

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(800 Middle Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Melvin D. & Julie L. Kestner	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0005-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 subject property, Melvin D. and Julie L. Kestner (“Petitioners”). The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.A.5 to permit an existing non-conforming residence to have a proposed one-story addition with a 16.25 ft. rear setback in lieu of the required 30 ft. minimum rear setback and a proposed two-story addition with a 16.25 ft. rear setback in lieu of the required 30 ft. minimum rear setback. 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. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on January 15, 2021, 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 to satisfy the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would cause practical difficulty and/or unreasonable hardship for 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 **8th** day of **February, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.A.5 to permit an existing non-conforming residence to have a proposed one-story addition with a 16.25 ft. rear setback in lieu of the required 30 ft. minimum rear setback and a proposed two-story addition with a 16.25 ft. rear setback in lieu of the required 30 ft. minimum rear setback, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their 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.

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