

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(6421 Murray Hill Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Jonathan S. & Jennifer V. Vassil	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2018-0138-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, Jonathan S. and Jennifer V. Vassil (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an addition with a side yard setback of 7 ft. in lieu of the required minimum side setback of 15 ft. and a sum of 32 ft. in lieu of the required 40 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 December 11, 2017, indicating:

“Ground Water Management must review any proposed building permit(s) for an addition, since the house is served by a private septic system (especially if any bedrooms are to be added).”

In addition, a letter was received from the Murray Hill Improvement Association Architectural Committee, dated December 18, 2017, requesting denial of administrative variance.

The Association stated the proposed improvements would violate a restrictive covenant filed among the Baltimore County land records. The OAH does not have the authority to interpret or enforce a private covenant, and the petition cannot be denied on this basis. Blakehurst Life Care Community v. Baltimore County, 146 Md. App. 509 (2002).

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 30, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (“B.C.C.”). 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 Petitioners.

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, this **20th** day of **December, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an addition with a side yard setback of 7 ft. in lieu of the required minimum side setback of 15 ft. and a sum of 32 ft. in lieu of the required 40 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners shall comply with the DEPS ZAC comment, dated December 11, 2017; a copy of which is attached hereto and made a part hereof.

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