

IN RE: PETITION FOR ADMIN. VARIANCE

W side of Craigmont Road, N of
Johnnycake Road
1st Election District
4th Councilmanic District
(6401 Craigmont Road)

Matthew and Edith Bradley
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0199-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, Matthew and Edith Bradley for property located at 6401 Craigmont Road. The variance request is from Sections 1B02.3.B and 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) (1970 Zoning Regulations C.M.D.P. Section 1B01.2.C.4) to permit a proposed addition to have a setback of 49 feet from the centerline of a road in a Transition Area in lieu of the required 55 feet (D.R.3.5), and to amend the final Development Plan of Discovery Acres, Section 1, Block C, Lot 1 only. The subject property and requested relief are more particularly described on the site plan accepted as Petitioners' Exhibit No. 1.

Petitioners wish to enclose an existing covered concrete patio porch attached to the front of the home where the main entrance is located. In support of the variance, Petitioners indicate in their affidavit that the proposed area lends itself to the utilization of existing facilities without major interruptions to the existing floorplan of the dwelling. They also seek to provide their front entrance with an enclosed area to reduce utility bills and reduce road and ambient noise. Petitioners also indicate that the enclosed porch will provide a place to sit out and enjoy the outdoors without concern for bugs, flies, mosquitoes, and the sun's harmful rays, while improving the overall appearance of the home. Finally, Petitioners indicate that the restrictiveness of the lot

configuration and existing improvements does not lend itself to any addition of adequate size without the requested variance.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments generally indicate no opposition concerning the requested relief; however, the comment dated February 4, 2009 from the Bureau of Development Plans Review indicates that sometime before August, 2007, Petitioner built a carport and a separate concrete patio on the adjacent property which is owned by Baltimore County. They believe the property owner must either remove the structures or buy the land from the County. As such, they recommend that the variance request be denied until Petitioner shows that this issue has been properly resolved.

In response to this comment, Petitioner's attorney, Arnold Jablon, Esquire, has indicated that he has been working with the County on behalf of Petitioner to resolve the encroachment issue. He has submitted a franchise agreement to the County which would allow Petitioner to keep the improvements on the County owned land, in exchange for payment of a franchise fee. Mr. Jablon has also indicated that the instant variance request is a discreet zoning relief issue that should not impact the apparent intrusion that exists with the County or potentially the State. Notwithstanding, Mr. Jablon anticipates that the pending franchise request will resolve that issue. I agree to a degree with Mr. Jablon and will, therefore, not hold the trespass issue involving Petitioner as an impediment to the instant variance request. I will, however, make satisfactory resolution of that issue a condition of relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 7, 2009 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 6th day of April, 2009 that a Variance from Sections 1B02.3.B and 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) (1970 Zoning Regulations C.M.D.P. Section 1B01.2.C.4) to permit a proposed addition to have a setback of 49 feet from the centerline of a road in a Transition Area in lieu of the required 55 feet (D.R.3.5), and to amend the final Development Plan of Discovery Acres, Section 1, Block C, Lot 1 only 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. Petitioners shall satisfactorily resolve the issue involving encroachment of their carport and a separate concrete patio onto the adjacent property which is owned by Baltimore County, including perhaps by way of a franchise agreement that has been submitted by Petitioners and is currently under review and consideration by the County. Although this issue must be resolved by Petitioner, it shall not serve as an impediment to Petitioner obtaining the necessary permits for this project.

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