

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
E side of Zion Road; 460 feet N of the		
c/l of Clyde Avenue	*	DEPUTY ZONING
1 st Election District		
1 st Councilmanic District	*	COMMISSIONER
(2415 Zion Road)		
	*	FOR BALTIMORE COUNTY
Sharon Serio		
<i>Petitioner</i>	*	Case No. 2009-0323-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the legal owner of the subject property, Sharon Serio. The Variance request is from Section 1B02.3.B (Section 504, 1945 Regulations) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition to have a side yard setback of 3 feet and front yard setback of 23 feet in lieu of the required side yard setback of 7 feet and front yard average of 25.17 feet, respectively. The subject property and requested relief are more particularly described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of July 6, 2009. On June 23, 2009, an adjacent property owner, William Young, owner of the property at 2417 Zion Road, filed a Formal Demand for Hearing. The hearing was subsequently scheduled for Wednesday, August 12, 2009 at 10:00 AM in Room 104 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property on July 26, 2009 and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the requested relief was Petitioner Sharon Serio and her daughter Sarah, who also resides at 2415 Zion Road along with her two young children. Appearing in opposition to the variance request was Protestant William Young, legal owner of the adjacent property to the south, 2417 Zion Road, who currently resides at 6453 St. Phillips Road in Linthicum, MD. There were no other interested citizens in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is rectangular in shape and contains approximately 5,580 square feet, more or less, zoned D.R.5.5. The property is located on the east side of Zion Road and west of Lansdowne Road in the Halethorpe area of Baltimore County. The subject property's rear yard is adjacent to the ball fields of Lansdowne High School, which sits approximately 600 feet northwest of the subject property. The property is improved with a single-family dwelling in the 'rancher' style, as well as an accessory storage shed near the property line with Mr. Young's property. Further, the subject dwelling sits more to the northern portion of the property, closer to the property line at 2413 Zion Road, than to Protestant's property at 2417 Zion Road. Protestant Mr. Young's property is likewise improved with a single-family dwelling in the 'rancher' style, and is additionally improved with an accessory storage shed at or near the dividing property line of the subject property and Mr. Young's property. These accessory structures can be seen in the photograph marked and accepted into evidence as Petitioner's Exhibit 3C.

Further evidence revealed that the subject property and the property of the Protestant Mr. Young are plats of record since 1953. The record plat for the Highland Subdivision, on which the subject property is identified as Lot 21 and highlighted in yellow, was marked and accepted into evidence as Petitioner's Exhibit 2. At this juncture, Petitioner desires to add a two-story

addition to her existing dwelling consisting of a front-loading one car garage, two bedrooms and a bathroom. This addition would blend with the existing home by overlapping the dwelling to create a streamlined, cohesive unit. However, the addition requires variance relief because the proposed addition would result in a side yard setback of 3 feet in lieu of the required 7 feet, and would jut into the front yard slightly, creating a setback of 23 feet in lieu of the required front yard average of 25.17 feet, respectively.

Petitioner explained that she considered other locations for the addition, specifically, raising the height of the home, like the home at 2407 Zion Road, seen in the photograph that was marked and accepted into evidence as Petitioner's Exhibit 5B. However, this option was considered to be more intrusive than the proposed addition and not to be compatible with the original 'rancher' style home intended for the community. Also considered was putting the addition completely in the rear of the home; however due to the location of the ball fields adjacent to the property's rear yard, this option was deemed not feasible. Further, placing the addition on the north side of the home was impractical due to the layout of the home, which was built in 1953 according to a Real Property Data Search contained within the case file.

Petitioner indicated that great concern was taken in designing the proposed addition so that it would visually blend with surrounding homes and be consistent with the layout of the community and the pattern of development. Materials matching those already on the subject dwelling will be used for the addition, thereby contributing to the existing aesthetics of the home. Moreover, Petitioner stated that many other homes on Zion Road, suffering from layout restraints, had expanded even closer to their respective property lines than she currently proposes. Examples of such homes can be seen in photographs B, D, E, and F of Petitioner's Exhibit 5. Lastly, Petitioner stated that if she were unable to build the addition as proposed she

would suffer practical difficulty and undue hardship because her daughter and grandchildren would be unable to live in the home and she would be forced to move elsewhere.

Testifying in opposition to the requested relief was William Young, legal owner of 2417 Zion Road, which is adjacent to the subject property to the south. Mr. Young currently resides at 6453 St. Phillips Road in Linthicum, Maryland. No one currently lives at 2417 Zion Road. However, he indicated that he is attempting to either sell his Zion Road property or is considering re-locating his residence from Linthicum to the Zion Road address. Mr. Young objects to the proposed addition because in his opinion, the value of his home would decrease. Further, he notes that the area between the two homes retains water poorly and thus water often accumulates between the two homes. Ms. Serio responded to these comments noting that she took great care in designing the addition to alleviate the drainage issue between the two homes. The proposed addition will provide drainage so that storm water will feed towards Zion Road and not adjacent properties.

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 August 5, 2009 which indicates that the existing house is a small rancher built in 1953. The proposed addition will cause the loss of at least one off-street parking space. One off-street parking space will remain if the distance between the front of the addition and the sidewalk located along Zion Road is adequate. It does not appear that the loss of one off-street parking space will be a problem. On-street parking is available on both sides of Zion Road. There are also two on-street spaces located directly in front of the Petitioner's dwelling.

Considering 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

request. The photographs admitted into evidence and the testimony of Petitioner as to the placement of the existing dwelling and the unusual characteristics of the land, render the subject property unique in a zoning sense. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The dwelling in its current state does not have sufficient capacity for the residents of Petitioner's home and denial of the variance request would require Petitioner to pursue alternative living arrangements. Although I am aware of Protestant's concerns and appreciate his reservations about the proposed addition's affects on his property's value and sight line, the granting of the request enables Petitioner the common law right to use her property in a manner so as to realize its highest and best use in accordance with Maryland law. *See, Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303 (1972). I am not convinced there will be any detrimental impacts to Protestant's property, nor to the community in general.

Moreover, Petitioner's proposed location for placement of the addition is the most compatible with the original 'rancher' style layout of the surrounding community and is the most feasible for the configuration of the property. Finally, I find this variance can be granted in strict harmony with the spirit and intent of said zoning regulations, in such manner as to grant relief with consideration for public health, safety and general welfare, and in accordance with the requirements of Section 1B02.3.B of the B.C.Z.R., as interpreted in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

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 14th day of August, 2009 that a Variance from Section 1B02.3.B (Section 504, 1945 Regulations) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition to have a side yard setback of 3 feet and front yard setback of 23 feet in lieu of the required side yard setback of 7 feet and front yard average of 25.17 feet, respectively, be and is hereby GRANTED, subject to the following:

1. Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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 Petitioner 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.

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz