

IN RE: PETITIONS FOR VARIANCE - NE/S * BEFORE THE
Fairview Ave., 299.75' x 329.75' * DEPUTY ZONING COMMISSIONER
SE of the c/d of Ridge Road * OF BALTIMORE COUNTY
(1809 Fairview Avenue and *
1811 Fairview Avenue) *
13th Election District * Case Nos. 94-363-A & 94-364-A
1st Councilmanic District *
Victoria B. Bagrowski *
Petitioner * * * * *

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 Bal Harbour 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 for 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 undeveloped. 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. McLean v. Selig, 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 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.

- 2 -

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 20 (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

- 3 -

Avenue, in accordance with Petitioner's Exhibit 1, be 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, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for their building permit and be granted same upon receipt of this order; however, Petitioner 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.

Timothy H. Rothrock
TIMOTHY H. ROTHROCK
Deputy Zoning Commissioner
for Baltimore County

TWR:bjs

ORDER RECEIVED FOR FILING
Date 5/17/94
By [Signature]

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By [Signature]

ORDER RECEIVED FOR FILING
Date 5/17/94
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
401 Washington Avenue
Towson, MD 21204
May 17, 1994

(410) 867-4386

F. Michael Grace, Esquire
Gisriel & Brunk, P.A.
300 Frederick Road, Suite 100
Catonsville, Maryland 21228
RE: PETITIONS FOR VARIANCE
NE/S Fairview Ave., 299.75' x 329.75' SE of the c/d 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 867-3399.

Very truly yours,

Timothy H. Rothrock
TIMOTHY H. ROTHROCK
Deputy Zoning Commissioner
for Baltimore County

TWR:bjs

cc: Mrs. Victoria B. Bagrowski
1811 Fairview Avenue, Baltimore, MD 21227
Mr. & Mrs. Christopher F. Bagrowski
430 Old Town Road, Baltimore, MD 21206

People's Counsel

Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 1811 Fairview Avenue, Baltimore, MD 21227 which is presently zoned DR 5.5

This Petitioner shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal counsel of the property, attests to the truthfulness of the statements and facts stated herein and certifies that the property is as described in the declaration and plat attached hereto and made a part hereof. (Seal of the Baltimore County Board of Appeals)
I 1802.3.C.1 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 required 10 feet.

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

- (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 to be law posted and advertised as provided by Zoning Regulations.
I, or my agent, agree to pay expenses of above described advertising, posting, etc., upon filing of this petition, and further agree to and am to be bound by the zoning regulations and ordinances of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Counsel
Victoria B. Bagrowski
Victoria B. Bagrowski
1811 Fairview Avenue
Baltimore, Maryland 21227
Gisriel & Brunk, P.A.
300 Frederick Road, Suite 100
Catonsville, Maryland 21228
410-744-5724
F. Michael Grace, Esquire
Gisriel & Brunk, P.A.
300 Frederick Road, Suite 100
Catonsville, Maryland 21228
410-744-5724
I, or my agent, agree to pay expenses of above described advertising, posting, etc., upon filing of this petition, and further agree to and am to be bound by the zoning regulations and ordinances of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

ORDER RECEIVED FOR FILING
Date 5/17/94
By [Signature]

SONING DESCRIPTION FOR 1811 FAIRVIEW AVENUE ELECTION DISTRICT 13 COUNCILMANIC DISTRICT 01

BEGINNING at a point on the northeast side of Fairview Avenue which is 80 feet wide at a distance of 339.75 feet southeast of the centerline of the nearest improved intersecting street Ridge Road which is 50 feet wide. BEING Lot 8 118 in the subdivision of Bal Harbour as recorded in Baltimore County Plat Book 1, folio 68 containing 6250 Square feet.

CERTIFICATE OF POSTING TOWNSHIP OF BALTIMORE COUNTY Towson, Maryland

Notice of Posting: 4/17/94
Filed for: Victoria B. Bagrowski
Petitioner: Victoria B. Bagrowski
Location of property: 1811 Fairview Ave, NE/S
Location of sign: Large sign on NE corner of property
Signed by: [Signature] Date of return: 4/17/94
Number of signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD. April 1, 1994
THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 31, 1994

THE JEFFERSONIAN
A. Hennickson
LEGAL AD. - TOWSON

351

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: March 31, 1994

SUBJECT: 1809 and 1811 Fairview Avenue

INFORMATION:

Item Number: 350 and 351
Petitioner: Victoria B. Bagrowski
Property Size: _____
Zoning: D.R. 5.5
Requested Action: _____
Hearing Date: 4/1

SUMMARY OF RECOMMENDATIONS:

Should the applicant's request be granted, the building envelope should be reduced to reflect the dimension of the proposed house.

Prepared by: J. H. Long
Division Chief: Carol V. Vane
PK/JLL

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21206-5500

(410) 887-4500

DATE: 03/29/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW Zoning Agenda:

Comments:

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.

B. The Fire Prevention Bureau has no comments at this time, in reference to the following item numbers: 349, 349, 350, 351, and 354.

REVIEWER: LT. ROBERT P. SACERDOTE
Fire Prevention, PHONE 587-4001, HC-1100F

cc: File



Printed on Recycled Paper

PETITION FOR VARIANCE : BEFORE THE
NE/S Fairview Avenue, 329.75' SE : ZONING COMMISSIONER
of Ridge Road (1811 Fairview Ave.), : OF BALTIMORE COUNTY
13th Election Dist., 1st Council- :
manic Dist. : CASE NO: 94-364-A
PETITIONER :
VICTORIA B. BAGROWSKI

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Dwyer
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY THAT on this 11th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to P. Michael Grace, Esq., Clerk & Brush, P.A., 300 Frederick Road, Suite 100, Catonsville, MD 21228, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

94-364-A

#351
SW6D



NTI ASSOCIATES, INC.
3005 Old Frederick Rd.
Mt. Airy, MD 21772
(301) 442-2032

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 1811 FAIRVIEW AVENUE See pages 2 & 3 of the CHECKLIST for additional required information

Subdivision name: Holthorpe

post number: 1, 2nd 60, 4th 513, 5th 513

OWNER: VICTORIA B. BAGROWSKI

LOT 513 LOT 515 LOT 517
80.0' 80.0' 80.0'
LOT 514 LOT 516 LOT 518
125' 125' 125'
MONTY L. ANDERSON
LOT 514
34'
#1807
3STORY
FRAME
125'
80.0'
FAIRVIEW AVENUE 50' R/W
SCALE 1"=20'
DATE 2-16-94

VICTORIA B. BAGROWSKI
W.R. 387' 7/8
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