

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(8211 Peach Orchard Road)		
12 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Edward M. Auld, Jr.	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2018-0158-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, Edward M. Auld, Jr. (“Petitioner”). The Petitioner is requesting Variance relief from §§ 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed open projection (porch) with a side yard setback as close as 6 ft. and a front yard setback of 16 ft. in lieu of the required 10 ft. and a front yard average of 26 ft. 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.

Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Bureau of Development Plans Review (“DPR”) dated January 10, 2018, indicating that prior to building permit application, the Petitioner must contact the office of the Director of Public Works to determine the flood protection elevation, so that the floor elevation can be set. In addition, 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 January 26, 2018 submitted by the Department of Environmental Protection and Sustainability (“DEPS”).

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on December 23, 2017, 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 side and front yard setback variances 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 29th day of **January, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed open projection (porch) with a side yard setback as close as 6 ft. and a front yard setback of 16 ft. in lieu of the required 10 ft. and a front yard average of 26 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

- Petitioner must comply with the ZAC comment submitted by DPR, dated January 10, 2018; a copy of which is attached hereto and made a part hereof.
- Petitioner must comply with the ZAC comment submitted by DEPS, dated January 26, 2018; 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