

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(9136 Cowenton Avenue)	*	OFFICE OF
11 <sup>th</sup> Election District		
5 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Jacy Butcher		
<i>Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner		
	*	<b>Case No. 2016-0306-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 Jacy Butcher, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an in-law suite in an accessory structure. In addition, a Petition for Variance requests that the accessory apartment be permitted to have an area of 1,650 sq. ft. and a height of 32 ft. in lieu of the maximum allowed 1200 sq. ft. of area and 15 ft. in height, respectively. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Jacy Butcher. 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).

**SPECIAL HEARING**

The regulations require a special hearing for approval of an accessory apartment that is in a detached structure. Petitioner proposes to construct for his mother a 40' x 30' “in-law” suite

with a loft area containing approximately 450 sq. ft. of living space. The height variance is needed to accommodate the loft, which Petitioner stated his mother would use for sewing or recreation. The lot is 0.75 acres and is in my opinion sufficient to accommodate both the single family dwelling and proposed accessory apartment.

### VARIANCES

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).

Petitioner has met this test. The lot is narrow and deep, as noted in a recent zoning order (Case No. 2016-0211-A) wherein the property was found to be unique. Petitioner would experience practical difficulty if the regulations were strictly interpreted because he would be unable to construct the proposed accessory building. Finally, as demonstrated by the lack of any opposition, I do not believe granting the requests would have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this **13th** day of September, **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 approve an in-law suite (i.e., accessory apartment) in an accessory structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED the petition for variance to permit a proposed accessory structure to be used as an in-law suite to have an area of 1,650 sq. ft. and a height of 32 ft. in lieu of the maximum allowed 1200 sq. ft. of area and 15 ft. in height, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 his 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 the ZAC comments of the DOP and DEPS, copies of which are attached hereto.

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

JEB/sln

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County