersigned) to reflect that the proposed setback is in fact 12'.

The subject property is approximately 11,848 square feet and is zoned RC 5. The Petitioners propose to construct a side yard addition, as shown on the elevation drawings marked as Exhibit 3. Petitioners require zoning relief to undertake the project.

Based upon the testimony and evidence presented, I will grant the petition for variance.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

The Petitioners have met this test. The property is situated between two public roadways, and is improved with a single family dwelling constructed in 1851. As such the property is unique. The Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to construct the proposed addition. The relief can be granted without negatively impacting the public's health, safety and welfare. While the RC 5 zone has a 50' side yard setback requirement, most of the homes in the area have side yards of 25' or less, and thus the proposed improvements will be in keeping with the layout and appearance of the community.

The site plan as filed failed to indicate the property is located within the Franklinville Historic District, as designated by the Baltimore County Landmarks Preservation Commission ("LPC"). Even so, Petitioners submitted a memorandum dated March 19, 2014 from the LPC (Exhibit No. 4), wherein the proposed construction was approved, subject to two conditions which will be incorporated into the final Order.

THEREFORE, IT IS ORDERED, this 6<sup>th</sup> day of October, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard addition with a 12'

side setback in lieu of the required 50', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for 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. Petitioners must comply with the LPC Memorandum dated March 19, 2014, a copy of which is attached hereto and incorporated herein.
3. Petitioners must within 10 days of the date of this Order submit to this Office, with a copy to the Department of Permits, Approvals and Inspections, a revised site plan showing the dwellings at 11901 through 11907 Woodberry Place only, with accurate existing setbacks and yard areas for 11901, 11903 and 11905 Woodberry, along with both existing and proposed setbacks for Petitioners' property at 11907 Woodberry Place.

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:sln