

IN RE: PETITION FOR ZONING VARIANCE
NW side Lyndale Ave., 325'
S of Alberta Avenue
34 Lyndale Avenue
14th Election District
6th Councilmanic District
Michael Mamoliti, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Sect. 400.1 to allow an accessory structure to be 1.6 feet from side lot line in lieu of the required 2.5 feet, as more particularly described on Petitioners' Exhibit 1.

The Petitioner, Michael Mamoliti, appeared and testified. No Protestants appeared.

Testimony and evidence indicated that in the fall of 1986, the Petitioner constructed an 8 x 12 foot wooden shed in his rear yard approximately 1.6 feet from his sideyard boundary line. The Petitioner candidly admits that he constructed the shed without acquiring the requisite permits, and is aware that the shed boundary line setback is in violation of the Baltimore County Zoning Regulations (B.C.Z.R.). Testimony and evidence indicate that this neighborhood has experienced considerable water runoff problems and basement flooding. Testimony indicated that, when the Petitioner originally constructed the shed, he did not provide rain spouts to direct water runoff away from his adjoining neighbors.

The Petitioner testified that, subsequent to the construction of the shed, his adjoining neighbors had requested he place spouting on the shed to divert the water runoff from the shed onto their property. He stated

that he placed spouting on the rear of the shed, but candidly admitted that he is refusing to put spouting on the front, as requested by his neighbors, due to "esthetic considerations".

The case file indicates that the Petitioner's neighbors did not object to the location of the shed, provided the Petitioner properly installed rain spouting to direct runoff water from their property.

An area variance may be granted where strict application of the zoning regulations 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 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).

In reviewing the evidence, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. The Petitioner has removed the one equitable solution to this problem from consideration by the Zoning Commissioner, namely, the installation of rain spouting on the subject building. The Petitioner has flatly refused to install spouting

on the front of his building for "esthetic considerations". The Petitioner's rear yard is, clearly, large enough to accommodate this shed without requiring the requested variance or without thrusting a hardship onto adjoining properties.

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. In fact, the Petitioner has refused to even consider the one equitable solution to this problem, namely, the addition of spouting. 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.

THUSFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of January 1990 that the Petition for a Zoning Variance from Section 400.1 to allow an accessory structure to be 1.6 feet from side lot line in lieu of the required 2.5 feet, in accordance with Petitioners' Exhibit 1, be and is hereby DENIED.

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH/mm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

January 4, 1990

Mr. & Mrs. Michael Mamoliti
34 Lyndale Avenue
Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE
Case No. 90-224-A

Dear Mr. & Mrs. Mamoliti:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 400.1 to allow an accessory structure (shed) to be 1.6 feet from side lot line in lieu of the required 2.5 feet.

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

BUILT SHED FALL OF 1986 - 20 INCHES FROM PROPERTY LINE ONE SIDE AND 40 INCHES ON OTHER SIDE - IT WILL BE VERY COSTLY TO MOVE DUE TO EIGHT 3 INCH BY 4 FEET LONG STEEL POLES DRIVEN INTO GROUND TO HOLD RAILROAD TIES TOGETHER ALONG WITH CONCRETE AND REINFORCEMENT ROIS.

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 are 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:
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of September 1989, 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 104, County Office Building in Towson, Baltimore County, on the 12 day of October 1989, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

PETITION FOR ZONING VARIANCE

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The undersigned, legal owner(s) 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 400.1 to allow an accessory structure (shed) to be 1.6 feet from side lot line in lieu of the required 2.5 feet.

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(Type or Print Name)
Signature
Address
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Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.

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ESTIMATED LENGTH OF HEARING - 1/2 HR. 45 MIN.
AVAILABLE FOR HEARING - MON. TUES. WED. NEXT TWO MONTHS
ALL APPEARANCES MUST BE MADE IN PERSON
REVIEWED BY: CAM DATE 23 AUG 89
C-89-2394
C-89-2394

Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning

Date: 23 AUG 89
Receipt Number: 077A73
FEE TYPE: Identification Number
Zip Code: 21236
Petitioner: Mamoliti, Michael
Property Address: 34 Lyndale Ave

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 23 AUG 89
AMOUNT: \$ 35.00
RECEIVED FROM: Michael Mamoliti
FOR: Res Var
VALIDATION BY SIGNATURE OF CLERK

BEGINNING AT A POINT ON THE NORTH WEST SIDE OF LYNDALE AVE. 50 FT. WIDE AT A DISTANCE OF 325 FT. SOUTH OF THE CENTERLINE OF ALBERTA AVE. 50 FT. WIDE BEING LOT 27 AS RECORDED IN THE SUBDIVISION OF LINDOVER IN PLAT BOOK 14 FOLIO 82 ALSO KNOWN AS 34 LYNDALE AVE IN THE 14TH ELECTION DISTRICT.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1174 Date of Posting: 12/21/87

Posted for: Lyndale

Petitioner: Michael Mamoliti

Location of property: 34 Lyndale Ave, 325' S of Alberta Ave

Location of Sign: Back of property, 15' from driveway

Remarks: for party of Petitioner

Posted by: W. H. Hines Date of return: 12/21/87

Number of Signs: 1

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
No. 628

12/21/87

PUBLIC HEARING FEES: 0.00 CITY: 0.00 PRICE: 0.00

080 - POSTING SIGNS / ADVERTISING: 111.09

LAST NAME OF OWNER: MAMOLITI TOTAL: 111.09

0 013 ***** 110916 01788

Please make checks payable to Baltimore County

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(801) 887-3353

J. Robert Hines
Zoning Commissioner

DATE: 12/11/87

Re: Michael Mamoliti
34 Lyndale Avenue
Baltimore, Maryland 21236

Re: Petition for Zoning Variance
CASE NUMBER: 90-224-A
14th Election District - 8th Councilmanic
Petitioner(s): Michael Mamoliti, et ux
HEARING: TUESDAY, DECEMBER 12, 1989 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$ 111.09 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 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,
J. Robert Hines
J. ROBERT HINES
ZONING COMMISSIONER

JRH:gs
cc:File

NOTE: (If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3351 to confirm hearing date.)

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(801) 887-3353

J. Robert Hines
Zoning Commissioner

DATE: 12/11/87

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-224-A
14th Election District - 8th Councilmanic
Petitioner(s): Michael Mamoliti, et ux
HEARING: TUESDAY, DECEMBER 12, 1989 at 2:00 p.m.

Variance: To allow an accessory structure (shed) to be 1.8 feet from side lot line in lieu of the required 2.5 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty day appeal period. The Zoning Commissioner will, however, maintain any request for a must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE: (If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3351 to confirm hearing date.)

J. Robert Hines
J. ROBERT HINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: James F. Dyer
Zoning Supervisor

FROM: James H. Thompson
Zoning Enforcement Coordinator

RE: Item No. 77 (if known)
Petitioner: Michael Mamoliti (if known)

VIOLATION CASE # C-89-2394

LOCATION OF VIOLATION: 34 Lyndale Avenue

DEFENDANT: Michael and Leslie Mamoliti

ADDRESS: 34 Lyndale Avenue Baltimore, MD 21236

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME: June Knight ADDRESS: 36 Lyndale Avenue Baltimore, MD 21236

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

ech/

