

BE: PETITION FOR VARIANCE

from Section 211.1 of the Zoning Regulations, 1902 and 1904 Finney Drive, 11th District
Edgar L. Spert, et al,
Petitioners

BEFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 64-25-A

OPINION

The petitioner in this case requests a variance from Section 211.1 of the Zoning Regulations to permit a lot width at building line of 50 feet instead of the required 55 feet on each lot, the improvements to be known as 1902 and 1904 Finney Drive in the Eleventh District of Baltimore County, Maryland.

There was testimony from the petitioner that he entered into a contract of sale for the original 100 foot lot contingent upon securing building permits from Baltimore County to erect two houses on said lots. These permits were subsequently obtained by the petitioner and settlement made on the property by the petitioner in October of 1963.

The permits were apparently issued by Baltimore County in error as the lots did not have the required 55 foot frontage. It was argued by the protestants' attorney that the building permits were void in that they did not comply with the Zoning Regulations, and that whatever the petitioner did in reliance on these building permits was done at his own risk. We believe this to be the correct interpretation of the law applicable in this case.

The petitioner testified that he has expended \$1,165.00 on the property subsequent to the issuance of the permits by Baltimore County, and that it would be an economic hardship on him not to allow him to build two houses on the subject property.

The Board feels that in this case Mr. Edgar L. Spert, the petitioner, being a builder and developer of considerable experience, is charged with the knowledge of the Zoning Regulations of Baltimore County and that he should have known that he would not be allowed to build a house on a 50 foot front lot. Further, we do not feel that this is the type of practical difficulty or unreasonable hardship required under Section 307 of the Baltimore County Zoning Regulations to entitle the petitioner to the variance sought.

It is, therefore, the unanimous opinion of the County Board of Appeals that the variance petitioned for should be denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 25th day of August, 1964 by the County Board of Appeals, ORDERED that the variance petitioned for, be and the same is hereby denied.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

A. Mitchell Austin
Chairman

William S. Mason

Note: Mr. Parker did not sit at this hearing.

GEORGE D. EDWARDS
Attorney at Law
Professional Services
Solicitor in Maryland
Address: 4000



January 22, 1964

John G. Rose, Zoning Commissioner
of Baltimore County
County Office Building
Towson 4, Maryland

RE: Petition for Variance to Sec. 211.1 of Zoning Regulations - 1902-04 Finney Drive, Edgar L. Spert, et al Petitioners - No. 64-25-A

Dear Mr. Rose:

Please enter an appeal to the County Board of Appeals on behalf of the Protestants in the captioned matter from your decision of January 21, 1964.

Very truly yours,

George D. Edwards
George D. Edwards

GDE/ag

CC-Nabert E. Carney, Esq.

RE: PETITION FOR VARIANCE TO
Sec. 211.1 of Baltimore County
Zoning Regulations - 1902-04
Finney Drive, 11th District
Edgar L. Spert and Ethel L.
Spert, Petitioners

RESPONSE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

No. 64-25-A

The petitioner has requested a Variance from Section 211.1 of the Baltimore County Zoning Regulations to permit a lot width at the building line of 50 feet instead of the required 55 feet on each lot, the improvements thereon to be known as 1902-04 Finney Drive.

The petitioner is asking that lot No. 13 of a recorded plat be split into two lots of 50 feet each. Edgar L. Spert, owner of the subject lots, in August 1963, applied to the Planning Department for a variance to the Zoning Regulations to permit a lot width at the building line of 50 feet instead of the required 55 feet on each lot. The variance was granted by the Planning Department on October 1, 1963. Shortly thereafter it was brought to the attention of the Office of Planning and Zoning that there were many errors in the permit issued to Mr. Spert. After consultation with the Deputy County Solicitor the permit was voided. Before this was done Mr. Spert had applied for a variance. On October 21, 1963 Mr. Spert withdrew this petition and refiled on December 16, 1963.

All parties agree that no lots on Finney Drive have a frontage of 50 feet or have a frontage of less than 50 feet. Lot No. 13 has one house on the lot and lot No. 12 has two houses, one with a frontage of 60 feet and one with a frontage of 75 feet. Lots Nos. 12 and 13 have three houses with frontages of 66 feet.

Testimony indicated that the houses in the area are valued at approximately \$17,000, in fee and that the two houses to be erected on the subject lots are each going to be valued at approximately \$17,000, in fee. The setbacks will be greater than normal but the width of the houses will be less than the average width of other houses in the neighborhood.

There are two basic hardships involved. The development of Finney Drive has not been one of large lots but of lots 50 feet or more.

1. The 100 foot lot in question is definitely out of place amongst these smaller lots and the breaking of this lot into two sections with comparable houses erected thereon should not deprive other neighbors use of their property.

2. Baltimore County did grant Mr. Spert the right to erect two houses on lot No. 13 existing in the neighborhood. The decision to revoke the existing permit was a belated one.

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Edgar L. Spert and Ethel L. Spert, legal owners of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 211.1 of the Zoning Regulations of Baltimore County to permit a lot width at building line of 50' instead of the required 55' on each of the following described lots, the improvements thereon to be known as 1902 and 1904 Finney Drive (see attached Surveyor's Description for each lot).

The size and shape of surrounding properties plus the availability of water and sewerage causes the most practical and economically feasible use of the properties above described to be divided into two 50' lots rather than one 100' lot. The Petitioners purchased the property under the belief that two houses could be erected on the lot and have gone to the expense of securing two construction loans.

See Attached Description

Property is to be posted and advertised as provided by Zoning Regulations, 1, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser
Address: 3031 West Avenue
Baltimore 14, Maryland

Legal Owner
Address: 3031 West Avenue
Baltimore 14, Maryland

Robert E. Carney, Esq.
400 Jefferson Ridge, Towson 4, Md.
Petitioner's Attorney

Address: 6923 Duncannon
Towson 4, Md.

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of December 1964, that the subject matter of this petition be advertised as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of January 1965, at 10:30 o'clock A.M.

By *John G. Rose*
Zoning Commissioner of Baltimore County.

(over)

10:31 PM
1/21/65
20mm

October 29 1963

DESCRIPTION OF NO. 1902 FINNEY DRIVE

BEGINNING for the same at a point on the northeast side of Finney Drive, 30 feet wide, as laid out and shown on the plat of Rose Acres recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 5 folio 74 at the distance of 224.43 feet from the corner formed by the intersection of said northeast side of Finney Drive with the northeast side of Summit Avenue, 40 feet wide, as laid out and shown on said plat, and place of beginning also being situated at the division line between lots No. 12 and 13 as shown on said plat, thence leaving said place of beginning and running and blinding on said northeast side of Finney Drive, referring all courses to the true meridian as established by the Baltimore County Metropolitan District, North 52 degrees 20 minutes 40 seconds East 50.0 feet, thence leaving said northeast side of Finney Drive North 38 degrees 50 minutes 47 seconds East 151.71 feet to intersect the northern outline of said plat, thence running and blinding thereon South 51 degrees 22 minutes 10 seconds West 50.0 feet to the aforementioned division line between lots No. 12 and 13, thence running and blinding thereon South 38 degrees 51 minutes 40 seconds East 150.00 feet to the place of beginning.

October 29 1963

DESCRIPTION OF NO. 1904 FINNEY DRIVE

BEGINNING for the same at a point on the northeast side of Finney Drive, 30 feet wide, as laid out and shown on the plat of Rose Acres recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 5 folio 74 at the distance of 276.43 feet from the corner formed by the intersection of said northeast side of Finney Drive with the northeast side of Summit Avenue, 40 feet wide, as laid out and shown on said plat, thence leaving said place of beginning and running and blinding on said northeast side of Finney Drive, referring all courses to the true meridian as established by the Baltimore County Metropolitan District, North 52 degrees 20 minutes 40 seconds East 50.0 feet to the division line between lots No. 13 and 14 as shown on said plat, thence leaving said northeast side of Finney Drive and running and blinding on said division line between lots No. 13 and 14 North 38 degrees 50 minutes 00 seconds West 153.43 feet to intersect the northern outline of said plat, thence running and blinding thereon South 51 degrees 22 minutes 10 seconds West 50.0 feet, thence leaving said northernmost outline of said plat South 38 degrees 50 minutes 47 seconds East 151.71 feet to the place of beginning.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: January 10, 1964

FROM: George E. G. Avelis, Deputy Director

SUBJECT: 64-25-A. Variance to permit a lot width at building line of 50 feet instead of the required 52 feet. North side of Finney Drive 2864 1/2 East of Summit Avenue. Being property of Edgar Spear.

11th District

HEARING: Tuesday, January 21, 1964 (10:30 A.M.)

The Planning staff will offer no comment on the subject petition.

OD:mas

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE 823-3000

TO: Robert E. Gernsey, Jr., Esq.
Jefferson Building
Towson 4, Md.

DATE 1/21/64

INVOICE No. 21505

DEBIT TO ACCOUNT NO. 01/22

QUANTITY: 1

DESCRIPTION: Petition for Variance for Edgar L. Spear

AMOUNT: \$25.00

PAID - Baltimore County, Md. - Office of Finance

12145 7943 • • • TIL - 25.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

ORIGINAL
64-25

OFFICE
THE BALTIMORE COUNTIAN

THE COMMUNITY NEWS
Baltimore, Md.
THE HERALD, ANNE ARUNDEL
COLUMBIA, Md.

No. 1 Newburg Avenue CATONSVILLE, MD.

January 6, 1964

THIS IS TO CERTIFY, that the annexed advertisement of John T. Rose, Zoning Commissioner of Baltimore County, was inserted in THE BALTIMORE COUNTIAN, a group of three weekly newspapers published in Baltimore County, Maryland, once a week for one year, commencing with the 6th day of January, 1964, that is to say the same was inserted in the issues of January 2, 1964.

THE BALTIMORE COUNTIAN

By: Paul J. Morgan
Editorial Manager

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE 823-3000

TO: Robert E. Gernsey, Jr., Esq.
Jefferson Building
Towson 4, Md.

DATE 1/21/64

INVOICE No. 21549

DEBIT TO ACCOUNT NO. 01/22

QUANTITY: 1

DESCRIPTION: Advertising and posting of property for Edgar Spear

AMOUNT: \$95.00

PAID - Baltimore County, Md. - Office of Finance

4-2164 8906 • 21549* T1P* 95.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

64-25

CERTIFICATE OF PUBLICATION

TOWSON, MD. 1964

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., commencing with the 1st day of January, 1964, the first publication appearing on the 1st day of January, 1964.

THE JEFFERSONIAN
Manager

Cost of Advertisement, \$

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE 823-3000

TO: George D. Shumway, Esq.
Professional Building
6001 Dumbarton
Dumbarton 27, Md.

DATE 1/21/64

INVOICE No. 22066

DEBIT TO ACCOUNT NO. 01/22

QUANTITY: 1

DESCRIPTION: Cost of appeal - property of Edgar Spear

AMOUNT: \$35.00

PAID - Baltimore County, Md. - Office of Finance

4-354 949 • 22066* T1P - 35.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

PETITION FOR A ZONING VARIANCE
11th DISTRICT

EDGAR L. SPEAR, Petitioner for a Variance to the Zoning Regulations of Baltimore County to permit a lot width at building line of 50 feet instead of the required 52 feet.

LOCATION: 2864 1/2 East of Summit Avenue, Towson, Md.

DATE: 1/21/64

PUBLIC HEARING: Room 101, County Office Building, 111 N. Chesapeake Avenue, Towson, Maryland.

THE Zoning Commission is to be held on January 21, 1964 at 10:30 A.M.

DESCRIPTION OF NO. 11th DISTRICT: Lot width - 52 feet. The Zoning Commission, by authority of the Board of Commissioners of Baltimore County, will hold a public hearing on the petition of Edgar L. Spear for a variance to the Zoning Regulations of Baltimore County to permit a lot width at building line of 50 feet instead of the required 52 feet.

DESCRIPTION OF NO. 11th DISTRICT: Lot width - 52 feet. The Zoning Commission, by authority of the Board of Commissioners of Baltimore County, will hold a public hearing on the petition of Edgar L. Spear for a variance to the Zoning Regulations of Baltimore County to permit a lot width at building line of 50 feet instead of the required 52 feet.

64-25-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th

Date of Posting: 1/1/64

Posted for: EDGAR L. SPEAR, JR.

Petitioner: EDGAR L. SPEAR, JR.

Location of property: 2864 1/2 FINNEY DRIVE

Location of Sign: ON PROPERTY OF 2803 FINNEY DR.

Remarks: Robert E. Gernsey, Jr.

Posted by: Robert E. Gernsey, Jr.

Signature: Robert E. Gernsey, Jr.

Date of return: 1/1/64

1 Sign

64-25-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th

Date of Posting: 1/1/64

Posted for: EDGAR L. SPEAR, JR.

Petitioner: EDGAR L. SPEAR, JR.

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Date of return: 1/1/64

1 Sign

