

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(101 Chatolanee Hill Road)	*	OFFICE OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Lawson & Bailey DeVries		
<i>Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners		
	*	<b>Case No. 2016-0259-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Lawson & Bailey DeVries, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory apartment structure (in-law suite) situated on the same owner-occupied lot as the principal dwelling. In addition, a Petition for Variance seeks: (1) to permit a proposed addition to the principal dwelling with a rear setback of 15 ft. in lieu of the required 35 ft.; and (2) to permit a proposed accessory structure to be located in the side yard with a height of 22 ft. in lieu of the required rear yard and 15 ft. height. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the requests was owner Bailey DeVries and architect Henry Warfield. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP).

The subject property is comprised of two separate lots and tax parcels, and is located in the Owings Mills area adjacent to the Greenspring Valley Country Club. Parcel 1 shown on the plan

(2.57 acres) is unimproved and is subject to an environmental preservation easement. Parcel 2 (0.918 acres) is improved with a single-family dwelling and detached garage. Petitioners propose to construct a one-story addition to the dwelling to provide additional space for their family. Also planned is a two-story detached structure to be used as an accessory apartment.

### SPECIAL HEARING

The petition for special hearing concerns the detached accessory apartment. Under the Regulations, such an apartment is permitted to be within a single-family dwelling upon issuance of a use permit. If the apartment is to be located in a detached structure, a special hearing is required.

Ms. DeVries indicated both her parents and her in-laws will at various times stay in the apartment. Petitioners submitted with the petition a declaration of understanding containing all of the restrictions and conditions associated with such accessory apartments, and Ms. DeVries indicated she was cognizant of these requirements. In its ZAC comment the DOP highlighted the size limitations set forth at B.C.Z.R. §400.4.B.2 (i.e., 1,200 square feet), and the declaration of understanding contained in the file indicates the apartment will contain 875 square feet of living space.

### VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

Petitioners have met this test. The rural property has irregular dimensions and is therefore unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to construct the proposed improvements. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

THEREFORE, IT IS ORDERED this 15<sup>th</sup> day of **June, 2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory apartment (in-law suite) situated on the same owner-occupied lot as the principal dwelling, be and is hereby GRANTED.

IT IS FURTHER ORDERED the petition for variance as follows: (1) to permit a proposed addition to the principal dwelling with a rear setback of 15 ft. in lieu of the required 35 ft.; and (2) to permit a proposed accessory structure to be located in the side yard with a height of 22 ft. in lieu of the required rear yard and 15 ft. height, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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. Prior to issuance of permits Petitioners must obtain approval from the Ground Water Management section of DEPS.

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

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County