

IN RE: ADMINISTRATIVE WAIVER (Pier) * BEFORE THE OFFICE
(7519 Chesapeake Avenue) * OF ADMINISTRATIVE
Jerry Caplan * HEARINGS FOR
Petitioner * BALTIMORE COUNTY
* **PERMIT NO. B882817**

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OPINION AND ORDER ON ADMINISTRATIVE WAIVER (PIER)

Petitioner wishes to construct 100LF x 6' wide with 10' x 10' "L" pier extension on Back River on waterfront property located at 7519 Chesapeake Avenue. Upon an objection raised by their adjacent neighbor Nancee James a hearing was scheduled.

After proper notice, the hearing took place before me on October 19, 2015. Present were the Petitioner Jerry Caplan, who was represented by David Billingsley of Central Drafting & Design, Inc., and Nancee James and Charlie Moroz, Protestants.

Petitioner presented the site plan (Petitioners Exhibit #1), setting out the relative position of the proposed 100' extension of the existing 49' long pier. Photographs of the site (Petitioners Exhibits 6A-D) as well as an aerial photograph of the Petitioners and Protestants property and existing piers (Petitioners Exhibit #5), were provided. A land survey, prepared by David Ransone, a registered land surveyor, was also entered into the record. In addition, the plan of the existing waterfront construction, including the proposed extension (Petitioners Exhibit #8) and a plat showing the divisional property lines per the Baltimore County Zoning Regulations (B.C.Z.R.) §417.3 (B) (Petitioners Exhibit #9) and the plat showing the Petitioners recommended divisional line (Petitioners Exhibit #10) were also presented. A revised exhibit 10, correcting the platform dimensions from 11' to 10' and an adjustment to that exhibit to reconcile it to the James/Moroz

deed (Liber 12017 Folio 308) was submitted by the Petitioner on October 20, 2015, at the request of Protestants. The adjustment did not affect the existing or proposed improvements, nor did it resolve Protestants objections to the Petitioners proposal.

The Petitioners requested and obtained a permit authorizing work in tidal wetlands from the Maryland Department of the Environment (Petitioners Exhibit #11). It was further noted that no variance was necessary or being requested for the project.

The Petitioner maintains that the proposed pier extension will not adversely affect the access by the Protestants to their own pier, as there is a total of 24' (12 foot on either side of the divisional line between that line and the existing piers of either the Petitioner or the Protestants) between the piers of both parties.

The Protestants testified that they were concerned that the extension of Petitioners pier to 149' (which they noted was 37' beyond their pier) constituted a safety hazard for docking their boat, especially in windy conditions.

I have reviewed the photos and exhibits presented by both parties and considered their respective arguments. Each party has a boat house on the exterior side of their piers. Protestants have pilings well inside there divisional line. In fact, Protestants exhibit 1, an aerial photograph including the two piers, shows Protestants boat docked well within the divisional line, with appreciable room to spare. There is also clearly considerable space on the Petitioners pier (even without the requested extension) on the side of its existing boat house.

The standard set out in § 473 (c) of the B.C.Z.R. permits the construction of piers resulting in “. . . least interference with existing and/or possible future construction” and the Court of Special Appeals in Wicks v Howard 40 Md. App 135, 388 A 2d 1250 (1978) asserts that determinations in these matters should be “eminently fair” (Wicks, supra @ 141).

In the instant matter, the extension requested by Petitioners is parallel to the Protestants extended pier, boat lift and pilings. The extension requested maintains a 12' setback from the divisional line, the same distance as that of the Protestants from their side of the line. It does not adversely affect in my opinion, the use, boat access, or enjoyment by the Protestants of their pier. The Protestants "concerns" are unsupported by any evidence submitted. I believe the proposal is, under the facts and circumstances, "eminently fair" to both parties.

THEREFORE, IT IS ORDERED, this 5th day of November, 2015 by the Administrative Law Judge for Baltimore County, that Petitioner be permitted to construct the requested 100' pier extension in accordance with the attached plat identified in the record as Petitioners Exhibit 10B (revised 10-20-15), and which is incorporated herein and made a part of this Order.

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

LMS:sln

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