

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
NE/S of Kingsbury Road; 344'		
SE of the c/l of Glen Drive	*	ZONING COMMISSIONER
<b>(1319 Kingsbury Road)</b>		
4 <sup>th</sup> Election District	*	OF
2 <sup>nd</sup> Council District		
	*	BALTIMORE COUNTY
Benjamins Zonis		
Petitioner	*	<b>Case No. 2010-0032-A</b>

\* \* \* \* \*

**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, Benjamins Zonis. The Petitioner seeks relief from Section 504 (Comprehensive Manual of Development Policies [.CM.D.P.] Section V.B.5.a) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing addition to have a window to tract boundary setback of 33 feet in lieu of the required 35 feet, and to amend the Final Development Plan of Timberscape to Gwynns Falls, Lot 23 only. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request was Benjamins Zonis, owner of the subject property. There were no Protestants or other interested persons present.

This matter came before me as the result of anonymous complaints registered with the Code Enforcement Division of the Department of Permits and Development Management. Petitioner was cited for constructing an addition and enclosing the area underneath a deck without the required permits, in addition to operating a commercial business, commercial vehicles parked in the driveway and on the street, untagged vehicles on the property, and trash and debris on the property including a refrigerator and other appliances. A resolution of the addition/enclosure portion of the violation cases (Case Nos. CO0063177, 08-0218, 07-6284 and 0071334) are

pending the outcome of this variance request. It should be noted that the fact that a code violation is issued is generally not considered in a zoning case. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to issue Correction Notices and Citations, and to impose fines and other penalties for violation of law. On the other hand, the role of this office in this matter is to decide the discreet legal issue of whether the Petitioner is entitled to the requested variance relief pertaining to the subject property.

Testimony and evidence offered revealed that the subject property is rectangular in shape and is located on the northeast side of Kingsbury Road, approximately 344 feet southeast of the centerline of Glen Drive in the Owings Mills area of the County. As noted the Petitioner was issued several citations for various code violations. The violation which resulted in the subject hearing is Petitioner's failure to obtain the required permit to construct an 18 foot x 16 foot addition with a roof top deck to the rear of an existing deck at the rear of the dwelling. The issue before me is a variance to permit an existing addition to have a window to tract boundary setback of 33 feet in lieu of the required 35 feet and to amend the Final Development Plan of Timberscape to Gwynns Falls, Lot 23 only.

Petitioner's testimony revealed that the existing dwelling was constructed in 1990 and the Petitioner purchased the property in 2005. The subject dwelling was in need of updating and the existing deck was in bad condition. Petitioner enclosed the area underneath the deck and extended the deck to its current dimensions of 30 feet x 18 feet. Petitioner remarked that he is no long parking commercial vehicles on his property. Petitioner also commented that the appliances that were stored on the side of the dwelling were also removed.

After due consideration of the testimony and evidence presented, I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. for relief to be granted and that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioner. Thus, I am persuaded that relief can be granted. Finally, I find that this 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.

There were no adverse Zoning Advisory Committee comments received from any of the County reviewing agencies. As noted, the variances are of a technical nature and will not adversely impact adjacent properties.

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 should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15<sup>th</sup> day of October, 2009 that the Petition for Variance seeking relief from Section 504 (C.M.D.P. Section V.B.5.a) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing addition to have a window to tract boundary setback of 33 feet in lieu of the required 35 feet, and to amend the Final Development Plan of Timberscape to Gwynns Falls, Lot 23 only be and is hereby GRANTED.

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

\_\_\_\_SIGNED\_\_\_\_\_  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:pz