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| IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> * | BEFORE THE                     |
| <b>AND VARIANCE</b> – N/S Stoneleigh Road,    |                                |
| 125' W of the c/l York Road *                 | ZONING COMMISSIONER            |
| <b>(500 Stoneleigh Road)</b>                  |                                |
| 9 <sup>th</sup> Election District *           | OF                             |
| 5 <sup>th</sup> Council District              |                                |
|   | *                              |
|   | BALTIMORE COUNTY               |
| Michael T. Lawrence, et ux                    |                                |
| Petitioners *                                 | <b>Case No. 2009-0313-SPHA</b> |

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for continued proceedings and consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Michael T. Lawrence, and his wife, Jennifer A. Lawrence. The Petitioners request a special hearing to approve their site plan and amend prior zoning Orders and conditions under Case Nos. 04-585-A, 06-250-SPHA and 2008-0516-SPHA.<sup>1</sup> In addition, variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition on the east side of the dwelling with a side yard setback as close as 2 feet in lieu of the required minimum of 10 feet. The subject property and requested relief are more particularly described on the amended site plan submitted which was accepted into evidence and marked as Petitioners’ Exhibit 1, and building elevation drawings of the proposal, which were submitted into evidence as Petitioners’ Exhibit 2.

Appearing at the requisite public hearing in support of the request was Michael T. Lawrence, the property owner. Appearing as Protestants and interested persons in this matter were the nearby and adjacent neighbors residing on Stoneleigh and York Roads, namely, John and Susan Gould, Eric and Kristina Auth Paltell, Peter and Maria Chakmakas and Kathleen Williams, a Board of Governors member of the Stoneleigh Community Association.

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<sup>1</sup> Deputy Zoning Commissioner Thomas H. Bostwick postponed Case No. 2008-0516-SPHA without issuing an Order. See memorandum dated July 15, 2008 relating to perceived plan inaccuracies.

Testimony and evidence offered disclosed that the property at issue is a pie-shaped parcel located on the north side of Stoneleigh Road, just north of Regester Avenue and east of York Road in the Stoneleigh National Register Historic District. The property contains a gross area of 0.22 acres (9,432 square feet), more or less, zoned D.R.5.5, and is improved with a two-story, single-family dwelling, built in 1927, a detached, 18' x 20' garage, and a patio covered by a trellis on the east side next to the Paltell property (502 Stoneleigh Road), which is the subject of the instant request. The Petitioners have owned and resided on the property since February 2000 and are desirous of converting the existing patio covered trellis with an attached one-story sunroom addition 15' wide x 21' deep.

Mr. Lawrence testified as to his growing family needs. His sons are now 10 and 11 years old. Additionally, he has family relatives (parents, sisters and brothers) that reside out of state and frequently visit from Florida, New York and Connecticut creating a need for additional space for sleeping. He believes that enclosing the existing trellis/patio area built in 2004 already located two feet from the neighboring property line would be within the spirit and intent of this Commission's prior Order (Case No. 04-585-A) and the zoning regulations. He stated that the architectural design, exterior siding and window treatments were patterned to match his existing home and would be aesthetically pleasing and meet all fire protection codes. He also stated that the enclosed sunroom structure would ultimately provide more privacy from his neighbors' standpoint than the existing open and covered patio. He points to the unique configuration of the property and the location of existing improvements. In this regard, the site plan shows that the property measures 84' in width along Stoneleigh Road and is 132' deep; however, tapers to a width of 75' along the rear property line where the garage is located. In the Petitioners' opinion, this is a superior design and proposition than that of raising the roof of the existing garage to create living quarters in the upper level space. It was indicated that the sunroom would contain no kitchen appliances nor be used as living quarters or apartment.

By way of background, this property is well known to me because I reviewed and granted variance relief to the Petitioners in prior Case No. 06-250-SPHA. In that case, the

conversion of the garage for an in-law apartment was limited to Thomas and Bernadette Lawrence and *no others*. In Case No. 04-585-A, an Administrative Variance was granted without a public hearing by then Zoning Commissioner Lawrence E. Schmidt. That variance was from Section 400.1 of the B.C.Z.R. to permit an accessory structure (trellis attached to an existing garage) with side and rear yard setbacks of 1 foot in lieu of the required 2.5 feet and Section 301.1A to permit an open projection (trellis attached to the house) with a side yard setback of 2 feet in lieu of the required 7.5 feet.

Mr. Paltell testified that he took a “live and let live” approach regarding the open projection trellis structure coming in close proximity to the common boundary. He (Paltell) also measured the distance and found it to be 21 ½" from the property line. Photographs were presented to show the trellis and the efforts to screen the accessory structure from view. The Paltells are now concerned about a more permanent structure being built this close that will be visualized from their living and family rooms.

Similarly, testimony was received from Ms. Gould and Ms. Williams concerning property values in this historic neighborhood. Both are experienced licensed realtors and testified that a principal structure this close to a property line would adversely impact upon adjacent property values. Ms. Chakmakas questioned the legitimacy of the existing accessory trellis (east side) and presented the old site plan obtained from Case No. 04-585-A as well as a letter dated October 24, 2008 from the Zoning Review Office detailing the zoning history of the subject property.

Variance relief can be granted only if the requirements contained in Section 307 of the B.C.Z.R. are met. This section states that the Zoning Commissioner may grant variances;

*... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship.*

Variations are not favored under the law and presumed to be in conflict with the regulations. As stated in *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995):

*The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances.*

After due consideration of all of the testimony and evidence presented, I find that the Petitioners' property is substantially similar to other properties as to size, shape, and topography. As such, it does not meet the requirements for a finding of uniqueness as set forth in *Cromwell* to justify a principal structure addition to be within 2 feet of a neighbors property. I cannot decide this case based on "extenuating circumstances." Having determined that no uniqueness exists as to the Petitioners' property in this case, I must therefore deny the variance requested by the Petitioners.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be denied. Since the variance request drives the need for the special hearing petition, the denial of the variance renders the special hearing request moot.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31<sup>st</sup> day of July 2009 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition on the east side of the dwelling with a side yard setback of as close as 2 feet in lieu of the required minimum of 10 feet, in accordance with Petitioners' Exhibit 1, be and is hereby DENIED; and

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve the site plan and amend prior zoning Orders and conditions under Case Nos. 04-585-A, 06-250-SPHA and 2008-0516-SPHA, be and is hereby dismissed as Moot.

Any appeal of this decision shall be taken in accordance with Baltimore County Code  
Section 32-3-401.

WJW:dlw

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