

LENNOX T. WEBSTER, Jr.
8733 Pulaski Highway
Baltimore 21, Maryland

VS
SPIRO T. AGNEW
NATHAN H. KAUFMAN, JR.
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
A. LAM
Misc. 1012

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Spiro T. Agnew, Nathan H. Kaufman, Jr., and Charles Steinbock, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the writ of certiorari directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

No. 4482-V
Ang. 7, 1958
" "
Ang. 23, "
" 28, "
Order of Zoning Commission directing verification and posting of property cards of hearing set for Sept. 10, 1958 at 1:00 p.m.
Certificate of publication in newspaper, filed.
Certificate of posting of property on Aug. 28, 1958, filed.

NEA PETITION FOR VARIANCE TO
ZONING REGULATIONS OF
BALTIMORE COUNTY - S.E.
side Pulaski Highway 350 ft.
S. W. Race Road, 15th District
Pete Quarriera, et al,
Petitioners
BEFORE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
NO. 4482-V

OPINION

The petitioners herein seek a variance from the Baltimore County Zoning Regulations, which requires that commercial buildings and business roadside signs be set back not less than 50 feet from the front property line if on a dual highway. Section 307 of the Regulations gives this Board the authority to grant such variances after hearing where strict compliance would result in practical difficulty or unreasonable hardship provided the granting will not cause substantial injury to the public health, safety and general welfare and will be in strict harmony with the spirit and intent of said Regulations.

The testimony in the instant case indicates that the petitioners, in compliance with Section 103 of the Building Code, filed the required plot plan along with their application. The plot plan indicated an average setback of 30 feet for the proposed improvements whereas the application specified a 50 foot setback. The testimony further shows that the application was filled out by a County employee and signed by the Petitioner, Quarriera, who stated he did not know the details when he signed.

On July 9, 1957 the Zoning Engineer approved the application, which showed the proper 50 foot setback. The plot plan was

attached to the application at that time but the Zoning Engineer had no cause to consult same since all information necessary to him was contained in the application. Various other County agencies including the Office of Planning, Storm Drainage Department, Highways Department and the Bureau of Land Development also approved the application and the attached plot plan during the month of July 1957. On July 23, 1957 a building permit was issued allowing construction to proceed in accordance with the plot plan.

Construction actually began during the month of February 1958 and continued until a "Stop Work Order" was issued in July 1958. Between February and July several inspections were made by the County agents without noting the setback violation. The violation was brought to the attention of the County authorities by Mr. L. T. Webster, the owner of a motel immediately adjacent. This motel.

Mr. Webster stated that the lesser setback if allowed would block the vision of his sign. However, photographs were introduced by the Petitioner which clearly show that the Webster sign is visible to the same extent as it would have been visible from the road had the setback been 50 feet.

Uncontested testimony was produced to the effect that a correction to 50 feet at this time would involve approximately \$40,000, in additional expense to the Petitioner. The evidence showed no indication of collusion or bad faith on the part of the Petitioner; rather, that they are the unwitting sufferers from an honest mistake participated in by them but compounded by the County departments.

It appearing that the granting of the proposed variance would be in strict harmony with the spirit and intent of the Zoning Regulations and would not cause substantial injury to the public health, safety and the general welfare, the said variances are hereby granted and the setbacks of the existing structures are approved.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of December, 1958, by the County Board of Appeals of Baltimore County, ORDERED that the variances requested are hereby granted and the setbacks of the existing structures are approved.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John J. Agnew
Nathan H. Kaufman
Charles Steinbock

NEA PETITION FOR VARIANCES TO
ZONING REGULATIONS OF
BALTIMORE COUNTY - S.E.
side Pulaski Highway
350 ft. S. W. Race Road,
15th District
Pete Quarriera, et al,
Petitioners.
BOARD OF
ZONING APPEALS
OF
BALTIMORE COUNTY
No. 4482-V

NOTICE OF APPEAL

Mr. Commissioner:
Please enter an appeal on behalf of Lennox T. Webster and Dorothy O. Webster from decision rendered by the Deputy Zoning Commissioner of Baltimore County dated September 10, 1958, in the above captioned Petition.

Charles A. Reid
Charles A. Reid,
Attorney for Appellants
3 N. Lexington Street,
Baltimore 5, Md.
File 2-7356.

