

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
SW corner of 2 <sup>nd</sup> Road and		
Fir Drive	*	OFFICE OF
15 <sup>th</sup> Election District		
6 <sup>th</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
<b>(11 Fir Drive)</b>	*	FOR BALTIMORE COUNTY
Patrick A. and Allanda F. Monnig	*	
<i>Petitioners</i>	*	<b>Case No. 2012-0190-A</b>

\* \* \* \* \*

**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, Patrick A. and Allanda F. Monnig. The variance request is from Sections 1B02.3A.5, 1B02.3B, and 301.1A of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition with an 11 foot side street setback and an open projection with a 17 foot side street setback in lieu of the required 25 feet and 18.75 feet, respectively. 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 (DEPS) dated March 5, 2012, which state:

“EPS 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% pollution reduction requirements. The applicant is proposing to construct an addition with less side yard setbacks than permitted. To minimize impacts on water quality, the 10% pollutant reduction requirements must be met. This may include planting trees on the lot, paying a fee-in-lieu, 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 February 26, 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 (B.C.C.). 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 15<sup>th</sup> day of March, 2012 that a Variance from Sections 1B02.3A.5, 1B02.3B, and 301.1A of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an addition with an 11 foot side street setback and an open projection with a 17 foot side street setback in lieu of the required 25 feet and 18.75 feet, respectively, 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 (DEPS) dated March 5, 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.

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Signed \_\_\_\_\_  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/dlw