

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Florence A. Rogers, legal owner, 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 1802.3C (1) - to

permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40', said property line to be established by the

Resubdivision Procedures allowed in Baltimore County. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County for the following reasons: (indicate hardship or practical difficulty) Hardship and practical difficulty in that my personal situation dictates that I maintain a home for myself, but I find that my present property holdings are too large for me to maintain the upkeep thereon. Since I do not have the financial capability in order to purchase additional land and relocate, I find it necessary to resubdivide my present holdings, sell the existing house and retain ownership of that balance of Lot 7 upon which I can construct a home under the provisions of Sections 1802.3C(1) and 1802.3C(2) of the Current Zoning Regulations. If I were to subdivide my property based upon the above quoted Section of the Zoning Code and in addition thereto, Section 400.1 which indicates one must maintain a 40' setback if the garage is attached to the house, I would be unable to build on that portion of Lot 7 remaining. I would have less than the required minimums allowed for lots in a transition area.

see attached description

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract purchaser Florence A. Rogers Legal Owner
Address 7800 Seven Mile Lane
Pikesville, Md. 21208
Petitioner's Attorney _____
Protestant's Attorney _____

DATE April 15, 1975 PM
ORDERED BY The Zoning Commissioner of Baltimore County, this 21st day

of April, 1975, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 26th day of May, 1975, at 10:30 o'clock

A. M. _____
Zoning Commissioner of Baltimore County

(over)

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E. Wm. T. MELZER
DIRECTOR DEPUTY TRAFFIC ENGINEER

May 14, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 185 - ZAC - April 15, 1975
Property Owner: Florence A. Rogers
Location: NW/C of Seven Mile Lane & Southvale Road
Existing Zoning: D.R.2
Proposed Zoning: Variance from Sec. 1802.3C (1) to permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40'.
No. of Acres: 0.5602
District: 3rd

Dear Mr. DiNenna:

No traffic problems are expected by the requested variance to the rear yard.

Very truly yours,

Michael S. Planigan
Michael S. Planigan
Traffic Engineering Assoc.

MSF/bza

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: April 21, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: April 15, 1975

Re: Item 185
Property Owner: Florence A. Rogers
Location: NW/C of Seven Mile Lane & Southvale Road
Present Zoning: D.R. 2
Proposed Zoning: Variance from Section 1802.3C(1) to permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40'.

District: 3rd
No. Acres: 0.5602

Dear Mr. DiNenna:

No bearing on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative.

WNP/ml

H. E. ELIE PARKS, President
EUGENE C. HESS, Vice President
MRS. ROBERT L. BERNY

MARCUS M. BOTSARIS
JOSEPH N. MCDONNAN
ALVIN LORECK
JOSHUA W. WHEELER, Superintendent

T. BALABE WILLIAMS, JR.
RICHARD W. TRACY, Valedictorian
WILLIAM R. HUEBEL

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BUILDING
111 W. Chesapeake Avenue
Towson, Maryland 21204

Franklin T. HOGANS, Jr.
XXXXXXXXXXXXXXXXXXXX

May 29, 1975

Mrs. Florence A. Rogers
7800 Seven Mile Lane
Baltimore, Maryland 21208

RE: Variance Petition
Item 185
Florence A. Rogers - Petitioner

Dear Mrs. Rogers:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

The subject property is located on the northwest corner of Seven Mile Lane and Southvale Road, and is currently improved with a two-story dwelling. The petitioner is requesting a rear yard Variance for the existing dwelling in order that her overall property may be subdivided and another house be built.

Adjacent properties in this area are improved with single family dwellings similar to that of the petitioner.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF HEALTH

JEFFERSON BUILDING
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

April 16, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #185, Zoning Advisory Committee Meeting, April 15, 1975, are as follows:

Property Owner: Florence A. Rogers
Location: NW/C of Seven Mile Lane & Southvale Rd.
Existing Zoning: D.R. 2
Proposed Zoning: Variance from Sec. 1802.3C(1) to permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40'.

No. of Acres: 0.5602
District: 3rd

Metropolitan water and sewer are available.

Jones Falls Moratorium: A moratorium was placed on new sewer connections in the Jones Falls Drainage Basin by Dr. Neil Solomon, Secretary of Health and Mental Hygiene on November 13, 1973; therefore approval may be withheld for this connection.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:nc

Mrs. Florence A. Rogers
Re: Item 185
May 20, 1975
Page 2

of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Franklin T. HOGANS, Jr.
FRANKLIN T. HOGANS, JR.
Chairman,
Zoning Plans Advisory Committee

PTH:JD

Enclosure

cc: MCA
1020 Cromwell Bridge Road
Baltimore, Md. 21204

WILLIAM D. FROMM
DIRECTOR

S. ERIC DINENNA
ZONING COMMISSIONER



April 15, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments On Item #185, Zoning Advisory Committee Meeting, April 15, 1975, are as follows:

Property Owner: Florence A. Rogers
Location: NW/c of Seven Mile Lane and Southvale Road
Existing Zoning: D.R.2
Proposed Zoning: Variance from Sec. 1802.3C(1) to permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40'.
No. of Acres: 0.5602
District: 3rd

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

Before a building permit is issued, the petitioner must comply with the Subdivision Regulations.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planning Specialist II
Project and Development Planning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 494-3211 ZONING 494-3251

RE: PETITION FOR VARIANCE : BEFORE THE COUNTY BOARD
NW/corner of Seven Mile Lane and : OF APPEALS FOR BALTIMORE COUNTY
Southvale Road, 3rd District
FLORENCE A. ROGERS, Petitioner : Case No. 75-269-A

MOTION TO DISMISS

To the Honorable, Members of Said Board:

The People's Counsel for Baltimore County, an Appellee herein, respectfully moves that the appeal heretofore filed on behalf of the Appellants be dismissed without further proceeding thereon, and as grounds for said motion, respectfully shows, viz:

1. That the Deputy Zoning Commissioner for Baltimore County denied the Appellant's Petition for the variance sought in this proceeding by an Order passed under date of August 29, 1975.

2. That the provisions of Title 22-27 of the Baltimore County Code, 1968 Edition, entitled, "Appeals to County Board of Appeals," provides in part:

"Notice of such appeal shall be filed, in writing, with the zoning commissioner within thirty days from the date of any final order appealed from...."

3. That the appeal filed by the Appellant herein was not filed with the Zoning Commissioner for Baltimore County until September 29, 1975, more than thirty days from the date of the Order of the Deputy Zoning Commissioner, as hereinabove set forth.

WHEREFORE, your Movant prays that the appeal herein be forthwith dismissed on the ground that this Honorable Board has no jurisdiction in the matter.

AND AS IN DUTY BOUND, etc.

John W. Hession, III
People's Counsel

I HEREBY CERTIFY that on this _____ day of September, 1976, a copy of the foregoing Motion was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Essex, Maryland 21221, Attorney for Petitioner/Appellant.

John W. Hession, III
John W. Hession, III

RE: PETITION FOR VARIANCE : ON REMAND FROM THE
from Section 1802.3C(1) : CIRCUIT COURT
of the Baltimore County :
Zoning Regulations : FOR
NW Corner Seven Mile Lane : BALTIMORE COUNTY
and Southvale Road :
3rd District : AT LAW
Florence A. Rogers, Petitioner : Misc. Docket No. 11
Case No. 75-269-A :
Irving Taylor and : Folio No. 296 & 298
Norbert Grunwald, Appellants :
and :
People's Counsel for Baltimore : File No. 6846 & 6848
County, Appellant :

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hockett, John A. Miller and Patricia Phipps, constituting the County Board of Appeals of Baltimore County, and in answer to the Order to Remand directed against them in this case, herewith return the additional record of proceedings had in the above entitled matter:

Jan. 16, 1981 Remanded to the County Board of Appeals by Judge Edward A. DeWaters for "... the sole purpose of reconstructing the testimony of the witnesses whose testimony was not transcribed and not for the purpose of reconsideration. ..."

Mar. 18 Transcript of testimony of second hearing day held on 2/10/77 fd.

May 27 Remand hearing held before the Board

" 27 Protestants' Exhibit B - from hearings of 11/4/76 and 6/30/77 found. (This exhibit had been mislaid and marked "missing" on Board's Answer filed in court on 9/18/79)

June 23, Transcript of testimony of reconstructed hearing filed - 1 volume

Petitioner's Exhibit #1 at hearing on 5/27/81 - Qualifications of Robert V. McCurdy

" #2 " " " - (a and b) Photos of Rogers house

June 23, Additional record of proceedings filed in the Circuit Court for Baltimore County.

Respectfully submitted

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RE: PETITION FOR VARIANCE : IN THE CIRCUIT COURT
NW/corner of Seven Mile Lane : FOR BALTIMORE COUNTY
and Southvale Rd., 3rd District :
FLORENCE A. ROGERS, Petitioner : Case Nos. M 6846 & M 6848

MEMORANDUM BY PEOPLE'S COUNSEL

There are two points involved in this case which deserve emphasis. First, there is no evidence upon which the Board could properly grant the variance herein. Second, the grant resulted in the creation of a sub-standard lot.

Two Baltimore County cases are pertinent to the decision here. The first is McLean v. Soley, 270 Md. 203, a 1973 appeal from this Board. At page 211, quoting its previous holding in Carney v. City of Baltimore, 201 Md. 130, as applying to Section 307 of the Baltimore County Zoning Regulations, the Court of Appeals said:

"... The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant...."

To demonstrate that economic gain is not considered "substantial and urgent," Easter v. Mayor and City Council of Baltimore, 195 Md. 395, 400, holds:

"The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements."

There is no evidence in this case which satisfies the needed criteria to support the grant of the variance sought in this case.

An illegal result would flow from a grant of the variance sought here. The lot to be created would contain approximately 15,400 square feet. 20,000 square feet is the minimum required for a lot in a D, R. 2 zone. The Petitioner seeks to utilize the "transition zone" provisions of the Regulations. They do not apply. There is in evidence a certified copy of the Plat of Dumbarton recorded in 1927 before creation of a Planning Board or Commission.

RE: PETITION FOR VARIANCE : BEFORE THE
NW/corner of Seven Mile Lane and : DEPUTY ZONING
Southvale Road - 3rd Election District : COMMISSIONER
Florence A. Rogers - Petitioner :
NO. 75-269-A (Item No. 185) : OF
: BALTIMORE COUNTY

This Petition represents a request for a Variance to Section 1802.3C(1) to permit a rear yard area from an adjoining house and garage combination of two and one-half feet instead of the required forty feet. The property in question contains .9 of an acre, more or less, and is situated on the northwest corner of Seven Mile Lane in the Third Election District of Baltimore County.

Testimony and evidence presented during the course of the hearing was not sufficient to establish that a hardship or practical difficulty exists nor did said evidence establish that the granting of said Variance would not be detrimental to the welfare of the community.

Therefore, IT IS ORDERED this 29th day of August 1975, that the above Variance be and the same is hereby DENIED.

Deputy Zoning Commissioner of Baltimore County

PETITION OF : BEFORE THE
FLORENCE A. ROGERS : DEPUTY
for variance N/W corner : ZONING
of Seven Mile Lane and : COMMISSIONER
Southvale Road--3rd : OF BALTIMORE
Election District : COUNTY
: No. 75-269-A (Item No. 185)

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from the order of the Deputy Zoning Commissioner of August 29, 1975, denying the petition of Florence A. Rogers for a variance in the captioned matter.

Florence A. Rogers
Petitioner
7800 Seven Mile Lane
Baltimore, MD 21207

Peter Parker
Gordon W. Priest, Jr.
White, Page & Lentz
Attorneys for Petitioner
700 Keyser Building
Baltimore, MD 21202
752-2131



BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 23392
DATE: October 2, 1975 ACCOUNT: 01-662
AMOUNT: \$40.00
RECEIVED FROM: M's. Florence A. Rogers
FOR: Cost of Filing of an Appeal and Posting of Property
on Case No. 75-269-A (Item No. 185)
NW/corner of Seven Mile Lane and Southvale Road -
3rd Election District
Florence A. Rogers - Petitioner
VALIDATION OR SIGNATURE OF CASHIER

- 2 -

Section 1802.3 (A) of the Regulations quite clearly prevails:

"In D, R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansions of structures upon, and administrative procedures with respect to:

5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission."

(Emphasis ours).

Section 1802.3 (B) then establishes developmental standards for such lots. 20,000 square feet is required. The so-called "transition zones" play no part in the development of lots on recorded plats governed by Section 5, above.

Moreover, the Baltimore County Zoning Regulations prohibit undersized single-family lots, except in certain limited circumstances not present here. Section 304 provides, as follows:

"Section 304 - USE OF UNDERSIZED SINGLE-FAMILY LOTS
A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided:

- That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and
- That all requirements of the height and area regulations are complied with; and
- That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements."

The Petitioner does not satisfy subsection c. because she owns sufficient adjoining land to conform to the area requirements.

Petitioner has simply chosen to violate these requirements in order to establish an illegal subdivision. In this connection, we refer also to the decision of the Court of Special Appeals interpreting these regulations, Mardo Homes, Inc., et al. v. Baltimore County, Maryland, No. 120, September Term, 1977, a copy of which is attached hereto. There, the denial of a building permit was affirmed in a situation similar to the present case.

- 3 -

The Board's decision should be reversed, therefore, because it granted a variance contrary to the case law and the clear language of Sections 1802.3 (A) and 304.c. of the Regulations.

Respectfully submitted,

John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 15th day of September, 1981, a copy of the foregoing Memorandum by People's Counsel was mailed to Robert J. Romadka, Esquire, and John B. Gontrum, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221; and Arnold Fleischmann, Esquire and F. Kirk Kolodner, Esquire, Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204.

John W. Hession, III

2. Appellee Baltimore County has attempted to show a longstanding administrative interpretation that A.3, A.4 and A.5 category lots sometimes overlap. Appellants have attempted to negate this showing. As we have found the plain Appellants have attempted to be clear and unambiguous, we need not look to administrative interpretation. Purfoy v. Mercantile-Safe Deposit and Trust Company, administrative interpretation. Purfoy v. Mercantile-Safe Deposit and Trust Company, administrative interpretation. The interpretation of the statute by James E. Dyer, Deputy Zoning Commissioner of Baltimore County, described by the Board of Appeals "as probably the foremost authority . . . on our regulations," compels with our own.

ROBERT L. JORDAN
ATTORNEY AT LAW
10000 Sunset Blvd., Suite 1000
Beverly Hills, California 90210
(310) 277-1100

RE: PETITION FOR VARIANCE : IN THE
from Section 1802.3C(1) : CIRCUIT COURT
of the Baltimore County :
Zoning Regulations : FOR
NW corner Seven Mile Lane :
and Southvale Road : BALTIMORE COUNTY
3rd District :
Florence A. Rogers, Petitioner :
Case No. 75-269-A : AT LAW
Misc. Docket No. 11
People's Counsel for :
Baltimore County : Folio No. 296
Appellant : File No. 6846

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 3-2 (d) of the Maryland Rules of Procedure;
Walter A. Reiter, Jr., Robert L. Gilland and John A. Miller, constituting the County
Board of Appeals of Baltimore County, have given notice by mail of the filing of the
Appeal to the representative of every party to the proceeding before it; namely, Robert
J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for the
Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland
21208, Petitioner, and George A. Shehan, Esquire, 2 East Fayette Street, Baltimore,
Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street, Belair,
Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon, 7804
Seven Mile Lane, Baltimore, Maryland 21208 and Mr. Norbert Grunwald, 3505 Southvale
Road, Baltimore, Maryland 21208 and Dr. and Mrs. Irving Taylor, 3500 Southvale Road,
Baltimore, Maryland 21208, Protestants, and John W. Hessian, III, Esquire, County Office
Building, Towson, Maryland 21204, People's Counsel for Baltimore County, a copy of
which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219 Courthouse
Towson, Maryland 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been

Rogers v. People's Counsel - 11/296/6846

2.

mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221,
Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore,
Maryland 21208, Petitioner, and George A. Shehan, Esquire, 2 East Fayette Street,
Baltimore, Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street,
Belair, Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon,
7804 Seven Mile Lane, Baltimore, Maryland 21208 and Mr. Norbert Grunwald, 3505
Southvale Road, Baltimore, Maryland 21208 and Dr. and Mrs. Irving Taylor, 3500
Southvale Road, Baltimore, Maryland 21208, Protestants, and John W. Hessian, III,
Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore
County, on this 25th day of June, 1979.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, M. Campagna
Planning, J. Howell

RE: PETITION FOR VARIANCE : BEFORE THE
TO PERMIT A REAR YARD : ZONING COMMISSIONER
OF 2.5 FEET FROM A GARAGE :
CONNECTED TO THE MAIN : OF
HOUSE TO THE REAR : BALTIMORE COUNTY
PROPERTY LINE INSTEAD :
OF THE REQUIRED 40 FEET. :
Northwest corner of Seven Mile :
Lane and Southvale Road. :
3rd District. :
FLORENCE A. ROGERS : Case No. 75-269-A

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the
Baltimore County Charter, I hereby enter my appearance in this
proceeding. You are requested to notify me of any hearing date or
dates which may be now or hereafter designated therefore, and of
the passage of any preliminary or final Order in connection therewith.



John W. Hessian, III
People's Counsel

Charles E. Kountz, Jr.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-3211

I HEREBY CERTIFY That a copy of the foregoing Order
was mailed this 26th day of May, 1975 to Florence A. Rogers,
Seven Mile Lane and Southvale Road, Baltimore, Maryland, 21208,
Legal Owner.

John W. Hessian, III

No substantial evidence has been found to support the judgment of the
Board of Appeals. The Board of Appeals is given the power to grant this
variance only where strict compliance with the minimum setback zoning regu-
lations would result in practical difficulty. Baltimore County Zoning
Regulations, Section 307. The findings of the Board of Appeals with re-
spect to questions of fact shall be conclusive, if supported by substantial
evidence; but this Court is of the opinion that there is no evidence in this
case supporting the findings of the Board of Appeals that the variance is
necessary to avoid practical difficulty.

Accordingly, the decision of the Board of Appeals should be reversed.

Walter R. Haille
WALTER R. HAILLE, JUDGE
Date signed December 9, 1981

Copies of Statement of Court
and accompanying Order sent to:

John W. Hessian, III, Esquire
F. Kirk Kolodner, Esquire
Robert J. Romadka, Esquire
Eugene Creed, Esquire

RE: PETITION FOR VARIANCE : THE CIRCUIT COURT
from Section 1802.3C(1) :
Baltimore County Zoning : FOR
Regulations : BALTIMORE COUNTY
Florence A. Rogers :
Case No. 75-269-A :
IRVING TAYLOR : CASES NO. 6846 and 6848
and : Misc. Law Docket 11
NORBERT GRUNWALD :
Appellants : Folios 296 and 298
PEOPLE'S COUNSEL FOR BALTIMORE :
COUNTY : Appellant

ORDER

Whereupon it is by the Circuit Court for Baltimore County, on this 9th
day of December, 1981,

ORDERED that the Order of the County Board of Appeals dated May 16, 1979,
Case No. 75-269-A, granting to Florence A. Rogers a variance to permit a rear
yard of 2 1/2 feet instead of the required 40 foot minimum setback, for the
property known as 7800 Seven Mile Lane, be and it hereby is reversed.
(Maryland Rule B 13).

Walter R. Haille
WALTER R. HAILLE, JUDGE

RE: PETITION FOR VARIANCE : THE CIRCUIT COURT
from Section 1802.3C(1) :
Baltimore County Zoning : FOR
Regulations : BALTIMORE COUNTY
Florence A. Rogers :
Case No. 75-269-A :
IRVING TAYLOR :
and : CASES NO. 6846 and 6848
NORBERT GRUNWALD : Misc. Law Docket 11
Appellants :
PEOPLE'S COUNSEL FOR BALTIMORE : Folios 296 and 298
COUNTY : Appellant

STATEMENT OF COURT

This Appeal is from the Order of the County Board of Appeals dated May
16, 1979, Case No. 75-269-A, granting to Florence A. Rogers a variance to
permit a rear yard of 2 1/2 feet instead of the required 40 foot minimum
setback, for the property known as 7800 Seven Mile Lane, where she resides.
A copy of the Order of May 16, 1979 and of the opinion which was filed
with the Order, is attached hereto.

The Board of Appeals stated, in its opinion, the following basis for
its decision:

"In conclusion, and after most carefully considering
the testimony and evidence presented in this unique
petition, it is the judgment of the Board that the
Petitioner has evidenced practical difficulty if the
requested variance would not be granted."

The transcript containing the record of the proceedings before the Board
of Appeals, including the testimony and exhibits, does not contain any sub-
stantial evidence that Florence A. Rogers will endure any practical difficulty,
other than speculative loss of possible future profits, if the variance is not
granted.

Mrs. Rogers resides in a two story brick dwelling with an attached garage.
The distance between the front of the dwelling and the property line is approx-
imately 85 feet and the distance from the back of the dwelling, of which the
garage is a part, to the rear property line is approximately 99 feet. She
wants to sell the large house, but she wants to retain the back yard and to
build a house in the back yard to live in. The only practical difficulty she
would have if the requested variance is not granted is that she would be unable
to build a new house in her back yard.



Baltimore County, Maryland
PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZHIMERMAN
Deputy People's Counsel

TEL. 494-2180

November 6, 1981

The Honorable
Walter R. Haille, Judge
Circuit Court for Baltimore County
County Building
Towson, Maryland 21204

RE: FLORENCE A. ROGERS, Petitioner
Ckt. Ct. Misc. M 6845 & M 6848

Dear Judge Haille:

In accordance with the permission that you granted, we have made the changes
that we desired and respectfully submit herewith an Amended Memorandum.

Very truly yours,

John W. Hessian, III
People's Counsel for Baltimore County

Enclosure

cc: Robert J. Romadka, Esquire
John B. Gornum, Esquire
Arnold Fleischmann, Esquire
F. Kirk Kolodner, Esquire

RECEIVED
BALTIMORE COUNTY
MAY 3 20 PM '81
CLERK OF COURT
BY: [Signature]

RE: PETITION FOR VARIANCE : IN THE CIRCUIT COURT
NW corner of Seven Mile Lane : FOR BALTIMORE COUNTY
and Southvale Rd., 3rd District : AT LAW
FLORENCE A. ROGERS, Petitioner :
: Case Nos. M 6845 & M 6843

AMENDED MEMORANDUM BY PEOPLE'S COUNSEL

There are two points involved in this case which deserve emphasis. First, there is no evidence upon which the Board could properly grant the variance herein. Second, the grant resulted in the creation of a sub-standard lot.

Two Baltimore County cases are pertinent to the decision here. The first is McLean v. Soley, 270 Md. 208, a 1973 appeal from this Board. At page 211, quoting its previous holding in Camey v. City of Baltimore, 201 Md. 130, as applying to Section 307 of the Baltimore County Zoning Regulations, the Court of Appeals said:

".... The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant...."

To demonstrate that economic gain is not considered "substantial and urgent," Easter v. Mayor and City Council of Baltimore, 195 Md. 393, 400, holds:

"The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements."

There is no evidence in this case which satisfies the needed criteria to support the grant of the variance sought in this case.

An illegal result would flow from a grant of the variance sought here. The lot to be created would contain approximately 15,400 square feet. 20,000 square feet is the minimum required for a lot in a D. R. 2 zone. The Petitioner seeks to utilize the "transition zone" provisions of the Regulations. They do not apply. There is in evidence a certified copy of the Plat of Dumbarton recorded in 1927 before creation of a Planning Board or Commission.

RE: PETITION FOR VARIANCE : IN THE CIRCUIT COURT
from Section 1802.3C(1) : FOR BALTIMORE COUNTY
of the Baltimore County :
Zoning Regulations : AT LAW
NW corner Seven Mile Lane : Misc. Docket No. 11
and Southvale Road :
3rd District : Folio No. 296 & 298
Florence A. Rogers, Petitioner :
Zoning Case No. 75-269-A : File No. 6845 & 6843
Irving Taylor and :
Norbert Grunwald :
Appellants, and :
People's Counsel for Baltimore County :
Appellant :

ANSWER TO MOTION TO DISMISS APPEAL

The Appellants herein, by George A. Shehan and John W. Hession, III, their respective counsel, in answer to the Motion to Dismiss Appeal heretofore filed by the Appellee herein, respectfully say:

1. That for the purposes of this Answer, the matters and facts alleged in Paragraphs 1, 2, 3 and 4 of said Motion are admitted.

2. That because of the mixture of supposition and factual allegations intermixed in Movant's Paragraphs Nos. 5 through 14, Respondents will generally deny them as not being in accord with the facts of the case and the law applicable thereto.

3. Further and generally answering said Motion, the Respondents respectfully say:

a. That the County Board of Appeals for Baltimore County, the entity from which this appeal has been taken, is an "administrative agency" as defined in Maryland Rule 81b.

b. That said agency, and not the Appellants, bears the responsibility imposed by Maryland Rule 87a to transmit to the Clerk of this Honorable Court the original or a certified copy of the record of its proceedings, including any transcript and any exhibit filed therein, provided that if required, the Appellant pay the expense of such transcription.

c. That as will be adduced through testimony during a hearing on this Motion, Appellants had made appropriate arrangements to pay the cost of the necessary transcription

Section 1802.3 (A) of the Regulations quite clearly prevails:

"In D. R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansion of structures upon, and administrative procedures with respect to:

4. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located."
(Emphasis ours.)

Section 1802.3 (B) then establishes developmental standards for such lots. 20,000 square feet is required. The so-called "transition zones" play no part in the development of lots on recorded plats governed by Section 4, above.

Moreover, the Baltimore County Zoning Regulations prohibit undersized single-family lots, except in certain limited circumstances not present here. Section 304 provides, as follows:

"Section 304 - USE OF UNDERSIZED SINGLE-FAMILY LOTS
A one-family dwelling may be erected on a lot having an area or width of the building line less than that required by the height and area regulation, provided:

- That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and
- That all other requirements of the height and area regulations are complied with; and
- That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements."

The Petitioner does not satisfy subsection c. because she owns sufficient adjoining land to conform to the area requirements.

Petitioner has simply chosen to violate these requirements in order to establish an illegal subdivision. In this connection, we refer also to the decision of the Circuit Court for Baltimore County interpreting these regulations, Mardo Jones, Inc., et al. v. Baltimore County, Maryland, Miscellaneous Law Docket 10, Folio 192, File No. 5881. There, the

of the testimony taken before the County Board of Appeals in this case promptly and seasonably so that there was not in that regard any delay occasioned by Appellants.

d. That the reporters who are present during all evidentiary hearings before the County Board of Appeals, and who thereafter prepare transcripts of testimony adduced before the said Board, are employees of said Board and are not under the dominion and control of the parties to proceedings before said Board.

e. That an Order for Appeal from the Order of the County Board of Appeals was filed by the People's Counsel for Baltimore County on June 13, 1979 while the Order of the individual Protestants was filed on June 14, 1979; thereafter, on June 22, 1979, the Petitions on Appeal from the respective parties were filed, while on June 25, 1979, an Amended Petition on Appeal was filed on behalf of the individual Protestants.

f. That within several days following the filing of the respective Orders for appeal on June 13, and June 14, 1979, as above set forth, the Administrative Secretary of the County Board of Appeals informed counsel for the Appellants that the reporter with the County Board of Appeals, upon being notified by her of the necessity to prepare the transcript of testimony, responded to the effect that since he had been absent on vacation and was in the process of moving his residence, and that as a result thereof, he would be unable to prepare the transcript prior to the filing deadline of July 20, 1979, as mandated by said Maryland Rule 87a.

g. At the specific request of the said Administrative Secretary of the County Board of Appeals, counsel for the Appellants prepared and submitted to this Honorable Court a petition seeking an extension of the time within which said record might be filed for an additional sixty days as permitted by Maryland Rule 87b, which said petition, reciting the facts as presented by said Administrative Secretary was duly filed and an order thereon extending the time for filing the transcript of said proceedings until September 18, 1979 was passed.

denial of a building permit was affirmed in a situation similar to the present case.

The Board's decision should be reversed, therefore, because it granted a variance contrary to the case law and the clear language of Sections 1802.3 (A) and 304. c. of the Regulations.

Respectfully submitted,

John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmermann
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 6th day of November, 1981, a copy of the foregoing Amended Memorandum by People's Counsel was mailed to Robert J. Romadka, Esquire, and John B. Gontrum, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221; and Arnold Fleischmann, Esquire, and F. Kirk Kolodner, Esquire, Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204.

John W. Hession, III

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BALTIMORE COUNTY
MAY 13 3 20 PM '81
CLERK OF APPEALS

- 3 -

h. The official court reporter had in fact arranged for and provided a substitute for himself for the hearing before the said County Board of Appeals which was held on Thursday, November 4, 1978 and, as the record in this case will reflect, there was no difficulty in promptly obtaining and including within the record eventually transmitted to this Honorable Court a transcript of this hearing.

i. As the record presently before this Honorable Court indicates, there were two additional hearings before the County Board of Appeals in this case, one on February 10, 1977, the second on June 30, 1977, both of which were attended by the official reporter for said County Board of Appeals.

j. Although the Administrative Secretary of the County Board of Appeals has made every effort to obtain from said official court reporter a transcript of any testimony that might have been taken by the Board at the subsequent two hearings in this case, said reporter denies that any testimony was taken and has indicated to said Administrative Secretary that both sessions were entirely confined to argument; that as a result, he has no stenographic notes of those two latter hearings from which to prepare a transcript for inclusion in the record of this case.

k. That the official reporter for the County Board of Appeals to whom reference is made in the preceding paragraphs has since retired and is no longer an employee of the Board.

4. That the facts in this case, as set forth in the recital above, conclusively demonstrate that the failure to transmit within the time prescribed a complete record of this proceeding, if any incompleteness there is, was occasioned by the inability of the agency, and was not occasioned by the neglect, omission, or inability of the Appellants herein and therefore, as prescribed in Maryland Rule 87c, dismissal of this appeal as requested by the Appellee is not appropriate.

5. That the Appellants are prepared to undertake the burden imposed upon them by Maryland Rule 87c to demonstrate that the alleged inability to transmit a complete record

RE: PETITION FOR VARIANCE : IN THE CIRCUIT COURT
from Section 1802.3C(1) : FOR BALTIMORE COUNTY
of the Baltimore County :
Zoning Regulations : AT LAW
NW corner Seven Mile Lane : Misc. Docket No. 11
and Southvale Road, 3rd District :
Florence A. Rogers, Petitioner :
Zoning Case No. 75-269-A : Folio No. 296
: File No. 6845 & 6843

REQUEST TO STRIKE APPEARANCE

Mr. Clerk,

Please strike the appearance of George A. Shehan, Esquire, 56 S. Charles Street, Baltimore, Maryland 21201 as counsel for the Appellants herein. Arnold Fleischmann, Esquire and F. Kirk Kolodner, Esquire Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204 have entered their appearances on behalf of said Appellants.

George A. Shehan, Esquire
56 S. Charles Street
Baltimore, Maryland 21201

CERTIFICATION

I HEREBY CERTIFY that on this 16th day of September, 1981, a copy of the foregoing was mailed to Robert Romadka, Esquire, 809 Eastern Avenue, Baltimore, Maryland 21221, John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, James G. Beach, Esquire, Wicazanne, Court House, Towson, Maryland 21204, and Arnold Fleischman, Esquire and F. Kirk Kolodner, Esquire, Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204.

George A. Shehan, Esquire

- 4 -

of the proceedings was that of the agency, and not of themselves.

WHEREFORE, the Appellants respectfully pray that Appellee's Motion be hence dismissed.

AND AS IN DUTY BOUND, etc.,

George A. Shehan
Two East Fayette Street
Baltimore, Maryland 21202
752-5547

John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

Counsel for the Respective Appellants Herein

I HEREBY CERTIFY that on this 15th day of April, 1980, a copy of the foregoing Answer to Motion to Dismiss Appeal was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Appellee.

John W. Hession, III

RECEIVED
BALTIMORE COUNTY
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COUNTY CLERK
OF APPEALS

RE: Petition for Variance
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd
District
Florence A. Rogers, Petitioner
AT LAW
11/296/6846

ORDER

The Motion to Dismiss and Answer and the Amendment to Motion to Dismiss and Prayer for Alternative Relief having been before this Court and a hearing having been held, it is the opinion of this Court that it is not appropriate to dismiss this Appeal from the Baltimore County Board of Appeals for failure to submit a complete record or transcript. It is admitted by all parties that hearings before the Board of Appeals consisted of three days testimony. A transcription of only one day's testimony exists, however, and transcription of the testimony of the other two days is not possible. The testimony of two real estate experts called by the parties and the testimony of several neighbors of the Appellee apparently constitute the missing record.

A panel of the Board of Appeals consisting of Walter A. Reiter, Chairman, John A. Miller and Robert A. Gilland unquestionably heard all of the testimony and rendered an opinion in favor of the Appellee, Florence A. Rogers. Chairman Reiter and Mr. Miller still belong to the Board of Appeals.

The relief prayed in the Amendment to the Motion to Dismiss is deemed to be appropriate. It is, therefore, this 16th day of January, 1981,

ORDERED, that:

FILED JAN 16 1981

and granted by it is in strict harmony with the spirit and intent of said regulations and will not cause substantial injury to the general welfare of the public.

For the reasons hereinabove cited your Petitioners respectfully pray that said Order of the County Board of Appeals purporting to grant the variance be reversed.

AND AS IN DUTY BOUND, etc.,

George A. Shehan
Attorney for Protestants
Two East Fayette Street
Baltimore, Maryland 21202
Phone-752-5547

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 25th day of June, 1979, a copy of the foregoing Petition on Appeal was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner, and John W. Hessian, III, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

George A. Shehan

RECEIVED
BALTIMORE COUNTY
JUN 25 3 15 PM '79
COUNTY CLERK
BY:

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District
Florence A. Rogers, Petitioner
Case No. 75-269-A
Irving Taylor and
Norbert Grunwald
Appellants
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
Folio No. 298
File No. 6848

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure; Walter A. Reiter, Jr., Robert L. Gilland and John A. Miller, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208, Petitioner, George A. Shehan, Esquire, 2 East Fayette Street, Baltimore, Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street, Belair, Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon, 7804 Seven Mile Lane, Baltimore, Maryland, Protestants, and Mr. Norbert Grunwald, 3505 Southvale Road, Baltimore, Maryland 21208 and Dr. Irving Taylor, 3500 Southvale Road, Baltimore, Maryland 21208, Protestants-Appellants, and John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219 Courthouse
Towson, Maryland 21204
494-3180

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 12, 1981

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 75-269-A

FLORENCE A. ROGERS

NW corner Seven Mile Ln. & Southvale Rd.

3rd District

Variance-from Sec. 1802.3C(1) to permit a rear yd. of 2.5' from garage connected to main house to rear property line instead of req. 40'

8/29/75 - Variance Denied by Z.C.

WEDNESDAY, MAY 27, 1981, at 10 a.m.

ASSIGNED FOR:

cc: Robert J. Romadka, Esq.

Mrs. Florence A. Rogers

George A. Shehan, Esq.

Dr. and Mrs. Daniel Gordon

Mr. Norbert Grunwald

Dr. and Mrs. Irving Taylor

Lawrence Naughton, Esq.

John W. Hessian, Esq.

Mr. Wm. Hammond

Mr. J. E. Dyer

Mr. N. E. Gerber

Counsel for Petitioner

Petitioner

Counsel for Protestants (Counsel for Protestants, Dumbarton Imp. Assn., Gordons and Taylors)

"

"

Counsel for Protestant (Dumbarton Imp. Assn., Gordons and Taylors)

People's Counsel

Zoning Office

" "

Planning

June Holmen, Secy.

Rogers V. Taylor and Grunwald - 11/296/6848

2.

I hereby certify that a copy of the foregoing Certificate of Notice has been

mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208, Petitioner, and George A. Shehan, Esquire, 2 East Fayette Street, Baltimore, Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street, Belair, Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon, 7804 Seven Mile Lane, Baltimore, Maryland 21208, Protestants, and Mr. Norbert Grunwald, 3505 Southvale Road, Baltimore, Maryland 21208 and Dr. Irving Taylor, 3500 Southvale Road, Baltimore, Maryland 21208, Protestants-Appellants, and John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, on this 25th day of June, 1979.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, M. Campagna
Planning, J. Howell

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 12, 1981

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 75-269-A

FLORENCE A. ROGERS

NW corner Seven Mile Ln. & Southvale Rd.

3rd District

Variance-from Sec. 1802.3C(1) to permit a rear yd. of 2.5' from garage connected to main house to rear property line instead of req. 40'

8/29/75 - Variance Denied by Z.C.

WEDNESDAY, MAY 27, 1981, at 10 a.m.

ASSIGNED FOR:

cc: Robert J. Romadka, Esq.

Mrs. Florence A. Rogers

George A. Shehan, Esq.

Dr. and Mrs. Daniel Gordon

Mr. Norbert Grunwald

Dr. and Mrs. Irving Taylor

Lawrence Naughton, Esq.

John W. Hessian, Esq.

Mr. Wm. Hammond

Mr. J. E. Dyer

Mr. N. E. Gerber

Counsel for Petitioner

Petitioner

Counsel for Protestants (Counsel for Protestants, Dumbarton Imp. Assn., Gordons and Taylors)

"

"

Counsel for Protestant (Dumbarton Imp. Assn., Gordons and Taylors)

People's Counsel

Zoning Office

" "

Planning

June Holmen, Secy.

May 16, 1979

Robert J. Romadka, Esquire
805 Eastern Boulevard
Baltimore, Maryland 21221

Re: Case No. 75-269-A
Florence A. Rogers

Dear Mr. Romadka:

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled
case.

Very truly yours,

Carol A. Saresh

Encl.

cc: Mrs. Florence A. Rogers
Lawrence Naughton, Esq.
George A. Shehan, Esq.
Dr. & Mrs. Daniel Gordon
Mr. Norbert Grunwald
Dr. & Mrs. Irving Taylor
John W. Hessian, III, Esq.
Mrs. J. E. Dyer
Mr. L. H. Graef
Mr. J. Hoswell

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner
Zoning Case No. 75-269-A
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
Folio No. 296
File No. 6848

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

Irving Taylor and Norbert Grunwald, Protestants, by their attorney, George A. Shehan, petitions this court, pursuant to Maryland Rule 87(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

1. That C. Leonard Perkins, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled case, has been on vacation and upon his return on or about June 19, 1979 was promptly requested to prepare the transcript of proceedings before the County Board of Appeals.
2. That Mr. Perkins has informed the County Board of Appeals that due to the fact that he is in the process of moving from his present residence, he will be unable to prepare the transcript prior to the filing deadline of July 20, 1979, and will require an additional sixty days to do so.

WHEREFORE, Appellants pray this Honorable Court to extend the time for filing the transcript of proceedings until September 19, 1979, 90 days after the first Petition on Appeal was filed.

George A. Shehan
Attorney for Protestants/Appellants
Two East Fayette Street
Baltimore, Maryland 21202
Phone - 752-5547

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District
Florence A. Rogers, Petitioner
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 75-269-A

OPINION

On May 12th, 1979, the Board issued an Opinion and Order concerning this petition. For a summary of the issues in this case please note said Opinion and Order. Since that time the Petitioner has pursued the advice of the Board as set forth in its prior Order, and has now received tentative approval of a preliminary plan for the resubdivision of the subject property from the Baltimore County Planning Board. This preliminary plan has been submitted to the Board by counsel for the Petitioner. The Board has reviewed this tentatively approved preliminary plan and has noted upon same the tentative approval designations of the Baltimore County joint subdivision planning committee of the Office of Planning and Department of Public Works, the tentative approval of the Baltimore County Office of Planning, the tentative approval of the Baltimore County Department of Public Works - Bureau of Engineering, and the tentative approval of the Baltimore County Department of Health. Based upon this document, the Board is satisfied that the necessary and proper Baltimore County authorities have at least tentatively approved the resubdivision of the subject property as proposed on the preliminary plan referred to above. This plan, of course, notes the required variance which is the single and sole issue in the case to be decided by this Board.

Even to this date the issue in this case provides a serious dilemma for the members of this Board. The Board would be less troubled with the granting of the variance if it were asked by a separate and distinct owner of lot #2 to be improved, because the variance would then be sought to legitimize the accompanying use that would exist because of the existing improvements. The planning authorities of Baltimore County have indicated, by their tentative approval, that the new subdivided lot #2 meets all of the existing criteria for a subdivided lot in this subdivision with the exception of the requested

- 2 -

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 22nd day of June, 1979, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner, and John W. Hessian, III, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

George A. Shehan

Florence A. Rogers - #75-269-A

2.

variance. If after resubdivision there would be any detrimental effect to anyone by the granting of the variance requested in this case, it could only be to the owner of the large substantial residence on lot #8 which then would sit relatively close to the newly resubdivided lot #7.

Looking at the request as if the resubdivision was a "fait accompli" there can be no question that the failure to grant the variance would put the existing improvements into a nonconforming situation which should, if practical planning tenets are to be upheld, be avoided.

The Board can find no testimony or evidence which would indicate any detrimental effect to any other parcels in the general area. Likewise, the Board is unimpressed with Protestants' and People's Counsel's argument that the granting of this variance in this particular instance would legit and be the foundation for the granting of variances in other areas of the general community. Such requests, as has been the past practice of the zoning authorities of Baltimore County, would be considered and decided based upon the individual circumstances involved in such requests. The nature of a variance, and the burden of proof required before a variance can be granted, is such as to one requested variance can rarely be the foundation of an argument for the granting of another variance.

In conclusion, and after most carefully considering the testimony and evidence presented in this unique petition, it is the judgment of the Board that the Petitioner has evidenced practical difficulty if the requested variance would not be granted. Therefore, the Board will grant the variance from Section 1802.3C(1) to permit a rear yard of two and one half (2-1/2) feet from the garage connected to the main house to the rear property line instead of the required forty (40) foot setback. An Order to this effect follows hereafter.

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner
Zoning Case No. 75-269-A
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
Folio No. 296
File No. 6848

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this 22nd day of June, 1979, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until September 19, 1979.

Walter A. Reiter, Jr.
JUDGE

Florence A. Rogers - #75-269-A

3.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 16th day of May, 1979, by the County Board of Appeals, ORDERED that the variance petitioned for, be and the same is, hereby GRANTED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman

Robert L. Gilland

John A. Miller

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District
Florence A. Rogers, Petitioner
Case No. 75-269-A
People's Counsel for
Baltimore County
Appellant
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
Folio No. 296
File No. 6848

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 8-2 (d) of the Maryland Rules of Procedure; Walter A. Reiter, Jr., Robert L. Gilland and John A. Miller, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208, Petitioner, and George A. Shehan, Esquire, 2 East Fayette Street, Baltimore, Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street, Belair, Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon, 7804 Seven Mile Lane, Baltimore, Maryland 21208 and Mr. Norbert Grunwald, 3505 Southvale Road, Baltimore, Maryland 21208 and Dr. and Mrs. Irving Taylor, 3500 Southvale Road, Baltimore, Maryland 21208, Protestants, and John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219 Courthouse
Towson, Maryland 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been

mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208, Petitioner, and George A. Shehan, Esquire, 2 East Fayette Street, Baltimore, Maryland 21202 and Lawrence Naughton, Esquire, 141 North Main Street, Belair, Maryland 21014, Attorneys for the Protestants, and Dr. and Mrs. Daniel Gordon, 7804 Seven Mile Lane, Baltimore, Maryland 21208 and Mr. Norbert Grunwald, 3500 Southvale Road, Baltimore, Maryland 21208 and Dr. and Mrs. Irving Taylor, 3500 Southvale Road, Baltimore, Maryland 21208, Protestants, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, on this 25th day of June, 1979.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, M. Campagna
Planning, J. Howell

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner
Zoning Case No. 75-269-A

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No. 11

Folio No. 296

File No. 6846

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals, under date of May 16, 1979, granting a variance from Section 1802.3C(1) to permit a rear yard of two and one half (2-1/2) feet from the garage connected to the main house to the rear property line instead of the required forty (40) foot setback at or near the northwest corner of Seven Mile Lane and Southvale Road, in the Third Election District of Baltimore County.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 13th day of June, 1979, a copy of the foregoing Order was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner; Lawrence F. Naughton, Esquire, 141 N. Main Street, Bel Air, Maryland 21014; and George A. Shehan, Esquire, 2 E. Fayette Street, Baltimore, Maryland 21202, Attorneys for Protestants.

John W. Hession, III
John W. Hession, III

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No. 11

Folio No. 296

File No. 6846

OPINION

On May 12th, 1978, the Board issued an Opinion and Order concerning this petition. For a summary of the issues in this case please note said Opinion and Order. Since that time the Petitioner has pursued the advice of the Board as set forth in its prior Order, and has now received tentative approval of a preliminary plan for the resubdivision of the subject property from the Baltimore County Planning Board. This preliminary plan has been submitted to the Board by counsel for the Petitioner. The Board has reviewed this tentatively approved preliminary plan and has noted upon same the tentative approval designations of the Baltimore County joint subdivision planning committee of the Office of Planning and Department of Public Works, the tentative approval of the Baltimore County Office of Planning, the tentative approval of the Baltimore County Department of Public Works - Bureau of Engineering, and the tentative approval of the Baltimore County Department of Health. Based upon this document, the Board is satisfied that the necessary and proper Baltimore County authorities have at least tentatively approved the resubdivision of the subject property as proposed on the preliminary plan referred to above. This plan, of course, notes the required variance which is the single and sole issue in the case to be decided by this Board.

Even to this date the issue in this case provides a serious dilemma for the members of this Board. The Board would be less troubled with the granting of the variance if it were asked by a separate and distinct owner of lot #7 as improved, because the variance would then be sought to legitimize the nonconforming use that would exist because of the existing improvements. The planning authorities of Baltimore County have indicated, by their tentative approval, that the new resubdivided lot #7 meets all of the existing criteria for a subdivided lot in this subdivision with the exception of the requested

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner
Zoning Case No. 75-269-A

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No. 11

Folio No. 296

File No. 6846

PETITION ON APPEAL

John W. Hession, III, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Protestants below, having heretofore filed their Order for Appeal from the decision herein of the County Board of Appeals of Baltimore County, under date of May 16, 1979, granting a variance from Section 1802.3C(1) to permit a rear yard of two and one-half (2-1/2) feet from the garage connected to the main house to the rear property line instead of the required forty (40) foot setback at or near the northwest corner of Seven Mile Lane and Southvale Road, in the Third Election District of Baltimore County, file this Petition setting forth the grounds upon which their said Appeal is taken, viz:

1. That the County Board of Appeals of Baltimore County erred in its finding that the Petitioner demonstrated the "practical difficulty or unreasonable hardship" required before relief in the form of an area variance may be granted pursuant to the authority contained in Section 307 of the Baltimore County Zoning Regulations.
2. That the County Board of Appeals of Baltimore County erred in its finding that the variance proposed by the Petitioner and granted by it is in strict harmony with the spirit and intent of said regulations and will not cause substantial injury to the general welfare of the public.

For the reasons hereinabove cited your Petitioners respectfully pray that said Order of the County Board of Appeals purporting to grant the variance be reversed.

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OF APPEALS
BY:

variance. If after resubdivision there would be any detrimental effect to anyone by the granting of the variance requested in this case, it could only be to the owner of the large substantial residence on lot #8 which then would sit relatively close to the newly resubdivided lot #7.

Looking at the request as if the resubdivision was a "fait accompli" there can be no question that the failure to grant the variance would put the existing improvements into a nonconforming situation which should, if practical planning tenets are to be upheld, be avoided.

The Board can find no testimony or evidence which would indicate any detrimental effect to any other parcels in the general area. Likewise, the Board is unimpressed with Protestants' and People's Counsel's argument that the granting of this variance in this particular instance would beget and be the foundation for the granting of variances in other areas of the general community. Such requests, as has been the past practice of the zoning authorities of Baltimore County, would be considered and decided based upon the individual circumstances involved in such requests. The nature of a variance, and the burden of proof required before a variance can be granted, is such so as one requested variance can rarely be the foundation of an argument for the granting of another variance.

In conclusion, and after most carefully considering the testimony and evidence presented in this unique petition, it is the judgment of the Board that the Petitioner has evidenced practical difficulty if the requested variance would not be granted. Therefore, the Board will grant the variance from Section 1802.3C(1) to permit a rear yard of two and one half (2-1/2) feet from the garage connected to the main house to the rear property line instead of the required forty (40) foot setback. An Order to this effect follows hereafter.

- 2 -

AND AS IN DUTY BOUND, etc.,

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 22nd day of June, 1979, a copy of the foregoing Petition on Appeal was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner; Lawrence F. Naughton, Esquire, 141 N. Main Street, Bel Air, Maryland 21014; and George A. Shehan, Esquire, 2 E. Fayette Street, Baltimore, Maryland 21202, Attorneys for Protestants.

John W. Hession, III
John W. Hession, III

ORDER

For the reasons set forth in the foregoing Opinion, it is this 16th day of May, 1979, by the County Board of Appeals, ORDERED that the variance petitioned for, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr.
Walter A. Reiter, Jr., Chairman

Robert L. Giland
Robert L. Giland

John A. Miller
John A. Miller

RE: PETITION FOR VARIANCE
FROM SECTION 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner
Zoning Case No. 75-269-A

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

AT LAW

Misc. Docket No. 11

Folio No. 296

File No. 6846

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

John W. Hession, III, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Protestants below, petition this Court, pursuant to Maryland Rule 87(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition state:

1. That C. Leonard Perkins, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled case, has been on vacation and upon his return on or about June 19, 1979 was promptly requested to prepare the transcript of proceedings before the County Board of Appeals.
2. That Mr. Perkins has informed the County Board of Appeals that due to the fact that he is in the process of moving from his present residence, he will be unable to prepare the transcript prior to the filing deadline of July 20, 1979, and will require an additional sixty days to do so.

WHEREFORE, Appellants pray this Honorable Court to extend the time for filing the transcript of proceedings until September 20, 1979, 90 days after the first Petition on Appeal was filed.

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BY:

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

I HEREBY CERTIFY that on this 22nd day of June, 1979, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner; Lawrence F. Naughton, Esquire, 141 N. Main Street, Bel Air, Maryland 21014; and George A. Shehan, Esquire, 2 E. Fayette Street, Baltimore, Maryland 21202, Attorneys for Protestants.

John W. Hession, III
John W. Hession, III

RE: PETITION FOR VARIANCE
FROM Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW

Misc. Docket No. 11
Folio No. 296
File No. 6846

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this 22nd day of June, 1979, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until September 25, 1979.

Walter N. Hulse
JUDGE

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RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW

Misc. Docket No. 11
Folio No. 296
File No. 6846

PETITION ON APPEAL

Irving Taylor and Norbert Grunwald, Protestants, by their attorney, George A. Shehan, having heretofore filed their Order for Appeal from the decision herein of the County Board of Appeals of Baltimore County, under date of May 16, 1979, granting a variance from Section 1802.3C(1) to permit a rear yard of two and one-half (2-1/2) feet from the garage connected to the main house to the rear property line instead of the required forty (40) foot setback at or near the northwest corner of Seven Mile Lane and Southvale Road, in the Third Election District of Baltimore County, file this Petition setting forth the grounds upon which their said Appeal is taken, viz:

1. That the County Board of Appeals of Baltimore County erred in its finding that the Petitioner demonstrated the "practical difficulty or unreasonable hardship" required before relief in the form of an area variance may be granted pursuant to the authority contained in Section 307 of the Baltimore County Zoning Regulations.
2. That the County Board of Appeals of Baltimore County erred in its finding that the variance proposed by the Petitioner and granted by it is in strict harmony with the spirit and intent of said regulations and will not cause substantial injury to the general welfare of the public.

For the reasons hereinabove cited your Petitioners respectfully pray that said Order of the County Board of Appeals purporting to grant the variance be reversed.

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OF APPEALS
BY: _____

AND AS IN DUTY BOUND, etc.,

George A. Shehan
George A. Shehan
Attorney for Protestants
Two East Fayette Street
Baltimore, Maryland 21202
Phone - 752-5547

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 22nd day of June, 1979, a copy of the foregoing Petition on Appeal was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner, and John W. Hession, III, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

George A. Shehan
George A. Shehan

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

Florence A. Rogers, Petitioner

CASE NO. 75-269-A

ORDER FOR APPEAL BY IRVING TAYLOR and NORBERT GRUNWALD

MR. CLERK:

Please enter an appeal on behalf of Irving Taylor and Norbert Grunwald, Protestants, from the Order of the County Board of Appeals of Baltimore County, passed in the above case on the 16th day of May, 1979.

George A. Shehan
George A. Shehan
Attorney for Protestants
Two East Fayette Street
Baltimore, Maryland 21202
Phone - 752-5547

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 14th day of June, 1979, a copy of the foregoing Order for Appeal was served on the Administrative Secretary of the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204, prior to the presentation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland, 21221, Attorney for Petitioner, and John W. Hession, III, People's Counsel for Baltimore County, County Office Building, Towson, Maryland, 21204.

George A. Shehan
George A. Shehan

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OF APPEALS
BY: _____

RE: PETITION FOR VARIANCE
from Section 1802.3C(1)
of the Baltimore County
Zoning Regulations
NW corner Seven Mile Lane
and Southvale Road
3rd District

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

Florence A. Rogers, Petitioner

No. 75-269-A

OPINION

This case comes before the Board on an appeal by the Petitioner from a decision of the Deputy Zoning Commissioner denying a requested variance at the subject property. The subject property is located at the northwest corner of Seven Mile Lane and Southvale Road in the Dumbarton section of the Pikesville area. This locale is in the northwest section of Baltimore County and within the Third Election District. The Petitioner requests a variance to permit a rear yard setback of two and one-half feet for an existing garage which is connected to the main house. This requested rear property line setback would be in lieu of the required forty foot rear yard setback.

The subject property consists of two lots which may be precisely identified on Protestant's Exhibit A as lots 7 and 8 of the recorded plat of Dumbarton. This subdivision plat is recorded amongst the land records of Baltimore County in Plat Book 7 at Page 151. This plat of Dumbarton was recorded August 12, 1924. Ultimately, at issue in this case is the desire of the owner of lots 7 and 8 to resubdivide same as set out on plats of the subject property and received as evidence in this case as Petitioner's Exhibits #1 and #2. The Petitioner would seek ultimately to enlarge existing recorded lot 8 by resubdividing same and moving the northwesterly line of this lot further northwesterly so as to include all the existing improvements on the subject lot. This resubdivision would place all the existing improvements, including the attached existing brick garage, totally within the new subdivided lot 8, and if the requested two and one-half foot rear lot variance were granted for this existing brick garage the new subdivided lot 7 would thence be available for the construction of a proposed new residence. The burden of proof is upon the Petitioner to evidence to the Board that without the requested variance the Petitioner would suffer practical difficulty and/or unreasonable hardship. Also inherent in the burden carried by the Petitioner is that the variance requested can be granted while keeping within the

LAW OFFICE OF
GEORGE A. SHEHAN
TWO EAST FAYETTE STREET
BALTIMORE, MARYLAND 21202

TELEPHONE 752-5547
AREA CODE 301

June 14, 1979

County Board of Appeals
Baltimore County Court House
Room 218
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
NW corner Seven Mile Lane
Florence A. Rogers, Petitioner
Case No. 75-269-A

Gentlemen:

Enclosed please find a copy of the Order For Appeal in the above captioned matter, which I have today filed with the Circuit Court for Baltimore County.

Very truly yours,

George A. Shehan
George A. Shehan

GAS/kam
Enclosure

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COUNTY BOARD
OF APPEALS
BY: _____

Florence Rogers - #75-269-A

spirit and intent of the existing zoning regulations, and that the granting of the requested variance would violate none of the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

The presentation of testimony and evidence in this case took parts of three hearing days before the Board, stretched out over a long period of time. Since the conclusion of the testimony and evidence, this Board has labored long in its deliberation. The issue as to whether or not lots 7 and 8 could be resubdivided, as proposed by the Petitioner, has not been answered. The Petitioner, at this juncture, proposes that the Board assume that lots 7 and 8 can be subdivided according to the regulations. Starting with this assumption as a premise, the Petitioner asks the Board to look at resubdivided lots 7 and 8 as a fait accompli, and consider whether or not the requested two and one-half foot rear lot line variance can be granted on the new resubdivided lot 8. If the Board were to make this assumption, it perhaps would be easier to be satisfied that the Petitioner has successfully carried the burden of proof in this variance request. Furthermore, if this Board were to assume that there was not the continuity of ownership between the owner of newly subdivided lot 7 and newly subdivided lot 8, the granting of the variance and the satisfactory evidence of practical difficulty and/or unreasonable hardship might be easier to find. If the Board would not be willing to make these assumptions, but to be called upon to strictly consider all of the facts at hand as they currently exist without the resubdivision of lots 7 and 8, quite another position can be stated.

As was testified by Raymond I. Murray, the builder of the subject property, the substantial two-story brick dwelling and attached garage improving the subject lot was built approximately twenty-seven years ago, in 1951. This builder constructed the subject lot for the present owner upon lots 7 and 8 as originally and still now subdivided in the Dumbarton community. Petitioner's Exhibit 6-a thru 6-g is a series of photographs showing the substantial character of the subject improvements. Likewise, the photographs show that there indeed would be great practical difficulty in separating the existing brick garage from the other substantial improvements. If this separation were

completed and resubdivision of lot 8 achieved, the rear yard setback request would not be necessary. Review of Petitioner's Exhibits 1 and 2 clearly show that the existing improvements are now built vertically astride the existing lot line division between lots 7 and 8 as currently subdivided. The existing improvements, as now constructed, enjoy approximately an 80 foot front yard setback from Southvale Road, and a rear yard setback of approximately 97 feet from existing lot 6.

The real estate expert for the Protestants suggested that due to the large and substantial size and character of the existing improvements, same, from a market standpoint, need the two lots in order to have enough surrounding homestead area to support this substantial structure. This same real estate expert told the Board of his strong feeling that this variance could not be granted in strict harmony with the spirit and intent of the regulations, and that if the variance were granted, in his mind, some substantial damage could be inflicted upon the health, safety and general welfare of the surrounding community. Interestingly, this witness also expressed his opinion that if the variance be granted and the lots eventually resubdivided, the Petitioner would suffer an overall economic loss rather than gain from this ultimate result, it being his opinion that the resubdivision of lot 8 would so reduce the supporting ground for the large existing residence so as to cause same to lose more in the market value than would be gained by the availability of the new resubdivided lot 7. However, despite this interesting comment, the Board is well aware that economic criteria will not be the basis for the granting of the requested variance. The fact that the variance would enhance profitability, or frankly diminish same, cannot be sufficient grounds to justify the granting of any requested variance. The evidence must be of sufficient practical difficulty and/or unreasonable hardship. This difficulty and/or hardship must be substantial and urgent, and cannot be for the mere convenience of the Petitioner.

This Board is very cognizant and concerned with the fact that the proposed resubdivision in this case has not been sought and, of course, has not been achieved. The Board is well aware that the Petitioner's position might be described as that of "which came

first - the chicken or the egg". Both the variance and the resubdivision must be accomplished facts before a building permit could be issued for the resubdivided lot 7.

Also at issue is the question as to whether or not the ultimate result from the granting of this variance might be that of a use variance rather than that of an area variance. Of course, if this end result would be adjudged a use variance, same would be illegal.

Several issues were raised by the Protestants and People's Counsel as to why the resubdivision of lots 7 and 8, as ultimately proposed by the Petitioner, could not be achieved in accordance with the subdivision regulations of Baltimore County. The resubdivided lot 7 would consist of only 15,333 square feet. According to the existing D.R. 2 zoning, a minimum 20,000 square foot lot is required.

James Haswell, a Baltimore County planner, testified at the behest of the People's Counsel and told the Board that there would not be enough area in the resubdivided lot 7 so as a building permit for the construction of a residence could be obtained. Mr. Haswell also expressed the opinion that the transition zones did not apply and would offer no help to the Petitioner in this instance. The Petitioner hopes ultimately to pursue the transition zone theory in order to achieve a building permit for the resubdivided lot 7 if the variance would be granted.

An engineer for the Petitioner felt that the regulations could be interpreted so as to fit resubdivided lot 7 within a transition zone, and enable same to qualify as a buildable lot without having a minimum of 20,000 square foot area.

Again, the issue as to the resubdivision of lots 7 and 8 has not, at this point, been filed and pursued by the Petitioner and, hence, the County has taken no official position in this resubdivision scheme of the Petitioner.

The Board will not further review and detail the testimony and evidence presented in this case, but suffice it to say this Board has reviewed same in depth a number of times. After considering and reflecting upon the testimony and evidence offered in this case, and the Board's detail review of same, this Board is unwilling, at this time, to make the assumption that lots 7 and 8 can be resubdivided as proposed by the Petitioner. There has not been sufficient cursory evidence presented to the Board that has satisfied us

that the resubdivision has a reasonable probability of achievement. Of course, without the successful resubdivision of lots 7 and 8 the variance request is a moot issue. The confusions and complexities of this case would be simplified if the Board had before it the decision and position of Baltimore County, through the proper administrative decision, concerning the Petitioner's plans and request for the resubdivision of lots 7 and 8. The Board is apologetic to all interested parties that it did not reach this conclusion sooner, but it is now the judgment of the Board that the Petitioner should file for the resubdivision of lots 7 and 8, and receive an administrative decision from the necessary and proper authorities of Baltimore County regarding this issue. The Board will hold in abeyance its decision upon the requested variance until such time as the resubdivision issue is administratively decided by Baltimore County. The Board will review this issue concerning the resubdivision and the existing request for the rear yard variance, and decide both critical phases of this question at the same time. An Order to this effect follows hereafter.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 12th day of May, 1978, by the County Board of Appeals, ORDERED that the Board will issue no decision and order concerning the requested variance until such time as the proposed subdivision issue has been administratively decided by Baltimore County. The Board respectfully requests that the necessary and proper authorities consider and decide the requested resubdivision described in this Opinion without using the lack of this variance as a consideration in their decision.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman

Robert L. Gilland

John A. Miller

County Board of Appeals Room 218, Court House Towson, Maryland 21204

NOTICE OF ASSIGNMENT CONTINUED HEARING

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A FLORENCE A. ROGERS
for variance from Section 1802.3C(1)
NW cor. Seven Mile Lane & Southvale Road
3rd District
8/29/75 - Variance DENIED by Z.C.

ASSIGNED FOR: THURSDAY, FEBRUARY 10, 1977 at 2 p.m.
cc: Robert J. Romadka, Esquire Counsel for Petitioner
Mrs. Florence A. Rogers Petitioner
Moses Cohen, Esquire - DECEASED - 11-11-77 Counsel for Protestants (Gordon & Taylor)
George A. Shehan, Esquire Counsel for Protestants " & Dumbarton Imp.
Dr. and Mrs. Daniel Gordon Protestants
Mr. Norbert Grunwald
Dr. and Mrs. Irving Taylor Protestants
John W. Hession, III, Esquire People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. G. Burl
Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary

County Board of Appeals Room 218, Court House Towson, Maryland 21204

NOTICE OF ASSIGNMENT Continued Hearing

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A FLORENCE A. ROGERS
for variance from Section 1802.3C(1)
NW cor. Seven Mile Lane & Southvale Road
3rd District
8/29/75 - Variance DENIED by Z.C.

ASSIGNED FOR: THURSDAY, APRIL 14, 1977 at 10 a.m.
cc: Robert J. Romadka, Esquire Counsel for Petitioner
Mrs. Florence A. Rogers Petitioner
George A. Shehan, Esquire Counsel for Protestants
Dr. and Mrs. Daniel Gordon Protestants
Mr. Norbert Grunwald
Dr. and Mrs. Irving Taylor
John W. Hession, III, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. G. Burl
Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary

County Board of Appeals Room 218 Court House TOWSON, MARYLAND 21204 February 15, 1977

NOTICE OF POSTPONEMENT and REASSIGNMENT (Continued Hearing from 2/10/77)

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A FLORENCE A. ROGERS
for Variance from Sec. 1802.3C(1)
NW cor. Seven Mile Lane & Southvale Rd.
3rd District
8/29/75 - Variance Denied by Z.C.

The above case, scheduled for hearing on Thursday, April 14, 1977 at 10 a.m., HAS BEEN POSTPONED by the Board at the request of attorney for the Petitioner, and

REASSIGNED FOR: THURSDAY, APRIL 28, 1977 at 10 a.m.

cc: Robert J. Romadka, Esq. Counsel for Petitioner
Mrs. Florence A. Rogers Petitioner
George A. Shehan, Esq. Counsel for Protestants
Lawrence Naughton, Esq. Co-counsel for Protestants
Dr. and Mrs. Daniel Gordon Protestants
Mr. Norbert Grunwald
Dr. and Mrs. Irving Taylor
John W. Hession, III, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. G. Burl
Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

County Board of Appeals Room 218 Court House TOWSON, MARYLAND 21204 March 11, 1977

NOTICE OF POSTPONEMENT and REASSIGNMENT (Continued from 2/10/77)

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A FLORENCE A. ROGERS
for Variance from Sec. 1802.3C(1)
NW corner Seven Mile Lane and Southvale Road
3rd District
8/29/75 - Variance Denied by Z.C.

The above case, scheduled for hearing on THURSDAY, APRIL 14, 1977 at 10 am, HAS BEEN POSTPONED by the Board at the request of attorney for the Protestants, and

REASSIGNED FOR: THURSDAY, JUNE 30, 1977 at 10 a.m.

cc: Robert J. Romadka, Esq. Counsel for Petitioner
Mrs. Florence A. Rogers Petitioner
Lawrence Naughton, Esq. Counsel for Protestants (Dumbarton Imp., Gordon, and Taylors)
George A. Shehan, Esq.
Dr. and Mrs. Daniel Gordon
Dr. and Mrs. Irving Taylor
Mr. Norbert Grunwald
John W. Hession, III, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. Gary Burl
Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

RE: PETITION FOR VARIANCE : BEFORE THE COUNTY BOARD OF APPEALS
NW/corner of Seven Mile Lane and :
Southvale Road, 3rd District : OF BALTIMORE CO'NTY
FLORENCE A. ROGERS, Petitioner : Case No. 75-269-A

MEMORANDUM BY PEOPLE'S COUNSEL

There are two points involved in this case which deserve emphasis. First, there is no evidence upon which the Board may grant the variance herein sought. Second, if granted, the result would be the creation of a sub-standard lot.

Two Baltimore County cases are pertinent to the decision here. The first is McLean v. Soley, 270 MD 208, a 1973 appeal from this Board. At page 211, quoting its previous holding in Carney v. City of Baltimore, 201 MD 130, as applying to Section 307 of the Baltimore County Zoning Regulations, the Court of Appeals said:

"... The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant...."

To demonstrate that economic gain is not considered "substantial and urgent,"

Easter v. Mayor and City Council of Baltimore, 195 MD 395, 400, holds:

"The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements."

There is no evidence in this case which satisfies the needed criteria to support the grant of the variance sought in this case.

An illegal result would flow from a grant of the variance sought here. The lot to be created would contain approximately 15,400 square feet. 20,000 square feet is the minimum required for a lot in a D.R. 2 zone. The Petitioner seeks to utilize the "transition zone" provisions of the Regulations. They do not apply. There is no evidence before the Board a certified copy of the Plat of Dumbarton recorded in 1927 before creation of a Planning Board or Commission.

Section 1802.3 (A) of the Regulations quite clearly prevails:

"In D.R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansions of structures upon, and administrative procedures with respect to:

5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission"

(Emphasis ours).

Section 1802.3 (B) then establishes developmental standards for such lots. 20,000 square feet is required. The so-called "transition zones" play no part in the development of lots on recorded plats governed by Section 5, above.

The exception should be denied as an unsupported request which would create an illegal subdivision.

Respectfully submitted,

John W. Hession, III
John W. Hession, III
People's Counsel

Charles E. Kauntz, Jr.
Charles E. Kauntz, Jr.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 29th day of July, 1977, a copy of the foregoing Memorandum was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Essex, Maryland 21221, Attorney for Petitioner/Appellant; and George A. Shehan, Esquire, 305 West Chesapeake Avenue, Towson, Maryland 21204, Attorney for Protestants/Appellees.

John W. Hession, III
John W. Hession, III

County Board of Appeals

Room 219 Court House
TOWSON, MARYLAND 21204

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A

FLORENCE A. ROGERS

for Variance from Section 1802.3C(1) - rear yard

NW cor. of Seven Mile Lane and Southvale Road

3rd District

8/29/75 D.Z.C. DENIED VARIANCE

scheduled for hearing on Tuesday, October 26, 1976 at 10 a.m., has been POSTPONED by the Board at the request of new counsel for the Petitioner, and

REASSIGNED FOR: THURSDAY, NOVEMBER 4, 1976 at 10 a.m.

cc: Robert J. Romadka, Esq. Counsel for Petitioner
Mrs. Florence A. Rogers Petitioner
Benjamin N. Dorman, Esq. Counsel for Protestants
John W. Hession, III, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. James Dyer
Mr. Norman Gerber
Mr. Gary Burl
Mr. C. L. Perkins

Mr. and Mrs. Daniel Gordon Protestants
Dr. and Mrs. Irving Taylor
Mr. and Mrs. Moses Cohen
Mr. Norbert Grunwald

Muriel E. Buddemeier
County Board of Appeals

Appearance for Protestants
Moses Cohen, Esq.
for Daniel Gordon, Esq.
Dr. Irving Taylor

494-3180

County Board of Appeals

ROOM 212 - COURTHOUSE
TOWSON, MARYLAND 21204

August 25, 1976

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A

FLORENCE A. ROGERS

for variance from Section 1802.3C(1) (rear yard)

NW corner Seven Mile Lane and Southvale Road

3rd District

8/29/75 - D.Z.C. DENIED VARIANCE

scheduled for hearing on Tuesday, September 28, 1976 at 2 p.m., has been POSTPONED at the request of the Petitioner, and

REASSIGNED FOR: TUESDAY, OCTOBER 26, 1976 at 10 a.m.

cc: Peter Parker, Esquire Counsel for Petitioner
Gordon W. Priest, Jr. "
Mrs. Florence A. Rogers Petitioner
Benjamin N. Dorman, Esq. Counsel for Protestants
John W. Hession, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. N. E. Gerber
Mr. G. Burl
Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals

494-3180

County Board of Appeals

Room 218, Court House

Towson, Maryland 21204 June 8, 1976

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 75-269-A

FLORENCE A. ROGERS

for Variance (rear yard)

NW cor. Seven Mile Lane and Southvale Road

3rd District

8/29/75 - D.Z.C. DENIED VARIANCE

ASSIGNED FOR:

TUESDAY, SEPTEMBER 28, 1976 at 2 p.m.

cc: Peter Parker, Esq. Counsel for Petitioner
Gordon W. Priest, Jr., Esq. "
Mrs. Florence A. Rogers Petitioner
Benjamin N. Dorman, Esq. Counsel for Protestants
John W. Hession, III, Esq. People's Counsel
Mr. S. E. DiNenna
Mr. J. E. Dyer
Mr. W. D. Fromm
Mr. G. Burl
Board of Education
Mr. C. L. Perkins

RE: PETITION FOR VARIANCE : BEFORE THE
NW/corner of Seven Mile Lane and : DEPUTY ZONING
Southvale Road - 3rd Election District :
Florence A. Rogers - Petitioner : COMMISSIONER
NO. 75-269-A (Item No. 185) :
: OF
: BALTIMORE COUNTY

This Petition represents a request for a Variance to Section 1802.3C(1) to permit a rear yard area from an adjoining house and garage combination of two and one-half feet instead of the required forty feet. The property in question contains .9 of an acre, more or less, and is situated on the northwest corner of Seven Mile Lane in the Third Election District of Baltimore County.

Testimony and evidence presented during the course of the hearing was not sufficient to establish that a hardship or practical difficulty exists nor did said evidence establish that the granting of said Variance would not be detrimental to the welfare of the community.

Therefore, IT IS ORDERED this 29th day of August, 1975, that the above Variance be and the same is hereby DENIED.

James E. Kent
Deputy Zoning Commissioner of
Baltimore County

PETITION OF : BEFORE THE
FLORENCE A. ROGERS : DEPUTY
for variance N/W corner : ZONING
of Seven Mile Lane and : COMMISSIONER
Southvale Road-3rd : OF BALTIMORE
Election District : COUNTY
: No. 75-269-A (Item No. 185)

ORDER FOR APPEAL

Mr. Clerk:

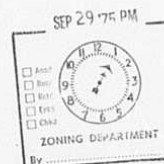
Please enter an appeal to the Board of Zoning Appeals of Baltimore County from the order of the Deputy Zoning Commissioner of August 29, 1975, denying the petition of Florence A. Rogers for a variance in the captioned matter.

Florence A. Rogers
Florence A. Rogers
Petitioner
7800 Seven Mile Lane
Baltimore, MD 21207

Peter Parker
Peter Parker
Attorneys for Petitioner

Gordon W. Priest, Jr.
Gordon W. Priest, Jr.
Attorneys for Petitioner

White, Page & Lentz
White, Page & Lentz
Attorneys for Petitioner
700 Keyser Building
Baltimore, MD 21202
752-2131



PETITION FOR A VARIANCE

3rd DISTRICT

Petition for Variance for a Rear Yard.

LOCATION: Northwest corner of Seven Mile Lane and Southvale Road.
DATE & TIME: MONDAY, MAY 26, 1975 at 10:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance from the Zoning Regulations of Baltimore County to permit a rear yard of 2.5 feet from a garage connected to the main house to the rear property line instead of the required 40 feet.

The Zoning Regulation to be excepted as follows:

Section 1802.3C.1 - Rear Yards - 40 feet.

All that parcel of land in the Third District of Baltimore County

Being the property of Florence A. Rogers, as shown on plat plan filed with the zoning Department.

Hearing Date: Monday, May 26, 1975 at 10:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

BY ORDER OF
S. ERIC DINENNA
ZONING COMMISSIONER OF
BALTIMORE COUNTY

DESCRIPTION

0.5602 ACRE PARCEL, SOUTHWEST SIDE OF SEVEN MILE LANE, NORTHWEST SIDE OF SOUTHVILLE ROAD, "DUMBARTON", THIRD ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR REAR YARD VARIANCE.

Beginning for the same at the intersection of the southwest side of Seven Mile Lane and the northwest side of Southvale Road, fifty feet wide, as shown on the plat of "Dumbarton" recorded among the Land Records of Baltimore County in Plat Book W.P.C. 7, page 151, running thence binding on the northwest side of said Southvale Road, (1) southwesterly, by a curve to the left with the radius of 4965.90 feet, the distance of 157.41 feet, the chord of said arc being S 61° 33' 07" W 157.41 feet, thence along a part of the second line of the land conveyed to Solomon Rogers and wife by deed recorded among the aforementioned Land Records in Liber T.B.S. 1798, page 355, (2) N 27° 29' 03" W 156.81 feet, thence (3) N 62° 43' 30" E 157.94 feet, and thence binding on the southwest side of said Seven Mile Lane, (4) S 27° 16' 30" E 153.59 feet to the place of beginning.

Containing 0.5602 of an acre of land.

HGW:egr

J.O.# 175003
W.O.# 3187-C

May 18, 1975



Water Supply & Sewerage • Drainage • Highways • Structures • Developments • Planning & Reports

Florence A. Rogers
7800 Seven Mile Lane
Pikesville, Md. 21208

NOTICE OF HEARING

Re: Petition for Variance
#75-269-A

TIME: 10:30 A.M.

DATE: Monday, May 26, 1975

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE,

TOWSON, MARYLAND

ZONING COMMISSIONER OF
BALTIMORE COUNTY

Eric S. DiNenna

BALTIMORE COUNTY, OFFICE OF PLANNING & ZONING

OFFICE OF ZONING COMMISSIONER

ERIC DINENNA
Zoning Commissioner
JAMES E. DYER
Deputy Zoning Commissioner



454-3351
454-3351

May 22, 1975

Florence A. Rogers
7800 Seven Mile Lane
Pikesville, Md. 21208

Re: Petition for Variance
#75-269-A

Dear Sir:

This is to advise you that \$56.50 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Md. and remit to Mrs. Anderson, Room 121, County Office Building, before the hearing.

