

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2203 Crestnoll Road)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Salvatore & Vincenza Caltabiano	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0111-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, Salvatore & Vincenza Caltabiano. The Petitioners are requesting Variance relief from § 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard addition with a side setback of 31 ft. in lieu of the required 50 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated November 18, 2015, indicating that the development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code (B.C.C.)). In addition, DEPS offered the following comments:

“The property is currently not in compliance with Baltimore County’s Forest Conservation Law, as forest clearing has occurred in the Forest Conservation Easement (FCE), and house is not at least 35 feet from the FCE. Moreover, the proposed addition would encroach further into the FCE. EIR will not approve any permit for this addition until the site is brought into compliance. Also, Ground Water Management must review any future building permits prior to approval.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 15, 2015, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Based upon the information and comment provided by DEPS (a copy of which is attached hereto), it appears that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be denied. The Petitioners are not entitled to the grant of a variance if their property is being used in violation of County regulations, as described in the DEPS comment. If they are able to resolve the outstanding issues with DEPS within thirty (30) days of the date hereof, and provide to the OAH satisfactory proof to that effect, Petitioners would be permitted to seek reconsideration of this Order pursuant to Rule 4K of the Zoning Commissioner's Rules.

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 denied.

THEREFORE, IT IS ORDERED, this 2nd day of **December**, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard addition with a side setback of 31 ft. in lieu of the required 50 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