

**IN RE: PETITION FOR ADMIN. VARIANCE**

Coner of NW side of Cuckold Point Road  
at NE side of 3rd Street  
15<sup>th</sup> Election District  
7<sup>th</sup> Councilmanic District  
**(9116 Cuckold Point Road)**

Dr. Harry L. June and Terri A. White  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2010-0122-A**

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Dr. Harry L. June and Terri A. White for property located at 9116 Cuckold Point Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling addition (including first floor and second floor decks) with a side street setback of 12 feet in lieu of the minimum required 25 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct an addition to contain a lower level bedroom for Terri White's mother who is 90 years old and in poor health. Ms. White's mother is relocating from a nursing home to the subject residence. Her various health conditions prevent her from negotiating stairs. The proposed addition will also contain a home office for Dr. June so that he can perform independent consulting jobs with the private sector. This is a necessity due to the State's mandatory furloughs, forced administrative leave policies and the reduction of Federal government research grants. All of these reductions have greatly impacted the family.

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 Resource Management dated November 4, 2009 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. The property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% (1,875 square feet) and may be increased by 500 square feet (to 2,375 square feet) with mitigation. In addition, the 15% afforestation requirement must be met; this equates to 2 trees. All other LDA regulations will apply to development on this property. Comments were received from the Bureau of Development Plans Review dated October 12, 2009. The comments 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. Show a 5 foot highway widening (future) and base the setback variance request from the ultimate right-of-way.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on October 18, 2009 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 Deputy Zoning Commissioner,

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 Deputy Zoning Commissioner for Baltimore County, this 9<sup>th</sup> day of November, 2009 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling addition (including first floor and second floor decks) with a side street setback of 12 feet in lieu of the minimum required 25 feet 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. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% (1,875 square feet) and may be increased by 500 square feet (to 2,375 square feet) with mitigation. In addition, the 15% afforestation requirement must be met; this equates to 2 trees. All other LDA regulations will apply to development on this property.
4. Show a 5 foot highway widening (future) and base the setback variance request from the ultimate right-of-way.
5. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
6. The flood protection elevation for this site is 10.4 feet.

7. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
8. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
9. The building engineer shall require a permit for this project.
10. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
11. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz