PETITION FOR ZONING STRIANCE 3-177-4 TO THE SONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Beltimore County and which is description and plat attached heroto and made a part heroof, heroby petition for a and V. Bo. a of C. M. D. P. Variance from Bottom 1801.2.C.3 (504 V.89/ to permit the existing stone carriage house to be converted to a single-family dwelling within 35' of the centerline of the street in lieu of reg. 50' and a side yard setback of 5' in lieu of the required 25' and 400.1 permit exist, accessory structures to remain in the frant & side wards in lieu of the required ward, of the Zening Regulations of Bultimore County, to the Zening Law of Bultimore County; for the following reasons: (indicate hardship or practical difficulty)

It is our desire to retain the aesthetics of the property, which these existing structures are intrinsically a part., and protect the historically and architecturally valuable buildings. It is impossible to develop 1/13/23

the property and preserve the buildings unless the requested variances are granted.

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 soming regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solumnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s): Devon Hill	, Ltd.
N/A (Type or Print Name)	Partoership Martin P. Azola D	
Signature	Signature Italiya	BAR
Address	(Type c: Print Name)	erschon 1777-te
N Sept and State	Signature	Distance:
Atthogy for Petitioner:	P.O. Box 2926 Pockland Grist Mill	337-0700 AY
or Print Name)	Address Brooklandville, MD 21022 City and State	Phone Md.MAL.
I de Mercani	tile Bldg. Name, add.ess and phone number of tract purchaser or representative to	
Ba Bore, MD 21201	Martin P. Azola	
Attorney's Telephone No.: 625-3	Name P.O. Box 2926 Scook) Andville, MD 21027 Address	2 337-0700 Phone No.
ORDERED By The Zoning Co	ommissioner of Baltimore County, this	L3thday
out Baltimore County, that propert	183, that the subject matter of this petition is altimore County, in two newspapers of general circles be posted, and that the public hearing be had buty in Room 106, County Office Building in To	culation through- pefore the Zoning
County, on the 1.7t	th day of February 19.83 , at	t 10:30 o'clock
A.M.	1 (1)	

		BALTIYOFE COUNTY, MARYL	(DIK
UBJECT: SUPDIVISI	ion review com	CNTS	DATE: December 14, 1982
	Donough F.E.		38
PROJECT NAME:	Devon Hill		
PROJECT YOUSER.	8:138		
location:	S. C. Lake Av	e. Mt. Washington	
DISTRICT:	3Ç4		
			` #:

The plan for the subject site, dated September 3, 1982 with the latest revision dated November 17, 1982, has been reviewed by the Developers Engineering Division and we comment as follows:

BIGHWAY COMMENTS:

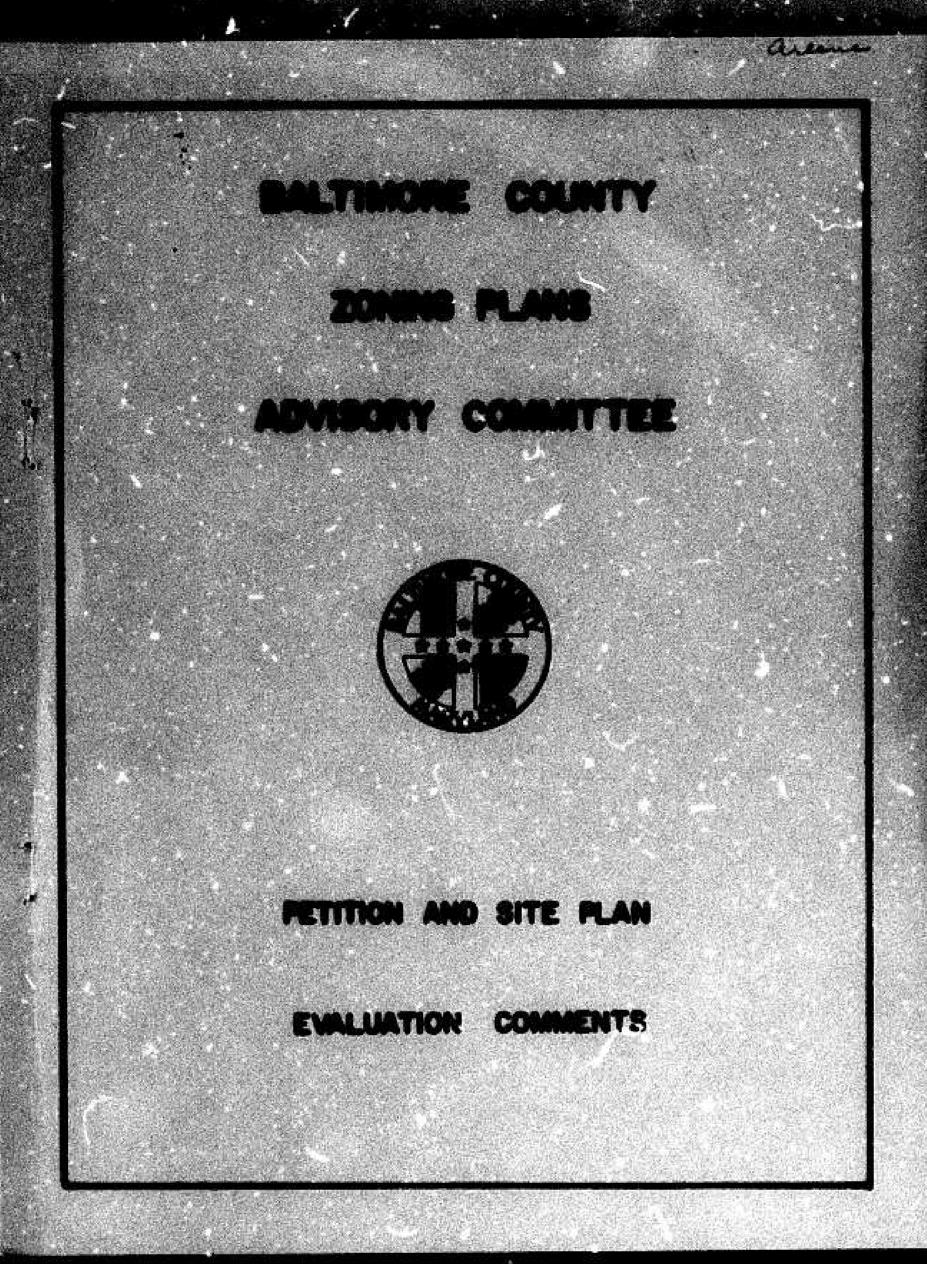
The proposed paving width of Lake Avenue is this area has been reduced from 40 feet to 36 feet.

MATER AND SANITARY SEMER COMMENTS:

The proposed public sanitary sever extension in Lake Avenue is acceptable to the Department of Public Morks; however, the Developer must either own or control at least sixty percent of the assessable frontage of property binding the route of the desired extension of the sanitary sewer main.

If the Developer cannot meet this requirement, he has the option of petitioning the affected property owners for their support of the project. If he fails to garner the necessary concurrence from the affected property owners, the Developer could agree to enter a Deficit Deposit Agreement with Baltimore County with the understanding that refunds would be made to the Developer from the deficit deposit when the previously non-assessedproperties are connected to the system.

The public sanitary sewer in Lake Avenue must be extended along the frontage of this property to the point where it can provide service to all unserved properties on both sides of Lake Avenue.



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 8, 1983

RE: Item No. 112 - Case No. 83-177-A Petitioner - Devon Hill, Ltd. Variance Petition

WAST HOTEUT BLOG. ... W They appeared Ave. Ms. Gail Stern

2 Hopkins Plaza The Mercantile Bldg. No this is one controlling. Baltimore, Maryland 21201 Charles Course

OF WHITE THE . T 3 548 164

pertrement of teffa Introceptor 11 + 4 = 17 THE PLEASE CLOSE math became event sout Start by . Libert - ertrett water of the attention Fred Adres at the

valetter:

Dear Ms. Stern.

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject property, located on the south side of Lake Avenue opposite Lake Manor Drive and Hollins Avenue, in the 9th Flection District, is improved with two dwellings, a carriage house, stables and a number of accessory structures. In view of your client's proposal to subdivide this property and thereby allow some of these accessory structures to be in the front and side yards and to legalize the setbacks of the carriage house that is to be converted to a dwelling this variance hearing is required.

As indicated in previous conversations, there is some question whether the Zoning Commissioner or the Deputy can grant variances to the Comprehensive Manual of Development Policies (CMDP). This request is required for the conversion of the carriage house. Included in this file is a copy of your letter to Mr. Gene Bober, Planning Office, expressing your views on this matter and proposed amendments. At the time of the scheduled hearing, this matter should be fully discussed.

the submitted site plan should be revised to indicate the driveway southeast of Hollins Avenue to be located outside of the transition area. In addition, the comments from the Planning Office (Sue Carrell 494-3335) and the Department of Traffic Engineering (Dick Moore 494-3554)

Item No. 112 - Case No. 83-177-A Petitioner - Devon Hill, Ltd. Variance Petition Page 2

should be reflected on the revised plans.

Particula: attention should be afforded to the comments of the Department of Permits and Licenses. You should contact Mr. Charles Burnham at 494-3987 for any additional explanation of these comments.

Enclosed are all comments submitted from the members of the Committee at this time that effer or request information on your petition. If similar comments from the remaining members are received. I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

There is to Commente NICHOLAS B. COMMODARI

Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Lyon Associates, Inc. 7131 Rutherford Road Baltimore, Maryland 31207

a.von Bill Project No. 82138 December 14, 1982

GENERAL COMMENTS:

All provious comments and/or requirements remain valid unless superseded by those supplemental comments or waived wider the provisions of Section 22-43, Bill No. 56-82.

Developers Engineering Division

EAM: REC: pmg

EALTIMORE COUNTY, MARYLAND SUBJECT. COUNTY REVIEW GROUP COMMENTS FROM: OFFICE OF PLANNING AND ZONING DATE: December 9, 1982 PROJECT NAME: DEVON HILL XXXXXXXXXXXXXXXXXXXXXXX COUNCIL & ELECTION DISTRICT 1X-352 PLAN EXTENSION REVISED PLAN PLAT

The Office of Planning and Zoning has the following comments on the subject plan, which proposes 33 condominium units and 8 single family detached lots on 20.7 acres zoned D.R.2;

A profile of the driveways for lots 6 and 7 must be shown. Since portions of the driveways are located in areas of existing slopes greater than 25% a profile indicating proposed grade is required. Additional detail with respect to development of lots 6 and 7 pursuant to Section 22-90 will be required on the Final Development Plan. The requirements of Section 22-90 were addressed in previous comments.

It is the position of this office that access to lot I be provided from the panhandle driveway. An easement for a driveway could be located along the rear of lot 2.

The location of the proposed dwelling on lot 4 may need to be revised based on the determination of the floodplain area. The developer is idvised that under Section 22-9s, no construction in the floodplain is permitted.

Susan Carr-11

	(BALTIMORE COUNTY, MARYI	AND (DATE	December	15. 1982
TO: Mr Robe				15 10,00	
FROM: C. Richa	rd Moore				
WATER CRG COMM	ENTS				
UBJECT: C.R.G. COMM	ENTS				
UBJECT: C.R.G. COMM	ENTS				
SUBJECT: C.R.G. COMM			C.P.G.	PLAN	x
	Devon Hill	. :	C.R.G.		<u> </u>
NECT NAME	Devon Hill			PLAN MENT PLAN	<u>x</u>
DJECT NUMBER & DISTRI	Devon Hill			MENT PLAN	x

Lake Avenue should be constructed to an ultimate 36ft. section. The area to be graded on Lake Avenue should be graded to accompdate a standard sidewalk section.

The line designating the grading and clearing area on Lake Avenue needs to be moved back 10 feet at the main entrance to be 10 feet behind the ultimate curb line. The existing 18' driveway at the main entrance needs to be realigned at closer to a 90 degree

Lot #3 should access off of the existing driveway and not Lake Avenue.

CRM/ccm

cc: Gene Bober

Sue Carroll

Pursuant to the advertisement, posting of property, and public bearing on the otitica and it us that strict compliance with the Baltimore County Zoning Regulations would/psychlemat result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of variance(a) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should-not be granted.

Therefore, IT IS ORDERED by Carlotting Commissioner of Baltimore County, this 22 md day of ______ February ____, 19 83 __, that the homein Petition for Variance(s) to permit the existing stone carriage house being converted to a dwelling use to be located within 35 feet of the centerline of the street in lieu of the required 50 feet and to have a side/window setback of 5 feet in lieu of the required 25 feet from the street right of way and to permit the existing accessory structures, i.e., spring house on Lot 7, pump house on Lot 6, and root cellar on Lot 4, as identified on the site plan prepared by Martin P. Azola, Inc., dated November 24, 1982, and marked Petitioner's Exhibit 12, to remain in the front and/or side yards in lieu of the required rear yard is hereby GRANTED, from and after the date of this Other/subject, however, to the approval of a site plan by the Department of Public Works office of Planning and Zoning.

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON MARYLAND 21204
494-3900 TED LINESKI JA

County Office Building

112 Ioning Advisory Committee Resting

Devon Hill, Ltd. S.S.W. Lake Drive 1350' E. from centerline of Palls Road. D.R. 2 Variance to permit the existing stone carriage house to be converted to a single family dwelling within 35° of the centerline of future 60° R/W of W. Lake Avenue in lieu of the required 50° and 5° window to street R/W in lieu of the required 25° and to permit existing accessory structures to remain in the front and side yard in lieu of the required rear yard. CRG

- §- All structure shall employe to the Baltimore County Building Code 1981/ Countil Bill b-82 State of Haryland Gods for the Employed and Aged; and other applicable Codes.

- 3. In enterior well exceed within 6'0 of an edjacent let line shall be of one hour fire weaktive empelementum, no openings parasition within 3'-0 of let lines. A firewall is required if empiroration to on the let line, See Table 160. line 2, Seetim 1607 and Table 1802.
- A. A change of company shall be expliced for, along with an alterestical possition, and these requirements of fractings indicating her the electrical conversion will meet the Code requirements for the proposal design. Incident any requirement of Stables, dwellings, stc., to condots shall comply with "R-2 Use", Code remains this office an amount on the short structure, places here the court, the quirements at the convince of a Registered in Reyland incident or Register cartify to this per Table 300 and Section comply with the height/orce requirements of table 505 and the required construction elementics of Table ich.
- I. Comments All structures shall comply with the height and area requirements for the proposed uses, See Table 505. Show handloapped parking, typical units, access, curb cuts, signs, etc., as per state code. Should it delighe that a flood plan exist, no construction will be permitted within the flood plan area.
- columitted to the office of Floraing and Saming and are not intended to be construct as the full extent of any puncit. If desired, additional information may be obtained by visiting from \$1.22 (Flora Review) at 111 Year Companies See., \$1506.

