

IN RE: PETITION FOR ADMIN. VARIANCE
SW corner of Magnolia Avenue and Winans
Avenue
12th Election District
1st Councilmanic District
(4617 Magnolia Avenue)

Michael and Charlene Reilly
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0005-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Michael and Charlene Reilly for property located at 4617 Magnolia Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (replace an existing in-ground swimming pool) located in the one third of the lot closest to the street in lieu of the required third of the lot farthest removed from the street. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners state in the Affidavit that there is already an existing in-ground pool that has been installed since July, 2005 in this location. Prior to the installation of an in-ground swimming pool there was an above-ground 16 feet x 40 feet pool in the same location for about 17 years. The permit was given to Mitchell Norris of Dolphin Pool who installed the pool without telling the Petitioners that he had indicated the pool would be installed in a different location when he got the original permit.

Petitioners were previously granted Administrative Variance approval in Case No. 06-247-A to permit a 6-foot high fence adjacent to the front yard of an adjoining property in lieu of the maximum allowed height of 3.5 feet. This request was granted by Zoning Commissioner William J. Wiseman, III on December 1, 2005.

ORDER RECEIVED FOR FILING

Date 5.24.10

By PS

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated August 5, 2009 which indicates that the rear yard and pool should be screened with an attractive 6-foot high privacy fence.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 23, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The subject Administrative Variance closed on August 3, 2009 and the required posting date was July 19, 2009. Upon the file being delivered to our Office on August 30, 2009, it was discovered that the required posting was not done. In a telephone conversation with the Petitioner (Mr. Reilly) on August 12, 2009, he stated that the variance was not necessary and he was not going through with the project. Therefore, the file for Case No. 2010-0005-A was subsequently returned to the Zoning Review Office. On May 5, 2010, the subject case file was brought to our Office. The case file now contains a Certificate of Posting for August 23, 2009. In a telephone conversation with Mrs. Reilly on May 13, 2010, she indicated that they have received all their permits and approvals for the existing pool.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners. I will require that Petitioners' rear yard and in-ground swimming pool be screened with an attractive

ORDER RECEIVED FOR FILING

Date 5.24.10

2

By PS

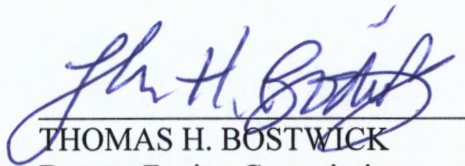
6-foot high privacy fence as suggested by the Office of Planning. The photographs submitted with the Petition depict a chain link fence of average height surrounding the rear yard. It appears from the photographs that the chain link fence is the original fencing and that the Petitioners have not installed the 6-foot high fence as requested and approved in their previous administrative variance, Case No. 06-247-A.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 24th day of May, 2010 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (replace an existing in-ground swimming pool) located in the one third of the lot closest to the street in lieu of the required third of the lot farthest removed from the street is hereby GRANTED, subject to the following:

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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The rear yard and in-ground swimming pool shall be screened with an attractive 6-foot high privacy fence.

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING

Date 5.24.10

3

By PZ



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

May 24, 2010

MICHAEL AND CHARLENE REILLY
4617 MAGNOLIA AVENUE
BALTIMORE MD 21227

Re: Petition for Administrative Variance
Case No. 2010-0005-A
Property: 4617 Magnolia Avenue

Dear Mr. and Mrs. Reilly:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



TAX. ACCOUNT # [] [] [] [] [] [] [] [] [] [] []

Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 4617 Magnolia Ave.
which is presently zoned DR-S.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)

see attached

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations. I, 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 _____

Legal Owner(s):

MICHAEL F. REILLY
Name - Type or Print _____
Michael F Reilly
Signature _____
CHARLENE M. REILLY
Name - Type or Print _____
Charlene M Reilly
Signature _____
4617 MAGNOLIA AVE 410-242-6034
Address Telephone No. _____
BALTIMORE MD 21227
City State Zip Code _____

Attorney For Petitioner:

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

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

ORDER RECEIVED FOR FILING

Date 5.24.10

By PJ

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2010-0025-A

Reviewed By BR Date 7/6/09

REV 10/25/01

Estimated Posting Date 7/19/09

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 4617 MAGNOLIA AVE
Address
BALTIMORE MD 21227
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

1. There is already an existing in ground pool that has been installed since July 2005. in this location.
2. Prior to the installation of the in ground pool there was an above ground pool 16'x40' in the same location for about 17 years.
3. The installer, Mitchel Norris of Dolphin pools was given a permit for the in ground pool but did not tell us he changed the location of the pool on the drawing indicating it would be installed in a different location when he got the original permit.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Charlene M. Reilly
Signature
Charlene M. Reilly
Name - Type or Print

Signature

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6 day of July, 2009, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Charlene M. Reilly
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Michele McFarland
Notary Public
My Commission Expires September 14, 2010

400.1 to permit an accessory structure (replace an existing in-ground swimming pool) be located in the one-third of the lot closest to the street in lieu of the required third of the lot farthest removed from the street.

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 4617 MAGNOLIA AVENUE HALETHORPE, MARYLAND 21227

Beginning at a point on the South side of Magnolia Avenue which is twenty (20) feet wide at the distance of thirty five (35) feet west of the centerline of the nearest improved intersecting street Winans Avenue which is twenty (20) feet wide. Being Lot # 288-289 in the subdivision of Halethorpe as recorded in the Baltimore County Plat Book #1, Folio 60 containing 15,000 square feet. Also known as 4617 Magnolia Avenue and located in the thirteenth (13) Election District, 1st Councilman District.

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT**

No. 39289

Date: 7/6/09

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
7/06/2009 7/06/2009 15:35:03 5

REQ NO:06 - BALCON RENT FOR RECEIPT # 644978 7/06/2009 DFLN

DEPT 5 - ZENITH VERIFICATION DR NO. 039289

Receipt Tot. 165.00
165.00 EX 1.00 CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	606	000		610				165.00

Total: 165.00

Rec From: Charles Kelly

For: PT. Station - Car Wash

DISTRIBUTION
 WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

ZONING NOTICE

ADMINISTRATIVE

VARIANCE

CASE # 2010-0005-A

TO PERMIT AN ACCESSORY STRUCTURE (REPLACE AN EXISTING IN GROUND SWIMMING POOL) BE LOCATED IN THE $\frac{1}{3}$ OF THE LOT CLOSEST TO THE STREET IN LIEU OF THE REQUIRED $\frac{1}{3}$ OF THE LOT FARTHEST REMOVED FROM THE STREET

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE AN ELIGIBLE INDIVIDUAL OR GROUP MAY REQUEST A PUBLIC HEARING CONCERNING THE PROPOSED VARIANCE. PROVIDED IT IS DONE IN THE ZONING OFFICE BEFORE 4:30 p.m. ON 9-7-09

ADDITIONAL INFORMATION IS AVAILABLE AT ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21284
TEL. 887-3391

MEETING IS HANDICAP ACCESSIBLE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2000- 2005 -A Address 4617 Magnolia Ave.
Contact Person: Bruno Redaitis Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 7/6/09 Posting Date: 7/19/09 Closing Date: 8/3/09

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2000- 0005 -A Address 4617 Magnolia Ave.
Petitioner's Name Michael and Charlene Reilly Telephone _____
Posting Date: 7/19/09 Closing Date: 8/3/09
Wording for Sign: To Permit an accessory structure (in-ground swimming pool)
be located in that ^{third} part of the rear yard closest to the road in
lieu of the required third part setback from the road.

WCR - Revised 7/7/08

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring 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 (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2010-0005-A

Petitioner: MICHAEL and CHARLENE REILLY

Address or Location: 4617 MAGNOLIA AVE BALTO. MD 21227

PLEASE FORWARD ADVERTISING BILL TO:

Name: MICHAEL REILLY

Address: 4617 MAGNOLIA AVE
BALTO. MD. 21227

Telephone Number: 410-242-6034

Revised 7/11/05 - SCJ



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

August 4, 2009

Michael & Charlene Reilly
4617 Magnolia Ave.
Baltimore, MD 21227

Dear: Michael & Charlene Reilly

RE: Case Number 2010-0005-A, 4617 Magnolia Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 6, 2009. This letter is not an approval, but only a **NOTIFICATION**.

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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

AV
8-3-09
closing

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

SEP 09 2009



ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: September 9, 2009

SUBJECT: Zoning Item # 10-005-A
 Address 4617 Magnolia Avenue
 (Reilly Property)

Zoning Advisory Committee Meeting of July 20, 2009

X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Reviewer: JWL

Date: 9/9/2009

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 5, 2009

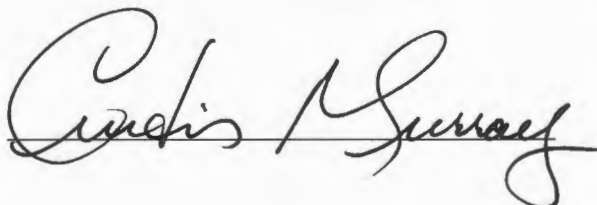
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-005- Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and requests that the rear yard and pool be screened with an attractive 6-foot high privacy fence.

For further questions or additional information concerning the matters stated herein, please contact Dennis Wertz in the Office of Planning at 410-887-3480.

Prepared By:
CM/LL



RECEIVED

AUG 06 2009

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 27, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For July 27, 2009
Item Nos. 2010-001, 003, 004, 005, 006,
007, 008, 009, 010, 011, 013, 016, 017,
018 and 019

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

DAK:CEN:hta
cc: File
ZAC-072709-NO COMMENTS



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

July 24, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: July 20.2009

ItemNumbers:0001,0002,0003,0004,0005,0007,0008,0009,0010,0013,0014,0016,0017,0019

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

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File



Martin O'Malley, Governor |
Anthony G. Brown, Lt. Governor

Beverley K. Swaim-Staley, Acting Secretary |
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: July 21, 2009

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

RE: Baltimore County
Item No 2000-0005-A
4617 MAGNOLIA AVE
REILLY PROPERTY
ADMIN. VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0005-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

A handwritten signature in black ink that reads "Michael Bailey".

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Patricia Zook - Case 2010-0005-A and Case 2010-0009-A - Planning comments needed

From: Patricia Zook
To: Murray, Curtis
Date: 8/4/2009 4:15 PM
Subject: Case 2010-0005-A and Case 2010-0009-A - Planning comments needed
CC: Are, Kathy

Good afternoon -

The below-described administrative variance files were just brought to our office. Both files are missing comments from the Office of Planning.

CASE NUMBER: 2010-0005-A

4617 Magnolia Avenue
Location: SW corner of Magnolia Avenue and Winans Avenue.
13th Election District, 1st Councilmanic District
Legal Owner: Michael and Charlene Reilly
Closing Date: 8/3/2009

ADMINISTRATIVE VARIANCE To permit an accessory structure (replace an existing in-ground swimming pool) be located in the one third of the lot closest to the street in lieu of the required third of the lot farthest removed from the street.

CASE NUMBER: 2010-0009-A


3023 5th Avenue
Location: S side of 5th Avenue; 540 feet W of the c/l of Harford Road.
11th Election District, 6th Councilmanic District
Legal Owner: Gregory and Penny Summons
Closing Date: 8/3/2009

ADMINISTRATIVE VARIANCE To permit an addition with a 15 foot rear setback in lieu of the required 30 feet.

Thanks for your help.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204
410-887-3868
pzook@baltimorecountymd.gov

M E M O R A N D U M

DATE: August 12, 2009
TO: To The File
FROM: Patricia Zook, Legal Secretary for 
Thomas H. Bostwick, Deputy Zoning Commissioner
for Baltimore County
SUBJECT: Case No. 2010-0005-A – 4617 Magnolia Avenue

The above case is an Administrative Variance that closed on Monday, August 3, 2009. I contacted the Petitioner today and he confirmed that the required posting was not done. Mr. Reilly declared that the "Variance wasn't necessary and he wasn't going through with it".


I advised Mr. Reilly to submit a letter withdrawing his administrative variance request to the Zoning Review Office.

The case file is being returned to the Zoning Review Office.

M E M O R A N D U M

DATE: May 25, 2010

TO: To The File

FROM: Patricia Zook, Legal Secretary for 
Thomas H. Bostwick, Deputy Zoning Commissioner
for Baltimore County

SUBJECT: Case No. 2010-0005-A – 4617 Magnolia Avenue

The subject Administrative Variance closed on August 3, 2009 and the required posting date was July 19, 2009. Upon the file being delivered to our Office on August 30, 2009, it was discovered that the required posting was not done. In a telephone conversation with the Petitioner, Mr. Reilly, on August 12, 2009, he stated that the variance was not necessary and he was not going through with the project. Therefore, the file for Case No. 2010-0005-A was subsequently returned to the Zoning Review Office.

On May 5, 2010, the subject case file was brought to our Office. The case file now contains a Certificate of Posting for August 23, 2009. Two messages were left for the Petitioners asking them to return my telephone call. In a telephone conversation with Mrs. Reilly on May 13, 2010, she indicated that they have received all their permits and approvals for the existing pool. Mrs. Reilly also said the contractor installed the swimming pool without telling them that he had indicated the pool would be installed in a different location when he received the original permit.

It should be noted for the record that Mr. Reilly, per Mrs. Reilly on May 13, 2010, disavows any knowledge of our telephone conversation on August 12, 2009.

* previous order

IN RE: **PETITION FOR ADMIN. VARIANCE**
SW/Corner Magnolia Avenue and
Winans Avenue
(4617 Magnolia Avenue)
13th Election District
1st Council District

Michael F. Reilly, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 06-247-A

* * * * *

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, Michael F. Reilly, and his wife, Charlene M. Reilly. The Petitioners seek relief from Section 427.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 6-foot high fence adjacent to the front yard of an adjoining property in lieu of the maximum allowed height of 3.5 feet. The subject property and requested relief are more particularly described on the site plan submitted which was marked into evidence as Petitioner's Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

Based upon the evidence contained therein, I am persuaded that strict compliance

with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioners. Variance relief is necessary due to the property's corner location and the location of the existing swimming pool. As shown on the site plan, the pool is located in the rear, southeastern corner of the yard in close proximity to Winans Avenue and the adjacent neighbor's home. Obviously, the fence is necessary for safety and privacy considerations. Moreover, the fence will be setback 14 feet from Winans Avenue, nearly in line with the front wall of the adjacent dwelling. Thus, it will not interfere with the line of sight for vehicles entering or exiting that property or traveling along that roadway. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any opposition to the request. Thus, it appears that the relief requested can be granted without detrimental impact to adjacent properties or the surrounding locale.

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 _____ day of December 2005 that the Petition for Administrative Variance seeking relief from Section 427.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 6-foot high fence adjacent to the front yard of an adjoining property in lieu of the maximum allowed height of 3.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

