

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1316 Ivy Hill Road)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Christopher E. Bartlett	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0500-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 owner of the property, Christopher E. Bartlett. The variance request is from Sections 1A03.4.B.2 and 1A03.4.B.3 of the Baltimore County Zoning Regulations (“BCZR”), to: (1) allow a side yard setback of 5.7 ft. in lieu of the required 50 ft., (2) to allow the continuance of a side yard setback of 40.7 ft. in lieu of the required 50 ft., (3) to allow the lot to be covered with 15% impermeable surfaces in lieu of the required 10%, and (4) for any such other and further relief as may be required by the Administrative Law Judge (“ALJ”) for Baltimore County. 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. A ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”), dated November 6, 2019, indicating the following in pertinent part:

“Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

The plan submitted for review shows a proposed garage less than 10 feet from the existing well. Ground Water Management will need to review the proposed permit, and a well variance will be necessary.

A Single Lot Declaration of Intent must be filed to address Forest Conservation Law in accordance with Section 33-6-104 therein prior to permit approval.”

In addition, it is to be noted that this Administrative Variance case closed on November 25, 2019 but was not received by OAH until December 31, 2019; the whereabouts of the case file between these dates is unknown.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on November 10, 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 Section 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 Section 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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 **10th** day of **January, 2020** by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 1A03.4.B.2 and 1A03.4.B.3 of the Baltimore County Zoning Regulations (“BCZR”), to: (1)

allow a side yard setback of 5.7 ft. in lieu of the required 50 ft., (2) to allow the continuance of a side yard setback of 40.7 ft. in lieu of the required 50 ft., (3) to allow the lot to be covered with 15% impermeable surfaces in lieu of the required 10%, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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.
- Petitioner must comply with the DEPS ZAC comment, dated November 6, 2019; 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 _____
LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:dlw