

**IN RE: PETITION FOR VARIANCE**  
S side of Rozina Court, 325 feet E  
of Kearney Drive  
4<sup>th</sup> Election District  
2<sup>nd</sup> Councilmanic District  
**(9 Rozina Court)**

Thomas Rumsey  
*Petitioner*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FORBALTIMORE COUNTY  
\* **CASE NO. 2009-0117-A**

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Thomas Rumsey. Petitioner is requesting variance relief from Section 415A.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle to be stored in the front of the dwelling in lieu of the required rear or side. The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Thomas Rumsey. Also in attendance as interested citizens opposed to the requested relief were neighbors Jerry and Debora Melnyk of 6 Rozina Court and Robert Albert of 16 Rozina Court. There were no other interested citizens in attendance at the hearing; however, a number of other neighbors did express their position on the requested relief, which will be discussed further in this Order.

It should be noted that this matter is currently the subject of an active violation case (Case No. 08-9472) in the Division of Code Inspections and Enforcement. A citation for code violation was issued in this matter on September 8, 2008 for parking a recreational vehicle in the front yard of the subject property. The fact that a zoning violation is issued is normally not relevant to the

underlying zoning case. This means that on the one hand, a petitioner cannot use the fact that a structure has been built or a use has occurred as a precedent in order to allow the structure or use to continue. Nor does the fact that a structure may be costly to remove or modify or that a use may cause a hardship or inconvenience to discontinue come into consideration of the zoning case. On the other hand, an alleged code enforcement violation is also not held against a petitioner as some sort of additional punishment. In short, zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law; however, such is not the province of this office.

In the instant matter, the testimony and evidence offered revealed that the subject property is a rectangular-shaped lot and consists of approximately 0.1377 acre, more or less, zoned D.R.3.5. The property is situated on the south side of Rozina Court near its intersection with Kearney Road, and is located east of Timber Grove Road in the Owings Mills area of Baltimore County. The property is part of the "Timber Grove" subdivision and is improved with a split foyer style wood frame dwelling. The property also has a concrete parking pad located in the front yard to the right as one faces the dwelling. The parking pad measures approximately 20 feet deep by 18 feet wide.

Petitioner has resided at the subject location since the home was built in 1979. Within the last year to 18 months, Petitioner purchased a recreational trailer which he uses for traveling. It measures approximately 18 feet long by almost 9 feet wide. During the time he has owned the trailer, other than when using it for traveling, Petitioner has for the most part parked and stored the trailer on his parking pad. As indicated previously, Petitioner was issued a citation for parking the trailer on the parking pad located in the front yard of his property -- in violation of Section 415A of the B.C.Z.R. Hence, Petitioner has filed the instant Petition requesting variance relief from this section in order to keep the trailer stored on the parking pad.

In support of the requested relief, Petitioner indicated that the size of his lot and in particular the relatively small side yards of 10 feet on one side and 13 feet on the other side, as well as existing landscaping in those areas, makes it virtually impossible to store the trailer in the rear yard and still have access to it from the street. Photographs of the side yards and landscaping were marked and accepted into evidence as Petitioner's Exhibits 2A and 2B. There is also no way to access the trailer from the rear yard because it abuts an open space area. In short, Petitioner has no other practical alternative space to store the trailer on his property and the hardship is that he has no other space to store the trailer.

Petitioner also pointed out that there are other recreational trailers and boats parked and stored in the neighborhood. Photographs that were marked and accepted into evidence as Petitioner's Exhibits 4A and 4B depict two recreational trailers which Petitioner indicated are located near Cherry Hill Road and Kingsbury Road within a few blocks of Petitioner's property. Petitioner also submitted additional photographs that were marked and accepted into evidence as Petitioner's Exhibits 4C and 4D that depict a speedboat and trailer and a pop-up camper parked on the street near Petitioner's property. Finally, Petitioner submitted a letter of support that was signed by the neighbors residing at 1, 3, 7, 8, 10, 11, 12, and 13 Rozina Court indicating they had no opposition to Petitioner parking his trailer in the driveway of his home. This letter was marked and accepted into evidence as Petitioner's Exhibit 5.

