

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
SW side of Thompson Blvd., 900 feet SE		
from the c/l of Sandal Wood Road	*	OFFICE OF
15 th Election District		
7 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(924 Thompson Blvd.)	*	FOR BALTIMORE COUNTY
Robert C. Waldhauser		
<i>Petitioner</i>	*	Case No. 2011-0224-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owner of the subject waterfront property, Robert C. Waldhauser for property located at 924 Thompson Blvd. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit side yards of 1 existing foot and 5 feet in lieu of the required 10 feet and 10 feet for an addition to an existing dwelling. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct a one story addition of 975 square feet on the front or water side of the existing residence. The 5 feet side yard variance is requested because of the existing 45 feet lot width, location of the existing dwelling in relation to the property lines, and to construct the addition to conform to the layout/design of the existing dwelling. The proposed carport does not require a variance; however, by attaching the proposed carport to the existing utility building, a variance is needed. The file contains a letter of support from the neighbors residing at 922 Thompson Blvd.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated February 7, 2011, which states that it appears the proposed carport and breezeway to the existing house will be roofed but open on the sides. The second story addition and water front one story addition will be

enclosed. The Planning Office does not oppose the request provided certain conditions are met. These conditions include building materials should be similar to that of the existing dwelling, and vegetative screening on the north side of the dwelling. Comments were received from the Bureau of Development Plans Review dated February 2, 2011. 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 Sustainability (DEPS) dated February 15, 2011. DEPS 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, they offer the following comments:

1. This waterfront property is located in a Limited Development Area and a Buffer Management Area within the Chesapeake Bay Critical Area. Development of this property must comply with a maximum lot coverage limit of 31.25% with mitigation for the lot coverage amount over 25%, must meet restrictions on development within the 100-foot tidal buffer, and must meet a 15% tree cover requirement (minimum of 5 trees). Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements. Mitigation requirements may include removal of lot coverage and the planting of native trees and shrubs.
2. The subject development can meet the requirement to conserve fish, wildlife, and plant habitat by bringing the site into compliance with all Critical Area requirements and through mitigation.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property and within the tidal buffer is limited. Compliance with the Critical Area requirements, and mitigation can allow the subject development to be consistent with established land use policy 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 Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 6, 2011, 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 Administrative Law Judge, 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 Administrative Law Judge for Baltimore County, this 24th day of February, 2011, that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit side yards of 1 existing foot and 5 feet in lieu of the required 10 feet and 10 feet for an addition to an existing dwelling be and 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 building materials for the proposed additions shall be similar to that of the existing dwelling.

3. There shall be vegetative screening on the north side of the dwelling. The proposed addition on that side will not have windows and therefore shall be visually enhanced. A 58 feet black wall shall be mitigated with mature vertical plantings.
4. The base flood elevation for this site is 7.7 feet [NAVD 88].
5. The flood protection elevation for this site is 8.7 feet.
6. 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.
7. 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.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
11. Development of the subject property shall be in compliance with all Critical Area requirements.
12. This waterfront property is located in a Limited Development Area and a Buffer Management Area within the Chesapeake Bay Critical Area. Development of this property must comply with a maximum lot coverage limit of 31.25% with mitigation for the lot coverage amount over 25%, must meet restrictions on development within the 100-foot tidal buffer, and must meet a 15% tree cover requirement (minimum of 5 trees).

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz