

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/S Pennsylvania Avenue, 120' W of		
Washington Avenue	*	ZONING COMMISSIONER
(2922 Pennsylvania Avenue)		
13 th Election District	*	OF
1 st Council District		
	*	BALTIMORE COUNTY
Joseph C. Glorioso, Jr., et ux, <i>Legal Owner</i>		
George Harris, <i>Contract Purchaser</i>	*	Case No. 2009-0062-A
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Robert Infussi of Expedite, LLC on behalf of the legal owners of the subject property, Joseph and Dottie Glorioso, and George Harris t/a Harris and Company, LLC, the contract purchaser. The Petitioners are requesting variance relief from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot size of 5,000 square feet in lieu of the required 6,000 square feet, a lot width of 40 feet in lieu of the required 55 feet and side yard setbacks of 8 feet in lieu of the minimum 10 feet required. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioner Joseph Glorioso along with Robert Infussi of Expedite, LLC, George Harris, and David Billingsley with Central Drafting and Design, Inc., who prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is a rectangular-shaped property containing approximately 5,000 square feet of land zoned D.R.5.5. The property is comprised of two (2) unimproved lots in the Rosemont subdivision near the intersection of

Pennsylvania Avenue and Washington Street in the Halethorpe area of Baltimore County. The lots, identified as numbers 42 and 43 in the Rosemont subdivision, are described on the State Department of Assessments and Taxation Tax Map as Parcel 359, which was received as Petitioners' Exhibit 2. The Petitioners also submitted several deeds, which were marked and accepted into evidence as Petitioners' Exhibits 3A-3C. Exhibit 3A is the deed of record to Joseph and Dottie Glorioso, and Exhibits 3B and 3C demonstrate that the subject property has been held intact and separate from any surrounding properties since 1990.

Further evidence demonstrated that the Glorioso family has owned the subject property for many years, dating back to the 1950's. As Petitioners' Exhibit 3A illustrates, when Joseph Glorioso took ownership of the property in 1995, he did so as a tenancy by the entirety with his wife Dottie. Petitioners are requesting a variance from several of the requirements of Section 1B02.3C.1 of the B.C.Z.R. to allow them to develop the property with an approximately 960 square foot single-family dwelling (24' x 40') on the previously unimproved lots. As noted, the property lies in the Rosemont subdivision, where many lots were improved with single-family dwellings in the 1920's and 1930's, and additional nearby lots were improved throughout the 1970's and 1980's. The Petitioners submitted a copy of the plat of Rosemont dated February 2, 1924, which was marked and accepted into evidence as Petitioners' Exhibit 4. Petitioners also submitted a copy of the Baltimore County G15 plan showing that 13 properties in the surrounding area had been improved with similar dwellings on undersized lots in the current D.R.5.5 zoning classification.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments were received from the Office of Planning dated September 12, 2008, indicate in pertinent part that "the applicant proposes a 24-foot primary building on two

lots combined to equal 40 feet. The applicant should consider acquiring 10-15 feet of land from the adjacent parcel to at least have a lot width of 50 feet. Should the Zoning Commissioner grant the petitioner's request, the applicant shall conform to the Undersized Lot requirements stated in Section 304 of the B.C.Z.R. Architectural elevations are to be submitted to the Office of Planning for review and approval prior to the issuance of any building permits”.

Considering all of the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The subject property lies in the Rosemont subdivision where many similarly undersized lots have been improved. As the evidence demonstrated, a large number of the surrounding lots contain similar size constraints as the subject property and homes were constructed on combined 20 feet wide lots during the 1920's and 1930's - years prior to the implementation of the B.C.Z.R. Since the subject property was subdivided and recorded well before the property being zoned D.R.5.5, the property contains a combined 5,000 square feet of area rather than the minimum 6,000 presently required for development. Thus, the imposition of zoning, which also requires a minimum width of 55 feet and side setbacks of 10 feet, disproportionately impacts the subject property as compared to others in the zoning district. Today, major subdivisions such as the Rosemont subdivision would divide the property in a way that accounts for and meets the minimum requirements for development in a D.R.5.5 or similar zone.

I further find that this variance can be granted in strict harmony with the spirit and intent of the zoning regulations without having any negative effect on the surrounding locale. The subject property lies in a large subdivision where many similarly undersized lots have been developed. I agree with the Office of Planning that the Petitioners do not own sufficient adjoining land to conform to the minimum width and area requirements and therefore meet the

standard for development on an undersized lot. The Petitioners also indicated that, pursuant to the Office of Planning ZAC comment, they looked into acquiring an additional 10-15 feet of property but discovered that this would force their neighbors into the subdivision process and a lot line adjustment could take 4-5 months and cost thousands of dollars. Given the additional hardship that would be caused by this process, along with the Petitioners' proposal to construct a modest home that is aesthetically pleasing and mirrors the existing characteristics and pattern of development of the homes in the surrounding neighborhood, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of October 2008, that the Petition for Variance seeking relief from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot size of 5,000 square feet in lieu of the required 6,000 square feet; a width of 40 feet in lieu of the 55 feet require, and side yard setbacks of 8 feet in lieu of the minimum 10 feet required, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED subject to the following:

1. Petitioners are advised that they may apply for any required building 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. Submit building elevations to the Office of Planning for review and approval prior to the issuance of any building permit. The proposed dwelling shall be compatible in size, exterior building materials, color and architectural details as that of the existing dwellings in the area.

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

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