

**IN RE: PETITION FOR VARIANCE**  
SE side of Sparrows Point Road, 86  
feet SW of the c/l of Morrison Lane  
15<sup>th</sup> Election District  
7<sup>th</sup> Councilmanic District  
(2905 Sparrows Point Road)

**James Grace**  
*Petitioner*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FORBALTIMORE COUNTY  
\* **CASE NO. 2009-0201-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, James Grace. Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a side yard setback of 5 feet in lieu of the required 10 feet for a proposed dwelling on a 39 foot wide lot containing 5,880 square feet currently improved with an existing dwelling (to be razed). 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 James Grace. The owner of the property next door, Joseph Neary, of 2903 Sparrows Point Road attended as an interested citizen. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is rectangular in shape, contains 0.135 acre or 5,880 square feet zoned D.R.5.5. The property is located on the east side of Sparrows Point Road, south of North Point Road, in the Edgemere area of Baltimore County. This property is improved with an existing two-story single-family dwelling and a shed located to the rear of the property. Petitioner is in the home improvement/contracting business and part

of his business is to find unimproved lots or lots with existing houses in need of repair or replacement for resale. In this case, Petitioner purchased the subject property approximately a year ago. The property was owned by an elderly woman who passed away in December, 2007. Her sister and nephew attempted to keep up the property, but were unable to do so; the property was then sold to Petitioner after being empty for the last two years. Petitioner indicated the dwelling was constructed in 1929 and is in severely dilapidated condition. Photographs that were marked and accepted into evidence as Petitioner's Exhibits 2A through 2F show the home in a state of disrepair and appears to be slanted to one side on the foundation.

Petitioner plans to raze the existing dwelling and shed and construct a new dwelling. The existing side yard setbacks are 11 feet on the north side and 4 feet on the south side. The existing dwelling is also approximately 50 feet deep and 24 feet wide. Petitioner intends to replace the dwelling with a smaller home that is more similar to the existing homes in the neighborhood. The proposed home would also be two stories, but would only be 32 feet deep with the same width as the existing dwelling. Petitioner also intends to move the placement of the new home slightly so the side yard setbacks are 10 feet to the north and 5 feet to the south; hence the instant variance request. To illustrate his plans, Petitioner submitted elevation drawings that were marked and accepted into evidence as Petitioner's Exhibit 3, which show a proposed two-story dwelling with covered front porch and rear deck.

Testifying as an interested citizen was Mr. Neary, who lives next door to the subject property on the south side. Mr. Neary welcomes a new home next door and agrees that the existing dwelling and yard area are in deplorable condition. His primary concern is a drainage ditch between the two properties that collects storm water that runs into an outfall near the street.

Mr. Neary does not want the ditch disturbed or damaged from the razing of the old house and construction of a new dwelling.

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 March 3, 2009 which indicates that the lot is narrow at 39 feet and has an old existing house that is to be razed. The footprint of the proposed house is smaller than the existing one and is consistent with the houses on either side. Subject to approval of elevation drawings, the Planning Office will support the proposal. A front yard setback and undersized lot application may also be required.

Considering of all 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 requests. In particular, the existing home was built in 1929, prior to the adoption of the current Zoning Regulations. Hence, in my view, the imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district. Also, the planned home will actually be smaller than the existing dwelling and will have a 5 foot side yard setback rather than the current 4 foot side yard setback. The proposed home will also be of a size and type more in keeping with the other existing homes in the area.

Finally, I find the variance request can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

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 Petitioner, I find that Petitioner's variance requests should be granted.

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of March, 2009 by this Deputy Zoning Commissioner, that Petitioner's Variance request from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a side yard setback of 5 feet in lieu of the required 10 feet for a proposed dwelling on a 39 foot wide lot containing 5,880 square feet currently improved with an existing dwelling (to be razed) be and is hereby GRANTED. The relief granted herein shall be subject to the following:

1. Petitioner may apply for his building permit 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Elevation drawings shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permit.

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

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz