

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(3722 Eastman Road) *	OFFICE OF
2 <sup>nd</sup> Election District	
4 <sup>th</sup> Council District *	ADMINISTRATIVE HEARINGS
Josie Gray, <i>Legal Owner</i>	
	FOR BALTIMORE COUNTY
Petitioner *	<b>Case No. 2019-0291-SPHA</b>
* * * * *	* *

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Joseph Thomas Lorenz, IV, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit a Class A Group Child Care Center (up to 12 children). A Petition for Variance was filed to permit an existing stockade fence with a setback of 0 ft. in lieu of the required 20 ft. to property line. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Josie Gray, Candace Gray and Trina Fenwick appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the request.

**SPECIAL HEARING**

Petitioner has been a State-licensed daycare provider for two years and has cared for eight children at the subject property, which is also her principal residence. Petitioner would like to

enroll up to twelve (12) children at her center and was informed by Baltimore County that a petition for special hearing would be required.

Ms. Gray explained that her driveway can accommodate three vehicles and two additional vehicles can park on the street in front of her home. She testified drop-off hours were between 7-9 a.m. and a pick-up between 3-6 p.m. She has never experienced traffic or parking problems at this location and advised that at most 3-4 parents might be at the center at the same time. Ms. Gray and Ms. Fenwick are the only employees at the center. Based on the above testimony and their track-record of success in operating the child care center, I do not believe granting the request would have any negative impact upon the community.

#### VARIANCE

A variance request involves a two-step process, 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 must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

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

The variance request concerns the location of the existing stockade fence, parts of which are over ten years old. The fence encloses the rear yard and provides a safe and attractive play area (63 ft. x 45 ft., or 2,835 sq. ft. in area) for the children.

If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would need to relocate the fence and if required to observe a 20 ft. setback from each of the adjoining properties would have only a 25 ft. wide rear yard for the play area, which is obviously untenable. Finally, I find that the variance can be granted in harmony with the

spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of **June, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to permit a Class A Group Child Care Center (up to 12 children), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an existing stockade fence with a setback of 0 ft. in lieu of the required 20 ft. to property line, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln