

IN RE: **PETITION FOR VARIANCE**

E/S Elizabeth Avenue, 182' S of c/line of
Smith Avenue
(3201 Elizabeth Avenue)

13th Election District
1st Council District

Joyce M. Miller
Petitioner

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BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 2010-0097-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 legal owner of the subject property, Joyce Mae Miller. The Petition was filed in response to a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management (DPDM) relative to the use of the subject property. In this regard, the Petitioner requests a variance from Sections 1B02.3.A.5, 1B02.3B, and 301.1A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection (open porch with roof) with a zero (0) foot side yard setback in lieu of the minimum required 7.5 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Joyce M. Miller, property owner, and her builder, Greg Wampler, of Wampler and Sons. Appearing in opposition to the request was Peter T. Diemer, an adjacent property owner residing at 3203 Elizabeth Avenue.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped parcel located on the east side of Elizabeth Avenue just south of Marbourne Avenue in Halethorpe. The property, recognized as Lots 41 and 42 in the subdivision known as West Baltimore, is 50' wide x 145' deep containing a gross area of 7,200 square feet, more or less,

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Date 11-25-09
BY 103

zoned D.R.5.5. The property is improved with a one-story, single-family dwelling built in 1954. At issue in this case is an attached open porch constructed by the Petitioner on the southeast side of her home measuring 11' x 11' in size¹. This open projection porch constructed some 13 years ago was remodeled in June 2009 by Wampler and Sons, a licensed contractor, who added a roof to allow for the enhanced use of the porch shielding the Petitioner from falling leaves, rain and snow.

By way of background, the Petitioner and her deceased husband purchased the property in 1965. The property has been kept in good order and repair as Ms. Miller testified [inside and out]. The porch was placed over a 23-year-old concrete patio of the same size and location. That is to say, the concrete patio extended from the south side of the house to the common boundary line with Lot 43. The porch had never been a problem with the then property owners of 3203 Elizabeth Avenue, Mr. and Mrs. Louis Appel. Following the Appels' death, Peter Diemer purchased the property (June 2003) and never voiced a concern or complaint concerning the porch. As noted above, the Petitioner decided early in 2009 that she would add a roof over the porch and update its overall appearance. In this regard, Ms. Miller hired her contractor who unfortunately ended up with the roof overhanging the property line by 4 to 6 inches. Little did the Petitioner realize, at that time, that the covered porch would become complicated by Sections 1B02.3C and 301.1A of the B.C.Z.R. requiring a 7.5 foot minimum width side yard setback.

The Petitioner's nightmare began in September 2009 when the Department of Permits and Development Management (DPDM), the agency that issues building permits, received an inquiry questioning the structure's setback distance from the common property line. Code Enforcement Officer Ron Turner visited the site and issued a "Correction Notice" informing

¹ A porch such as this and shown on the photographic exhibits submitted as Petitioner's Exhibits 2 and 3 is a reasonable accessory use to a residence. See, *Belvoire Farms v. North*, 355 Md. 259 (1999) and *White v. North*, 356 Md. 31 (1999).

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Date 11-25-09
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Petitioner that she would need to bring the property in conformance with the zoning regulations. In any event, the work was finished at this time and the Petitioner had paid substantial sums of money. She asserts that she is up in her years, is now unemployed with health problems and physical limitations. The porch has existed at its present location for over a decade and provides her with a place while recovering from surgeries. The Petitioner now comes before me seeking relief as set forth above to allow the existing structure with a zero (0) foot setback. Ms. Miller testified at length as to the practical difficulty and unreasonable hardship she has endured since receiving the Correction Notice, which has left her in an untenable position. Despite discussions with Mr. Diemer, who has no problem with Ms. Miller's use of the porch - he raises concerns about open space between the properties and how a subsequent purchaser of the Miller property might use the porch, which is right next to his house. Mr. Diemer believes that the roof of the porch is over the common property line by 8 inches.

Ms. Miller testified that she placed the porch in its present location for the reasons indicated above and was not aware of any County restriction that would prevent her from doing so. To a certain extent, I am sympathetic to Ms. Miller's plight. A search of the Zoning Commissioner's records fails to disclose any variances applied for or granted for similar relief in this area. If other porches or accessory structures in the West Baltimore subdivision have been erected over time, they have done so in disregard of the zoning regulations. Variance relief can be granted only if the requirements contained in Section 307 of the B.C.Z.R. are met. This section states that the Zoning Commissioner may grant variances;

... 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 of Baltimore County would result in practical difficulty or unreasonable hardship.

Variances are not favored under the law and presumed to be in conflict with the regulations. As stated in *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995):

The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances.

After due consideration of all of the testimony and evidence presented, I find that the Petitioner's property is substantially similar to other properties as to size, shape, and topography. As such, it does not meet the requirements for a finding of uniqueness as set forth in *Cromwell*. I cannot decide this case based on "extenuating circumstances." Having determined that no uniqueness exists as to the Petitioner's property, I must therefore deny the variance requested by the Petitioner. I do, however, find extenuating circumstances. The 11' x 11' space occupied by this porch has existed in one form or another for nearly 24 years. So often in this job, there is never a correct decision – but as the case here demonstrates one that seems not right, but simply less wrong. Thus, in denying the Petitioner's variance and as discussed with the parties at the hearing, I am persuaded to grant some relief that will be personal in nature to Ms. Miller and limited in duration. Mr. Diemer's primary concern was the future use of the porch and he wanted assurances that it would not be used in a manner that would result in disputes or in a breach of his privacy rights.

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 partially granted and limited prior to the ultimate denial taking effect.

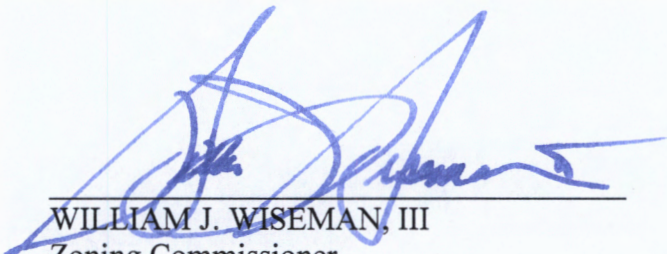
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of November, 2009 that the Petition for Variance seeking relief from Sections 1B02.3.A.5, 1B02.3B, and 301.1A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection (open porch with roof) with a zero (0) foot side yard setback in lieu of the minimum required 7.5 feet, in accordance with Petitioners' Exhibit 1, be and is hereby PERMITTED in limited duration, prior to the DENIAL becoming final, subject to the following conditions which are restrictions precedent to the limited approval granted herein:

UNDER RECEIVED FOR FILING
Date 11-25-09
BY 193

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until the thirty (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.
2. The temporary variance relief granted to the Petitioner herein is personal in nature, limited in duration, and shall not run with the land so as to inure to the benefit of any subsequent property lessee or owner. To assure the current and future use of the subject property, the Petitioner will, within sixty (60) days of the date hereof, record in the Land Records of Baltimore County a Covenant to the Deed for her property (in the form attached) restricting the use of the property.
3. Said Covenant shall contain the proviso that such use shall terminate upon the sale of the property or the passage of ten (10) years, whichever comes first. The porch shall then be removed and the property brought into compliance with the zoning regulations.
4. A copy of the recorded Covenant shall be submitted to the Department of Permits and Development Management (DPDM) for inclusion in the case file.
5. The decision in this case is not a legal precedent that may be cited as such in any other zoning case.

Any appeal of this decision shall be taken in accordance with the Baltimore County

Code Section 32-3-401.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

COPIES RECEIVED FOR FILING

Date 11-25-09

103

COVENANT AND DECLARATION OF UNDERSTANDING

Whereas, in a Petition for Variance before the Zoning Commissioner of Baltimore County, Case No. 2010-0097-A, Joyce Mae Miller, the Petitioner, requested permission to maintain an open projection (open porch with roof) with a zero (0) foot side yard setback in lieu of the minimum 7.5 feet required by the regulations, and the Zoning Commissioner, by Order, dated November 25, 2009, partially granted the request providing the following covenant be added to her Deed, which Deed was recorded in the Land Records of Baltimore County, at Liber 18642, Folio 260.

Joyce Mae Miller hereby covenants that the open porch and roof on the south side of the property shall be removed from its present location or relocated to the rear of the property upon the sale of the property or after a period of ten (10) years from the date of this Covenant, whichever occurs first.

As witness our hands and seals this _____ day of December 2009.

_____(SEAL)
Joyce Mae Miller

(State of Maryland

To wit

County of Baltimore)

I HEREBY CERTIFY THAT ON THIS _____ day of _____, 2009, before me a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared Joyce Mae Miller, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledge that she executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal:

NOTARY PUBLIC

My Commission Expires:



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

November 25, 2009

Joyce Mae Miller
3201 Elizabeth Avenue
Halethorpe, Maryland 21227

RE: PETITION FOR VARIANCE

E/S Elizabeth Avenue, 182' S of c/line of Smith Avenue
(3201 Elizabeth Avenue)
13th Election District - 1st Council District
Joyce M. Miller - Petitioner
Case No. 2010-0097-A

Dear Ms. Miller:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

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.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Greg Wampler, Wampler and Sons, 408 Pulaski Highway, Joppa, MD 21085
Peter T. Diemer, 3203 Elizabeth Avenue, Halethorpe, MD 21227
People's Counsel; Code Enforcement Division, DPDM; File

TAX. ACCOUNT # 131-3551330

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 3201 Elizabeth Ave
which is presently zoned DR 5.5

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) 1B02.3A.5., 1B02.3B., 301.1A. (BCZR)

TO PERMIT AN OPEN PROJECTION (OPEN PORCH WITH ROOF) WITH A 0-FOOT SIDE YARD SETBACK IN LIEU OF THE MINIMUM REQUIRED 7.5-Feet.

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

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

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Zip Code

Representative to be Contacted:

Name

Address

City

State

Zip Code

OFFICE USE ONLY

Case No. 2010-0097-A

ESTIMATED LENGTH OF HEARING

REV 9/15/98

RECEIVED FOR FILING

Reviewed By

Date

By

UNAVAILABLE FOR HEARING

Date

9/17/09

11-25-09

120

ZONING DESCRIPTION

Zoning description for 3201 Elizabeth Ave.

Beginning at a point on the East side of Elizabeth Ave, which is 32 feet wide at the distance of 182 feet south of the centerline of the nearest intersecting street, Smith Ave, which is 30 feet wide. Being Lot #'s 41, 42 in the subdivision of West Baltimore as recorded in Baltimore County Plat Book # 6, folio #112, containing 7200 square feet. Also known as 3201 Elizabeth Ave, and located in the 13 Election District, 1 Councilmanic District.

2010-0097-A

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

No. **45735**

Date: **9/17/09**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 9/18/2009 9/17/2009 10:23:54 2

REC 0902 WALKIN JEFF JEE
 RECEIPT # 654249 9/17/2009 OFLH

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					65.00

Dept 5 520 ZONING VERIFICATION
 NO. 045735
 Recpt Tot 645.00
 \$70.00 BT
 Baltimore County, Maryland

Total: **65.00**

Rec From: **GREG WAMPLER**

For: **2010-0097-A**
3201 ELIZABETH AVE., 21227

D. THOMPSON

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

**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: #2010-0097-A

3201 Elizabeth Avenue
E/side of Elizabeth Avenue,
182 feet south of the
centerline of Smith Avenue
13th Election District
1st Councilmanic District

Legal Owner(s): Joyce Miller
Variance: to permit an
open projection (open
porch with roof) with a 0
foot side yard setback in
lieu of the minimum re-
quired 7.5 feet.

**Hearing: Wednesday, No-
vember 18, 2009 at 2:00
p.m. in Room 104, Jeffer-
son Building, 105 West
Chesapeake Avenue,
Towson 21204.**

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible;
for special accommoda-
tions Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-4386.

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

JT/11/637 Nov 3 220078

CERTIFICATE OF PUBLICATION

11/5/, 2009

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 11/3/, 2009.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

Department of Permits & Development Management
Baltimore County
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

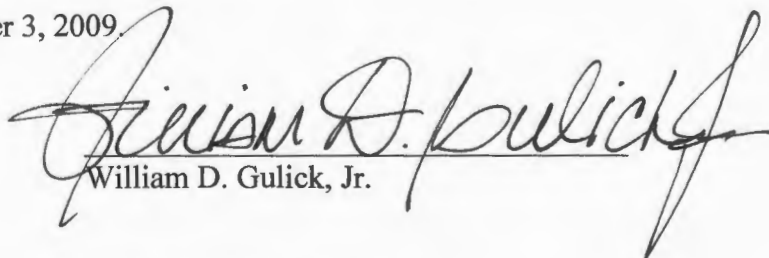
Date: November 3, 2009

Attention: Zoning Office
Ms. Kristen Matthews

Re: Case Number: 2010-0097-A
Petitioner/Developer: Joyce Miller
Date of Hearing/Closing: November 18, 2009

This is to certify under the penalties of perjury that the necessary sign (s) required by law were posted conspicuously on the property located at: 3201 Elizabeth Avenue.

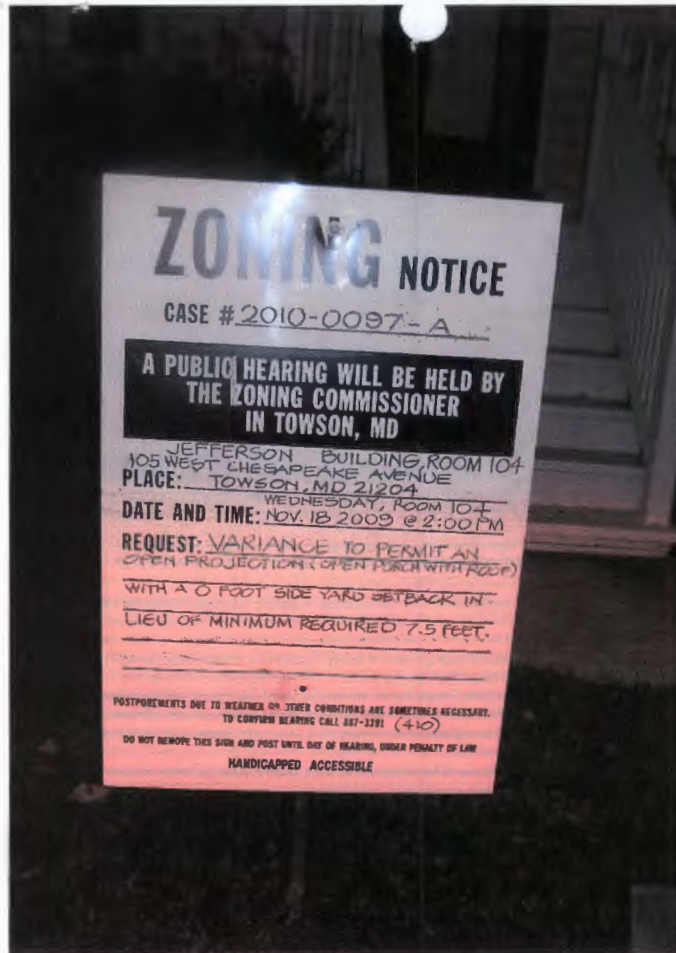
The sign (s) were posted on: November 3, 2009.


