

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Shefflin Court; 35 feet W		
of Pheasant Cross Drive	*	DEPUTY ZONING
3 rd Election District		
2 nd Councilmanic District	*	COMMISSIONER
(2201 Shefflin Court)		
	*	FOR BALTIMORE COUNTY
VG Property Management 110 LLC		
<i>Petitioner</i>	*	Case No. 2011-0143-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed by Karen S. Karmioli of 2205 Shefflin Court. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

By way of background, Petitioner VG Property Management 110 LLC, the legal owner of the subject property, requested Administrative Variance relief from Section 1B02.3.B (Section 301.1 1955 Zoning Regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit 2 proposed open projections (covered porch and carport) with a side yard setback of 6 feet and rear yard setback of 23 feet in lieu of the minimum required 11¼ feet and 30 feet respectively (for covered porch) and a side street setback of 5 feet in lieu of the minimum required 30 feet (for carport). The case was filed on or about October 19, 2010 as a request for Administrative Variance by Vitaly Galilov, purported to be the legal property owner.

During the pendency of the request, the Office of Planning submitted a Zoning Advisory Committee (“ZAC”) comment dated November 3, 2010 stating they did not object to the 6 foot side yard setback in lieu of the required 11¼ feet for the covered porch, but did object to the side street setback request of 5 feet in lieu of the required 30 feet for the carport. They indicated that if Petitioner revised the site plan to show a one car carport in lieu of the two car carport, the variance would only be for 20 feet in lieu of 30 feet which would be acceptable. Upon a routine search of the Real Property tax records, the undersigned also became aware that the property was not owned by Vitaly Galilov, but was owned by a limited liability company known as VG Property Management 110 LLC. Mr. Galilov is listed in the SDAT as the Resident Agent of the company with an address of 2118 Burdock Road. In light of the Office of Planning’s partially unfavorable ZAC comment and the uncertainty as to whether the subject property was owner occupied as required for an Administrative Variance, the undersigned called for a hearing on this matter pursuant to Section 32-3-303(c)(2) of the Baltimore County Code (“B.C.C.”).

Petitioner then filed a revised Petition for Administrative Variance and site plan on or about December 3, 2010. The Petition properly listed the legal owner as VG Property Management 110 LLC and the site plan was revised for the carport size to be reduced to a one car carport as requested by the Planning Office. The undersigned then received a revised comment from the Planning Office dated December 8, 2010 indicating that they did not object to the requested relief. Because the Planning Office no longer had any issues with the Petition or site plan, the undersigned determined that a hearing was not necessary and granted the Petition for Administrative Variance in an Order dated December 9, 2010.

Thereafter, Karen Karmioli submitted an email letter dated January 4, 2011 to be treated as a Motion for Reconsideration. In her letter, Ms. Karmioli indicated that she believes the granting of the Petition was based on incomplete information. She states that this incomplete information

is related to the west side of the structure for which a “proposed covered porch” was noted in both the design plat and in my Order of December 9, 2010. Ms. Karmioli also states that it is her understanding the “covered porch” construction is actually being built for use as a second carport. Recent construction at the area designated for the covered porch has included the removal of curbing between the sidewalk and Shefflin Court, allowing for the installation of a driveway apron. A cement driveway and car pad that runs the length of the structure has also been constructed. Ms. Karmioli also indicated that she confirmed with the Office of Highways that as of Monday, January 3, 2011, a curb permit had not been filed with that office for the installation of said driveway apron. Attached with Ms. Karmioli’s email letter were photographs depicting the west side of the property with the second driveway and the cement parking pad in the location of the covered porch. Based on the above, Ms. Karmioli requests that the Petition for Administrative Variance be denied and that a formal hearing be granted.

In considering the Motion for Reconsideration, the undersigned reviewed the case file -- including the Petition and site plan and revisions, the documentation and photographs submitted with the Petition, and the Zoning Advisory Committee (“ZAC”) comments -- and the Findings of Fact and Conclusions of Law dated December 9, 2010, as well as the email letter and photographs submitted by Ms. Karmioli in support of the Motion.

After reviewing the aforementioned documents, I believe the case warrants granting the Motion for Reconsideration. In my judgment, the revised Petition and site plan are misleading. The Petition requests variance relief for a carport to be located at the main entrance driveway leading from Pheasant Cross Drive and a covered porch to be located at the west side of the property; however, based on the photographs submitted by Ms. Karmioli showing the construction at the property, this covered porch appears to be a second carport, with a new driveway leading to Shefflin Court. Neither the photographs that were submitted with the original Petition for

Administrative Variance, nor the site plan or revised site plan resemble the current construction and the proposed use of the covered porch as a carport. I find this to be a material variation from what was requested in the original and revised Petition and site plan, and agree with Ms. Karmioli that a full public hearing is warranted in this case. Petitioners should be required to fully disclose their intentions with regard to the relief requested and satisfy the burden of proof required by the Zoning Regulations for variance relief. Therefore, I shall grant the Motion for Reconsideration and withdraw the previously granted variance relief and set this matter in for a full public hearing on the variance requests.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 11th day of January, 2011 that the Motion for Reconsideration filed by Karen Karmioli pursuant to the email letter dated January 4, 2011 be and is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Administrative Variance relief previously granted pursuant to the Order dated December 9, 2010 shall be deemed to be **VOID** and is hereby **WITHDRAWN**, and the Petition for Administrative Variance shall be scheduled for a public hearing before the Zoning Commissioner or Deputy Zoning Commissioner at the earliest convenience, with posting and advertising as required by law at Petitioner's cost and expense.

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