

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Bloomsbury Avenue, SW Corner of		
Montemar and Bloomsbury Avenues	*	OFFICE OF
1 st Election District		
1 st Councilmanic District	*	ADMINISTRATIVE HEARINGS
(418 Bloomsbury Avenue)	*	FOR BALTIMORE COUNTY
Charles R. Alexander	*	Case No. 2012-0016-A
<i>Petitioners</i>		

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owner of the subject property, Charles R. Alexander for property located at 418 Bloomsbury Avenue. The variance request is from Sections 102.5 and 427.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a 4' high residential chain link fence at the intersection of two streets (Bloomsbury and Montemar Avenues) within the 25' triangle bounded by the two streets in lieu of the required 3' high, and to permit a 6' high residential fence with a zero foot setback in the rear yard of a single-family dwelling that adjoins the front yard of another residence in lieu of the required 42' high fence or a 10' setback for a fence over 42", and from Section 122.1(1) of the Building Code of Baltimore County for a waiver to permit a 48" fence in the front yard of a single family dwelling in lieu of the permitted 42" fence. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1, the plat to accompany the Petition for Variance.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on July 30, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. 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. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

In addition to the zoning relief requested, the Petitioner needs additional relief under the Baltimore County Building Code.

Waiver relief from Section 122.1(1) of the Baltimore County Code (B.C.C.) has been filed to allow a 48" high fence in the front yard of a single family dwelling in lieu of the permitted 42" fence. This issue is usually determined by the Baltimore County Buildings Engineer. However, when the request is made in conjunction with zoning relief, the matter comes to this Office of Administrative Hearings for resolution. The authority for this delegation of authority can be found in Section 122.4 of the Baltimore County Building Code.

After considering the request and the affidavits contained within the file, I find that the waiver shall be granted.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 19th of September, 2011 that a variance from Sections 102.5 and 427.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a 4' high residential chain link fence at the intersection of two streets (Bloomsbury and Montemar Avenues) within the 25' triangle bounded by the two streets in lieu of the required 3' high, and to permit a 6' high residential fence with a zero foot setback in the rear yard of a single-family dwelling that adjoins the front yard of another residence in lieu of the required 42' high fence or a 10' setback for a fence over 42", and from Section 122.1(1) of the Building Code of Baltimore County for a waiver to permit a 48" fence in the front yard of a single family dwelling in lieu of the permitted 42" fence, be and are hereby GRANTED, subject to the following:

1. The 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, the 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
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw