

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(11116 Old Carriage Road)	*	OFFICE OF
11 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Heath W. & Catherine W. Frome		
<i>Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2016-0205-SPHA

* * * * *

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 Heath and Catherine Frome, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve the construction of an accessory apartment not attached to the main dwelling unit. In addition, a Petition for Variance seeks to permit a proposed accessory structure to be used as an accessory apartment located in the side yard in lieu of the required rear yard. 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 Heath Frome. 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) comment was received from the Department of Environmental Protection and Sustainability (DEPS).

SPECIAL HEARING

The proposed accessory apartment would accommodate Petitioners’ mother, who needs frequent medical attention and supervision. Petitioners submitted elevation drawings (Exhibit 2)

of the proposed structure, which will be attractive and compatible with the existing dwelling. Mr. Frome stated he spoke with all of his neighbors and that no one expressed concern about the request. The file also contains the requisite declaration (Exhibit 3) which has been signed and notarized, and it contains all of the restrictions and conditions set forth in B.C.Z.R. §400.4, which governs “accessory apartments.” As such, the petition for special hearing will be granted.

VARIANCE

The subject property is 2.58 acres and zoned RC 5. The property is improved with a single family dwelling (SFD) constructed in 1976. Petitioners propose to construct the accessory apartment adjacent to their dwelling in the side yard, which requires variance relief.

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 property is irregularly shaped and has a topographical change which to some extent dictates placement of the structure. As such the property is unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to construct the apartment to provide care for their mother. Finally, I find that the variance 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 11th day of **April, 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 the construction of an accessory apartment not

attached to the main dwelling unit, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance which seeks to to permit a proposed accessory structure to be used as an accessory apartment located in the side yard in lieu of the required rear yard, 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. Petitioners must comply with the conditions and restrictions set forth in the Declaration of Understanding, which must be recorded among the land records in the Circuit Court for Baltimore County.

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