

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SE/S Summer Woods Way, 230' E c/line		
Reisterstown Road	*	ZONING COMMISSIONER
(130 Summer Woods Way)		
4 th Election District	*	OF
2 nd Council District		
	*	BALTIMORE COUNTY
Kent G. Phagan, et ux		
Petitioners	*	Case No. 2009-0064-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 owners of the subject property, Kent G. Phagan, and his wife, Cynthia M. Phagan. The Petitioners request a variance from Section 415A.1A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle (pop-up camper/trailer) to be stored in the front yard in lieu of the required side or rear yard. The subject property and requested relief are more particularly described on the site plan, which was submitted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the hearing in support of the request was Kent Phagan, property owner. There were no Protestants or other interested persons present. The Zoning Advisory Committee (ZAC) comments made part of the record of this case indicate no opposition, however, it is noted that an active violation case is pending with the Division of Code Inspections and Enforcement (Case No. 08-1646).

Testimony and evidence presented disclosed that the subject property is a rectangular shaped parcel located on the southeast side of Summer Woods Way, just east of Reisterstown Road in the Summer Woods subdivision in Owings Mills. The property contains an area of .208 acres, more or less, zoned D.R.10.5, and improved with a two-story frame/vinyl home with basement. The Petitioners have owned and resided on the property since 2000. Since that time, they have parked their 1994 "Jayco" pop-up camper/trailer, approximately 12'-6" long x 7'-6" wide, with a gross vehicle weight of 3,000 lbs. that can sleep up to seven (7) people. This camper

has been kept on the subject property without complaint for many years. Apparently, an anonymous call was received by the Code Enforcement and Inspections Division who issued a Citation to the Petitioners for failing to properly tag and store the recreational vehicle. Mr. Phagan testified that an existing chimney alongside the dwelling (west side) would interfere with allowing him to store the camper on that side. He also indicated that due to the County's 10-foot drainage and utility easement (east side), he couldn't store the camper on that side of the dwelling. Mr. Phagan points out that in the family's eight (8) years of ownership, they have never experienced any complaints regarding the camper. Thus, the Petitioners seek variance relief as noted above to allow continued storage of the vehicle in its present location. The definitions of Recreational Vehicle and Camping Trailer are set out in Section 101 of the B.C.Z.R. The subject trailer meets both of these requirements as it is "A vehicular portable unit mounted on wheels and constructed with collapsible side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters." *See* Petitioners' Exhibit 2.

After due consideration of the testimony and evidence presented, I am persuaded to grant the variance. As noted, there were no adverse comments submitted by any County reviewing agency. I find that strict compliance with the regulations would be unduly burdensome and that the Petitioners would suffer a practical difficulty and unreasonable hardship. I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale. Moreover, testimony indicated that the subject recreational vehicle has been stored in its present location for eight (8) years without complaint. However, as a condition of approval, I will require removal of the camper at such time as the property is sold or within ten years of the date hereof, or its relocation on the property in compliance with the regulations.

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 17th day of October 2008 that the Petition for Variance seeking relief from Section 415A.1A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle (pop-up

camper/trailer) to be stored in the front yard in lieu of the required side or rear yard, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted:

- 1. The 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. The variance relief granted herein is personal and limited to the recreational vehicle the Petitioners currently own. At such time as the subject property is sold, or within ten (10) years of the date hereof, Petitioners shall either remove the subject camper from its present location or relocate same to the side or rear of their property in compliance with the B.C.Z.R.

Any appeal of this decision shall be entered within thirty (30) days of the date hereof.

WJW:dlw

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