

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
N side of Morning Dove Way, 40 feet		
W of the c/l of Bella Brook Way	*	OFFICE OF
11 <sup>th</sup> Election District		
5 <sup>th</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
<b>(5108 Morning Dove Way)</b>	*	FOR BALTIMORE COUNTY
David J. and Elisabeth Perry		
<i>Petitioners</i>	*	<b>Case No. 2012-0061-A</b>

\* \* \* \* \*

**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, David J. and Elisabeth Perry for property located at 5108 Morning Dove Way. The variance request is from Sections 259.9.B.4.e and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a rear yard setback of 35 feet in lieu of the required 37.5 feet for a deck. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct a deck of a reasonable size. Existing French doors lead to the proposed deck area. A deck smaller than proposed would not be of sufficient size to allow the Petitioners to have a table, chairs and a grill on the deck. Petitioners would be unable to enjoy reasonable use of the property, suffering further practical difficulty.

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 September 11, 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 4th day of October, 2011 that a variance from Sections 259.9.B.4.e and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a rear yard setback of 35 feet in lieu of the required 37.5 feet for a deck, 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.

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Signed  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz