

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2901 Chokeberry Court)		
3 rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Meir E. Strobel & Sara G. Gerstenfeld	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0089-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, Meir E. Strobel and Sara G. Gerstenfeld (“Petitioners”). Petitioners originally requested Variance relief pursuant to § 1B02.2.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) [Per 1957 regulations, approved Planning Board Record Plat], for a side yard setback of 6 inches in lieu of the required 8 ft., a sum of side yards of 10.5 ft. in lieu of the required 20 ft. and a rear yard setback of 6 inches in lieu of the required 30 ft. (revising the variances granted in Case No. 2018-0151-A). Though no formal request for hearing was filed, both the Department of Planning (“DOP”) and the undersigned expressed concern with the proposed 6 inch setback. Petitioners revised the site plan and in the new submittal Petitioners propose a 3.5 ft. setback instead of 6 inches as originally requested. The DOP indicated in an email to the undersigned dated November 2, 2018 that it continues to oppose the variance request. 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 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.

In opposing the 6 inch variance request, I indicated that such a small setback would not allow the owner to access and maintain that side of their home/lawn without intruding upon a neighbor’s property. I do not have that same concern after reviewing the amended site plan, and believe that 3.5 feet will provide a sufficient setback. Indeed, an Administrative Variance requesting a 3 ft. setback was approved just last week (Case No. 2019-0107-A) and similar requests have been granted in recent years without objection from County agencies.

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 5th day of **November, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.2.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) [Per 1957 regulations, approved Planning Board Record Plat], for a side yard setback of 3.5 ft. in lieu of the required 8 ft., a sum of side yards of 13.5 ft. in lieu of the required 20 ft. and a rear yard setback of 3.5 ft. in lieu of the required 30 ft. (revising the variances granted in Case No. 2018-0151-A), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

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