

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(1627 Jeffers Road)</b>		
8 <sup>th</sup> Election District	*	OFFICE OF
2 <sup>nd</sup> Council District		
Robert and Sima Della Vecchia	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>		
	*	<b>Case No. 2019-0491-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Robert and Sima Della Vecchia, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a variance from the Department of Public Works’ Storm Drainage Design Standards Plate DF-1, to allow a setback of the 100 year riverine floodplain of 13 ft. in lieu of the required 20 ft. for an addition on the rear of their residence. A site plan was marked and admitted as Petitioners’ Exhibit 1.

The property owners, Robert and Sima Della Vecchia appeared in support of the petition and were assisted by David Billingsley, their property line surveyor. Timothy M. Kotroco, Esq. represented Petitioners. The Petitioners’ next door neighbor, Jack Ames, attended the hearing and voiced no objections to the requested variance.

The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”).

The subject property is 10,000 square feet in size and is zoned DR 3.5. Mr. Kotroco proffered the following facts: The petitioners wish to build an addition to the back of their home

so that Mrs. Della Vecchia's mother can live with them. The Della Vecchias are expecting a child and they need this additional living space for them all to live comfortably together. Mr. Kotroco noted that the property is *not* in the 100 year riverine floodplain but it is adjacent to the floodplain at the rear of the property. This is borne out by Exhibit 2 (a color coded site plan), Exhibit 3 (a My Neighborhood floodplain map), and Exhibit 5 (a Google Earth aerial photo). Because the property is not in the floodplain no waiver is needed under BCC Sec. 32-8-301 *et seq.* However, per the DPW Storm Drainage Design standards, and specifically, Plate DF-1 (Exhibit 6), a setback of 20' from the riverine floodplain is normally required. Mr. Kotroco and Mr. Billingsley explained that they initially met with Dave Thomas from DPW and he had no objection to the requested 13' setback. In subsequent discussions with Terry Curtis, Mr. Thomas' successor, Curtis indicated that DPW would like to have an updated floodplain study of the area done before DPW would support the 13 foot setback. However, after conferring with Steve Walsh, the Director of DPW, Mr. Curtis agreed that if Petitioners performed a Field Run survey of the site and established that the lowest floor elevation of the proposed addition would be at least 2 feet above the current floodplain elevation then DPW would not oppose the requested 13 foot setback. Mr. Billingsley has performed the Field Run survey and attests that the proposed addition will be constructed a minimum of 2' above the current FEMA floodplain elevation. Petitioners acknowledged that this requirement would be a condition of obtaining the 13 foot setback variance, and that a building permit would not be issued if this condition is not met. Their neighbor, Mr. Ames, a long-time resident, stated that these parcels have never experienced flooding from the adjacent stream, even during the recent extreme weather events. Mr. Billingsley stated that he believes this addition can be constructed in accordance with sound stormwater and floodplain design principles, and within the spirit and intent of the BCZR and the BCC and the County Building Code.

Based on the foregoing testimony and evidence I find that the requested relief will not injure the public health, safety and welfare and is not in violation of the spirit and intent of the BCZR.

THEREFORE, IT IS ORDERED this **22<sup>nd</sup>** day of **November, 2019** by this Administrative Law Judge, that the Petition for Special Hearing to approve a variance to allow a setback of the 100 year riverine floodplain of 13 ft. in lieu of the required 20 ft. for an addition, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Per the direction of DPW, the lowest floor elevation of the proposed addition shall be a minimum of 2 feet above the current 100 year flood plain elevation.
3. Prior to issuance of permits Petitioners must comply with the ZAC comments submitted by the DOP, copies of which are attached hereto and made a part hereof.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM:sln