

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Greyhound Road, 100 feet S of
c/l of Anthony Avenue
15th Election District
6th Councilmanic District
(321 Greyhound Road)

German and Sylvia Davila
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0091-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, German and Sylvia Davila for property located at 321 Greyhound Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck on side of existing dwelling with a side setback of 2 feet in lieu of the required 7.5 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners wish to construct a deck measuring 10 feet x 28 feet onto the side of their home. The property is next to Turkey Point Park so no adjacent neighbors are impacted by the proposed deck. There are also established trees separating the property from the park land.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were also received from the Department of Environmental Protection and Resource Management (DEPRM) dated November 6, 2008 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations. The property is located within a Limited Development Area of the Chesapeake Bay Critical Area and must comply with maximum lot coverage limits and a minimum 15% forest coverage (number of trees in this case). To not be considered as additional lot coverage, the deck must be constructed with

gaps between the decking to allow water to pass freely through and the area beneath the deck must be kept as natural ground and mulched. Stone, pea gravel, and other such materials placed below the deck would constitute additional lot coverage. Also, any stairways, no matter how constructed, are considered lot coverage. Placing a roof or other structure over the deck also constitutes lot coverage.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 12, 2008 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 Section 32-3-303 of the Baltimore County Code. 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 Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12th day of November, 2008 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck on side of existing dwelling with a side setback of 2 feet in lieu of the required 7.5 feet is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The property is located within a Limited Development Area of the Chesapeake Bay Critical Area and must comply with maximum lot coverage limits and a minimum 15% forest coverage (number of trees in this case).
4. To not be considered as additional lot coverage, the deck must be constructed with gaps between the decking to allow water to pass freely through and the area beneath the deck must be kept as natural ground and mulched. Stone, pea gravel, and other such materials placed below the deck would constitute additional lot coverage. Also, any stairways, no matter how constructed, are considered lot coverage. Placing a roof or other structure over the deck also constitutes lot coverage.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz