

IN RE: PETITION FOR ADMIN. VARIANCE

NE of Seawall Road; 560 feet NW of
the c/l of Mansfield Road
15th Election District
6th Councilmanic District
(755 Seawall Road)

Eleanor C. and Dwain C. Wolf, Jr.
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0202-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, Eleanor C. and Dwain C. Wolf, Jr. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition in the rear of the existing dwelling with a rear setback of 38 feet in lieu of the required 50 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1.

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 March 29, 2012 which state:

“DEPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. The subject property is located within an Intensely Developed Area and is subject to the Critical Area 10% pollutant reduction requirements. The applicant is proposing to construct an addition with less rear setback than permitted. To minimize impacts on water quality, the 10% pollutant reduction requirements must be met. This may include planting 3 trees on the lot, paying a fee-in-lieu (\$125.25), or a combination of both. By meeting this requirement, the relief requested by the applicant will result in minimal impacts to water quality.

2. This property is not waterfront. No forest, wetlands, or buffers will be impacted. Therefore, there will be no impact to habitat.

3. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 11, 2012, 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 3 day of April, 2012 that the Variance request from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition in the rear of the existing dwelling with a rear setback of 38 feet in lieu of the required 50 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. Compliance with the ZAC comments made by the Department of Environmental Protection and Sustainability dated March 29, 2012, 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