

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(1723 Magnolia Avenue)</b>		
13 <sup>th</sup> Election District	*	OFFICE OF
1 <sup>st</sup> Councilmanic District		
Benjamin C. Sweet	*	ADMINISTRATIVE HEARINGS
Petitioner		
	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2014-0007-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owner of the subject property, Benjamin C. Sweet. The variance request is from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), as follows: (1) To permit a proposed addition for a house located on a corner lot requiring double frontage setbacks, to have a side yard setback of 32' and a rear yard setback of 28' in lieu of the required 40' each; and (2) To permit an open projection (porch/deck) to have a side yard setback of 26' in lieu of the required 30'. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received by the Department of Planning (DOP) on July 29, 2013, indicating that this property is a contributing structure in the Relay County Historic District, and was reviewed by the Baltimore County Landmarks Preservation Commission at their July 11, 2013 meeting and received a Certificate of Appropriateness. Therefore, DOP staff supports this administrative variance request.

It is also to be noted that a letter of support was located in the case file from Gary E. Stevens, an adjacent neighbor at 4946 Hazel Avenue, indicating he had no problem or complaint with the Petitioner's desire to make a change to his residence.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on July 16, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. 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 Petitioner.

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, by the Administrative Law Judge for Baltimore County, this 13<sup>th</sup> day of August, 2013, that a Variance from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), as follows: (1) To permit a proposed addition for a house located on a corner lot requiring double frontage setbacks, to have a side yard setback of 32' and a rear yard setback of 28' in lieu of the required 40' each; and (2) To permit an open projection (porch/deck) to have a side yard setback of 26' in lieu of the required 30', be and is hereby GRANTED, subject to the following:

The relief granted herein shall be subject to the following:

1. Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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:dlw