

IN RE: PETITION FOR ADMIN. VARIANCE
NW side of Bullneck Road, 682 feet NE
of the c/l of Dundalk Avenue
12th Election District
7th Councilmanic District
(8122 Bullneck Road)

William Scott Weber
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0271-A**

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OPINION AND ORDER

This matter comes before this Administrative Law Judge as a Petition for Administrative Variance filed by the legal owner of the subject waterfront property, William Scott Weber for property located at 8122 Bullneck Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a garage addition on the side of an existing dwelling with a side setback of 0.75 feet in lieu of the required 10 feet. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. Petitioner desires to construct a garage measuring 18 feet x 24 feet to accommodate his vehicle. The most affected property owner at 8124 Bullneck Road did not express any concerns about the proposal.

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 March 17, 2011, which 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 April 7, 2011 and offers the following comments:

1. This lot is located within an Intensely Developed Area (IDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). Relief to the side yard setback requirement will not impact any of the Critical Area requirements for this lot. The 10% pollutant reduction requirement and all BMA regulations must be addressed to minimize adverse impacts on water quality that result from development activities.
2. The zoning request will not result in any forest clearing or wetland impacts, and mitigation may be required for any new impervious surfaces on this lot. Therefore, the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The CBCA regulations apply to development activities within the 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. Any proposed development activities must meet all IDA and BMA regulations.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 21, 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 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 Administrative Law Judge for Baltimore County, this 20th day of April, 2011 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a garage addition on the side of an existing dwelling with a side setback of 0.75 feet in lieu of the required 10 feet 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 7.7 feet [NAVD 88].
3. The flood protection elevation for this site is 8.7 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 an Intensely Developed Area (IDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). The 10% pollutant reduction requirement and all BMA regulations must be addressed to minimize adverse impacts on water quality that result from development activities. Any proposed development activities must meet all IDA and BMA regulations.

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

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz