

IN RE: PETITION FOR ADMIN. VARIANCE

NW side of Bullneck Court; 95 feet NE
of the c/l of Bullneck Road
12th Election District
7th Councilmanic District
(8256 Bullneck Court)

Joseph and Sabrina Doetsch
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0190-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Joseph and Sabrina Doetsch for property located at 8256 Bullneck Court. The Variance request is from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 2 recreational vehicles on a residential lot in lieu of the permitted 1, and for both to be located in the front yard in lieu of the required side or rear. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

On February 4, 2010, the undersigned called for a formal hearing on this matter as the property is currently the subject of an active violation case¹. Historically, this Office has requested that the Zoning Review Office not accept Petitions for Administrative Variance on cases that have violations pending, thus requiring a public hearing, as well as in cases where Petitioners are requesting relief to store recreational vehicles and/or boats in the front yard. The hearing was subsequently scheduled for Friday, March 17, 2010 at 9:00 AM in Room 104 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the

¹ Citation No. CO-0070192

property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the variance requests were Petitioners Joseph and Sabrina Doetsch. There were no Protestants or other interested persons in attendance.

Testimony and evidence received in the case revealed that the property is irregular-shaped and contains approximately 4,545 square feet or 0.104 acre, more or less, zoned D.R.5.5. As shown on the site plan and the zoning map that was marked and accepted into evidence as Petitioners' Exhibit 2, the property is located on the northwest side of Bullneck Court just north of Bullneck Road, with Bullneck Creek to the east, in the Dundalk area of Baltimore County. The property is improved with a single-family dwelling that was originally constructed in 1945 as part of the housing that was once provided to Bethlehem Steel workers. Mr. Doetsch testified that he has lived in the area for 55 of his 62 years, having once lived on nearby Longpoint Road. He has lived at the subject property for almost 30 years. The property was originally constructed as a cape cod style 1½- story dwelling. Mr. Doetsch and his wife remodeled the home, removing the roof and creating a full second floor. Petitioners also have a shed situated to the rear of the property and a large concrete parking pad that essentially takes up the street side of the yard. Petitioners submitted photographs of the nearby properties in the court and their home, which were marked and accepted into evidence as Petitioners' Exhibits 4A through 4C.

The travel trailer that is the subject of the variance request is approximately 26 feet long by 8.5 feet wide. Petitioners also own a 27 foot Bayliner Trophy fishing boat and trailer. Petitioners indicated they have always stored the recreational vehicle (RV) and boat with trailer on the parking pad on the street side of their property. In support of the requested variance relief, Mr. Doetsch indicated that the fact that the neighborhood was platted and homes were built prior to the

Zoning Regulations in this area with smaller setbacks on each side (6 feet on one side, 7 feet on the other on his property) than would be permitted today significantly limits his ability to comply with the Regulations. He also pointed out that his property, which is located on a court and in proximity to the Bullneck Creek shoreline, results in very odd-shaped lots. Specifically, his lot has an unusual shape in that it is relatively “thin” on the street side (30 feet) and over double that width at the rear (66 feet). There is also a 10 foot right-of-way that cuts across the rear of his property from Bullneck Road to the water. Essentially, the only storage area available for any type of vehicle storage is the parking pad that takes up most of the front of the property. Most of the properties that circle the court have the same constraints. Finally, Mr. Doetsch indicated that the subject area is a waterfront community. Most of the homes are waterfront, or have water access as his does, and store their trailered boats on their property, especially during the winter months. As a result, there is often some confusion over what actually constitutes the “front” yard versus the “rear” yard in these communities, and thus whether storage of an RV or boat on the street side is in the front or rear yard.

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 March 8, 2010 which indicates the community planner visited the site and observed that the property has a dwelling on it which appears to be recently remodeled. The dwelling is very large for the undersized lot on which it sits, reflected by the non-conforming setbacks. A large majority of the site is covered with paving, decks, an above-ground swimming pool and other outside items. While access to the rear or side of the property is not possible for the storage of recreational vehicles, the Planning Office recommends that due to the crowded nature of the site only one

recreational vehicle be allowed in the front yard. As such, the Planning Office does not oppose the Petitioners' request limited to the storage of one recreational vehicle.

Considering all the testimony and evidence presented, I am persuaded to grant the 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. This lot was created many years ago and the dwelling was originally constructed in 1945, prior to the adoption of Zoning Regulations in this area. As such, the current setbacks are nonconforming. The lot also has a very unusual shape, wherein it expands outward from the front to the rear, with very little room in the rear yard and a large parking pad essentially taking up the front yard. In my view, the subject property is unique in a zoning sense.

I further find that Petitioners would suffer practical difficulty and undue hardship if the variance were to be denied. I am mindful of the Office of Planning's comment, but I believe there is a certain balancing that needs to take place where the Regulations allow for one RV or trailered boat to be stored on one residential lot, but here, Petitioners desire two such vehicles. On this issue, I look to what if any negative impact would result if the relief were granted. Because the property is located on a court, it is shielded to some degree by the general traffic on Bullneck Road and the other streets in the area. I also note that the adjacent property owners are supportive of Petitioners' requests, as indicated in the letter that was marked and accepted into evidence as Petitioners' Exhibit 5, and signed by seven of the eight homes located in the court. Finally, I find that 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 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.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of March, 2010 that a Variance from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) recreational vehicles on a residential lot in lieu of the permitted one (1), and for both to be located in the front yard in lieu of the required side or rear is hereby **GRANTED**, subject to the following:

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. The relief granted herein shall be limited to Petitioners as the legal property owners. If Petitioners subsequently sell, transfer, or otherwise vacate the premises, or rent the premises to others, the relief granted herein shall be discontinued, unless granted or extended to others via a subsequent variance or special hearing.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz