

Zoning Description
 BEGINNING ON THE NORTHEAST CORNER OF TENBURY AND
 BELMORE ROADS
 BEING LOT
 NO. 12 BLOCK C IN THE SUBDIVISION OF GREENRIDGE
 GARDENS, BOOK NO. 22, FOLIO 145. ALSO KNOWN AS
 1401 TENBURY RD., LUTHERVILLE, MARYLAND IN THE 7TH
 ELECTION DISTRICT

PETITION FOR VARIANCE
 9th Election District

LOCATION: Northeast corner of Tenbury and Belmore Roads
 (1401 Tenbury Road)

DATE AND TIME: Monday, February 4, 1985 at 10:00 a.m.

PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake
 Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore Co., by authority of the Zoning Act and
 Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to permit a rear yard setback of 20 feet
 instead of the required 30 feet.

Being the property of Donald E. Smith, et ux as shown on
 the plat filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within
 the thirty (30) day appeal period. The Zoning Commissioner will, however, enter-
 tain any request for a stay of the issuance of said permit during this period for
 good cause shown. Such request must be received in writing by the date of the
 hearing set above or made at the hearing.

BY ORDER OF
 ARNOLD JABLON
 ZONING COMMISSIONER
 OF BALTIMORE COUNTY

IN RE: PETITION ZONING VARIANCE * BEFORE THE
 NE/corner of Tenbury and * ZONING COMMISSIONER
 Belmore Roads (1401 Tenbury * OF BALTIMORE COUNTY
 Road) - 9th Election District *
 Donald E. Smith, et ux, * Case No. 85-210-A
 Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a rear yard setback of 20 feet instead of
 the required 30 feet in order to enclose an existing patio, as more fully de-
 scribed on Petitioners' Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the
 Petitioners was Richard Tice, President of Patio Enclosures, Inc., the Con-
 tractor. There were no Protestants.

Testimony indicated that the subject property, zoned D.R.5.5, is a corner
 lot located at Tenbury and Belmore Roads. The house is "L"-shaped with a 13' x
 16' patio in the open space. The Petitioners wish to enclose that patio in or-
 der to provide a sheltered area. There is no other location on the property
 where an enclosed porch may be placed without a variance, and inasmuch as there
 already is an existing patio, the proposed enclosure would certainly be practi-
 cal. The neighbors and the community association do not object to the proposal.
 Due to the configuration of the house at an angle to the corner, only 20
 feet would exist between the enclosed patio and what is considered to be the
 rear property line.

The Petitioners seek relief from Section 1802.3.B (211.4), pursuant to Sec-
 tion 1307, Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning
 regulation would cause practical difficulty to the petitioner and his property.

McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area
 variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unrea-
 sonably prevent the use of the property for a permitted
 purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to ap-
 plicant as well as other property owners in the dis-
 trict or whether a lesser relaxation than that applied
 for would give substantial relief; and
3. whether relief can be granted in such fashion that the
 spirit of the ordinance will be observed and public
 safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance were granted, such use
 as proposed would not be contrary to the spirit of the BCZR and would not result
 in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is
 clear that a practical difficulty or unreasonable hardship would result if the
 instant variance were not granted. It has been established that the require-
 ment the Petitioners seek relief from here would unduly restrict the use of the
 land due to the special conditions unique to this particular parcel. In addi-
 tion, the variance requested will not be detrimental to the public health, safe-
 ty, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing
 on this Petition held, and for the reasons given above, the variance requested
 should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County,
 this 4th day of February, 1985, that the Petition for Zoning Variance to
 permit a rear yard setback of 20 feet instead of the required 30 feet be and the
 same is hereby GRANTED, from and after the date of this Order, 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
 applicable appellate process from this Order has ex-
 pired. If, for whatever reason, this Order is re-
 versed, the Petitioners would be required to return,
 and be responsible for returning, said property to its
 original condition.

[Signature]
 Zoning Commissioner of
 Baltimore County

AJ/ar1
 ccc Mr. & Mrs. Donald E. Smith
 People's Counsel

ORDER RECEIVED FOR FILING

DATE *February 5, 1985*
 BY *[Signature]*
 ADMINISTRATIVE ASSISTANT

