

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Maple Road; SE corner of
Maple Road and Cove Road
15th Election District
7th Councilmanic District
(2209 Maple Road)

Raymond H. Weinreich Jr. and Amy L. Weinreich
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0329-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, Raymond H. Weinreich Jr. and Amy L. Weinreich for property located at 2209 Maple Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side setback of 4 feet in lieu of the required 10 feet for an addition. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct an addition measuring 20 feet x 28 feet. The existing dwelling at 1,120 square feet is too small for the family of six which requires additional living space. Conversion of the attached garage to living space is not feasible due to size, inferior construction methods and deteriorating building materials. None of the adjacent property owners expressed any concern related to the proposed addition.

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 June 23, 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 June 28, 2010 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. This lot is within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% without mitigation; lot coverage may go up to 31,25% with mitigation for the amount above 25%. In addition, the 15% afforestation requirement applies. Comments were received from the Office of Planning which indicates the subject property appears to be well maintained. The large two-storey building in the rear of the property is clearly not used for storing vehicles on a regular basis as a privacy fence blocks the two garage door entrances. Previous zoning case 07-0241-A restricted the use of the detached structure from conversion to a dwelling or apartment. It was not permitted to contain living, sleeping, kitchen or bathroom facilities, or be used for commercial purposes. Such conditions shall be reiterated in any relief associated with this Petition. The explanation provided on the application implies that the proposed addition will be for additional living space and not storage or vehicle parking. Clarification of the intentions shall be clearly explained to the Zoning Commissioner. The Planning Office does not oppose the addition for living space. Lastly, the property is within the Limited Development Area of the Chesapeake Bay Critical Area and must comply with those regulations. Impervious area is limited to 25% of the lot size and the lot must contain 15% tree cover. The flood protection elevation for this site is 10 feet. That means that the first floor must be a minimum of 1 foot above the flood plain elevation of 9.4 feet and of flood resistant construction.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 6, 2010 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 29th day of June, 2010 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side setback of 4 feet in lieu of the required 10 feet for an addition 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. Previous zoning Case No. 07-0241-A restricted the use of the detached garage structure (measuring 28 feet x 32 feet x 26 feet high) from conversion to a dwelling or apartment. It was not permitted to contain living, sleeping, kitchen or bathroom facilities, or be used for commercial purposes. This condition shall remain in full force and effect.

3. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
4. The flood protection elevation for this site is 10.4 feet.
5. 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.
6. 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.
7. The building engineer shall require a permit for this project.
8. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
9. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
10. 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).
11. This lot is within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% without mitigation; lot coverage may go up to 31,25% with mitigation for the amount above 25%. In addition, the 15% afforestation requirement applies.

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