

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
SE side of Elmhurst Avenue, 290 feet SW of	*	OFFICE OF
the c/l of Chesaco Avenue		
15 <sup>th</sup> Election District	*	ADMINISTRATIVE HEARINGS
7 <sup>th</sup> Councilmanic District		
<b>(7931 Elmhurst Avenue )</b>	*	FOR BALTIMORE COUNTY
Curley P. and Pamela J. Smith		
<i>Petitioner</i>	*	<b>Case No. 2011-0219-SPHA</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by Curley P. and Pamela J. Smith, the legal property owners. Petitioners are requesting Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the parking of a commercial vehicle on a residential property with a gross weight of 17,000 pounds. Petitioners are also requesting Variance relief from Section 431.1.B.3.C of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a commercial vehicle to be parked in the front of a dwelling in lieu of the required side or rear. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested relief was Petitioner Pamela J. Smith, as well as witnesses James Hager, Phil Roemer and Nancy Amberman. The Petitioner and scheduled hearing were properly advertised and the property was posted. No Protestants appeared to voice any opposition to Petitioners’ request.

It should be noted that this matter came before me as a result of a Code Inspections and Enforcement Correccion Notice issued by the the Code Enforcement Division of the Department

of Permits, Approvals and Inspections<sup>1</sup>. The Correction Notice was issued to Petitioners on January 11, 2011, to cease the illegal outside storage of an unlicensed vehicle and cease the illegal storage of a commercial vehicle. The instant case was filed as a result.

Testimony and evidence offered revealed that the subject property is irregular in shape. Pamela Smith, the owner of the property and subject vehicle, testified that she purchased the property with her husband in 2002. She observed that the community is a blue collar working class community in which many of the residents utilize and bring home with them various vans, box trucks, tractor trailers, all of which are parked either in front of their homes or on their property.

In 2005, the subject truck was purchased by her and her husband, who presently suffers from cancer and for whom handicapped arrangements and signs are attached to the vehicle. As noted above, there was a complaint relative to the vehicle as well as a pick up in the rear yard. A notice was placed on their door January 7, 2011, relative to the parking situation of their vehicles.

Ms. Smith testified that there is literally no where else to park the vehicle in question. The vehicle itself is a long haul tractor trailer cab and is utilized primarily for multi-day trips to Texas and other locations in the Southwest. As a result, the truck is gone for significant periods of time and, under most circumstances is only parked at the residence of the Petitioners two to three days a week at most. Often, the vehicle is gone for even longer periods of time.

Ms. Smith noted the abundance of medical bills incurred by them as a result of her husband's medical condition and as a result, the family is in serious financial hardship. The ability for her to operate the truck in question is vital to the family's continued financial existence.

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<sup>1</sup> Case No: CO-88203

The response of the neighbors in the area is quite striking. The two immediate neighbors on either side, Jamie Hager and Nancy Amberman both took the time to appear at the hearing and testify. Each said that they have never had any difficulty with the parking of the vehicle in question by the Petitioners on their property, and, were committed to helping to make arrangements to enable the vehicle to be parked as far towards the back of the property as possible, given its size. Petitioners have also agreed, as pointed by the Office of Planning, that they will make all efforts in conjunction with the immediate neighbors to place the truck as far toward the rear of the property as is physically possible. Moreover, Petitioners submitted a petition signed by over 70 of the immediate local residents in which it was indicated that there were no difficulties incurred by the parking of the truck by the Petitioners at their home or was there any objection on the part of the signatories to the Petitioners continuing to do so.

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 14, 2011, which indicate the subject property is located in a community that has several homes with commercial vehicles that are parked in the driveway and rear yard. The lot has a large rear yard; however, accessing the rear of the dwelling may be difficult for a large commercial vehicle as the side yard is narrow. The Planning Office does not oppose the request, as the commercial vehicle will not be parked in the side yard for long periods of time (the vehicle is used more than it is parked) provided a condition is met: The commercial vehicle in question (tractor trailer cab) is required to be parked as far back in the driveway toward the rear yard as possible.

After due consideration of the testimony and evidence presented, I am persuaded to grant the relief requested. As to the variance request, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Finally, I find 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 advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner's special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County this 17<sup>th</sup> day of March, 2011, that Petitioners' Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit the parking of a commercial vehicle on a residential property with a gross weight of 17,000 pounds be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's Variance request from Section 431.1.B.3.C of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a commercial vehicle to be parked in the front of a dwelling in lieu of the required side or rear be and is hereby GRANTED.

The relief granted herein is subject to the following conditions:

1. The commercial vehicle will not be parked in the side yard for long periods of time.
2. The commercial vehicle in question (tractor trailer cab) is required to be parked as far back in the driveway toward the rear yard as possible.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
LAWRENCE M. STAHL  
Managing Administrative Law Judge  
for Baltimore County

LMS:pz