Plane Barton

COUNTY REVIEW GROUP COMMENTS ON PROPOSED SUBDIVISION PLANS BALTIMORE COUNTY DEPARTMENT OF HEALTH

Subdivision Name, Section and/or Plat MAKTIN P. Azora INC. / LYON ASSOC Developer and/or Engineer LONES FALLS No. of Lots or

COMMENTS ARE AS FOLLOWS:

- Soil percolation tests are required; a minimum of two tests are required within a designated 10,000 square foot sewage disposal reserve area. After soil tests have been conducted, the engineer and/or developer is responsible for meeting with the Health Department to determine any needed revisions and submitting three (3) final prints of acceptable plans.
- Soil percolation tests have been conducted. Revised plans. ___ must be submitted prior to approval of plats. ___ ar! not required and the plat can be approved as submitted. Contact this office at 494-2762 for more complete information.
- Public sewers must be utilized and/or extended to serve the property.
- No sewage disposal area shall be located within _____ feet of any perennial stream or body of water or within a 100-year floodplain and must be 10 feet removed from any easement or property line.
- Wells must be located a minimum distance of _____ from any sewage dis-posal areas: 100 ft. from any wells: 40 ft. from dwellings: 13 ft. from property lines. 15 ft. from road widening easements, and must be positioned at a higher elevation than the sewage disposal area on the same lot.
- Public water must be utilized and/or extended to serve the property.
- ____ Due to a possible seasonal change in the groundwater table, soil tests must be conducted between February 1 and April 30.
- Sewage disposal areas must not be placed on slopes of 25% or greater-

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y Dube Superintendent

Towner Maryland - 21204

Date: December 6, 1982

Mr. William E. Hammond Zoning Commissioner Baltimore County Office Building 1111 West Chesapeake Avenue Towson, Maryland 21204

Z.A.C. Meeting of: December 7, 1982

RE: Item No: 107, 108, 109, 110, 111/112 Property Owner: Location: Present Zoning: Proposed 7oning

> Districe: No. Acres:

All of the above have no bearing on student population.

Very truly yours, luch Ketwart Mm. Nick Petrovich, Assistant Department of Planning

MNP/bp

COUNTY REVIEW GROUP COMMENTS ON PROPOSED SUBDIVISION PLANS BALTIMORE COUNTY DEPARTMENT OF HEALTH

✓ A Hydrogeological Study and Environmental Effects Report for this subdivision. must be submitted, ___ must be updated, __/ can be waived, ___ must be revised.

A Water Appropriation Permit Application must be submitted. Note: Greater than 33 lots necessitates a public hearing with Water Resources Administration as part of the permit process.

locate all existing bodies of water, wells and septic systems within the property and within 100 feet of the exterior property line.

The developer must contact this office at 494-2762 to arrange for a meeting to discuss needed revisions prior to application for percolation test;.

This plan can be approved as submitted.

This plan cannot be approved at this time. See checked revisions and/or

V EXISTING SEPTIC SYSTEM MUST BE ABANDONED IN ACCORDANCE WITH HEALTH DEPT. REQUIREMENTS WHEN SANITARY SEWER IS CONNECTED TO EXISTING STRUCTURES EJECTOR SYSTEMS MUST CONSIST OF MIN, 1000 THE

CAPALITY PUMP PIT - DUAL EJECTOR PUMPS AND ALARM SYSTEM TO DETECT MECHANICAL OR ELECTRICAL EAILURE :

11/26/12

RE; Petition for VARIANCES S/S of West Lake Dr., 1,350' E or Falls Rd., 9th District

BEFORE THE ZONING COMMISSIONER

OF BALTIMORE COUNTY

DEVON HILL, LID., Petitioner : Case No. 83-177-A

:::::::

ORDER TO ENTER APPEARANCE

Mr. Commissioners

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 therefor, and of the passage of any preliminary or final Order in connection therewith.

Year and the same Peter Max Zimmerman Deputy People's Counsel

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

Y ... + ... - ... - ...

I HEREBY CERTIFY that on this 25th day of January, 1983, a copy of the aforegoing Order was mailed to Gail Stem, Attorney, 2 Hopkins Plaza, The Mercantile Building, Baltimore, Maryland 21201, Attorney for Petitioner.

John W. Hessian, III

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON MARYLAND 21204
825-7310

PAUL H REINCYE CHIEF

December 20, 1982

Mr. William Manmond Coning Commissioner Office of Planning and Joning Baltimore County Office Building Towers, Maryland 21204

Attention: Mick Commodari, Chairman Zoning Plans Advisory Committee

RE: Property Chmer: Devon Hill, Ltd.

Location: S/S W. Lake Drive 1350' E. from centerline of Falls Road

Item Mo.: 112

Zoning Agenda: Meeting of December 7, 1982

Gantlemen:

H Herry

Pursuant to your request, the referenced property has been surveyed by this Sureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Beltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at

EXCESDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments get this time.

Planning Group Fir Fire Prevention Buread Special Inspection Division

JK/Mb/cm

RE: Petition for Zoning S/S of West Lake Drive.

ZONING COMMISSIONER 1.350' E of Falls Rd. 9th District DEVON HILL, LTD.

PARTNERSHIP, Petitioner BALTIMORE COUNTY

BEFORE THE

Case No. 83-177-A

MEMORANDUM IN SUPPORT OF PETITIONER'S POSITION THAT THE ZONING COMMISSIONER HAS AUTHORITY TO VAPIANCE THE PROVISIONS OF THE COMPREHENSIVE

Devon Hill Ltd. Partnership, Petitioner, has requested certain variances from the provisions of C.M.D.P. An issue has been raised regarding the authority of the Zoning Commissioner to grant such variances. For the following reasons, the Zoning Commissioner does, in fact, have such authority.

MANUAL OF DEVELOPMENT POLICIES ("C.M.D.P.")

THE PETITIONER IS ENTITLED TO A VARIANCE FROM THE SETBACK PROVISIONS OF C.M.D.P. BECAUSE C.M.D.P. MERELY SUPPLEMENTS THE ZONING REGULATIONS AND THE PROVISIONS THEREOF CAN THEREFORE BE VARIANCED PURSU-ANT TO THE PROVISIONS OF SECTION 307 OF THE BALTIMORE COUNTY ZONING REGULATIONS ("B.C.Z.R."),

Clearly the provisions of Sections V.B. 6(a) and V.B. 9 of the C.M.D.P. are intended to supplement the general requirements of the B.C.Z.k. The requirements of Article 1B of the B.C.Z.R. explicitly refer to the promulgation of setback standards by the Planning Board. For example, Section 1.801.2.C.3, provides that the setback of a building from the center lane of any preexisting street "shall be 50 feet or such greater distance as may be prescribed under standards adopted pursuant to the authority of Section 504." B.C.Z.R. \$1.B01.2.C 3 (1981 ed) Therefore, because the B.C.Z.R. explicitly refer to the setback standards of the C.M.D.P., the pertinent provisions of the C.M.D.P. are properly subject to variance by the Zoning Commissioner in accordance with Section 307 of the B.C.Z.R.

Section 307 of the B.C.Z.R. provides that the Z ming Commissioner may grant variances from height and area regulations where strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship. Such variance "shall be granted only if in strict harmony with the spirit and intent of said . . . area . . . regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare." B.C.Z.R. §307 (1981 ed.).

In this instance, the structure not in strict compliance with the C.M.D.P. is a 125-year old stone carriage house. Its stone walls have withstood the test of time, providing shelter for man and beast alike for over a century. Indeed, it appears that the carriage house has served, among other things, as a permanent and temporary residence for over 100 years.

Rather than demolish this magnificent structure, Devon Hill Ltd. Partnership plans to incorporate the carriage house into the development. In so doing, it seeks to preserve the aesthetics of the property, of which the carriage house is intrinsically a part, and to protect and preserve this building, which is of significant cultural, historical, and architectural value.

Because the carriage house is technically in violation of the setback provisions of C.M.D.P. §§V.B. 6(a) and V.B. 9. Pevon Hill is seeking relief by requesting a variance from these sections. Absent the variance, Devon Hill will be taced with the distasteful and distressing alternative of tearing down this valuable building. In this instance, compliance with the C.M.D.P. would constitute practical difficulty and unreasonable hardship. Compliance would not be in harmony with the spirit and intent of the regulations. On the contrary, the regulations

343 **2** (140

307 does state that the Commissioner "shall have no power to grant any other variance", this language must be considered in its proper context. Section 307 reflects an intention by the County Council that the Commissioner shall have the power to grant variances only from height and area regulations, offstreet parking regulations, and sign regulations where certain other requirements are satisfied. The subsequent language merely cerves to clarify the Council's intent that the power to grant variances is limited by the nature of the variance to be granted, not by the source of the regulation.

> III. IN THAT SECTION 504.1 REFLECTS THE COUNCIL'S INTENT THAT THE ZONING REGU-LATIONS ARE TO BE SUPREME IN RELATION TO THE COMPREHENSIVE MANUAL OF DEVELOP-MENT POLICIES, THE COMMISSIONER'S POWER TO GRANT VARIANCES FROM THE ZONING REGULATIONS EXTENDS TO THE C.M.D P.

The Council's intent that the Zoning Commissioner possesses the power to grant variances from the C.M.D.P. is further evidenced by the language of Section 504.1. This provision authorizes the Planning Board to adopt policies which are "not inconsistent with these regulations and which further the purposes thereof." B.C.Z.R. \$504.1 (1981 ed.). Clearly the framers' intent was that the Zoning Regulations are to be supreme. Therefore, because the Zoning Commissioner is to possess a power to grant variances from these controlling regulations, the Zoning Commissioner's power must extend to the implementary policies set forth in the C.M.D.P.

Moreover, Section 504.2 of the Zoning Regulations provides that the C.M.D.P. may include provisions of the Zoning Regulations. In accordance with this section, the Office of Planning and Zoning might include within the C.M.D.P. those provisions of the Zoning Regulations which are subject to variance under Section 307. Clearly the Council did not intend

- 6 -

reflect an intent to preserve examples of our agrarian heritage and to encourage variety and diversity within new developments. The preservation of the carriage house will undoubtedly further these objectives. On the other hand, to tear it down would cause substantial injury to the public health, safety, and wel-

Devon Hill seeks a variance from the setback restrictions of the C.M.D.P. rather than from any use restrictions. As the Court of Appeals of Maryland has recognized, there is a practical distinction between a use variance and a height or area variance. ". . . [V]ariances going to such matters as area, height or setbacks, are much less drastic than those affecting the use of property." Luyola Federal Savings & Loan Ass'n. v. Buschman, 227 Md. 243 (1961). While the Court in Loyola pointed out that the distinction does no affect the test to be employed under Section 307, petitioner as-erts that it is a relevant consideration. The variance sought will not detrimentally change the character of the development; rather, the preservation of the carriage house will serve to enhance the development's character and ambiance.

The decision of the Court of Appeals in McLoan v. Solely, 270 Md. 208 (1973) is dispositive of the instant case. In that case, the petitioner sought relief from Baltimore County's side yard window setback requirement in order to retain the property's "present trees and natural growth, terrain and topography which provides excellent drainage and natural screening and beauty." Id. at 210. The Court upheld the granting of the variance because strict compliance with the zoning requirements would result in the destruction of the trees, the benefits of the retention of the trees would generate the general public, greater density would result from strict

3 -

that the Commissioner's power to grant variances could be ren dered a nullity simply by the inclusion of these provisions of the Zoning Regulations in the C.M.D.P. Yet, unless the Zoning Commissioner possesses the power to grant variances from the C.M.D.P., that is precisely the effect.

> IV. BECAUSE THE POWERS OF THE ZONING COM-MISSIONER ARE NECESSARILY BROAD IN SCOPE, SUCH POWERS EXTEND TO ALL LAND USE AND DEVELOPMENT REGULATIONS, UNLESS THE ZONING REGULATIONS OTHERWISE PROVIDE

Direct support for the proposition that the Zoning Commission does possess the power to grant variances from the C.M.D.P. can also be found in the general language of Section 500 of the Zoning Regulations. That Section, which sets forth the duties and powers of the Zoning Commissioner, explicitly provides that the Commissioner's powers generally extend to all Baltimore County zoning regulations. For example, Section 500.6 provides:

> In addition to his aforesaid power, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation with any zoning regulations or the proper interpretation thereof, and to pass his order thereon . . .

B.C.Z.R. 3500.6 (1981 ed.) (emphasis supplied). Section 500.7 similarly states

> The said Zoning Commissioner shall have the power to conduct such hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations. . . .

B.C.Z.R. \$500.7 (1981 ed.) (emphasis supplied). These sections reflect an unambiguous legislative determination that the Zoning Commissioner's power shall be broad in scope, so as to assure that all regulations which affect land use and development operate in furtherance of the overall objectives of the County's land use scheme. For example, Section 1 B01.3.A.7.c.iv. of the

compliance, and there was minimal evidence that the variance would result in detriment to the neighboring land owners.

Similarly, in this case strict compliance with the setback provisions could result in the destruction of the carriage house. The benefits of preserving this structure of significant cultural value far outweigh any possible detriment. Its preservation accrues to the benefit of the general public with no apparent detriment to anyone.

ARGUMENT

II. BECAUSE THE COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES WAS PROMULGATED PURSUANT TO SECTION 504.2 OF THE ZONING REGULATIONS OF BALTIMORE COUNTY, THE POWER OF THE ZONING CUMMISSIONER TO GRANT VARIANCES, PURSUANT TO SECTION 307 OF THE ZONING REGULATIONS, EXTENDS TO THE PROVISIONS OF THE COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES.

Section 504.1 of the B.C.Z.R. empowers the Planning Board to "adopt and implement administrative, project design, or planning policies or procedures which are not inconsistent with these regulations and which further the purposes thereof." B.C.Z.R. \$504.1 (1981 ed.). The B.C.Z.R. require the Office of Planning and Zoning to compile a comprehensive manual of the land use and development policies adopted by the Planning Board. Id. at §504.2. In addition, such manual is authorized to include provisions of the B.C.Z.R. Id.

In accordance with these provisions and in reference thereto, the Office of Planning and Zoning promulgated the Comprehensive Manual of Development Policies, which sets forth design development standards. Included therein are height and area standards, which were promulgated to supplement the provisions of the B.C.Z.R. dealing with height and area regulation. See C.M.D.P. 5V.B. 6. V.B. 9. That the C.M.D.P. is expressly authorized by the B.C.Z.R. mandates the conclusion that, as in

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B.C.Z.R. provides that the Zoning Commissioner must, in certain instances, make certain certifications regarding "this article and other Waltimore County land use and development requirements administered by them". This provision clearly indicates that the Zoning Commissioner's authority extends to all land use and development regulations, and not just the B.C.Z.R. Indeed. unless the Commissioner's power extends to the C.M.D.P., which inevitably impacts upon the overall scheme, there exists a substantial danger that the scheme itself could fail because of the inability of the various regulations to interact properly and to function in harmory. Therefore, absent an express legibiative declaration to the contrary, the Zoning Commissioner's discretionary power of variance must extend to all regulations which implement and complement the Zoning Regulations.

In those instances where the exercise of the Commissioner's power is limited to situations involving the application of the zoning regulations themselves, the Zoning Regulations expressly so provide. For example, Section 500.7 provides that in addition to the power to "conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the prope: enforcement of all zoning regulations". the power given also includes the right of any interested person to petition the Zoning Commissioner for a public hearing to determine, in part, "any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." r.C.Z.R. \$500.7 (1981 ed.) (emphasis supplied). Section 500.7 thereby grants, without limitation, the power to the Zoning Commissioner to conduct a public hearing upon petition by an interested person to those instances in which the property rights of such person are affected by the B.C.Z.R. themselves. The Commissioner's other powers extend to

_ 8 -

the case of the B.C.Z.R. themselves, the Zoning Commissioner of Baltimore County has the power to grant variances from the C.M.D.P.

The Commissioner's power to grant variances from the C.M.D.P. is limited only by the provisions of Section 307 of the B.C.Z.R. Section 307 provides, in pertinent part:

> The Zoning Commissioner of Baltimore County . . shall have and [is] hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

B.C.Z.R. 5307 (1981 ed.). Close scrutiny of Section 307 clearly indicates that it does not restrict the Commissioner's power to grant variances to those regulations explicitly in cluded within the Zoning Regulations. The Section unambiguously provides that the Zoning Commissioner may grant variances from any regulations promulgated. limited only by the restrictions within Section 307 as to the nature of the regulations (e.g. height and area) which are subject to variance. Moreover, while Section 307 does refer to the "Zoning Regulations for Baltimore County", petitioner asserts that the language is in reference to the Zoning Regulations and any other regulations promulgated thereunder. Therefore, since the C.M.D.P. was promulgated under the express authority of Section 504 of the B.C.Z.P., the Commissioner's power to grant variances from the Zoning Regulations logically and necessarily extends to those sections in the C.M.D.P. which supplement those provisions of the Zoning Regulations properly subject to variance under Section 307.

Although it might be contended that Section 307 explicitly prohibits the Commission from granting variances from the C.M.D.P., the position is without merit. Given that Section

- 5 -

any regulations. "as necessary for the proper enforcement of all zoning regulations." Id. Therefore, because the Commissioner's power to grant variances is not expressly limited to the provisions of the S.C.Z.R., the power extends to the provisions of the C.M.D.P.

V. IN A RECENT PETITION FOR A VARIANCE FROM THE PROVISIONS OF THE COMPREHEN-SIVE MANUAL OF DEVELOPMENT POLICIES. THE ZONING COMMISSIONER CORRECTLY REASONED THAT THE ZONING OFFICE DOES POSSESS THE POWER TO GRANT VARIANCES FROM REGULATIONS PROMULGATED TO IMPLE-MENT PROVISIONS OF THE ZONING REGULA-TIONS WHICH ARE PROPERLY A SUBJECT OF VARIANCE.

The Commissioner's analysis in a recent petition for a variance supports the proposition that the Commissioner possesses the power to grant variances from the C.M.D.P. See No. 81-172-A (Item No. 8) (Nov. 13, 1981). In that case the petitioner sought a variance from Baltimore County's trucking facility legislation. The legislation, regarding trucking facilities existing as a nonconforming use, provides that paving standards for such facilities shall be determined and promulgated by the Planning Board pursuant to its authority to compile the C.M.D.P. The petitioners therein were therefore actually seeking relief from standards imposed by the C.M.D.P.

While the Zoning Commissioner denied the petition, his comments in support of the decision compel the result sought in the instant case. The Zoning Commissioner was cognizant of the fact that he possessed no general power to grant a variance from all provisions of the C.M.D.P. The Commissioner correctly reasoned that "[t]he only possible argument favoring the conclusion that a variance to the paving requirements could be granted under Section 307 would be to conclude that the trucking facility paving requirements are offstreet parking requirements." Because the petitioners were unable to satisfy the

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conditions for a variance under Section 307, the Commissioner could not grant a variance from the paving provisions of C.M.D.P. The proper remedy was to seek a change in the C.M.D.P.

Notwithstanding the final outcome of the proceeding, the Commissioner's reasoning clearly supports the view that where a petitioner is able to satisfy the requirements of Section 307, the grant of a variance by the Commissioner from the C.M.D.P. is appropriate and proper. Therefore, because the Petitioner in the instant case satisfies the requirements for a variance from the area and height regulations of the Zoning Regulations, he is properly entitled to a variance from those provisions of the C.M.D.P. which supplement the B.C.Z.R.

WHEREFORE, for the foregoing reasons, Petitioner respectfully submits that the requested variances from C.M.D.P. be granted.

Respectfully submitted,

Frank, Bernstein, Conaway & Goldman 2 Hopkins Plaza 1300 Mercantile Bank & Trust Bldg. Baltimore, Maryland 21201 (301) 625-3500

Attorney for Petitioner

1581r

- 10 -

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond TO.... Zanina Commissioner Norman E. Gerber, Director PROM: Office of Planning and Zoning Zoning Petition No. 83-177-A

Date January 27, 1983

SUBJECT Devon Hill, Ltd.

This office is supportive of the concept of restoring such fine old structures.

NEGJGHslc

cc: Arlene January Shirley Hess

PETITIONER'S EXHIBIT 10



FEB 1 1 1983

February B, 1983

Devon Hill Limited Partnership P.O. Box 2926 Brooklandville, Maryland 21022

ATTN: Martin P. Azola

RE: Road Improvements and Carriage House

Dear Mr. Azola:

As you know, we are interested in the Devon Hill project and we have closely followed your development plans during the last several months. The concept of clustering the allowable density goes a long way toward the preservation of the natural beauty of the site. We are particularly grateful that you are taking great pains to consider our needs as neighbors and the rural nature of the area.

The zoning variance notice recently posted has prompted us to convey our opinion concerning road improvements and the fate of the Carriage House. We feel that the half mile periphery of the site should remain as-is if at all possible. We understand that the County is requiring concrete curb and gutter, road widening, sidewalks, etc. The installation of these items would be unfortunate at best. Already, too much of the casual country atmosphere of the County and our specific neighborhood is changing. We strongly oppose any further "citifying" of the periphery of your property - our neighborhood.

The Carriage House reportedly sits too close to Lake Avenue to continue to be used as a residence. Are there any alternatives? The building is certainly no hazard to the public way and certainly has never been even remotely connected to any vehicle accident. It seems only logical that it should be remodeled and preserved. We most strongly support your petition for a variance to allow the house to be utilized as a residence.

> 6805 York Road Butteriore: Manyland 21212 (301) 377-0998

Mr. William E. Hammond Zoning Commissioner Room 109, County Office Building Towson, Maryland 21204

> RE: Case No. Building Permit Application No. Election District

Dear Mr. Hammond:

We, the undersigned, being the owner of the above mentioned property and the applicant for the above referenced building permit, do hereby acknowledge that we are fully aware of your Order being subject to a thirty (30) day appeal period, but wish to go shead with the permit application prior to the expiration of sa . appeal

We hereby relieve our builder, Baltimore County, Maryland, and you from any liability or responsibility for any consequences which might arise during the appeal period.

Very truly yours.

Diva till Cometed 12 to 1 kg.

6 UZ3 ---- 086801b \$179A

Devon Hill Limited Fartnership February 8, 1983

In closing, we would also like to reconfirm our positive interest in the extension of the sewer as previously mentioned. This addition in the public way seems to us the only necessary change to the property. Thank you again for your sensitivity to our neighborhood. We look forward to working with you in the future.

Very truly yours,

JMA: mew

Zoning Department. Hearing Date: Thursday, February 17, 1983 at 10:30 A.M. Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

Being the property of Devon Hill, Ltd., as shown on plat plan filed with the

PETITION FOR VARIANCES

Thursday, February 17, 1983 at 10:30 A.M.

PUBLIC PEARING: Room 106, County Office Building, 111 W. Chesapeake

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and

Petition for Variances to permit the existing stone carriage house

Section 1801.2. C. 3 (504 V. B9 and V. B6. a of C. M. D. P.) - minimum distance of

building to cented ine of street and minimum distance of window to street right of way

to be converted to a single-family dwelling within 35 ft. of the centerline of the street in lieu of the required 50 ft. and a side

yard setback of 5 ft. in lieu of the required 25 ft. and to permit

existing accessory structures to remain in the front and side

Avenue, Towson, Maryland

Regulations of Baltimore County, will hold a public hearing:

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

yards in lieu of the required rear yard

The Zoning Regulation to be excepted as follows:

Section 400. I - location of accessory structures

South side of West Lake Drive, 1,350 ft. East of Falls Road

9th Election District

Petition for Variances

ZONING:

LOCATION:

DATE & TIME:

BY ORDER OF WILLIAM E. HAMMOND ZONING COMMISSIONER OF BALTIMORE COUNTY

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON MARYLAND 21204

GAOMMAH I MA LA . WWW. SWAMPSKONED

February 5, 1983

Gall Stern, Attorney at Law 2 Hopkins Pass, The Mercastile Building Baltimore, Maryland 21201

> Re: Petition for Variances S/S of West Lake Dr., 1,350' E of Falls Rd. Devos Hill, Ltd. - Petitioner Case No. 83-177-A

Dear Ms. Stern:

This is to advise you that \$86.80 is due for advertising and posting of the above property.

Please make the check payable to Baltimore County, Maryland, and remit to Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing,

Very truly yours.

WILLIAM E. HAMMOND Zoning Commissioner

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

(Deves Hill. Ltd.)

M. 115016

DATE 2/17/83 COUNT R-01-615-000

AMOUNT \$86.80

FROM Gall M. Stern, Attorney Advertidag and Posting Case #83-177-A

VALIDATION OR SIGNATURE OF CASHIER

January 18, 1983

Gell Stern, Attorney-at-Law 2 Hopkins Plans, The Mercestile Building Baltimore, Maryland 21201

NOTICE OF HEARING Re: Petition for Variances

\$/S of West Lake Dr., 1, 350' E of Falls Rd. Devos Hill, Ltd. - Petitioner Case No. 23-177-A

TIME: 10:30 A. M.

DATE: Thursday, February 17, 1983

PLACE: Room 106, County Office Building, 111 West

Chesapeake Avenue, Towson, Maryland

ING COMMISSIONER TIMORE COUNTY

OFFICE OF PHANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

Ita 112

6 015 ****** 35001b #308A

BALTIMORE COUNTY, MARYLAND

VALIDATION OR SIGNATURE OF CASHIER

Amendment to Existing Sections V.B. 6 and V.B. 9

The requirements of this Section need not be complied with if the building is in existence prior to September 21,

Amendment to Existing Sections V.B. 6 and V.B. 9

可以在2012年1月1日中,1月1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央1012年1日中央

An exception to the requirements of this section may be made for existing buildings by the Planning Board [the Director of Planning) where strict compliance would result in practical difficulty or unreasonable hardship and where such exceptions are necessary to preserve existing buildings.

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PETITIONER'S EXHIBIT 7

LYON ASSOCIATES, INC.

ARCHITECTURE ENGINEERING CONSULTING

RESUME

ANTHONY J. CORTES_ Director of Site Development Project Manager Lyon Associates, Inc.

Years experience: With This Firm 10, With Other Firms 8

Education: A.A. Maryland Institute Architectural Design A.A. Anne Arundel Community College Land Planning Business Management Essex Community College

Other Experience and Qualifications relevant to the proposed project:

Mr. Corteal is currently the Department Head for the Site Development Section of the Baltimore Design Office of Lyon Associates. From this position, he directs all phases of Lyon Associates' regional efforts in the disciplines of surveys, property line computations, and the preparation and processing of site development documents.

During his tenure with Lyon Associates, Mr. Corteal has been in responsible charge of the preparation of over 500 individual site development projects, ranging in size from 2500 square feet to 650 acres.

Preparation and approval of Site Development Documents, whether processed as part of a comprehensive project or a single entity, have given Mr. Corteal extensive experience in the field and has allowed for optimization of office efficiency under his direction. Mr. Corteal has repeatedly demonstrated the value of his diverse experience through successful completion of innumerable projects.

the following is a partial list of the projects for which Mr. Corteal was responsible.

o Curtis Bay Coal Facility, Baltimore City, Maryland o White flint Fashion Mall, Rockville, Maryland o Rash Field, Baltimore Lity, Maryland - " o Dundalk Community College, Maryland → a Anne Arundel Community College 4 o Winter Green, Mountain Ski Resort o BWI, Undeveloped Lands Proposal o Aberdeen Proving Grounds, Master Plan

with regard to Mr. Corteal's experience in zoning cases, the following is a list of projects within the past two years in which Mr. Corteal was directly responsible for preparing the necessary documents. Additionally, Mr. Corteal has testified as an expert witness for over 80% of the listed projects.



LYON ASSOCIATES, INC.

ARCHITECTURE ENGINEERING CONSULTING

RESUME

ANTHONY J. CORTEAL Page 2

Ba	ltimore:	County
100		

Shell Oil Company Setback Variance August 3, 1982 8200 Liberty Road Shell Oil Company Setback Variance January 3, 1983 7100 Liberty Road Shell Oil Company Setback Variance November 15, 1982 Reisterstown Rd & Rosewood Arco Petroleum Special Hearing March 22, 1982 York and Ashland Special Exception Area Variance Arco Petroleum Special Hearing March 23, 1982 Special Exception York and Joppa Area Variance Arco Petroleum Special Hearing January 3, 1983 Stemmers and Marlyn Special Exception Area Variance Cloverland Farms Dairy Special Hearing November 29, 1982 York and Ridgely Special Exception Area Variance Taco Bell Parking and Sethack August 19, 1981 Joppa and Harford Variance Taco Bell Parking and 5 tback York and Willow **Variance** Baltimore City

Shell Oil Company Conditional Use March 26, 1982 2001 Orleans St. Board of Appeals to Arco Petroleum 5920 Moravia Road Permit Conversion

Arco Petroleum Edmondson and Swan

June 10, 1981

Conditional Use

May 6. 1981



LYON ASSOCIATES, INC.

ARCHITECTURE ENGINEERING CONSULTING

Arco Petroleum

and Center Drive

Baltimore National Pike

RESUME ANTHONY J. CORTEAL Page 3

Apostolic Housing Corp. Valley and Homewood	Request for 22 Setback Variances	June, 1982
N. Charles General Huspital Maryland Avenue	Board of Appeals to Permit Parking Lot	August, 1932
Cycle Shop O'Donnell Street	Conditional Use	August, 1981
Safeway Stores Belair and Kenwood	Re-zoning	January, 1981
Prince George's County		
Gulf Oil U.S. 2911 Colebrook Drive	Special Exception	January 20, 1983
Gulf Oil U.S. 1348 University Blvd.	Special Exception	September 15, 1982
Taco Bell University Blvd.	Special Exception Parking Variance	June, 1982
Taco Bell Oxon Hill	Special Exception Parking Variance	June, 1982
TOTAL SOCIETY		
Anne Arundel County		
Arco Petroleum Camp Meade Road	Sign and Canopy Variance	March 4, 1982
Arco Petroleum Fort Smallwood & Valley	Sign and Canopy Variance	November, 1981
Arco Petroleum Ritchie Hwy. & McKinsey	Sign and Canopy Variance	Moveember, 1981
Howard County		
[발 : 발발 : [발 :]		10 1001

Planning Board Appeals

January 12, 1983



LYON ASSOCIATES, INC.

ARCHITECTURE ENGINEERING CONSULTING

RES. ME

ANTHONY J. COR : EAL Page 4

Fairfax, Virginia

Gulf Oil U.S. 7501 Richmond Highway

Special Exception

Setback Variance

Variance

August 5, 1982

January, 1983

Sogecliff Limited Lee Highway

Taco Bell

Lee Highway

Setback and Parking

November, 1982

Washington, D.C.

Gulf G 4.5. Fine Arts Approval 2200 "P' Street, N.W.

July 13, 1982

New Section V.B. 12

Variance for Existing Buildings

The Director of Planning shall grant variances for existing buildings from the height and area regulations of this Section 5 in cases where strict compliance would result in parctical difficulty or unreasonable hardship, if such variance is in strict harmony with the spirit and intent of said height and area regulations, and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. Any refusal to grant a wariance by the Director of Planning shall be referred to the Planning Board for a final decision if the developer so requests.

New Section V.B. 12___

general welfare.

Variance for Existing Buildings

The Planning Board shall grant variances for existing buildings from the height and area regulations of this Section 5 in cases where strict compliance would result in practical difficulty or unreasonable hardship, if such variance is in strict harmony with the spirit and intent of said height and area regulations, and only in such a manner as to grant relief without substantial injury to the public health, safety and

FRANK, BERNSTEIN, CONAWAY & GOLDMAN 1300 MERCANTILE BANK & THUST BUILDING I HOPRIME PLAZA DESCRIPTION OF THE PERSON -cusho - consessource a decout age as a passive full-about . Heading to called BALTIMORE, MARYLAND 21201 MILEUMAN / ----discount of the JAMES STREET, SMEETHAM Company of the Date ACHE W BELFERMAN M PCTCO MOSER LANCE BESTER STORY 2004 / 40409/71 84446 F. HILLERS program & CHARLES ATTERN TELE PHONE USON 825 1500 HARVEY M. LEGISTIC MARKS & MICROS LEBLIE & BER CABLE PRASSO LOADED CONTR agent to fire groups a comes SHALL BE BUILDE 1016 x 47030 CORE OF SHEWARDS MANAGE WALKER APPROPRIATE JOINT & MECHT MARK & PINCS CARREST & CURREN BECHARD T HARRES SAUTE BIS SARONA P GOVER BOOKERS BILLOWS CARENT MISSISS GAN, IN STREET AMERICAN CITY BUT DIRE NEW METERS BERRYL A SPEER Sept 501 . SHOOT 5 MUMICL & FILEWAY SQUALD # 1985 COLUMBIA MAPPLAND FIGH CLESTON , POPELL AND SULLANDE B. GULFF payor t atture AZREA M. MORPHUS WAS C BUILDING OF MALE gauce a made a COMPAND C BUILDINGS B HOME A PART PRINT - 8 S 100074 CHARLES & BERRSTER SECRET P BARALE PROLE LEAVE MINEL HOMAS P. WOOD, P. - camer admisss 1 THE DECREE A OFFICE SCHOOLS IN HARRY . antenat singi -PRANCES C MARREDONA METER - BURET WRITER'S DIRECT NUMBER IS AMERICA C. CLEVEN COMMON TRANSPORT AND IN 301 825- 3647 1 86 190 04 09C THE LEG PA DIELT December 16, 1982

Baltimore County Zoning Commissione County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

> Re: Petition for Zoning Variance Devon Hill Associates Cooper Property LTD. PARTNISK SHIP

Dear Mr. Hammond: Dan # 113

We have filed a Petition for Zoning Variance in connection with the development of the Cooper Property by Devon Hill Associates. The project consists of the renovation of the old mansion, the construction of new condominium units and the sale of building lots. We believe that it is an important project which greatly enchances the "alue of the surrounding community.

At this time, we would like to request that a hearing date be scheduled as soon as possible for the following reasons:

 Any delays will result in the physical rehabilitation of the old mansion extending over a long period of time and placing a severe economic hardship on the developer.

 A number of interested purchasers have expressed a desire to settle as soon as possible so that they can begin the rehabilitation of their individual units and the construction of homes on building lots. We are concerned that if there is an extensive delay in obtaining a variance hearing, our purchasers may be placed in the position of not being able to start construction until late 1983 and thus running into construction delays because of weather.

FRANK BERNSTEIN CONAWAY & GOLDMAN

Baltimore County Zoning Commissioner December 16, 1982 Page Two

3. It is our understanding that we will not be able to record our record plat until we have received the variances, and thus we are prevented from going forward with the project until we have had the variance hearing and have obtained a decision.

4. The surrounding residents would like the renovation and construction to start as soon as possible. We believe that this project is looked upon very favorably by the community and everyone would prefer that it be completed as soon as possible.

The variances that we are requesting are necessary due to the fact that certain of the structures on the property are quite old and have existed long before there were any zoning regulations. We have been very careful in our request to avoid any variances which might be controversial or difficult, even though such variances might result in greater financial gain for the developer.

In light of the above facts, we are asking you and your office to process our request for the variances with expediency and efficiency and further request that a hearing date be scheduled as soon as possible.

Thank you very much for your consideration of our request. Please contact me is we can provide any additional information to you.

> Sincere. ?. 7.6 V 6 6 Gail M. Stern

cc: Mr. Martin P. Azola Mr. Nicholas Comadari

GMS:sl

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INCREMENTAL BANG & TRUST BUTLETING FRANK, BERNSTEIN, CONAWAY & GOLDMAN I MORNING PLACE STREET & STEET

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STREE BALTIMORE, MARYLAND 21201 Name of Division of TELESCORE (\$64 651-5500 CAS-2 7040 0* Chipa e departe y principa y montre y principa y montre y principa y montre principa y depart resp in principa desar y Cri TRUE & STREET MARKET BATT BATTERS COLUMN MATURE FOR CHANGE O BLESS CANO C BELLES CANO C MEMORY SAFELA D BARRYO THERMAN M. COURS. III Charles & Smith COURSE & BAR- CF WRITEN'S DIRECT NUMBER IS (30) 625- 3647 4 95 100 to 900. re tot 4000 for \$400." January 18, 1983

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Mr. Eugene A. Bober County Planning and Development Division Office of Planning and Zoning 111 West Chesapeake Avenue Towson, Maryland 21204

Re: Devon Hill, Ltd. Partnership Amendments to CMDP

Dear Gene:

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83-177-A

Pursuant to our conversation, I am writing this letter to explain the "Catch-22" situation that our client, Devon Hill, Ltd. Partnership, and potentially other developers in Baltimore County, face as a result of the Zoning Commissioner's concerns regarding his office's authority to grant variances from the provisions of the Comprehensive Manual of Development Policies ("CMDP"), although such variances have routinely been considered and granted in the past. Although I understand the Zoning Commissioner's concerns, I nevertheless believe that his office does have authority to grant variances from the provisions of CMDP based on the language of Section 307 of the Baltimore County Zoning Regulations and on the language contained in Order of the Zoning Commissioner in Petition for Variance, No. 81-172-A (Item No. 8). In the interest of resolving this dilemma to everyone's satisfaction, however, I am enclosing herein forms of proposed amendments to the CMDP, which I believe properly serve the interests of the County as well as developers in situations similar to our own.

FRANK BERNSTEIN, COMMINAY & GOLDMAN

Mr. Eugene A. Bober January 18, 1983 Page Two

Devon Hill is engaged in the development of a tract of land on Lake Drive in Baltimore County. On the site there currently stands a 125-year old stone carriage house. Its stone walls have sheltered man and beast alike for over a century; indeed, I believe that the carriage house has served as a permanent and temporary residence for over '00 years.

Clearly, the historical, social, and architectural value of the carriage house cannot be measured. Thus, rather than demolish the building, Devon Hill plans to incorporate it into the development as a single-family dwelling. In so doing. Devon Hill seeks to preserve the sesthetics of the property, of which the carriage house is intrinsically a part, and to protect and preserve the building itself.

Because the building is technically in violation of the set back provisions of the CMDP, (\$\$V.B6.a, V.B9), Devon Hill is seaking relief by requesting a Variance from those sections. Although the Zoning Commission of Baltimore County has consistenly granted variances from the CMDP in the past for a number of reasons, as I mentioned, there now appears to be some question as to the office sauthority to do so.

Our dilemma results from the concern that the Zoning Commissioner will refuse to grant the requested variance. Because neither the CMDP nor the Zoning Regulations of Baltimore vest any other person with authority to grant such variances, our client may be faced with no choice but the distasteful and distressing alternative of tearing down a building of significant cultural value. In this instance, clearly compliance with the CMDP would constitute practical difficulty and unreasonable hardship, clearly not be in harmony with the spirit and intent of the regulations, and in fact would cause substantial injury to the public health, safety and general welfare.

The CMDP does provide, however, that the Planning Board is empowered to change policies by a majority vote of the Board at a regularly scheduled maeting. Indeed, the CMDP contemplates that such changes will readily occur as conditions change and problems develop. " CMDP SI.D. In accordance with these principles, proposed amendments are offered which will prevent a developer from being unable to extricate himself from the dilemma caused by the presence of existing structures, technically not in

FRANK BERNSTEIN, COMMINY & GOLDMAN

Mr. Eugene A. Bober January 18, 1983 Page Three

compliance with CMDP provisions, on property to be developed. The proposed amendments handle this dilemma in a variety of ways, any one of which I believe will provide a satisfactory solution.

