

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(11912 Berans Road)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Denise J. Shipley	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0124-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 owner of the subject property, Denise J. Shipley (“Petitioner”). The Petitioner is requesting Variance relief pursuant to Baltimore County Zoning Regulations (“BZCR”) § 1A04.3.2.b to permit a side yard dwelling addition with a side setback of 35 ft. in lieu of the required 50 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”) dated May 6, 2021, indicating that development of the property must comply with Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (§§ 33-3-101 and 33-3-120 of the Baltimore County Code) and the Forest Conservation Regulations (§§ 33-6-101 through 33-6-122 of the Baltimore County Code). In addition, DEPS noted in its ZAC comment that as a condition of permit approval of the addition, a Forest Buffer Easement and its Declaration of Protective Covenants must be recorded in Baltimore County Land Records via the Exhibit A process. Furthermore, DEPS noted that

Forest Conservation Law may be addressed for the proposed addition by filing a Single Lot Declaration of Intent with EIR; said declaration does not need to be recorded in Land Records.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on May 2, 2021, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the 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 comply with the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would cause practical difficulty and/or unreasonable hardship for the Petitioner.

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 25th day of **May, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Baltimore County Zoning Regulations (“BZCR”) § 1A04.3.2.b to permit a side yard dwelling addition with a side setback of 35 ft. in lieu of the required 50 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

- Petitioner must comply with the DEPS ZAC comment, dated May 6, 2021; a copy of 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.

PMM:dlw

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