

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W/S New Avenue, 293' S of c/line		
Bond Avenue	*	ZONING COMMISSIONER
(308 New Avenue)		
4 th Election District	*	OF
3 rd Council District		
	*	ZONING COMMISSIONER
Eddie E. Beard		
Petitioner	*	Case No. 2010-0010-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Eddie E. Beard. The Petitioner requests a variance from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 13 feet (south side) and a sum of side yards of 23 feet in lieu of the required 15 feet and 25 feet, respectively for a proposed dwelling. The subject property and requested relief are more fully described on the site plan submitted which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request was the owner of the property, Eddie Beard, and her builder, Nina C. Catagnus and Charles C. Catalfano, with Clayton Homes, who are assisting the Petitioner through the permitting process. There were no Protestants. William Johnson, a neighbor residing at 53 Bond Avenue (across from Petitioner’s property) appeared in support of the proposal. There were no other interested persons present.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped parcel located on the west side of New Avenue just south of Bond Avenue in Reisterstown. The property is also known as Lot 14 in the subdivision of Jacob W. Wolf, an older subdivision which was recorded in the Land Records of Baltimore County prior to 1945 prior to the effective date of the zoning regulations. As is the case with older subdivisions, many of the lots do not meet current area and/or width requirements. In this regard, the subject

property is approximately 51'-6" wide and 220 feet deep and contains a gross area of 11,269 square feet, zoned D.R.3.5. While those regulations require a minimum area of 10,000 square feet, a *minimum width of 70 feet* is required. Thus, the subject lot is undersized by today's development standards. For an appreciation of the property's past history, see prior zoning Cases 07-025-SPHA and 08-393-A.

Variance relief is requested as set forth above to allow the development of the subject property with a one-story, single-family dwelling 27'-6" wide x 60' deep. Testimony revealed that the subject property has been in the Beard family since 1950. The Petitioner, daughter of John O. Beard (now deceased), took title to the property in 2006 and now wishes to develop it with a new single-family dwelling in which she will reside. The proposed dwelling will be consistent with other homes in the area as demonstrated by the building elevations submitted and reviewed as well as photographs of the area. The new home will be centered on the lot with the same side yard setbacks as other homes in the area consistent with adjacent properties.¹ The building elevations have been submitted to the Office of Planning for review and approval and will be amended prior to the granting of a building permit to include a double window and shutters on the street front facade. The Office of Planning supports the requested relief as indicated in its Zoning Advisory Committee (ZAC) comment dated September 30, 2009. In view of the narrow configuration and size of the lot, compliance with the regulations is not practical or possible. Thus, variance relief is requested in order to comply with the spirit and intent of these regulations.

Based upon the testimony and evidence presented, I am persuaded to grant the requested relief. In my judgment, the Petitioners have satisfied the requirements of Section 307 of the

¹ See other cases in the immediate neighborhood involving variance relief for side yard setbacks in Case Nos.: 1977-0208 (8' side yard), 1979-0249 (side yard variance), 1989-0496 (side yard variance), and 1995-0166 (side yard of 13 ½ feet).

B.C.Z.R. and *Cromwell v. Ward*, 102 Md. App. 691 (1995). The variance in this case is driven by the configuration and size of the lot. Moreover, this property is served by public water and public sewer, which has been made available in the area. Strict compliance with the regulations would cause a practical difficulty upon the Petitioner in that a reasonable use of the land would not be permitted. Finally, the neighbors are not opposed to the proposal. Thus, I find that relief can be granted without detrimental impact to the adjacent properties. In this regard, it is noted that many other houses in the community are built on similarly sized lots.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of October 2009 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 13 feet and a sum of side yards of 23 feet in lieu of the required 15 and 25 feet, respectively, in accordance with Petitioner's Exhibit 1, be and the same is hereby GRANTED.

- The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at her own risk until the thirty (30) day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).

WJW:dlw

__SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County