

IN RE: PETITION FOR ADMIN. VARIANCE
S side of Bloomsbury Avenue, SW Corner of
Montemar and Bloomsbury Avenues
1st Election District
1st Councilmanic District
(418 Bloomsbury Avenue)

Charles R. Alexander
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0016-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owner of the subject property, Charles R. Alexander for property located at 418 Bloomsbury Avenue. The variance request is from Sections 102.5 and 427.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a 4' high residential chain link fence at the intersection of two streets (Bloomsbury and Montemar Avenues) within the 25' triangle bounded by the two streets in lieu of the required 3' high, and to permit a 6' high residential fence with a zero foot setback in the rear yard of a single-family dwelling that adjoins the front yard of another residence in lieu of the required 42' high fence or a 10' setback for a fence over 42", and from Section 122.1(1) of the Building Code of Baltimore County for a waiver to permit a 48" fence in the front yard of a single family dwelling in lieu of the permitted 42" fence.

The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

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.

ORDER RECEIVED FOR FILING

Date

9-19-11

By

103

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on July 30, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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

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

In addition to the zoning relief requested, the Petitioner needs additional relief under the Baltimore County Building Code.

Waiver relief from Section 122.1(1) of the Baltimore County Code (B.C.C.) has been filed to allow a 48" high fence in the front yard of a single family dwelling in lieu of the permitted 42" fence. This issue is usually determined by the Baltimore County Buildings Engineer. However, when the request is made in conjunction with zoning relief, the matter comes to this Office of Administrative Hearings for resolution. The authority for this delegation of authority can be found in Section 122.4 of the Baltimore County Building Code.

After considering the request and the affidavits contained within the file, I find that the waiver shall be granted.

ORDER RECEIVED FOR FILING

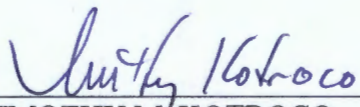
Date

By

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 19th of September, 2011 that a variance from Sections 102.5 and 427.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a 4' high residential chain link fence at the intersection of two streets (Bloomsbury and Montemar Avenues) within the 25' triangle bounded by the two streets in lieu of the required 3' high, and to permit a 6' high residential fence with a zero foot setback in the rear yard of a single-family dwelling that adjoins the front yard of another residence in lieu of the required 42' high fence or a 10' setback for a fence over 42", and from Section 122.1(1) of the Building Code of Baltimore County for a waiver to permit a 48" fence in the front yard of a single family dwelling in lieu of the permitted 42" fence, be and are hereby GRANTED, subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw

ORDER RECEIVED FOR FILING

Date

9-19-11

By

103

Petition for Administrative Variance



to the **Zoning Commissioner of Baltimore County** for the property
located at 418 BLOOMSBURY AVE BALTIMORE MD 21228
which is presently zoned DR 2

Deed Reference: 19914-100598 Tax Account # 011932-0281

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: 102.5

To permit a 4' high residential chain link fence at the intersection of two streets within the 25' triangle bounded by the two streets in lieu of the required 3' high.

Section: 427

To permit a 6' high residential fence with a zero foot set back in the rear yard of a single family dwelling that adjoins the front yard of another residence in lieu of the required 42" high fence or a 10' setback for a fence over 42".

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

Waiver- Section 122.1(1) BCC : To permit a 48 inch high fence in the front yard of a single family dwelling in lieu of the permitted 42 inch fence. agree to and are to be bounded 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):

CHARLES R. ALEXANDER

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City State Zip Code

Representative to be Contacted:

STEVE BOWERS

Name

Address

City State Zip Code

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

Zoning Commissioner of Baltimore County

Case No. 2012-0016-A

Reviewed By [Signature] Date 7/18/11

ORDER RECEIVED FOR FILING

Date 9-19-11

By [Signature]

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently own and reside at 418 BLOOMSBURY AVE
Address number Road or Street name

and that this address is the subject of this variance request as required by law.

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

To replace Fence that has deteriorated over Time. All items existed when I purchased property in April 2004. We need the front Fence to keep the High School students from our property and to help prevent the theft of property and Vandalism that has occurred in the past.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

[Signature]
Signature

C. Richard Alexander
Name- print or type

Signature

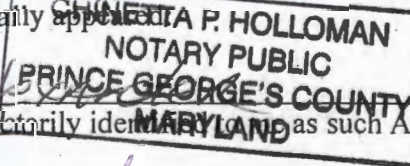
Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 8 day of July, 2011 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

(Name Affiant(s) here): Charles R. Alexander
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).



AS WITNESS my hand and Notarial Seal

[Signature] 9/24/12
Name of Notary Public Commission expires

PLACE SEAL HERE:



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

September 19, 2011

Charles R. Alexander
418 Bloomsbury Avenue
Baltimore, Maryland 21228

RE: PETITION FOR ADMIN. VARIANCE

S side of Bloomsbury Avenue, SW Corner of Montemar and Bloomsbury Avenues
1st Election District - 1st Council District
(418 Bloomsbury Avenue)
Charles R. Alexander – *Petitioners*
Case No. 2012-0016-A

Dear Mr. Alexander:

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 cursive script, appearing to read "Timothy Kotroco".

TIMOTY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw
Enclosure

ZONING PROPERTY DESCRIPTION FOR:

418 BLOOMSBURY AVE

2012-0016-A

BEGINNING AT A POINT ON THE SOUTH SIDE OF BLOOMSBURY AVE WHICH IS 50 FEET WIDE AT THE DISTANCE OF 20 FEET WEST OF THE CENTERLINE OF MONTEMAR AVE WHICH IS 50 FEET WIDE. PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF MONTEMAR AVE.

BEGINNING FOR THE SAME AT A POINT ON THE SOUTHWEST SIDE OF MONTEMAR AVENUE FIFTY FEET WIDE AT THE SOUTHEAST CORNER OF LOT NO. 1, BLOCK "B" AS SHOWN ON PLAT OF SECTION "C", PLAT NO. 2 OF OAK SPRINGS, RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK W.J.R. NO. 27, FOLIO 86, AND RUNNING THENCE AND BINDING ON THE SOUTHWEST SIDE OF MONTEMAR AVENUE, AND REFERRING THE COURSES OF THIS DESCRIPTION TO THE BALTIMORE COUNTY GRID MERIDAN SOUTHEASTERLY BY A CURVE TO THE LEFT WITH A RADIUS OF TWO HUNDRED FORTY AND NO ONE-HUNDREDTHS FEET THE DISTANCE OF THIRTY-SEVEN AND SIXTEEN ONE-HUNDREDTHS FEET AND SOUTH SIXTY-ONE DEGREES TEN MINUTES EIGHTEEN SECONDS EAST THIRTY-EIGHT AND SIXTY-FIVE ONE HUNDREDTHS FEET THENCE SOUTH SIXTEEN DEGREES TEN MINUTES EIGHTEEN SECONDS EAST FOURTEEN AND FOURTEEN ONE-HUNDREDTHS FEET TO THE NORTHWEST SIDE OF BLOOMSBURY AVENUE FIFTY FEET WIDE, AND RUNNING THENCE AND BINDING ON THE NORTHWEST SIDE OF BLOOMSBURY AVENUE SOUTH TWENTY-EIGHT DEGREES FORTY-NINE MINUTES FORTY-TWO SECONDS WEST SIXTY-THREE AND FIFTY-ONE HUNDREDTHS FEET TO THE END OF THE THIRD LINE OF THE LAND WHICH BY DEED DATED MAY 21, 1962 AND RECORDED AMONG THE AFORESAID LAND RECORDS IN LIBER W.J.R. NO. 4010, FOLIO 165 WAS CONVEYED BY JOHN E. ANGEL AND WIFE UNTO KENNETH A. SIPES AND WIFE THENCE LEAVING THE NORTHWEST SIDE OF BLOOMSBURY AVENUE AND BINDING REVERSELY ON SAID THIRD LINE, AS NOW SURVEYED NORTH FIFTY-NINE DEGREES THIRTY-SEVEN MINUTES NO SECONDS WEST NINETY-TWO AND FORTY-SEVEN ONE-HUNDREDTHS FEET TO INTERSECT THE SOUTHEAST SIDE OF LOT NO. 1, BLOCK "B" AS SHOWN ON THE PLAT HEREIN REFERRED TO AND RUNNING THENCE AND BINDING ON THE SOUTHEAST SIDE OF SAID LOT NO. 1 NORTH THIRTY-FOUR DEGREES FOUR MINUTES NO SECONDS EAST SEVENTY-FOUR AND NINETEEN ONE HUNDREDTHS FEET MORE OR LESS TO THE PLACE OF BEGINNING, ACCORDING TO SURVEY MADE BY DAVID W. POHMER, SURVEYOR AND ENGINEER. DATED AUGUST 7, 1962.

6264 SQUARE FEET COUNCIL DIST 01 ELECTION DIST 01

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 08/01/2011

Case Number: 2012-0016-A

Petitioner / Developer: CHARLES ALEXANDER~STEVE BOWERS of
LONG FENCE COMPANY

Date of Hearing (Closing): AUGUST 15, 2011

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:
418 BLOOMSBURY AVENUE

The sign(s) were posted on: JULY 30, 2011



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 08/07/2011

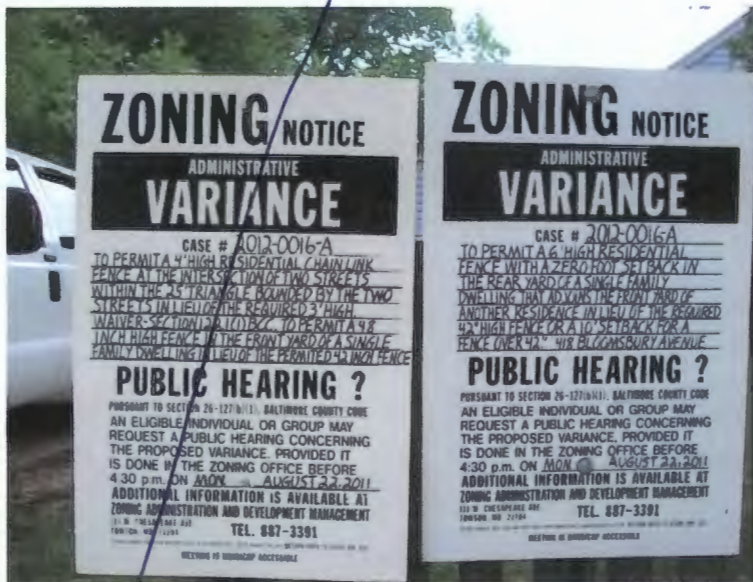
Case Number: 2012-0016-A

Petitioner / Developer: CHARLES ALEXANDER~STEVE BOWERS of
LONG FENCE COMPANY

Date of Hearing (Closing): AUGUST 22, 2011

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:
418 BLOOMSBURY AVENUE

The sign(s) were posted on: JUNE 07, 2011



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



Application for Administrative Waiver Of Building Code Fence Height Limitations

Instructions: Fill out the information below above the signature line, sign & date. Prepare and submit a **Site Plan** (see requirements on the back of this page) and **Certification of Posting** (provided by the sign poster) to the Building Engineer, Room 105, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204. Note that if no public hearing is requested, the waive decision will be based on evidence presented along with County maintained information about the site.

Property Address 418 BLOOMSBURY AVE
BALTIMORE MD 21228
Owner CHARLES R. ALEXANDER
Owner Address 418 BLOOMSBURY AVE
BALTIMORE MD 21228

Corner Lot? ☒ Yes ☐ No

Fence located in ☒ Front ☐ Side ☐ Rear Yard

Fence Height Allowed by Building Code 42"

Fence Height Requested 48" (Attach fence location drawing.)

Basis for Request:

THE OWNER'S RESIDENCE IS LOCATED 200 YARDS
FROM CATONSVILLE HIGH SCHOOL. THE STUDENTS
CONTINUELY VANDALIZE THE PROPERTY, LEAVE
TRASH, SMOKE ON FRONT PORCH. THE OWNER
WOULD LIKE TO CLEARLY ESTABLISH HIS PROPERTY
BOUNDARY AND KEEP STUDENTS OUT OF HIS
FRONT YARD AND OFF HIS FRONT PORCH.

Applicant's Signature R. Steven Bower Date: 7/18/2011

(County Use Only)

Waiver Number 2012-0016-A

Date Property Posted 8/1/11

Input/comments/protests received within 15 days?

Yes ☐ No ☒

Has Hearing been requested?

Yes ☐ No ☒

(If Yes, attach record of Hearing)

Final Disposition:

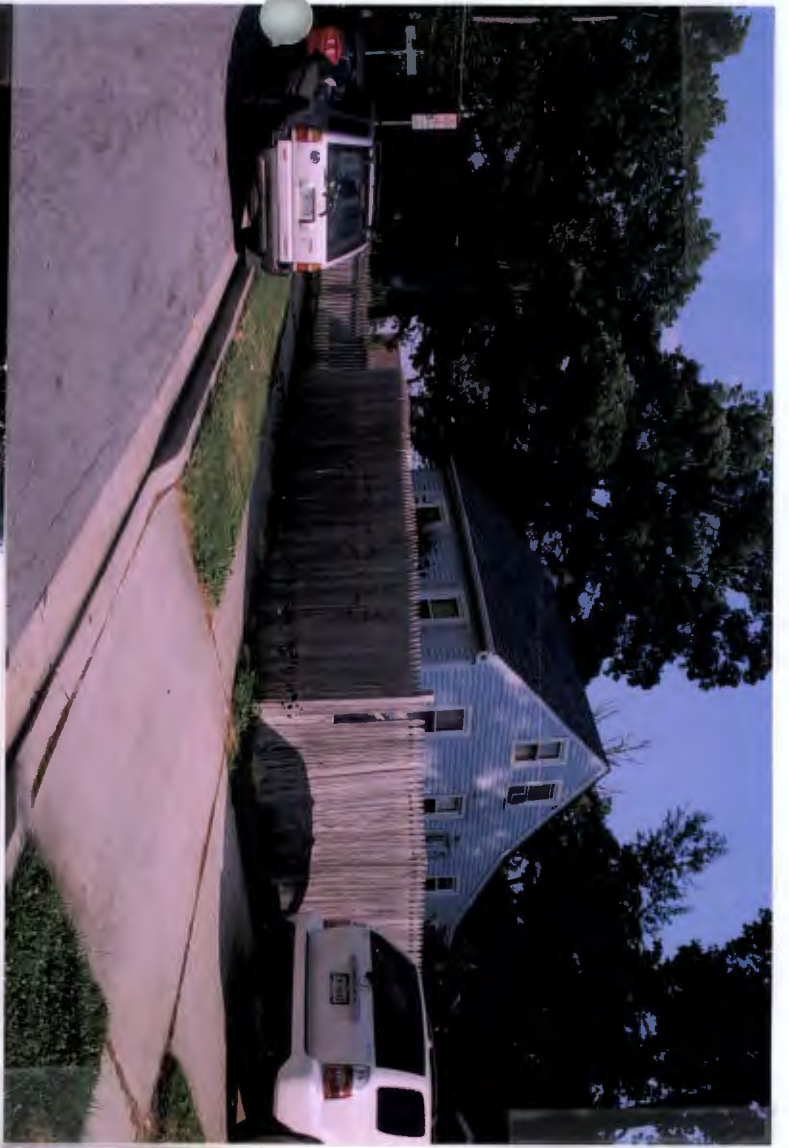
Granted along with Administrative Variance

Buildings Engineer

Anthony Kotroco

Date

Posted on VARIANCE SIGN



ZONING HEARING PLAN FOR VARIANCE ☒ FOR SPECIAL HEARING (MARK TYPE REQUESTED WITH ☒)
 ADDRESS 418 BLOOMSBURY AVE OWNER(S) NAME(S) C. RICHARD ALEXANDER
 SUBDIVISION NAME _____ LOT # _____ BLOCK # _____ SECTION # _____
 PLAT BOOK # 0027/0086 FOLIO # 04/101 10 DIGIT TAX # 011932028 DEED REF. # 19914100598

SITE VICINITY MAP
BLOOMSBURY AVE

MONTEMAR AVE

N



MAP IS NOT TO SCALE

ZONING MAP# 0101A2
 SITE ZONED DR2
 ELECTION DISTRICT 01
 COUNCIL DISTRICT 01
 LOT AREA ACREAGE .144
 OR SQUARE FEET 6264
 HISTORIC? NO
 IN CBCA? NO
 IN FLOOD PLAIN? NO
 UTILITIES? MARK WITH ☒
 WATER IS:
 PUBLIC ☒ PRIVATE _____
 SEWER IS:
 PUBLIC ☒ PRIVATE _____
 PRIOR HEARING? NO
 IF SO GIVE CASE NUMBER
 AND ORDER RESULT BELOW

VIOLATION CASE INFO:



SECTION 102.5

SECTION 427



PLAN DRAWN BY STEVE BOWERS DATE 7/9/2011 SCALE: 1 INCH = 40 FEET

2012-0016-A