

IN RE: PETITION FOR VARIANCE

N side of Windsor Mill Road; 72 feet E
of the c/l of Featherbed Lane
4th Election District
2nd Councilmanic District
(6746 Windsor Mill Road)

Alice J. Burrow, et al.
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **CASE NO. 2010-0107-A**

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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 owners of the subject property, Alice J. Burrow and Roy C. Borrow and Wanda Taylor-Douglas and Elwood Douglas. Petitioners are requesting Variance relief from Section 427 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 6 foot high vinyl fence with a zero foot setback along the rear property line of a single-family dwelling that adjoins the front yard of a neighboring property in lieu of the required 10 foot setback, and to amend the Final Development Plan of Lawnwood, Section 1. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioners Alice J. Burrow and her daughter, Wanda Taylor-Douglas, and Ms. Douglas's husband, Elwood Douglas. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is irregular-shaped and consists of approximately 16,567 square feet or 0.38 acre, more or less, zoned D.R.5.5. The property is located on the northeast side of Windsor Mill Road, east of Interstate 695 and north of Woodlawn Drive, in the Woodlawn area of Baltimore County. The subject property was once

part of a larger tract that consisted of approximately 42,703 square feet or 0.98 acre, more or less. In 1989, the previous owners of the property, William and Betty Reincke, subdivided the property into two lots. The property was at that time improved with two two-story stucco buildings. Lot 1 at the front of the property (the subject property) retained one of the buildings consisting of two two-bedroom units and two one-bedroom units. Lot 2 to the rear of the property contained the other building consisting of two two-bedroom units, one one-bedroom unit, and one efficiency apartment.

Presently, Petitioners (Alice and Roy Burrow and their daughter, Wanda Taylor-Douglas and her husband, Elwood Douglas) reside in the two-story stucco building on Lot 1. Lot 2 is owned and operated as an apartment building by Betty Farley (formerly Reincke). There is a three foot high chain link fence on Petitioner's property that separates the rear of Petitioner's property from the front of Ms. Farley's rental property. At this juncture, Petitioners desire to replace the chain link fence with a six foot high fence to provide more privacy and better screening from the adjacent property. In order to do so, Petitioners are in need of variance relief to permit a zero foot setback along their rear property line that adjoins the front yard of a neighboring property in lieu of the required 10 feet.

In support of the variance relief, Petitioners referenced the documentation that was attached to their Petition for Variance, which included a narrative entitled "Reasons for Fence." This documentation coupled with their testimony revealed that Petitioners purchased their property (Lot 1) from Ms. Farley approximately 20 years ago. They have lived there as an extended family (parents, adult children, and grandchildren) since that time. The four unit apartment building on Lot 2 has been rented to tenants and over the years, Petitioners have encountered some intermittent problems with the tenants. This has included tenants and their

visitors driving their cars across Petitioners' property to get to the apartment building from Windsor Mill Road, trash and other debris from the apartment building being littered on the rear of Petitioners' property near the existing chain link fence, and tenants and their visitors jumping over the chain link fence to get to the road instead of walking around on the existing private driveway for the apartment building.

All of these circumstances, as well as others, have caused tension between Petitioners and the apartment building tenants. Rather than continuing with this difficulty, Petitioners desire to mute the situation by erecting the aforementioned six foot high fence. The fence would hopefully provide the desired separation between the properties and better delineate the property line between Petitioners' property and Ms. Farley's apartment building property. It is also hoped that the fence would lessen the likelihood of contact between Petitioners and the apartment building tenants so that there are fewer problems.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other affirmative recommendations concerning the requested relief.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The larger tract was subdivided 20 years ago, which created the lot sizes and irregular configurations that presently comprise Lot 1 (the subject property) and Lot 2. The dwelling on the subject property was built in 1920 and Petitioners utilize the dwelling as a residence for their extended family. The building on Lot 2 is utilized in a quasi-commercial manner as a residential apartment building. The building has four apartment units with tenants, some of whom have resided there for a number of years and some

that come and go. The layout of the two lots is unique in that the rear of the subject property adjoins the front of the apartment building property. It is important to note that this layout was not created by Petitioners. In addition, the transient nature of the apartment building has resulted in several clashes and conflicts between tenants of that building and Petitioners. In my view, the subject property is unique in a zoning sense and I further find that Petitioners would suffer practical difficulty and undue hardship if the variance were to be denied. The difficult situation between the tenants of the apartment building and Petitioners would likely continue to deteriorate if Petitioners are not permitted to erect a six foot high privacy fence to replace the existing three foot high chain link fence. Finally, I find that the variance 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 petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED this 5th day of January, 2010 by this Deputy Zoning Commissioner, that Petitioners' Variance request from Section 427 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 6 foot high vinyl fence with a zero foot setback along the rear property line of a single-family dwelling that adjoins the front yard of a neighboring property in lieu of the required 10 foot setback, and to amend the Final Development Plan of Lawnwood, Section 1, be and is hereby **GRANTED**, subject to the following:

1. Petitioners are advised that they may apply for any required building permits 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, 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.

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz