

IN RE: PETITION FOR ZONING VARIANCE  
NE/S Fullerton Heights Ave.  
1025 NW c/l Belair Road  
Lots 39 and 40, Fullerton Heights  
14th Election District  
6th Councilmanic District  
Contract Purchaser: Joseph Lutz  
Legal Owner: Beatrice M. Sanders  
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Sec. 1002.3 C.I. to permit a 50 foot lot width in lieu of the minimum 55 feet, as more particularly described on Petitioners' Exhibits 1.

The Petitioners, Beatrice M. Sanders, Legal Owner, and Joseph Lutz, Contract Purchaser, appeared and testified. Also appearing on behalf of the Petitioners was Carl Sauer, Realtor. Appearing as Protestants were Constance and John J. Ayd, Scott Gula and Edward Korber.

Testimony and evidence indicated that the subject property known as 32 Fullerton Heights Avenue, consists of .17 acres +/-, and is zoned D.R. 5.5.

Mr. Joseph Lutz, the Contract Purchaser, testified that he is desirous of constructing a single family dwelling on the subject site which will require the requested variance. He stated that other homes in this community are situated on 50 foot lots.

Testimony indicated that parking on Fullerton Heights Avenue is extremely limited in view of the 13 foot wide roadbed from curb to curb.

Mrs. Ayd testified in opposition to Petitioners' request citing the existing parking problems and the severe problem this community experiences with water runoff.

Mr. Gula testified that on several occasions emergency vehicles have been unable to travel to the end of Fullerton Heights Avenue in view of the narrow roadway.

Mr. Korber testified that he found it necessary to sell his full size pickup truck for a smaller model in view of the fact that on numerous occasions he was unable to back his truck out of his driveway with vehicles parked adjacent to his driveway.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirements would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district 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).

The Fullerton Heights Avenue community is a densely populated neighborhood which has suffered with severe icing problems, water runoff and parking problems for many years.

Testimony indicated there exists a potential hazard from fire, panic and other various dangers that would require emergency vehicles in view of this narrow and congested Avenue.

It is the opinion of the Zoning Commissioner that the granting of the Petitioners' request would only exacerbate this already crowded neighborhood, and further, the request is not in harmony with the spirit and intent of the Baltimore County Zoning Regulations (B.C.Z.R.).

In reviewing the evidence, there is insufficient evidence to allow finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. The Petitioner has failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of Oct. 1989 that a variance to permit a 50 foot lot width in lieu of the minimum 55 feet, as more particularly described on Petitioners' Exhibits 1, be and is hereby DENIED.

J. Robert Haines  
Zoning Commissioner  
for Baltimore County

John Haines  
c/o Peoples Counsel  
c/o Mr. Carl Sauer, 3109 Harford Road, 21234  
Mr. and Mrs. John Ayd, 27 Fullerton Heights Avenue, 21236  
Mr. Scott Gula, 34 Fullerton Heights Avenue, 21236  
Mr. Edward Korber, 35 Fullerton Heights Avenue, 21236

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-117-A  
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described as follows: NE/S Fullerton Heights Avenue, 1025 NW c/l Belair Road, Lots 39 and 40, Fullerton Heights, 14th Election District, 6th Councilmanic District, hereby petition for a variance from Section 1002.3 C.I. to permit a 50 foot lot width in lieu of the minimum 55 feet.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

- 1) OWNER NEED TO SELL FOR MEDICAL EXPENSES
- 2) EXISTING HOUSE IS ON 51' LOTS

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Joseph Lutz  
Legal Owner(s): BEATRICE M. SANDERS  
Signature of Legal Owner(s): Beatrice M. Sanders  
Address: 1025 NW c/l Belair Road  
City and State: Baltimore, MD 21206  
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Joseph Lutz, 1025 NW c/l Belair Road, Baltimore, MD 21206, 766-4240

City and State: Baltimore, MD  
County: Baltimore  
Date of Filing: 9/25/89  
Date of Hearing: 9/25/89

Estimated Length of Hearing: 1/2 hr.  
Date of Hearing: 9/25/89  
Date of Decision: 9/25/89

ZONING DESCRIPTION

Beginning on the northeast side of Fullerton Heights Avenue, 35 feet wide, at the distance of 1,025' northwest of the centerline of Belair Road, being lots 39 and 40 in the subdivision "Fullerton Heights", book number 3, folio 58 in the 14th election district.

