

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
SE/Corner of Norfen Road and		
Virginia Avenue	*	OFFICE OF
13 th Election District		
1 st Councilmanic District	*	ADMINISTRATIVE HEARINGS
(4401 Norfen Road)		
	*	FOR BALTIMORE COUNTY
Barbara L. Mahoney and Rosemary B. Fabian	*	Case No. 2012-0054-A
<i>Petitioners</i>		

* * * * *

ORDER AND OPINION

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Barbara L. Mahoney and Rosemary B. Fabian for property located at 4401 Norfen Road. The variance request is from Section 102.5 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a privacy fence with a height of 6 feet within the 15 foot triangle bounded by a street and alley in lieu of the permitted 3 feet height. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. The Petitioners have stated that they wish to construct a privacy fence with a height of 6 feet. Photographs submitted with the Petition show that the proposed fencing will allow continuance of an existing fence to the back corner and alley of their backyard which will be aesthetically pleasing and consistent. The fence will provide safety and security for the Petitioners’ vehicles and property. The most affected property owner did not express any objection to the variance request. The subject property is 3,952 square feet, zoned D.R.10.5 and is located in the Friendship Gardens subdivision of Baltimore County.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no comments received from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on September 4, 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 26th day of September, 2011 that a Variance pursuant to Section 102.5 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a privacy fence with a height of 6 feet within the 15 foot triangle bounded by a street and alley in lieu of the permitted 3 feet height, 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:dlw