

IN RE: PETITIONS FOR VARIANCE - N/2S
Fairview Ave., 279.15' x 329.15'
SE of the c/l of Ridge Road
1809 Fairview Avenue and
1811 Fairview Avenue
13th Election District
1st Councilmanic District
Victoria B. Bagrowski
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. 94-363-A & 94-364-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as combined Petitions for Variance for the subject properties known as 1809 and 1811 Fairview Avenue, located in the Baltimore area of western Baltimore County. The Petitions were filed by the owner of the properties, Victoria B. Bagrowski. In Case No. 94-363-A, the Petitioner seeks relief from Sections 1802.3.C.1 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, side yard setbacks of 8 feet each in lieu of the minimum required 10 feet (or both), and to approve an undersized lot as buildable for a proposed dwelling at 1809 Fairview Avenue. In Case No. 94-364-A, the Petitioner seeks relief from Section 1802.3.C.1 of the B.C.Z.R. to permit a lot width of 50 feet in lieu of the required 55 feet, and a side yard setback of 6.5 feet in lieu of the minimum required 10 feet for the existing dwelling at 1811 Fairview Avenue. The subject properties and relief sought are more particularly described on the plat which accompanied the Petitions filed in this matter and marked as Petitioner's Exhibits 1.

Appearing on behalf of the Petitions were Victoria Bagrowski, property owner, Mr. & Mrs. Christopher Bagrowski, the Petitioner's son and daughter-in-law, and F. Michael Grace, Esquire, attorney for the Petitioner. There were no Protestants present.

Testimony revealed that both properties identified above contain approximately 0.1435 acres each, zoned D.R. 5.5. The property known as 1811 Fairview Avenue is improved with a two-story single family dwelling and accessory shed. The property known as 1809 Fairview Avenue is unimproved. Testimony indicated that the Petitioner and her late husband purchased the subject properties in 1959 and that they resided together on the property at 1811 Fairview Avenue until the death of her husband in 1984. At this time, Mrs. Bagrowski continues to reside in the dwelling alone. Mrs. Bagrowski's son is desirous of developing the property at 1809 Fairview Avenue with a single family dwelling for his wife and family in order to be closer to his mother and provide assistance to her in her elder years. Testimony revealed that Mrs. Bagrowski does not have a driver's license and relies upon her children to run errands and provide transportation for her as needed. The relief requested herein is necessary to legalize existing improvements on 1811 Fairview Avenue and to permit development of the adjoining property on 1809 Fairview Avenue.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. *Wilson v. Soler*, 270 Md. 206 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unnecessarily 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.

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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, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

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 these Petitions held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of May, 1994 that the Petition for Variance in Case No. 94-363-A seeking relief from Sections 1802.3.C.1 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, side yard setbacks of 8 feet each in lieu of the minimum required 10 feet for both, and to approve an undersized lot as buildable for a proposed dwelling on 1809 Fairview

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Date 5/17/94
By [Signature]

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Avenue, in accordance with Petitioner's Exhibit 1, he and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance in Case No. 94-364-A in which the Petitioner seeks relief from Section 1802.3.C.1 of the B.C.Z.R. to permit a lot width of 50 feet in lieu of the required 55 feet, and a side setback of 6.5 feet in lieu of the minimum required 10 feet for the existing dwelling at 1811 Fairview Avenue, in accordance with Petitioner's Exhibit 1, he and is hereby GRANTED, subject to the following restrictions:

- 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 relief granted herein shall be rescinded.

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

TM:kjs

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By [Signature]

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Baltimore County Government
Zoning Commission
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

May 17, 1994

(410) 867-4386

F. Michael Grace, Esquire
Daniel & Brub, P.A.
300 Frederick Road, Suite 100
Catoonsville, Maryland 21228

RE: PETITIONS FOR VARIANCE
N/2S Fairview Ave., 279.15' x 329.15' SE of the c/l of Ridge Rd.
(1809 and 1811 Fairview Avenue)
13th Election District - 1st Councilmanic District
Victoria B. Bagrowski - Petitioner
Case Nos. 94-363-A & 94-364-A

Dear Mr. Grace:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have 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 867-1391.

Very truly yours,

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

cc: Mrs. Victoria B. Bagrowski
1811 Fairview Avenue, Baltimore, Md. 21227

Mr. & Mrs. Christopher F. Bagrowski
433 Old Home Road, Baltimore, Md. 21206

People's Counsel

Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 1809 Fairview Avenue, Baltimore, Maryland which is presently zoned DR 5.5 21227

This Petition shall be filed with the Office of Zoning Administration & Planning Department. The undersigned, after receipt of the property, which is located in the description and plat attached to this petition, hereby petition the Baltimore County Board of Appeals to grant the following variance from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet and side yard setbacks of 8 feet in lieu of the required 10 feet and to approve an undersized lot per section 304 B.C.Z.R.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or other grounds.)
(1) Purchased property with intention of eventually building another house for child/children
(2) As Petitioner gets older it is particularly important that child build on adjacent lot to care for mother

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or my agent, do hereby agree to pay expenses of above before advertising, posting, etc., upon filing of this petition, and further agree to use and be bound by the zoning regulations and restrictions of Baltimore County related to the Zoning Law of Baltimore County.

Submitted by:
[Signature]
Victoria B. Bagrowski
Monica A. Bagrowski
433 Old Home Road
Baltimore, Maryland 21206

Attest to:
F. Michael Grace, Esquire
Daniel & Brub, P.A.
300 Frederick Road, Suite 100
Catoonsville, Maryland 21228
(410) 744-3996 3726

By and for the
Deputy Zoning Commissioner
for Baltimore County

By: [Signature]
Victoria B. Bagrowski
By: [Signature]
Monica A. Bagrowski
By: [Signature]
F. Michael Grace, Esquire
Daniel & Brub, P.A.
300 Frederick Road, Suite 100
Catoonsville, Maryland 21228
(410) 744-3996 3726
By: [Signature]
TIMOTHY A. KOTKOW
Deputy Zoning Commissioner
for Baltimore County

4-24-94 #350

ZONING DESCRIPTION FOR 1809 FAIRVIEW AVENUE ELECTION DISTRICT 13 COUNCILMANIC DISTRICT 01

BEGINNING at a point on the northeast side of Fairview Avenue which is 50 feet wide and a distance of 277.75 feet southeast of the centerline of the nearest improved intersecting street Ridge Road which is 50 feet wide; thence Lot 8 816 in the subdivision of Baltimore as recorded in Baltimore County Plat Book 1, Folio 68 containing 6250 Square feet.

#350

94-363-A

#350

CERTIFICATE OF POSTING BALTIMORE COUNTY TOWSON, MARYLAND

Placed: 5/17/94 Date of Posting: 5/17/94
Posted by: [Signature]
Petitioner: Victoria B. Bagrowski
Location of signs: 1809 Fairview Ave, NE of Ridge Rd, near Ridge Rd
Number of signs: 10
Date of return: 5/17/94

CERTIFICATE OF PUBLICATION

TOWSON, MD. April 11, 1994
THIS IS TO CERTIFY, that the enclosed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., more or less, in accordance with the first publication appearing on March 31, 1994

THE JEFFERSONIAN
[Signature]
LEAH, MD-TOWSON

receipt 74-363-A
Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204
Date: 3/17/94
Number: 350
3-17-94
Please State Checks Payable To Baltimore County
Cashier Validation

Item Number: 350
Planner: M.A.
Date Filed: 3-17-94
PETITION PROCESSING FLAG
This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Signia. A copy of this "Flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.
Need an attorney
The following information is missing:
Descriptions, including accurate beginning point
Actual address of property
Zoning
Setbacks
Plats (need 12, only submitted)
200 scale zoning map with property outlined
Election district
Councilmanic district
BCZS section information and/or wording
Hardship/practical difficulty information
Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
Power of attorney or authorization for person signing for legal owner and/or contract purchaser
Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
Notary Public's section is incomplete and/or incorrect and/or commission has expired
PET-FLAG (TEXTONLY)
11/17/93

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
ZONING HEARING, ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES
Baltimore County Zoning Regulations require that notice be given to the general public/interested property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.
This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.
PAYMENT WILL BE MADE AS FOLLOWS:
1) Posting fees will be assessed and paid to this office at the time of filing.
2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDERS.
Arnold Jablon, Director
For newspaper advertising:
Item No.: 350
Petitioner: Victoria Bagowski
Location: 1609 Fawcett Ave
PLEASE FORWARD ADVERTISING BILL TO:
NAME: F. Michael Grace, Esquire
General Counsel, P.A.
ADDRESS: 300 Frederick Road, Suite 100
Towson, MD 21204
PHONE NUMBER: 410 744 5724
A/Type (Revised 04/09/93)

TO: POTENTIAL PETITIONER COMPANY
March 21, 1994 Issue - Information
Please forward billing to:
F. Michael Grace, Esq.
General Counsel, P.A.
300 Frederick Road, Suite 100
Towson, MD 21204
410-744-5724
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 109 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 at
Room 109, Old Courthouse, 600 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 94-363-A (Item 350)
1609 Fawcett Avenue
1609 Fawcett Avenue, 279.75' SE of &/ Ridge Road
13th Election District - 1st Councilmanic
Legal Owner(s): Victoria B. Bagowski
Contract Purchaser(s): Christopher F. Bagowski and Monica A. Bagowski
HEARING: THURSDAY, APRIL 26, 1994 at 10:00 a.m., Rm. 118, Old Courthouse.
Variances to permit a lot width of 50 feet in line of the required 55 feet and side yard setbacks of 8 feet in line of the required 10 feet and to approve an unbracketed lot.
LAWRENCE E. SCHULTZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY
NOTES: (1) HEARINGS ARE UNRECORDED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
MARCH 24, 1994
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 109 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 at
Room 109, Old Courthouse, 600 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 94-363-A (Item 350)
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Variances to permit a lot width of 50 feet in line of the required 55 feet and side yard setbacks of 8 feet in line of the required 10 feet and to approve an unbracketed lot.
Arnold Jablon
Director
RE: Victoria B. Bagowski
Christopher and Monica Bagowski
F. Michael Grace, Esq.
NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE UNRECORDED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
April 15, 1994
F. Michael Grace, Esquire
Gisriel & Brub, P.A.
300 Frederick Road, Suite 100
Baltimore, Maryland 21228
RE: Case No. 94-363-A, Item No. 350
Petitioner: Victoria B. Bagowski, et al.
Petition for Variance
Dear Mr. Grace:
The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.
Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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 March 17, 1994, and a hearing was scheduled accordingly.
The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.
1. The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director DATE: April 4, 1994
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section
RE: Zoning Advisory Committee Meeting
for April 4, 1994
Item No. 350
The Developers Engineering Section has reviewed the subject zoning item. If the variance is approved, the site is subject to Baltimore County Development Regulations, Divisions 93, 4 and 5 for a minor development.
RWB:aw

Maryland Department of Transportation
State Highway Administration
O. James Lightner
Secretary
1601 KANSAS
ADMINISTRATOR
3-26-94
Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204
Re: Baltimore County
Item No.: 94-363-A (MJK)
Dear Ms. Minton:
This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.
Please contact Bob Small at 410-333-1350 if you have any questions.
Thank you for the opportunity to review this item.
Very truly yours,
Bob Small
for David N. Ramsey, ACTING CHIEF
John-Governable, Chief
Engineering Access Permits
Division
BS/

94-363-A



Street One direction.



Street one direction.



Site
EXHIBIT 2

94-363-A



Site to rear of adjacent parcel



Site to rear of site.



Look from site to adjacent parcel

94-363-A



Looking from site to adjacent parcel



Site.



Adjacent parcel

94-363-A



Front of adjacent parcel to site.



Property line between site and adjacent parcel.



Middle of site to street.

94-363-A



Adjacent property.

PETITIONER'S EXHIBIT 3

AT THE REQUEST OF
VICTORIA B. BAGROWSKI
NO TITLE SEARCH WAS MADE
AND THIS DEED WAS PREPARED
SOLELY ON THE BASIS OF
INFORMATION FURNISHED BY
VICTORIA B. BAGROWSKI

THIS DEED, Made this 31st day of December, in the year
one thousand nine hundred and eighty-seven, by and between
VICTORIA B. BAGROWSKI, widow, of Baltimore County, in the State
of Maryland, party of the First Part, and VICTORIA B. BAGROWSKI,
widow, of the County and State aforesaid, party of the Second Part,
and CHRISTOPHER F. BAGROWSKI, of the County and State aforesaid,
party of the Third Part.

WITNESSETH, that in consideration of the sum of NO CASH and
for other good and valuable consideration, the receipt of which is
hereby acknowledged, the said VICTORIA B. BAGROWSKI, does hereby
grant and convey unto the said VICTORIA B. BAGROWSKI, to sell,
lease, mortgage or otherwise dispose of or encumber the
hereinafter described fee simple property or any part thereof, or
any interest therein (except by testamentary disposition), including
the remainder as well as the life interest and including the
absolute estate therein, and to use and apply the proceeds for their
use or for the use of the survivor of them and without obligation
on the part of the purchaser, mortgagee or lessee of securing the same,
application of the proceeds thereof, and upon the death of the said
VICTORIA B. BAGROWSKI then as to so much of said property as
may not have been disposed of by her under the above-mentioned
powers unto CHRISTOPHER F. BAGROWSKI, his personal
representatives and assigns, in fee simple, all that piece or parcel of
ground situate, lying and being in Baltimore County, State of

BRUCE A. KENT
Attorney at Law
Baltimore, Md. 21201
(410) 547-8808

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THIS DEED
Made this 11th day of September, in the year 1959
by and between
Maria Beert of Broward County, Florida
and Madeline Brown of Baltimore County, Maryland
and
Frank Bagrowski and
Victoria B. Bagrowski, his wife
of Baltimore County, Maryland
GRANTEES.

WITNESSETH, That in consideration of the sum of \$5.00 and other good
and valuable considerations, the receipt on which is hereby acknow-
ledged, the said Grantees do grant and convey unto the said Grantees,
as tenants by the entireties, their assigns, the survivor of them,
and the heirs and assigns of the survivor, in fee simple,
All that lot
lying in Baltimore County
and described as follows:

Beginning for the same on the northeast side of Fairview Avenue at
the distance of 279 feet 9 inches southeasterly from the corner
formed by the said side of Fairview Avenue with the south side of
Ridge Road; running thence southeasterly binding on said side of
Fairview Avenue 100 feet running thence northeasterly at right
angles with Fairview Avenue 125 feet; running thence northeasterly
parallel with Fairview Avenue 100 feet; running thence by a straight
line southeasterly 125 feet to the place of beginning. The improve-
ments thereon being known as No. 1013 Fairview Avenue. Being intend-
ed to comprise all of lots 516 and 518 as shown on Plat of subdivision
known as Haleshorpe recorded among the Land Records of Baltimore
County in Plat Book J. M. 2, No. 1, page 60.

Being the same property which by deed dated November 16, 1949, and recorded
among the Land Records of Baltimore County in Liber T. & S. No. 1789,
folio 459 was granted and conveyed by Carrie L. Ernst and husband to said
Grantees, as joint tenants.

PETITIONER'S
EXHIBIT 4



scale: $\frac{1}{4}'' = 1' - 0$