

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Clanford Road; 280 feet E of
the c/l of Kings Point Road
2nd Election District
4th Councilmanic District
(9835 Clanford Road)

Andrew and Virginia Stills
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0124-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, Andrew and Virginia Stills for property located at 9835 Clanford Road. The variance request is from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed open projection (carport) to have a side yard setback of 1 foot in lieu of the required 7.5 feet, and to amend the Final Development Plan of King Point, Section 7, Block SS, Lot 14 only. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1.

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.

Although no County agency expressed concern related to the proposed carport, the request generated letters of opposition from two nearby residents, namely Al Barnes of 9829 Clanford Road and Gladys Winfrey of 9838 Clanford Road. Mr. Barnes states that the variance request is unreasonable and that the existing 7.5 feet setback is minimal and far from desirable. Reducing the setback to 1 foot is totally inappropriate for the design of the neighborhood. He further states

that there are 500 homes in Kings Park that function with the 7.5 feet setback. Ms. Winfrey states that the variance request would negatively affect the appearance, landscape and composition of Clanford Road and its surrounding homes.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on October 18, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented. The Petitioners filed the supporting affidavit as required by Section 32-3-303 of the Baltimore County Code.

In considering a request for variance, I must do so in accordance with the mandate of the Maryland Court of Special Appeals in the case of *Cromwell v. Ward*, 102 Md.App. 691 (1995) and their interpretation of Section 307 of the B.C.Z.R. In that case, the Court interpreted the regulation to require that a two-prong test be met in order for variance relief to be granted. First, it must be shown that the property is unique in some manner and that this uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, it must then be considered whether strict compliance with the regulation would cause a practical difficulty upon the property owner and be unnecessarily burdensome.

Finally, I must also determine whether the request is within the spirit and intent of the zoning regulations and its impact, if any, on adjacent properties. In my view, the configuration of the subject property and the orientation of the dwelling does not lend itself to the construction of a carport. The Petitioners' property is similar in size to that of neighboring properties and the existing dwelling is also similarly situated on the property as that of the neighboring dwellings. The subject property is unremarkable when compared to other properties in the general vicinity.

I believe the proposed structure will have an adverse impact on the overall appearance and character of the neighborhood, especially vis-à-vis other properties nearby. If this variance were granted, it could set a precedence for similar requests to construct a carport within the required setback. Hence, the request is not within the spirit and intent of the Zoning Regulations. I cannot find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Thus, I am persuaded in this case to deny the variance.

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 denied.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 9th day of November, 2009 that Variance from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed open projection (carport) to have a side yard setback of 1 foot in lieu of the required 7.5 feet, and to amend the Final Development Plan of King Point, Section 7, Block SS, Lot 14 only is hereby DENIED.

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