

IN RE: PETITION FOR VARIANCE
S/S of South Ridge Road, 60 ft. W
centerline of Whitway Road
1st Election District
1st Councilmanic District
(827 Southridge Road)

Anthony Butler
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-580-A

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* * * * *

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, Anthony Butler. The Petitioner is requesting variance relief for property located at 827 Southridge Road in the western area of Baltimore County. The variance request is from Section 409.6.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow one parking space in lieu of the required four spaces (including two spaces for the existing dwelling) and relief from Section 432.A.C.1 of the B.C.Z.R., to allow parking space side setbacks of four feet and six feet in lieu of the minimum required ten feet each.

The property was posted with Notice of Hearing on June 1, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 2, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted

as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated June 7, 2005, a copy of which is attached hereto and made a part hereof, which recommended the Petition be denied. In addition a ZAC comment was received from the Bureau of Plans Review, dated May 25, 2005, a copy of which is attached hereto and made a part hereof

Interested Persons

Appearing at the hearing on behalf of the variance request was Vincent Carter, and Wanda Williams, the Petitioner's sister. Joseph Larson of Spellman & Larson Associates appeared on behalf of the Petitioner. Carolyn Morris, Mary Jo Valkos and Steve Whisler appeared in opposition to the Petition. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is approximately 1900 sq. ft. and zoned DR 10.5, is improved by an inside the row townhouse. Ms. Williams indicated that she would like to operate an assisted living facility in the home with four beds. The home has three bedrooms and bath on the second floor, kitchen dining room and living room on the first floor and a fully finished basement with a new bath in the basement.

Ms. Williams, who would operate the facility, indicated that she would have two assisted living facility patients in a bedroom and that her disabled brother would have the third bedroom for a total of five persons upstairs. She and her fiancée would live in the basement. She noted that, although she has three vehicles, she has work hours different from her fiancée so that she did not see a problem parking between them. She also agreed that it could be a condition of approval that no assisted living patient could drive a vehicle so that there would be no additional parking required. There is one on-site parking space in the rear of the home as shown in Petitioner's Exhibit 1. Nevertheless, under the regulations she needs 4 spaces total. Finally, she indicated that the existing parking pad in the rear does not meet the setback requirements for parking spaces for assisted living facilities and thus requires a variance. On questioning she indicated that in addition to herself, her daughter might become an employee and come to the home to assist her mother with the patients.

Mr. Larson noted that the lot is narrow and there is no way for the Petitioner to meet the parking space setback requirements or provide more spaces on site. He indicated that in his opinion this was an undue hardship on the Petitioner. He re-emphasized that no Assisted Living patient would drive. Consequently, he opined that there would be no adverse impact on the community. Finally, he noted that State law would permit 5 beds for a home of this size and that the Petitioner could operate a three-bed facility without a variance.

The Protestants questioned whether granting this variance would somehow affect parking on the street and parking on the street to the Petitioner. Mr. Larson assured the questioners that this would not occur. The Protestants generally indicated that this row house neighborhood had parking problems now as many families have several vehicles. Ms. Morris indicated that Ms. Williams is a wonderful neighbor.

Mr. Whisler, President of Westview Park Improvement and Civic Association, indicated his concern with additional parking on the street. He stated that a row home is not an appropriate place for an assisted living facility, that granting the variance would result in too many people in this townhouse, that there is already a rodent problem which would become worse if additional people occupied this residence. He agreed with the Office of Planning that the request should be denied. He noted that there were already 14 assisted living facilities in Westview Park. Finally, he indicated that the condition of approval suggested by the Petitioner, that no patients be allowed to drive, would be nearly impossible to enforce.

Findings of Fact and Conclusions of Law

I admire Ms. Williams' desire to provide an assisted living facility for the area. She undoubtedly is a wonderful neighbor as Ms. Morris indicated. I am sure she would provide excellent care for her patients. However, this case is about a zoning variance, which under the regulations requires four parking spaces. Ms. Williams can provide only one.

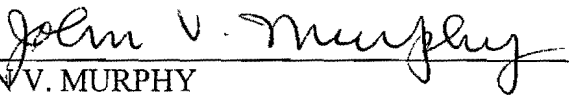
Even if I accept Mr. Larson's argument that this property is unique from a zoning standpoint, having up to eight people in this townhouse will have a negative affect on the neighborhood. Ms. Williams has three vehicles and her daughter may well arrive to work by car. I also agree with Mr. Whisler that enforcing a provision in the order that no patient drive, would be extremely difficult. Finally, I note the Office of Planning's opposition to the Petition.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be denied.

THEREFORE, IT IS ORDERED, this 23 day of June, 2005, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Section 409.6.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow one parking space in lieu of the required four

spaces (including two spaces for the existing dwelling and relief from Section 432.A.C.1 of the B.C.Z.R., to allow parking space side setbacks of four feet and six feet in lieu of the minimum required ten feet each, be and is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 827 SOUTH RIDGE RD.

which is presently zoned DR 10.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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(s) 409.6.1 To allow one parking space in lieu of the required four spaces (including two spaces for the existing dwelling).

432A.C.1.
Section ~~432.5.B-1.B(1)~~ To allow parking space side setbacks of four feet and six feet in lieu of the minimum required ten feet each.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

THE REASONS FOR VARIANCE & ARGUMENT TO BE PRESENTED @ HEARING.

Property is to be posted and advertised as prescribed by the zoning regulations.
or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded 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/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

Name ANTHONY BUTLER
Name - Type or Print _____
Signature Anthony Butler
Signature _____
Name - Type or Print _____
Signature _____
Address 827 SOUTH RIDGE RD. Telephone No. 410-521-8108
City CATONSVILLE State MD Zip Code 21228

Representative to be Contacted:

Name JOSEPH LARSON
Name _____
Address 105 W. CHESAPEAKE AVE Telephone No. 410-823-3535
City TOWSON State MD Zip Code 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2.00

UNAVAILABLE FOR HEARING

Reviewed By [Signature] Date 5-11-05

Use No. D5-580 A

**Department of Permits and
Development Management**

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



Baltimore County

*James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director*

June 10, 2005

Anthony Butler
827 Southridge Road
Catonsville, Maryland 21228

Dear Mr. Butler:

RE: Case Number: 05-580-A, 827 Southridge Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 11, 2005.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Joseph Larson 105 W. Chesapeake Avenue Towson 21204



Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*



Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: 5.20.05

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 580 JJS

Dear Ms. Matthews:

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 affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at lgredlein@sha.state.md.us.

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

May 23, 2005

ATTENTION: Zoning Review Planners

Distribution Meeting of April 4, 2005

Item No. 568,570,571,573,574,575,576,577,579,580,581,582

Pursuant to your request, the above referenced plan(s) have been reviewed by this Office and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Department has no comments at this time.

If you have any questions contact my office.

Acting Lt. Warren T. Moffitt
Fire Marshal's Office
410-887-4880
MS-1102F

Cc:file

Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: May 25, 2005

FROM: Dennis A. Kennedy, Acting Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 31, 2005
Item No. 580

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The minimum right-of-way for all public roads in Baltimore County is 40-feet. Setback shall be modified accordingly.

DAK:CEN:clw

cc: File

ZAC-ITEM NO 580-05252005.doc

CD

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: June 7, 2005

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 827 Southridge Road

INFORMATION:

Item Number: 5-580

Petitioner: Anthony Butler

Zoning: DR 10.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

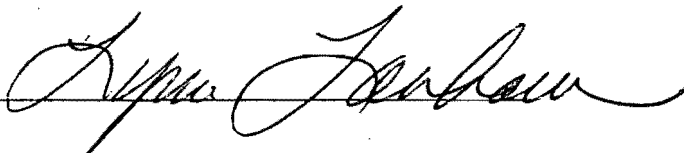
The Office of Planning is of the opinion that if the minimum number of required off-street parking cannot be provided, an assisted living facility should not be established within the subject townhouse. As such, this office recommends that the petitioner's request be **DENIED**.

For further information concerning the matters stated here in, please contract Dennis Wetrz at 410-887-3480.

Prepared by:



Division Chief:



AFK/LL:MAC:

RE: PETITION FOR VARIANCE * BEFORE THE
827 Southridge Road; S/side Southridge Road, *
601' W c/line Whitway Road * ZONING COMMISSIONER
1st Election & 1st Councilmanic Districts *
Legal Owner(s): Anthony Butler * FOR
Petitioner(s) * BALTIMORE COUNTY
* 05-580-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 2005, a copy of the foregoing Entry of Appearance was mailed to, Joseph Larson, 105 W. Chesapeake Avenue, Towson, MD 21204, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
MAY 20 2005
Per. [Signature]

SOUTHRIDGE ROAD

(60 FT. R/W - 30 FT. PAVING)

EX. 8" WATER MAIN

EX. 24" STORM DRAIN

EX. 8" SANITARY SEWER

EX. CURB & GUTTER

DR 5.5

DR 10.5

60'± TO THE C
OF WHITWAY ROAD

S 72° 16' 30" W 19.0'

POINT OF
BEGINNING

LOT 3

25.0'±

LOT 2

LOT 1

PORCH

29 FT. MBSL

827

2 STORY
BRICK
DWLG

100'

28.0'

CAROLYN DENISE MORRIS

3846-411

TAX NO. 0113551500

JAMES W. KEMP JR

SCANNE S. KEMP

4994 - 189

TAX NO. 011153050

DR 10.5

30.0'

43'

17°

43'

17°

43'

17°

43'

17°

43'

17°

43'

17°

43'

17°

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43'

17°

43'

17°

N 72° 16' 30" E 19.0'

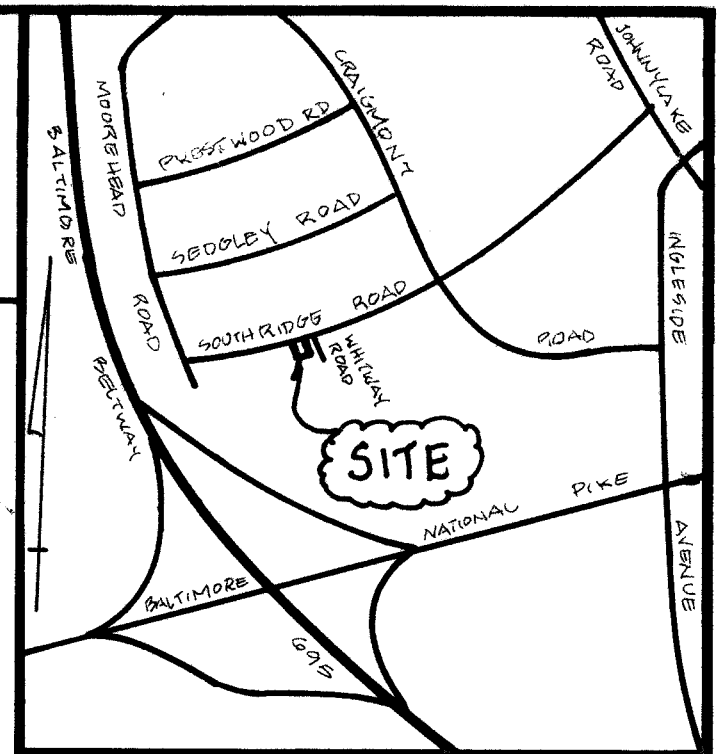
DR 10.5

BM-CT

16 FT ALLEY

OWNER INFORMATION

ANTHONY BUTLER
827 SOUTHRIDGE ROAD
BALTIMORE, MD 21228



VICINITY MAP

SCALE: 1" = 1000'

SITE DATA

SITE AREA	10000 SQ. FT.
EXIST. ZONING	DR 10.5
ZONING MAP	095 A3
COUNCILMANIC DISTRICT	1ST.
DEED REFERENCE	14035-255
TAX ACCOUNT NO	0113065840
TAX MAP / GRID / PARCEL	95 / 19 / 195
EXIST. USE	RESIDENTIAL
PROP. USE	RESIDENTIAL & ASSISTED LIVING FACILITY (4 BEDS)

GENERAL NOTES

1. THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
2. THERE ARE NO ARCHEOLOGICAL SITES, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, CRITICAL AREAS, OR HISTORICAL BUILDINGS ON THE SUBJECT SITE.
3. THE SUBJECT SITE HAS NO PREVIOUS ZONING CASE HISTORY.
4. THE SUBJECT PROPERTY HAS NO UNDERGROUND STORAGE TANKS.
5. THERE ARE NO STREAMS, BODIES OF WATER, OR SPRINGS ON OR ADJACENT TO THE SUBJECT SITE.
6. THE SUBJECT SITE DOES NOT LIE WITHIN A 100 YR FLOOD PLAIN.
7. THE EXISTING DWELLING AS SHOWN HEREON WAS CONSTRUCTED IN 1958.
8. THE EXISTING DWELLING AS SHOWN HEREON HAS NOT BEEN ENLARGED BY 25% OR MORE WITHIN THE PAST 5 YEARS.

580

PLAT TO ACCOMPANY
ZONING PETITION

827 SOUTHRIDGE ROAD

BLOCK D LOT 2

WESTVIEW PARK
SECTION 7A
GLB22 FOLIO 22

1ST DISTRICT BALTIMORE CO., MD.

SCALE: 1" = 10' APRIL 27, 2005
REV. MAY 5, 2005

PARKING CALCULATIONS

REQUIRED:
RESIDENTIAL = 2 SPACES
ASSISTED LIVING (4 BEDS)
1 SPACE / 3 BEDS = 2 SPACES
TOTAL REQ. = 4 SPACES
PARKING PROVIDED = 1 SPACE

**SPELLMAN, LARSON
& ASSOCIATES, INC.**
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BUILDING
TOWSON, MARYLAND 21204
PHONE: 410-823-3535
FAX: 410-825-5215

SURVEYORS
CERTIFICATION

205044