

IN THE MATTER OF
ROBERT AND DIANE BROWN

Legal Owner/Petitioner

21 Greenwood Avenue
Baltimore, MD 21206
North East of Greenwood Avenue
14th Election District
6th Council District

RE: Petition for Fence Setback Variance

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
*
* Case No.: 10-367-A
*

* * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Deputy Zoning Commissioner of Baltimore County in which a Petition for Variance from §427.1.B.2 of the BCZR to permit a fence on the side and rear yard with a height of 6 ft. and adjoining the front yard of another residence to have a setback of 0 ft. in lieu of the required 10 ft. was denied. The Petitioners, Robert and Diane Brown, (the "Petitioners") were represented by Gerald W. Soukup, Esquire. The Protestants, Doris White ("Mrs. White") and Sheila Coomer ("Ms. Coomer") were *pro se*. A public deliberation before this Board was held on March 10, 2011.

Factual Background

The Petitioners are the legal owners of the property located at 21 Greenwood Avenue, Baltimore, MD 21206 located in Overlea area of Baltimore County (the "Property"). The Property is zoned D.R. 5.5 and sits on the northeast side of Greenwood Avenue, southeast of Kenwood Avenue and Belair Road.. The Property measures approximately 15,000 square feet or 0.367 acres +/- . It is improved with a residence where the Petitioners have lived for 21 years. The property is also improved with a macadam driveway running along the right side leading to a garage that is located in the rear of the Property.

The Petitioners applied for a permit to build a 6 ft. high privacy (board on board) fence between their driveway and an existing chain link fence. The chain link fence separates the Petitioners' Property from the property owned by Mrs. White at 23 Greenwood Avenue. Mr. Brown testified that, after obtaining the building permit from the County, he bought materials and began to erect the fence.

Subsequently, a County inspector came to the Property, requested to see the permit and then allowed the Petitioner to continue building the fence. A second inspection occurred and again the Petitioners were permitted to continue. Thereafter, the Petitioners received a telephone call informing them that they needed to apply for a variance. Mr. Brown testified that he stopped work on the fence and applied for the instant variance.

Photographs of houses located on Greenwood Avenue were admitted into evidence as Petitioners' Exhs.1 and 2. Those photographs show that all the homes along Greenwood Avenue are located in a row close to the street. A photograph of Petitioner's house shows that it is similarly situated close to Greenwood Avenue. (Pet. Exh. 3 and 4). Likewise, a photograph of the house owned by Mrs. White's daughter, Protestant Sheila Coomer, who resides at 25 Greenwood Avenue, shows that Ms. Coomer's house is situated along the same line as the Petitioner's house. (Pet. Exh. 5).

However, the photographs reveal that only Mrs. White's house is setback from Greenwood Avenue, such that it is even with the Petitioners' garage in the rear of the Brown Property. (Pet. Exh. 3 and 4). Mr. Brown testified, and the Photographs verified his testimony, that Ms. Coomer has a stockade fence surrounding the rear of her property which fence is partially falling down. Thus, Ms. Coomer's stockade fence is even with and adjoins Mrs. White's front yard. Mr. Brown testified that Mrs. White's house is setback 160-165 feet from Greenwood Avenue.

Mr. Brown added that the reason he wants the fence is to reduce the interaction between the Petitioners and Mrs. White. The parties did not dispute that they do not interact well with one another and have had numerous incidents between them that were less than ideal. As to remaining work to be completed on the fence, Mr. Brown stated that he intends to extend the fence to the front of his house but not to the street because it would interfere with ingress and egress of cars entering and exiting his driveway. According to Mr. Brown, there are other properties on another street which also have 6 ft. high fences.

Mr. Brown also explained that he had painted a few boards of the fence with stain and intended to complete the staining so that the fence will be consistent with the aesthetics of the community.

Mrs. White testified that she has lived in her home since 1967. She admitted that she and the Browns have had unpleasant exchanges and that the parties do not get along. Mrs. White testified that she wanted the existing chain link fence taken down because there was 12 inches between the chain link fence and the new wood fence which could pose a threat to young children who may climb into that space. Yet, while she wanted Mr. Brown to remove the chain link fence, she testified that she would not permit Mr. Brown to come onto her property to remove it. On redirect, Mr. Brown stated that he would be willing to remove the chain link fence.

Mrs. White further testified that she is opposed to the Petitioners' privacy fence because it interferes with air flow to her property. She stated that she now must sit on the side of her house closest to her daughter's house to get the amount of airflow to which she has become accustomed. She objects to height of the fence and explained that she can no longer see cars along Greenwood Avenue until the cars are past her house.

Ms. Coomer testified that she grew up in Mrs. White's house. She clarified that she has a chain link fence around her property. The stockade fence is located inside the chain link fence and is necessary due to the swimming pool in her back yard. Ms. Coomer stated that her mom applied for her own 6 ft. fence 30 yrs. ago but that request was denied and she was only allowed a 4 ft. high fence. It was for this reason that she is opposed to the Petitioners having a 6 ft. fence. Ms. Coomer added that the Petitioners' fence is only 20 ft. from Mrs. White's house whereas her stockade fence is separated from Mrs. White's house by what Ms. Coomer opined was "2 ½ lots." However, Ms. Coomer admitted that she did not measure the distance. Additionally, Ms. Coomer stated that Mrs. White uses her front yard to entertain and to sit in her gazebo because her property does not have a back yard.

In support of their request for variance, the Petitioners argued that their property is "unique" in the zoning sense because it is located next to Mrs. White's house which is the only house on Greenwood Avenue which is set back 160 - 165 feet from the street. Mrs. White's front yard is everyone else's backyard.

As to practical difficulty, the Petitioners argue that they did not impose this hardship on themselves but, as the testimony indicated, they did everything legally and were granted a permit to erect the fence by the County. The County then came to inspect the Property twice and allowed Mr. Brown to continue to erect the fence. As a result, the Petitioners claim that §427.1.B.2 of the BCZR disproportionately impacts their Property.

BCZR- Fences

§427.1.B.2

1.

A residential occupancy fence may not be erected in the rear or side yard of a lot which adjoins the front yard of another on which a residence has been built, except in accordance with the provisions of this section.

2.

The fence may not exceed 42 inches in height if situated within 10 feet of the adjoining front yard property line.

3.

Any person may request a variance from the requirements of this subsection.

Law on Variances

In order for a variance to be granted, this Board must be convinced that the Petitioners have met their burden of proof as to both "uniqueness" and "hardship". Section 307.1 of the BCZR states, in pertinent part, as follows:

"...(T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area 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.... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area...regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare...."

This Board is guided by the holding provided by the Court of Special Appeals in *Cromwell v. Ward*, 102 Md. App. 691, 698 (1995), wherein the Court writes:

...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...."

In requiring a finding of "uniqueness", the Court of Special Appeals in *Cromwell* referred to the definition of "uniqueness" provided in *North v. St. Mary's County*, 99 Md. App. 502, 514 (1993):

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, **practical restrictions imposed by abutting properties** (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects in bearing or parting walls....

Id. at 710.

If the Property is determined to be "unique," then the issue is whether practical difficulties also exist. Toward this end, the Board acknowledges that a variance may be granted where strict application of the zoning regulations would cause practical difficulty to a petitioner and his/her property. *McLean v. Soley*, 270 Md. 203 (1973).

At the same time, the law is clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell, supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Id., at 722.

Decision

After reviewing all of the testimony and evidence presented, the Board has determined that the Petitioners have met their burden of proving that the Property is unique and that the Petitioner will suffer practical difficulty and unreasonable hardship if the variance is not granted.

