

**IN RE: PETITION FOR VARIANCE
(1005 Cold Spring Road)**

15th Election District
6th Council District
Rodolfo & Patricia Bosenberg

Legal Owners/Petitioners

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BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS OF
BALTIMORE COUNTY
CASE NO. 2021-0003-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Rodolfo & Patricia Bosenberg for property located at 1005 Cold Spring Road. The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) §§ 1A04.3.A and 1A04.3.B.2.b to permit an addition to an existing dwelling with a height of 37 ft. and a side yard setback of 17 ft. in lieu of the maximum permitted 35 ft. height and minimum required 50ft. side yard, respectively.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Rodolfo Bosenberg appeared at the hearing. David Billingsley, from Central Drafting and Design, prepared the site plan and he also appeared and assisted at the hearing. There were no opposing parties or interested citizens. There were no adverse ZAC comments. Mr. Billingsley explained that the subject property is approximately .5579 acres and is zoned RC 5. The property consists of lots 66 and 67 on Plat 1 of the Bowleys Quarter subdivision that was recorded in 1921. It is located within the Chesapeake Bay Critical Area (“CBCA”) and within a 100 year flood plain. Petitioners propose to construct an addition on the existing residence, which is sited on lot 67, five

feet from the adjoining property line of lot 66. Most of the existing residences in the neighborhood are on 50 foot lots and Mr. Billingsley explained that many of the surrounding properties have been granted similar variances. He submitted Petitioners' Exhibit 11 which is a signed statement from the two adjoining property owners stating that they have no objection to the requested relief.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The site is unique in that it is a double lot in a subdivision that was created well before the RC-5 zone was applied. Further, it is long rectangular lot and is subject to a modified CBCA buffer which restricts where the proposed addition can be constructed. Finally, the existing residence is only 5 feet from the lot line. Petitioners would suffer practical difficulty and hardship if the variance relief is not granted because they would not be able to construct the proposed addition. I find that the requested height and side yard variances are within the spirit and intent of the BCZR and that they will not harm the public health, safety, and welfare.

THEREFORE, IT IS ORDERED, this 22nd day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § § 1A04.3.A and 1A04.3.B.2.b to permit an addition to an existing dwelling with a height of 37 ft. and a side yard setback of 17 ft. in lieu of the maximum permitted 35 ft. height and minimum required 50 ft. side yard respectively 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.
- Petitioners shall comply with all CBCA and floodplain regulations.

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

PMM/dlm