

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W side of Register Avenue; 177'		
S of c/line of Glen Argyle Road	*	OFFICE OF ADMINISTRATIVE
9 th Election District		
5 th Council District	*	HEARINGS FOR
(111 Register Avenue)		
	*	BALTIMORE COUNTY
William Corboy, III		
<i>Petitioner</i>	*	CASE NO. 2012-0072-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, William Corboy, III. The Petitioner is requesting Variance relief under Section 102.5 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a 6 feet fence at the intersection of two (2) alleys, with setbacks of 8 feet, 9 inches and 7 feet, 6 inches from the corner in lieu of the required 10 feet. 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 1.

Appearing at the public hearing in support of the variance request was Petitioner William Corboy, III and Christy Vernon. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other citizens in attendance, and the file does not contain any letters of protest or opposition.

This matter came to the Office of Administrative Hearings as a result of an anonymous complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code Inspections and Enforcement Correction Notice was issued

¹ Case No: CO-00097303

to Petitioner July 6, 2011, for failure to obtain required building permits and inspections. The Petitioner filed the instant variance request to bring the property into compliance.

Testimony and evidence revealed that the subject property is 3,162 square feet in area, and is zoned DR 10.5. The Petitioner's dwelling is an end-of-group townhouse in the Roger's Forge community, and Petitioner purchased the home in 2003. When Petitioner moved in, the yard and grounds were "a mess," and Petitioner removed trees and installed an attractive fence and landscaping on the premises. The photos (Exhibit 3) reveal that the fence and landscaping were professionally constructed, and are much more attractive than some of the surrounding homes which have similar fences.

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

Considering all of the testimony and evidence presented, I am persuaded to grant the requested 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 Petitioner's home is on a corner lot which has an irregular shape, making it difficult to comply with the setback requirements.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that the variance can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property and public hearing on this Petition, 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 16 day of November, 2011 by this Administrative Law Judge that Petitioner's Variance request from Section 102.5 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a 6 foot fence at the intersection of two (2) alleys, with setbacks of 8 feet, 9 inches and 7 feet, 6 inches from the corner in lieu of the required 10 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for his building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner will 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
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sma