As I am sure you understand, time is truly of the essence and I would very much appreciate your assistance in resolving this matter as soon as possible to everyone's satisfaction. I am available, as is my client, at your convenience, to meet with you and others to discuss this matter further.

> I look forward to working with you on this matter. Sincerely.

> > Gail M. Stern

Enclosure

cc: Mr. Martin Azola Mr. Melvin Cole Mr. Anthony Corteal

Mr. Nicholas Commodari Mr. Kenneth D. Dryden

Mr. Norman Gerber Mr. William Hammond

GMS:#1



DALTIMORE COUNTY OFFICE OF PLANNING & ZONING TOWSON MARYLAND 21204

SHOWMAN 3 MAILUR ZONING COMMISSIONER

February 22. 1700

Gail Stern, Esquire The Mercantile Building 2 Hopkins Plaza Baltimore, Maryland 21201

> RE: Petition for Surjances 5/S of West Lake Drive, 1,350 E of Falls Road - 9th Election District Devon Hill, Ltd. - Petitioner NO. 83-, 77-A (Item No. 112)

Dear Ms. Stern:

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

Very truly yours.

JEAN M.H. JUNG

Deputy Zoning ommissioner

JMHJ/srl

Attachments

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

1200 WERCANTILE BARR & TRUET BUILDING FRANK, BERNSTEIN, CONAWAY & GOLDMAN I HOPEINS PLACE BALTIMORE, MARYLAND 81201 provide a distriction when a provide the provide a distriction and a provide the provide a distriction United to Community
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County Planning and Development Division Office of Planning and Zoning 111 West Chesapeake Avenue Towson, Maryland 21204

Re: Devon Hill, Ltd. Partnership Amendments to CMDP

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FRANK BERNSTEIN, CONMAY & GOLDMAN

Mr. Eugene A. Bober January 19, 1983 Page Two

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FRANK, BERNSTEIN, CONMINT & GOLDHAN

Mr. Eugene A. Bober January 18, 1983 Page Three

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I look forward to working with you on this matter.

Sincerely,

Gail M. Stern

Enclosure

cc: Mr. Martin Azola Mr. Melvin Cole

Mr. Anthony Corteal Mr. Nicholas Commodari

Mr. Kenneth D. Dryden

Mr. Norman Gerber Mr. William Hammond,

GMS : sl

Amendment to Existing Sections V.B. 6 and V.B. 9

The requirements of this Section need not be complied with if the building is in existence prior to September 21, 1972.

Amendment to Existing Sections V.B. 6 and V.B. 9

An exception to the requirements of this section may be made for existing buildings by the Planning Board (the Director of Planning) where strict compliance would result in practical difficulty or unreasonable hardship and where such exceptions are necessary to preserve existing buildings.

New Section V.B. 12

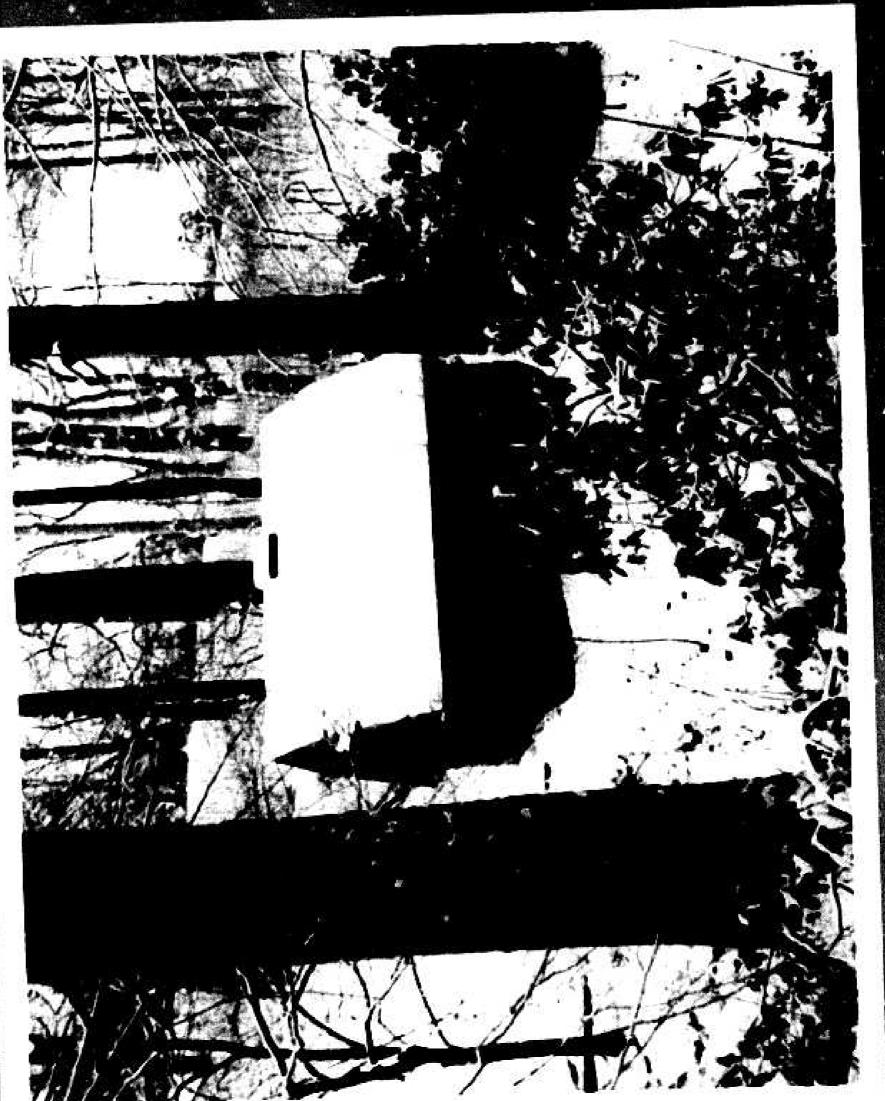
Variance for Existing Buildings

The Director of Planning shall grant variances for existing buildings from the height and area regulations of this Section 5 in cases where strict compliance would result in Section 5 in cases where strict compliance would result in parctical difficulty or unreasonable hardship, if such variance is in strict harmony with the spirit and intent of said height and area regulations, and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. Any refusal to grant a variance by the Director of Planning shall be referred to the Planning Board for a final decision if the developer so requests.

New Section V.B. 12 Variance for Existing Buildings

The Planning Board shall grant variances for existing buildings from the height and area regulations of this Section 5 in cases where strict compliance would result in practical difficulty or unreasonable hardship, if such variance is in strict harmony with the spirit and intent of said height and area regulations, and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare.

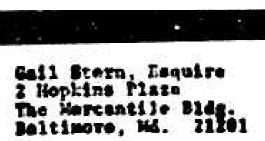












Lyon Associates, Ing. 7131 Rutherford Road Baltimore, Nd. 21207

BALTIMORE COUNT'S OFFICE OF PLANNING & ZONING County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your Putition has been received and accepted for filing this 13th of January . 19 83.

WILLIAM E. HAMMOND Zoning Commissioner

Petitioner Devon Hill, Ltd.

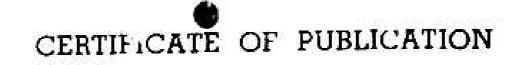
Petitioner's Attorney Gail Stern, Esq.

Reviewed by: ficholas B Commudari Chairman, Zoning Plans Advisory Committee









THIS IS A FEBRUARY 250 the innexed advertisement was published in 1916, July FRSONIAN a weekly newspaper printed appearing on C

> THE JEFFERSONIAN, in major

a sist of Adviction to





THIS IS TO CERTIFY, that the ennexed advertisement was published in THE TOWSON TIMES, a weekly newspaper distributed in . Towson, Baltimore County, Md., once & week for _____ successive weeks, the first publication appearing on the. 4.6 day of 1983.

> THE TOWSON TIMES Cost of Advertisement, 5 1/25

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