

**IN RE: PETITION FOR ADMIN. VARIANCE**  
NW side of Morning Dove Way; 213 feet SW  
of the c/l of East Joppa Road  
11<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
**(5234 Morning Dove Way)**

Jonathan and Geannine Darby  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2009-0314-A**

\* \* \* \* \*

**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, Jonathan and Geannine Darby for property located at 5234 Morning Dove Way. The variance request is from Sections 259.9.B, 259.9.C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck addition with a rear setback of 33 feet 7 inches in lieu of the required 37 feet 6 inches, and to amend the last revision of the Final Development Plan of "Orchard Crossing", Lot 9 only. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a deck onto the rear of the home. The proposed deck is 18 feet 6 inches in depth. A basement entrance limits the width of the deck. Pictures submitted by the Petitioners demonstrate that other dwellings in the development have decks. A rear yard setback adjustment of 3 feet 10 inches will not be an imposition on any adjacent properties as the Petitioners' property backs up to community open space.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on June 12, 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 7<sup>th</sup> day of July, 2009 that a variance from Sections 259.9.B, 259.9.C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck addition with a rear setback of 33 feet 7 inches in lieu of the required 37 feet 6 inches, and to amend the last revision of the Final Development Plan of "Orchard Crossing", Lot 9 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.

