

IN RE: **PETITION FOR VARIANCE**

N/Side Martell Avenue, 372' E of
West Avenue
(7102 Martell Avenue)
12th Election District
7th Council District

Charles D. Allen, et ux
Petitioners

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BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-388-A

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Charles D. Allen and his wife, Frances D. Allen. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition with a side yard setback of zero (0) feet in lieu of the required 10 feet, and to amend the previously approved site plan in Case No. 96-190-A.¹ The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Charles and Frances Allen, property owners. There were no Protestants or other interested persons present; however, this matter came before me as the result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management filed by Richard Kosinski relative to the carport/garage at issue. A resolution of the violation case (Case No. 07-0183) is pending the outcome of this variance request.

¹ In Case No. 96-190-A, Deputy Zoning Commissioner Timothy M. Kotroco, by his Order dated 12/13/95, granted Petitioners a variance from Sections 400, 301.1 and 1B02.3.C.1 of the B.C.Z.R. to permit an existing detached accessory structure (freestanding 10' x 20' carport) in the front yard in lieu of the required rear yard and to permit a side yard setback of zero (0) feet in lieu of the required 7.5 feet for an existing open projection (carport) attached to the existing dwelling. It is this open projection (carport) attached to the existing dwelling which is the same structure involved in the instant petition.

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By [Signature]

Testimony and evidence offered at the hearing disclosed that the subject property is a rectangular shaped parcel (50' wide x 250' deep), located on the north side of Martell Avenue just south of Holabird Avenue in the Dundalk area of the County. The property contains a gross area of 12,500 square feet, more or less, zoned D.R.5.5, and is improved with a one-story dwelling, freestanding 10' x 12' front yard carport, above-ground pool, two sheds in the rear yard and the garage/carport structure that is the subject of this request. As shown on the site plan, the original open projection carport attached to the existing dwelling is 10' wide x 20' deep. The Petitioners testified that they have resided in their home since 1983 and are now retired. At their previous zoning hearing, they were granted a zero (0) foot side yard setback for the carport. In an effort to reduce energy costs as well as protect their property and cars from damage, they hired a contractor to enclose the carport. As evidenced by BGE bills submitted (Petitioners' Exhibit 2 - before enclosure and Petitioners' Exhibit 3 - after enclosure), these efforts have reduced energy costs and resulted in a \$200 a month savings. The kitchen and side door(s) are located inside the carport and were subject to drafts despite the installation of insulated glass windows, etc. The adjacent property on the east side (7104 Martell Avenue) is owned by Charlotte May Diekmann, who resides on Holabird Avenue and rents out the Martell Avenue two-story home. To indicate a strained relationship has developed would be quite an understatement. Mr. and Mrs. Allen give accounts of approximately 20 police responses to 7104 Martell Avenue in the past. It is thought that the property qualified as a Section 8 subsidized rental and the current tenants with their five children produce a lot of visitors, many who stay on the property for extended lengths of time. The enclosed carport prevents damage to the Allen's automobiles and property as well as providing them with some quiet enjoyment. Moreover, they thought that since they previously

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obtained a zero (0) foot variance in 1995 they were unaware that a permit was needed in order to enclose the carport. Thus, the requested variance relief is now necessary.

After due consideration of the testimony and evidence presented, I am persuaded to grant the variance. Relief is relatively minor given the previous determination in Case No. 96-190-A. Moreover, it is clear from the photographs submitted that the enclosed exterior wall siding matches that of the Petitioners home and is not out of character with others in the neighborhood. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by the Fire Marshal's Office even though Mr. Richard Kosinski, who did not attend the hearing but believes it is a fire hazard. Mr. Kosinski does not reside in the immediate neighborhood and none of the other neighbors voiced any opposition. In any event, I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale. However, as a condition of approval, I will require removal of the enclosure at such time as the property is sold or within fourteen (14) years of the date hereof.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of May 2007 that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an addition with a side yard setback of zero (0) feet in lieu of the required 10 feet, and to amend the previously approved site plan in Case No. 96-190-A, in accordance with Petitioners' Exhibit 1, be and the same 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, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an

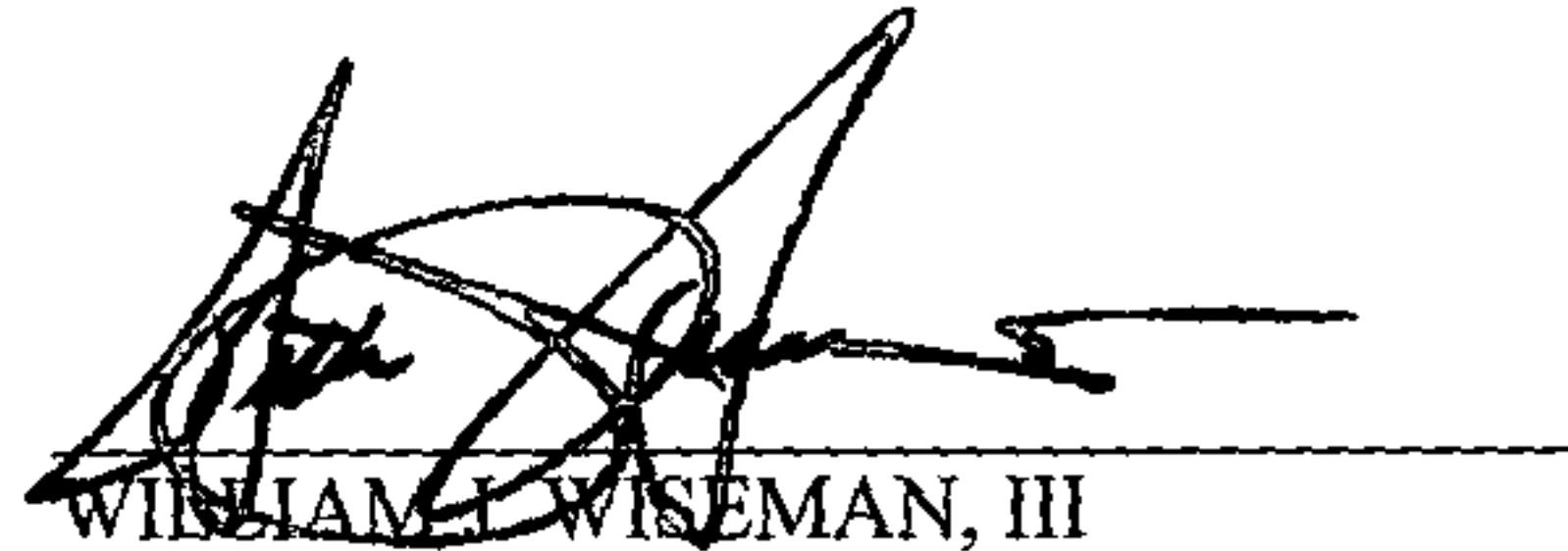
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appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) This variance is granted to the Petitioners only and will not run with the land. Should the Petitioners no longer use the subject property as their principal residence or at such time as the property is sold or within fourteen (14) years from the date hereof, whichever is first to occur, Petitioners shall remove the wall enclosing the carport so as to conform with the Order of this Commission in Case No. 96-190-A.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

WJW:dlw


WILLIAM WISEMAN, III
Zoning Commissioner
for Baltimore County

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By 1283



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

May 7, 2007

Mr. Charles D. Allen
Mrs. Frances D. Allen
7102 Martell Avenue
Baltimore, Maryland 21222

RE: PETITION FOR VARIANCE

N/Side Martell Avenue, 372' E of West Avenue
(7102 Martell Avenue)
12th Election District - 7th Council District
Charles D. Allen, et ux - Petitioners
Case No. 07-388-A

Dear Mr. and Mrs. Allen:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted with restrictions 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 Department of Permits and Development Management office at 887-3391.



