

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Division Avenue; 196.4 feet S
of the c/l of Middle Avenue
8th Election District
3rd Councilmanic District
(1703 Division Avenue)

Linda Dauses and Dennis Szymaszak
Petitioners
Erwin J. and Deborah A. Pawlicki
Contract Purchasers

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
*
* **Case No. 2010-0064-A**

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ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed by Petitioners Erwin and Deborah Pawlicki. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

In the instant matter, Petitioners, the contract purchasers, and Linda Dauses and Dennis Szymaszak, the legal property owners, requested Variance relief in the aforementioned case from Section 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition to have a front yard setback of 26 feet in lieu of the required front yard average of 53 feet. In an Order dated October 2, 2009, the undersigned denied the requested variance, finding insufficient evidence of unusual conditions or characteristics that are unique to this lot, and which drive the need for the variance.

Thereafter, on October 30, 2009, the undersigned received a letter of the same date from Petitioners, which will be treated as a Motion for Reconsideration. In the Motion, Petitioners cite several factors which they believe supports a finding of uniqueness of the property, as well as the potential hardship that would befall Petitioners if the requested relief were not granted. As to uniqueness, Petitioners point out that the subject property is much smaller than the adjacent property to the north, 1705 Division Avenue, (which has a 66 foot front yard setback) and that the deep setback for this single property disproportionately overstates the setbacks in the immediate area, especially when considering the adjacent properties to the south, which have an average front yard setback of 37.5 feet. Photographs submitted with the Motion illustrate this point, as well as show the varying front yard depths of other nearby properties. Petitioners also indicate that moving the proposed garage to the rear yard would then result in not meeting the required rear yard setback, since the subject lot does not have as much depth as 1705 Division Avenue. Finally, as to hardship, Petitioners indicate that since they are trying to maintain the existing basement and foundation for the proposed renovation, constructing the garage addition as shown would cause the least disruption to the existing home and would also minimize the amount of demolition necessary.

In considering the Motion for Reconsideration, the undersigned reviewed the file, including the site plan and photographs, as well as the Findings of Fact and Conclusions of Law dated January 14, 2009. After reviewing the testimony and evidence, I am persuaded to grant the Motion and grant the variance request. In light of Petitioners' new evidence, I find that the property has unique features that justify the requested relief in this instance. I also find that the adjacent property to the north does have a uniquely deep front yard setback that has a disproportionate effect on the setback requirements of other nearby properties, including the

subject property. I also note that during the posting period for this property and thereafter, no neighbors or other interested parties expressed any objections to the requested relief, including the Lutherville Community Association -- which would potentially have input on these types of matters affecting the historic Lutherville community. Hence, I shall grant the variance relief with conditions.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of December, 2009 that the aforementioned Motion for Reconsideration be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED that Petitioners' Variance request from Section 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed addition to have a front yard setback of 26 feet in lieu of the required front yard average of 53 feet be and is hereby **GRANTED**, subject to the following which are conditions precedent to the aforementioned relief:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Prior to issuance of any permits, Petitioners shall submit elevation drawings and renderings to the Office of Planning for approval in order to ensure that Petitioners' proposed renovation and addition is compatible and fits within the aesthetic character of the subject location in historic Lutherville.

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz