

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
NW side of Denton Road, opposite of		
Cherry Garden Road	*	OFFICE OF
16 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(1518 Denton Road)		
	*	FOR BALTIMORE COUNTY
Jennifer and Matthew Snyder		
<i>Petitioners</i>	*	Case No. 2011-0294-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject waterfront property, Jennifer and Matthew Snyder for property located at 1518 Denton Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed dwelling addition with a rear yard setback of 2 feet in lieu of the minimum required 30 feet, and a front yard setback of 15 feet in lieu of the minimum required 30 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Additional living space is required for the growing family. Therefore, Petitioners propose constructing a two story addition. The lot is narrow and long and fronts of Muddy Gut Creek.

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 April 11, 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 also received from the Department of Environmental Protection and Sustainability dated May 16, 2011. The subject property is located within the Chesapeake Bay Critical Area. According to B.C.Z.R. Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands.

The subject property is located within a Limited Development Area, and is subject to Critical Area lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17). In order to minimize impacts on water quality, the applicant should maintain the historical percentage of lot coverage that exists on the property. According to the applicant's plan and field measurements for this review, lot coverage is not proposed to increase, therefore, impacts on water quality will be avoided. Based on field observations and the applicant's plan, a two-story addition to the existing dwelling will be constructed in the same location as an existing roof attached to the dwelling, over an existing, concrete patio.

2. Conserve fish, wildlife, and plant habitat.

The subject property and adjoining properties are located in a mapped Buffer Management Area, meaning that the existing pattern of historical development in the buffer prevents the 100-foot buffer from fulfilling water quality and habitat functions. These areas are subject to EPS's Critical Area regulations entitled "Baltimore County Buffer Management Plan". The applicant's proposal to remove an existing roof over an existing concrete patio, and construct a two-story addition on the same footprint(24' X 20') will not increase lot coverage within the 100-foot buffer, therefore, will avoid water quality impacts, maintain buffer functions and conserve fish habitat in Muddy Gut Creek.

3. Be 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 applicant's proposal to construct an addition to the existing dwelling that will be in the same location as an existing roof off of the house, over an existing, concrete patio within a Critical Area Buffer Management Area is consistent with this goal. The proposal will avoid environmental impacts.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 10, 2011, 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 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 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 Administrative Law Judge for Baltimore County, this 19 day of May, 2011 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed dwelling addition with a rear yard setback of 2 feet in lieu of the minimum required 30 feet, and a front yard setback of 15 feet in lieu of the minimum required 30 feet be and 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 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.

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