## PETITION FOR ZONING VALIANCE 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 Sections 1862.30 (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 401, said property line to be established by the

Resubdiv sion Procedures allowed in Baltimore County.

Resubdivision Procedures allowed in Baltimore County.

of the Zoniva 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 I BO 2. (c)4 and VB. 1(b)4 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 Bahimore County adopted pursuant to the Zoning Law For Baltimore County.

Addres

RECEIVED FOR

OMBER

Petitioner's Attorney

Address ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ 21st \_\_\_\_\_

of APEL1
19675, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation though the Lawrence out 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 to 19875 at 10:30 clock 26th day of May

10.20 Zoning Commissioner of Baltimore County,

Florence a Koyler

Address 7800 Seven miletane Pikuville md 2/208

Protestant's Attorney

BALTIMORE COUNTY, MARYLAND

м.



H U

D

#

DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFOND. P.E.

May 14, 1975

Be: Item 185 - ZAC - April 15, 1975
Property Owner: Plorence A. Rogers
Location: NA/C of Seven Mile Lane & Southwale Boad
Existing Zoning: D.R.2
Proposed Zoning: Variance from Sec. 1802.3C (1) to permit
a rusr yard of 2,5° from a garage connected
to the main bouse to the rear property line
No. of Acres: 0.5602
District: 3rd

No traffic problems are expected by the requested variance

Very truly yours,

Michael S. Flanigan Traffic Engineering Assoc.

MSF/bza

BALTIMORE COUNTY

Bea

**ZONING PLANS** 

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

Franklih "M. Hogan XXXXXXXXXXXXXX

May 20, 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 age. The 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

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. Hogasfe.

Zoning Plans Advisory Committee

PTH:JD

Enclosure

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

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON MARYLAND - 21204

Date: April 21, 1975

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

Re: Item
Property Owner: Flo.ence A. Rogers
Location: NM/C of Seven Mile Lane 4 Southvale Road
Present Zoolng: D.R. 2
Proposed Zoolng: Nariamce 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: No. Acres:

Dear Mr. DiNenna

No bearing on student population.

Very truly yours, W. Weck tetrouch

WNP/m1

W. Nick Petrovich., Field Representative

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF HEALTH-

DONALD J. ROOP, M.D., M.H.H.

April 16, 1975

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

Bear Mr. DiNennai

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

Property Owner: Florence A. Rogers
Location: NW/G of Seven Mile Lane & Southwale Rd,
Existing Zoning: D.R. 2
Proposed Zoning: Variance from Sec. 1802.36(1) to
permit a rear yard of 2.5' from a
garage connected to the main house
to the rear property line instead of
No. of Acres: 0.5602
District: 3rd

Metropolitan water and sever are available.

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

Very truly yours,

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

S. ERIC DINENN



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 readured 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
Planning Specialist II
Project and Development Planning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING 105 WEST CHESAPEAKE AVENUE AREA CODE 301 PLANNING 494-5211 ZONING 484-3251

RE: PETITION FOR VARIANCE NW/corner of Seven Milela Southvale Road, 3rd Distric : BEFORE THE COUNTY BOARD

· OF APPEALS FOR BALTIMORE COUNTY

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 stemissed without further proceeding thereon, and as grounds for said motion, respectfully shows, viz:

- 1. That the Deputy Zoning Commissioner for Baltimore County denied the Appeilant'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 ppealed 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 hereinable

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. Hessian, III

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

TO THE HONORABLE. THE JUDGE OF SAID COURT:

And now come William T. Hackett, 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:

Remanded to the County Board of Appeals by Judge Edward A.

DeWaters for ". . the sole purpose of recor of the witnesses whose testimony was not transcribed and not for the purpose of reconsideration. . ." Transcript of testimony of second hearing day held on 2/10/77 fd. May 27 Remand hearing held before the Board Protestants' Exhibit B – from hearings of 11/4/76 and 6/30/77 found. (This exhibit had been mislaid an 27 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 F1 at hearing on 5/27/81 - Qualificat 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 Charles E. Kountz, Jr. Deputy People's Counsel County Office Building Towson, Maryland 21204

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

IN THE CIRCUIT COURT

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

RE- PETITION FOR VARIANCE

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

BEFORE THE

OF : BALTIMORE COUNTY

This Petition represents a request for a Variance to Section 1B02.3C(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 detrimed tal 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.

10 g 03A

- 2 -

Section 1802.3 (A) of the Regulations guite 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 alternation 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 Cox Planning Board or Planning Commission."

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 created on a lot having an an owidth at the building line less than that required by the

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and b. That all - r requirements of the height and area
- c. It at 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.

regulations are complied with: and

Petitioner has simply chosen to violate these requirements in order to establish or 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 offirmed in a situation similar to the present case.

PETITION OF BEFORE THE DEPUTY ZONING FLORENCE A. ROGERS COMMISSIONER OF BALTIMORE COUNTY for variance N/W corner of Seven Mile Lane and Southvale Road--3rd Election District 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 SEP 29 .75 PM 763 BALTIMORE COUNTY MARYLAND No. 23392 OFFICE OF FINANCE - REVENUE DIVIS MISCELLANEOUS CASH RECEIPT DATE October 2, 1975 ACCOUNT 01-662 AMOUNT \$40.00 Mis. Florence A. Rogers 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

GWP/dg 9/26/75 1.

- 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. Hessian, III People's Counsel for Baltimore County ,

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

I HEREBY CERTIFY that on this  $fS^{\frac{1}{2}}$  day of September, 1981, a copy of the aforegoing 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 Kaladner, Esquire, Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204.

UNREPORTED

IN THE GOURT OF SPECIAL APPEALS

OF MARYIAND

No. 120 September Term, 1977

MARDO HOMES, INC., ET AL.

BALTIMORE COUNTY, MARYLAND

Davidson, Melvin, Wilner, II.

PER CURIAM

Filed: November 22, 1977

Zening Classification	Minimum Flet Lot Jone per Unelling Unit	Minimum Let Watter, <sup>3</sup> in Fact	Mainen Feet-Yard Depth, in Feet	Mindown Width of Individual Side Yord, in Feet	Minimum Sum of Side-Vord Widths, In Fact	Minimum Restr Yurd Depth <sub>e</sub> in Feet
D.R. I	40,000 square feet	150	50	20	50	.51
0. K. Z	20,000 tours feet	100	40	15	40	40
D.R. 3.5	10,000 spens feet	70	20	10	25	30
0.8.5.5	h,000 square feet	55	25	19	-	30
D.E. 10.5	3,000 square feet	219	10	10	-	50
D.R. 16	2,500	20	10	25:	-	30

- Other standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.
- D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Paragraph D of gubsection 1801.3.\*

It is readily apparent that, while paragraph B states that "[s]tandards for development of lots or tracts described in subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C. below" (Emphasis added), paragraph C states only that, "Any dwelling nereafter constructed on a lot or tract described in subparagraph A.3 or A.4 shall comply with the requirements of the following table . . . . "No provision is made for dwellings constructed on a lot or tract described in subparagraph A.5. Although subparagraph C.2 states that "[o]ther standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504," no such provisions were ever adopted. Thus, it would appear that any lot or tract which falls exclusively within subparagraph A.5 would have no applicable development

In this appeal we are called upon to decide whether the Circuit Court for Baltimore County (Brannan, J.) was correct in affirming a decision of the Baltimore County Board of Appeals, denying building permits for two lots owned by appellant. Mardo Homes, Inc. Our conclusion in this regard is dependant upon our construction of Article IB. Section 1802.3 of the Baltimore County Zoning Regulations, and our determination as to whether appellant's lots are lots as described in subparagraphs A.3, A.4, and/or A.5 of that regulation. If the lots are A.3 and A.4 (as well as A.5) lots, then they are subject to certain minimum width requirements which they admittedly do not meet. If they are exclusively A.5 lots, then they are not subject to these requirements, and the denial of the permits can only be regarded as arbitrary and capricious.

The facts underlying this controversy are not in dispute, and may be quoted from Judge Brannan's opinion;

"This case involves a limely appeal from the March 5th 1976 order of the Baltimore County Board of Appeals, which affirmed denial of two building permits by the Department of Permits and Licenses of Baltimore County.

"The Appellants had applied for building permits No. 63255 and 63256 for construction of homes on two lots. Each lot measures 50 feet in width by 135 feet in depth. The zoning on the property is D.R. 5.5, and the lots in question are among 284 lots owned by the Appellants in a subdivision, the subdivision plat of which was recorded in March, 1929, some 16 years prior to the advent of zoning in Baltimore County. There was no approval of this subdivision plat by the Baltimore County 'Planning Board since the Planning Board was not in existence at that time,

"Interspersed throughout and among the lots which the Appellants own and intend to develop are approximately 100 existing detached houses owned by single families. Appellants contended at the Soard of Appeals that they should be allowed to erect dwelling units on lots with 50 foot widths

requirements

Appellants contend that their lots are exclusively lots described in subparagraph A.5 and, therefore, that there are no development requirements applicable to these lots. Thus, appellants conclude that the Department of Permits and Licenses errod in denying their permits on the ground that the minimum lot width requirement was not met. If appellants are correct in their assertion that there are no development requirements applicable to their lots, then they are correct in their conclusion that the permits should have been issued.

Baltimore County (appellee) contends, however, that appellants' lots are not only lots described in subparagraph A.5, but are also lots described in subparagraphs A.3 and A.4. Thus, Baltimore County contends that as the lots are zoned D.R.5.5, the 55 foot minimum lot width set out in the table, and made applicable to lots described in subparagraph A.3 or A.4, is applicable to appellants' lots. As appellants' lots are only 50 feet wide, appellee contends that the denial of the permits was not arbitrary or capricious, but rather entirely proper.

