

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/S Freeway, 107' SE c/line of		
Hollins Ferry Road	*	ZONING COMMISSIONER
(2907 Freeway)		
13 th Election District	*	OF
1 st Council District		
	*	BALTIMORE COUNTY
Stanley J. Goddard		
Petitioner	*	Case No. 2009-0040-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Stanley J. Goddard. The Petitioner requests a variance from Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 16 feet in lieu of the required 25 feet for a partially constructed addition. The subject property and requested relief are more particularly described on the redlined site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Stanley J. Goddard, property owner; Bernadette L. Moskunas with Site Rite Surveying, Inc., and William Brown, who resides on the subject property and a contractor who is building the enclosed front porch. There were no Protestants or other interested persons present; however, it is to be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management. Evidently, Patton J. Lam, who also resides on Freeway, questioned the construction of the addition at the subject property. A resolution of the violation case (Case No. 08-2030) for constructing a front addition without the required permits is pending the outcome of this variance request.

Testimony and evidence offered disclosed that the subject property is a narrow rectangular shaped parcel (16' wide x 105' deep) located on the northeast corner of Hollins Ferry Road and Freeway in the Halethorpe/Riverview area of the County. The property contains a gross area of 1,680 square feet, more or less, zoned D.R.10.5, and is improved with a middle-of-group, two-story, townhouse dwelling. The Petitioner has owned and resided on the property for 17 years. Apparently, Mr. Goddard, desiring more living and storage space, added an enclosed front porch (9' x 14' – *See* Petitioner’s Exhibit 1). This improvement was initiated without benefit of a building permit as noted by Karen Hopkins following a site visit. Unbeknownst to Mr. Goddard and his resident contractor, Mr. Brown, enclosing a front porch created a setback problem in that the setback must be a minimum distance of 25 feet from the front property line. As shown on the site plan, the porch is located 16' from the front property line. It is noted that under the prior “D Residential – 1954” regulations, a front yard setback of 25 feet from the front property line is required for the now enclosed porch.¹

In support of the request, the Petitioner testified that all work was of high quality and the improvement was sorely needed for his enjoyment of the property. Photographs of the property support this contention and show that there are other similar enclosed front porches and many Freeway houses with open front porches in the community. Finally, the Petitioner submitted into evidence as Exhibit 5 written statements from his adjacent and nearby neighbors, whose homes are in the block of seven (7) next to the subject property stating that they have no objections to the new front porch.

¹ Although current D.R.10.5 area regulations in Section 1B02.3C.1 (Chart) have been revised several times and now require a minimum lot area of 3,000 square feet, a lot width of 20 feet and side/front yard setbacks of 10 feet and a minimum rear yard depth of 50 feet, the 1954 regulations are applicable. B.C.Z.R. Section 103 provides the regulations in this case are those in effect at the time the subdivision was originally submitted to the Baltimore County Planning Commission in 1954.

After due consideration of the evidence and testimony presented, I am persuaded that the Petitioner has met the spirit and intent of Section 307.1 of the B.C.Z.R. for relief to be granted. There were no adverse comments submitted by any County reviewing agency and the affected neighbors are in support of the variance requested. The Office of Planning, in its revised Zoning Advisory Committee (ZAC) comment, dated October 20, 2008, points out that the subject property has an enclosed trash can container located within the County's right-of-way. It is clear from the photographs submitted by Dennis Wertz that other additions exist throughout the neighborhood and thus, the proposal is not out of character with the surrounding locale. Finally, it is clear that strict compliance with the B.C.Z.R. would result in a practical difficulty and/or unreasonable hardship upon the Petitioner and require the demolition of the existing porch. For all of these reasons, I am persuaded to grant the variance.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27TH day of October 2008 that the Petition for Variance seeking relief from Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 16 feet in lieu of the required 25 feet for an enclosed front porch addition in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following conditions which are conditions precedent to the relief granted:

1. The Petitioner may apply for building 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, the relief granted herein shall be rescinded.
2. The decision in this case is not a legal precedent that may be cited as such in any other zoning/development case involving lots in the Riverview subdivision.

3. The trash can enclosure located on the grass strip between the curb and the sidewalk in front of 2907 Freeway shall be removed. No trash cans, trash or other debris shall be permitted to be stored in the front yard or in the area located between the curb line and the front lot line.
4. When applying for any permits, the site plan must reference this case and set forth and address the restrictions of this Order.

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

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County