

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Bucher Avenue; 153 feet E
of the c/l of Gross Avenue
15th Election District
7th Councilmanic District
(7214 Bucher Avenue)

Otto Duke Hart Jr. and Robin Ann Hart
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0021-A**

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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, Otto Duke Hart Jr. and Robin Ann Hart for property located at 7214 Bucher Avenue. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two story addition with a rear setback of 13.5 feet in lieu of the required 30 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Current zoning regulations of the rear and side yard setbacks do not allow for typical garage shape and usage. A variance will allow for a more versatile use of the garage space. The existing living space above the attached garage could be enlarged, providing ample accommodations for elderly parents and providing an alternative to assisted living. The additional garage space would allow for the parents to retain a vehicle and for that vehicle to be kept out of the elements. The property is a scalene triangle shape and contains 0.222 acre zoned DR 5.5.

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 August 7, 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. Comments were received from the Department of Environmental Protection and Resource Management dated September 10, 2009 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations. The property is in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% or 2,418 square feet. Lot coverage can be increased up to 31.25% or 3,022 square feet with mitigation provided for the increase over 25%. In addition, the 15% afforestation requirement must be met which equates to 3 trees.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on July 26, 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 10th day of September, 2009 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two story addition with a rear setback of 13.5 feet in lieu of the required 30 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. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
3. The flood protection elevation for this site is 10.4 feet.
4. 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.
5. 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.
6. The building engineer shall require a permit for this project.
7. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
8. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
9. 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).
10. The property is in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage is limited to 25% or 2,418 square feet. Lot coverage can be increased up to 31.25% or 3,022 square feet with mitigation provided for the increase over 25%.
11. The 15% afforestation requirement must be met which equates to 3 trees.

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

 SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz