

IN RE: ADMINISTRATIVE WAIVER (Pier) * BEFORE THE OFFICE
(1502 Burke Road) * OF ADMINISTRATIVE
Todd and Lauren Rebbel * HEARINGS FOR
Petitioners * BALTIMORE COUNTY
* **PERMIT NO. B873436**

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OPINION AND ORDER ON ADMINISTRATIVE WAIVER (PIER)

Petitioners wish to replace 126' long x 6' wide pier, 10' x 10' platform and add 70' x 4' extension with 6 mooring piles on Galloway Creek on their waterfront property of a single family home located at 1502 Burke Road, Baltimore, Maryland 21220. Upon an objection raised by their adjacent neighbor Michelle G. Prettyman, a hearing was scheduled.

After proper notice, the hearing took place before me on June 3, 2015. Present were the Petitioners Todd & Lauren Rebbel, Chris Lonegro, Petitioners Counsel, Michelle Prettyman and Harry & Marie Danner.

Petitioners counsel offered a proffer on behalf of his clients. He presented the plat of the proposed pier, extending to 205' into the water, prepared by a professional engineer (Petitioners Exhibit #1), and related that the construction of this pier would not require a variance, special exception, or special hearing relief. He then presented a package of documents (Petitioners Exhibit #2 collectively) which included the building permit application (and plat) approved by the Department of Environmental Protection and Sustainability, the General Title Wetlands License issued by the Maryland Department of the Environment, including both special and general conditions, and approval by the United States Army Corp of Engineers. He offered that his clients were aware of, and would comply with all conditions set forth in the approvals. He

then presented an aerial photo of the affected area of Galloway Creek (Petitioners Exhibit #3), including Petitioners existing pier, that of the Protestant Prettyman, as well as four (4) existing piers on either side. Finally, counsel entered into the record the file of the Baltimore County building engineer (Petitioners Exhibit #4).

Protestant Michelle Prettyman, an adjacent neighbor at 1500 Burke Road, testified that she opposed Petitioners proposed pier on the basis of the plan itself, its adverse effect on the environment (as the site is within the Chesapeake Critical Area) ; and on the projects adverse effect on safety in general and quality of life.

Ms. Prettyman stated her concern that the height and length of the proposed pier would inhibit access to her pier as well as the approaches to the properties on that section of Galloway Creek. She presented a handwritten drawing of her understanding of the placement of pilings (Protestants Exhibit #1) to illustrate her point. She further offered that the proposal could “potentially” change for the worse the surrounding indigenous habitat, including grass and plants, clams, fowl and other wildlife.

She related that the 6' width of the proposed pier could conceivably attract use by motor vehicles; and in the summer would adversely affect safety by inhibiting visibility for boats, canoes, paddle boats, and other recreational water users.

She is also concerned that the quality of life as well as the value of her property will be adversely affected by the proposed pier. She believes the height and the extension of the new pier will inhibit what she calls her “sunset view”. Finally, she believes that the totality of her concerns will result in the devaluation of her property in the event of re-sale; including a prospective purchaser’s inability to dock a larger boat because of the length of Petitioners pier.

In further support of her concerns, she entered into evidence an aerial photo of Galloway

Creek, illustrating the respective lengths of the presently existing piers (Protestants Exhibit #2) in the area of the affected properties in this case; and a considerably wider view of the broad Galloway Creek area (Protestants Exhibit #3).

Harry Danner, who resides close by at 1508 Burke Road appeared briefly and adopted the testimony and concerns of Ms. Prettyman.

Counsel for the Petitioner responded in rebuttle that the Critical Area issues and concerns had been address and that construction of the new pier would meet all the conditions set forth in the approvals of the Department of Environmental Protection and Sustainability and the Maryland Department of the Environment. He noted that there were a number of piers with 5' widths (which was acknowledged by the Protestants) and several longer than Protestants, including a pier of some 225' in length.

He observed that the proposed pier is as close to the surface of the water as the others in the area and that Galloway Creek is sufficiently wide to obviate any visibility, safety or “view” concerns.

In a brief response, Ms. Prettyman reiterated her belief that young summer users of Galloway Creek would be in danger by increased visibility caused by the proposed pier; and that the decreased visibility would in fact adversely affect her resale value.

I have reviewed the documents submitted and testimony offered by the parties. First, as to the Critical Area and other environmental concerns, I am satisfied with the agency approvals and conditions for this project; and while I understand Ms. Prettyman’s concern for wildlife, those concerns are adequately addressed by the Maryland Department of Environment approvals and I will of course make any approval in this case conditional on those conditions being satisfied.

As to the plan itself, the various area views as well as the plat satisfy me that there will be sufficient ingress/egress provided and available for Petitioner and Ms. Prettyman's water use. Moreover, counsel for the Protestant reiterated that all pilings to be placed in the water will be on the opposite side from Ms. Prettyman's property.

As to the visibility of recreational users of Galloway Creek, Ms. Prettyman's exhibit #3 more than establishes that sufficient area is available to allay those concerns.

Finally, as to the Protestants "quality of life issues", including both her "sunset" view and concerns as to resale value, I note that the proposed pier will be no higher over the water than other piers in the area. I do not believe that the additional length will detrimentally affect her view. Her concerns about resale value are speculative at best and unsupported by any expert testimony or historical data.

Accordingly, I will grant the Petitioners request for approval of the building permit as set out in the engineering plat under building permit #B873436, subject to all conditions imposed by Baltimore County, the Maryland Department of the Environment, and the United States Army Corp of Engineers.

THEREFORE, IT IS ORDERED, this 16th day of June, 2015 by the Administrative Law Judge for Baltimore County, that Petitioners be permitted to replace 126' long x 6' wide pier, 10' x 10' platform and add 70' x 4' extension with 6 mooring piles on Galloway Creek under building permit B873436 and plat dated June 27, 2014 attached hereto and made a part hereof.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner must comply with the terms and conditions set forth by the Maryland Department of the Environment dated April 10, 2013 and the Department of the Army Baltimore District, US Army Corp of Engineers dated April 10, 2013, copies of which are attached hereto and prayed to be made a part hereof.

This decision may be appealed to the Baltimore County Board of Appeals within Thirty (30) days of the date of this Order.

JEB:sln

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