

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
W side of Bay Drive; 67 feet N of the		
c/l of Bay Drive	*	OFFICE OF ADMINISTRATIVE
15 <sup>th</sup> Election District		
6 <sup>th</sup> Council District	*	HEARINGS FOR
<b>(3516 Bay Drive)</b>		
	*	BALTIMORE COUNTY
Robert A. and Dyana L. Zomoida		
<i>Petitioners</i>	*	<b>CASE NO. 2012-0251-A</b>

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Administrative Law Judge as a Petition for Administrative Variance filed by the legal owners of the property, Robert A. and Dyana L. Zomoida. The Petitioners are requesting Variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory structure (detached pool and brick decking) in the side yard in lieu of the required rear yard only. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 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 April 26, 2012. 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 must be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code. Comments were received from the Department of Environmental Protection and Sustainability dated May 4, 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. This waterfront property is located in a Limited Development Area (LDA) and a Buffer Management Area (BMA) within the Chesapeake Bay Critical Area (CBCA). Development of this property must comply with maximum lot coverage limits, must meet BMA requirements for development within the 100-foot tidal buffer, and must meet a 15% tree cover requirement. Based on this, EPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements. Mitigation requirements may include removal of existing lot coverage, and the planting of native trees and shrubs.
2. The proposed development must comply with all LDA and BMA requirements prior to building permit approval. This includes the 15% afforestation requirement and CBCA lot coverage requirements. Therefore, the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property is limited. Compliance with the Critical Area requirements, and mitigation can allow the subject development to be consistent with established land use policy for development in the CBCA 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 Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 22, 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, this \_\_\_\_16\_\_\_\_ day of May, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory structure (detached pool and brick decking) in the side yard in lieu of the required rear yard only, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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, 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 Bureau of Development Plans Review dated April 26, 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 May 4, 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  
LAWRENCE M. STAHL  
Managing Administrative Law Judge for  
Baltimore County

LMS:pz