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md. once in each of 1 successive weeks, the first publication appearing on August 31, 1989.

THE JEFFERSONIAN  
NORTHEAST TIMES BOOSTER and the  
NORTHEAST TIMES REPORTER

S. Zabe Orman  
Publisher

PA 16-550  
229 N 34168  
229 90-117-A  
Date 9/24/89

CERTIFICATE OF POSTING

SEAL OF THE DEPARTMENT OF BALTIMORE COUNTY  
TOWNSHIP, MARYLAND

District: 14th  
Posted for: Variance  
Petitioner: Beatrice M. Sanders & Joseph Lutz  
Location of property: NE/S Fullerton Heights Ave, 1025 NW Belair Rd.  
32 Fullerton Heights Ave

J. Robert Haines, Zoning Commissioner  
Room 106  
Baltimore County Office Bldg.  
Towson, Maryland 21204

RECEIVED  
OCT 2 1989  
ZONING OFFICE

Dear Sir:

We, the property owners of Fullerton Hgts. Ave., Baltimore County 14th election district- 6th councilmanic are concerned and opposed to having a variance granted to permit a 50 ft. lot width in lieu of the minimum 55 ft. for lots 39 and 40 Fullerton Hgts. per petition of legal owner Beatrice M. Sanders and contract purchaser Joseph Lutz at Zoning Hearing at 2:00 PM, Sept. 28, 1989. (90-117-A #574)

Our reasons for opposition to this variance are as follows:

1. Fullerton Hgts. Ave. is a small dead end street and has problems with parking. The width of the street allows only one lane open when cars are parked. There are two driveways opposite lots 39 and 40. Another home and drive way will compound the already hazardous conditions to the young children who live there. The traffic pattern in this area at Fullerton Hgts. Ave. and Belair Rd. has increased alarmingly in the last three to five years. It is difficult to access Belair Rd. from our street during high traffic patterns. There have been problems with emergency equipment, Fire Trucks, Ambulance, etc., getting to their points of destination.
2. Most of the homes on the street have lots that are 75 to 165 ft. widths. The last home built on our street was over twenty years ago.
3. There is potential of a greater problem with water run off related to minor problems with water in winter; this area has ice from water collecting since there is no drainage system.

Thank you for your concern and attention to our petition. We appreciate your assistance in denying this zoning change.

Sincerely yours,  
Doris L. Shimmer

Copy sent to: Councilman William R. Evans

32 Fullerton Heights Ave  
661-2826

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

DATE 9.7.89

Re: Joseph Lutz  
5608 Lutz Hill Road  
Baltimore, Maryland 21206

Re: Petition for Zoning Variance  
CASE NUMBER: 90-117-A  
NE/S Fullerton Heights Avenue, 1025 NW c/l Belair Road  
Lots 39 and 40 Fullerton Heights  
14th Election District - 6th Councilmanic  
Legal Owner(s): Beatrice M. Sanders  
Contract Purchaser(s): Joseph Lutz  
HEARING SCHEDULED: THURSDAY, SEPTEMBER 28, 1989 at 2:00 p.m.

Dear Mr. Lutz:

Please be advised that \$99.86 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 1113, Towson, Maryland 21204, fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
DATE: 9/25/89 AMOUNT: \$99.86  
PAID FOR: 90-117-A  
90-117-A

Baltimore County  
Office of Planning and Zoning  
Towson, Maryland 21204  
(301) 887-3391

August 15, 1989

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, in accordance with the Zoning and Regulations of Baltimore County, will hold a public hearing on the property identified hereinafter, Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER 90-117-A  
1025' NW of BALAIR RD  
and 40 FULLERTON HEIGHTS  
14th DISTRICT BALTIMORE CO., MARYLAND  
Legal Owner(s): Beatrice M. Sanders  
Contract Purchaser(s): Joseph Lutz  
HEARING SCHEDULED: THURSDAY, SEPTEMBER 28, 1989 at 2:00 p.m.

