

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
E side of Misty Meadow Court, 441.38 feet		
NE from the c/l of John Ave.	*	DEPUTY ZONING
15 th Election District		
7 th Councilmanic District	*	COMMISSIONER
(12 Misty Meadows Court)		
	*	FOR BALTIMORE COUNTY
Trisha L. Miconi		
<i>Petitioner</i>	*	CASE NO. 2011-00125-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Trisha L. Miconi. Petitioner is requesting Variance relief from Section 415.A of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow a recreational vehicle to be located in the front yard in lieu of the required rear yard or side yard situated at least 8 feet to the rear of a lateral projection of the front foundation line of the dwelling. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 2.

Appearing at the requisite public hearing in support of the variance request on behalf of Petitioner Trisha Miconi was Michael H. Barnes who also resides at 12 Misty Meadows Court and was given permission via letter to appear for the hearing in this case. *See*, Petitioner’s Exhibit 1. There were no Protestants or other interested persons in attendance.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management¹. A Code Inspections and Enforcement Correction Notice was issued to Petitioner on September 8, 2010 for an improperly parked recreational vehicle. In response, Petitioner filed

¹ Case No: CO-0080986

the instant request for variance seeking to legitimize the parking and storage situation for the vehicle.

Testimony and evidence offered revealed that the subject property is irregularly shaped and located adjacent to a cul-de-sac on Misty Meadows Court in the Essex area of Baltimore County. Petitioner submitted several photographs of the subject property, which were marked and accepted into evidence as Petitioner's Exhibits 3 and 5A through 5N. Exhibit 3 is an aerial photograph that shows the irregular shape of the property and its relationship to the surrounding community. Exhibits 5A through 5N reveal a pie-shaped lot with rolling hills and natural swales on either side of an existing single-family dwelling. Petitioner also submitted a written request, marked and accepted into evidence as Petitioner's Exhibit 6, stating that: "Due to my property's pie shaped configuration and the rolling hills I cannot get the RV into the yard and 8 feet behind the house. These hills are natural swells and cannot be changed due to proper drainage of the property." After receiving a code enforcement violation, Petitioner filed this request for variance to legitimize the storage of the RV in the front 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 October 26, 2010 which state that parking the subject recreational vehicle in the front driveway is the least desirable location as the RV is large thus blocking the entire garage door and part of the second story of the house. The RV becomes the dominant element in the front of the house. The Petitioner should consider renting a space elsewhere to store it between uses. The alternative would be to store the RV in the rear yard where a large boat trailer is stored. The Planning Office understands this would entail re-grading part of the slope that abuts the house on the south side to reduce the steep grade. The site plan shows an easement that is wide enough to provide

access to the rear yard. That would be an acceptable solution in this neighborhood of large well kept single family detached homes.

After considering all of the testimony and evidence presented at the hearing, 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. The property is uniquely shaped, limiting the available locations to store the vehicle in question. It is also located adjacent to a cul-de-sac/court and backs to property that is commercially zoned (B.L.) rather than residential properties. The property is also made up of rolling hills and natural swales, placing further limitations on Petitioner's ability to store the recreational vehicle as required by the Regulations.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner. As the Office of Planning noted, due to the steep grading on the side and rear of the property, the Petitioner would have to re-grade a significant portion of the property to strictly comply with the zoning regulations. This may have an adverse affect on the natural drainage of the property and unnecessarily impact the surrounding community.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This Office is typically hesitant to approve variance requests for structures in a front yard but the request at issue in this case is unusual in that many of the surrounding neighbors signed a petition in favor of the requested relief. *See*, Petitioner's Exhibit 7. Given the support of the surrounding neighborhood, I am persuaded to overcome my reluctance to grant a variance for storage of the recreational vehicle in the front of this 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 Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 10th day of December, 2010 by this Deputy Zoning Commissioner that Petitioner's Variance request from Section 415.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a recreational vehicle to be located in the front yard in lieu of the required rear yard or side yard situated at least 8 feet to the rear of a lateral projection of the front foundation line of the dwelling be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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.

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