

IN RE: PETITION FOR VARIANCE
N/S Ingleside Avenue, 100' E
of the C/I of Raynor Avenue
(429 Ingleside Avenue)
1st Election District
1st Councilmanic District
Douglas Poling and
Harold Thomas - Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-346-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 429 Ingleside Avenue, located in the Catonsville Heights area of western Baltimore County. The Petition was filed by the owners of the property, Douglas Poling and Harold Thomas. The Petitioners seek relief from Section 402.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 34 feet at the front building line in lieu of the required 90 feet, a minimum side yard setback of 1 foot in lieu of the required 15 feet, and a combined sum of both side yards of 19 feet in lieu of the required 35 feet for a proposed semi-detached dwelling (two apartments). In the alternative, the Petitioners seek relief from Section 1802.3, C.1 of the B.C.Z.R. to permit a side yard setback of 1 foot in lieu of the required 10 feet, a rear yard setback of 10 feet in lieu of the required 30 feet, and a front yard setback of 23 feet in lieu of the required 25 feet. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition was Douglas Poling, a property owner. There were no Protestants present.

Testimony presented revealed that the subject property consists of .359 acres, more or less, zoned D.R. 5.5 and is improved with a one-story

block building. The Petitioners filed the instant Petition to utilize the existing building for residential purposes. Specifically, the Petitioners are desirous of converting the existing building and creating two apartments. Mr. Poling testified that the property was previously the site of a dry cleaning business and that at the time of their purchase in July 1993, the property had been abandoned and the building was extremely rundown. He testified that they have invested considerable time and money cleaning up the site to make it a more viable place of property and an asset to the community. Mr. Poling testified that upon completion of the proposed improvements, the Petitioners will lease the property to tenants. Mr. Poling further testified that he lives approximately one block away from the site and that the neighbors surrounding this property have indicated their full support of the proposed project.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. Polan v. Bolay, 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. Md. of Appeals, Tom of Chesapeake Beach, 22 Md. App. 28 (1974).

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Date 4/27/94
By [Signature]

Upon reviewing the Sections from which the Petitioners requested relief, I believe it is more appropriate for the Petitioners to proceed on the variance requested from Section 402.2 of the B.C.Z.R. Inasmuch as I believe that Section 402.2 applies in this particular instance, I believe the alternative variance request should be dismissed.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

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.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of April, 1994 that the Petition for Variance seeking relief from Section 402.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 34 feet at the front building line in lieu of the required 90 feet, a minimum side yard setback of 1 foot in lieu of the required 15 feet, and a combined sum of both side yards of 19 feet in lieu of the required 35 feet for a proposed semi-detached

dwelling (two apartments), in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restriction:

- 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 such pending 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 relief granted herein shall be rescinded.

TWK:bjs

[Signature]
TIMOTHY A. KUTROD
Deputy Zoning Commissioner
for Baltimore County

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Date 4/27/94
By [Signature]

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Date 4/27/94
By [Signature]

Baltimore County Government
Zoning Commission
Office of Planning and Zoning

Suite 113, Courthouse
480 Washington Avenue
Towson, MD 21204

April 27, 1994

(410) 867-4386

Mr. Douglas Poling
515 Dorchester Road
Baltimore, Maryland 21228-3218

RE: PETITION FOR VARIANCE
N/S Ingleside Avenue, 100' E of the C/I of Raynor Avenue
(429 Ingleside Avenue)
1st Election District
Douglas Poling and Harold Thomas - Petitioners
Case No. 94-346-A

Dear Mr. Poling:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted 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 the Zoning Administration and Development Management Office at 867-3391.

Very truly yours,

[Signature]
TIMOTHY A. KUTROD
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

cc: People's Counsel

File

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 429 INGLESIDE AVENUE D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owners of the property state in Baltimore County and which is described in the description and plat attached hereto and make a sworn, timely petition for a Variance from Ordinance.

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reason: (Indicate hardship or practical difficulty)
AN EXISTING BUILDING HAS BEEN EXISTING FOR MANY YEARS. PRIOR TO USE OF BUILDING WAS A BROWDER'S ZONED COMMERCIAL. COUNTY NOW HAS ZONED THE PROPERTY RESIDENTIAL WHICH RESULTS IN A SETBACK PROBLEM.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I am aware of any request of a Variance under the provisions of the Zoning Law of Baltimore County and further agree to and am to be bound by the Zoning Regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Petitioners
DOUGLAS POLING
515 DORCHESTER RD.
BALTIMORE MD 21228-3218
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EXAMPLE 3 - Zoning Description - 3 copies

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 429 INGLESIDE AVENUE
Election District 1 Councilmanic District 1

Beginning at a point on the NORTH side of PRINCE PATRICK WEST (north, south, east or west)
OF INGLESIDE AVENUE which is 30 FEET (number of feet of right-of-way width)
(street on which property fronts)
wide at a distance of 100 FEET EAST of the (number of feet) (north, south, east or west)
centerline of the nearest improved intersecting street RAVENS (name of subdivision)
which is 40 FEET wide. "Being lot 15-20." (number of feet of right-of-way width)

Block 19, Section 1 in the subdivision of CATONSVILLE HEIGHTS as recorded in Baltimore County Plat (name of subdivision)
Book MPC 46.6, Folio 178, containing 15,681 384 (square feet and acres)

"If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber - Folio -" and include the measurements and the directions (notes and bounds only) here and on the plat in the correct location.

Example of notes and bounds: N. 67° 12' 13" E. 321.1 ft., S. 18° 27' 03" E. 87.2 ft., S. 62° 35' 00" W. 318 ft., and N. 60° 15' 22" W. 80 ft. to the place of beginning.