Variance to permit a 50 ft. lot width in lieu of the minimum 55 ft.

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, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: Joseph Lutz  
Beatrice M. Sanders  
File

**PETITIONERS EXHIBIT 1**

LOCATION MAP  
SCALE 1"=50'

OWNER: BEATRICE M. SANDERS

EX ZONING DISTRICT: EX-1  
NEAR OF LOT 0.17 AC

LOTS 39-40  
FULLERTON HEIGHTS  
PLAT BOOK 3-58  
14TH DISTRICT BALTIMORE CO., MARYLAND  
SCALE 1"=50' DATE 6-14-89

FRANK S. LEE  
1277 NEIGHBORS AVE.  
BALTIMORE, MD. 21237

**PETITIONERS EXHIBIT 2**

LOCATION MAP  
SCALE 1"=50'

OWNER: BEATRICE M. SANDERS

EX ZONING DISTRICT: EX-1  
NEAR OF LOT 0.17 AC

LOTS 39-40  
FULLERTON HEIGHTS  
PLAT BOOK 3-58  
14TH DISTRICT BALTIMORE CO., MARYLAND  
SCALE 1"=50' DATE 6-14-89

FRANK S. LEE  
1277 NEIGHBORS AVE.  
BALTIMORE, MD. 21237

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 15, 1989

Mr. Beatrice M. Sanders  
4714 Chippewa Drive  
White Hall, MD 21161

RE: Item No. 574, Case No. 90-117-A  
Petitioner: Beatrice M. Sanders  
Petition for Zoning Variance

Dear Mr. Sanders:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development of plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JOHN WHIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,  
*James E. Dyer*  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures  
cc: Mr. Joseph Lutz  
5409 Lutz Hill Road  
Baltimore, MD 21206

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner  
DATE: September 13, 1989

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Lutz/Sanders, Item 574  
Zoning Petition No. 90-117-A

The petitioner is requesting a Variance to permit a 50 ft. lot width in lieu of the minimum 55 ft. required. Staff has the following comments on the above request:

In instances such as these, staff's primary concerns are:

- What is the impact on adjoining property?, and;
- Are adequate front, side, and rear yard setbacks being provided on the site?, and;
- Will the reduced lot sizes result in requests for additional variances when subsequent lot owners try to build unsuitable homes on the lots or expand homes into required areas?

Based upon the information provided and analysis conducted, staff recommends that if the request is granted, the following conditions be attached:

All building setback lines (front, side, rear) shall be shown on the site plan and recorded by the applicant on the deed of record. Furthermore, a statement shall be attached to the site plan which clearly states that all development shall conform to the setbacks as shown and additional variances shall not be granted for setbacks on the subject property.

Any applications for building permits shall include a copy of the site plan and the Commissioner's "Findings of Fact and Conclusions of Law" provided by the applicant.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Building, Suite 405  
Towson, Maryland 21204  
(301) 887-3554

RECEIVED  
AUG 21 1989  
ZONING OFFICE

July 31, 1989

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item number 515, 575, 576, 577, 578, 579, 580, 581, and 582.

Very truly yours,  
*Michael S. Flanigan*  
Michael S. Flanigan  
Traffic Engineer Associate II

cc: Lutz/Sanders

Baltimore County  
Fire Department  
800 York Road  
Towson, Maryland 21204-2536  
(301) 887-4500

Paul H. Reinisch  
Chief

July 19, 1989

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: JOSEPH LUTZ  
Location: NE/S OF FULLERTON HEIGHTS AVENUE,  
1,025' NW OF CENTERLINE OF BELAIR RD  
Item No.: 574  
Zoning Agenda: JULY 11, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John J. Long* Noted and Approved: *John J. Long*  
Planning Group Fire Prevention Bureau  
Special Inspection Division

JK/KEK