

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2311 Rockwell Avenue)		
1 st Election District	*	OFFICE OF ADMINISTRATIVE
1 st Council District		
Christopher G. & Caitlin B. Taddiken	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0087-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Christopher G. and Caitlin B. Taddiken (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 427 of the Baltimore County Zoning Regulations (“BCZR”), to permit a 6 ft. high residential occupancy fence with a 0 ft. setback erected in the rear and side yard of a lot which adjoins the front yard of another lot in lieu of the maximum 42 in. in height or a minimum 10 ft. setback from the adjoining front property line. 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 bureau of Development Plans Review (“DPR”), dated October 4, 2018, indicating the following:

“The record plat (26/3) shows an existing drainage and utility easement on the property along the rear property line. The easement is shown on the plan. The proposed fence is to be built in the drainage and utility easement boundary shown on the plat and the plan. There is also an existing storm drain pipe located within the drainage and utility easement as shown of drawing #1958-1503. The fence should be suggested to be moved out of the easement boundary.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 30, 2018, 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 § 32-3-303 of the Baltimore County Code (“BCC”). 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 § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR 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 BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 24th day of **October, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 427 of the Baltimore County Zoning Regulations (“BCZR”), to permit a 6 ft. high residential occupancy fence with a 0 ft. setback erected in the rear and side yard of a lot which adjoins the front yard of another lot in lieu of the maximum 42 in. in height or a minimum 10 ft. setback from the adjoining front property line, be and is hereby GRANTED.

The relief granted herein shall be subject to 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 DPR ZAC comment, dated October 4, 2018; 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