

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1807.3.C.1 to permit a lot width of 44' in lieu of the regulated 55'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Proposed lot accommodates a 24' wide house with the minimum 10' sideyards but does not meet the minimum standards for lot width.

Property is to be posted and advertised as prescribed by Zoning Regulations.

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

I/We do solemnly 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:
Donald Hooper
(Type or Print Name)
Signature
305 W. Seminary Avenue
Address
Lutherville, MD. 21093
City and State

Legal Owner(s):
Kevin J. Fugate
(Type or Print Name)
Signature
Nadine Fugate
(Type or Print Name)
Signature
3209 Acton Road
Address
Baltimore, MD 21234
City and State

Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
McKee & Associates, Inc.
Name
1717 York Road
Address
252-5120
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 18th day of April, 1986, that the subject matter of this petition, as advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the 21st day of April, 1986, at 10:30 o'clock.

Carol J. Zimmern
Zoning Commissioner of Baltimore County.

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

1717 YORK RD. LUTHERVILLE, MARYLAND 21093
Telephone: (301) 252-5820

January 28, 1986

DESCRIPTION OF
0.35 ACRES, MORE OR LESS
ACTON ROAD

Beginning on the Southwest side of Acton Road, 30 feet wide at a distance of 290 feet Southeast of the centerline of Wilson Avenue. Being Lots 679 and 680, Section B, in the subdivision of Glenhaven as recorded in Liber W.P.C. No. 7, Folio 62. 14th Election District.

IN RE: PETITION FOR ZONING VARIANCE
SW/S of Acton Road, 290' SE
of the centerline of Wilson
Avenue - 14th Election
District
Kevin J. Fugate, et ux,
Petitioners
BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-422-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a lot width of 44 feet instead of the required 55 feet, as more particularly described on Petitioners' Exhibit 1.

The Petitioners appeared, as did Donald Hooper, the Contract Purchaser, and James McKee, a registered land surveyor, who testified on their behalf. Brian Leventon, Carol Dwaer, and Anna Dwaer, neighbors, testified in opposition.

Testimony indicated that the Petitioners own a 71' x 140' x 100' x 166' tract, located on Acton Road and zoned D.R.5.5, which they propose to subdivide into two lots. Lot 1 would measure 45' x 156' x 44' x 166' and Lot 2 would measure 57' x 140' x 56' x 156'. The Petitioners reside in an existing dwelling which is located on the proposed Lot 2 and which will have a 10-foot setback from the northwest side property line adjacent to Lot 1. Mr. Hooper proposes to purchase Lot 1 and construct a 24' x 44' rancher which he will then sell. All area requirements would be satisfied except for the lot width created by the proposed subdivision. Further, the neighborhood's subdivision was recorded in the 1920's and all of the lots were 25 feet wide. Over the years, homes were constructed on lots of various widths, and on the same side of the street as the proposed subdivision, there are lot widths of 43 feet, 50 feet, and 57 feet.

Mr. McKee testified that the proposed lots were designed with the idea to limit the need for variances, and indeed, only one variance is required. He further testified that the proposed use would satisfy the spirit and intent of the Baltimore County Zoning Regulations (BCZR) and that there would be a practical difficulty if the variance were denied because the proposed Lot 1 could not be created.

The Protestants are concerned with the traffic and debris created by the proposed construction and the possible danger to the children as a result of the construction traffic. They are opposed to any further development in this very old and stable community.

The Petitioners seek relief from Section 1802.3.C.1, pursuant to Section 307, BCZR.

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance were granted, such use proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

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After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 24th day of April, 1986, that the Petition for Zoning Variance to permit a lot width of 44 feet instead of the required 55 feet be and is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Zoning Commissioner of Baltimore County

Mr. & Mrs. Kevin J. Fugate
Mr. Brian Leventon
Ms. Carol Dwaer
People's Counsel

- 3 -

RE: PETITION FOR VARIANCE
SW/S Acton Rd., 290'
SE of C/L of Wilson Ave.
14th District
KEVIN J. FUGATE, et ux,
Petitioners
BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-422-A

ENTRY OF APPEARANCE

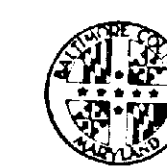
Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 1st day of April, 1986, a copy of the foregoing Entry of Appearance was mailed to Mr. and Mrs. Kevin J. Fugate, 3209 Acton Rd., Baltimore, MD 21234; Donald Hooper, 305 W. Seminary Ave., Lutherville, MD 21093, Contract Purchaser; and McKee & Associates, Inc., 1717 York Rd., Towson, MD 21204, who requested notification.

