

IN RE: PETITION FOR VARIANCE
(6601 Amleigh Road)
3rd Election District
2nd Councilman District
Javid Hariri
Legal Owner
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0260-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Javid Hariri, the legal owner of the subject property. The Petitioner is requesting Variance relief from Sections 427.1 and 427.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing 6 ft. high fence to remain on the property line adjoining a neighboring property's front yard.

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 requests was Yonah Zahler. Mr. and Mrs. Liss, neighbors of the Petitioner, attended the hearing to obtain clarification of the relief being requested. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations.

There were no Zoning Advisory Committee (ZAC) comments received. This property is the subject of violation case # CO0114915 which is being held in abeyance pending the outcome of this matter.

Testimony and evidence revealed that the subject property is approximately 0.367 acres and is zoned DR 3.5. The property is improved with a large (approximately 7,000 sf.) single

family dwelling constructed last year. The property is enclosed with a 6' tall cedar fence as shown in the photographs admitted as Exhibit 2. Although the County issued a permit for the fence, a small portion of the fence (perhaps 20') faces the front of another dwelling, and that portion must be no higher than 42", pursuant to B.C.Z.R. § 427 and part 122.1 of the Baltimore County Building Code.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioner has met this test. The fence was constructed in 2012, and is therefore an existing site condition. The Petitioner's property is of irregular dimensions, and is bounded on two sides by public roads. Thus, it is unique for zoning purposes.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, given he would be required to dismantle a portion of his fence. 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 is demonstrated by the lack of County opposition. Mr. and Mrs. Liss indicated they were not opposed to the fence in its current configuration, provided it is not altered or extended in any way.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted

THEREFORE, IT IS ORDERED, this 27th day of June, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore

County Zoning Regulations (“B.C.Z.R”) to permit an existing 6 ft. high fence to remain on the property line adjoining a neighboring property’s front yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- The fence shall remain in its current configuration, and shall not be altered, extended or relocated without prior approval of the Baltimore County Department of Permits, Approvals and Inspections.

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:sln