



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

October 5, 2022

George Ritchie, Esquire - gritchie@gfrlaw.com
Gordon – Feinblatt, LLC
1001 Fleet Street, Suite 700
Baltimore, MD 21202-4346

RE: Order - Motion for Reconsideration
Case No. 2022-0078-A&BCW
Property: 13816 Hanover Pike

Dear Mr. Ritchie:

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

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Paul M. Mayhew".

PAUL M. MAYHEW
Administrative Law Judge
for Baltimore County

PMM:dln
Enclosure

c: Stephen Yankee and Susan Marsland – steveyankeejp@gmail.com
Rhonda Means – rhondameans07@gmail.com
PAI Code Enforcement – paienforce@baltimorecountymd.gov

**IN RE: PETITION FOR VARIANCE
& FENCE WAIVER
(13816 Hanover Pike)**
4th Election District
3rd Council District
Stephen Yankee & Susan Marsland
Legal Owners

Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2022-0078-A & BCW**

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

A contested hearing was held in this case on August 23, 2022. An Opinion and Order was issued on September 1, 2022. On September 29, 2022 a timely Motion for Reconsideration with supporting exhibits was filed by Rhonda Means, a neighbor who participated in the hearing and who opposed the requested variance relief. Ms. Means does not state whether she provided a copy of her Motion and exhibits to Counsel for Petitioners, or to People’s Counsel, as required.

In any event, the Motion does not raise any issues or contain any information that could not have been presented at the August 23, 2022. I therefore decline to revisit the reasoning and decision reached in the September 1, 2022 Opinion and Order.

THEREFORE, it is this 6th day of **October, 2022**, ORDERED, that the Motion for Reconsideration be, and hereby is, **DENIED**.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

October 5, 2022

George Ritchie, Esquire - gritchie@gfrlaw.com
Gordon – Feinblatt, LLC
1001 Fleet Street, Suite 700
Baltimore, MD 21202-4346

RE: Order - Motion for Reconsideration
Case No. 2022-0078-A&BCW
Property: 13816 Hanover Pike

Dear Mr. Ritchie:

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

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Paul M. Mayhew".

PAUL M. MAYHEW
Administrative Law Judge
for Baltimore County

PMM:dln
Enclosure

c: Stephen Yankee and Susan Marsland – steveyankeejp@gmail.com
Rhonda Means – rhondameans07@gmail.com
PAI Code Enforcement – paienforce@baltimorecountymd.gov

**IN RE: PETITION FOR VARIANCE
& FENCE WAIVER
(13816 Hanover Pike)**
4th Election District
3rd Council District
Stephen Yankee & Susan Marsland
Legal Owners

Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2022-0078-A & BCW**

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

A contested hearing was held in this case on August 23, 2022. An Opinion and Order was issued on September 1, 2022. On September 29, 2022 a timely Motion for Reconsideration with supporting exhibits was filed by Rhonda Means, a neighbor who participated in the hearing and who opposed the requested variance relief. Ms. Means does not state whether she provided a copy of her Motion and exhibits to Counsel for Petitioners, or to People’s Counsel, as required.

In any event, the Motion does not raise any issues or contain any information that could not have been presented at the August 23, 2022. I therefore decline to revisit the reasoning and decision reached in the September 1, 2022 Opinion and Order.

THEREFORE, it is this 6th day of **October, 2022**, ORDERED, that the Motion for Reconsideration be, and hereby is, **DENIED**.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

September 1, 2022

George Ritchie, Esquire - gritchie@gfrlaw.com
Gordon – Feinblatt, LLC
1001 Fleet Street, Suite 700
Baltimore, MD 21202-4346

RE: Petition for Variance & Building Code Waiver
Case No. 2022-0078-A&BCW
Property: 13816 Hanover Pike

Dear Mr. Ritchie:

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

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Paul M. Mayhew". The signature is written in a cursive style with a large initial "P" and "M".

PAUL M. MAYHEW
Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure

c: Stephen Yankee and Susan Marsland – steveyankeejp@gmail.com
Rhonda Means – rhondameans07@gmail.com
PAI Code Enforcement – paienforce@baltimorecountymd.gov

**IN RE: PETITION FOR VARIANCE
& FENCE WAIVER
(13816 Hanover Pike)
4th Election District
3rd Council District
Stephen Yankee & Susan Marsland
*Legal Owners***

Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2022-0078-A & BCW**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by the legal owners, Stephen Yankee and Susan Marsland (“Petitioners”) for the property located at 13816 Hanover Pike (the “Property”). The Petitioners are requesting Variance relief from Baltimore County Zoning Regulations (“BCZR”) 400.1 to approve an accessory structure (pagoda) in their side yard in lieu of the required rear yard. They also seek a waiver of the Baltimore County Building Code (“BCBC”) § 122.1, to allow a front yard fence with a height of 72 inches in lieu of 42 inches.

Zoning Advisory Committee (“ZAC”) comments were received from Department of Environmental Planning (“DOP”) and Development Plans Review (“DPR”) which agencies did not oppose the requested relief.

Due to the COVID-19, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Stephen Yankee appeared in support of the Petition. George Ritchie, Esquire of Gordon-Feinblatt, LLC represented the Petitioners. Rhonda Means, the neighbor two doors away, also attended and voiced her opposition to the requested relief. The adjoining neighbor, Marc Switzer, submitted a letter supporting the requested relief which was admitted as Petitioners’ Exhibit 6.

The Property is approximately 17,859 sq. ft. and is zoned RC 2. It is situated on Hanover Pike in Reisterstown, which is a busy two lane road that handles commuter traffic to and from northern Baltimore County and Pennsylvania. Mr. Yankee testified that he and his wife constructed the fence back in 1997 in order to provide some privacy and soundproofing from this busy road. They built the gazebo (which is behind the fence) in 2004 and they use it to relax and meditate in. He further explained that they had no complaints about either structure until a recent anonymous complaint was filed with the County's Code Enforcement office. He testified that a Correction Notice and Citation were issued by that office, and that he appeared for a hearing before ALJ Maureen Murphy who stayed enforcement of the citation pending the resolution of this variance case. Mr. Yankee asks that he and his wife be allowed to keep the fence and gazebo that they built and have peaceably used for many years. Ms. Means objects to the requested variance because she believes the Petitioners should be required to comply with the strict letter of the law, as she believes she has.

DECISION

In his poem "Mending Walls" Robert Frost quotes an old country neighbor of his, who loved to say "Good fences make good neighbors." Sadly, the fence in this case does not appear to have had that effect.

Under BCZR Sec. 307.1, and Maryland common law, in order to be entitled to variance relief the Petitioners must satisfy a two-step legal analysis, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity is what necessitates the requested variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691, 699 (1995).

In this case I find that the property is unique in a zoning sense because it is on a relatively small lot and the front porch of the home is only 42 ft. from a noisy and heavily travelled arterial road. This proximity to the road is what caused the Petitioners to build the fence in question. Further, the Petitioners would suffer practical difficulty and hardship if the variance and waiver were denied because they would have to modify the fence and move the gazebo. I believe that the variance and waiver are within the spirit and intent of the zoning regulations and building code and that the requested relief will not harm the public health, safety or welfare. This view is shared by the Department of Planning.

THEREFORE, IT IS ORDERED, this 1st day of **September, 2022**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from BCZR, § 400.1 to approve an accessory structure (pagoda) in side yard in lieu of the required rear yard only; and a waiver of the Baltimore County Building Code (“BCBC”) § 122.1, to approve a front yard fence with a height of 72 inches in lieu of 42 inches are hereby **GRANTED**.

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


PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm



PETITION FOR ZONING HEARING(S)

22-0035
RJ

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 13916 Hanover Pk which is presently zoned RC2

Deed References: _____ 10 Digit Tax Account # 0406045025

Property Owner(s) Printed Name(s) Steve Yankee / See Marsland

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. X a Variance from Section(s) 400.1 and Building Code Waiver from BCPC Part 122.1:

See Attached

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

See Attached Statement & Property Description

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Legal Owners (Petitioners):

Stephen J. Yankee SUSAN D. MARSLAND
Name #1 - Type or Print Name #2 - Type or Print

Stephen J. Yankee Susan Marsland
Signature #1 Signature #2

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Attorney for Petitioner:

George Ritzke
Name- Type or Print

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Representative to be contacted:

Name - Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

CASE NUMBER 2022-0078-4 Filing Date 3/29/22 Do Not Schedule Dates: _____ Reviewer SMC

Attachment Building Code Waiver & Variance

Stephen Yankee & Susan Marsland (Owners)

13816 Hanover Pike (property)

Building Code Waiver:

BCBC 122.1 to approve a front yard fence with a height 6 feet, in lieu of the 42 inches front yard fence height maximum.

Variance:

BCZR 400.1 to approve an accessory structure (pagoda) in side yard in lieu of the required rear yard only.

LEGAL PROPERTY DESCRIPTION FOR 13816 HANOVER PIKE

BEGINNING for the same at a stone on the West side of the Hanover Turnpike, said stone being also at the end of the third or North 86 degrees East-260-4/10 feet line as described in a Deed from John E. Tinkler, et al. to Carroll Caulfield and wife, said Deed being recorded among the Land Records of Baltimore County in Liber W.P.C. No. 565, folio 327, etc. and dated November 24th, 1922, and running thence and binding on said line reversely South 86 degrees West 260-4/10 feet to a stone thence by lines of division as located and agreed upon, North 4 degrees West 37-1/2 feet, thence due North 27-1/2 feet thence North 86 degrees East 260-4/10 feet to the West side of the Hanover Turnpike Road still North 86 degrees East 90 feet to the center of the above mentioned road and thence with and binding on the centre of the Hanover Turnpike the two following courses and distances, namely: Due South 27-1/2 feet, thence South 4 degrees East 37-1/2 feet, thence binding 4. In the Caulfield property South 86 degrees West 30 feet to the place of beginning. The improvement* thereon being 4110 known as No. 13816 Hanover Pike.

CERTIFICATE OF POSTING

Date: 8-18-22

RE: Case Number: 2022-0078-A + BCW RECERT

Petitioner/Developer: Yankee + Marsland

Date of Hearing/Closing: Aug. 23, 2022 1:30 PM

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 17816 Hanover Pike

The signs(s) were posted on RECERT 8-18-22
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

ATTACH PHOTOGRAPH

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

ZONING NOTICE

#2

CASE # 2022-0078-A+BCW

A PUBLIC HEARING WILL BE HELD BY

ADMINISTRATIVE LAW JUDGE

IN TOWSON, MD

PLACE: FOR INFO. ON HOW TO PARTICIPATE IN THE HEARINGS GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMIN HEARINGS NO LATER THAN 48 HRS PRIOR TO HEARING. YOU MAY ALSO CALL 410-887-3868 EX.10

DATE AND TIME: TUES. AUGUST 23, 2022 11:30 PM

REQUEST: VARIANCE TO APPROVE AN ACCESSORY STRUCTURE (PAGODA) IN SIDE YARD IN LIEU OF THE REQUIRED REAR YARD WILLY. BUILDING CODE WAIVER TO APPROVE A FRONT YARD FENCE WITH A HEIGHT OF 6 FT. IN LIEU OF THE 42 INCHES FRONT YARD FENCE HEIGHT MAXIMUM.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING DATE CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL THE DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

ZONING NOTICE

#1

CASE # 2022-007B-A+BCW

A PUBLIC HEARING WILL BE HELD BY
ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

PLACE: FOR INFO. ON HOW TO PARTICIPATE IN THE HEARINGS
GO TO WWW.BALTIMORECOUNTYMD.GOV/ADMIN HEARINGS NO LATER
THAN 48 HOURS PRIOR TO THE HEARING. YOU MAY ALSO CALL 410-891-3863
EXT. 0

DATE AND TIME: TUES. AUG. 23, 2022 1:30 PM

REQUEST: VARIANCE TO APPROVE AN ACCESSORY
STRUCTURE (PAGODA) IN SIDE YARD IN LIEU OF THE

REQUIRED REAR YARD ONLY. BUILDING CODE WAIVER
TO APPROVE A FRONT YARD FENCE WITH A HEIGHT OF
6 FT. IN LIEU OF THE 42 INCHES FRONT YARD FENCE
HEIGHT MAXIMUM

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW.
FOR MORE INFORMATION CALL 410-891-3391
HANDICAPPED ACCESSIBLE

ZONING ADVISORY COMMITTEE AGENDA
ROOM 123, COUNTY OFFICE BUILDING
DISTRIBUTION MEETING April 4, 2022
FORMAL OR INFORMAL RESPONSE DUE AT April 11, 2022 Meeting

* Agenda Only
+ Agenda and Petition
& Agenda and Plat
Agenda, Petition and Plat

Distribution:

- * Administrative Law Judge, Commissioner (Paul M. Mayhew), MS #4103, dwiley@baltimorecountymd.gov; dmignon@baltimorecountymd.gov
- * PAI, Zoning Review H.O. Hearing File (Kristen Lewis), klewis@baltimorecountymd.gov
- * PAI, Zoning Review DRC/ZAC Meeting File (Jeff Perlow), JPerlow@baltimorecountymd.gov
- * PAI, Development Management (Lloyd Moxley), MS # 1105, lmoxley@baltimorecountymd.gov
- * PAI, Code Enforcement (Lisa Henson), MS # 1105, lhenson@baltimorecountymd.gov
- * PAI, Building Inspection (Matt Gawel), mg@baltimorecountymd.gov
- * Economic Development Commission, Business Develop. (Stanley Jacobs), MS # 4300, sjacobs@baltimorecountymd.gov
- * Highways (Tom Hargis), MS #1003 thargis@baltimorecountymd.gov
- * Neighborhood Improvements (Marcia Williams), MS #4201, myneighborhoodimprovement@baltimorecountymd.gov
- * County Council, District 3, (Tom Bostwick), MS #2201, council1@baltimorecountymd.gov
tbostwick@baltimorecountymd.gov
- * Mike Ruby (Newspaper), mildmanneredcomm@aol.com
- + People's Counsel, rwheatley@baltimorecountymd.gov
- + IF CRITICAL AREA, Maryland Office of Planning (Joseph Griffiths), joseph.griffiths@maryland.gov
- + Kathy Are, kare@baltimorecountymd.gov
- & State Highway Administration, Access Permits Division (Steven Autry), SAutry@mdot.maryland.gov
- & Fire Department (Inspector Muddiman), MS # 1102F, dmuddiman@baltimorecountymd.gov
- & PAI, Development Plans Review (Vishnu Desai), vdesai@baltimorecountymd.gov
- # People's Counsel (Peter Zimmerman), MS #4204 pzimmerman@baltimorecountymd.gov
- # Planning Office (Jenifer Nugent), MS # 4101, jnugent@baltimorecountymd.gov; Henry Ayakwah hayakwah@baltimorecountymd.gov; Taylor Bensley tbensley@baltimorecountymd.gov
- # DEPS (Jeff Livingston) – 2 copies of each, MS # 1319, jlivingston@baltimorecountymd.gov; Steve Ford, sford@baltimorecountymd.gov
- # IF FLOODPLAIN, Maryland Department of the Environment, kevin.wagner@maryland.gov
- # Public Works (Terry Curtis), MS #1315, tcurtis@baltimorecountymd.gov
- * IF ELDERLY HOUSING, Community Development, MS #1102M
- * IF TOWER, Tower Coordinator, c/o OIT, MS #2007
- # IF HELICOPTER, Police Department, Aviation Unit (Officer Taylor or Sgt. Wines)
- # IF PAWN SHOP, Police Department, Burglary/Pawn Unit (Det. Kropfelder), MS #1102E

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with the codes, standards, or regulations of your office or department. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" within one week at the next meeting. If no written response is received within two weeks, it is assumed that your agency has "no comment". All written comments must reference the ZAC item number. All comments received will be compiled and included in the zoning/development file for review and consideration by the hearing officer during the course of the upcoming zoning/development hearing.

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Kristen Lewis

If you have any questions regarding a particular zoning petition, please contact the Zoning Review Planner (see initials after item number) at 410-887-3391.

ZAC AGENDA

Case Number: 2022-0078-A & BCW **Reviewer:** Shaun Crawford

Existing Use: RESIDENTIAL **Proposed Use:** RESIDENTIAL

Type: VARIANCE, BUILDING CODE WAIVER

Legal Owner: Stephen Yankee and Susan Marsland

Contract Purchaser: No Contract Purchaser was set.

Critical Area: No **Flood Plain:** No **Historic:** No **Election Dist:** 4 **Council Dist:** 3

Property Address: 13816 HANOVER PIKE

Location: Property located beginning at the West side of Hanover Pike North 86 degrees East 260 feet.

Existing Zoning: RC 2

Area: 17,859 SQ FT.

Proposed Zoning:

VARIANCE:

BCZR 400.1: To approve an accessory structure (pagoda) in side yard in lieu of the required rear yard only.

BUILDING CODE WAIVER:

BCBC 122.1: To approve a front yard fence with a height 6 feet, in lieu of the 42 inches front yard fence height maximum.

Attorney: George Ritchie

Prior Zoning Cases: None

Concurrent Cases: None

Violation Cases: cc2113350

Closing Date:

Miscellaneous Notes:
