

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/Side of Freeland Road, 750' W c/line of		
Morris Road	*	ZONING COMMISSIONER
(1527 Freeland Road)		
6 th Election District	*	OF
3 rd Council District		
	*	BALTIMORE COUNTY
Charles J. Swam, et ux		
Petitioners	*	Case No. 2011-0012-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Charles J. Swam, and his wife, Bernice “Ann” Swam. The Petitioners request a variance pursuant to Section 1A01.3B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback as close as 22 feet (west side) in lieu of the required 35 feet for an existing dwelling and proposed addition. The subject property and requested relief are more particularly described on the site plan, which was submitted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request were Charles and Ann Swam, owners of the subject property, and David Billingsley of Central Drafting & Design, Inc., the consultant who prepared the site plan and is assisting the Petitioners in the permitting process. There were no Protestants or other interested persons at the hearing.

Testimony and evidence revealed that the subject property is located on the south side of Freeland Road, just west of its intersection with Morris Road and next to the Morris Meadows Recreation Farm in Freeland. The property has been in the Petitioners’ family’s possession since 1924 and a lot of record since at least September 17, 1954 as indicated on the Deed(s) submitted as Petitioners’ Exhibit 3 and recorded among the Land Records of Baltimore County. Briefly, in 1924

Otis and Laura Swam acquired the property from James and Ida Lamotte (W.P.C. No. 592, Folio 213). Otis and Laura next conveyed the property to Edward Swam, the Petitioners' father, in 1954 (Liber 426, Folio 723). On this lot, Petitioners father built a modest one-story, two-bedroom home in 1955. This lot has 115 feet of frontage on Freeland Road and contains an area of 0.487 acres (21,213 square feet), presently zoned R.C.2 and served by private water and sewer.

Following the death of Edward Swam, Petitioners purchased the property from his estate in 1974 (Liber 5426, Folio 723). Now some 36 years later, the home is occupied by Petitioners son, Hammond and his wife Shannon. They have two (2) sons, ages 3 ½ and 1 year. The boys currently share one of the bedrooms and they desire to expand the living area by constructing a 22' wide x 30' deep one-story addition to the rear of the existing dwelling that will be 32 feet from the western side property line. Apparently, when Edward Swam placed his home on the lot – within the current setback to side yard lot line – some 55 years ago, he created a non-conforming deficiency that the Zoning Review Office would like to see legitimized prior to issuing a building permit for the proposed addition. In that the R.C.2 development regulations require a minimum 35-foot setback to any side yard property line, the requested variance relief is necessary.

The evidence presented was that the subject property as shown on the site plan is a rectangularly shaped lot and undersized by today's standards. Compared to most other properties in the immediate area, this property is narrow and has a shallow depth. In order to add additional living space, it needs to be to the rear of the home and "line up" with the existing home's hallways and bedrooms. Given the property's constraints, the location of the proposed addition is proper and has been moved back 32 feet from the closest property which is 10 feet further away from the property line than the existing home which has existed at this location for more than half a century.

Based upon the testimony and evidence produced by the Petitioners, I am persuaded that the relief requested should be granted. The Petitioners are proposing a needed addition to a home that was built on a lot of record prior to the zoning regulations. It is clear that the granting of the requested relief will not result in any detriment to the health, safety, or general welfare of the immediate neighbors or surrounding community. It is also clear that strict compliance with the regulations under these circumstances would result in practical difficulty for the Petitioners and their family and prevent the further improvement of the property for a permitted purpose. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency, however, the Department of Environmental Protection and Resource Management (DEPRM) suggests that the proposed addition (permit) needs to be reviewed by its Groundwater Management division.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County, this 10th day of September 2010, that the Petition for Variance seeking relief from Section 1A01.3B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a side yard setback as close as 22 feet (west side) in lieu of the required 35 feet for an existing dwelling and addition, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following conditions:

1. The 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 thirty (30) day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to issuance of a building permit for the addition to be constructed, the Petitioners must comply with the Zoning Advisory Committee (ZAC) comment submitted by the Department of Environmental Protection and Resource Management (DEPRM), dated August 20, 2010, a copy of which is attached hereto and made a part hereof.
3. When applying for a building permit, the site plan filed must reference this case and set forth and address the conditions and restrictions of this Order.

Any appeal of this decision must be made within thirty (30) days hereof.

WJW:dlw

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