William D. Gulick, Jr.

2944 Edgewood Avenue
Baltimore, MD 21234
(410) 530-6293

SEE ATTACHED SITE PHOTOS





ZONING NOTICE

CASE # 2010-0097-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

JEFFERSON BUILDING ROOM 104
105 WEST CHESAPEAKE AVENUE
PLACE: TOWSON, MD 21204

WEDNESDAY, ROOM 104
DATE AND TIME: NOV. 18 2009 @ 2:00 PM

REQUEST: VARIANCE TO PERMIT AN
OPEN PROJECTION (OPEN PORCH WITH ROOF)

WITH A 0 FOOT SIDE YARD SETBACK IN
LIEU OF MINIMUM REQUIRED 7.5 FEET.

POSTPOSTMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 307-3291 (410)

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 3, 2009 Issue - Jeffersonian

Please forward billing to:
Joyce Miller
3201 Elizabeth Avenue
Baltimore, MD 21227

410-242-8308

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 NUMBER: 2010-0097-A

3201 Elizabeth Avenue
E/side of Elizabeth Avenue, 182 feet south of the centerline of Smith Avenue
13th Election District – 1st Councilmanic District
Legal Owners: Joyce Miller

Variance to permit an open projection (open porch with roof) with a 0 foot side yard setback in lieu of the minimum required 7.5 feet.

Hearing: Wednesday, November 18, 2009 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

October 21, 2009

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 NUMBER: 2010-0097-A

3201 Elizabeth Avenue

E/side of Elizabeth Avenue, 182 feet south of the centerline of Smith Avenue

13th Election District – 1st Councilmanic District

Legal Owners: Joyce Miller

Variance to permit an open projection (open porch with roof) with a 0 foot side yard setback in lieu of the minimum required 7.5 feet.

Hearing: Wednesday, November 18, 2009 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Joyce Mail Miller, 3201 Elizabeth Avenue, Baltimore 21227
Wampler & Sons, 408 Pulaski Highway, Joppa 21085

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 3, 2009.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**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: 2010-0097-A

Petitioner: MILLER

Address or Location: 3201 ELIZABETH AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MS. JOYCE M. MILLER

Address: 3201 ELIZABETH AVE.

BALTO. MD 21207

Telephone Number: 410-242-8308



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

Joyce Mae Miller
3201 Elizabeth Ave.
Baltimore, MD 21227

Dear: Joyce Mae Miller

RE: Case Number 2010-0097-A, 3201 Elizabeth Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 17, 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,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Wampler & Sons; 408 Pulaski Highway; Joppa, MD 21085

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: October 9, 2009

FROM: Dennis A. Kennedy^{DAK}, Supervisor
Bureau of Development Plans
Review

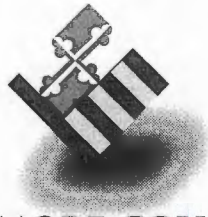
SUBJECT: Zoning Advisory Committee Meeting
For October 19, 2009
Item Nos. 10-006, 034, 096, 097, 098, 099, 100, 101,
102, 103, 104, 105, 106, 107, 108, 109, 113 and 115

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-10192009.b -NO COMMENTS.doc



BALTIMORE COUNTY
MARYLAND

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

October 8, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 5. 2009

ItemNumbers

0006,0034,0088,0096,0097,0098,0099,0100,0102,0103,0104,0106,0107,0108,0109,0111,0113 and 0115

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 21, 2009

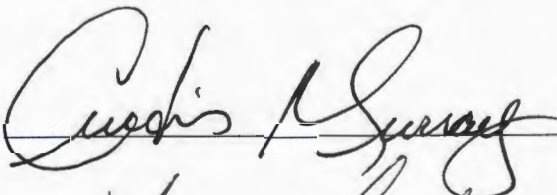
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-097- Variance**

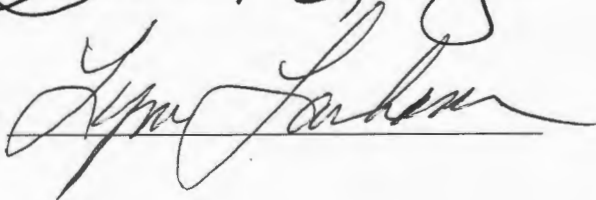
The Office of Planning has reviewed the above referenced case(s) and upon visiting the site has learned that the structure is already built. There are no further comments this Office has to offer.

