

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(10 Cedar Grove Ct.)		
14 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Timothy A. Hines & Diane E. Molina	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2018-0295-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, Timothy A. Hines and Diane Elizabeth Molina (“Petitioners”). The Petitioners are requesting Variance relief from § 1B02.1.C.1.b of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed deck with a rear setback of 18.25 ft. in lieu of the required 30 ft. rear setback minimum. 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.

Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”) dated May 9, 2018, indicating development of the property must comply with the Forest Conservation Regulations (§§ 33-6-101 through 33-6-122 of the Baltimore County Code [“BCC”]). In addition, the deck, which is proposed well into the 35 ft. setback to the Forest Conservation Easement may not be integrated into the house as an addition in the future unless first approved by DEPS.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 1, 2018, 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 BCC. 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 BCZR. Furthermore, strict compliance with the BCZR 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 BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this **24th** day of **May, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1B02.1.C.1.b of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed deck with a rear setback of 18.25 ft. in lieu of the required 30 ft. rear setback minimum, 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 DEPS ZAC comment, dated May 9, 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