

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/S Fox Haven Court, 105' W of c/line		
Cherry Valley Road	*	ZONING COMMISSIONER
(202 Fox Haven Court)		
4 th Election District	*	OF
4 th Council District		
	*	BALTIMORE COUNTY
Walayad Khan		
Petitioner	*	Case No. 2011-0101-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Walayad Khan. The Petition was also signed by the legal owner of the subject property, Mohmmad Akram. Variance relief is requested from Section 100.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the accessory cooping and raising of pigeons on a lot of less than one (1) acre of ground as required. The subject property and improvements are 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 Walayad Khan, son of Mohmmad Akram, who resides on the property with his wife¹. It is also noted that this matter is the subject of an active violation (Code Enforcement Citation No. CO-0080794) and a copy of the Code Enforcement file was made a part of the zoning hearing file.²

¹ Mr. Khan, born in Pakistan in 1979, was given his grandfather’s name. He came to America in 2001 and has now become a United States citizen.

² The complainant, David Nelson at 211 Fox Haven Court, has contacted Code Enforcement on a variety of perceived violations in the neighborhood. Mr. Khan believes the complaint concerning his keeping of pigeons was motivated by ill will and not as a result of the birds creating a nuisance.

Testimony and evidence offered revealed the property is zoned D.R.2, consists of 0.25 acres in area (10,890 square feet) and improved with a two-story, single-family detached dwelling purchased by Mr. Akram in 2005. At issue here is the 6' x 14' pigeon coop attached to the rear of the home and the eleven (11) "high-flying Pakistani Pigeons" kept therein. Testimony indicated that Mr. Kahn was a prominent figure in the sport of raising and flying these rather unique and beautiful pigeons while growing up in Pakistan. He described in considerable detail their ability to fly 14 hours a day (from morning to night) before returning to the coop. After leaving Pakistan, he missed his birds and practicing his craft, in the sport of flying these "high-flying pigeons". He spent a large sum of money in 2001 obtaining permits from the Department of Agriculture in order to transport the pigeons to the United States. Unlike homing pigeons indigenous to this area, Pakistani Pigeons do not sit on top of coops or roofs but return directly to the coop when finished flying. Mr. Khan states that they do not create a nuisance and no one has complained in the more than five (5) years he has kept the birds here. He discussed the undue burden and emotional hardship he would endure if he had to give up his birds which he values at \$2,000.00 each. He presented letters from each of his adjacent neighbors on either side of his home, behind the home and to the front across the street. *See* Petitioner's Exhibit 2. Photographs of the pigeons were shown at the hearing.

This is a difficult case. I was, as was my grandfather, a pigeon aficionado, having raised them in the past. It is a wonderful hobby. Moreover, I find in this case that the Petitioner's pigeons have not created a nuisance in the neighborhood. Mr. Khan makes a powerful argument to be allowed to pursue his hobby that provides him pleasure. I am, however, of the opinion that I have no option but to deny the requested relief.

The evidence before me gives no indication that the regulations requiring the one (1)

acre of property to coop and raise fowl or poultry (pigeons) impacts the Akram property in any way different from the other lots in the Fox Haven Estates neighborhood. The lot is as plain a rectangular as one could find. The lot is indistinguishable from others in the neighborhood. Further, the size of the property is one quarter the size required by the regulations. These regulations found in the Livestock Ratio Table (Section 100.6 of the B.C.Z.R.) were derived by the Department of Agricultural at the University of Maryland and adopted by the Baltimore County Council. The Petitioner, although having enjoyed since 2001 (in the United States) and expending large sums of money for the pigeons, simply does not have the acreage to accommodate the proposed use. This is no one's fault. It simply happens that the property, which is adequate for the Petitioner, is not adequate to coop and raise pigeons.

I find no special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. As noted above and much to the Petitioner's dismay, I may not use the finding that strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship to indicate uniqueness. For all these reasons, the relief requested must be denied. However, I will give Mr. Akram ten (10) months from the date of this Order to find a new home for his pigeons.

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 denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of November 2010 that the Petition for Variance seeking relief from Section 100.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the accessory housing (pigeons) on a tract of land totaling 0.25 acres in lieu of the minimum one (1) acre required, be and the same is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioner shall have until August 1, 2011 (ten [10] months from the date of this Order) to find a new home for the pigeons and remove them and the coop from the subject property.

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

WJW:dlw

____ SIGNED ____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County