Testifying first in opposition to the requested variance relief was Jerry Melnyk. Mr. Melnyk resides with his wife at 6 Rozina Court, across the street and two houses down from Petitioner's residence. Mr. Melnyk indicated that he and his family have resided at 6 Rozina Court for the last 28 years and are original owners of their home. He was first informed by Petitioner in June 2007 via a letter/flyer that Petitioner intended to park his RV trailer in front of

his home for a month until storage space became available at another location. A copy of this letter/flyer was marked and accepted into evidence as Protestants' Exhibit 2; however, instead of storing the trailer at another location, Petitioner continued to park the trailer in front of his home, except for when the trailer would be used by Petitioner for trips. It was only within the last few months that the trailer was moved due to the Code Enforcement citation that was issued.

Mr. Melnyk goes on to describe his street as a small cul-de-sac, and that most of the homes have small parking pads in front of their homes for conventional vehicles, as well as sidewalks. Parking the trailer on Petitioner's parking pad -- given its length -- would extend the trailer out into the sidewalk, causing an obstruction and potential safety hazard. It also creates an eyesore and lessens the visual appeal of the neighborhood. For the above reasons, Mr. Melnyk indicated that he and his wife are opposed to the variance request.

Next to testify was Robert Albert of 16 Rozina Court. Mr. Albert referenced the letter of opposition dated December 31, 2008 that was submitted by his wife, Paula Albert, which was marked and accepted into evidence as Protestants' Exhibit 1 just prior to Mr. Melnyk's testimony. Mr. Albert has lived at 16 Rozina Court for the last 25 years and essentially echoed Mr. Melnyk's statements. He indicated that this particular residential area with parking pads that are large enough only for cars is not conducive to parking a large RV trailer for long term storage. He believes that the trailer should be stored at a location designed for storage of these types of vehicles -- not in a residential neighborhood, and certainly not in the front yard for the world to see. Finally, a letter of opposition dated January 6, 2009 from neighbors Ann and Thomas Eisenklam of 5 Rozina Court was marked and accepted into evidence as Protestants' Exhibit 5.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated November 25,

2008 which indicate that parking a recreational vehicle in the front yard is a violation of the County Code. After reviewing Petitioner's request, the Planning Office recommends denial of the request. Parking a recreational vehicle in the front yard in lieu of the required rear yard does not complement the existing nature and practices of the community.

After careful review of all the testimony and evidence presented, I am persuaded to deny the variance request. In considering a variance request, I am required under Section 307.1 of the B.C.Z.R. to determine, under a two prong test, first whether there are special circumstances or conditions that exist that are peculiar to the land or structure which is the subject of the variance request; that is, whether there are unique features or characteristics of the property that drive the need for the variance. If that threshold requirement is met, I am then to determine whether strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship to Petitioner. In this case, although Petitioner has presented some evidence of the hardship associated with storing the trailer offsite, he is unable to meet the uniqueness standard. In short, the property is described rather unremarkably as a rectangular-shaped lot with a split foyer home and parking pad that is very similar to the other properties in the neighborhood. *See, Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995). As an aside, I am also persuaded by the Protestants' testimony and evidence that granting the variance would not be in strict harmony with the spirit and intent of the Zoning Regulations, and that it would negatively affect the appearance and residential character of the neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing on this amended petition held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's variance request should be denied.

THEREFORE, IT IS ORDERED this 13<sup>th</sup> day of January, 2009 by this Deputy Zoning Commissioner, that Petitioner's variance relief request from Section 415A.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle to be stored in the front of the dwelling in lieu of the required rear or side be and is hereby DENIED.

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

          SIGNED            
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz