

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(298 Montrose Ave.)		
15 th Election District	*	OFFICE OF
7 th Council District		
Catherine Brown,	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2020-0110-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Hearing filed on behalf of Catherine Brown, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) for an in-law apartment in an accessory building. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Due to the COVID-19 pandemic, a WebEx hearing was conducted remotely by computer and/or phone participation. The Petition was advertised and posted as required by the BCZR. Kathy Bertoldi, daughter of Catherine Brown, Petitioner, appeared in support of the petition. The contractor for the project, Eric Dashner, was also present at the hearing. An adjoining neighbor, Marylou Farnsworth, also attended. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Environmental Protection and Sustainability Development Coordination (“DEPS”), and State Highway Administration (“SHA”). They do not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

The subject property is approximately .29 AC in size and is zoned DR 5.5. The proposed accessory apartment will be 1177 square feet and therefore in conformance with the 1200 square

foot limit set forth in BCZR § 400.4.B.2. Further, this structure will occupy only 8 % of the total lot area. The apartment will be occupied by Catherine Brown, the owner of the principal residence. Other family members, including her daughter and son in law, Katy and David Bertoldi, and their children will occupy the principal residence. Ms. Brown has submitted the proper notarized Declaration of Understanding required by BCZR § 400.4.B.1, confirming that the accessory apartment will be used only by members of her family. (Petitioner's Exhibit 6). Elevations of the proposed structure were submitted and explained by Mr. Dashner (Petitioner's Exhibit 5). These plans are in conformance with the height restrictions of BCZR § 400.3 and include the architectural details suggested by the Department of Planning. Mr. Dashner explained that the structure will be A.D.A. compliant. No request was made for separate utility meters or water or sewer service. According to the site plan (Petitioner's Exhibit 1) all setbacks are met. Mr. Dashner testified that the gutters and accessory drainage structures will be designed and constructed to insure to the greatest extent possible that there will be no excessive runoff onto any adjoining properties. I also note that DEPS requests that any approval of the Petition be conditioned on compliance with the Intensely Developed Area (IDA) and Critical Area restrictions, including the requisite tree plantings or offset fees, and such compliance will be required.

Marylou Farnsworth testified that she resides at 902 Hauf Avenue, which abuts the subject property. She expressed concerns about stormwater runoff from the proposed accessory apartment. After questioning Mr. Dashner about his plans to address this issue she was satisfied that proper mitigation steps will be taken. Ms. Farnsworth said that she otherwise fully supports the proposed structure because she has known the Brown family since they moved next door to her in 1985 and they have always been wonderful neighbors.

Based on the testimony and exhibits I find that the Petition should be granted. I specifically find that the accessory structure, as depicted in the site plan and architectural drawings, will comply in all respects with BCZR § 502.1, and that it is within the spirit and intent of the BCZR and will not cause harm to the public health, safety or welfare.

THEREFORE, IT IS ORDERED this 21st day of **August, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) for an in-law apartment in a proposed accessory building, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
- The proposed structure shall not be used for commercial purposes and shall not have a separate utility meter.
- Prior to issuance of permits Petitioners must comply with the ZAC comment submitted by the DOP, and DEPS of which a copy is attached hereto and made a part hereof.
- A copy of this Order shall be filed in the Land Records of Baltimore County along with the Declaration of Understanding submitted as Petitioner’s Exhibit 6.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm