

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Bullneck Court, 125 feet NE of
the c/l of Bullneck Road
12th Election District
7th Councilmanic District
(8264 Bullneck Court)

Michael and Karen James
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0189-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Michael and Karen James, for property located at 8264 Bullneck Court. The variance request is from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle to be located in the front yard in lieu of the required side or rear yard. Resolution 3-10 concerning the public disclosure of Michael James, an employee of the Baltimore County Department of Public Works, was approved at the County Council meeting held on January 19, 2010. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

On February 4, 2010, the Undersigned called for a formal hearing on this matter. Historically, this Office has requested that the Zoning Review Office not accept Petitions for Administrative Variance on cases that have Code Enforcement violations pending, thus requiring a public hearing, and/or cases where Petitioners are requesting relief to store recreational vehicles and/or boats in the front yard. The hearing was subsequently scheduled for Friday, March 17, 2010 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 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 variance request was Petitioner Michael and James. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence received in the case revealed that the subject property is irregular-shaped and contains approximately 6,665 square feet or 0.153 acre, more or less, zoned D.R.5.5. As shown on the site plan and the zoning map that was marked and accepted into evidence as Petitioners' Exhibit 2, the subject property is located on the east side of Bullneck Court just north of Bullneck Road, with Bullneck Creek to the east, in the Dundalk area of Baltimore County. The property is improved with a single-family dwelling that was originally constructed in 1945 as part of the housing that was once provided to Bethlehem Steel workers. Mr. James testified that he has lived in the home for about the last 17 years. He indicated that his parents purchased the property when he was in his late teens. After his father passed away in 1992, he and his wife and family moved in with his mother. The dwelling was originally constructed as a cape cod style 1½- story dwelling, and Mr. James hired a contractor and remodeled the home, removing the roof and creating a full second floor. There are also two existing sheds along the north side of the property near the waterside that Petitioners use for storage, and an above-ground pool near the southern property line, also on the waterside. Petitioners submitted photographs of the nearby properties in the court and their home, which were marked and accepted into evidence as Petitioners' Exhibits 3A and 3B.

The 5th wheel trailer that is the subject of the variance request is a 31 foot model, with actual measurements of approximately 34 feet long from rear bumper to trailer hitch. Petitioners have owned the trailer for about three years and also owned other trailers before previous to that

one. In support of the requested variance relief, Mr. James indicated that the neighborhood was platted and homes were built prior to the Zoning Regulations in this area, with smaller side yard setbacks than would be permitted today. He explained that this situation significantly limits his ability to comply with the Regulations because there is not enough space in the rear or at the side of his property without interfering with his neighbor's property next door. He also pointed out that his property, which is located in a court and fronts on the Bullneck Creek shoreline, results in very odd-shaped lots. Specifically, his lot has an unusual shape in that it is relatively long and narrow. It is also approximately three times as wide on the waterside than on the street side, and has five sides, with frontage on the water and with side yards adjacent to three other properties. Essentially, the only storage area available for any type of vehicle storage is the asphalt parking pad that takes up the majority of the street side of the property. Most of the properties that circle the court have the same constraints. Finally, Mr. James indicated that the subject area is a waterfront community. Most of the homes are waterfront as his is, or have water access. Consequently, many residents store their trailered boats and recreational vehicles on their property and almost exclusively on the street side. He also noted that there is often confusion over what actually constitutes the "front" yard versus the "rear" yard in these communities, and thus whether storage of an RV on the street side is in the front or rear yard.

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 February 23, 2010 which indicates that the current house appears new or improved with new additions. It is well kept and situated on a small cul-de-sac. The lot is trapezoidal in shape with a narrow front yard that is largely paved and a large rear yard with several sheds, a pool and a 105 foot long pier extending into the water. The south side of the house has a 12 feet wide access way as shown on

the submitted plan. As the attached photograph shows, there is a large trailer on the 12 foot side. The only thing possibly blocking access to the water is an above-ground swimming pool. If that were moved to the other side of the yard the trailer could be backed all the way to the water. The Planning Office recommends that the pool be relocated, the boat storage be in the rear and side yard, and any setbacks that may be required to permit such be granted. The Planning Office further recommends that the narrow front driveways be used only for the storage of cars.

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. This lot was created many years ago and the dwelling was originally constructed in 1945, prior to the adoption of Zoning Regulations in this area. As such, the current setbacks are nonconforming. The lot also has a very unusual shape, in that it is very narrow with essentially five “sides” and expands outward from the street to the waterside, with very little room along the side yards and a large asphalt parking pad essentially taking up the entire street side of the yard. In my view, the subject property is unique in a zoning sense.

I further find that Petitioners would suffer practical difficulty and undue hardship if the variance were to be denied. I am mindful of the Office of Planning’s comment, but I believe there is a certain balancing that needs to take place. It could be argued that for a waterfront property such as this, the street side is indeed the rear yard, where accessory structures such as garages and parking of vehicles are permitted. On the other hand, I must be mindful of the potential for clutter and overcrowding on the property, and its potential negative impact on the neighborhood. Because the property is located on a court, it is shielded to some degree by the general traffic on Bullneck Road and the other streets in the area. I also note that the adjacent property owners are supportive of Petitioners’ requests, as indicated in the letter that was marked and accepted into evidence as

Petitioners' Exhibit 4, and signed by seven of the eight homes located in the court. 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 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 22nd day of March, 2010 that a Variance from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a recreational vehicle to be located in the front yard in lieu of the required side or rear yard is hereby **GRANTED**, subject to the following:

1. Petitioners may apply for their building permit 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.
2. The relief granted herein shall be limited to Petitioners as the legal property owners and their immediate family. If Petitioners subsequently sell, transfer, or otherwise vacate the premises, or rent the premises to others beyond their immediate family (to include Petitioners' two children), the relief granted herein shall be discontinued, unless granted or extended to others via a subsequent variance or special hearing.

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