

IN RE: PETITION FOR ADMIN. VARIANCE

W side of Bull Neck Road; 180 feet N
of the c/l of Longpoint Road
12th Election District
7th Councilmanic District
(8257 Bull Neck Road)

Suzan J. Smith
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0204-A**

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OPINION AND ORDER

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owner of the subject property, Suzan J. Smith. The variance request is from Section 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a carport addition on the side of the existing dwelling with a side setback of 1 foot in lieu of the required 7.5 feet. The subject property and requested relief are more particularly described on Petitioner’s 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 Bureau of Development Plans Review dated March 8, 2012, which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. Comments were received from the Department of Environmental Protection and Sustainability dated March 29, 2012, which indicate:

“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 (EPS) 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. The project will be reviewed for applicability of the 10% Rule regulations and any required mitigation. By meeting the IDA pollutant reduction requirements, allowing the request by the applicant will result in minimal impacts to water quality. A site inspection revealed that the carport, if constructed according to the measurements and location shown on the plan attached to this petition, will be built over an existing concrete driveway; therefore, impervious surfaces on the property will not be increased.

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, wildlife and plant habitat in proximity of nearby Bullneck Creek and 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 carport is subject to review for application of the Critical Area IDA pollutant reduction requirements, therefore, is consistent with this goal. Allowing the request will be consistent with established land-use policies provided that the applicants meet any IDA requirements applicable to the proposal."

The Petitioner 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 Petitioner has 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 Petitioner.

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 a Variance from Section 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a carport addition on the side of the existing dwelling with a side setback of 1 foot in lieu of the required 7.5 feet, be and is hereby GRANTED, subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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 Petitioner 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 Bureau of Development Plans Review dated March 8, 2012, a copy of which is attached hereto and made a part hereof.
3. 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