

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(9535 Gunhill Circle)		
11 th Election District	*	OFFICE OF
5 th Councilmanic District		
Scott A. and Donna L. Marshall	*	ADMINISTRATIVE HEARINGS
Petitioners	*	
	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0064-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Scott A. and Donna L. Marshall. The variance request is from Section 1B02.3.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) [Section 301.1 and 504 of the 1970 Zoning Regulations, and Section V.B.6.b of the 1970 Comprehensive Manual Development Plan (CMDP)], to permit an existing deck with a side setback of 4.5 feet in lieu of the required 11 ¼ feet, and to amend the latest Final Development Plan (FDP) for Oakhurst, Section 1, Block 1, Lot 2 only. 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. There were no adverse comments received from any of the County reviewing agencies. However, it is to be noted that a letter of support was received from Kathleen D. Whitaker, an adjacent neighbor at 9533 Gunhill Circle.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 23, 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 31st day of October, 2012 by the Administrative Law Judge for Baltimore County that the Petition for Variance from Section 1B02.3.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) [Section 301.1 and 504 of the 1970 Zoning Regulations, and Section V.B.6.b of the 1970 Comprehensive Manual Development Plan (CMDP)], to permit an existing deck with a side setback of 4.5 feet in lieu of the required 11 ¼ feet, and to amend the latest Final Development Plan (FDP) for Oakhurst, Section 1, Block 1, Lot 2 only, be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for any appropriate permits 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.

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

Signed _____
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/dlw