

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(801 Hilltop Road)	*	OFFICE OF
1st Election District		
1st Council District	*	ADMINISTRATIVE HEARINGS
Mark Stoute & Dawn Stoute		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>	*	<b>Case No: 2021-0083-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 Mark Stoute & Dawn Stoute legal owners (“Petitioners”). The Special Hearing from the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to approve a proposed addition of 1,204 sq. ft. to an existing single family dwelling for a proposed accessory use (in-law) apartment with separate cooking facilities.

Also requested is a Variance from BCZR § 400.3 to permit an existing dwelling of 3,119 sq. ft. of overall floor area to have a proposed accessory use in-law apartment addition with a proposed area of 1,204 sq. ft., which is greater than one-third of the existing overall floor area of the existing dwelling. A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

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, Mark and Dawn Stoute appeared, along with their son Anthony Stoute. The site plan was marked and accepted into evidence as Petitioners’ Exhibit 2. There was no opposition at the hearing. The property is approximately 36,851 square feet and is zoned DR 3.5. It is located at the intersection

of Valley and Hilltop Roads in Catonsville, directly across Hilltop Road from the Valley Road Country Club and diagonally across from the ballfields of Catonsville High School.

Mr. Stoute explained that he and his wife are selling the home to their son Anthony and his wife Olivia, and that he and Dawn will then reside in the proposed in-law structure. Mr. Stoute acknowledged that they were aware of the conditions upon this use. He explained that there is a substantial buffer of existing trees and vegetation between this and all other adjoining residential lots, which is confirmed by photographs of the site (Petitioners' Exhibit 9). Architectural renderings and floor plans were submitted as Petitioners' Exhibits 4, 5, 6, 7, and 8 and show that the proposed improvement will be architecturally compatible with the existing dwelling and with the neighborhood.

Based on this record evidence I find that the proposed in law apartment is within the spirit and intent of the BCZR. With respect to the requested variance, a variance request involves a two-step legal analysis, 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).

I find that the property is unique in a zoning sense because it is a corner lot adjacent to a country club and a public school. Further there is a significant grade change from the existing dwelling down to the Valley Road, which impacts the placement of the proposed improvements. If the variance relief were denied the petitioners would suffer practical difficulty and hardship because they would be unable to construct the proposed in-law apartment.

THEREFORE, IT IS ORDERED this 17th 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 approve a proposed addition of 1,204 sq. ft. to an existing single family dwelling for a proposed accessory use (in-law) apartment with separate cooking facilities is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Petition for Variance if necessary from the BCZR § 400.3 to permit an existing dwelling of 3,119 sq. ft. of overall floor area to have a proposed accessory use in-law apartment addition with a proposed area of 1,204 sq. ft. which is greater than one-third of the existing overall floor area in lieu of the required 1,040 sq. ft. maximum floor area, or one-third of the existing overall floor area if the existing dwelling 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.
- The proposed structure shall not be used for commercial purposes and shall not have a separate utility meter or water and sewage services.
- A copy of this Order shall be filed in the Land Records of Baltimore County along with a fully executed Declaration of Understanding in accordance with BCZR § 400.4.

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

PMM/dlm