

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
NW/S Norris Lane, 26' SW of c/line of		
Torner Road	*	ZONING COMMISSIONER
(618 Norris Lane)		
	*	OF
15 th Election District		
7 th Council District	*	BALTIMORE COUNTY
Richard F. Riley, Sr.	*	Case No. 2010-0098-A
Petitioner		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Richard F. Riley, Sr. The Petitioner requests a variance from Sections 1B02.3.A.5 and 1B02.3B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition (sunroom) with a 4-foot side yard setback (northwest side)¹ in lieu of the maximum required 10 feet. The subject property and requested relief are more particularly described on the site plan and building elevation drawings submitted which were accepted into evidence and marked as Petitioner’s Exhibits 1 and 3, respectively.

Appearing at the requisite public hearing in support of the request were Richard F. Riley, Sr., and his fiancé, Leslie C. Walker, who resides at the subject property. There were no Protestants present; however, the matter came before me as a result of a complaint registered by a nearby resident, John Schepleng, with the Code Enforcement Division of the Department of Permits and Development Management (DPDM) relative to construction of the sunroom without a building permit. Reportedly, Mr. Schepleng later denied that he made a complaint. In any

¹ In Case No. 05-113-A, Petitioner received a Variance to place an attached garage on the northeast side of his single-family dwelling. By his Order, dated October 18, 2004, then Deputy Zoning Commissioner John V. Murphy granted a 3 foot, 9 inch side yard setback and a 21-foot rear yard setback in lieu of the required 10 feet and 50 feet, respectively. See site plan for the garage addition received as Petitioner’s Exhibit 8.

event, the Petitioner was cited with a code violation and advised to file the instant Petition to resolve the matter. Additionally, it should be noted that a letter was received from the Petitioner's adjacent neighbor, Michael Ranere (616 Norris Lane) as well as a petition from those nearby residents (nine) who have any visibility of the subject hot tub/sunroom enclosure. All support the proposal (*See* Petitioner's Exhibits 2 and 7).

Testimony and evidence offered revealed that the subject property is an irregular shaped corner lot with frontage on Norris Lane at the intersection of Norris Lane and Torner Road just east of Stemmers Run Road in the Essex community of eastern Baltimore County. The property contains a gross area of 9,909 square feet, more or less, zoned D.R.10.5 and is improved with a single-family dwelling built in 1948 with an attached garage. The Petitioner testified that the property has been in his family for decades. He grew up in the home and following his father's death in 1994, he purchased the property from the estate. The subject request relates to an 8' wide x 14' deep glass enclosed sunroom that Mr. Riley and Ms. Walker wish to build around the hot tub which has for years been located in the side yard next to the open deck at the rear of the home. Mr. Riley stated that the hot tub and the planned enclosure are located in the side yard in the spirit of saving the mature trees located behind the home that have sentimental value. *See* photographic exhibit 6 of the rear yard.

After due consideration of the testimony and evidence presented, I am persuaded to grant the variance. I must consider the request in accordance with the mandate of *Cromwell v. Ward*, 102 Md. 691 (1995) and Section 307 of the B.C.Z.R. The Court interpreted the regulation to require that two tests be met in order for variance relief to be granted. First, it must be shown that the property is unique in some manner and that the uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, then it must be considered whether compliance with the regulation would cause a substantial difficulty upon the property

owner and be unnecessarily burdensome. In my judgment, there has been evidence of unusual conditions or circumstances that are unique to this corner lot, namely, the preservation of the property's mature trees. It was demonstrated at the hearing that the largest tree would need to be sacrificed if the placement of the addition was located in the rear yard next to the open porch. An area variance may be granted where strict application of the zoning regulations would cause practical difficulty or undue hardship to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). After due consideration of the testimony and evidence presented, I am convinced that practical difficulty or unreasonable hardship will result if the Variance is not granted. It has been established that the addition is small in nature (8' x 14') and consists in large part of transparent glass panels. Special circumstances exist in this case and the relief requested will not cause any injury to the public health, safety or general welfare, and otherwise meets the spirit and intent of the Baltimore County Zoning Regulations. Thus, I am persuaded to grant the variance.

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 granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of November, 2009 that the Petition for Variance seeking relief from Section 1B02.3B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition (sunroom) with a 4-foot side yard setback in lieu of the maximum required 10 feet, in accordance with Petitioner's Exhibits 1 and 3, respectively, be and is hereby GRANTED, subject to the following restriction:

1. The Petitioner may apply for any permits necessary but is hereby made aware that proceeding at this time is at his own risk until the thirty (30) day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

Any appeal of this decision shall be entered within thirty (30) days of the date hereof.

WJW:dlw

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