

**IN RE: PETITION FOR ADMIN. VARIANCE**

E side of Malvern Court; 350 feet S of  
the c/l of Malvern Avenue  
9<sup>th</sup> Election District  
2<sup>nd</sup> Councilmanic District  
**(10 Malvern Court)**

John and Elizabeth Linehan  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2010-0041-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, John and Elizabeth Linehan for property located at 10 Malvern Court. The variance request is from Section 1B02.3.A.1 (1955 R. 40 202.3) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition with an 11 foot side yard setback in lieu of the minimum required 20 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners propose to construct two additions on either side of the existing dwelling. Only one of the additions requires a variance to the side yard setback. Petitioners desire to enlarge the master bedroom and moving the master bedroom to another area of the existing dwelling is not practical due to the layout of the home. The proposal is to remodel the dwelling with a second story addition that contains an enlargement of the master bedroom. It was considered appropriate to make the area over the covered porch large enough for a master bedroom. The subject property contains 1.7 acres zoned DR 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated September 4, 2009 which indicates that the subject property is within the residential Ruxton Riderwood Design

Review Panel area. The total square footage of the two additions is 3,387 square feet which is 47% of the gross floor area of the existing three story dwelling or 7,178 square feet. A Design Review Panel meeting is not required since the addition is less than 50%. The existing dwelling is sited to the west side of the lot which is irregular in shape. The addition is on the side of the dwelling that is adjacent to a vacant lot of record also owned by the Linehans. The Office of Planning does not oppose the requested variance. The Office has reviewed the architectural elevation drawings prepared by Peter W. Ratcliffe, AIA dated 07-28-09. They are well designed and when constructed will modernize the existing dwelling in a manner that is complementary to the area. If there are any changes to the drawings, the Office of Planning should review and approve prior to the issuance of any building permit.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 13, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have 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 Petitioners.

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 10<sup>th</sup> day of September, 2009 that a variance from Section 1B02.3.A.1 (1955 R. 40 202.3) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition with an 11 foot side yard setback in lieu of the minimum required 20 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. If there are any changes to the architectural elevation drawings prepared by Peter W. Ratcliffe, AIA dated 07-28-09, the Office of Planning shall review and approve prior to the issuance of any building permit.

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

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz