

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(7933 Charlesmont Road)		
12 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Kelly A. Darpino	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0093-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Kelly A. Darpino (“Petitioner”). The Petitioner is requesting Variance relief from §§ 1B02.3.B and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) To permit a rear yard setback of 17 ft. in lieu of the required 50 ft., and (2) To permit a rear yard setback of 5 ft. in lieu of the required 37.5 ft. for a proposed deck (open projection) and stairs. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The property is located within an Intensely Developed Area (IDA) and is subject to Critical Area requirements as noted in the ZAC comment dated October 26, 2016 submitted by the Department of Environmental Protection and Sustainability (DEPS). In addition, it is to be noted that a letter of support was contained in the case file from residents in the community who have no objection to the Petitioner’s request.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 13, 2016, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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 Petitioner.

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 **4th** day of **November, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B02.3.B and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) To permit a rear yard setback of 17 ft. in lieu of the required 50 ft., and (2) To permit a rear yard setback of 5 ft. in lieu of the required 37.5 ft. for a proposed deck (open projection) and stairs, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for her necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
- Petitioner must comply with the DEPS ZAC comment dated October 26, 2016; 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw