

**IN RE: PETITION FOR ADMIN. VARIANCE**

N side of Shaded Brook Drive, opposite  
of Hidden Trail Drive  
3<sup>rd</sup> Election District  
2<sup>nd</sup> Councilmanic District  
**(2300 Shaded Brook Drive)**

Gelu Nicolae and Diana Domnita Gavrilă  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2009-0257-A**

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Gelu Nicolae and Diana Domnita Gavrilă for property located at 2300 Shaded Brook Drive. The variance request is from Sections 427.1.B.1 and 427.1.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a fence with a height of 6 feet (72 inches) that adjoins front property lines in lieu of the maximum allowed 42 inches. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners wish to install the higher fence to surround their in-ground swimming pool and rear yard thereby protecting their neighbors and their investment. Petitioners submitted letters of support from adjacent property owners namely Jay Weinberg who resides at 2306 Shaded Brook Drive, Howard Kahn, who resides at 2218 Shaded Brook Drive, and Joel and Nancy Kaye, who reside at 2302 Shaded Brook Drive. Petitioner's property, especially the area of the rear yard where the pool is being constructed, is lower than the neighbor's property. The subject property contains 40,467 square feet.

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 April 21, 2009 which remarks that the site plan does not appear to agree with the existing conditions. It appears

that there is an existing fence that extends from the front façade of the dwelling to the panhandle driveway for 2302 and 2304 Shaded Brook Drive. The front of 2302 Shaded Brook Drive is oriented to the rear of the subject property. This front to rear orientation is usually objectionable, but it is an existing condition. The Planning Office prefers that Petitioners pull the fence back from the property line and provide some sort of landscaping on the exterior of the fence adjoining 2302 Shaded Brook. Correct the site plan to be submitted with the building permit application, if the variance is granted.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on April 12, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner. Photographs submitted by the Petitioners clearly illustrate the amount of dense trees surrounding the subject property. There are also shrubs along the property line facing 2302 Shaded Brook Drive and 2304 Shaded Brook Drive. Due to the already existing vegetation, I will not require the Petitioners to install additional landscaping as suggested by the Office of Planning. The adjacent properties are over one acre in size and the dwellings are far enough away from the Petitioners' fence that they will not be impacted by the additional fence height. In addition there is a long

panhandle-type driveway from Shaded Brook Drive that runs along the Petitioners' left property line further separating their property from the properties located at 2306 Shaded Brook Drive, 2304 Shaded Brook Drive, and 2302 Shaded Brook Drive.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 30<sup>th</sup> day of April, 2009 that a variance from Section 427.1.B.1 and 427.1.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a fence with a height of 6 feet (72 inches) that adjoins front property lines in lieu of the maximum allowed 42 inches is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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