

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(112 Starhill Lane)</b>		
1 <sup>st</sup> Election District	*	OFFICE OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
Wesley Peters & Jennifer Peters	*	HEARINGS OF
Legal Owners	*	BALTIMORE COUNTY
<b>Petitioners</b>	*	<b>CASE NO. 2021-0094-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Wesley and Jennifer Peters (the “Petitioners”) for property located at 112 Starhill Lane in Catonsville (the “Property”). The Petitioners filed for Variance relief from the Baltimore County Zoning Regulations (“BCZR”), §1B01.2.C of the 1985 BCZR/CRG Plan for the following: (1) A setback from a side building face with a window to a property line to be 14 ft. in lieu of the minimum setback of 15 ft.; (2) A setback from a side building face with a window to a side building face with a window to be as little as 28 ft. in lieu of the minimum setback of 40 ft.; and (3) For such other and further relief as may be required.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioner Wesley Peters appeared at the hearing along Jeffrey Zigler of CLSL Engineers who prepared a site plan (the “Site Plan”) as well as a redlined site plan (the “Redlined Site Plan”). (Pet. Exs. 1, 2). Jason Vettori, Esquire of Smith, Gildea & Schmidt represented the Petitioners. There were several neighboring property owners who appeared at the hearing, asked questions and/or testified in opposition.

The case proceeded by way of modified proffer by Mr. Vettori. The Property is approximately 9,923 square feet and is zoned density residential (DR 2). It is improved with a

single family home in the Paradise Hills neighborhood of Catonsville located off Frederick Rd. which leads towards Ellicott City. (Pet. Exs. 7, 8). Mr. Vettori stated that the Petition was filed as an Administrative Variance in order to build a 2-story addition over an existing rear deck. The home on the Property was constructed in or about 1988. The home on the Property was constructed in or about 1988.

Mr. Vettori explained that the Paradise Hills development was approved as a County Review Group (“CRG”) Plan on August 12, 1985 along with two (2) Amendments to that Plan which were approved in 1987 (the “CRG Plan”). (Pet. Exs. 4, 5). Because the CRG Plan vested in 1985, the 1981 BCZR is applicable here. The 1981 BCZR required a 15 ft. setback for a side building with a window to a property line, as well as a 40 ft. setback between a window and a window on an adjacent home. (Pet. Exs. 11, 12, 13). Notwithstanding the setbacks required in the 1981 BCZR, Mr. Vettori argues that the Building Restriction Line (“BLR”) controls the setbacks, not the 1981 BCZR. (Pet. Ex. 9).

Those legal arguments notwithstanding, Mr. Vettori explained that the Petitioners have revised the proposed two-story addition as depicted in the Site Plan and are now requesting approval to enclose the existing rear deck with a porch roof and screens (one-story) in accordance with the Redlined Site Plan (the “screened-in-porch”). (Pet. Exs. 1, 2). The screened-in-porch will measure 17 ft. deep by 18 ft. wide. The screened-in-porch will not have windows. Mr. Vettori stated that the proposed screened-in-porch meets the 1981 BCZR, §301.1 which states as follows:

301.1 – If attached to the main building, a carport or a one-story open porch, with or without a roof, may extend into any required yard not more than 25% of the minimum required depth of a front or rear yard or of the minimum required width of a side yard.

As shown on the Redlined Site Plan, the screened-in-porch does not extend more than 25% into

the southern facing, side yard. (Pet. Ex. 2).

From the Redlined Site Plan, it is clear that the Variance relief requested in the Petition is no longer needed because the Petitioners are no longer seeking to construct an addition with windows. Importantly, the Petition did request general relief (*i.e.* “For such other and further relief as may be required.”) and as such, seeks approval for the proposed screened-in-porch, to the extent such approval is needed.

Neighboring property owners testified and asked questions about the proposal namely: Clay Aler, 128 Starhill Lane, President of Paradise Hills Community Association; Garry L. and Lise Charlier, 110 Starhill Lane; Lee Benedict, 111 Starhill Lane; David Nelson, 108 Starhill Lane; and Paul Shepard, 115 Starhill Lane. Collectively, the concerns of the neighbors was the lack of stormwater management to control water flow from the Property into neighboring yard(s) as well as an allegedly illegal window which was installed on the south side of the Property facing the Charliers’ home.

In particular, Mr. Benedict testified that he believed a Special Exception had been requested in this case and that, as a result, BCZR, §502.2 should be invoked to require the Petitioners and the Charliers to enter into, and to record in the Land Records of Baltimore County an agreement to address the alleged drainage issue.

I find that the Variance relief is no longer needed and therefore it is moot. By and through the general relief requested in the Petition, I find that the undisputed evidence confirmed that the screened-in-porch with a roof will not extend into the southern side yard more than 25% as set forth in 1981 BCZR, §301.1. Therefore, the Petitioners do not need to request zoning relief in regard to the screened-in-porch.

With regard to the Special Exception reference, as indicated on the record at the hearing,

this is not a Special Exception case and therefore BCZR, §502.2 does not apply.

THEREFORE, IT IS ORDERED, this 2<sup>nd</sup> day of **June 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §1B01.2.C of the 1985 BCZR/CRG Plan for the following: (1) A setback from a side building face with a window to a property line to be 14 ft. in lieu of the minimum setback of 15 ft.; (2) A setback from a side building face with a window to a side building face with a window to be as little as 28 ft. in lieu of the minimum setback of 40 ft., be and they are hereby **MOOT**; and it is,

FURTHER ORDERED, that the proposed screened-in porch with a roof (without windows) on the existing rear deck as set forth in the Redlined Site Plan (Pet. Ex. 2) is vested under 1981 BCZR, §301.1 and meets the requirements of that Section; therefore, no zoning relief is needed.

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.

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



MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm