

IN RE: PETITION FOR ADMIN. VARIANCE
SE side of Chestnut Road, 678 feet SW of
the c/l of Seneca Road
15th Election District
6th Councilmanic District
(3733 Chestnut Road)

Charles E. Kelly
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0024-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, Charles E. Kelly for property located at 3733 Chestnut Road. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition with side yard setbacks of 15 feet and 40 feet in lieu of the required 50 feet, respectively. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct a rear addition measuring 32 feet x 26 feet in size. The current 10 feet x 12 feet master bedroom, one small single bathroom and one small closet are no longer adequate. An addition, including a larger master bedroom, bath and closet are needed to make to dwelling more livable. Photographs submitted with the Petition clearly show that the right side of the property is screened by dense vegetation. The most affected neighbor residing at 3737 Chestnut Road did not voice any objection 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 August 5, 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 September 8, 2010 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. This property is within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. All LDA requirements must be met. Lot coverage is limited to 15%. Forest clearing up to 20% must be mitigated at a 1:1 ratio, forest clearing between 20% - 30% must be mitigated at a 1/5:1 ratio for the entire area cleared, and forest clearing over 30% requires a Critical Area variance.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on July 30, 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 8th day of September, 2010 that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition with side yard setbacks of 15 feet and 40 feet in lieu of the required 50 feet, respectively 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 10.2 feet Baltimore County Datum.
3. The flood protection elevation for this site is 11.2 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. This property is within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. All LDA requirements must be met. Lot coverage is limited to 15%. Forest clearing up to 20% must be mitigated at a 1:1 ratio, forest clearing between 20% -30% must be mitigated at a 1/5:1 ratio for the entire area cleared, and forest clearing over 30% requires a Critical Area variance.

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