

IN RE: PETITION FOR ZONING VARIANCE
W/S Church Lane 364.83' W
of W/S of Reisterstown Road
8 Church Lane
3rd Election District
2nd Councilmanic District
Phillip Willen, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-292-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein request a variance from Sections 230.1 and 303.2 to permit a front yard setback of 40' +/- in lieu of the required average of 82'1" as more particularly described on Petitioners' Exhibit 1.

The Petitioner, Phillip Willen, appeared, testified and was represented by S. Eric DiNenna, Esquire. There were no Protestants.

Testimony indicated that the subject property located on the north side of Church Lane Road, approximately 350 feet from Reisterstown Road, known as No. 8 Church Lane, is currently improved with a 2-1/2 story framed constructed office building zoned S.L. and consists of 17,483 square feet, +/- The office building is a converted residential property which was granted a special exception in case No. 66-02 for offices in a residential zone at that time.

Testimony and evidence indicated that the Petitioner and current owner purchased the property approximately 1979 and has operated his public relations business from this property since that time. The original home had a 9 feet open projection wooden front porch which the petitioner desires to convert to additional office space. The open projection porch would be converted to an additional secretary's office and reception area and would

create a front yard setback deficiency of an additional 9 feet. The current existing building is already deficient in a front yard setback and the variance is only created by an additional 9 feet enclosure on the front of the 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. 268 (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).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. 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 variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular

lar parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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 granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15 day of February, 1990 that the Petition for a Zoning Variance from Section 230.1 and 303.2 to permit a front yard setback of 40' +/-, in lieu of the required average of 82'1", in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the foregoing relief:

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 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be

responsible for returning, said property to its original condition.

2. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH/mm

cc: Peoples Counsel

ORDER RECEIVED FOR FILING

Date 2/15/90 By M. D. D.

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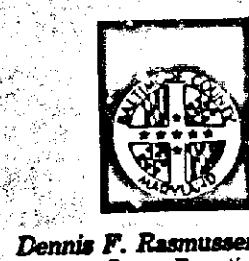
ORDER RECEIVED FOR FILING

Date 2/15/90 By M. D. D.

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

J. Robert Haines
Zoning Commissioner

January 31, 1990



Dennis F. Rasmussen
County Executive

S. Eric DiNenna, Esquire
P.O. Box 10508
Towson, Maryland 21285-0508

RE: Petition for Zoning Variance
Case No. 90-292-A
Mr. and Mrs. Phillip Willen

Dear Mr. DiNenna:

Enclosed please find the decision rendered in the above captioned case. The petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH/mm
encl.
cc: Peoples Counsel

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 230.1 and 303.2 to permit a front yard setback of 40 feet +/- in lieu of the required average of 82'1".

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)
1. Existing structure to enclose front porch
 2. Later construction and use of other uses immediately adjoining
 3. Shape of property and configuration
 4. Other reasons to be presented at time of hearing.

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

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City and State

Telephone No.

Signature

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