SEP 24 58



NEA PETITION FOR VARIANCES TO
ZONING REGULATIONS OF
BALTIMORE COUNTY - S.E.
side Pulaski Highway 350 ft.
S. W. Race Road, 15th District
Pete Quarriera, et al,
Petitioners.
BEFORE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
No. 4482-V

Upon hearing the above petition for variances to the Zoning Regulations of Baltimore County to permit front building lines of 27 feet and 35 feet instead of the required 50 feet, and it appearing that said Regulations would result in practical difficulty and unnecessary hardship on the petitioner and the variances requested would grant relief without substantial injury to the public health, safety and the general welfare of the community, the variances should be granted.

The factual evidence presented in this case is well corroborated and completely undisputed.

The Petitioners, through John H. Kuse, their builder and authorized representative, made application to the Building Engineer of Baltimore County for a permit to erect a motel on the subject property, which is on the southeast side of Pulaski Highway near Race Road in Baltimore County. In making such application, the Petitioners relied completely upon the advice of the Building Engineer and indicated their ability to comply with any requirements as would later be set down by the various departments of the County during the process of the application and the subsequent authorization to commence the erection of said improvements as shown on the plot plan submitted at the time of the filing of the original application. Section 103A of the Building Code requires that a plot plan, in a form and size suitable for filing permanently with the Permit Board, be submitted at the time of making application and that such plot plan shall show accurately the site and exact location of all proposed new construction and the relationship to other existing or proposed structures on the same lot. The plot plan, which has been exhibited in this hearing by the Petitioners, clearly shows a thirty (30) foot setback. It is also undisputed that the original one-page application for the building permit contained the insertion that the setback was to be fifty (50) feet from the building line, but it is uncontested that the application was made out by one of the Baltimore County officials and that the applicant signed the same without seeing the notation of the fifty (50) foot setback.

Section 103A of the Building Code further sets out that, in order that the Building Inspector, on his preliminary inspection, may be aware of the building location with respect to the property line, the corners

of each building must be located accurately and indicated by stakes or some other acceptable markings. The Petitioners further exhibited the signatures made by the Engineering Office of Baltimore County indicating that this preliminary inspection had been made and was approved on September 19, 1956.

On July 9, 1957, the Zoning Engineer signed the application, indicating the approval of the Zoning Department for the proposed erection of the motel.

Other exhibits showed that on various dates during the month of July, 1957, the application, together with the plot plan and any other related matter, coupled with the application revisions which had been suggested by the various County departments, were approved by the Planning Department, the Storm Drainage Department, the Highways Department, the Health Department, the Fire Prevention Bureau, and the Bureau of Land Development. On July 23, 1957 a building permit was then issued to the Petitioners.

Section 104.5 of the Building Code States as follows:

"All new work shall be located strictly in accordance with the approved plot plan. No lot or plot or location of buildings or structures thereon shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes shall have been properly filed and approved."

The Petitioners are in the position of having a building permit calling for a fifty (50) foot-setback and yet at the same time by the above quoted section being mandatorily required to erect the improvements with a thirty (30) foot setback.

During the following year while the motel was under construction, various members of the Baltimore County departments inspected the premises while work was in progress, and at no time prior to the issuance of the Stop Work Order in July of 1958 was attention ever called to the fact that there was a setback violation. For a period of at least three and a half (3 1/2) months prior to the issuance of the Stop Work Order, the foundation walls had been erected on the office building under consideration up to a grade level and that for a period of at least five or six weeks prior to the issuance of the Stop Work Order, the foundation and outside walls of this office had been erected to a height of at least six feet. The premises had been inspected during this period, and again there was no indication given to the Petitioners of any setback violation. The Stop Work Order was issued only after the County's attention had been called to a possible setback violation by an adjoining property owner and a business competitor. Had this not transpired, I think it is safe to assume that the motel would have been completed without anyone ever being notified of any such setback violation.

Mr. Quarriera, the owner of the property has expended the sum of One Hundred Forty Thousand Dollars (\$140,000.00) in the erection of the motel up to the point when the Stop Work Order was issued. To comply with the setback regulations at this time would require the

removal of the office building from its present location and the relocation of same in the space now occupied by four completed motel units. The cost of construction of the office as it presently stands has been \$10,000.00. The cost of the units, which would have to be removed in order to make way for the office to be moved back, has cost Sixteen Thousand Eight Hundred Dollars (\$16,800.00).

In order to comply with the setback regulation by moving the office building back and building it to the same degree of completion that it now stands would involve a total loss to the owner of Forty Thousand Dollars (\$40,000.00). The owner has at the present time a construction loan mortgage and because of the issuance of the Stop Work Order he has not been able to get a further advance of money from the building association towards the construction of this property.

For the above reasons it is this 19th day of September, 1958, by the Deputy Zoning Commissioner of Baltimore County, ORDERED that the aforesaid petition for variances to permit front building lines of 27 feet and 35 feet respectively instead of the required 50 feet be and the same are hereby granted.

John J. Agnew
Deputy Zoning Commissioner
of Baltimore County

442-1 PETITION FOR VARIANCE TO THE ZONING REGULATIONS

IN THE MATTER OF
 PETE GUERRIERA and
 MARY GUERRIERA, his wife,
 and
 JOHN GUERRIERA and
 ANGELINA GUERRIERA,
 his wife

BEFORE THE ZONING
 COMMISSIONER OF
 BALTIMORE COUNTY

For Variance to the Zoning Regulations
 To the Zoning Commissioner of Baltimore County.

Pete Guerriera and Ma. y Guerriera, his wife, and John Guerriera and Angelina, his wife, Legal Owners of the property hereinafter described petition for a Variance to the Zoning Regulations of Baltimore County.

The Zoning Regulation to be excepted is as follows:

Section 238.1 - Front Yard - Setback 50 feet.

The Reason for Variance:

To permit front building lines of 27 feet and 35 feet from the front property line instead of the required 50 feet.

Property situate:

All that parcel of land in the Fifteenth District of Baltimore County on the Southeast side of Pulaski Highway, beginning 350 feet Southwest of Race Road; thence Southwesterly and binding on the Southeast side of Pulaski Highway 212.59 feet; thence South 45 degrees 05 minutes East 40 feet; thence South 9 degrees 49 minutes East 7.53 feet; thence South 45 degrees 05 minutes East 421.87 feet; thence North 47 degrees 23 minutes East 245 feet; thence North 35 degrees 08 minutes West 485.73 feet to the place of beginning.

Pete Guerriera
 Pete Guerriera
 Address
 3908 Southern Ave.
Mary Guerriera
 Mary Guerriera
 Address
 3908 Southern Ave.
John Guerriera
 John Guerriera
 Address
 3922 Audley Ave.
Angelina Guerriera
 Angelina Guerriera
 Address
 3922 Audley Ave.
 AUG 7 1958

January 5, 1959

\$13.00

RECEIVED of Clayton A. Reid, attorney for appellants, the sum of Thirteen (\$13.00) Dollars being chat of certified copy of petition and other papers filed in the matter of Variance to the Zoning Regulations - 3. 3. Side Pulaski Highway, 350' southwest of Race Road, 150' x 100' - Pete Guerriera, et al., petitioners.

Zoning Commissioner

PAID - Baltimore County, Md. - Office of Finance

1-699 9240 • • • TIL- 1300

September 25, 1958

\$30.00

RECEIVED of Clayton A. Reid, attorney for appellants, the sum of Thirty (\$30.00) Dollars, being an apital to the County Board of Appeals from the decision of the Deputy Zoning granting variances to the Zoning Regulations on Pulaski Highway Pete Guerriera, et al., petitioners.

Zoning Commissioner

August 10, 1958

\$30.00

RECEIVED of M. Lee Harrison, attorney for petitioners, the sum of Thirty Dollars (\$30.00), being cost of petition, covering and posting property situate in the Southwest side of Pulaski Highway, beginning 350 feet Southwest of Race Road.
 Thank you.

Zoning Commissioner
 of Baltimore County

RECEIVED

Wednesday, September 10, 1958
 at 1:00 P. M.

Room 100
 County Office Building
 115 W. Chesapeake Avenue
 Towson, Maryland

RECEIVED

AUG 10 1958
 COMPTROLLER'S OFFICE
 By *[Signature]*

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District *15* Date of Posting *8-25-58*
 Posted for *Varian to zoning regulations*
 Petition *Att. Guerriera et al.*
 Location of property *S.E. of Pulaski Hwy. bgs 350' S.W. of Race Rd. etc.*
 Location of Signs *Southwest side of Pulaski Hwy. 350' S.W. of Race Road.*
 Remarks
 Posted by *George R. Hummel* Date of return *8-25-58*

NO PLAT
IN
THIS FOLDER