

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
NW Corner of Hamilton Avenue &	*	ZONING COMMISSIONER
Langdon Lane	*	OF
<b>(5420 Hamilton Avenue)</b>	*	BALTIMORE COUNTY
14 <sup>th</sup> Election District	*	
6 <sup>th</sup> Council District	*	
William George Sullivan, Jr.	*	<b>Case No. 2010-0112-A</b>
Petitioner		

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**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, William G. Sullivan, Jr. The Petitioner requests a variance from Section 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard average setback of 25 feet in lieu of the required 29 feet (average of No. 5418 & No. 5500 Hamilton Avenue), and from B.C.Z.R. Section 1B02.3.C.1 to permit a rear yard setback of 28 feet on Lot 1 in lieu of the required 30 feet. The subject property and requested relief are more particularly described on the site plan which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request were William George Sullivan, Jr., property owner, and Bruce E. Doak, with Gerhold, Cross & Etzel, Ltd., the engineering firm that prepared the site plan and assisting the Petitioner through the minor subdivision process for the “Sullivan Property” (Permits and Development Management File No. 09041M). There were no Protestants or other interested persons in attendance at the hearing and there were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

Testimony and evidence offered revealed that the subject property is a rectangularly shaped corner lot just west of the John F. Kennedy Memorial Highway (Interstate 95) and south of Radecke Avenue in Rosedale that abuts on Langdon Lane and Hamilton Avenue. The property contains a gross area of 0.524 acres, more or less (22,821 square feet)<sup>1</sup>, zoned D.R.5.5 and presently improved with two (2) single-family dwellings. The Petitioner, whose family has owned the property for many years, proposes a minor subdivision creating two (2) separate lots. Lot 1 will be 8,166 square feet and be known as 5420 Hamilton Avenue. The present one-story home on this lot was built in 1935 and was the home of the Petitioner's aunt, prior to her death, and fronts on Langdon Lane. It is positioned 10 feet north of the Hamilton Avenue right-of-way and 60 feet west of Langdon Lane. *See* photographs submitted as Petitioner's Exhibit 2. This existing home is no longer structurally sound and will be razed by the Petitioner. Initially, Mr. Sullivan had planned to build a replacement home facing on Langdon Lane. In this regard, none of the neighbors had an objection to the proposal in that they viewed the development as an improvement to the property. The Office of Planning, however, wanted the house rotated or oriented to face Hamilton Avenue so as to be more consistent with the other houses along the street. Mr. Sullivan prefers the Langdon Lane frontage as the Office of Planning's choice causes front and rear yard problems and would, of course, require the variance relief as set forth above. Ultimately, the Petitioner agreed to compromise. If not for the Office of Planning's request to rotate the orientation of the replacement dwelling, no variances would be necessary or required as it would meet all B.C.Z.R. requirements. As illustrated on the site plan, the new home will be set back 25 feet from the right-of-way line of Hamilton Avenue if it is widened. This will result in a substantial improvement over the existing uninhabitable dwelling to be razed. Lot 2 will be

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<sup>1</sup> Potential highway widening on Langdon Lane and Hamilton Avenue as shown on the site plan will reduce the lot size by 8,599 square feet for a net area of 0.327 acres (14,222 square feet). B.C.Z.R. Section 1B02.C.1 requires a minimum net lot area of 6,000 square feet per dwelling unit.

known as 7904 Langdon Lane and contains 6,056 square feet in area and meets all B.C.Z.R. area requirements.

It is to be noted that Section 1B02.3.C of the B.C.Z.R. provides for a minimum front yard depth of 25 feet in a D.R.5.5 zone. However, on this side of Hamilton Avenue, the house on the immediate adjacent lot (5418) is further from the road (33 feet) than the proposed dwelling. Thus, an “average” front setback of 25 feet is required for development on the subject lot, pursuant to Section 303.1 of the B.C.Z.R. Moreover, due to the Office of Planning’s choice of orientation and the contemplated highway widening, the proposed dwelling cannot meet rear yard setback requirements. Thus, the requested variance relief is necessary.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the variance. It is clear that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioner and prevent his use of the property for a permitted purpose. Moreover, testimony and evidence demonstrates that this is one of the larger lots in this community and that many of the homes in the immediate vicinity are setback a similar distance from Hamilton Avenue as that proposed here. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and the proposal appears compatible with the pattern of development in the area. Thus, I find that the relief requested is appropriate in this instance and will not be detrimental to adjacent properties or the surrounding locale.

Pursuant to the advertisement, posting of the property, 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 of Baltimore County this 12<sup>th</sup> day of January 2010, that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a proposed

replacement dwelling on the subject property with a rear yard setback of 28 feet on Lot 1 in lieu of the required 30 feet, and a front yard setback of 25 feet in lieu of the average required front yard setback of 29 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 relief granted herein shall be rescinded.

WJW:dlw

\_\_\_\_SIGNED\_\_\_\_\_  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
of Baltimore County