PROPERTY DESCRIPTION FOR 7102 MARTELL AVENUE

Beginning at a point on the north side of Martell Avenue at the distance of three hundred and seventy-two (372) feet and nine (9) inches, more or less, westerly from the corner or intersection of the north side of Martell Avenue and the west side of West Avenue, thence westerly along the north side of Martell Avenue fifty (50) feet to Lot No. 24 two hundred and fifty (250) feet to the south side of a fifteen foot alley, thence easterly along the south side of said alley with the use thereof in common, fifty (50) feet to Lot. No. 26, thence southerly parallel with West Avenue and along the Western outline of Lot No. 26 two hundred and fifty feet (250) to the place of beginning. Being Lot #25, Block -, Section# - in the subdivision of Lorraine Park as Recorded in Baltimore County Plat Book #4 folio 82, containing 12,500 square feet. Also known as 7102 Martell Avenue and located in the 12th Election District, 7th Councilmanic District.

J. M. Brode

388

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 07-388-A

7102 Martell Avenue
N/Side of Martell Avenue at the distance of 372 feet east of West Avenue

12th Election District - 7th Councilmanic District

Legal Owner(s): Charles & Frances Allen

Variance: to permit an addition with a side yard setback of 0 feet in lieu of the required 10 feet and to amend the previously approved site plan on case 96-190-A.

Hearing: Tuesday, May 1, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 24921

DATE 3-1-07

ACCOUNT 001-006-6150

AMOUNT \$ 65.00

RECEIVED FROM:

Chm. (20 A11-47)

7002 MARSHALL AVE
D-4444 L. V. VERICE

FOR:

ITEM # 388

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

RECEIVED

APR 19 2007

07-633

DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

RE

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: March 6, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For March 12, 2007
Item Nos. 07-374, 377, 378, 379, 380, 381,
382, 383, 384, 385, 386, 387, and 388

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-03062007.doc

Case No: 07-0183Address: 07102 MARTELL AVE 21222Insp Area: 017 Dist: 000 Date Rcv: 1/29/2007 Grp: ENF Intk: HOPKINS, KInspec: ECKER, E Inspec2: Date Inspec: 4/21/2007Close: 0/00/0000 Activity: Delete: Problem: ENCLOSING EXISTING CARPORT ON PROP. LINE W/O PERMITCL Name: KOSINSKI RICHARDCL Address: 00000CL Home Phone: 410-274-6288 CL Work Phone: Tax Acct. 1207000260Owner: ALLEN, CHARLES & FRANCES

Enter=Continue F12=Cancel

DATE: 01/29/2007

STANDARD ASSESSMENT INQUIRY (1)

TIME: 10:00:19

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
12 07 000260	12	3-0	04-00	H	NO		01/08/07
ALLEN CHARLES D				DESC-1.. IMPS			
ALLEN FRANCES D				DESC-2.. MARTELL PLAT			
7102 MARTELL AVE				PREMISE. 07102 MARTELL		AVE	

00000-0000

BALTIMORE

MD 21222-3140 FORMER OWNER: GASPICH MARY

FCV			PHASED IN		
PRIOR	PROPOSED				

EE

[Handwritten signature]

410274 6288

COMP

Richard Kosinski

Re-7102 Martell Ave

John says you should
go back out there.

~~*[Handwritten signature]*~~

CHARLES & FRANCES ALLEN

7102 MARTELL AVE

BALT MD 21222

12 07-000260

BW #1
07-388-A

Mr. William

Here are the pictures
you requested

Thank you

RECEIVED
MAY 07 2007

BY:.....

Charles D Allen
7102 Martell Ave
Dundalk 21222

Mr. Kosinski

left

the attached
photos

as

were as

Copy of attached

sign posting

on 5/2

