

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
NW side of Scenic Drive, 350 feet SW		
of the c/l of Panorama Drive	*	OFFICE OF
11 th Election District		
5 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(5220 Scenic Drive)		
	*	FOR BALTIMORE COUNTY
Daniel J. and Elizabeth E. Jarkiewicz		
<i>Petitioners</i>	*	Case No. 2012-0126-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Daniel J. and Elizabeth E. Jarkiewicz for property located at 5220 Scenic Drive. Resolution 129-11 concerning the public disclosure of Daniel J. Jarkiewicz, an employee of the Baltimore County Fire Department, was approved at the County Council meeting held on November 21, 2011. The variance request is from Section 427.1.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a fence with a height of 54 inches in lieu of the maximum permitted 42 inches to be erected in the side and rear yard of a lot which adjoins the front yard of another dwelling. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners wish to fence in their side and rear yards for the protection of their children. The file contains letters of support from the surrounding neighbors.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 20, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

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 Administrative Law Judge for Baltimore County, this 13 day of December, 2011 that a Variance from Section 427.1.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a fence with a height of 54 inches in lieu of the maximum permitted 42 inches to be erected in the side and rear yard of a lot which adjoins the front yard of another dwelling, be and is hereby GRANTED, subject to the following:

1. The 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.

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

Signed _____
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz