

**IN RE: ADMINISTRATIVE WAIVER (Fence) \*** BEFORE THE OFFICE  
**(1540 Kirkwood Road) \*** OF ADMINISTRATIVE  
Frederick Savoy & Kesha Jones \*  
Petitioners \* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **WAIVER NO. 14-019W**

\* \* \* \* \*

**OPINION AND ORDER ON ADMINISTRATIVE WAIVER (FENCE)**

Petitioners seek an administrative waiver, to retain an 8’ high fence in the rear and side yards of their home, in lieu of the 6’ height allowed by Part 122 of the Baltimore County Building Code. A request for hearing was filed by a neighbor, and a hearing was held on August 20, 2014.

Mr. Savoy and Ms. Jones (owners) stated that they constructed the fence to increase their privacy, and to ensure the safety of the children that are in Ms. Jones’ child care facility on site. They explained that their property is an end of group town home, and that strangers, stray animals and others use their property as a cut through, and that the fence will prevent this from occurring.

April Newman, who resides at 1542 Kirkwood Road, testified in opposition to the request. She stated the Petitioners constructed the fence without proper permits and approvals, and that it violates zoning requirements. She also believes that the fence is unattractive and will negatively impact the value of her home. Finally, she stated that the 8’ tall fence obstructs her view and causes her to have concerns for her security and safety.

The file contains several emails from area residents, some of whom support the request, while others expressed opposition. By email dated August 18, 2014, Quintin Stevens, President

of the Edmondson Heights Civic Association, stated that the Association “strongly recommends that a zoning variance not be granted.”

An old proverb provides that “good fences make good neighbors,” but that is unfortunately not the case here. These neighbors do not get along, which is an all-too-common occurrence in modern life. In any event, the Petitioners’ request must be considered under Part 122.4 of the Building Code, which addresses “waivers.”

Unfortunately, the Building Code does not provide much if any guidance concerning fence waiver requests. It only states that if a waiver is granted, the hearing officer shall set forth specific findings of fact specifying the reason for the grant of the variance. This indicates that such variances shall be granted only for good cause, and based on the specific facts and circumstances in the case at issue.

Here, the Petitioners state that the 8’ high fence will increase their privacy, and that is no doubt the case. But the flip side is that their neighbor views the fence as an intrusion, and if privacy was a sufficient reason, then such a waiver would need to be granted to any home owner who felt the need for more seclusion. The Petitioners noted that the fence will prevent strangers and animals from “cutting through” their yard, and while this is no doubt a valid concern, a 6’ high fence as allowed by the Code would also serve that function.

The Petitioners also note that a family child care facility is operated in the home, and that the rear yard is used as a play area for the children. The law does require that a child care facility have a “solid wood stockade or panel” fence, and the fence installed by Petitioners satisfies this requirement. Baltimore County Zoning Regulations (“BCZR”) § 424.1.B. But the BCZR

requires such fences to be “a minimum height of five feet,” a requirement that also can be satisfied with a 6’ high fence.

As noted at the outset, the Petitioners’ home is an end-of-group town house, and there is not much distance between their home and Ms. Newman’s. In these circumstances, an 8’ high fence can, as Ms. Newman described, make a neighbor feel claustrophobic. If the homes were a great distance apart, this concern would be ameliorated, but in this setting I believe it is paramount.

THEREFORE, IT IS ORDERED, this 25<sup>th</sup> day of August, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Administrative Waiver pursuant to Part 122 of the Baltimore County Building Code, be and is hereby DENIED.

This decision may be appealed to the Baltimore County Board of Appeals within Thirty (30) days of the date of this Order.

JEB:sln

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JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County