

IN RE: PETITION FOR VARIANCE
(8934 Satyr Hill Road)
9th Election District
5th Council District
Marie P. Zellers
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2016-0124-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Marie P. Zellers, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 402 to permit an existing single family dwelling to be converted to a two family dwelling (Duplex) with side yard setbacks of 19 ft. in lieu of the minimum side setbacks of 20 ft. A site plan was marked as Petitioners’ Exhibit 1.

The owner appeared in support of the Petition, and several neighbors opposed the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency outlined several factors that influenced its recommendation that the petition should be denied.

The subject property is approximately 21,562 square feet and is zoned DR 3.5. The property is improved with a single-family dwelling. Petitioner received permission from Baltimore County in or about 2007 to construct an “in law” apartment for her aging parents. Petitioner constructed at that time a second floor addition to the rancher, which was a self-contained living unit with separate exterior access. Her parents never occupied the apartment, and Petitioner now rents the property to a family with extended relatives who also live in the dwelling.

The neighbors object to the request, and contend the property is not properly maintained. They submitted photos which they contend depict building code or safety violations, and they note Petitioner never obtained from Baltimore County a rental license, which is required by Baltimore County Code (B.C.C.) § 35-6-101.

While I am sympathetic to Petitioner's financial plight, I cannot grant the variance petition. The property is being occupied in violation of the rental housing law, and a zoning petition cannot be granted if the subject property is not in compliance with the B.C.C. and B.C.Z.R. In addition, and as noted by the DOP, the site plan (which was not prepared by a professional engineer or surveyor) shows the dwelling situated parallel to the lot lines, which is apparently not the case. Instead, the DOP conducted a site visit and determined the dwelling was rectangular in shape (and not a parallelogram as shown on the plan) which calls into question the accuracy of the 19 ft. side yard setbacks shown on the plan.

THEREFORE, IT IS ORDERED, this 11th day of **January, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") § 402 to permit an existing single family dwelling to be converted to a two family dwelling (Duplex) with side yard setbacks of 19 ft. in lieu of the minimum side setbacks of 20 ft., be and is hereby DENIED.

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