Peter Max Zimmerman
Peter Max Zimmerman



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

April 15, 1985

Mr. Kevin J. Fugate
Mrs. Nadine Fugate
3209 Acton Road
Baltimore, Maryland 21234

RE: PETITION FOR ZONING VARIANCE
SW/S Acton Rd., 290' SE of the c/l of Wilson Ave.
14th Election District
Kevin J. Fugate, et ux - Petitioners
Case No. 86-422-A

Dear Mr. and Mrs. Fugate:

This is to advise you that \$50.19 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

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

No. 021394

DATE 4-15-86 ACCOUNT 86-422-A

AMOUNT \$ 50.19

RECEIVED FROM

FOR

DATE 4-15-86

VALIDATION OR SIGNATURE OF CASHIER

APR 23 1987

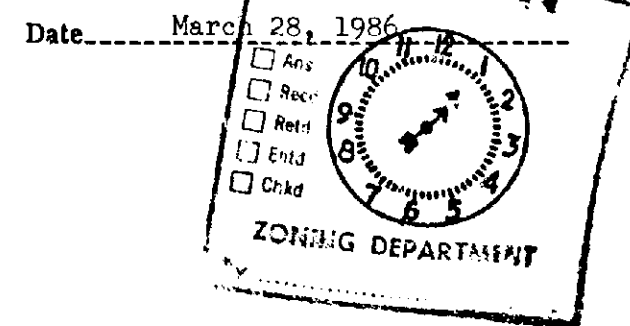
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner

FROM: Norman E. Gerber, Director
Office of Planning and Zoning

SUBJECT: Zoning Petition No. 86-422-A



There are no comprehensive planning factors requiring comment on this petition.

Norman E. Gerber
NORMAN E. GERBER, Director
Office of Planning and Zoning

NEQ/JGH/dmi

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 28, 1986

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ofo

Chairman

MEMBERS

Bureau of
Engineering
Department of
Traffic Engineering
State Roads Commission
Bureau of
Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial
Development

Mr. and Mrs. Kevin J. Fugate
3209 Acton Road
Baltimore, Maryland 21234

RE: Item No. 298 - Case No. 86-422-A
Petitioners - Kevin J. Fugate, et ux
Variance Petition

Dear Mr. and Mrs. Fugate:

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.

Enclosed are all comments submitted from the members of the Committee at this time that offer 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.

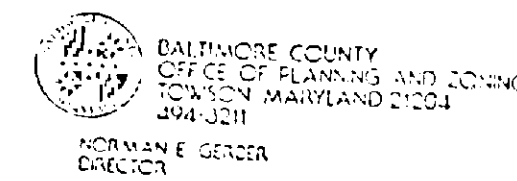
Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:mr

Enclosures

cc: McKee & Associates, Inc.
1717 York Road
Lutherville, Maryland 21093



Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

MARCH 26, 1986

Re: Zoning Advisory Meeting of February 25, 1986
Item # 298
Property Owner: KEVIN J. FUGATE, et ux
Location: SW/4 ACTON RD., 290' SE of
E of WILSON AVE.

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- ☒ There are no site planning factors requiring comment.
- ☒ A County Review Group Meeting is required.
- ☒ A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- ☒ This site is part of a larger tract. Therefore it is defined as a subdivision. The plan must show the entire tract.
- ☒ A record plat will be required and must be recorded prior to issuance of a building permit.
- ☒ The access to this site is not satisfactory.
- ☒ The circulation on this site is not satisfactory.
- ☒ The parking arrangement is not satisfactory.
- ☒ Parking calculations must be shown on the plan.
- ☒ This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- ☒ Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-28 of the Development Regulations.
- ☒ Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- ☒ The amended Development Plan was approved by the Planning Board on 1/28/86.
- ☒ The property is located in a deficient service area as defined by Bill 173-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is:
- ☒ The property is located in a traffic area controlling by a "D" level intersection as defined by Bill 173-79, and its conditions curve traffic capacity may be reduced by the County Council.
- ☒ Additional comments:

cc: James Howell

Eunice A. Boser
Chief, Current Planning and Development



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

March 14, 1986

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. -ZAC- Meeting of February 25, 1986
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for items numbered 289, 290, 291, 292, 294, 295, 296, 297, 298, 299, 300, and 301.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

NSF/bld



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
Chief

February 21, 1986

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Kevin J. Fugate

Location: SW/S Acton Road, 290' SE of centerline of Wilson Avenue

Item No.: 298 Zoning Agenda: Meeting of 2-25-86

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau 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 of _____ feet along an approved road in accordance with Baltimore 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 _____

EXCEEDS 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 comment at this time.

Noted and
REVIEWER: *Carl J. Kelly*
Planning Group
Special Inspection Division

Approved:

John F. O'Neil
John F. O'Neil
Fire Prevention Bureau

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

February 28, 1986

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item #298 Zoning Advisory Committee Meeting are as follows:

Property Owner: Kevin J. Fugate
Location: SW/S Acton Road, 290 feet SE of c/1 of Wilson Avenue
District: 14th.

APPLICABLE ITEMS ARE CIRCLED:

- (1) All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.M.S.I. #17-1 - 1980) and other applicable Codes and Standards.
- (2) A building and other miscellaneous permits shall be required before the start of any construction.
- (3) Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is/are not required on plans and technical data.
- (4) Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Reproduced seals are not acceptable.
- (5) All Use Groups except R-1 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. R-1 Use Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 601, Section 1407, Section 1406, and Table 1405. No openings are permitted in an exterior wall within 3'-0" of an interior lot line.
- (6) The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 601 and 505 and have your Architect/Engineer contact this department.
- (7) The requested variance appears to conflict with Section(s) _____ of the Baltimore County Building Code.
- (8) When filing for a required Change of Use/occupancy permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Groups are from Use _____ to Use _____ or to Mixed Use. See Section 312 of the Building Code.
- (9) The proposed project appears to be located in a Flood Plain, Tidal/Silverline. Please see the attached copy of Section 516.6 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the final floor levels including basement.
- (10) Comments:
- (11) These abbreviated comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired the applicant may obtain additional information by visiting Room 106 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

By: C. E. Burnham, "P.E."
Building Plans Review

4/22/86

Mr. Kevin J. Fugate
Mrs. Nadine Fugate
3209 Acton Road
Baltimore, Maryland 21234

March 21, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING VARIANCE
SW/S Acton Rd., 290' SE of the c/1 of Wilson Ave.
14th Election District
Kevin J. Fugate, et ux - Petitioners
Case No. 86-422-A

TIME: 10:30 a.m.

DATE: Monday, April 21, 1986

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

Carl J. Kelly
Zoning Commissioner
of Baltimore County

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

No. 018376

DATE: 2/13/86 ACCOUNT: 54-615-000

AMOUNT: \$ 35.00

RECEIVED FROM: 111 W. Chesapeake Ave., Towson, Md. 21204

FOR: 111 W. Chesapeake Ave., Towson, Md. 21204

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

TOWSON, MD., April 3, 1986

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on April 3, 1986.

THE JEFFERSONIAN,

JB Ventak
Publisher

Cost of Advertising

24.75

86-422-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-422-A

District: 14th Date of Posting: 4/1/86

Posted for: *Variance*

Petitioner: *Kevin J. Fugate, et ux*

Location of property: *SW/4 Acton Rd., 290' SE of Wilson Ave.*

Location of Signs: *SW/4 Acton Rd., 290' SE of Wilson Ave.*

Remarks: *Variance*

Posted by: *JB Ventak* Date of return: 4/1/86

Number of Signs: 1

APR 23 1986

