

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1251 Linden Avenue)		
13 th Election District	*	OFFICE OF ADMINISTRATIVE
1 st Council District		
Denise M. Ford	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0392-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owner of the property, Denise M. Ford (“Petitioner”). The Petitioner is requesting Variance relief from § 303.1.1.A of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed deck addition to the side of the dwelling with a side yard setback of zero ft. in lieu of the required 7-1/2 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. The Department of Planning (“DOP”) indicated in its comment that it typically does not support zero ft. setbacks in cases such as this.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on July 21, 2019, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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 a 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 Petitioner.

I do however share the concern raised by the DOP. A zero ft. setback would not allow sufficient room for construction and/or periodic maintenance of the proposed deck, and could also lead to boundary line disputes between adjacent neighbors. As such, while I believe a variance is appropriate a minimum of 2-½ ft. (which is the minimum setback for sheds and similar accessory structures) must be provided.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the variance as modified below should be granted.

THEREFORE, IT IS ORDERED, this **13th** day of **August, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 303.1.1.A of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed deck addition to the side of the dwelling with a side yard setback of 2-½ ft. in lieu of the required 7-1/2 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for her appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County