

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Belfair Lane, 405 feet NW
of c/l of Ridge Road
8th Election District
2nd Councilmanic District
(12301 Highgrove Court)

Hugo J. and Monica B. Warns
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0329-A**

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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, Hugo J. and Monica B. Warns for property located at 12301 Highgrove Court. The variance request is from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side yard setback of 18 feet in lieu of the required 50 feet setback. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. The location of the existing dwelling in relation to the driveway and property line requires that the garage addition be located as shown on the site plan. The topography of the site slopes to the rear of the property and would prohibit location of the addition to the rear. Also, there is an existing in-ground swimming pool that is located in this area with retaining walls. The pool location on the west side of the property was dictated by the location of the septic system in the northeast corner of the lot. The dwelling is located at the front setback line so there is not room in front of the house for a garage either. This would detract from the existing dwelling and be out of character with the rest of the neighborhood. The subject property contains 1.209 acres zoned RC 5 and is served by private water and sewer.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 22, 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 16 day of June, 2011 that a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side yard setback of 18 feet in lieu of the required 50 feet setback 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.

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