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:



Division Chief:
CM/LL



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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: OCTOBER 7, 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. 2010-0097-A
3201 ELIZABETH AVE
JOYCE MILLER PROPERTY
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. 2010-0097-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-5593 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, appearing to read "Michael P. Bailey", is written over the typed name of Steven D. Foster.

Foster¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

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.sha.maryland.gov

RE: PETITION FOR VARIANCE
3201 Elizabeth Avenue; E/S Elizabeth
Avenue, 182' S c/line of Smith Avenue
13th Election & 1st Councilmanic Districts
Legal Owner(s): Joyce Miller
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 10-097-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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.

RECEIVED

OCT 14 2009

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of October, 2009, a copy of the foregoing Entry of Appearance was mailed to Wampler and Sons, 408 Pulaski Highway, Joppa, MD 21085, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT
ACTIVE VIOLATION CASE DOCUMENTS

CO-0067366
3201 Elizabeth Avenue



CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROPERTY TAX ID	DATE ISSUED
FA0106854	1313551330	9/3/09
NAME(S): JOYCE MAE Miller		
MAILING ADDRESS 3201 Elizabeth AVE		
CITY Baltimore	STATE MD	ZIP CODE 21227
VIOLATION ADDRESS Same as above		
CITY BALTIMORE	STATE MARYLAND	ZIP CODE

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☒ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2(1A01) ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☐ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|---|--|
| ☒ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☒ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☐ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement. |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☐ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM: |
- Violation of commercial site plan and/or zoning order

BALTIMORE COUNTY CODE (B.C.C)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease _____ infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C)

- | | |
|--|---|
| ☐ 35-2-404(a)(i)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(i)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(i)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(i)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(i)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(i)(vi): Waterproof walls/ roof /foundations |
| ☐ 35-2-404(a)(i)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(i)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(i)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

Section BCZR-301.1A
Porch and roof Top may extend into any required yard not more than 25% of the minimum required depth
Remove Porch and roof Top to it required depth or all for a variances at the County office building

NOTICE POSTED AND MAILED

POTENTIAL FINE: ☒ \$200 ☐ \$500 ☐ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE: 10/6/09 INSPECTOR NAME: R. Turner
PRINT NAME (Rev 9/05)

AGENCY

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: May 26, 2009

TO: W. Carl Richards, Jr.

FROM: Meghan Ferguson, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No: 2010-0097-A
Legal Owner/Petitioner: Joyce Miller
Contract Purchaser:
Property Address: 3201 Elizabeth Avenue
Location Description: East side of Elizabeth Avenue; 182 feet south of the
centerline of Smith Ave

