

AJ

IN RE: PETITION FOR VARIANCE
E/S Baker Avenue, 18' N of
centerline of Moreland Avenue
14th Election District
6th Councilmanic District
8823 Baker Avenue
John F. Bassford
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 99-382-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a petition for variance filed by the legal owner of the subject property, John F. Bassford, as personal representative of his father, Samuel Bassford. The variance request is for property located at 8823 Baker Avenue in the Parkville area of Baltimore County. The variance request is to allow a lot width of 43 ft. in lieu of the required 55 ft. and to approve a sideyard setbacks of 7 ft. and 8 ft. in lieu of the required 10 ft. and also to approve an undersized lot pursuant to Section 304. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the request were: Vince Moskunas, the professional engineer who prepared the site plan of the property; Bill Schmidbauer, a realtor, who is also working with the Bassford family; and Donald Aquiland on behalf of Dakota homes, purchaser of the property. There were no protestants in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.275 acres, more or less, zoned D.R.5.5. The subject property is located on Baker Avenue in the Parkville area of Baltimore County. The residential subdivision known as Ridge Grove was created and recorded in 1922. These lots have been lots of record since that time. The subject property consists of two 25 ft. lots and is unimproved at this time. The Petitioner is desirous of constructing a single family home on these two lots. They have submitted to the Office

of Planning elevation drawings of the house to be built. The Planning Office has recommended approval of the variance request, after reviewing the elevation drawings.

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 a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient 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).

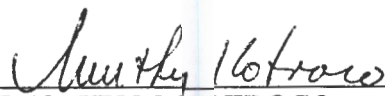
After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this 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 relief requested will not cause any injury to the public health, safety or general welfare, and meets 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.

THEREFORE, IT IS ORDERED this 15th day of June, 1999, by this Deputy Zoning Commissioner, that the Petitioner's request for variance to allow a lot width of 43 ft. in lieu of the required 55 ft. and to approve sideyard setbacks of 7 ft. and 8 ft. in lieu of the required 10 ft. and also to approve an undersized lot pursuant to Section 304, in accordance with Petitioner's Exhibit 1,

be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 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 his 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) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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