Very truly yours,

Eric S. DiNenna
ERIC DINENNA
ZONING COMMISSIONER

SKD/ba

Arnold Fleischmann

AF:ln

cc: Honorable Eric S. DiNenna

LAW OFFICES
ARNOLD FLEISCHMANN
102 WEST PENNSYLVANIA AVENUE
SUITE 505
TOWSON, MARYLAND 21204

ARNOLD FLEISCHMANN
JOHN A. AUSTIN

May 16, 1975

AREA CODE 301
890-1434

Mrs. Bea Anderson
Office of Zoning
County Office Building
Towson, Maryland 21204

re: Florence Rogers 75-269-A
Petition for Variance - 7800 Seven Mile Lane

Dear Mrs. Anderson:

Please enter my appearance on behalf of Mr. and Mrs. Daniel Gordon, Mr. and Mrs. Moses Cohen, Dr. and Mrs. Irving Taylor and the Dumbarton Improvement Association, protestants in the above captioned matter.

I would appreciate if you would forward to me at once copies of the Petition, supporting documents and recommendations of the Planning Board and the Review Committee.

Thanking you for your courtesy, I am

Sincerely yours,

Arnold Fleischmann
Arnold Fleischmann

AF:ln

LAW OFFICES
ARNOLD FLEISCHMANN
102 WEST PENNSYLVANIA AVENUE
SUITE 505
TOWSON, MARYLAND 21204

AREA CODE 301
890-1434

May 20, 1975

Honorable Eric S. DiNenna
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Jefferson Building
Towson, Maryland 21204

re: Petition for Variance 75-269-A
Florence Rogers, 7800 Seven Mile Lane

Dear Mr. DiNenna:

Please postpone the above entitled hearing, scheduled for 10:00 a.m. on May 26, 1975, because of a conflict with a hearing before Judge Haile which I have scheduled for the very same time and day.

I am enclosing a copy of my letter to Mrs. Rogers asking her to communicate with me regarding a new time convenient to her which, perhaps, can be set on May 26, 1975, at a different time.

Thanking you for your courtesy, I am

Respectfully yours,

Arnold Fleischmann
Arnold Fleischmann

AF:ln
Enclosure

cc: Mrs. Florence Rogers



Item #185 (1974-1975)
Property Owner: Florence A. Rogers
Page 2
May 29, 1975

Water and Sanitary Sewer

Public water supply exists both in Seven Mile Lane and Southvale Road and public sanitary sewerage exists as indicated on the submitted plan.

This property is tributary to the Western Run - Jones Falls Sewerage System, subject to State Health Department imposed moratorium restrictions.

Very truly yours,

Edmund W. Diver, P.E.
EDMUND W. DIVER, P.E.
Chief, Bureau of Engineering

END:RAM:PWR:ss

0-5W Key Sheet
30 NW 18 Pos. Sheet
NW 8 E Topo
78 Tax Map

Baltimore County, Maryland
Department of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH R. DIVER, P.E. CHIEF

May 29, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #185 (1974-1975)
Property Owner: Florence A. Rogers
N/W cor. of Seven Mile Lane & Southvale Rd.
Existing Zoning: D.R. 2
Proposed Zoning: Variance from Sec. 1802.30(1) to permit a rear yard of 2.5' from a garage connected to the main house to the rear property line instead of the required 40'.
No. of Acres: 0.5602 District: 3rd

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Seven Mile Lane, a County road, of varying width pavement and right-of-way in the vicinity of this site, is proposed to be further improved in the future as a 42-foot closed section roadway on a 60-foot right-of-way.

Southvale Road, also a County road is proposed to be further improved in the future as a 30-foot closed section roadway on a 50-foot right-of-way.

Highway improvements including highway right-of-way widening, a fillet area for sight distances at the intersection, and any necessary reversible easements for slopes will be required in connection with any grading or building permit application. Further information may be obtained from the Baltimore County Bureau of Engineering. The submitted plan must be revised accordingly.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary, or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

October 2, 1975

Arnold Fleischmann, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Variance
NW/corner of Seven Mile Lane and
Southvale Road - 3rd Election District
Florence A. Rogers - Petitioner
NO. 75-269-A (Item No. 185)

Dear Mr. Fleischmann:

Please be advised that an appeal has been filed by Messrs. Peter Parker and Gordon W. Priest, Jr., counsels for the Petitioner, Florence A. Rogers, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

S. ERIC DI NENNA
Zoning Commissioner

SED/srl

cc: John W. Hession, III, Esquire
People's Counsel

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

OFFICE OF ZONING COMMISSIONER



S. ERIC DINENNA
Zoning Commissioner
JAMES E. DYER
Deputy Zoning Commissioner

424 - 2351
424 - 3351

August 29, 1975

Mrs. Florence A. Rogers
7800 Seven Mile Lane
Pikesville, Maryland 21208

RE: Petition for Variance
NW/corner of Seven Mile Lane and
Southvale Road - 3rd Election District
Florence A. Rogers - Petitioner
NO. 75-269-A (Item No. 185)

Dear Mrs. Rogers:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

James E. Dyer
JAMES E. DYER
Deputy Zoning Commissioner

JED/me

Attachments

cc: Arnold Fleischmann, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

Hession

111 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric Dinenna, Zoning Commissioner Date: May 23, 1975

FROM: William D. Fromm, Director of Planning

SUBJECT: Petition #75-269-A, Northwest corner of Seven Mile Lane and Southvale Road
Petition for Variance to permit a rear yard
Petitioner - Florence A. Rogers

3rd District

HEARING: Monday, May 26, 1975 (10:30 A.M.)

The staff of the Office of Planning and Zoning will offer no comment on this petition at this time.

William D. Fromm
William D. Fromm
Director of Planning

WDF:NEG/rw



Form 624-202

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bayley Avenue
Towson, Maryland 21204-0754
October 1, 1981

SANDRA SANDAS
Assignment Office-Maryland
424-2962

RENE STUMERS
Assignments-Non-Jury-Motions
424-2961
KATHY RICHSON
Assignments-Motion Hearings-
Motions Records
424-2962

JOHN A. HESSIAN, III, Esq.
People's Counsel
424-2963
ARNOLD FLEISCHMANN, Esq.
People's Counsel
424-2964
F. ALAN KOLODNER, Esq.
People's Counsel
424-2965
JOHN B. GONTRUM, Esq.
People's Counsel
424-2966



RE: Non-Jury Law - Misc. - People's Counsel for Balto. Co. vs. Petition for Variance, Florence Rogers
Assignment Office-Maryland
424-2963
HEARING DATE: Thursday, October 22, 1981, @ 9:30 a.m.
ON THE FOLLOWING: Petitioner: A. Z. Day
NOTICE: Consulting notice of an agreed counsel date.

NOTE: Consulting notice of an agreed counsel date.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confirm objectives. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 10 DAYS OF TRIAL must be made to the attention of the director of Court Assignments - Motion Office.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including the assignment office and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE PHILIP E. CRONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately.

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

June 25, 1979

Robert J. Romadka, Esquire
809 Eastern Boulevard
Baltimore, Md. 21221

Re: Case No. 75-269-A
Florence A. Rogers

Dear Mr. Romadka:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Mr. Florence A. Rogers
Dr. and Mrs. Daniel Gordon
Lawrence Naughton, Esquire
People's Counsel

Circuit Court for
Prince George's County, Maryland

OFFICE OF THE COURT REPORTERS
Post Office Box 401
UPPER MARLBORO, MARYLAND 20870

September 14, 1979

Mrs. Edith T. Eisenhart
Administrative Secretary
County Board of Appeals
County Office Building
Towson, Maryland 21204

Re: Florence A. Rogers
Case No. 75-269-A

Dear Mrs. Eisenhart:

Enclosed please find the original transcript in the above-entitled case to be filed for purposes of appeal.

Thank you.

Very truly yours,

Sherry L. Records
Sherry L. Records
Court Reporter

Enclosure 1

RECEIVED
BALTIMORE COUNTY
SEP 17 2 55 PM '79
COUNTY BOARD
OF APPEALS
BY

Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

September 15, 1981

Clerk, Circuit Court
for Baltimore County
Courts Building
Towson, Maryland 21204

RE: FLORENCE A. ROGERS, Petitioner
Miscellaneous Case Nos. 6846 & 6848

Mr. Clerk:

Enclosed for filing please find the Memorandum of the People's Counsel for Baltimore County. In reference to the hearing scheduled for Thursday, September 15, 1981, at 9:30 am, we plan to submit on brief and should appreciate it if the Judge assigned to the case is so informed.

Very truly yours,

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County

cc: Ckt. Ct. Assignment Office
Robert J. Romadka, Esquire
John B. Gontrum, Esquire
Arnold Fleischmann, Esquire
F. Kirk Kolodner, Esquire

RECEIVED
BALTIMORE COUNTY
SEP 15 2 27 PM '81
COUNTY BOARD
OF APPEALS
BY



JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

TEL 494-2180

RECEIVED
BALTIMORE COUNTY
SEP 28 9 51 AM '81
COUNTY BOARD
OF APPEALS
BY
Ford's Landing Lane
Millington Md. 21651
April 25, 1981

Robert J. Romadka, Esq.,
809 Eastern Blvd.,
Essex, Md. 21221

Re: Florence Rogers Case

Dear Mr. Romadka:

By now you should have received my check in the amount of \$600 to cover all expenses incurred to rehear the testimony of Mr. McCurdy in the above case. In order that we are in agreement on the conditions of this payment, please acknowledge it by returning a copy of the bill marked paid in full.

As you know, I am on a fixed income now, and this expense is heavy for me. I must assure you that I cannot incur any further expense in this matter.

Please let me hear from you.

Yours very truly,

cc: William T. Hackett
County Board of Appeals

C. Leonard Perkins

John W. Hession, III, Esq.

POSSWANT TO OUR phone conversation this AM.
Pink

June 25, 1979

BILLED TO: George A. Shehan, Esquire
2 East Fayette Street
Baltimore, Md. 21202

Cost of certified copies of documents
filed in Case No. 75-269-A. \$ 34.00

Florence A. Rogers
NW corner Seven Mile Lane
and Southvale Road
3rd District

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

REMIT TO: County Board of Appeals
Room 219, Courthouse
Towson, Md. 21204

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

June 25, 1979

George A. Shehan, Esquire
2 East Fayette Street
Baltimore, Maryland 21202

Re: Case No. 75-269-A
Florence A. Rogers

Dear Mr. Shehan:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encls.

cc: Dr. Irving Taylor
Mr. Norbert Grunwald

ASSOCIATES
IRVIN, N. CAPLAN
CHARLES E. FORD III
ALFRED M. WALPERT

ROBERT J. ROMADKA
ATTORNEY AT LAW
809 EASTERN BOULEVARD
BOWEN FORD BUILDING
ESSEX, MARYLAND 21221

October 3, 1978

MURDOCK 6-8274

Walter A. Reiter, Jr., Chairman
County Board of Appeals
Court House
Towson, Maryland 21204

Re: Petition for Variance
NW cor. Seven Mile Lane
Florence A. Rogers, Petitioner
Case No. 75-269-A

Dear Mr. Reiter:

Subsequent to our receiving your Opinion and Order concerning the above captioned case, Subdivision Plans were filed with Baltimore County requesting approval for the subdivision of a new building lot which adjoins the approved building lot now subject to a variance.

The proposed plan has now been approved by the Baltimore County Joint Subdivision Planning Committee and the Planning Board of the I.D.C.A. Application. In accordance with the written comments that I have enclosed herewith from the Baltimore County Joint Subdivision Planning Committee, I have outlined in red that portion of the comments which state that this subdivision cannot be finally approved by the Office of Planning and Zoning until after the Board of Appeals has granted the set back variance.

Therefore, since this matter has been attentively approved by the Baltimore County Joint Subdivision Planning Committee and the Planning Board of the I.D.C.A. Application, I would appreciate your Board making a final determination concerning our Petition for Variance.

If you have any questions concerning this matter, please do not hesitate to call me.

Very truly yours,

Robert J. Romadka

RJR/dsl
Enc.

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

November 21, 1978

Robert J. Romadka, Esq.
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: File No. 75-269-A
Florence A. Rogers

Dear Mr. Romadka:

The Order of this Board, dated May 12, 1978, contemplated that a final administrative decision by Baltimore County be received before the Board decides the variance issue.

After reviewing the Baltimore County Joint Subdivision Planning Committee Report of July 27, 1978 concerning the subject property, it is the opinion of this Board that the posture of this case has not reached the point contemplated in the Board's Order. I would expect that you must comply with paragraph 3 of the Joint Subdivision Planning Committee Report, as well as the last paragraph in said minutes.

After you have received approval, subject only to the granting of the variance for the setback which involves the existing improvements, the Board will issue a decision in this case. The reasons for the Board's wish to proceed in this manner are set forth in our Opinion which precedes the Order of this Board, which is dated May 12, 1978.

Very truly yours,

Walter A. Reiter, Jr.
Walter A. Reiter, Jr., Chairman

WAR:b

ROBERT J. ROMADKA
ATTORNEY AT LAW
809 EASTERN BOULEVARD
BOWEN FORD BUILDING
ESSEX, MARYLAND 21221

January 16, 1979

MURDOCK 6-8274

Walter A. Reiter, Jr., Chairman
County Board of Appeals
County Office Building, Room 219
Towson, Maryland 21204

Re: File No. 75-269-A
Florence A. Rogers

Dear Mr. Reiter:

In further reply to your letter to me of November 21, 1978 concerning the above captioned matter, I have enclosed herewith additional information indicating that Baltimore County has approved the subdivision of Mrs. Rogers' property, subject, however, to the Board's granting a Variance at this time. I am, therefore, enclosing the following:

Tentatively approved Preliminary Plan as now approved by the Departments of Public Works, Health and Joint Subdivision Planning Committee. I have likewise enclosed herewith a copy of a portion of minutes of the Baltimore County Planning Board dated October 19, 1978, and more particularly, Page 11, Subparagraph (b) of said minutes entitled "Preliminary plans, including extension of a tentative approval." I call your attention to Item No. 29, which was approved by the Board on October 19, 1978. I am also enclosing a copy of Page 7 of Appendix II, which is a part of said minutes of the Planning Board and as you will note, Item 29 on Page 7 is referred to as a "Resubdivision of Lots 7 & 8."

I believe the enclosed document information will satisfy the Board's request in seeking County approval for the subdivision of the Rogers property. If you have any questions concerning the information I have enclosed herewith, please do not hesitate to call me.

I would appreciate, therefore, your giving this matter your immediate attention as a great deal of time has transpired

Re: 1-18-79
1:30am

REVIEWED BY THE BALTIMORE COUNTY JOINT SUBDIVISION PLANNING COMMITTEE
JULY 27, 1978

ROGERS PROPERTY (Florence)

Developer - Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208
Engineer - Kilde Consultants, Inc., 1020 Cromwell Bridge Road, Towson, Maryland 21204

District - J-C2

Location - W of Seven Mile Lane and N of Southvale Road

Lot Type - DR-2 # of Units: 2 Lots Acreage: .9122 Ac.

Facilities - Available - Public Water & Sewer

Representatives Present:

Representing Developer: Florence A. Rogers
Richard Smith

Representing Developer's Section: Edward A. McDonough

The Developer presented a 30-scale plan dated July 13, 1978, of a proposed subdivision located W of Seven Mile Lane and N of Southvale Road. The following Comments were made:

The owner stated that she would like to build a house on the remaining lot at no expense as far as revisions to the plan since there are two (2) existing lots, and requests the County to approve the building application on the lot that does remain.

The representatives from the Office of Planning and Zoning requested the following changes or additions to the plan. Adjacent zoning, parking calculations, title to state resubdivisions of lots 7 & 8 of the Bushart Subdivision, gross acreage, right-of-way widths, topography to be shown, front of each dwelling, I.D.C.A. number, date of approval and conditions of approval. A Development Plan is required for this subdivision.

It was further stated by the Office of Planning and Zoning that the owner must either relocate the lot line to provide for a 3-foot distance between the existing garage and new property line and eliminate the breezeway, or notify the Board of Appeals that the subdivision is being processed and the pending order (75-269-A) can be reconsidered. This subdivision can be approved by the Office of Planning and Zoning after the Board of Appeals has granted the variance for setback.

The Bureau of Engineering representative stated that Seven Mile Lane is proposed for a 30-foot widening from the center line of the existing road for an ultimate 60-foot right-of-way. The Developer is responsible for the widening for this frontage and it shall be dedicated to Baltimore County at no cost. This right-of-way is shown on Drawing 66-1226, Sheet-5. Public sewer is available to serve this subdivision; however, this subdivision is located within the Western III zone of water service with a service elevation of 460-feet. This proposed dwelling would appear to be at elevation 480-feet

- 2 -

since originally filing this matter before the Board of Appeals.

Very truly yours,

Robert J. Romadka

RJR/dsl
Enc.
cc: Mrs. Florence A. Rogers

Minutes - JSPC Meeting - 2 - July 27, 1978

Rogers Property (Florence)
District J-C2

and may have reduced pressure for water within the proposed dwellings. Sediment control is required at the time of building application. Storm water management is not required for this subdivision. It was stated that a street light exists at the intersection of Southvale Road and Seven Mile Lane; therefore, a street light will not be required along this frontage.

Road improvements will not be required for Seven Mile Lane or Southvale Road at this time except for the right-of-way widening dedication and a 10-foot reversible slope easement. Any new entrances must be constructed in accordance with County standards and specifications.

The Soil Conservationist presented a soils report and sediment control report, a copy of which was given to all representatives present.

The Developer was advised that after this plan has been revised in accordance with the suggestions of the Committee, the plan may be resubmitted to Baltimore County for processing.

GSB:cm
8-9-78

cc: John W. Hessian, III, Esq.

Recd 12-28-76
10 AM

MOSES COHEN
ATTORNEY AT LAW
321 N. CALVERT STREET
BALTIMORE, MD. 21202

January 10, 1976

County Board of Appeals,
Room 218, Court House,
Towson, Md. 21204

ATT: Ms. Edith T. Eisenhart,
Adm. Secretary

Re: Case No. 75-269-A - FLORENCE ROGERS

Gentlemen:

In accordance with my telephone call to Ms. Eisenhart of
this morning, please strike my name as Counsel in this
matter. George A. Shehan, Esq., 305 W. Pennsylvania
Avenue has already entered his appearance in place of
mine.

Very truly yours,

Moses Cohen
Moses Cohen

MC: S1.
CC: George A. Shehan, Esq.

BENJAMIN N. DORMAN
ATTORNEY AT LAW
902 CATHEDRAL STREET
BALTIMORE, MARYLAND 21201
TELEPHONE 727-0980

November 1, 1976

County Board of Appeals
Room 219 Court House
Towson, Maryland 21204

Attention: Mrs. Edith T. Eisenhart

Re: Case No. 75-269-A Florence A. Rogers
for Variance from Section 1802.3C(1)-
rear yard NW cor. of Seven Mile Lane
and Southvale Road
3rd District
8/29/75 D.Z.C. Denied Variance

Dear Mrs. Eisenhart:

Confirming our telephone conversation, kindly strike
my appearance as attorney for the Protestants. After some
discussion between John W. Hessian, III, Esquire, People's
Counsel, and me, we have mutually agreed that our positions
in opposition to the granting of the requested variance are
virtually identical and that Mr. Hessian will represent the
interests of all parties similarly opposed. I anticipate
that most, if not all, of the Protestants will attend the hear-
ing.

Thank you for your assistance.

Sincerely yours,

Benjamin N. Dorman
Benjamin N. Dorman

BND:ml

cc: John W. Hessian, III, Esquire
Norbert Grunwald, President
Moses Cohen, Esquire
Robert J. Romadka, Esquire

Rec'd 11-3-76
11 AM

8/27/76 - 10.30 am Re: 75-269-A - Florence Rogers - sch. 11/4 - 10 am

I called Mr. Benjamin Dorman, counsel listed for Protestants, to inquire whether or not he
actually is counsel, as he has not entered his appearance with us (This information came to
this office from Arnold Fleischmann, Esq., former counsel for Protestants, by way of letter
dated October 10, 1975.) Also, I wished to obtain addresses of Protestants listed in order
to send them a copy of Assignment of Hearing notice. Mr. Dorman was on the telephone,
and his secretary said the names were not in the file; that she would have him call this office.
11.45 am - As Mr. Dorman had not returned my call, I again called the office. His secretary
said he did not have the file in the office - he thought it was at home - and he is not sure whether
or not he will remain counsel for Protestants in this case. I asked that he send us a letter to this
effect, or notify us in some manner. She said she would get in touch with us next week.

MEB

9/5/76 -

Called MR. DORMAN'S SECRETARY. SHE GAVE ME ADDRESSES
OF PROTESTANTS SENT NOTICES.

WHITE, PAGE & LENTZ

CHARLES B. PAGE
CLARKE MURPHY, JR.
PETER PARKER
GORDON W. PRIEST, JR.

Attorneys at Law
700 KEYSER BUILDING
CALVERT AND REDWOOD STS.
BALTIMORE, MD. 21202

GEORGE W. WHITE
WILLIAM LENTZ
TELEPHONE
(301) 782-8131

August 26, 1976

Baltimore County Board of Appeals
Room 218, Courthouse
Towson, Maryland 21204

Re: Florence A. Rogers
Case No. 75-269-A

Gentlemen:

Please strike our appearances in the captioned
matter, as Mrs. Rogers has retained other counsel.

Thank you for your cooperation with this matter.

Very truly yours,

Gordon W. Priest, Jr.
Gordon W. Priest, Jr.

GWP/dk

cc: Mrs. Florence A. Rogers

Peter Parker

White, Page & Lentz

ROBERT J. ROMADKA
ATTORNEY AT LAW
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221

August 26, 1976

MURKIN 6-10274

Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

Re: Case No. 75-269-A
Florence A. Rogers

Dear Mr. Chairman:

Please enter my appearance in the above noted matter on behalf
of the Petitioner, Florence A. Rogers.

I have been advised by your office that a new date has been
tentatively set for Tuesday, October 26, 1976 for hearing of this matter.
Since I will be out of town that entire week, I would appreciate your
scheduling this matter for hearing sometime in the month of November.

Thank you for your cooperation in this matter.

Very truly yours,

Robert J. Romadka
Robert J. Romadka

RJR/dsl
cc: Mrs. Florence A. Rogers

August 20, 1976

Edith T. Eisenhart
County Board of Appeals
Room 218, Court House
Towson, Maryland, 21204

RE: CASE NO. 75-269-A
FLORENCE A. ROGERS
for VARIANCE (rear yard)

Dear M's Eisenhart,

To confirm my conversation with you on the phone
today, I am directing this letter, to ask you to please ask the
chairman of the Board, to consider a postponement of my case hearing,
which is set for TUESDAY, SEPTEMBER 28, 1976, at 2:00 p.m.

The reasons for my request at this time is the fact
that my religious holiday week, comes in at that time. I shall be in
no position to appear in Court, because this time period is one of my
holiest holidays, Rosh Hashanah - Yom Kippur, and then others to follow,
with the next two months. Also, I have to connect with a new ATTORNEY
to prepare my case, as messrs. PARKER AND PRIEST ARE NOT REPRESENTING
ME, on this matter, any longer, and have not prepared to date to handle
this case.

IN ORDER NOT TO JEOPARDISE MY CASE, for proper preparation
and hearing later, I would appreciate a postponement for several months.

Thank you in advance for your kind help and consideration.

Sincerely,

Florence A. Rogers
FLORENCE A. ROGERS

7800 SEVEN MILE LANE
PIKESVILLE, MD. 21208
486-3417

Rec'd 8-24-76
9:45 AM

LAW OFFICE
ARNOLD FLEISCHMANN
104 WEST PENNSYLVANIA AVENUE
SUITE 305
TOWSON, MARYLAND 21204

ARNOLD FLEISCHMANN
JOHN S. AUSTIN

October 10, 1975

AREA CODE 301
890-1434

Mr. Walter A. Reiter, Jr., Chairman
County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: File No. 75-269-A
Florence Rogers

Dear Mr. Reiter:

Please strike my appearance as attorney for the
Protestants/Appellees in the above entitled case. I
understand that Benjamin Dorman, Esq., who will in due
course enter his appearance in this case, will represent
the Protestants in this matter.

Very truly yours,

Arnold Fleischmann
Arnold Fleischmann

AF/dm

cc: John W. Hessian, III, Esq.
Dr. and Mrs. Daniel Gordon
Mr. and Mrs. Moses Cohen
Dr. and Mrs. Irving Taylor
Mr. Norbert Grunwald

Rec'd 10/14/75
4 PM

October 6, 1975

Messrs. Peter Parker and Gordon W. Priest, Jr.
700 Keyser Building
Baltimore, Maryland 21202

Re: File No. 75-269-A
Florence A. Rogers

Gentlemen:

- Number of witnesses you anticipate calling 5
- How many of these witnesses will be "expert witnesses"? 1
- Fields to be covered by experts you intend to call - please check:
Land Planner _____
Real Estate ☒ _____
Engineer _____
Traffic _____
Other _____
- Total time required (in hours) for presentation of your side of the case
2 hrs

Gordon W. Priest, Jr.
Attorney for Protestants
Attorney for Petitioners (✓)

Rec'd 10-9-75
9:55 AM

STROMBERG PUBLICATIONS, Inc.

Revised: Sept. 25, 1970

