

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(11109 Towood Road)	*	OFFICE OF
11 <sup>th</sup> Election District		
5 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Brian G. Knapp & Rana L. Knapp		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>	*	<b>Case No: 2021-0061-SPHA</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Brian G. Knapp and Rana L. Knapp, legal owners (“Petitioners”). The Special Hearing was filed under the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to allow a proposed addition to be used as an accessory apartment (in-law apartment) in accordance with BCZR § 400.4. The Variance is filed under BCZR § 307.1 for relief from BCZR § 1A04.3.B.2b to permit a side yard addition with a side setback of 37 ft. in lieu of the required 50 ft.

Due to the ongoing COVID-19 restrictions a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioners Brian G Knapp & Rana L Knapp appeared at the hearing. Adam Carballo of Carballo Architecture, LLC assisted the Petitioners. The site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

There were no protestants or interested citizens in attendance.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability

(“DEPS”). These agencies did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

The property is located in Kingsville. It is approximately 27,799 square feet and is zoned RC 5. Mr. Carballo explained that the location of the existing dwelling and driveway, as well as steep topography and a retaining wall necessitate locating the proposed addition in the side yard, which in turn necessitates the side yard variance. The Petitioners acknowledged the conditions associated with the proposed accessory apartment; namely, that only immediate family members are permitted to reside there, that the use permit must be renewed every two years, and that it will terminate when the designated family members no longer reside there. Mr. Carballo explained the design of the proposed addition in detail and architectural renderings were admitted as Petitioners’ Exhibits 5 through 11. The Knapps testified that they have spoken with their neighbors about the proposed addition and the neighbors do not object.

Based on this record evidence I find that the special hearing relief can be granted within the spirit and intent of the BCZR, provided that the ZAC comments are complied with, which will be a condition of this Order.

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).

As noted above, the property is unique in a zoning sense because of the location of the existing dwelling, the topography, and the retaining wall. These features dictate that the proposed addition be located on the side of the house and this necessitates the setback variance. If the variance were denied

the Petitioners would suffer practical difficulty and hardship because they would be unable to construct the addition. This relief is within the spirit and intent of the BCZR and will not harm the public health, safety or welfare.

THEREFORE, IT IS ORDERED this **25th** day of **May, 2021**, by this Administrative Law Judge that the Petition for Special Hearing from the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to allow a proposed addition to be used as an accessory apartment (in-law apartment) is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Petition for Variance if necessary from the BCZR § 1A04.3.B.2b to permit a side yard addition with a side setback of 37 ft. in lieu of the required 50 ft. 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 must comply with the DOP and DEPS ZAC comments, copies of which are attached hereto and make a part thereof.
- The proposed structure shall not be used for commercial purposes and shall not have a separate utility meter.
- A copy of this Order shall be filed in the Land Records of Baltimore County along with the Declaration of Understanding 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.

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

PMM/dlm