

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Drexel Road, 50 feet E of the		
c/l of Burnham Road	*	OFFICE OF
15 th Election District		
7 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(1757 Drexel Road)		
	*	FOR BALTIMORE COUNTY
Norman A. and April K. Prachniak		
<i>Petitioners</i>	*	Case No. 2011-0318-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 property, Norman A. and April K. Prachniak for property located at 1757 Drexel Road. The variance request is from Section 1B02.3.B (1945 regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition on the side of an existing dwelling with a side yard setback of 5 feet in lieu of the required 7 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct an addition measuring 7 feet x 11 feet. This modest addition will allow Petitioners to provide care for an elderly parent by making the home accessible for a walker and wheelchair. The most affected property owner at 1755 Drexel Road did not express any concern or objection to the variance request.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability dated June 1, 2011. The subject property is located within the Chesapeake Bay Critical Area. According to BCZR 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 (DEPS) 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 an Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area and may be subject to practices that reduce water quality impacts associated with stormwater runoff, commonly referred to as the Critical Area 10% Rule. According to the applicant's plan, impervious surfaces will be increased by 77 square feet. The project will be reviewed for application of the Critical Area 10% Rule. By meeting the IDA pollutant reduction requirements, allowing the side yard setback reduction requested by the applicant will result in minimal impacts to water quality.

2. Conserve fish, wildlife, and plant habitat; and

The subject property is not a waterfront property. There is not a tidal buffer projected onto the property. The current development proposal for the property will be reviewed for application of the IDA 10% pollutant reduction requirements, which will improve buffer functions and conserve fish habitat in proximity to nearby Bear 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 a side yard addition to the dwelling is subject to review for application of the Critical Area IDA requirements, therefore, is consistent with this goal. The side yard setback requested will be consistent with established land-use policies provided that the applicants meet any IDA requirements applicable to the proposal.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 8, 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 3rd day of June, 2011 that a variance from Section 1B02.3.B (1945 regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition on the side of an existing dwelling with a side yard setback of 5 feet in lieu of the required 7 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 property is located within an Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area and may be subject to practices that reduce water quality impacts associated with stormwater runoff, commonly referred to as the Critical Area 10% Rule. The project will be reviewed for application of the Critical Area 10% Rule.

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