As to uniqueness, the Board finds that this Property suffers a practical restriction of being located next to the only house on Greenwood Avenue (Mrs. White's house) which is set back from the street. Mrs. White only has a front yard, not a backyard. This restriction disproportionately impacts the Petitioners' request to erect a fence which is greater than 42 inches next to a front yard. Moreover, the Protestants wanted the same fence. They admitted that the reason for protesting was grounded in spite.

As to the issue of practical difficulty, the Board finds, based on the evidence presented, that strict compliance with BCZR §427.1.B.2 would result in both practical difficulty and unreasonable hardship because the Petitioners' Property is deprived of the private use of the rear and side yards. This is particularly true given the deterioration of the relationship between the Petitioners and Mrs. White. The Board finds, based on the photographs in evidence, that but-for the practical restriction imposed by the location of Mrs. White's house, the Petitioners would not need a variance from §427.1.B.2.

In addition, this Board finds that there is no self imposed hardship. Any error was caused by the County in issuing the permit, followed by two (2) inspections at which the work was permitted to continue. Thus, this is not a case where the Petitioners erect the subject of the variance in violation of the law.

Finally, the Board finds that granting the variance is in strict harmony with the spirit and intent of B.C.Z.R.'s height regulation for fences and that granting this variance is not injurious to public health, safety, and general welfare of the neighborhood. Ms. Coomer's stockade fence is adjoining Mrs. White's front yard on the other side and Mrs. White has no objection to that fence. The Protestants wanted their own 6 ft. high fence and merely want to oppose the instant one because of the neighbor fights. The Board does not find the Protestants' reasons for opposing the variance to be reasonable.

ORDER

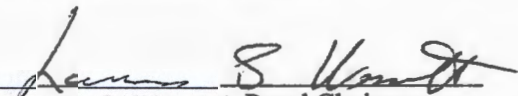
IT IS THIS 15th day of April, 2011, by the County Board of Appeals of Baltimore County

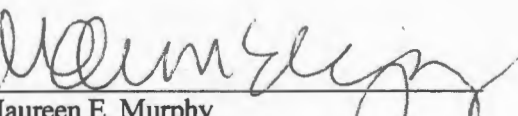
ORDERED, that the Petition for Variance seeking relief from §427.1.B.2 of the Baltimore County Zoning Regulations to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10 feet be and the same is hereby GRANTED, subject to the following restrictions and conditions:

1. The wood privacy fence shall stop 50 feet from the Petitioners' front property line.
2. The Petitioners shall finishing staining the fence so that it is consistent with the aesthetics of the community.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Panel Chairman


Maureen E. Murphy


Wendell H. Grier



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

April 15, 2011

Gerald Soukup, Esquire
8330 Belair Road
Baltimore, MD 21236

Sheila Coomer
25 Greenwood Avenue
Baltimore, MD 21206

RE: *In the Matter of: Robert and Diane Brown – Legal Owner/Petitioner*
Case No.: 10-367-A

Dear Mr. Soukup and Ms. Coomer:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/KC

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c: Robert & Diane Brown
Doris White
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Jeff Mayhew, Acting Director/ Office of Planning
Nancy West, Assistant County Attorney
Michael E. Field, County Attorney, Office of Law

APPEAL

Petition for Variance
21 Greenwood Avenue
NE/ s of Greenwood Avenue, 81' SE of c/l of Center Avenue
14th Election District – 6th Councilmanic District
Legal Owners: Robert & Diane Brown

Case No.: 2010-0367-A

- ✓ Petition for Variance (June 30, 2010)
 - ✓ Zoning Description of Property
 - ✓ Notice of Zoning Hearing (July 28, 2010)
 - ✓ Certification of Publication (The Jeffersonian – August 10, 2010)
 - ✓ Certificate of Posting (August 8, 2010) by Martin Ogle
 - ✓ Entry of Appearance by People's Counsel (July 14, 2010)
 - ✓ Petitioner(s) Sign-In Sheet – One Sheet
 - Protestant(s) Sign-In Sheet - None
 - ✓ Citizen(s) Sign-In Sheet – One Sheet
 - ✓ Zoning Advisory Committee Comments
 - ✓ Petitioners' Exhibit
 - ✓ 1. Site Plan
 - ✓ 2. Photos (A thru E)
 - ✓ 3. Permit Application
 - ✓ Protestants' Exhibits:
 - ✓ 1. Photos (A-C)
 - Miscellaneous (Not Marked as Exhibit)
 - ✓ Active Violation Case Documents
 - ✓ Deputy Zoning Commissioner's Order (DENIED – September 16, 2010)
 - ✓ Notice of Appeal received on October 18, 2010 from Gerald Soukup for Petitioners
- c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See attached cover letter

date sent November 29, 2010, kl

RECEIVED
NOV 30 2010
BALTIMORE COUNTY
BOARD OF APPEALS



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

November 23, 2010

Robert & Diane Brown
Karen Brown
21 Greenwood Avenue
Baltimore, MD 21206

Dear Mr. & Mrs. Brown and Ms. Brown:

RE: Case: 2010-0367-A, 21 Greenwood Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on October 18, 2010 by Gerald Soukup on your behalf. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:kl

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Gerald Soukup, 8330 Belair Road, Baltimore 21236
Doris White, 23 Greenwood Avenue, Baltimore 21206
Sheila Coomer, 25 Greenwood Avenue, Baltimore 21206

GERALD W. SOUKUP

Attorney At Law

8330 Belair Road
Baltimore, MD 21236
410-256-0901

Fax: 410-256-0903

E-mail: geraldskoukup@comcast.net

October 18, 2010

Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, Maryland 21204

RE: Petition for Variance
Case #: 2010-0367-A
Property: 21 Greenwood Avenue

Dear Sir or Madam:

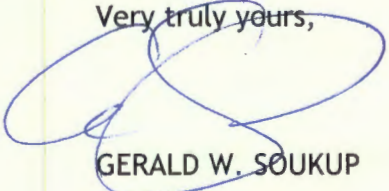
I represent Robert & Diane Brown and Karen Brown, owners of the premises known as 21 Greenwood Avenue.

On September 16, 2010, an Order denying the request for variance was issued by the Deputy Zoning Commissioner, Thomas H. Bostwick. The Brown's have decided to appeal that decision.

Enclosed with this correspondence is my escrow check in the amount of \$400.00, which I was advised is the cost for the appeal by the appeal clerk. Please note an appeal to the Board of Appeals from the decision of Deputy Zoning Commissioner Bostwick, dated September 16, 2010. Please also enter my appearance as counsel for the Appellants.

Thank you for your time and attention to this matter.

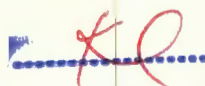
Very truly yours,


GERALD W. SOUKUP

GWS/cfg
Enclosure

RECEIVED

OCT 18 2010



IN RE: PETITION FOR VARIANCE

NE side of Greenwood Avenue; 81 feet
SE of the c/l of Center Avenue
14th Election District
6th Councilmanic District
(21 Greenwood Avenue)

Robert and Diane Brown
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO. 2010-0367-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Robert and Diane Brown. Petitioners are requesting Variance relief from Section 427.1.B.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10 feet. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioners Robert and Diane Brown and their daughter, Karen Brown. Appearing as interested citizens opposed to the requested relief were next door neighbor Doris White of 23 Greenwood Avenue and her daughter, Sheila Coomer, of 25 Greenwood Avenue. There were no other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular-shaped and consists of approximately 16,000 square feet or 0.367 acre, more or less, zoned D.R.5.5. The property is located on the north side of Greenwood Avenue, southeast of Kenwood Avenue and Belair Road and just east of the City/County line, in the Overlea area of Baltimore County.

ORDER RECEIVED FOR FILING

Date 9-16-10

By ps

The property is part of the "Kenwood" subdivision that was platted and recorded in 1912. According to Real Property Tax records, the property is improved with a two-story frame dwelling built in 1913 consisting of approximately 2,000 square feet. These records also indicate that Petitioners have owned the property since 1989.¹ The property is also improved with a macadam driveway running along the right side leading to a garage that is located to the rear of the property.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management². A Code Inspections and Enforcement Correction Notice was issued to Petitioners for a 6 foot high fence installed along the front yard. Hence, Petitioners filed the aforementioned variance request.

Petitioners both testified that they have lived at the property for the last 21 years and for most of that time, they got along well with their neighbors; however, in the recent past, the relationship with their next door neighbors has deteriorated significantly to the point where there is open hostility between Petitioners and Ms. Coomer and her family. Karen Brown, Petitioners' daughter, also resides at the property with her two boys. Ms. Brown and Petitioners recounted examples of the bad relations between the parties and what they feel is harassment on the part of Ms. Coomer and her family.

As a result, Petitioner Mr. Brown erected the subject 6 foot high board-on-board privacy fence along the property line he shares with Ms. White's property this past June, 2010. As depicted on the site plan, this fence runs along his driveway. Photographs of the fence were marked and accepted into evidence as Petitioners' Exhibits 2A through 2E and show the location

¹ Mrs. Brown indicated in testimony that she was born and raised in the home.

² Case No: CO-0079626

ORDER RECEIVED FOR FILING

Date 9-16-10 2

By pm

of the fence right next to an existing chain link fence and running from the front of the property to the rear yard, next to the garage. Apparently, Petitioners applied for and were issued a building permit for the fence, as evidenced by the permit application that was marked and accepted into evidence as Petitioners' Exhibit 3; however, that permit was issued in error based on the location and height of the fence. Petitioners desire to keep the fence because they believe it is the only way to have some peace and enjoyment of their own property, given the openly hostile relations between them and their neighbors.

Testifying in opposition to Petitioners' requested variance were Ms. Coomer and her mother, Ms. White. As already indicated, Ms. White resides next door at 23 Greenwood Avenue and Ms. Coomer lives one door down at 25 Greenwood Avenue. During her testimony, Ms. Coomer was just as emphatic as Petitioners concerning the poor relations between the parties. Contrary to previously described testimony, Ms. Coomer attributed these difficulties to Petitioners and in particular Ms. Brown and her two boys. She recounted incidences of misconduct on the part of the boys toward Ms. Coomer's daughter and indicated that it is Petitioners who are the instigators of the harassment. Nonetheless, it was Ms. Coomer who registered the complaint with Code Enforcement and is opposed to the fence along her mother's property line.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The determination of a variance request from the Zoning Regulations is governed by Section 307.1 of the B.C.Z.R., as interpreted by the Court of Special Appeals of Maryland in *Cromwell v. Ward*, 102 Md. App. 691 (1995). As indicated by the Court in *Cromwell*, "The

ORDER RECEIVED FOR FILING

Date 9-16-10 3

By YB

general rule is that variances and exceptions are to be granted sparingly, only in rare instances and under peculiar and exceptional circumstances.” 102 Md. App. at 700. In that case, the Court interpreted the regulation to require that a two-prong test be met in order for variance relief to be granted. First, it must be shown that due to peculiar circumstances, the property is unique in some manner and that this uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, it must then be considered whether, absent the requested relief, strict compliance with the regulation would cause a practical difficulty or undue hardship upon the property owner. Self-inflicted or self-created hardship is not considered proper grounds for a variance. *Id.* at 707.

After due consideration of the testimony and evidence presented, I find that Petitioners’ request for variance should be denied. Although I am very sympathetic to Petitioners’ desire to have a privacy fence between their property and Ms. White’s property, given the obviously antagonistic relations between the parties, insufficient evidence was put forth to satisfy the substantial burden of proof required for a variance. In my judgment, there is not sufficient evidence of unusual conditions or characteristics that are unique or inherent to this property, and which drive the need for the variance. While it is regrettable that the relationship between the parties has deteriorated to the extent described in testimony, I cannot find that the property is encumbered by special circumstances or features that would render it unique in a zoning sense so as to satisfy the *Cromwell* standard. Indeed, the presence of the high fence may well be a practical solution to keeping the peace to whatever extent possible between these neighbors; however, I cannot premise a decision on whether to grant the requested relief on that basis, especially in the face of opposition from the most affected neighbor, Ms. White. In short, there is not sufficient evidence to suggest that this property meets the “uniqueness” requirement, and I

ORDER RECEIVED FOR FILING

Date 9-16-10 4

By [Signature]

must therefore deny the variance requested by Petitioners. Moreover, the fact that the fence has already been built does not present a case of undue hardship. As declared by the Court of Special Appeals in *Cromwell*, "hardship, arising as a result of the act of the owner . . . will be regarded as having been self-created, barring relief." 102 Md. App. at 707.

Finally, I must also determine whether the requested variance is in strict harmony with the spirit and intent of the Zoning Regulations and its impact, if any, on adjacent properties. As earlier stated, although I am certainly understanding and empathetic with Petitioners in their desire to construct a privacy fence, in my view, the layout of properties in this subdivision and the relative closeness and orientation of the dwellings does not lend itself to the construction of the type of board-on-board fence, including its height and length along the property, as proposed on the site plan. I believe the fence would have an overall negative impact on the character and aesthetics of the neighborhood and, hence, is not within the spirit and intent of the Zoning Regulations.

It is worth repeating that based on the testimony presented by both parties, clearly some kind of intervention or mediation is warranted. It seems hard to believe that people on both sides can live a healthy and enjoyable life in the type of environment described. But unfortunately, Petitioners will need to find another lawful way of dealing with the challenges presented by the ongoing dispute with Ms. White's and Ms. Coomer's families. I can only wish both sides well in this regard.

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 parties, I find that Petitioners' variance request should be denied.

ORDER RECEIVED FOR FILING

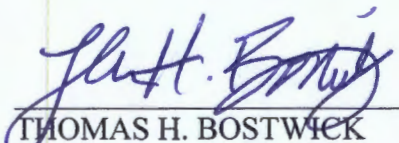
Date 9-16-10

By PS 5

THEREFORE, IT IS ORDERED this 15th day of September, 2010 by this Deputy Zoning Commissioner that Petitioners' Variance request from Section 427.1.B.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10 feet be is hereby **DENIED**.

As a consequence of the denial of the requested relief, Petitioners shall within ninety (90) days of the date of this Order, at their sole cost and expense, remove and properly dispose of the board-on-board privacy fence that is the subject of the requested variance, as depicted on the site plan and the photographs accepted into evidence as Petitioners' Exhibits 2A through 2E.

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 9-16-10

By 



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

September 16, 2010

ROBERT AND DIANE BROWN
KAREN BROWN
21 GREENWOOD AVENUE
BALTIMORE MD 21206

Re: Petition for Variance
Case No. 2010-0367-A
Property: 21 Greenwood Avenue

Dear Mr. and Mrs. Brown and Ms. Brown:

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

Enclosure

c: Doris White, 23 Greenwood Avenue, Baltimore MD 21206
Sheila Coomer, 25 Greenwood Avenue, Baltimore MD 21206



TAX. ACCOUNT # 1423053825

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 21 Greenwood 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)

Section 427.1.B.2 - to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10.

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

TO BE PRESENTED AT HEARING

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 _____
Date 9-16-10
Address _____ Telephone No. _____
By B _____
City _____ State _____ Zip Code _____

Legal Owner(s):

☒ Robert S Brown
Name - Type or Print _____
☒ Robert S Brown
Signature _____
DIANE R. BROWN
Name - Type or Print _____
Signature _____

☒ 21 GREENWOOD AVE ☒ 410-665-6717
Address Telephone No.
☒ Baltimore ☒ MD ☒ 21206
City State Zip Code

Representative to be Contacted:

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

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By [Signature] Date 6/30/10

Case No. 2010-0367-A

ZONING DESCRIPTION

Zoning Description For 21 Greenwood Avenue

Beginning at a point on the Northeast side of Greenwood Avenue, which is 40 feet wide at the distance of 81 ft. Southeast of the centerline of the nearest improved intersecting street Center Avenue, which is 40 ft. wide. Being Lots # 27-30, Section A in the subdivision of Kenwood as recorded in Baltimore County Plat Book #0004, Folio# 0036, containing 16,000 square feet. Also known as 21 Greenwood Avenue and located in the 14th Election District, 6th Councilmanic District.

Item #0367

**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: 2010-0367-A
Petitioner: Robert & Diane Brown
Address or Location: 21 GREENWOOD AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: Robert Brown
Address: 21 GREENWOOD AVE
BALTO MD 21206

Telephone Number: 410-665-6717

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

No. _____

Date: _____

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
				Obj	Sub Obj				

Total: _____

Rec
From: _____

For: _____

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No 2010-0367-A

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: # 2010-0367-A

21 Greenwood Avenue

N/east side of Greenwood Avenue, 81 feet s/east of the centerline of Center Avenue

14th Election District — 6th Councilmanic District

Legal Owner(s): Robert & Diane Brown

Variance: To permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10.

Hearing: Wednesday, August 25, 2010 at 11:00 a.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 accommodations 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.

JT 08/739 August 10

250458

CERTIFICATE OF PUBLICATION

8/12/, 2010

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 8/10/, 2010.

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

S. Wilkinson

LEGAL ADVERTISING

ZONING NOTICE

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

CASE # 2010-0367-A

PLACE: ROOM 104, JEFFERSON BUILDING 106
WEST CHESAPEAKE AVENUE, TOWSON 21204

DATE AND TIME: WEDNESDAY, AUGUST 25, 2010
AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT A FENCE ON THE SIDE
AND REAR YARD WITH A HEIGHT OF 6 FEET AND
ADJOINING THE FRONT YARD OF ANOTHER RESIDENCE TO
HAVE A SETBACK OF 0 FEET IN LIEU OF THE REQUIRED 10.

ADDITIONAL INFORMATION IS AVAILABLE AT
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD 21204

TEL. 887-3391

DO NOT REMOVE THIS SIGN FROM PROPERTY WITHOUT WRITTEN PERMISSION FROM THE ZONING COMMISSIONER. VIOLATION SUBJECT TO FINE.
MEETING IS HANDICAP ACCESSIBLE

08/08/2010

myalms 8/8/10

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 10, 2010 Issue - Jeffersonian

Please forward billing to:
Robert Brown
21 Greenwood Avenue
Baltimore, MD 21206

410-665-6717

NOTICE OF ZONING HEARING

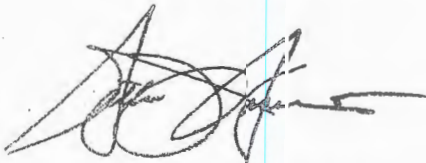
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2010-0367-A

21 Greenwood Avenue
N/east side of Greenwood Avenue, 81 feet s/east of the centerline of Center Avenue
14th Election District – 6th Councilmanic District
Legal Owners: Robert & Diane Brown

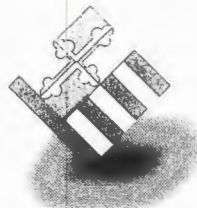
Variance to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10.

Hearing: Wednesday, August 25, 2010 at 11:00 a.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

July 28, 2010

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: 2010-0367-A

21 Greenwood Avenue

N/east side of Greenwood Avenue, 81 feet s/east of the centerline of Center Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Robert & Diane Brown

Variance to permit a fence on the side and rear yard with a height of 6 feet and adjoining the front yard of another residence to have a setback of 0 feet in lieu of the required 10.

Hearing: Wednesday, August 25, 2010 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Handwritten signature of Timothy Kotroco in black ink.

Timothy Kotroco
Director

TK:kl

C: Mr. & Mrs. Brown, 21 Greenwood Avenue, Baltimore 21206

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 9, 2010.**
- (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.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

December 20, 2010

NOTICE OF ASSIGNMENT

CASE #: 10-367-A

**IN THE MATTER OF: Robert and Diane Brown
Legal Owners /Petitioners**

21 Greenwood Ave / 14th Election District; 6th Councilmanic District

Re: Petition for Variance to permit a fence on the side and rear yard with a height of 6 ft and adjoining the front yard of another residence to have a setback of 0 ft ilo req'd 10

9/16/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner
DENYING requested Variance.

ASSIGNED FOR: TUESDAY, FEBRUARY 8, 2011, AT 10:00 A.M.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner

Sheila Coomer
Doris White

: Gerald W. Soukup, Esquire
: Robert and Diane Brown

Zoning Commissioner
Director/PDM
Director/Planning
Office of People's Counsel
Deputy Director/PDM/Code Enforcement
Code Enforcement Hearing Officer
Nancy C. West, Assistant County Attorney
County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

February 8, 2011

NOTICE OF DELIBERATION

CASE #: 10-367-A

**IN THE MATTER OF: Robert and Diane Brown
Legal Owners /Petitioners**

21 Greenwood Ave / 14th Election District; 6th Councilmanic District

Re: Petition for Variance to permit a fence on the side and rear yard with a height of 6 ft and adjoining the front yard of another residence to have a setback of 0 ft ilo req'd 10

9/16/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner
DENYING requested Variance.

Having concluded this matter on February 8, 2011, a public deliberation has been scheduled for the following:

DATE AND TIME: THURSDAY, MARCH 10, 2011 at 9:15 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner

Sheila Coomer
Doris White

: Gerald W. Soukup, Esquire
: Robert and Diane Brown

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
JEFF MAYHEW, ACTING DIRECTOR/ OFFICE OF PLANNING
Nancy West, Assistant County Attorney
Michael E. Field, County Attorney, Office of Law



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 19, 2010

Robert & Diane Brown
21 Greenwood Ave.
Baltimore, MD 21206

Dear: Robert & Diane Brown

RE: Case Number 2010-0367-A, 21 Greenwood Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 30, 2010. 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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 22, 2010

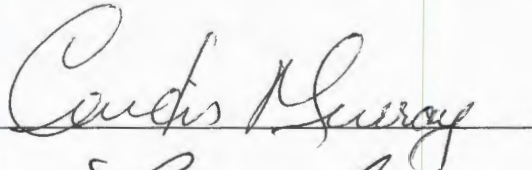
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-367- Variance**

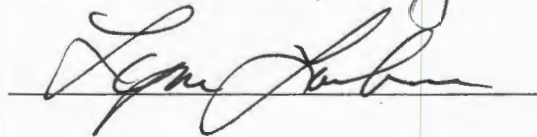
The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:



Division Chief:
CM/LL





BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

July 7, 2010

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

ATTENTION: ZONING REVIEW

Distribution Meeting of: July 5, 2010

Item No.: Administrative Variance: 2010-0360A, 2010-364A - 0366A,
2010-0368A.

Special Hearing Variance: 2010-0340-SPHA, 2010-0361-SPHA.

Variance: 2010-0363A, 2010-0367A

Pursuant to your request, the referenced plans have been reviewed by the Baltimore County Fire Marshal's Office and the comments below are applicable and required to be corrected or incorporated into the final plans for the listed properties.

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

Don W. Muddiman, Acting Lieutenant
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
410-887-4880
Mail Stop: 1102

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For July 19, 2010
Item Nos. 2010- 340, 360, 361, 363,
364, 365, 366, 367, and 368

DATE: July 7, 2010

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

DAK:CEH:el m

cc: File

G:\DevPlanRev\Z\AC -No Comments\ZAC-07192010 -NO COMMENTS.doc



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

State Highway
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: JULY 8, 2010

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

RE: Baltimore County
Item No. 2010-0367-A
21 GREENWOOD AVE
BROWN 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. 2010-0367-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,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

TB 8/25/10
11 Am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

AUG 13 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: August 13, 2010
SUBJECT: Zoning Item # 10-367-A
Address 21 Greenwood Avenue
(Brown Property)

Zoning Advisory Committee Meeting of July 5, 2010

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

Reviewer: JWL Date: 8/13/10

RE: PETITION FOR VARIANCE
21 Greenwood Avenue; NE/S Greenwood
Avenue, 81' SE Center Avenue
14th Election & 6th Councilmanic Districts
Legal Owner(s): Robert & Diane Brown
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 10-367-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

JUL 14 2010

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 July, 2010, a copy of the foregoing Entry of Appearance was mailed to Robert & Diane Brown, 21 Greenwood Avenue, Baltimore, MD 21206, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ No Comment</u>
<u>7-7-10</u>	DEVELOPMENT PLANS REVIEW	<u>nc</u>
<u>8-13-10</u>	DEPRM (if not received, date e-mail sent _____)	<u>nc</u>
<u>7-7-10</u>	FIRE DEPARTMENT	<u>nc</u>
<u>7-22-10</u>	PLANNING (if not received, date e-mail sent _____)	<u>nc</u>
<u>7-8-10</u>	STATE HIGHWAY ADMINISTRATION	<u>nc</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. <u>CO-0079626</u>)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: <u>8-10-10</u>	
SIGN POSTING	Date: <u>8-8-10 by Ogle</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

From: Patricia Zook
To: Gawel, Mark
Date: 9/17/2010 2:29 PM
Subject: Case 2010-0367-A - located at 21 Greenwood Avenue
Attachments: 10-0367-A.doc

Good afternoon -

Please find enclosed a copy of the Order issued in the above-referenced matter. The variance request was denied on September 16, 2010.

A 'hard copy' of the Order will be sent to your office.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT
ACTIVE VIOLATION CASE DOCUMENTS

CO-0079626
21 Greenwood Ave

2014-0367-A

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: July 6, 2010

TO: W. Carl Richards, Jr.

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

SUBJECT: Item No: 2010-0367-A
Legal Owner/Petitioner: Robert and Diane Brown
Property Address: 21 Greenwood Ave
Location Description: North east side of Greenwood Avenue; 81 feet
south east of the centerline of Center Avenue.

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: **Mark Gawel**

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-79626
Correction Notices
Citation - *no*
Photographs - *no*

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

MF/kh

C: Mark Gawel; Code Enforcement Officer

Comments [FA0246441 - PDM 1423053825]

Page	Type	Comment	Fac
0		6 FOOT FENCE INSTALLED ALONG F1 FAC	
0		6/17/10 INSPECTION MADE 6' FENCE / FA	
0			FA

Comment Type

6/17/10 INSPECTION MADE 6' FENCE ALONE FRONT YARD OF NEXT DOOR PROPERTY. PERMIT REC IN ERROR MR BROWN APPLYING FOR VARIANCE PU 7/19/10 TO CHECK FOR HEARING DATE. MG.

Text / Multimedia

Comments Events Involved People

Microsoft Office Ex... Envision Zoning Case History View DYMO Label

Microsoft Office W... Field Inspect... Zoning Maps 5026.doc

start Envision DYMO Windows Media Player 1:07 PM



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 10, 2011

Sheila Coomer
25 Greenwood Avenue
Baltimore, MD 21206

Re: In the Matter of: Robert and Diane Brown
Case No.: 10-367-A

Dear Ms. Coomer:

As per your request, enclosed please find a copy of the Minutes of Deliberation in the above referenced matter. Please be advised that these minutes are intended to indicate for the record that a public deliberation regarding this matter took place on the date of the Minutes. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Additionally, as per your request, to obtain a copy of the transcript of the hearing before the Board, please contact our Court Reporter, Ms. Carolyn Peatt at 410-486-8209.

Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Sunny Cannington

Sunny Cannington
Legal Secretary

Enclosure

c: Doris White
Gerald Soukup, Esquire
Robert and Diane Brown
Carolyn Peatt

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Robert and Diane Brown 10-367-A

DATE: March 10, 2011

BOARD/PANEL: Lawrence Wescott, Chairman
Maureen Murphy
Wendell Grier

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to permit a fence in the side and rear yards of the subject property with a height of 6 ft and adjoining the front yard of an adjacent residence to have a setback of 0 ft in lieu of the required 10 ft.
2. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
3. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board briefly discussed the history of this matter. The Deputy Zoning Commissioner had previously denied the requested Variance. This matter was appealed to the Board and a de novo hearing was held.
- The Board discussed the situation involving the properties. The subject property abuts a property which is situated approximately 160 feet from the road. The adjoining property's front yard abuts the subject property's back yard. Due to its location, the subject property is unique to the neighborhood because of the practical restriction associated with the Protestant, Ms. White's house.
- The Board discussed the precedent set by North v. St. Mary's County. North states that if the uniqueness of an adjoining property presents a practical restriction on the subject property, a variance may be granted to remedy the practical restriction. The Board determined that the location of the Protestant's front yard presents a practical restriction on the Petitioners' use of his back yard. The Board determined that due to North v. St. Mary's, Petitioners' property meets the conditions of Cromwell.
- The Board discussed the testimony presented at the hearing. The Board determined that the credibility of the Protestants was at issue because the Protestants admitted that they

were protesting for "spite." The Board noted that when asked if the fence would present a hindrance of her use, Ms. White indicated that the fence would provide less air flow onto her property. The Board also noted that Ms. White indicated that she also wished to have a privacy fence to separate her property from the subject property. The Board discussed that the Protestant's daughter owns the house on the other side of Ms. White's house and has a similar privacy fence at their property line. The Board determined that this is not the correct venue for a neighbor dispute.

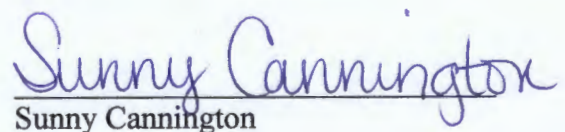
- The Board discussed that the Petitioner has a right to a 42 inch high fence. The Petitioner has already erected a 60 inch high fence. Upon review of the Exhibits presented at the hearing, the Board discussed whether they were agreeing to allow the presently erected fence or if they were being asked to allow the Petitioner to expand the fence. The Board determined that they are allowing the fence as presently erected.
- The Board discussed the Protestant's concern about the remaining chain-link fence which is located behind the wood privacy fence. The Petitioners had indicated they would be willing to remove the chain-link fence if the Protestant's allowed them on their property. The Board determined that they cannot direct the Protestants to do anything with regard to the chain-link fence and they would therefore not address that in the Opinion. The Board indicated that they will restrict the Petitioner's location of the wood privacy fence to stop 50 feet from the front property line. The Board determined that the wood privacy fence should abut the chain-link fence in the front side yards. The Board also determined that for aesthetic purposes, they will require the Petitioner to finish staining the fence.

DECISION BY BOARD MEMBERS: The Board determined that pursuant to North V. St. Mary's the uniqueness of the Protestant's property provides a practical restriction on the Petitioner's use of his back yard. The Board determined that the case is unique pursuant to Cromwell v. Ward. The Board determined that they will Grant the Petition for Variance.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Variance with restrictions.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

~~11/24~~

11/24 - Kristen is
working on it.

~ as for online ~ I
don't know who
handles that.

Sheila Coomer 11/24
~~Canter~~ Mother
Doris
White
(h) 410-663-0887
(cell) 410-979-3005
Re: Appeal

10-367-A



Bostwick

10-367-A

8/25~

9/16 Dec

10/18 Appeal

~11/1 Not appealed~

11/25 - I knew
q

~why ^{NOT} on comp
"conspiracy"

CASE NAME _____
CASE NUMBER 2010-0387-A
DATE 8-25-10

CASE NAME _____
CASE NUMBER 2010-0387-A
DATE 8-25-10

[illegible]

CASE NAME _____
CASE NUMBER 2010-0367-A
DATE 8/25/10

[illegible]

Case No.:

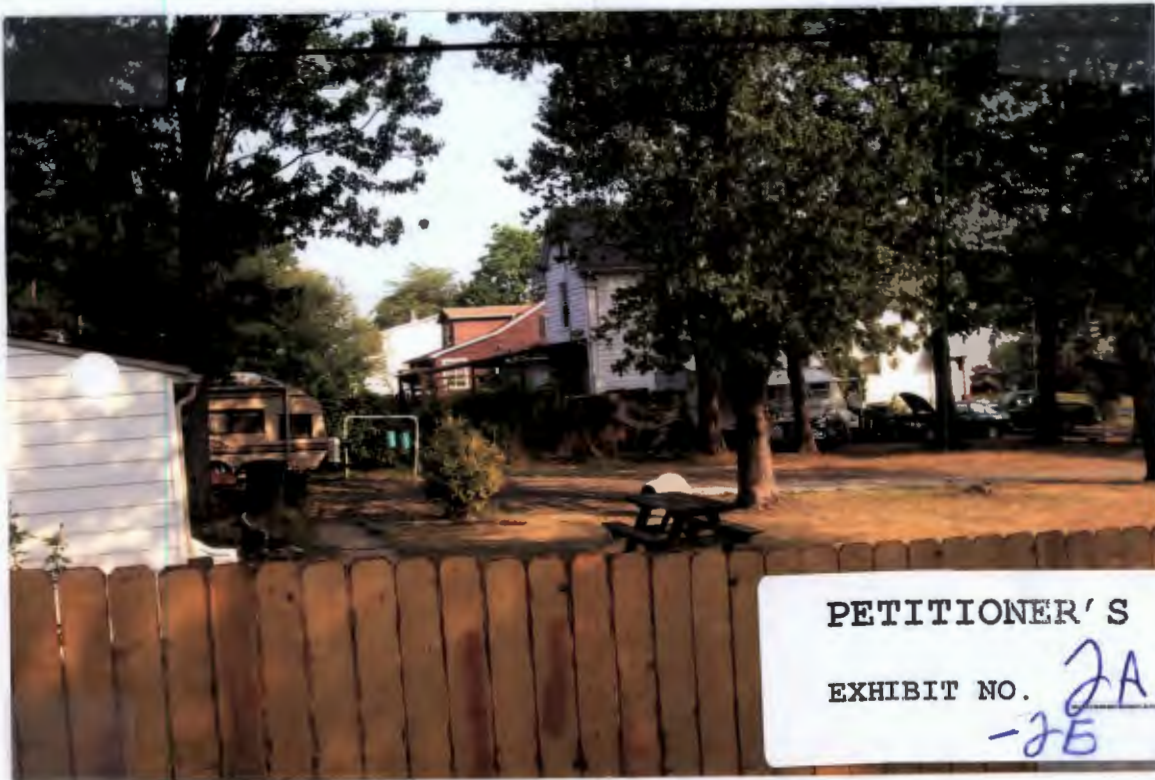
2010-0367-A

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	site plan	photos of fence 1A-1C
No. 2 A-E	photos of fence	
No. 3	permit application	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		







**BUILDING PERMIT PROCESSING
CASH SLIP RECEIPT**

NO. **A 622830**

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 100
111 W. CHESAPEAKE AVENUE
TOWSON MD 21204
410-887-3900

PAID RECEIPT

BUSINESS
5/19/2010 5/19/2010 09:12:26 5
REG #503 WALKIN RBOS ON
RECEIPT # 455652 5/19/2010 OFLN
Dept. 2 209 BUILDING PERMIT APPLICATION
DOCUMENT # A622830

Recpt Tot \$10.00
\$1.00 OK \$20.00 CA
\$10.00 CG

OFFICE OF FINANCE USE ONLY
BALTIMORE COUNTY, MARYLAND

APPLICANT

Robert Brown

ADDRESS

21 Greenwood Ave

ZIP CODE 21206

CHECK ITEM	ITEMS	PAY CODE	G/L ACCOUNT NUMBER	FEE
	ABANDONED WATER METER APPLICATION	200	231-2874	
	APPEAL PROCESS FEE	204	001-806-0000-6150	
X	BUILDING PERMIT APPLICATION	209	001-806-0000-2510	\$10.00
	CHANGE OF OCCUPANCY	210	001-806-0000-2520	
	COUNTY FINANCING APPLICATION	211	030-806-0000-7040	
	ELECTRICAL ADMINISTRATIVE BOARD EXAM FEE	212	001-806-0000-6090	
	ELECTRICAL ADMINISTRATIVE BOARD LICENSE	213	001-806-0000-2210	
	ELECTRICAL PERMIT	214	001-806-0000-2600	
	FIRE HYDRANT METER	217	231-806-0000-6180	
	FIRE INSPECTION	246	001-806-0000-6019	
	GAS PERMIT APPLICATION	220	001-806-0000-2420	
	MASTER'S FEE	249	001-806-0000-6135	
	PERCOLATION TEST	224	001-806-0000-6750	
	PHOENIX WATER CHARGE	248	030-806-0000-6133	
	PLUMBING BOARD LICENSE	225	001-806-0000-2220	
	PLUMBING PERMIT APPLICATION	226	001-806-0000-6220	
	SEPTIC TANK PERMIT	228	001-806-0000-2430	
	SEWER PROPERTY CONNECTION APPLICATION	229	231-806-0000-6051	
	SEWER SERVICE CHARGE, PRORATED	230	030-806-0000-6012	
	SEWER SYSTEM CHARGE	231	231-806-0000-6141	
	STORM DRAIN CONNECTION	233	001-806-0000-2440	
	SUB-SOIL DRAIN INSTALLATION	234	001-806-0000-6220	
	WASTEWATER DISCHARGE PERMIT	240	030-806-0000-2630	
	WATER DISTRIBUTION	241	030-806-0000-6043	
	WATER METER APPLICATION	242	231-806-0000-6060	
	WATER METER FEE	243	231-2874	
	WATER SURCHARGE	244	231-806-0000-6151	
	WATER SYSTEM CHARGE	245	231-806-0000-6151	
	HOME BUILDERS GUARANTY FUND	255	001-3010	

CHECK/MONEY ORDER PAYABLE TO BALTIMORE COUNTY, MARYLAND

TOTAL

\$10.00

DESCRIPTION

cash

PREPARER'S NAME

AK

DATE

5/19/10

THIS IS NOT A PERMIT OR LICENSE AND DOES NOT AUTHORIZE CONSTRUCTION OF ANY KIND.
NO BUILDING, PLUMBING, OR ELECTRICAL PERMIT FEE IS REFUNDABLE.

Case No: 10-367A Case Name: Robert & Diane Brown

Exhibit List

Party: Owner / Appellant Date: 2/8/2011

Exhibit No:	Description:
✓ 1.	Photo - Neighborhood - Blk. of App.
✓ 2.	Photo Neighborhood - Blk. of App.
✓ 3.	Photo App's house (on left)
✓ 4.	Photo - Of neighbor for subject property.
✓ 5.	Photo - Of neighbor for subject property.
	One (1) additional picture
	8x10 - Not listed as
	an Exhibit
	VERIFIED BY <u>trs</u> DATE: <u>2/8/11</u>











Case No.:

2010-0367-A

Exhibit Sheet

Petitioner/Developer

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PROTESTANT' S

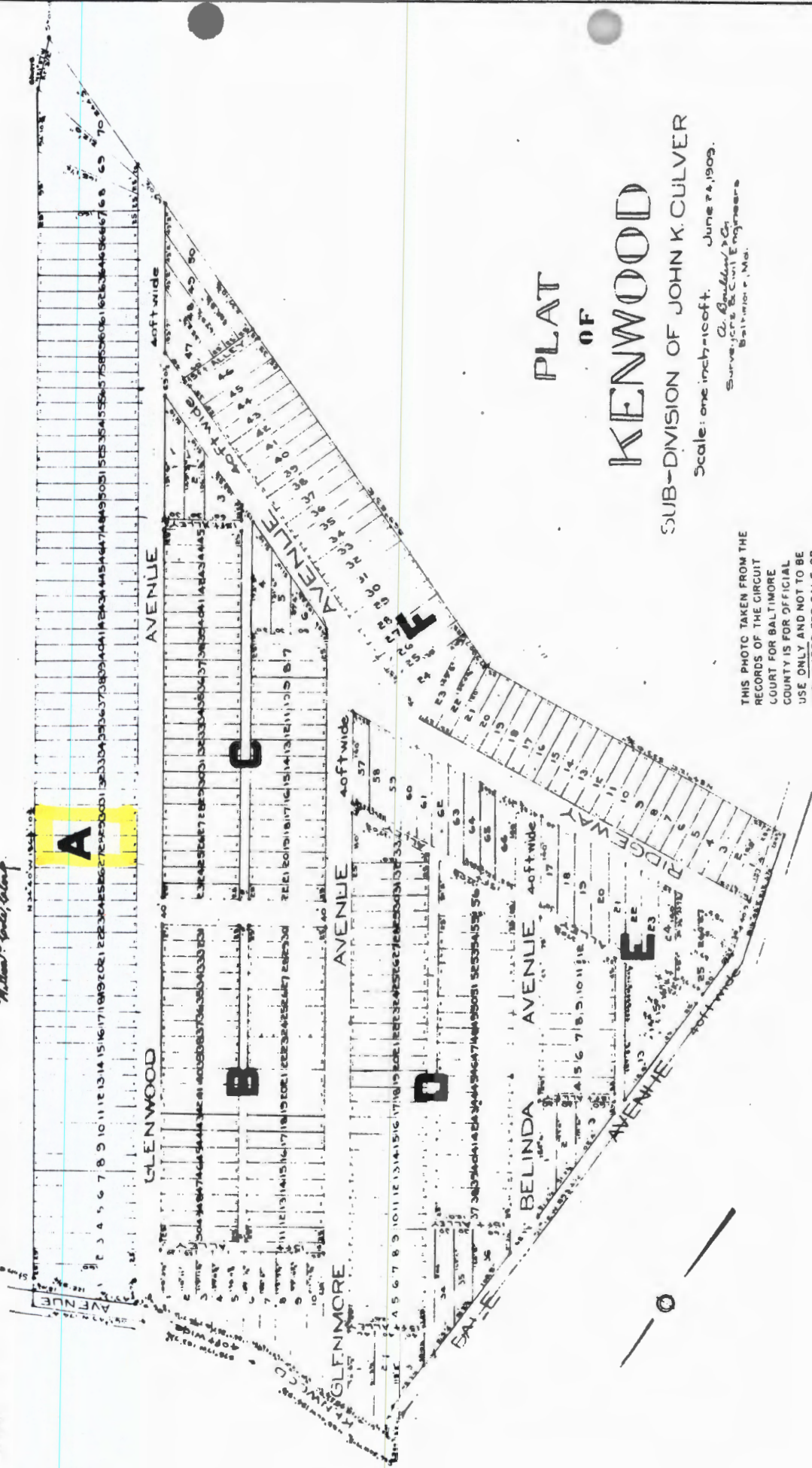
EXHIBIT NO. 1A-C

36 W.P.C. No. 4.

Filed July 19, 1902.

Test:

Wm. P. Kelly, Clerk.



PLAT
OF
KENWOOD
SUB-DIVISION OF JOHN K. CULVER

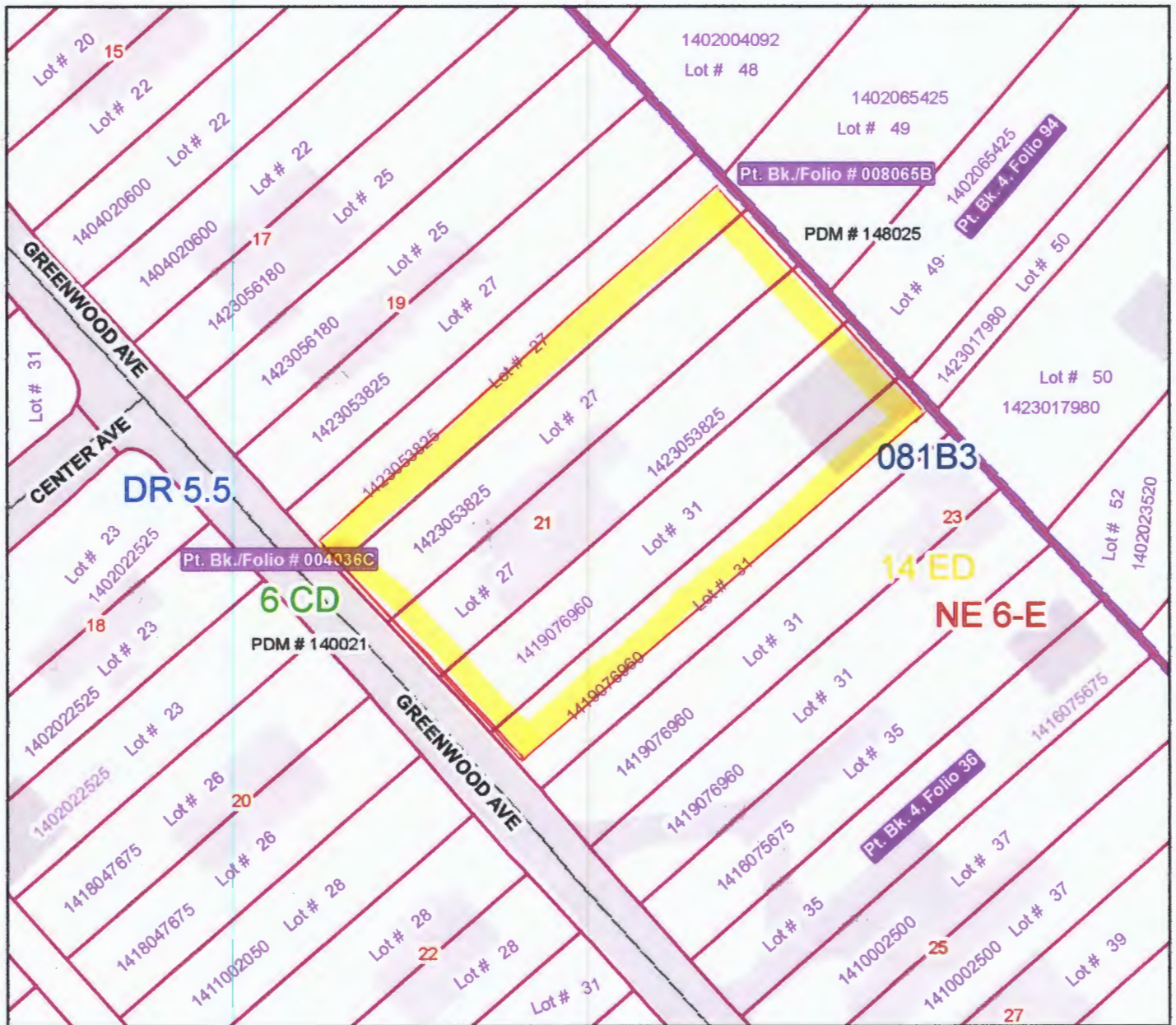
Scale: one inch = 100 ft.

