

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
E side of Hunt Court; 20 feet N of the c/l		
of Hunt Drive	*	DEPUTY ZONING
3 rd Election District		
2 nd Councilmanic District	*	COMMISSIONER
(6801 Hunt Court)		
	*	FOR BALTIMORE COUNTY
Yefim Cheremeshnyuk		
<i>Petitioner</i>	*	Case No. 2011-0036-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Administrative Variance filed by Yefim Cheremeshnyuk, the legal property owner, for property located at 6801 Hunt Court. The Variance request is from Section 1B02.3.A.1 (R.6 211.4 1955 Regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an open projection (deck) with a rear yard setback of 2 feet in lieu of the required 22.5 feet. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of August 23, 2010. On August 19, 2010, Charlotte Forman residing at 6803 Hunt Court filed a Formal Demand for Hearing. The hearing was subsequently scheduled for Thursday, September 14, 2010 at 9:00 AM in Room 104 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property on August 7, 2010 and an advertisement was timely published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing. However, this Office was made aware by Charles Tamres also of 6803 Hunt Court that the posting requirement was not completed. The hearing was rescheduled to Wednesday, October 11, 2010 at 11:00 AM in Room 104 of the Jefferson

Building, 105 West Chesapeake Avenue, Towson, Maryland. A sign was timely posted at the property on September 25, 2010 and an advertisement published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the requested relief were Petitioner Yefim Cheremeshnyuk and Beverly True, Petitioner's zoning consultant who is assisting in the variance and permit processing. Appearing as an interested citizen was Charles Tamres on behalf of Charlotte Foreman, the property owner at 6803 Hunt Court. There were no other interested citizens in attendance.

Testimony and evidence presented in support of the variance request revealed that the subject property is a rectangular shaped corner lot located at the northeast corner of Hunt Court and Hunt Drive. The property contains 8,268 square feet, zoned DR 5.5, and is identified as Lot 13, Section 3 of the "Summit Park" subdivision. As shown on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1, the property is improved with a one-story single-family dwelling. An interesting feature of the property is that, although the address for the property is Hunt Court, the dwelling is situated such that the "front" actually faces Hunt Drive. A concrete driveway begins on Hunt Court, near the corner, and traverses across the front yard of the property to the front door entrance. Photographs of the property were marked and accepted into evidence as Petitioner's Exhibits 2A through 2L and show the front and rear yard areas, including the area to the side and rear of the dwelling where the deck would be located.

At this juncture, Petitioner desires to construct an open projection deck in his rear yard attached to the rear and side of his dwelling on the northeast side. Petitioner indicated that the small size of his rear yard makes it not very usable, so he wishes to construct a deck so at least there is an area for his children to play and to entertain. A floor plan of the deck was marked and

accepted into evidence as Petitioner's Exhibit 3. It shows an L-shaped open deck that is proposed to extend 14 feet into the rear yard of the property. Ms. True confirmed that due to the shape of the lot and the placement of the dwelling, the rear yard is very small. Although the front yard is 35 feet deep and one side yard is 25 feet wide and the other is 20 feet wide, the rear yard is only 16 feet deep, and some of that area is taken up by a row of shrubs between the rear of the subject property and the neighboring property to the north owned by Ms. Foreman. Ms. True also pointed out that the rear yard of Petitioner's property adjoins the side yard of Ms. Foreman's property.

Also testifying in the case was Charles Tamres. He resides with Ms. Foreman at 6803 Hunt Court. Although he is not against Petitioner constructing a deck, per se, he did express concerns about the deck possibly extending very close to the side yard of Ms. Foreman's property, in proximity to where the master bedroom is located. Leaving only a two foot setback to the rear yard is rather close, with possible noise and other disruptions, and he suggested that the depth of the deck into Petitioner's rear yard be reduced to give more of a buffer to Ms. Foreman's adjacent property.

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 August 16, 2010 which suggests that the Petitioner allow at least 3 feet between the open projection and the neighboring property line for a minimal buffer.

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. Petitioner's property has several unusual features, including that it is a corner lot located in a court, it fronts on Hunt Drive even though

the property address is Hunt Court and the driveway originates from Hunt Court, and the dwelling is placed such that there is comparatively little rear yard area than in the side and front yards. In my judgment, these features render the property unique in a zoning sense and drive the need for variance relief. I also find Petitioner would suffer practical difficulty and undue hardship if the variance was to be denied. Petitioner would be denied any meaningful use of his rear yard for an open projection deck without variance relief. Further, 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. Like Mr. Tamres, however, I am concerned about the depth of the deck extending into the rear yard 14 feet and leaving only a two foot setback to Ms. Foreman's property. As a result, although I am generally granting the relief, I shall order that Petitioner reduce the depth of the deck by four feet so as to provide a rear yard setback of six feet. This should be sufficient to provide more of a buffer between the rear yard of Petitioner's property and the side yard of Ms. Foreman's property.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's variance request should be denied in part and granted in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 27th day of October, 2010, that the Administrative Variance request as filed from Section 1B02.3.A.1 (R.6 211.4 1955 Regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an open projection (deck) with a rear yard setback of 2 feet in lieu of the required 22.5 feet be and is hereby **DENIED**; and

IT IS FURTHER ORDERED that the Administrative Variance request from Section 1B02.3.A.1 (R.6 211.4 1955 Regulations) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as amended by the undersigned to permit an open projection (deck) with a rear yard setback of 6 feet in lieu of the required 22.5 feet, in accordance with the site plan accepted into evidence as Petitioner’s Exhibit 1, be and is hereby **GRANTED**, subject to the following:

1. Petitioner may apply for his building permit 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The deck shall be constructed according to the site plan accepted into evidence as Petitioner’s Exhibit 1, with a depth into the rear yard of 10 feet instead of the 14 feet depicted on the floor plan that was accepted into evidence as Petitioner’s Exhibit 3.

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