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date: **Ron Turner**

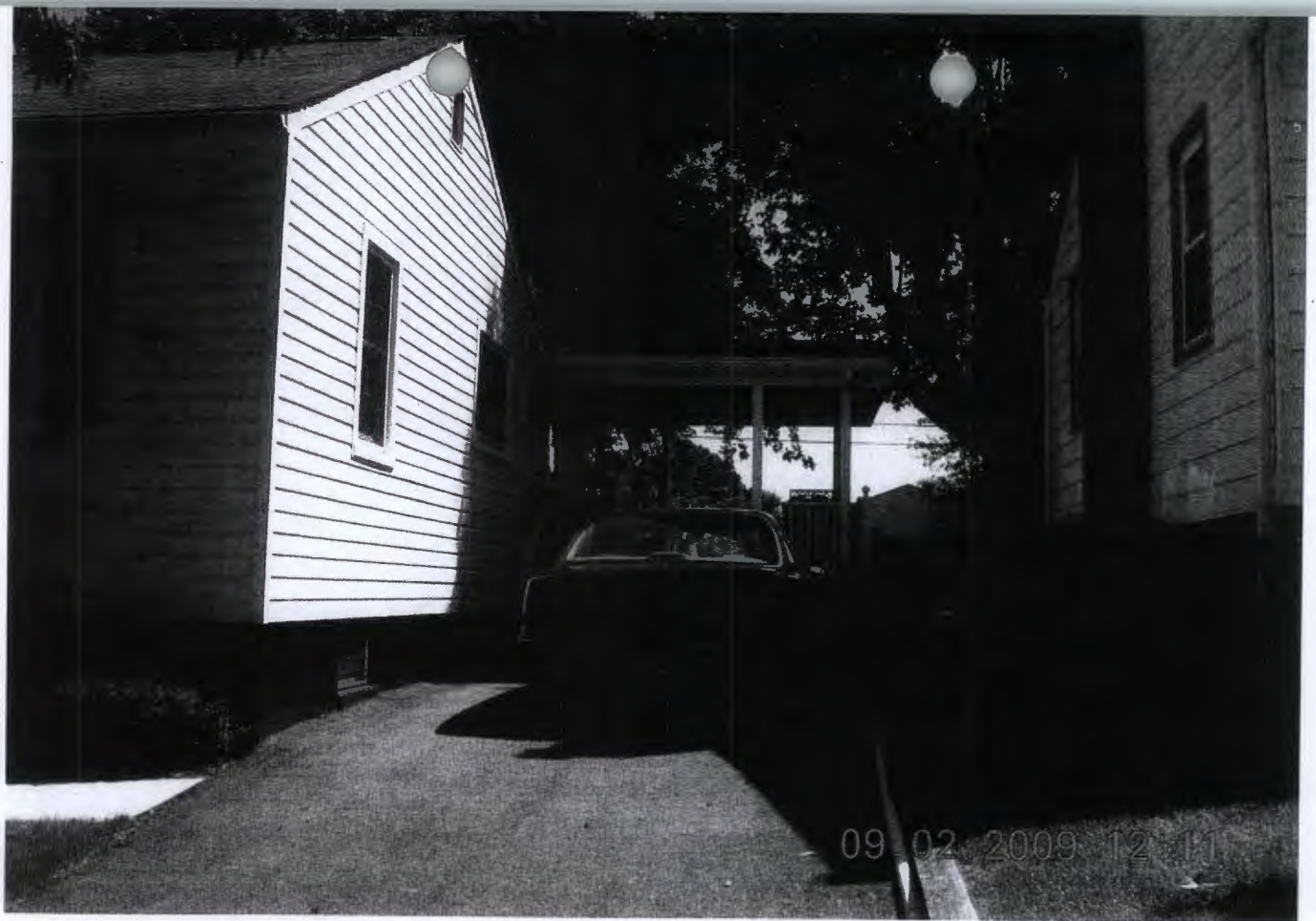
In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Case No: CO-0067366
Photographs
Correction Notice/Code Violation Notice

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Christina Moscati in Room 213 in order that the appropriate action may be taken relative to the violation case.

MF/cm
C: Ron Turner, Code Enforcement Officer









Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw2.3d)

Go Back
View Map
New Search

Account Identifier: District - 13 Account Number - 1313551330

Owner Information

Owner Name: MILLER JOYCE MAE **Use:** RESIDENTIAL
Principal Residence: YES
Mailing Address: 3201 ELIZABETH AVE **Deed Reference:** 1) /18642/ 260
 BALTIMORE MD 21227-1805 2)

Location & Structure Information

Premises Address **Legal Description**
 3201 ELIZABETH AVE LT 41,42
 3201 ELIZABETH AVE
 WEST BALTIMORE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
102	21	132					41	1	Plat Ref: 6/ 112

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1954	1,248 SF	7,200.00 SF	04

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2009	07/01/2010
Land	72,050	72,050		
Improvements:	113,190	113,190		
Total:	185,240	185,240	185,240	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller: MILLER CHARLES G	Date: 08/22/2003	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /18642/ 260	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

CASE NAME 3201 Elizabeth Ave.
CASE NUMBER 2010-0097-A
DATE 11/18/09

CASE NAME 3201 Elizabeth Ave.
CASE NUMBER 2010-0097-A
DATE 11/18/09

[illegible]

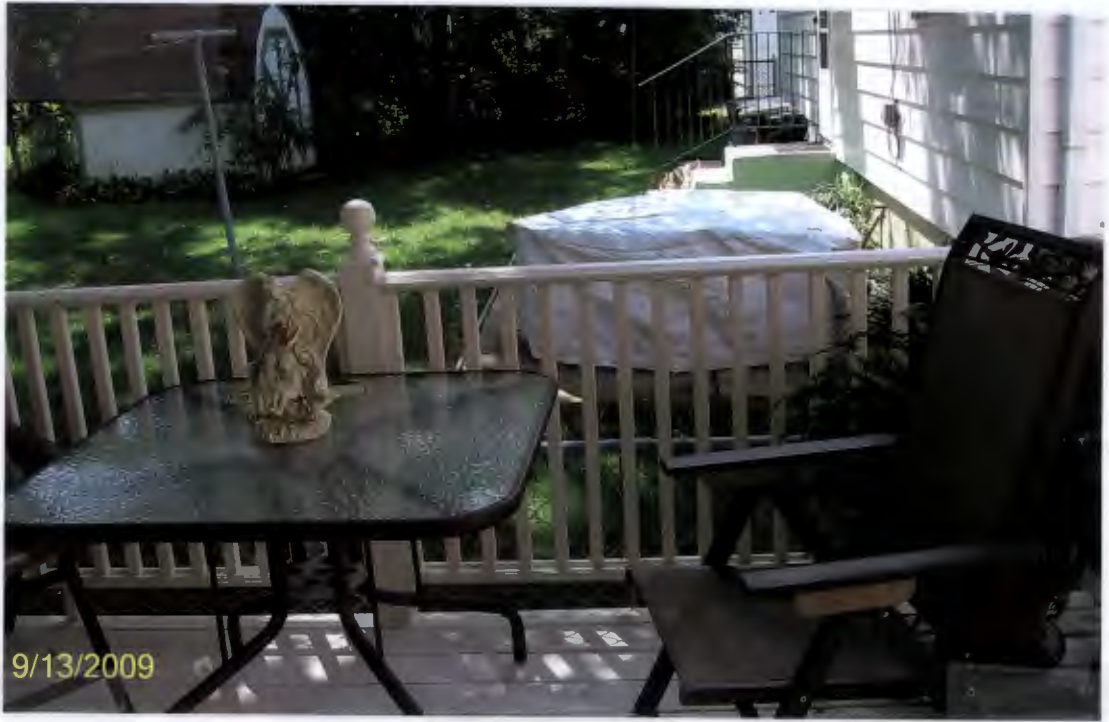
CASE NAME 3201 Elizabeth Ave.
CASE NUMBER 2010-0097-A
DATE 11-18-09

[illegible]



2010-0097-A







Case No.: 2010-0097-A 3201 ELIZABETH AVE

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	Peter Diemers testimony Summary
No. 2	TESTIMONY SUMMARY and Photographs + SUPPORT OF NEIGHBORS	
No. 3	PHOTO OF COVERED PORCH	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Zoning Hearing – Wednesday, Nov. 18, 2009
Baltimore County Maryland

Case Number: 2010-0097-A

Legal Owner of Property:

Joyce Mae Miller
3201 Elizabeth Avenue
Baltimore, MD 21227

Purpose of Hearing:

Variance Application submitted to permit an open projection (open porch with roof) with a "0" foot side yard setback in lieu of the minimum required 7.5 feet to the property listed above.

Statement of Joyce Mae Miller

I, Joyce Mae Miller, am 68 years old, unemployed and widowed, and have resided at the above address since May 1965. During this time, I have strived to keep my property well-groomed and updated [inside and out], thereby adding value to my home while also enhancing my neighborhood—a neighborhood that has been riddled with crime in recent years—nevertheless, I have decided to continue living here.

The open porch referred to in the zoning complaint was constructed approximately 13 years ago and sits on a patio that was constructed approximately 23 years ago. The porch was never a problem with the previous neighbors (Mr. & Mrs. Louis Appel – now deceased). Mr. Peter T. Diemer purchased the property at 3203 Elizabeth Avenue in June 2003 (6 ½ years ago) and at no time did he ever directly voice to me any concerns/complaints concerning the porch.

On June 1, 2009, I enlisted the services of a contractor (Wampler and Sons, Inc.) to construct a roof over the above mentioned open porch. Unfortunately, the contractor ended up with a 4-6 inch overhang [air space only] over the property of my neighbor (Peter T. Diemer). Mr. Diemer was aware of this overhang but did not voice any concern directly to me that it was a problem or concern. However, after completion of the roof, Mr. Diemer filed a complaint with the Zoning Commission due to the 4-6" overhang over his property [air space]. However, upon inspection of the roof overhang, Mr. Ron Turner, Zoning Inspector, also noticed that my previously constructed porch butted up to the fence and, therefore, he had to include this in the complaint.

PETITIONER' S

EXHIBIT NO. 2

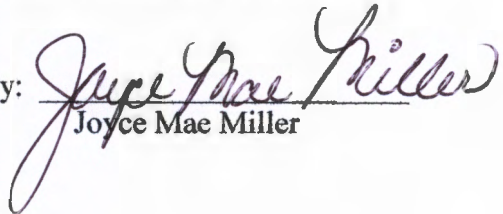
After receiving the Code Inspections and Enforcement Correction Notice, an Application for "0" Variance allowance was filed by me and my contractor [Wampler and Sons, Inc.]. I am requesting that the requested variance be allowed for the following reasons:

1. Because of my various health problems and physical limitations, my porch and newly constructed roof, allows me use of the porch while recovering from surgeries and down-time, etc.
2. The roof over the porch is of major benefit to me with regards to negative weather conditions (i.e. snow, ice & heavy rains, etc.).
3. Also, the roof shields me from thousands of leaves that fall (not only into my yard but on my open porch) from my neighbor's tree , which extends over my property approximately 10 - 12 feet and presents a hazardous environment for which I could be seriously injured. With my age and health concerns, a fall could be very dangerous.
4. I have invested a lot of money into the porch and roof and it would be detrimental for me to have it [or even a large portion] removed. I am unemployed and on a limited income and to rebuild would create a financial hardship for me.
5. Again, as mentioned above, I am a widow, unemployed, senior citizen with various health issues, who has invested a lot of money in maintaining my property, worked hard to maintain this property, and it would be devastating to remove a large portion of the porch and roof.

