

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
E side of Woodsyde Court; 885 feet N of		
the c/l of Heneson Garth	*	ZONING COMMISSIONER
(12143 Woodsyde Court)		
4 th Election District	*	OF
2 nd Council District		
	*	BALTIMORE COUNTY
David B. Abramoff, et ux		
<i>Petitioners</i>	*	Case No. 2010-0223-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, David B. Abramoff and his wife, Sandra F. Abramoff. The Petitioners request a variance from Section 1A04.3.B.2 to permit a side yard setback of 43 feet in lieu of the required minimum of 50 feet from the property line; and to approve the amendment of the approved amended Final Development Plan for Woodsyde Heights such that the Final Development Plan will be consistent with the site plan that is the subject of this Petition for Lot #29 only of Section 4 of the subdivision of Woodsyde Heights. The subject property and requested relief are more particularly described on the site plan which was accepted into evidence and marked as Petitioners' Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the unique configuration of the property and the layout and location of the existing dwelling thereon. The property is irregular in shape and is encumbered by a 20 foot drainage and utility easement at the rear of the property and along the right property line. As shown on the site plan, the Petitioners desire to construct three separate additions to the existing dwelling; only one of the proposed additions requires variance relief from the required side yard setback. None of the neighbors on Woodsyde Court expressed any opposition to the variance request. 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. The property contains 1.31 acres and is heavily wooded.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any objection. Comments were received from the Office of Planning dated March 8, 2010 which states that the property is improved with a single-family dwelling on Lot 29 on the Final Development Plan of Woodsyde Heights recorded in 1985 and vested prior to the effective date of Bill 56-04 R.C. 5 Performance Standards. The Planning Office does not object to the requested variance. The lot in question is irregularly shaped and only a small area of the addition extends outside the building envelope.

Pursuant to the advertisement, posting of the property, public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 29th day of March 2010, that the Petition for Administrative Variance seeking relief from Section 1A04.3.B.2 to permit a side yard setback of 43 feet in lieu of the required minimum of 50 feet from the property line; and to approve the amendment of the approved amended Final Development Plan for Woodsyde Heights such that the Final Development Plan will be consistent with the site plan that is the subject of this Petition for Lot #29 only of Section 4 of the subdivision of Woodsyde Heights be and is hereby GRANTED, subject to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

WJW:pz

____SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
of Baltimore County