

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(6499 Darnell Road)</b>		
9th Election District	*	OFFICE OF
2nd Council District		
Henry and Risa Jampel	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>		
	*	<b>Case No. 2020-0168-SPH</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Special Hearing filed by Henry and Risa Jampel. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 “to permit a proposed accessory structure (dwelling) to be utilized as an occasional guest dwelling.”

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 Petitioner’s Exhibit 1.

A ZAC comment was received from the Department of Planning (“DOP”) which opposes the requested relief. A letter in opposition was also received from Guy Warfield, the Zoning Chair of the Ruxton, Riderwood, Lake Roland Area Improvement Association (RRLRAIA). Finally, a letter in opposition and accompanying photos were submitted by an adjoining property owner and were admitted as Protestants’ Exhibits 1, and 2A – 2G, respectively.

Petitioner, Risa Jampel, appeared in support of the petition. Edward Gillis, Esquire represented the Petitioners. Bruce Doak, the licensed surveyor who prepared the site plan also attended; as did Vincent Greene, the architect on the project. Several adjoining neighbors attended and voiced their opposition.

The subject property is approximately 1.006 acres and is zoned DR 1. The Property is within the Ruxton Riderwood Design Review Plan (“DRP”) area. It is near Lake Roland. Dr. Rampel testified that she and her husband purchased the unimproved lot in 2016 and completed construction of their home in 2018. She explained that Mr. Greene, the architect on this proposed project, also designed the principal residence, which, according to SDAT, is 4,642 square feet. She testified that both she and her husband are medical doctors. She explained that they have both been treating patients on a daily basis throughout the Covid crisis, and have therefore had to take extraordinary precautions to avoid becoming infected, or infecting others. This has impacted their ability to enjoy visits from their young adult children and their spouses, who live out of town. Specifically, Dr. Rampel explained that they do not feel comfortable having their children and other guests stay overnight in the main house and therefore they desire to build this accessory guest house for their overnight guests. She explained that she and her husband would also use the space themselves as office and relaxation space.

Dr. Rampel then explained the “Covenants / Restrictions” that they would be willing to file in the land records, which were admitted as Petitioner’s Exhibit 9. Among these proposed restrictions are that “[o]ccupancy will be limited to two adults (and one or two small children),” and that they “anticipate” that they will have overnight guests “approximately 3-4 nights per month.” Further, “[t]here will not be a kitchen, although a “refreshment area” will have a refrigerator and sink. There will not be a stove or oven. In addition, there would be no separate utility connections and the structure would not be leased for profit, but “used only for family/friends.”

Dr. Rampel further testified that if the petition is granted that they will hire a landscape architect to design plantings and other features that will screen the guest house from the adjoining

neighbors, to the extent possible. She believes the use would have minimal visual or sound impacts on the surrounding property owners. Finally, she testified that the projected cost of the guest house is between two hundred and two hundred fifty thousand dollars.

Mr. Doak testified next. He explained that the property is zoned DR 1. He stated that the existing principal residence meets all setbacks and that this proposed accessory structure would also. He explained that the structure would be 30 ft. wide by 18 ft. deep, with a height of 14 feet. The architectural elevations on the plan show that the structure will have a fireplace and front porch. He submitted Petitioner's Exhibit 6, which is a key sheet and a series of photos. He described the perspective of each photo and testified that the proposed structure would have minimal visual or sound impacts on the surrounding properties due to the grade differences and extensive mature landscaping. He testified that accessory structures are permitted in the DR zones and that there are no regulations in the BCZR that prohibit this proposed accessory guest house. He testified that he has assisted in obtaining approval for numerous other such guest houses. However, neither he nor Mr. Gillis provided any case citations to support this assertion.

The architect, Vincent Greene, then explained the proposed project in detail. He testified that they considered several alternatives to this free standing structure, including using the basement or building a ground level addition, but that there were significant obstacles to each of those alternatives. He testified that in his expert opinion this proposed accessory structure would be the least impactful environmentally, and would be the most aesthetically compatible with the existing neighborhood. In response to questions from two of the neighbors he testified that the impacts of the proposed construction would be minimal because it is a "slab on grade" so no heavy excavation equipment will be needed.

Several neighbors, as well as Guy Warfield, the Zoning Chair of the Ruxton, Riderwood,

Lake Roland Area Improvement Association (RLLRAIA) testified in opposition. Ryan and Julie McClerman are the adjoining property owners whose property would be closest to the proposed guest house. They submitted a letter in opposition and a series of photos that show the visual impact that this structure would have on their property. (Protestants' Exhibits 1, and 2A – 2G, respectively). Both the McClerndans and Mr. Warfield pointed out that if this guest house were approved it would effectively nullify the density limits in this DR 1 zone by allowing two dwellings on this one acre lot. The ZAC comments of the DOP raise this same objection.

Baltimore County Code § 32-3-301(a)(1), and BCZR § 307.1 give the Zoning Commissioner/Administrative Law Judge the power “to grant variances from height and area regulations.” However, pursuant to BCZR § 307.1, “[n]o increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height and area regulations.” (emphasis added). An example of an “otherwise allowable” increase in residential density is the “Accessory Apartment” permitted under BCZR § 400.4. Among the restrictions associated with this exception is that the Accessory Apartment “shall only be utilized by immediate family members.” BCZR § 400.4.C.1.b. In addition, the petitioner must file a Declaration of Understanding to be recorded in the County land records, and obtain a Use Permit which must be renewed every two years. The petitioners in the instant case have not applied for relief under this zoning regulation. Indeed, Ms. Rampel was forthright in testifying that the proposed guest house would also be used by extended family and friends, so it would not meet the requirements of BCZR § 400.4.

Therefore, in light of the limitations on my authority, and the strict prohibitions on the unauthorized increase in residential density, I must deny the requested relief. The DOP, the community association, and the adjoining neighbors are correct – to grant this request would be to

ignore the density limits of this DR 1 zone. And, “citizens [of a given county or municipality] are entitled to strict enforcement of the existing zoning regulations.” *Salisbury Bd. Of Zoning Appeals v. Bounds*, 240 Md. 547, 555-56 (1965).

THEREFORE, IT IS ORDERED this **25th** day of **November, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from the BCZR § 500.7 to permit a proposed accessory structure (dwelling) to be utilized as an occasional guest dwelling is hereby DENIED.

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