

IN RE: PETITION FOR ADMIN. VARIANCE
W side of Lourdes Road; 135 feet N of the
c/l of Marsh Road
15th Election District
6th Councilmanic District
(1006 Lourdes Road)

David L. Thompson
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0194-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 owner of the subject property, David L. Thompson for property located at 1006 Lourdes Road. The variance request is from Section 301.1.A of the Baltimore County Zoning Regulations to permit a side yard setback of 22 feet in lieu of the required 37.5 feet for a proposed open deck. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct a ground-level deck measuring 10 feet x 30 feet onto the left side of the existing dwelling. The proposed deck will have rails on three sides with no stairs. Petitioner has a young son and the deck will prevent the child from running into the street or running into the creek which is located behind the property. The deck cannot be placed at the rear of the dwelling because the bedroom faces the water and there is no place for a door to go to a deck. Petitioner states that all neighbors currently enjoy decks on their homes.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated January 22, 2010. The comments indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and

adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. Comments were received from the Department of Environmental Protection and Resource Management dated February 2, 2010 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. This property is not located within a Buffer Management Area, therefore construction of any portion of the deck within the 100 foot Critical Area Buffer from mean high water requires a Critical Area Administrative Variance. An application for a variance does not guarantee its approval.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on January 24, 2010 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 17th day of February, 2010 that a variance from Section 301.1.A of the Baltimore County Zoning Regulations to permit a side yard setback of 22 feet in lieu of the required 37.5 feet for a proposed open deck is hereby GRANTED, subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
3. The flood protection elevation for this site is 10.4 feet.
4. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
5. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
6. The building engineer shall require a permit for this project.
7. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
8. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
9. 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).
10. Construction of any portion of the deck within the 100 foot Critical Area Buffer from mean high water requires a Critical Area Administrative Variance. An application for a variance does not guarantee its approval.

