

IN RE: PETITION FOR ADMIN. VARIANCE

SW side of Newport Circle; 120.28 feet
SW of the c/l of Hopkins Landing Drive
15th Election District
6th Councilmanic District
(1709 Newport Circle)

Caroline J. and Morse Davis
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0214-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, Caroline J. and Morse Davis. The variance request is from Sections V.B.6.b and V.B.6.c of the Comprehensive Manual of Development Policies and Section 504.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a rear yard setback of 12 feet and a window to window setback of 38 feet in lieu of the required 15 feet and 40 feet respectively, and to amend the 4th amended Final Development Plan of Hopewell Point. 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 April 19, 2012, which state:

1. “The subject property is located within an Intensely Developed Area. The applicant is proposing to construct a 248 square foot addition with less rear setback than permitted. The 10% pollutant reduction requirement does not have to be met if the new impervious surface is 250 square feet or less. This addition is considered so minimal that there will be 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 18, 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 19 day of April, 2012 that the Variance request from Sections V.B.6.b and V.B.6.c of the Comprehensive Manual of Development Policies and Section 504.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a rear yard setback of 12 feet and a window to window setback of 38 feet in lieu of the required 15 feet and 40 feet respectively, and to amend the 4th amended Final Development Plan of Hopewell Point, 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 April 19, 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