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

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

13 ED
108C2
SW 6-D
DR 5.5
1 CD



BL

BR

ML



0005



#0005

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING

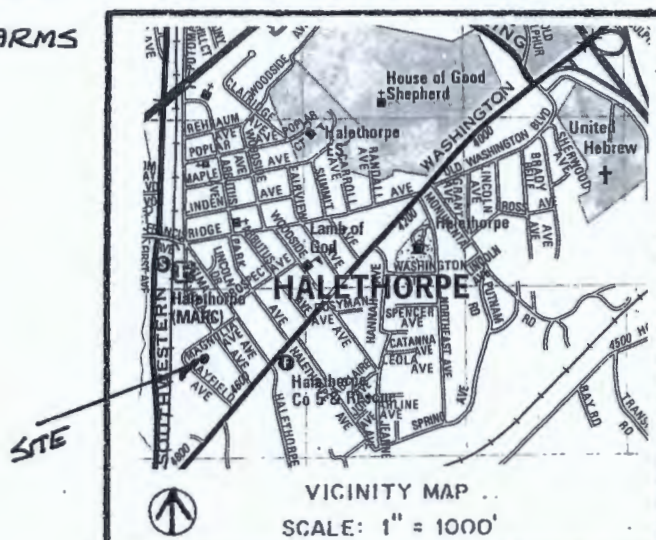
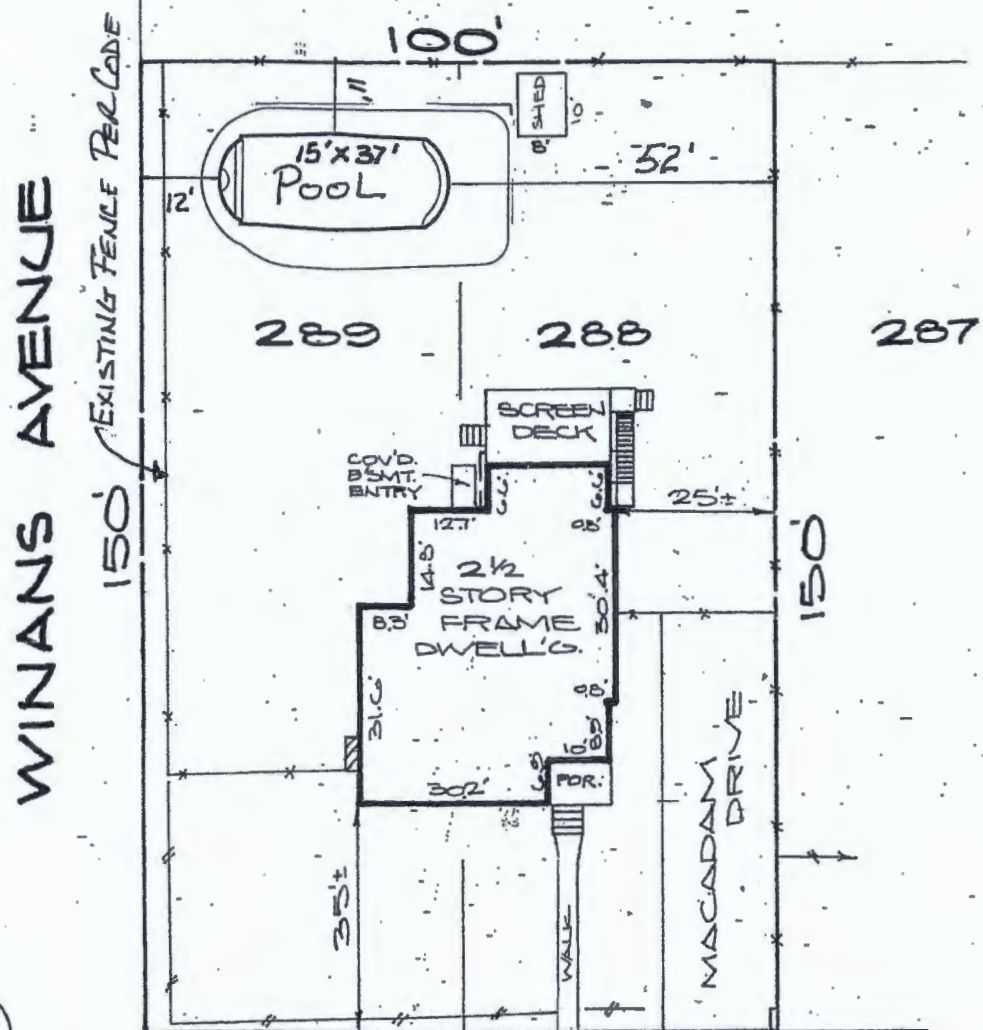
PROPERTY ADDRESS 4617 MAGNOLIA AVE

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME HALETHORPE - SUBDIVISION OF THE HALL & SMITH FARMS

PLAT BOOK # 1 FOLIO # LOT # 288 SECTION #

OWNER MICHAEL & CHARLENE REILLY



LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT 1

1" = 200' SCALE MAP # 108C2

ZONING DR-5.5

LOT SIZE .344 15,000
ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
SEWER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WATER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
100 YEAR FLOOD PLAIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HISTORIC PROPERTY/BUILDING	<input type="checkbox"/>	<input checked="" type="checkbox"/>

PRIOR ZONING HEARING 06-247-A

ZONING OFFICE USE ONLY

REVIEWED BY BK ITEM # 0005-A CASE # 2010-0005-A



MAGNOLIA AVENUE

PREPARED BY CM BEAVER

SCALE OF DRAWING: 1" = 50'