

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W/S 47 th Street, 215.44' S of c/line of		
Eastern Avenue	*	ZONING COMMISSIONER
(524 47th Street)		
12 th Election District	*	OF
7 th Council District		
	*	BALTIMORE COUNTY
Efroseni D. Kokotis & Roman Hammonds		
Petitioners	*	Case No. 2009-0086-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, Efroseni D. Kokotis and Roman Hammonds. The Petitioners seek relief from Sections 301.1, 1B02.3A.5 and 1B02.3B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection (deck) with a 16-foot rear setback in lieu of the required 37.5 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Efroseni D. Kokotis and Roman Hammonds, property owners. It is to be noted that a letter of support was received from adjacent neighbors, Donna A. Wheatley (522 47th Street) and Politimy Roros (526 47th Street) - *See* Petitioners' Exhibit 3. There were no other interested persons present. The matter came before me as the result of Building Inspector Hunter Rowe with the Department of Permits and Development Management (DPDM) issuing a Correction Notice relative to the construction of the rear deck without the required permit. Thus, the Petitioners were cited with a Code violation and advised to file the instant Petition to resolve the matter.

Testimony and evidence offered disclosed that the subject property is a narrow rectangular shaped parcel (15' wide x 100' deep)¹ located on the northwest side of 47th Street, just east of Eastern Avenue in the Harbor View area of the County. The property contains a gross area of 1,600 square feet, more or less, zoned D.R.10.5, and is improved with a middle-of-group, two-story, townhouse dwelling. The Petitioners have owned and resided on the property since May 2008. Apparently, Mr. Hammonds and his friend, who works in construction, built the deck (approximately 14' x 12' – *See* Petitioners' Exhibit 1) and understand that it is the same size as other decks in the area, however, didn't realize a permit was required. In addition, Petitioners testified that their neighbors have no problem and are supportive of their addition – *See* Petitioners' Exhibit 3.

In support of the request, the Petitioners testified that all work was of high quality. Photographs of their property show that there are other similar rear decks in the community. Finally, the Petitioners submitted into evidence as Exhibit 3 a written statement from their neighbors, Ms. Donna Wheatley and Politimy Roros, whose homes are adjacent to the subject property stating that they have no objections to the deck.

After due consideration of the evidence and testimony presented, I am persuaded that the Petitioners have 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 owners on the affected side support the Petitioners proposal. The Office of Planning, in its Zoning Advisory Committee (ZAC) comment, does not oppose the Petitioners request and points out that there are similar structures of this kind throughout the development. Moreover, it is clear from the photographs submitted 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

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.

strict compliance with the B.C.Z.R. would result in a practical difficulty and/or unreasonable hardship upon the Petitioners and require the demolition of their open projection rear deck. 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 2nd day of December 2008 that the Petition for Variance seeking relief from Sections 301.1, 1B02.3A.5 and 1B02.3B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection (deck) with a 16-foot rear setback in lieu of the required 37.5 feet, in accordance with Petitioners' Exhibit 1, be and are hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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