June 24, 1903.
A. B. Bouldin & Co.
Surveyors & Civil Engineers
Baltimore, Md.

THIS PHOTO TAKEN FROM THE
RECORDS OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY IS FOR OFFICIAL
USE ONLY AND NOT TO BE
DUPLICATED FOR SALE OR
GIFT.

Item #0367

21 Greenwood Avenue



Publication Date: June 30, 2010
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



A horizontal scale bar with markings at 0, 50, and 100. The word "Feet" is written at the right end of the bar.

1 inch = 50 feet

Item #0367

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

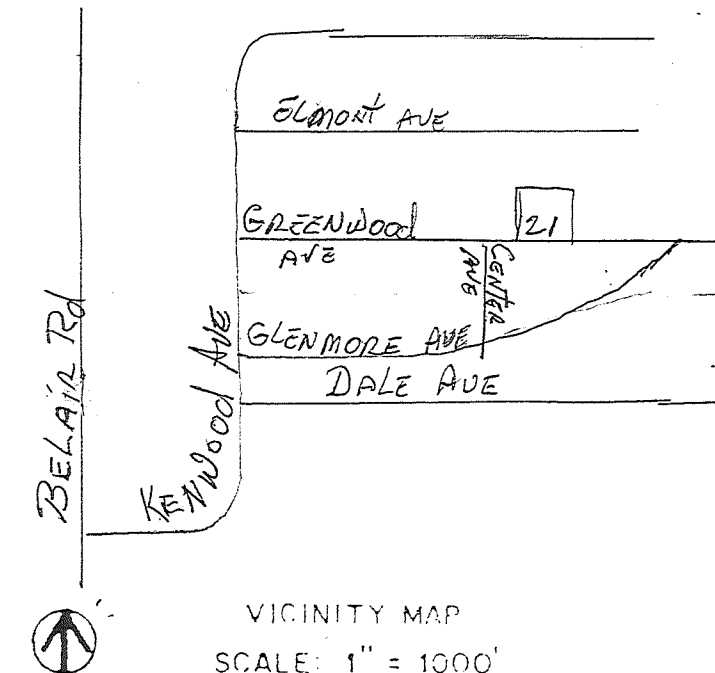
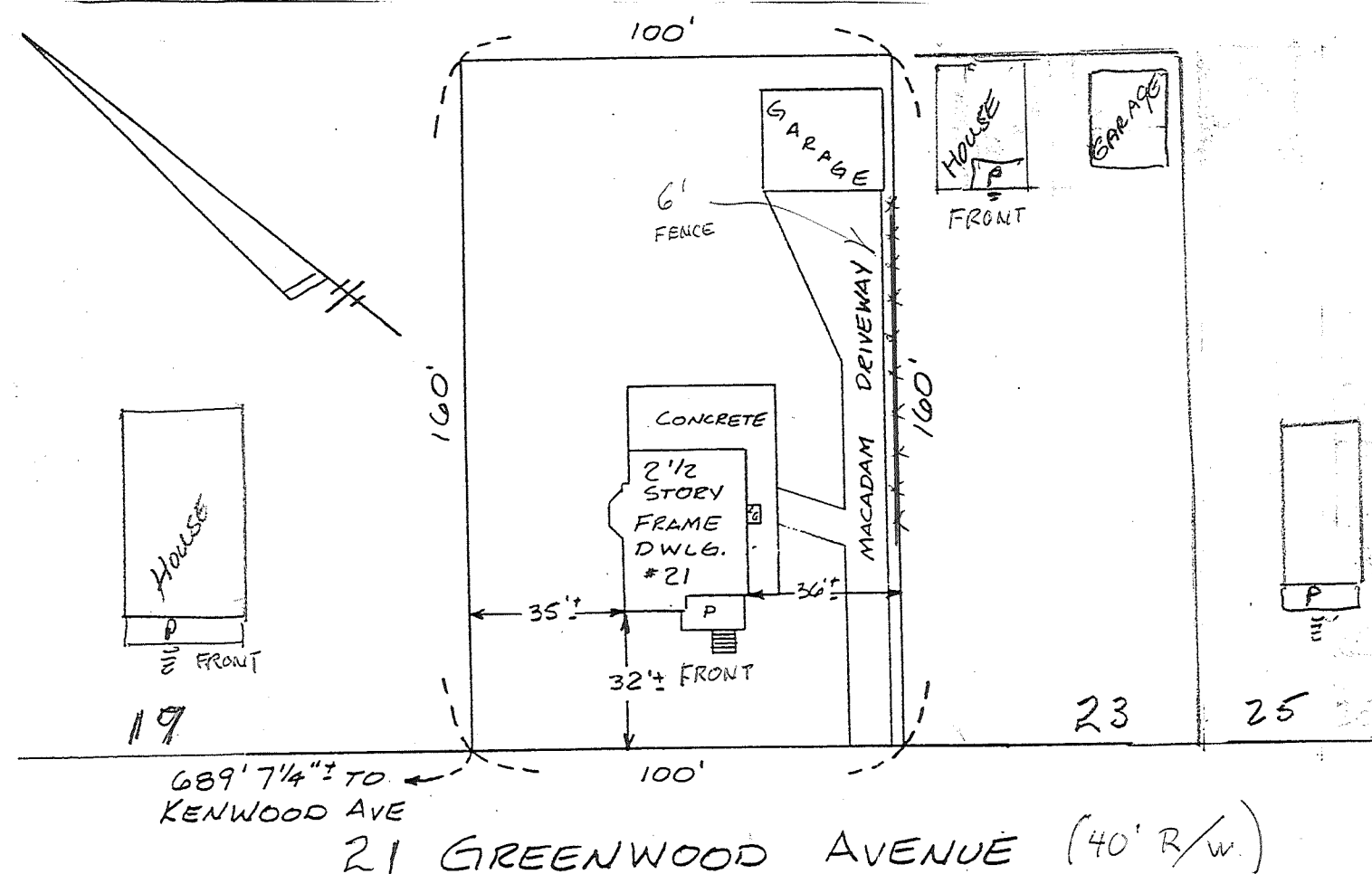
PROPERTY ADDRESS 21 Greenwood Avenue

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

SUBDIVISION NAME Kenwood

PLAT BOOK # 4 FOLIO # 36 LOT # 27-30 SECTION # A

OWNER ROBERT & DIANE BROWN



LOCATION INFORMATION

ELECTION DISTRICT 14

COUNCILMANIC DISTRICT 6

1" = 200' SCALE MAP # 081B3

ZONING DR S.5

LOT SIZE 16,000 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/BUILDING	☐	☒

PRIOR ZONING HEARING None

PETITIONER'S

EXHIBIT NO. 1

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #
<u>KTD</u>		<u>2010-0367-A</u>

PREPARED BY _____

SCALE OF DRAWING: 1" = 40'