The basic principles of statutory construction were comprehensively set out by the Court of Appeals in <u>State v. Febrits</u>, 276 Md. 416, 421-22, 348 A. 2d 275 (1975), <u>cert. denied</u>, 425 U.S. 942 (1976):

"The cardinal rule in the construction of statutes is to effectuate the real and actual intention of the Legislature. Purificy v.

Merc., "Safe Pep. 6. Trust. 273 Md. 58, 327 A. 24 483 (1974); Scoville
Serv., Inc. v. Comptroller, 269 Md. 390, 306 A. 2d 534 (1973);
Height v. State, 225 Md. 251, 170 A. 2d 212 (1961). Equally well
settled is the principle that statutes are to be construed reasonably
with reference to the purpose to be accomplished, Welker v.

Montgomery County, 244 Md. 98, 223 A. 2d 181 (1966), and in light
of the evils or mischief sought to be remedied, Mitchell v. State,

rather than the newly mandated 55 foot width, and that if they were forced to build with a 55 foot width requirement, they would lose the use of 41 lots."

As Judge Brennan noted further on in his opinion, the question here is clearly one of statutory construction.

The regulation to be construed provides as follows:

\*1802.3 -- Special Regulations for Certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones.

- A. 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:
  - Any lot which is in a recorded residential subdivision approved by the Baitimore County Planning Board or Boltimore County Planning Commission and which has been used, occupied or Improved in accordance with the approved subdivision plan;
  - 2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence coning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect, and which has not been used, occupied, or improved in accordant with such plan:
- The construction or interpretation of a statute is a question of law, not of fact. On this issue we are not, therefore, governed by the fairly debatable standard. Kassab v. Burkhardt, 34 Md. App. 699, 704, 368 A. 2d 1064 (1977).

IIS Mid. 360, 80 A, 2d 1020 [1911]; in other words, every statutory enactment must be 'considered in its entirety, and in the context of the purpose underlying [tis] enactment, 'Giant of Mid. V. State's Attorney, 267 Mid. 501 at 509, 298 A, 2d 427, at 432 [1973]. Of Course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which constitutes the primary source for determining the legislative intent. Grosvenor v. Supervisor of Assess., 271 Md. 232, 315 A, 2d 758 [1974]; Hielpht V. State, supra. Where there is no embiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascortain the intention of the Legislature. Purifoy v. Merc., Safe Deposit & Trust, supra. Thus, where statutory language is plain and free from embiguity and expresses a definite and sensible meaning, courts are not at licerty to disregard the natural import of words with a view towards making meaning. Clatewood v. State, 244 Md. 609, 224 A, 2d 577 (1966). On the other hand, as stated in Manguier v. State. 192 Md. 615, 623, 65 A, 2d 299, 302 (1949), '[a]dherence to the meaning of words does not require or permit isolation of words from their context '\*\*\*[since] the meaning of the plainest words in a statute may be controlled by the context . . . '' in construing statutes, therefore, results that are unrassonable, illogical or inconsistent with the statutory language, with the real legislative intention prevailing over the intention indicated by the literal meaning. B. F. Saul Co. V. West End Park, 256 Md. 707, 246 A. 2d 591 (1968); Sanga v. Md. Board of Censors, 245 Md. 319, 226 A. 2d 317 (1967);

Applying these principles to the regulation now being considered, we conclude that under the plain wording of section 1802.3, appellants' lots are lots described in subparagraphs A.3, A.4 and A.5. The 55 foot minimum width requirement made applicable to A.3 and A.4 lots is, therefore, applicable to appellants' lots.

Subparegraph A.3 lots include any lot which is not in an existing development or subdivision as described in subparagraph 1 or 2 [that is, a subdivision for which a plan has been approved (A.1) or tentatively approved and remains in effect (A.2)] and which is too small to accommodate six dwellings or density

- 3. Any lot, or tract of lots in single ownership, which to not in an existing flowledpment or subdivision as described in subparagraph 1 or 2 and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. zone in which such tract is located; or
- 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.
- 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.
- B. Standards Applicable to Existing Developments Etc. The minimum standards for net lot area, lot width, front-yard depth, single-side-yard width, sum of widths of both yards, rear-yard depth, and height with respect to each use in a development described in subpardargh A.1, above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified and comparable bulk (height or area) standards for different permitted uses may be established and codified under Section 594, and these standards shall thereupon control in such existing developments. Davelopment of any subdivision described in subparagraph A.2 shall be in accordance with the tentatively approved, subdivision plan therefor. Standards for development of lots or tracts described in subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C, below.
- C. Development Standards for Small Lots or Tracts.
  - Any dwelling hereafter constructed on a lot or tract described in subparagraph A.3 or A.4 shall comply with the requirements of the following table:

-7-

units under present zoning. It is undisputed that appellants' lots are not in an existing subdivision as described in subsaragraph 1 or 2 (i.e., one for which a plan has been approved or tentatively approved) and that 'bey are too small to accommodate six dwelling or density units under present zoning. Thus, appellants' lots come within the clear and unambigue is description contained in subparagraph A.3. With respect to subparagraph A.4, appellants' lots again are not lots in an existing development or subdivision as described in subparagraph 1 or 2, and are each less than one-half acre in area. Thus, appellants' lots are also lots described in subparagraph A.4. While appellants' lots come within the description contained in subparagraphs A.5 as well, this does not in any way negate the fact that they also come within the clear and unambiguous descriptions contained in subparagraphs A.3 and A.4.

Appellants advance a different interpretation of paragraph A in support of their contention that their lots are exclusively A.5 lots. Appellants contend that:

Appellee Baltimore County has attempted to show a longstanding administrative interpretation that A.3, A.4 and A.5 category lets sometimes overlap, the properties of the statum of the

"Al deals with lots in recorded and approved subdivisions, A2 deals in tentatively approved subdivisions, A3 and A4 deal with lots not in an existing subdivision, and A5 deals with lots in a recorded subdivision not approved by the Baltimore County Planning Board or Planning Commission. A3 and A4 clearly deal with lots not in existing subdivisions, and AS deals with lots in recorded .

This interpretation ignores the plain wording of subparagraphs A.3 and A.4. Categories A.3 and A.4 include more than lots not in exist ng subdivisions. They include lots "not in an existing development or subdivision as described in Subparagraph 1 and 2" (Emphasis added), that is, lots not in an existing development or subdivision with approved (see subparagraph A.1) or tentatively approved (see subparagraph A.2) plans. As previously noted, appellants' lots are not in an existing subdivision with approved or tentatively approved plans. They come, therefore, within the definition of A.3 and A.4 lots.

Having concluded that appellants' lots are A.3 and A.4 (as well as A.5) lots and, therefore, subject to the 55 foot minimum width regulrement, we must next determine whether appellants should nevertheless have been granted a permit pursuant to Baltimore County Zoning Regulations, Article 2, Section 3D4. That Section provides:

"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;

a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and

Florence A. Rogers - No. 75-269-A (#6846)

Amended Petition on Appeal filed in the Circuit Court for Baltimore County by George A. Shehan, Esq. June 25, 1979

Transcript of testimony filed - 1 volume

Petitioner's Exhibit No. 1 - Plat of subject property

" 2 - Plat, colored, of subject property MCA - Rev. 8/20/76

" 3 - Photos 1 - 4 - of subject property

" 4 - Zoning Map, 3/29/71

" 5 - Zoning Map, to be adopted, 1976

" 6 - Photos, A-G

" 7 - For identification only - 5 letters,

" 8 - Aerial photo

" 9 - Plat of Derbyshire

" 10 - Photos: A-Garage, subject property B-Common Drive on Midfield Rd. C-Property next door

Protestants' Exhibit A - Plat of Dumbarton, 7/151

" B - Report from Henry F. LeBrun (mis

Reopla's Counsel Exhibits IA-F Photographs

Sept. 18, 1979 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Murral E. Buddemeier

County Board of Appeals of Baltimore County

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

#### TO THE HONORABLE, THE JUDGE OF SAID COURT:

June 23.

cc: Robt. J. Romadko, Esq. George A. Shehan, Esq. John W. Hessian, III, Esq. Lawrence Naughton, Esq.

And now come William T. Hackett, 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 testimo of the witnesses whose testimony was not transcribed and not for the purpose of reconsideration. . ." Transcript of testimony of second hearing day held on 2/10/77 fd. Mar. 18 Remand hearing held before the Board May 27 Protestants' Exhibit B – from hearings of 11/4/76 and 6/30/77 found. (This exhibit had been mislaid a 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 - Qualifica

> " #2 " " - (a and b) Photos o Rogers house Additional record of proceedings filed in the Circuit Court for

> > 0

Respectfully submitted

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

Petition for Variance from Section 1802.3C(1) of the Baltimore County Zoning Regulations \* IN THE \* CIRCUIT COURT \* FOR BALTIMORE COUNTY NW corner Seven Mile Lane and Southvale Road, 3rd \* AT LAW District Florence A. Rogers, Petitioner \* Misc. Docket No. 11 Folio No. 296 \* File No. 684 Zoning Case No. 75-269-A (654646545)

#### MOTION TO DISMISS APPEAL

Plorence A. Rogers, petitioner, by and through her attorneys Robert J. Romadka, and John B. Contrum, Prays this court to dismis the above-entitled Appeal pursuant to Rule B7 of the Maryland Rule of Procedure and in support thereof says as follows:

1. That on May 16, 1979, The Board of Appeals for Baltimore County issued an order granting a variance to Florence Rogers on property owned by her located at the northwest corner of Seven Mile Lane and Southvale Road, in the 3rd District in Baltimore

2. That on June 22, 1979, Petitions on Appeal were filed in the Circuit Court for Baltimore County, by People's Counsel for Baltimore County and by Protestants and:

3. That on June 22, 1979, a Petition For Extension Of Time To File Transcript of Proceedings was filed seeking an extension of time for filing the record to September 18, 1979. The Petitioner cited the fact that the Reporter for the County Board of Appeals had stated that he would be unable to prepare the transcript of proceedings prior to the filing deadline of July 20, 197 and;

4. That an order extending the time for filing the record was signed on June 22, 1979, granting an extension of time for filling the transcript and record to September 18, 1979 and;

5. That on September 17, 1979, one volume of transcript was filed in the Court along with exhibits from a hearing held on

ember 4, 1976, and that on September 18, 1979, the record of edings was filed in the Court and;

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6. That additional testimony was taken before the County Board of Appeals from witnesses for both protestants and petitioners in addition to that transcribed for the date November 4, 1976

7. That transcripts of said testimony were not filed prior to September 18, 1979, as part of the record on appeal and:

8. That 90 days after receipt of the first copies of the Petitions on Appeal, the record in this appeal was incomplete and;

9. That prior to September 18, 1979, no reason was proferred or the failure to transmit the complete record of the case before the County Board of Appeals to the Circuit Court and;

10. That Maryland Rules of Procedure Rule B7 imposes an affirmative duty upon the Appellant to determine that the record before the Administrative Agency is timely filed with the Court of

11. That the Appellants have an affirmative duty to determine within the 90-day period whether or not a complete record before the dministrative Agency can be filed in the Appeal in a timely manner

12. That the Appellants failed to determine within the 90-day period described by the Court whether or not the record could be timely filed and;

13. That Appellant failed to ascertain the time required for complete transcription and record transfor within the time prescribed by Rule B7 and;

14. That the Appellants have failed to seek an extension of time pursuant to a showing that the failure to deliver the record in timely fashion was due solely to the neglect, ommission or mability of the Clerk;

WHEREFORE, Petitioner, Plorence A. Rogers, Appellee, hereby rays this court to dismiss the above-captioned Appeal, assess

fre	om Section 180	2.3C(1)					
	the Baltimore		1	CIRCUIT	C	DURT	
	oning Regulatio			FO	0		
	W corner Sever ad Southvale Ro		1	ro	15.		
	d District	iuu		BALTIMO	RE	COUNTY	
	orence A. Roge	ers. Petitioner					
			1	AT	LAW		
C	ase No. 75-265	7-A					
			1.	Misc. Docket	No.	11	
N	ving Taylor and orbert Grunwal		1	Folio No.		296 8 298	
	ppellants, and ople's Coursel	for Baltimore County		File No.		6846 & 6848	
Ap	pellant						
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	ZONING	COMMISSIO	NER	AND	ВО	ARD OF	
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TOT	HE HONOR	ABLE, THE JUD	GE	OF SAID CO	URT	:	
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IN THE

RE: PETITION FOR VARIANCE

by George A. Shehan, Esq. 8 0 costs to the Appellant and

paragraph in said minutes.

Petitioner's counsel, enclosing additional infor approval from Baltimore County

George A. Shehan, Esq., attorney for Prote

Florence A. Rogen - No. 75-269-A (\*6846)

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10, 1977

12, 1978

16, 1979

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he Court may deem appropriate.

Aug.

Sept 29

Feb.

Nov 21

May 16

May 26, 1975 At 10:30 a.m. hearing held on petition by Deputy Zoning Commiss

Order of Deputy Zoning Commissioner denying variance

Hearing on appeal before County Board of Appeals

Order for Appeal to County Board of Appeals from Order of Deputy

H H H H H H H - COSE

Order of County Board of Appeals: "ORDERED that the Board will

Order or County board of Appears: OADERED 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 Bottimore County. The Board respectfully request 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.

Letter from Petitioner's counsel with attached comments from Baltimore County Joint Subdivision Planning Committee

Letter from Chairman of Board of Appeals to counsel for Petitione

stating: "... 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

Letter to Mr. Walter Reiter, Chairman, from Robert J. Romadka, Esq.

Order of County Board of Appeals granting variance petitioned for

Order for Appeal filed in the Circuit Court for Baltimore County by People's Countel for Baltimore County

Order for Anneal filed in the Circuit Court for Baltimore County by

Petition to accompany Order for Appeal filed in Circuit Court for Baltimore County by People's Counsel

Petition on Appeal filed in Circuit Court for Bd timore County by George A. Shehan, Esq.

Petitions for Extension of Time for filling record to September 18, 1979 (2)

Certificate of Notice sent to all interested parties, on appeal filed by People's Counsel Certificate of Notice sent to all interested parties, on appeal filed

Robert J. Romadka

Continued hearing on appeal before County Board of Appeals

### POINTS AND AUTHORITIES

Maryland Rules of Procedures, Rule 87 Jacober vs. High Hill Realty, Inc., 22 MD. APP. 115, 321 A2d 838 (1974)

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this A Z day of March, 1980, a copy of the foregoing Memorandum was mailed to George Shehan, Esquire, Two East Payette Street, Baltimore Maryland, 21202, attorney for Protestants and John W. Hessian, III, Esquire, People's Counsel for Baltimore County, County Office Building, Towson, MD 21204.

#### 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 aforegoing Certificate of Notice has been

In the transcript on page 19, Mrs. Rogers' expert witness was asked by counsel the following question:

"In your opinion, Mr. McCurdy, do you feel there is a definite physical hardship involved here on the part of Mrs. Rogers in trying to develop the balance of her property?"

"I think there is,yes. She can't use the property to her -- to its hest advantage, and for that reaso I think it is a hardship on her."

Section 307 of the Baltimore County Zoning Regulations provides as

The soning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area cepulations ..., only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said area .. regulations, and only in such a manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant may other variances."

One of the criteria for determining whether "practical difficulty" has been established, in whether compliance with the strict letter of setbacks would unreasonally prevent the owner from using the property for a permitted purpose, or would ender conformity with such restrictions unnecessarily burdenace. McLean v. Soley, 270 MA. 208, 214.

The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of methack requirements. Easter v. City of Baltimore, 195 Md. 395, 400.

The expert witness who testified for the Protestants, when asked whether Mrs. Rogers' property would be best if left intact and not de-loped, asswered; "There is no question in my mind about that." He added that the house is built on both of the lots now and that he does not think it should be

Even if Mrs. Rogers would be better off finencially if she could live in the coe story ranch type house which she would build in her back yard, so that she could rest or sell the two story dwelling, there is evidence to the contrary. She would be worse off finencially by building the new house because the value of the old house would be severely diminished, because it would have no hark yard. This was the opinion of the expert witness for the Protestants, CFT., p. 51, lines 2 to 6 inclusive).

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

mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 2" 1, Attorney for the Petitioner, and Mrs. Florence A. Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208, Peritioner, 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 Protestanis, 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 Secretory County Board of Appeals of Baltimore County

cc: Zoning, M. Campagna

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 coupliance with the minimum setback roning regulations would result in practical difficulty. Baltimore County Youing Regulations, Section 307. The findings of the Board of Appeals with respect 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.

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

PETITION FOR VARIANCE 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 BALTIMORE COUNTY Northwest corner of Seven Mile Lane and Southvale Road. 3rd District.

ZONING COMMISSIONER

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

#### ORDER TO ENTER APPLARANCE

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.



People's Counsel

Charles E. Kountz, Jr. Deputy People's Counsel County Office Building on, Maryland 21204

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

John W. Hessian, III



THE CIRCUIT COURT FOR

CASES NO. 6846 and 6848

Misc. Law Docket 11

Folios 296 and 298

RE: PETITION FOR VARIANCE from Section 1802,3C(1) Baltimore County Ecning Regulations Plorence A. Rogers Case No. 75-269-A

IRVING TAYLOR NORBERT GRUDWALD

Appellants

PEOPLE'S COUNSEL FOR BALTIMORE Appellant

Walter R. Haile, JUDGE

### ORDER

Whereupon it is by the Circuit Court for Baltimore County, on this 9th

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 vard 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.

39 PM '87 3



Regulations

IRVING TAYLOR

ORBERT GRUNWALD

Mr. Hammen

shitel.

THE CIRCUIT COURT FOR

BALTIMORE COUNTY

CASES NO. 6846 and 6848 Misc. Law Docket 11 Folios 296 and 298

PEOPLE'S COUNSEL FOR BALTIMORP Appellant

Appellants

PITITION FOR VARIANCE from Section 1802.3C(1) Baltimore County Zoning

#### STATEMENT OF COURT

This Appeal is from the Order of the County Board of Appeals dated May 16, 1979, Caso No. 75-269-A, granting to Florence A. Pogers a variance to permit a rear yard of 2 1/2 feet instead of the registed 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 potition, it is the judgment of the Board that the Potitioner 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 enhibits, does not contain any substantial evidence that Piorenes A. Regers will endure any practical difficulty, other than speculative loss of possible future profits, if the variance is not granted.

### diltimore County, Maryla

PEOPLE'S COUNSE

People's Connel PETER MAX ZILIMERMAN Deputy People's Counsel

November 6, 1981

Walter R. Haile, Judge Circuit Court for Baltimore County Courts Building Towson, Maryland 21204

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

Dear Judge Haile:

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 Counse! for Baltimor County

cc: Robert J. Romadka, Esquire John B. Gontrum, Esquire Amold Fleischmann, Esquire F. Kirk Kolodner, Esquire

Tr., 494-2186



### 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 lat.

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 Baltin ore, 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 upply. There is in evidence a certified copy of the Plat of Dumbarton recorded - 1927 before creation of a Planning Roard or Commission.

IN THE CIRCUIT COURT RE- PETITION FOR VARIANCE from Section 1802,3C(1) of the Baltimore County FOR BALTIMORE COUNTY Zoning Regulations NW corner Sevan Mile Lane and Southwale Road AT LAW Misc. Docket No. 11 Folio No. 296 & 298 Zoning Case No. 75-269-A File No. 6845 & 6848 Irving Taylor and Norbert Grunwald eople's Counsel for Baltimore County

#### ANSWER TO MOTION TO DISMISS APPEAL

The Appellants herein, by George A. Shehan and John W. Hessian, 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 Blb.
- b. That said agency, and not the Appellants, bears the responsibility imposed by Maryland Rule B7a 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 Mation, 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, accupancy, and development of, the alternation or expansions of structures upon, and administrative procedures with respect to:

4. Any lot, or tract of lots in single ownership, which is not in an exitting development or subdivision at 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 normitted density in the zone in which it is located."

Section 1802, 3 (8) then establishes developmental standards for such lats. 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 singlefamily 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

- a. 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
- c. That the owner of the lat does not own sufficient adjoining land to conform substantially to the width and area requirements."

The Petitioner does not satisfy subsection c, because the 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 Hames, Inc., et al. v. Baltimore County, Maryland, Miscellaneous Law Docket 10, Folio 192, File No. 5881. There, the

of the testimony token before the County Board of Appeals in this case promptly and seasonably so that there was not in that record 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 filling 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 filling 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 filling 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,

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

Peter Max Zimmerman Deputy People's Counsel Rm. 223, Court House Towson, Maryland 21204 494-2138

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. Ramadka, Esquire, and John B. Gontrum, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221; and Arnold Flairchmann, Fsquire, and F. Kirk Koladner, Fsquire, Suite 500, 40 W. Chesapeake Avenue, Towson, Maryland 21204.

John W. Hessian, III

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- 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, 1976 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.
- 1. 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
- 4. That the facts in this case, as set forth " 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 37c, 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

Ski PETITION FOR VARIABLE from Section 1802, 32(1) of the Baltimore County Zoning Repulations BW corner Seven Mile Lane and Southwale Road, 3rd District Florence 1. Rogers, Petitioner Zoning Case No. 75-269-A

REQUEST TO STRIKE APPEARANCE

......

· File Bo.

6846 a 6848

Mr. Clerk.

Please strike the appearance of George A. Sheban, Equire, 36 S. Charlen Street, Baltimore, Maryland 21501 an counsie for the Appellants herein. Armold Fleicheann, Equire and F. Kirk Kolodner, Equire Daile 500, 50 W. Cheappeake Avenue, Towson, Maryland 21504 have entered their appearance on tenal of anis Appellants

I HERBY CERTIFF that on this 26 day of September, 1981, a copy of the aforegoing was sailed to Robert Romadon, Ecquire, 509 Eastern Avenue Baildings, Maryland 21221, John W. Hessian, III, Ecquire, County Office Bailding, townon, Maryland 21204, James G. Beach, Equire, Memmanine, Court Houne, Townon, Maryland 21204, and Arnold Fleischman, Ecquire and F. Kirk Kolodner, Equire, Suite 500, No W. Cheapmake Avenue, Townon, Maryland 21204, Equipment and Carryland 21204.

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.,

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

John W. Hessian, III People's Counsel for Baltimore County Rm. 223. Court Ho 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 aforegoing Answer to Motion to Dismiss Appeal was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Appellee.

SE PH '8

Estition for Variance from Section 1802.3C (1) of the Baltimore Co-nty Zoxing Regulations 156 corner Seven Mile Land and Southwale Road, 3rd FOR BALTIMORE COUNTY Florence A. Rogers, Petitioner \*\*\*\*\*\*\*\*\*\*\*

#### ORDER

The Motion to Dismiss and Answer and the Amendment to Motion to Dismiss and Prayer for Alternative Relief having come 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 Loard 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 Disming is deemed to be appropriate. It is, therefore, this 16th day of January, 1981,

FU.E.O 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

For the reasons hereinabove cited your Petitioners respectfully pray that said Order of the County Board of Appeals purporting

AND AS IN DUTY BOUND, etc.,

I HEREBY CERTIFY, that on this 25th day of June, 1979, a copy of the aforegoing 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 theref was mailed to Robert J. Romadka, Esquire, 809 Eastern Boulevard, Baltimore, Maryland 21221, Attornoy for Petitioner, and John W. Hessian, III, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21304

1. The Motion to Dismiss as amended by the Amendment to Motion to Dismiss and Prayer for Alternative Relief is granted.

> 2. This case shall be remanded to the Baltimore County Board of Appeals for the sole purpose of reconstructing the testimony of the witnesses whose testimony was not transcribed and not for the purpose of reconsideration.

3. The panel of the Board of Appeals hearing this case on remand shall act as judges only with respect to the admissibility of evidence.

4. Chairman Reiter and Mr. Miller shall, if practicable sit on the remand of this case.

5. The Board shall expeditiously proceed with the completion of the hearing and record.

6. The appeal before this Court shall be continued.

I BEREEY CERTIFY on this 💉 day of January, 1981, that a copy of the aforegoing ORDER was mailed to John W. Hessia III, Esquire, County Office Building, Towson, Maryland 21204, and Arnold Fleischman, Esquire, 40 West Chesapeake Avenue,

IN THE

FOR

RE: PETITION FOR VARIANCE from Section 1802,3C(1) of the Baltimore County CIRCUIT COURT Zoning Regulations NW corner Seven Mile Lane and Southvale Road 3rd District Florence A. Rogers, Petitione SALTIMORE COUNTY

Case No. 75-269-A Misc. Docket No. 11 Irving Taylor and Norbert Grunwald Folio No. 298 File No. 6848

CERTIFICATE OF NOTICE

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

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 POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(e), COUNTY COUNCIL BILL \$108

CASE NO. 75-269-A

ASSIGNED FOR:

FLORENCE A. ROGERS

NW comer 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 rea property line instead of req. 40'

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

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

cc: Robert J. Romadka, Esq. Counsel for Petitioner

Mrs. Florence A. Rogers

George A. Shehan, Esq. Counsel for Protestants (Counsel for Protestants Dr. and Mrs. Daniel Gordon

Mr. Norbert Grunwald

Dr. and Mrs. Irving Taylor

Lawrence Naughton, Esq. Counsel for Protestant (Dumbarton Imp. Assn.

John W. Hessian, Esq. People's Course Zoning Office Mr., Wm., Hammond Mr. J. E. Dver

Mr. N. E. Gerber

Planning

June Holmen, Secv.

Rogers V. Taylor and Grunwald - 11/298/6848

I hereby certify that a copy of the aforegoing 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 Nile 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, Paltimore, 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 J. Eventast Edith T. Eisenhart, Administrative Secretary Co unty Board of Appeals of Baltimore Count

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 varia (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 South file this Petition setting forth the grounds upon which their said Appeal is taken pursuant to rules 8-1 through 8-12 of the Maryland

1. The petitioners herein are the owners of property located immediately adjacent or proximate to the property which was the subject of the May 16, 1979 Order of the County Bourd of Appeals and, as such, said petitioners are aggriced parties whose proporty interests will be adversely effected by said Order.

2. That the County Board of Appeals of Baltimore County erred in its finding that the Petitloner 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

3. That the County Board of Appeals of Baltimore County

494-3180

County Board of Appeals om 219, Court House son, Maryland 21204

M-y 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. 75-289-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: ca: Robert J. Romadka, Esq.

Counsel for Petitioner

Mrs. Florence A. Rogers George A. Shehan, Esq.

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

Dr. and Mrs. Daniel Garden

Mr. Norbert Grunwald

Dr. and Mrs. Irving Taylor

Lawrence Naughton, Esq.

John W. Hessian, Esq. Mr. Wm. Hommond

People's Coursel Zoning Office

Mr. J. E. Dyne Mr. N. E. Gerbar

Planning

June Holmen, Secy.

Nay 16, 1979

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

> Res Case No. 75-269-A Florence A. Rogers

Dear Hr. Romadkar

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

Vary truly yours,

Carol A. Baresh

CCI Hrs. Florence A. Rogers Lawrence Maughton, Esq. George A. Shebnn, Esq. Or. 5 Hrs. Dantal Gordon Hr. Norbert Grumseld Dr. 5 Hrs. Irving Taylor John V. Hosaten, 111, Esq. Hrs. J. E. Oyer Hr. L. H. Greef

RE: PETITION FOR VARIANCE from Section 1802,3C(1) of the Baltimore County Zoning Regulations NW comer Seven Mile Lane and Southvale Road, 3rd Distric 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. 298 8 6848 File No.

### 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 27, 1979, 90 days after the first Petition on Appeal was filed.

George A. Shehan Two East Fayette Street: ore, Maryland 21202

Since that time the Patitioner has reinted the advice of the Board as set forth in its prior

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this \_\_\_\_\_\_day of June, 1979, a copy of the aforegoing 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 prescritation of the original to the Clerk of the Circuit Court for Baltimore County; and that a copy thereof was mailed to Robert J. Romodka, 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

variance. If after resubdivision there would be any detrimental effect to anyone by the substantial residence on lot #8 which then would sit relatively close to the newly resub-

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

The Board can find no testimony or evidence which would indicate any detrimental effect to any other purcels in the peneral area. Likewise, the Board is variance in this particular instance would beget and be the foundation for the granting of Individual circumstances involved in such requests. The nature of a

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

FOR BALTIMORE COUNTY ATIAW Misc. Docket No. 11 Folio No.

File No.

6848

IN THE CIRCUIT COURT

1111111

ORDER

Upon the aforegoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this 222nd day of June, 1979, that the time for filling in Court the transcript of proceedings before the 80ard of Appeals is hereby extended until September 23, 1979.

Walter Waile

Florence A., Rogers - #75-269-A

For the reasons set forth in the aforegoing 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 ! hereby GRANTED.

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

RE: PETITION FOR VARIANCE from Section 1802,3C(1) of the Baltimore County CIRCUIT COURT Zoning Regulations NW corner Seven Mile Lane and Southvale Road FOR BALTIMORE COUNTY 3rd District Case No. 75-269-A Misc. Docket No. People's Counsel for 296 Folio No. Appellant 6846 File No.

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. Ramadka, 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 proved that It may be mude 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 aforegoing 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, 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. Campagn Planning, J. Hoswell

RE: PETITION FOR VARIANCE from Section 1802,3C(1) of the Baltimare County Zoning Regulation NW corner Seven Mile Lane and Southvale Road, 3rd District Florence A. Rogers, Petitione Zoning Case No. 75-269-A

AT LAW Misc. Docket No. // Folio No. File No.

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

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

Peter My Brin

6. W. Herrin, TT John W. Hessian, 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 aforegoing 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

John W. Hessian, III

RE: PETITION FOR VARIANCE from Section 1B02,3C(1) of the Baltimore County Zoning Regulations NW corner Seven Mile Lane and Southvale Road 3rd District

PEFORE COUNTY BOARD OF APPEALS OF

BALTIMORE COUNTY

Florence A. Rogers, Petitioner No. 75-269-A

#### OPINION

On May 12th, 1978, the Board issued an Opinion and Order concerning this 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 some 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 entative approval of the Baltimore County Department of Public Warks - Bureau of Engineering, and the tentative approval of the Baltimare 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 sale 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 requester

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

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY MALIAW Misc. Docket No. 11 Folio No. 296

6846

### ...... PETITION ON APPEAL

John W. Hessian, 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 O 数 the County Board of Appeals purporting to grant the variance be reversed.

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 resub-

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,

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 Protestarts' 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

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 aranted 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 70. Flescian, III John W. Hessian, III People's Counsel for Baltimore County

Leter May Frommerons 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 aforegoing 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 Profestants.

> John Tv. Therein, II John W. Hessian, III

Florence A. Rogers - #75-269-A

#### ORDER

For the reasons set forth in the aforegoing 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 hareby GRANTED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

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

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

John W. Hessian, III, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Coursel, Protestants below, petition this Court, pursuant to Maryland Rule B7(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

- 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 filling 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 filling the transcript of proceedings until September 20°, 1979, 90 days after the first

Petition on Appeal was filed. 17 45

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

RECEIVED
TIMORE COUN
Z 10 32 AM
VUNTY BOARD
F APPEASS 22 M 22

I HEREBY CERTIFY that on this 22nd day of June, 1979, a copy of the aforegoing 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. Hessian, III

RE: PETITION FOR VARIANCE IN THE CIRCUIT COURT from Section 1802.3C(1) of the Baltimore County FOR BALTIMORE COUNTY Toning Regulations
NW corner Seven Mile Lane
and Southvale Road, 3rd District
Florence A. Rogers, Petitioner AT LAW Misc. Docket No. 11 Zoning Case No. 75-269-A Folio No. 294 8 File No. 6845,8 ::::::

#### 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.

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

Falio No. 296 6846 File No.

IN THE CIRCUIT COURT

FOR BALTIMURE COUNTY

ATIAW

Misc. Docket No. 11 '

ORDER

Upon the aforegoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this 27 and day of June , 1979, that the time for filling in Court the transcript of proceedings before the Board of Appeals is hereby extended until September 25, 1979.

Walter N. Waile

AND AS IN DUTY BOUND, etc.

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

#### CERTIFICATE OF SERVICE

-2-

I HEREBY CERTIFY, that on this 33 2 day of June, 1979, a copy of the aforegoing 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

BEFORE COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

Florence A. Rogers, Petitioner \* CASE NO. 75-269-A

ORDER FOR APPEAL BY IRVING TAYLOR and NORBERT GRUNWALD

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 16<sup>th</sup> day of May, 1979.

1 HEREBY CERTIFY, that on this 14th day of June, 1979, a copy of the aforegoing 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, 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 Building, Towson, Maryland, 21204.

TIMORE OF THE STATE OF THE STAT

REFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

RE: PETITION FOR VARIANCE of the Baltimore County

Zoning Regulations NW corner Seven Mile Land and Southvale Road 3rd District

No. 75-269-A Florence A. Rogers, Petitioner

### OPINION

This case comes before the Board on an appeal by the Petitioner from a decision of the Deput; Zoning Commissioner denying a requested variance at the subject 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 clat 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 porthwesterly line of this lat further porthwesterly 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 Coard 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

0 GEORGE A. SHEHAN BALTIMORE, MARYLAND 2120

June 14, 1979

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

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

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.

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GAS/kam Enclosure

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Florence Rogers - #75-269-A

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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 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 a sumption, it perhaps would be easier to be satisfied that the Petitioner has successfully carried the burden of proof in this variancerequest. 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 horuship 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 apo, 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

RECEIVED ALTIMORE COUNTY NA ZZ 10 32 MM 79 COUNTY BOARD

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 homesite 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 you. I be agried 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 arounds to justify the granting of any requested variance. The evidence must be of sufficient practical difficulty and/or unreasonable hardship. and/or hardship must be substantial and urgent, and cannot be for the mere convenience of

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

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

#### NOTICE OF ASSIGNMENT CONTINUED HEARING

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUSEICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #103

CASE NO 75-269-A

FLORENCE A. ROGERS

for variance from Section 1802,3C(1)

NW cor. Seven Mile Lane & Southwale Road

8/29/75- Variance DENIED by 7 C

ASSIGNED FOR-

THURSDAY, FEBRUARY 10, 1977 at 2 p.m.

cc: Robert J. Romadka, Esquire

Mrs. Florence A. Rogers Moses-Cohen, Esquire- Oct 1-11-17

George A. Shehan, Esquire Dr. and Mrs. Daniel Gordon Mr. Norbert - runwold

Dr. and Mrs. Irving Taylor John W. Hessian, III. Esquire

Mr. S. E. DiNenna Mr. J. E. Dver Mr. N. F. Gerbe Mr. G. Burl

Mr. C. L. Perkins

Counsel for Petitione

Counsel for Protestants (Gordon & Taylor) Counsel for Protestants " & Dumbarton Imp.

Protestants

People's Course

Edith T. Eisenhart, Adm. Secretary

#### Florence Rogers - #75-269-A

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 lat 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 Bultimore 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 Hoswell, 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. Hoswell 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 aranted.

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 some 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

494-3190

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 NO POSTPONEMENTS WILL BE ORANITED WITHOUT STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEPULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c). COUNTY COUNCIL BILL #103

CASE NO. 75-269-A

FLORENCE A. ROGERS

for variance from Section 1802.3C(1)

NW cor. Seven Mile Lane & Southvale Road

Counsel for Protestants

3rd District

8/29/75 - Variance DENIED by Z.C. THURSDAY, APRIL 14, 1977 at 10 a.m.

ASSIGNED FOR:

Counsel for Petitioner

ca: Robert J. Romadka, Esquire Mrs. Florence A. Rogers George A. Shehan, Esquire Dr. and Mrs. Daniel Gordon Mr. Norbert Grunwald Dr. and Mrs. Irving Taylor

> John W. Hessian, III. Esq. Mr. S. E. Di Nenna Mr. J. E. Dver Mr. N. E. Gerber Mr. G. Burl

Mr. C. L. Perkins

Florence Rogers - #75-269-A

494-3180

CASE NO. 75-269-A

REASSIGNED FOR:

cc: Robert J. Romadka, Esq.

Mrs. Florence A. Rogers

George A. Shehan, Esq.

Lawrence Naughton, Esq.

Mr. Norbert Grunwald

Dr. and Mrs. Irvin. saylor

John W. Hessian, III, Esq.

Mr. 5 F. DiNenna

Mr. J. E. Dyer

Mr. N. E. Gerbe Mr. G.Burl

Mr. C. L. Perkins

Dr. and Mrs. Daniel Gordon

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 most issue. 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 it's 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 bereafter

#### ORDER

For the reasons set forth in the aforegoing 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. 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

County Board of Appeals

Room 218 Court House

February 15, 1977

NOTICE OF POSTPONEMENT and REASSIGNMENT

FLORENCE A. ROGERS

3rd District

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

(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

REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2/b). ABSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

for Variance from Sec. 1802.3C(1)

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

THURSDAY, APRIL 28, 1977 at 10 a.m.

Counsel for Petitioner

Counsel for Protestants

People's Counsel

Co-counsel for Protestants

Muriel E. Buddemeie County Board of Appeals

Petitioner

NW cor Seven Mile Lane & Southvale Rd.

Florence Rogers - #75-269-A

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

494-3180

County Board of Anneals

Roam 218 Court House 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) ARSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING 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 Protesta

THURSDAY, JUNE 30, 1977 at 10 a.m.

cc: Robert J. Romadka, Esa. Mrs. Florence A. Rogers

REASSIGNED FOR:

Counsel for Petitione

Lawrence Naughton, Esq.

People's Counse

Counsel for Protestant (Dumbarton Imp. Assn.

George A. Shehan, Esq.

Dr. and Mrs. Daniel Gordon Dr. and Mrs. Irvina Taylor

Mr. Norbert Grunwald

John W. Hessian, III, Esq.

Mr. S. E. DiNenna

Mr. Gary Burl

Muriel F. Buddemeier

Edith T. Eisenhart, Adm. Secretary

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

FLORENCE A. ROGERS. Petitione

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 mor 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 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

(Emphasis over)

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

Quemote John W. Hessian, III People's Counsel

> lower 2 Knuz Ju Charles E. Kountz, Jr. Deputy People's Coumel County Office Building Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this & day of July, 1977, a copy of the afaregoing 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

RE: PETITION FOR VARIANCE

tal to the welfare of the community

Florence A. Rogers - Petitioner NO. 75-269-A (Item No. 185)

January John W. Hassian III

NW/corner of Seven Mile Lane and Southvale Road - 3rd Election District : DEPUTY ZONING

This Petition represents a request for a Variance to Section 1B02.3C(1

to permit a rear yard area from an adjoining house and garage combination o

question contains . 9 of an acre, more or less, and is situated on the northwo

corner of Seven Mile Lane in the Third Election District of Baltimore County

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 detrim

Therefore, IT IS ORDERED this 29th day of August

1975, that the above Variance be and the same is hereby DENIED.

Testimony and evidence presented during the course of the hearing was

two and one-half feet instead of the required forty feet. The property in

494-3180

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

June 8, 1976

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#### 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 (II). ABSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 75-769-A

FLORENCE A. ROGERS

NW cor. Seven Mile Lane and Southvale Road

3rd District

8/29/75 - D. 7. C. DENIED VARIANCE

#### ASSIGNED FOR:

oc: Peter Parker Fsa. Gordon W. Priest, Jr., Esq. Mrs. Florence A. Rogers Benjamin N. Dorman, Esq. John W. Hessian, III. Esq.

> Mr. S. E. DiNenna Mr. J. E. Dyer Mr. W. D. Fromm

Mr. G. Burl Board of Educatio Mr. C. L. Perkins for Variance (rear yard)

#### TUESDAY, SEPTEMBER 28, 1976 of 2 p.m. Coursel for Petitioner

Counsel for Protestants People's Counsel

Deputy Zoning Commission

BEFORE THE

COMMISSIONED

QF.

111 111 111

: BALTIMORE COUNTY

County Board of Appeals

Room 219 Court House

#### 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 POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(e), COUNTY COUNCIL BILL #108

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 iii a.m., has been POSTPONED by the Board at the request of new counsel for the Petitioner, and

REASSIGNED FOR:

494-3180

THURSDAY, NOVEMBER 4, 1976 at 10 a.m.

cc: Robert J. Romadka, Esa.

Counsel for Petitione Petitioner

Mrs. Florence A. Rogers

Benjamin Oceman - Esa

Counsel for Protestant People's Counsel

John W. Hessian, III, Esq.

Mr. S. E. DiNenna

Mr. James Dver

Mr. Norman Gerber Mr. Gary Burl

Mr. C. L. Perkins

Mr. and Mrs. Daniel Gordon Dr. and Mrs. Irving Taylor Mr. and Mrs. Moses Cohen

Ar. norber Grunwara

Appearance for Probator

Mosse Coller Esg. Poniel Hordon, Esg.

D. Asming Taylor

WP/dg 9/26/75 1.

PETITION OF FLORENCE A. RÓGERS

for variance N/W corner of Seven Mile Lane and Southvale Road--3rd Election District

No. 75-269-A (Trem 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 mmissioner of August 29, 1975, denying the petition of Florence

. Rogers for a variance in the captioned matter.

Florence A. Rogers
Petitioner Mile Lane
Baltimore, MD 21207

SEP 29 75 PM \_

9 8 265

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

494-3180

County Board of Appeals

ROOM 21E - COURTHOUSE

August 25, 1976

# OWSON, 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). ASSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(e), 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

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

Counsel for Petitioner

REASSIGNED FOR:

TUESDAY, OCTOBER 26, 1976 at 10 a.m.

cc: Peter Parker, Esquire Gordon W. Priest, Jr.

Mrs. Florence A. Rogers Petitioner Benjamin N. Dorman, Esq. Counsel for Protestants

John W. Hessian, Esq. People's Counsel

Mr. S. E. DiNenna

Mr. J. E. Dyer Mr. N. F. Gerba Mr. G. Burl

Mr. C. L. Perkins

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

PETITION FOR A VARIANCE

3rd DISTRICT

Petition for Variance for a Rear Yard.

LOCATION: DATE & TIME:

ZONING:

PUBLIC HEARING:

Northwest corner of Seven Mile Lane and Southwale Road. MONDAY, MAY 26, 1975 at 10:30 A.M.

0

Room 106, County Office Building, 111 W. Chesapeake

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:

69

Section 1B02.3C.1 - Rear Yards - 50 feet. All that parcel of land in the Third District Bf Baltimore County

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

Hearing Date: Modday, 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 DIMENNA ZONING COMMISSIONER OF BALTIMORE COUNTY

Edith T. Eisenhart, Adm. Secretary

#### DESCRIPTION

0.5602 ACRE PARCEL, SOUTHWEST SIDE OF SEVEN MILE LANE, NORTHWEST SIDE OF SOUTHVALE 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 Southwale 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,



March 18, 1975

ARNOLD FLEISCHMANN 102 WEST PENNSYLVANIA AVENUE SUITE SOS TOWNON, MARYLAND 21204

May 20, 1975

AREA CODE 301

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

re: Dumbarton Improvement Association

Dear Florence:

I have been asked by the Dumbarton Improvement Association and Dumbarton Development Company to review your request for a Petition for Variance which is scheduled for a hearing for Monday, May 26, 1975, at 10:00 a.m.

I have not yet received copies of the Petition which you have filed and I do not know whether your proposal complies with the Dumbarton restrictions and limited consent granted

Since I have a hearing in the Circuit Court scheduled for the very same time, I am asking the Zoning Commissioner to postpone the hearing on your matter. Won't you get in touch with me at your very earliest convenience so that we can reschedule your hearing for a convenient time for both of us.

Looking forward to hearing from you, I am

Sincerely yours,

Arnold Fleischmann

AF:ln

cc: Honorable Eric S. DiNenna

7800 Seven Mile Land

May 2, 197

10:30 A.H.

PIACE: ROOM 106 COUNTY OFFICE EVILDING, 111 W. CERSAIWAND AVERUE

OFFICE OF ZONING COMMISSION

S. ERIC DINENNA Zoning Com Deputy Zoniny Connissions



494 - 2351

Mario 22, 1975

7800 Seven Mile Lene Pikesville, Md. 21206

Re: Petition for Variance

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. Inderson, Room 121, County Office Building, before the hearing.

111 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

Very truly you ZONING CONTESTORE

SED/ba

ARNOLD FLEISCHMANN TOWNON MARYLAND \$1404

Petition for Variance - 7800 Seven Mile Lane

Please enter my appearance on behalf of Mr. and Mrs. Daniel Gordon, Mr. and Mrs. Moses Cohen, Dr. and Mrs. Irving Taylor and the Dimbarton 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

May 16, 1975

re: Florence Rogers

JOHN A. ACRTIN

Mrs. Bea Anderson

Dear Mrs. Anderson:

Office of Zoning County Office Building Towson, Maryland 21204

75-269-A

Sincerely yours,

Arnold Fleischmann

ARNOLD FLEISCHMANN 102 WEST PENNSYLVANIA AVENUE

0

JOHN A. AUSTIN

May 20, 1975

Honorable Eric S. DiNenna Zoning Commissioner for Baltimore County Office of Planning and Zoning

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

Jefferson Building

Towson, Maryland 21204

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 Halle 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

AF:ln Enclosure

cc: Mrs. Florence Rogers



75--89-1

#### Baltimore County. Maryland Bepartment Of Bublic Works

COUNTY OFFICE FUILDING TOWSON, MARYLAND 21204

Barnes of Engineering ELLEWORTH N. DIVEN. P. E. CHIEF

May 29, 1975

Mr. S. Eric DiNenna Towson, Maryland 2120b

> Re: Item #185 (1974-1975) Tiem #105 (197k-1975)
> Property Owner: Florence A. Rogers
> N/W cor. of Seven Mile Lane & Southwale Rd.
> Existing Sonings: D.R.2
> Proposed Zonings: 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 recuired hot. of the required 40\*. No. of Acres: 0.5602 District: 3rd

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

Seven Milelane, 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.

Southwale 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 distance at the intersection, and any necessary revertible 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 collution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the atripping of top soil.

The Petitioner must provide necessary drainage facilities (tespora, or permanent) to prevent creating any mulsances or damages to adjacent preparties, 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.

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

Water and Samitary 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,

Chief, Bureau of Engineering

END: EAM: FWR: 88

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

AREA CODE 30.

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 Cordon 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,

SED/srl

S. ERIC DI NENNA

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

Caltimore County, Maryland

PEOPLE'S COUNSEL RM. 223, COURT HOUSE

Tri 494.2100

0

People's Counsel PETER MAX ZIMMERMA Deputy People's Counsel

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 filling please find the Memorandum of the People's Counsel for

Balsimore 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. Hessian, III People's Counsel for Baltimore County

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



#### BALTIMORE COUNTY OFFICE OF FLANNING & ZONING

OFFICE OF ZONING COMMISSIONER

S. ERIC DINENNA JAMES E. DYER



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:

 $\ensuremath{\mathbf{I}}$  have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours, JAMES E. DYER Deputy Zoning Commissione

JED/mc

Attachments

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

### 111 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

Are 28 9 5 14 " Ford's Landing Lane Course Millington Md. 216 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 3600 to cover all expenses incurred to rehear the testimony of Mr. McGurdy 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. Hessian, III, Esq.

PURSUANT to OUR phone conversation this AM.

link

### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO 5. Eric DiNenna, Zoning Commissioner Date May 23, 1975

FROM. William D. Fromm, Director of Planning

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

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

The staff of the Office of Planning and Zoning will offer no comment

WOF : NEG : rw



necessary to effect a binding JUDGE FRANK E CICONE Pie

HIN 15 DAYS OF TRIAL must

Circuit Court for Brince George's County, Maryland

> OFFICE OF THE COURT REPORTERS POST OFFICE BOX 401 UPPER MARLBORD, 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.

Very truly yours.

Story J. Darock Sherry L. Records Court Reporter

Enclosure 1

RECEIVED
ALTHORE COUNTY
EP 17 2 SS PW 199
COUNTY BOARD
COT APPEALS

494-3180

County Board of Appeals Room 219, Court House Towson, Maryland 212/14

For

Petition Variant

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

0

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Encl.

cc: Mr. Florence A. Rogers Dr. and Mrs. Daniel Gordon Lawrence Naughton, Esquire People's Counsel Oct 3

BALTIPOTE COURT DAM

June 25, 1979

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.

BILLED TO:

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

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

MAKE CHECKS PAYABLE TO-

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- 2 -

and may have reduced pressure for water within the proposed dwellings.
Sediment control is required at the time of building application. Storm
of water management is not required for this subdivision. It was stated that
a street light exists at the intersection of Southwale Road and Seven Mile

Lane; therefore, a street light will not be required along this frontage.

Southvale 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 revertible alone easement. Any new entrances must be
constructed in accordance with County standards and specifications.

control report, a copy of which was given to all representatives present.

The Soil Conservationist presented a soils report and sediment

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

Minutes - JSPC Meeting

Rogers Property (Florence) District 3-C2 Baltimore County, Maryland

REMIT TO:

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

0

July 27, 1978

1107

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:

494-3180

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 that does.

The cost of the transcript of the record must be paid by you.

Certified copies of any other documents necessary for the campletion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be poid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you night file in court, in accordance with Rule 8-7 (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 J. Country

Encls.

ec: Dr. Irving Taylor
Mr. Norbert Grunwald

494-3180

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

November 21, 1978

Robert J. Rosiadka, 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 Boltimore County be received before the Board decides the variance issue.

After reviewing the Baltimore County Joint Subdivision Planning Committee Report of Joly 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 prograph 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 ore 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., Chairman

WAR;b

ROBERT J. ROMADKA ATTORNET AT LAW 809 EASTERN BOULEVARD DESERT TENER BOUNDED ESSEX MARYLAND 21221

ABSOCIATES

INVIN M. EAPLAN

DIABLES E. FINIS. III

ALFRED M. WALFERT

October 3, 1978

MUH0054 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

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RJR/dsl Enc.

2 to offer.

ROBERT J. ROMADKA ATTORNEY AT LAW BOS EASTERN BOLLEVARD USEANS FERRE, SUCCESS! ERREY, MARYLAND 2122

ABSOCATES INVIN N. CAPLAN CHARLES E. FLICE III ALFRED M. WALPERT

January 16, 1979

MURDOCK 5-9274

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

(0)

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 Saltimore County Planning Board dated October 19, 1978, and more particularly, Fage 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 H, 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

Para 1-18-79

RLS

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

POCERS PROPERTY (Florence)

0

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

Engineer - Kidde Consultants, Inc., 1020 Cromwell Bridge Road, Towson, Maryland 21204

District - 3-C2

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

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

Facilities - Available - Public Water & Sewer

Representatives Present:

Representing Developer: Florence A. Rogers

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 Plannin, and Loning requested the following changes or additions to the plan. Adjacent zoning, parking calculations, fitle to state resubdivisions of lots 7 & 8 of the Dumbarton Subdivision, gross acreage, right-of-way widths, topography to be shown, front of each duelling, I,D.C.A. number, date of approval and cenditions 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 parage and new property line and eliminate the brezeway, or notify the Board of Appeals that the subdivision is being processed and the pending order (73-25%) 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 setSark.

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 utilizate 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 66-1256, Sheet-5. Public sever is available to serve this subdivision; however, this subdivision is located within the Western III zone of water service with a service everation 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 Mr. Padgett said that he had voted against the final plat because he also felt that a legal opinion was needed. Mr. Griswold agreed with Mr. Padgett's statement, noting that he believed that there were inconsistencies in the laws.

Mr. Boner said that his report had been prepared with the help of the Board's Hr. Honer said that his report has owen prepared and many property legal counsels, Mr. McManon. Mr. Kane commented that while he had only become sware of this issue today, he was of the opinion that the current soning regulations spiled rather than the older subdivision regulations. Since the soning regulations were enacted later in time, he said, he believed that there was no substantive conflict and that Mr. Rober's report was correct.

Mr. Griswold suggested that conditional approval be given to the final plat pending a formal opinion from the County Solicitor.

Mr. Hess said that he would withdraw his earlier motion to approve and would move to table consideration of the plat to a subsequent meeting. Mr. Bober pointed out that action by the Board could not be postponed until the November meeting.

Following a brief discussion, Mr. Webster said that he would change his vote to "For".

Mr. Griffith asked that the record reflect that there were four votes for approval of the subdivision plat and 3 votes against approval.

b. Preliminary plans, including extension of a tentative approval.

Mr. Hober said that preliminary plans, as identified by the following numbers, were ready for Planning Board action: I tem Nos, 2, 3, 7, 9, 10, 11, 14, 16, 20, 24, 27, 28, 29, 30, 33, 34, and 35, and the extension of tentative approvral for the Heritage Subdivision.

Referring to Item No. 11, the Lockeley III Subdivision, Mr. Bober said that the Committee on Land Development and Conservation had made no recommendation on the proposal because the development involved the use of two extremely long panhandles and approval hight set a precedent.

In discussion, Mr. Morton said that the Department of Public Works objected strongly to such long panhandles because of the difficulties they caused in emergencies. Mr. Griffith commented that at the committee neeting the buyers of the tracts had indicated that they would accept the problems involved. Mr. Hese commented that the Board had in the past consistently disapproved much long panhandles; he said he believed that approval would be detrisantal to the lot owners and would set a bad precedent. Mr. Hickermell commented that the Fublic Works' posttion was based on the possibility that the County might have to assume responsibility for the panhandles; nevertheless, he said, the law did not prevent the owners from accepting the restrictions.

Mr. Evans moved that the Flanning Foard approve the preliminary plans as identified earlier by Mr. Bober and the extension of tentative approval for the Heritage Subdivision; the notion was seconded by Mr. Electernal and was approved unanimously.

c. Amendment of development plan for Brookside Manor Subdivision.

The second of th

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Mr. Boher commented that following Board action on this request the Zoning Commissioner would hold a hearing to consider the change in this develop-

ROBERT J. ROMADKA ATTORNEY AT LAW BD9 EASTERN BOULEVAR

ESSEX, MARYLAND 21221

December 16, 1977

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

Dear Mr. Reiter:

Since we have been missing each other by telephone. I am taking the opportunity of writing you a letter concerning the above captioned case.

As you will recall, the above case was originally heard by the Board on November 4, 1976 and continued until Thursday, June 30, 1977, at which time, testimony was finally concluded. Because of the extenuating circumstances that exist for my client, I would appreciate it if the Board would issue their Order concerning this matter at their earliest convenience.

Thank you for your consideration in this matter.

Very truly yours,

Debert 1 someth Robert J. Romadka 2 44

RJR/ds1 cc: Mrs. Florence Rogers

IPATED SUBDIVISIONS TO BE REVIEWED BY THE PLANNING BOARD

(7)

October 19, 1978

ENTATIVE PLANS

Election Dist. Council Dist. Date signed IDCA No. Subdivision Zoning Census tract by Director Lake Estates\*\*\* S/side Deer Park Rd. RC-4 70.0 ocres West of Ivy Mill Rd. 3 lots 78-5 4021 26. Glyndon Square N/side Butler Rd. adi B L.-CNS 3.56 acres to Western Maryland RR C-3 IDCA - N/A shopping cente 4044.02 Ernest Wooden\*\* W/side Hanover Pike RC-2 11.02 ocres outh of Emory Road C-3 1 lot & 1 tract 78-14A 4046 W. Wallace Lanahan S/S Ruxton Road D. R. 1 10/6/78 opposite Ellenham Ave. 9.18 acres 78-234 4904 Dumbarton (part of) 5/W cor. Seven Mile Lane D.R.2 Resub Lots 7 & 8 and Southvale Road 1.09 acres 78-186 2 lots 4035 Hoot Owl Hills\*\*\* N/W car, Frederick Road RC-4 and Hillcrest Road 12.9 78-72 4071 Padonia Joint \*\*\* 5/E side Padania Rd. Venture East of Falls Road 78-163 8 lots Wingsort Place \*\*\* East side Dubbs Road RC-2 C-3 South of Hereford Rd. 1 lot & 1 form tract 4050 'o water \*\*\* no water or sewer

> ATTORNETS AT LAW 203 WEST CHESAPEAKE AVE (351) 321-1050

> > March 8, 1977

69

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

Attn: Muriel E. Buddemeier

8

Re: Case No. 75-269-A

I have recently been advised that the above case has been scheduled for a hearing on Thursday, April 28, 1977. Unfortunately, two of the protestants, Dr. and Mrs. Daniel Gordon, who intended to appear at the hearing and testify, will be out of the country from April 17th through May 15th, 1977. It would be very much appreciated if this matter could be rescheduled for a date after May 15th.

Thank you for your attention to this matter.

Hurrice F. Naughton

LFN:td

Of to postpone por WAR, get agreeable date from ally.

5/28426 ex with naughton

Root or wiel Mrs. Roger

5/30 ex 1960

Hay 16, 1979

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

> Hes Case No. 75-269-A Florence A. Rogers

Dear Hr. Romadkas

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

Very truly yours.

Carol A. Seresh

Encl.

cc: Hrs. Florence A. Rogers Lawrence Naughton, Esq. George A. Sheban, Esq. Dr. & Hrs. Deniel Gordon Hr. Norbert Grunwald Dr. 5 Mrs. Irving Taylor John W. Heasten, III, Esq. Mrs. J. E. Dyer Mr. L. H. Greef Mr. J. Moswell

May 12, 1978

Robert J. Romacka, Esquire 809 Eastern Souleware altimore, Md. 21221

> Re: Cose No. 75-269-A Florence A. Rogers

Dear Mr. Romadia:

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

Very truly yours,

Edith T. Elsenhart, Adm. Secretary

End.

cc: Mrs. Florence A. Ropers Lawrence Naughton, Esq. George A. Shehan, Esq. Dr. and Mrs. Daniel Gardon Mr. Norbert Grunwold Dr. and Mrs. Irving Taylor John W. Hessian, III, Esq. Mr. S. E. DiNenna Mr. U. E. Dyer Mr. L. Graef

NAUGHTON AND SHEHAN

0

December 7. 1976

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

ATTENTION: Mrs. Edith T. Elsenhart

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

Dear Mrs. Elsenhart:

In accordance with our telephone conversation of today, would you kindly enter my appearance as attorney for Dumbarton Improvement Association in the above-captioned matter.

I would appreciate notice of a hearing date when that becomes available to you. Thank you for your assistance in this matter.

Very truly yours. And In George A. Shehan

GAS:dJ]

cc: John W. Hessian, III, Esq. Norbert Grunwald, President Hoses Cohen, Esq. Robert J. Romadka, Esq.

NAUGHTON AND SHEHAN ATTORNEYS AT LAW 305 WEST CHESAPEAKE AVE TOWSON, MARYLAND 2110

December 27, 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 1802.30(1) rear yard NW cor. of Seven Mile Lane and Southwale Road 3rd District 8/29/75 D.Z.C. Denied Variance

Dear Mrs. Eisenhart:

Would you kindly enter my appearance on behalf of Mr.  $\alpha$  Mrs. Daniel Gordon and Dr. and Mrs. Irving Taylor, protestants in the above captioned matter.

Very truly yours. gan. George A. Shehan

GAS: fea

cc: John W. Hessian, III, Esq.

MOSES COHEN ATTORNEY AT LAW BALTIMORE NO. 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 TOREN

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

> > 0

CC: George A. Shehan, Esq.

ROBERT J. ROMADKA ATTORNEY AT LAW BOW EASTERN BOLLEVARD formance filment Bullings ESBEX, MARYLAND 21221

August 26, 1976

MURDOCK 6-8274

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  $\hat{A}_{\rm c}$  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

RJR/ds1 cc: Mrs. Florence A. Rogers

BENJAMIN N. DORMAN

ATTORNEY AT LAW

902 CATHEDRAL STREET

BALTIMORE MARYLAND 21201 TELEPHONE 727-0980

County Board of Appeals Towson, Maryland 21204

Attention: Mrs. Edith T. Eisenhart

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Re: Came No. 75-269-A Florence A. Rogers for Variance from Section 1802.30(1)-rear yard NW cor. of Seven Mile Lane and Southvale Hoad 3rd District B/29/75 D.Z.C. Denied Variance

Moses Cohen, Esquire Robert J. Romadka, Esquire

August 20, 1976

Edith T. Hisenhart County Hoard of Appeals Room 218, Court House Towson, MARYland, 2120h

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

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Dear M's Eisenhart,

To confirm my conversation with you on the phone 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 no position to appear in Court because this time period is one of my holiest holidays, Roshashamah - Yom Elpour, and then others to follow, with the next two months. Also, I have to connect with a new ATTORNEY to prepare my case, as measur, PARKER AMPRISTA ARE NOT REFRESENTING NE, on this matter, any longer, and have not prepared to date to handle this case.

this case.

IN ORDER NOT TO JEAPABESSE 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.

Harenn Co Rollie FLORENCE A. ROGERS

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

Och 8-24-76

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

MER

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AREA CODE 301

Called MR DORMANS SECRETARY. SHE GAVE ME AMMESSE

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

Attenuege at Ease 700 KEYSER BUILDING ALVERT AND REDROOD STREETS BALTIMORE, ND. 21202

0

August 26, 1976

WHITE, PAGE & LENTZ

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,

Lordon W. Trest In Gordon W. Priest, Jr. Peter Parker

GWP./dk cc: Mrs. Florence A. Rogers

White, Page + Linty

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October 6, 1975

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

0

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

Gentlemen

1. Number of witnesses you anticipate calling \_\_\_\_

2. How many of these witnesses will be "expert witnesses"?

3. Fields to be covered by experts you intend to call - please check:

Land Planner Engineer \_\_\_

Other

4. Total time required (in hours) for presentation of your side of the case

2 HRS

Traffic

Attorney for Petitioners (

Bed 10.4.15

9:45AM

Dear Mr. Reiter:

AUNOLD PLEISCHMANN

JOHN A AUSTIN

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

ARNOLD FLEISCHMANN

102 WEST PENNSTLVANIA AVENUE BUTTE 365 LOWSON, MARYLAND SIROS

October 10, 1975

(1)

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

Very truly yours, and Alex Arnold Fleischmann

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

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

Recd 10/14/75

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

Pranklin'T. Hogan 

Ballimore County, many public braving from for Variance from fooing Regulations of more County to permit a yard of 2.5 feet from a yard of 2.5 feet from a yard of 2.5 feet from the commercied to the many commercied to the commercial control of the control of the commercial control of the commercial control of the commercial control of the contr

epartment sring Date: Monday, May 75 at 10 30 A.M. olic Hearing: Room 108, y Office Building, 111 W. peake Avenue, Towson.

May 20, 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 comment are a result of this review and inspection.

These comments are not intended to indicate 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, sto 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

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. Hogasle PRANKLIN T. HOGANS, DR. Chairman, Zoning Plans Advisory Committee

PTH- ID

1020 Cromwell Bridge Road Baltimore, Md. 21204

OFFICE OF COMMUNITY LIM IS RANDALLSTOWN, MD. 21133 May 7 1975

THIS IS TO CERTIFY, that the annexed advertisement of PETITION - NORTHWEST COMMER OF SEVEN MILE LANE

was inserted in THE COMMUNITY TIMES, a weekly newspaper published

weels before the 26th day of May 1975 that is to say, the same

was inserted in the issues of May 7,1975

STROMBERG PUBLICATIONS, Inc.

By O Curren

No. 21653 BALTIMORE COUNTY, MARYLAND FFICE OF FINANCE - REVENUE DIVISION

DATE July 1, 1975 ACCOUNT 01-662

AMOUNT \$56.50

DISTRIBUTION PINE - AGENCY WHITE - CASFIER Florence A. Rogers 7800 Seven Mile Lane Pikesville, Md. 21208 Advertising and posting of property

PETITION FOR A VARIANCE Beginning for the anner at the in-tersection of the auditoreal side of tersection of the auditoreal side of side of Bouthwise Road, fifty feet side, as shown on the plat of "Dum-hastin" recorded among the Land Records af Bottlineer County in Pari Records af Bottlineer County in Pari Shows Budding on the northwest side of said Souther Road, (1) nonth-westerly, by a curve to the left with control of the side of the side of the parity of the side of the side of said are being 8 cm<sup>2</sup> 23 °C W 15. I feet, there siden a part of 5. Solomon Rogers and wife by decorded among the sforemention Land Records in Liber T. B. S.

Signature

0 CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each ofs, one time ... secresive weeks before the ... 25th ... appearing on the \_\_\_\_8th\_\_\_day of \_\_\_\_\_BBY\_\_\_\_\_

THE JEEFERSONIAN. D. Leank Structur

Cost of Advertisement, \$ ...

75-269-A

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

sted for PETITION FOR VARIANS	Date of Posting. MAY 10 1975
	Mile LANE AUD SOCIENALE Rd.
	Mike LANG AND SOUTHVALE Pd.
marks Thomas & Raland	Date of return MAY 16, 1975



SURVEYORS

#### DESCRIPTION

0.5602 ACRE PARCEL, SOUTHWEST SIDE OF SEVEN MILE LANE, NORTHWEST SIDE OF SOUTHVALE 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 Southwale 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.

J.O.# 175003

March 18, 1975

Mrs. Plorence A. Rogers 7800 Seven Mile Lane Baltimore, Md. 21408-IMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenu Towson, Maryland 21204

Your Petition has been received and acday of April 197 filing this 21

Petitioner Florence A. Rogers

Petitioner's Attorney\_

od: MCA 1020 Crosswell Bridge Rd., Baltimore, Md. 21204

Reviewed by Frankli T Hogars

Chairman, Zoning Advisory Committee

# BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 Your Petition has been received \* this 1975. Piling Fee \$ Submitted by Petitioner's Attorney\_

PETITION	M	APPI	NG	PRC	GRE	SS	SHEE	T		
	Wall Map Ori		ginal Dupli		icate	Tro	Tracing		heet	
FUNCTION	date	by	date	by	date	by	date	by	dote	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: 77. B.					ed Pl ge in o		e or de	cript	104	Yes No
Previous case:				Map	0				JUL B	

CASE NO. 11/296-298/6846-6848 FLORENCE A. ROGERS V. IRVING TAYLOR, ET AL RECEIVED FROM COUNTY BOARD OF APPEALS TRANSCRIPT AND PROTESTANTS' EXHIBIT B FROM PREVIOUS HEARINGS, ... & TRANSCRIPT OF TESTIMONY AND EXHIBITS FROM RECONSTRUCTED HEARING OF 5/27/81

CLERK'S OFFICE

DATE: June 23, 1981

Very truly yours,

John E. Hessen II

John W. Hessian, III

RE- FLORENCE A ROGERS

Baltimore County, Maryland

PEOPLE'S COUNSEL COUNTY OFFICE BUILDING TOWSON, MARYLAND 21204

You will recall that you asked that we raise as promptly as is possible, and

in advance of hearing dates, questions that we might have with regard to procedural matters. In accordance with that direction, we have prepared and are enclosing the

original of a Motion to dismiss this matter on the ground that the appeal was filed beyond the time provided by statute, and have sent a copy of said Motion and of this letter to Mr. Romadka, Counsel for the Appellant.

the Board on its merits on November 4, 1976. With regard to an Answer to the Motion, if any, and Memoranda, if any, and a hearing thereon separate from the hearing to

the merits of the matter, if that is your desire, I would appreciate your instructions, as I am sure Mr. Romadka will.

It is our understanding that this matter has been assigned for hearing before

Rud 9/30/76

DWH--

cc: Robert J. Romadka, Esquire

CHARLES E. KOUNTZ, JR

Deputy People's Counsel

The Honorable Walter A. Reiter, Jr., Chairman

County Board of Appeals Rm. 219, Court House

owson, Maryland 21204

Other

Reviewed by 130

This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.