I THEREFORE RESPECTFULLY REQUEST the Zoning Commissioner to grant a "0" variance for the reasons I have stated above.

Dated: November 18, 2009

By:


Joyce Mae Miller

Attachments: Statement of Neighbors
Pictures of porch, roof and property

Zoning Hearing – Wednesday, Nov. 18, 2009
Baltimore County Maryland

Case Number: 2010-0097-A

Legal Owner of Property:

Joyce Mae Miller
3201 Elizabeth Avenue
Baltimore, MD 21227

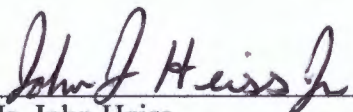
Purpose of Hearing:

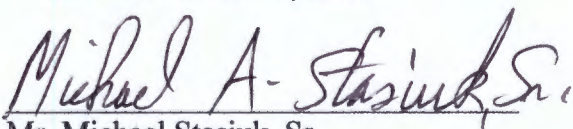
Variance Application submitted to permit an open projection (open porch with roof) with a "0" foot side yard setback in lieu of the minimum required 7.5 feet to the property listed above.

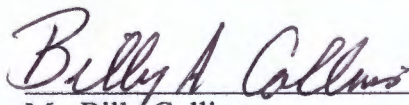
Petition of Neighbors of Joyce M. Miller

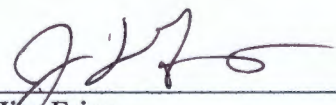
By signing this document, I attest to the fact that I [as a neighbor of Joyce M. Miller, who resides at 3201 Elizabeth Avenue] have no issues or concerns with the pre-existing porch and the new roof that was recently constructed over her porch. In fact, I feel that it is an asset to her home and does not in any way negatively impact our neighborhood.

Dated: November 16, 2009


Mr. John Heiss
2420 Smith Avenue – Balto., MD 21227
2420


Mr. Michael Stasiuk, Sr.
2424 Smith Avenue - Balto., MD 21227


Mr. Billy Collins
3202 Elizabeth Avenue – Balto., MD 21227


Mr. Jim Fries
3206 Polar Avenue - Balto., MD 21227



PETITIONER' S

EXHIBIT NO. 3

Case No.: 2010-0097-A 3201 ELIZABETH AVE

Exhibit Sheet

Petitioner/Developer

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No. 9		
No. 10		
No. 11		
No. 12		

Wednesday November 18, 2009: 2:00pm

To: ZONING COMMISSION FOR BALTIMORE COUNTY
JEFFERSON BUILDING
RM 104
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

About: Notes to accompany petition for zoning variance: Case #2010-0097-A. "
Variance to permit open projection with a 0 ft. setback in lieu of the 7.5 ft min @ 3201
Elizabeth Avenue which is presently zoned DR5.5

*My name is Peter T. Diemer. I am the property owner at 3203 Elizabeth Avenue
Halethorpe Maryland 21227. My concerns consider the continuity and maintenance of
the property boundary line between Lot 42 and 43 in Baltimore County Plat Book #6 and
the integral preservation of primary charters as outlined in the Baltimore County Code
and International Residential Code, 2006.*

*1. The space between buildings is acoustically live and sound levels from the open porch
with roof at 3201 Elizabeth are very high. In the event of a sale, the porch is a potential
breach of privacy, uniformity of appearance and provides the potential for a
discontinuous property line.*

*2. The impairment of the property line by an open structure with a roof overhang of 8"
potentially defeats the integrity of boundary continuity. The property owner at 3203
Elizabeth Avenue would like to request written confirmation by the county that confirms
preservation of the property line and guarantees, in the event of sale of (either) property
the predictable transference in value of tract 43 and 44 in plat Book #6, folio #112 to
said owner, in spite of the apparent boundary impairment caused by the open porch with
roof, built up to the property line with a 0 ft setback.*

PROTESTANT' S

EXHIBIT NO. 1

In closing, it is said that zoning laws aim to promote the welfare of the community as a whole (the health, safety, welfare, convenience, morals, and prosperity of a community) rather than to further the economic interests of an individual property owner.

Flannery — 11/18/09

☒ VARIANCE

PROPERTY ADDRESS 3201 Elizabeth A.

SUBDIVISION NAME West Baltimore

PLAT BOOK # 6 FOLIO # 112 LOT # 41-42 SECTION #

OWNER Joyce Miller


$$1'' = 50'$$


SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT

1" = 200' SCALE MAP # 102B3

ZONING DR 5.5

LOT SIZE 7200 59 +
ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
GENERAL	57	17

SEWER ☒ ☐

WATER ☒ ☐

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ ☒

HISTORIC PROPERTY/
BUILDING ☐ ☒

PRIOR ZONING HEARING NONE

ZONING OFFICE USE ONLY

REVIEWED BY . ITEM # . CASE #

D.T. | 0097 | 2010-0097-A