

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1500 Chesapeake Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Council District		
David A. & Courtney E. Chivaler	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0324-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, David A. and Courtney E. Chivaler (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open wood deck with a front yard setback of 13.1 ft. in lieu of the required 37.5 ft. 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. The property is located within the Chesapeake Bay Critical Area (CBCA) and is subject to Critical Area requirements as noted in the ZAC comment dated June 19, 2017 submitted by the Department of Environmental Protection and Sustainability (DEPS).

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 18, 2017, 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 (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 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 7th day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to § 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open wood deck with a front yard setback of 13.1 ft. in lieu of the required 37.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their 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. Petitioners must comply with the ZAC comment submitted by DEPS, dated June 19, 2017; 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