

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2903 Breezy Point Court)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Nicholas W. & Heather L. Fleischmann	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0533-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Nicholas W. and Heather L. Fleischmann (“Petitioners”). The Petitioners are requesting Variance relief pursuant to § 417.4 of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed pier, boatlift with single mooring piles and mooring piles with setbacks of 5 ft., 0 ft. and 5 ft. respectively, in lieu of the required 10 ft. from the established divisional property line. 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 from the Department of Environmental Protection and Sustainability (“DEPS”), dated December 19, 2019. In addition, correspondence was contained in the case file from neighbors residing at 2901 and 2905 Breezy Point Court indicating that they had no objections to Petitioners’ zoning request.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 13, 2019, 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 § 32-3-303 of the Baltimore County Code (BCC). 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 § 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 7th day of **January, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 417.4 of the Baltimore County Zoning Regulations (“BCZR”), to permit a proposed pier, boatlift with single mooring piles and mooring piles with setbacks of 5 ft., 0 ft. and 5 ft. respectively, in lieu of the required 10 ft. from the established divisional property line, 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. Prior to permits, Petitioners must comply with Critical Area and Flood Protection regulations as indicated in the DEPS ZAC comment, dated December 19, 2019; 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
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw