

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
N side of Bayside Road, 165 feet W		
of Cedar Road	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(1246 Bayside Road)		
	*	FOR BALTIMORE COUNTY
William M. and Karen M. Kolb		
<i>Petitioners</i>	*	Case No. 2012-0133-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, William M. and Karen M. Kolb for property located at 1246 Bayside Road. 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 of 15 feet in lieu of the required 50 feet (25 feet per prior zoning Case 1987-0221-A) for an addition to an existing dwelling. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct a one story addition measuring 10 feet x 35 feet. The addition will contain a bedroom, sitting room and bathroom to accommodate an elderly mother-in-law who is moving into the home. An existing covered deck is to be removed. Due to the interior layout of the dwelling, the only practical location for the addition is as proposed on the site plan. No additional kitchen is proposed. Petitioners submitted a floor layout and elevation drawings with their Petition.

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 December 16, 2011, which states: “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 (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 a Limited Development Area and is subject to Critical Area lot coverage requirements. To minimize impacts on water quality, lot coverage cannot exceed 25% of the lot area, or 31.25% of the lot area, if approved, and with mitigation for the amount over 25%. According to the applicant's plan, the proposed addition would result in about 35 square feet of new lot coverage, and total lot coverage on the site could meet Critical Area requirements with mitigation. By meeting the lot coverage requirements, allowing the relief requested by the applicant will result in minimal impacts to water quality. It is recommended that the zoning petition be conditioned to require adherence to all lot coverage requirements. Lot coverage is as defined in Natural Resources Article §8-1802(a)(17).

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

The current development of the property limits water quality and habitat functions, but can maximize water quality management by adhering to lot coverage limits and tree requirements established in the Critical Area law. It is recommended that the zoning petition be conditioned to require conformance with Critical Area requirements to offset water quality impacts associated with the addition and any lot coverage proposed on-site.

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 home addition can be consistent with this goal provided that lot coverage on the property meets Critical Area requirements and the new lot coverage is mitigated. The relief requested will be consistent with established land-use policies provided that the applicants meet the conditions listed in comments 1 and 2 above”.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 27, 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 20 day of December, 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 of 15 feet in lieu of the required 50 feet (25 feet per prior zoning Case 1987-0221-A) for an addition to an existing dwelling, 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. Compliance with the ZAC comments made by the Department of Environmental Protection and Sustainability dated December 6, 2011, a copy of which is attached hereto and made a part hereof.

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