

IN RE: <b>PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
SE side of Forwood Court; 755 feet S of the		
c/1 of Falls Road	*	ZONING COMMISSIONER
(11 Forwood Court)		
8 <sup>th</sup> Election District	*	OF
2 <sup>nd</sup> Council District		
	*	BALTIMORE COUNTY
<b>Robert N. Gensler, et ux</b>		
<i>Petitioners</i>	*	<b>Case No. 2010-0221-A</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Robert N. Gensler, and his wife, Elizabeth E. Gensler. The Petitioners request a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a principal building (dwelling) to have a side setback to a line of 47 feet, more or less, in lieu of the required 50 feet. The subject property and requested relief are more particularly described on the site plan which was accepted into evidence and marked as Petitioners' Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the unique configuration of the property and the layout and location of the existing dwelling thereon. As shown on the site plan, the Petitioners propose to construct a dwelling to replace the existing house that sustained extensive fire damage and was considered a total loss by the insurance company. Petitioners desire to construct a larger home which will utilize the existing foundation. None of the neighbors on Forwood Court expressed any opposition to the proposed dwelling as depicted on the site plan. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. The property contains 2.45 acres and decreasing the setback by 3 feet, more or less, will not have any impact on adjacent properties.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any objection. Comments were received from the Office of Planning dated March 9, 2010 which states that the existing single-family dwelling contained on the property was deemed a total loss due to fire damage. The Petitioners seek a side yard variance of 47 feet in lieu of 50 feet in order to raze and rebuild a larger single-family dwelling. The development plan was approved and vested prior to the R.C. 5 Performance Standards. The Planning Office supports the requested variance provided the

architectural elevation drawings are in accordance with those prepared by Creative Outlooks LLC dated January 22, 2010. Thus, it appears that the relief requested can be granted without detrimental impact 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 29<sup>th</sup> day of March 2010, that the Petition for Administrative Variance seeking relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a principal building (dwelling) to have a side setback to a line of 47 feet, more or less, in lieu of the required 50 feet be and is hereby GRANTED, subject to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 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.
2. The architectural elevation drawings shall be in accordance with those prepared by Creative Outlooks LLC dated January 22, 2010.
3. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:pz

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