

**IN RE: PETITION FOR ADMIN. VARIANCE**

E side of Kingston Park Lane; 416 feet  
S of the c/l of Kings Way  
15<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District  
**(46 Kingston Park Lane)**

John C. and Elizabeth Curry  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2011-0102-A**

\* \* \* \* \*

**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, John C. and Elizabeth Curry for property located at 46 Kingston Park Lane. The variance request is from Sections 1B02.3.A.3, 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition and open projection (deck) with an 11 feet rear setback in lieu of the required 30 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct a deck and sunroom to replace the existing structures that are in disrepair. Additional space is needed for the growing family. The property backs up to the Middle River.

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 October 7, 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 (DEPRM) dated November 8, 2010. DEPRM has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. This lot is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). As proposed, the deck and sunroom do not meet the BMA requirements or lot coverage limits. A Critical Area variance will be necessary. Without an approved Critical Area variance the proposal does not minimize adverse impacts on water quality that resulting from development activities.
2. The proposed development does not comply with all LDA and BMA requirements and therefore the subject zoning petition does not conserve fish, wildlife, and plant habitat.
3. The proposed development does not meet all LDA and BMA requirements and a Critical Area variance has not been applied for or granted. Therefore it is not consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 25, 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 9<sup>th</sup> day of November, 2010 that a variance from Sections 1B02.3.A.3, 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition and open projection (deck) with an 11 feet rear setback in lieu of the required 30 feet 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. The base flood elevation for this site is 8.5 feet [NAVD 88].
3. The flood protection elevation for this site is 9.5 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. This lot is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). A Critical Area variance will be necessary.

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