IN THE MATTER OF THE APPLICATION OF ORAN TODD WARNER, ET UX, FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE OF IROQUOIS AVENUE, 500' SOUTHEAST OF THE CENTERLINE OF BAY FRONT ROAD (7509 IROQUOIS AVENUE) 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT

BEFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

CASE NO. 89-268-A

* * * * * * * * * * *

OPINION

This matter comes before the Board as an appeal from the decision of the Deputy Zoning Commissioner of Baltimore County dated February 6, 1989 which denied the property owner's Petition for zoning variances.

By way of background, the Petitioner/Property Owner, Oran Todd Warner, owns a deep but narrow property known as 7509 Iroquois Avenue. The parcel is waterfront property and fronts along Old Road Bay in Eastern Baltimore County. Located upon the property are two structures; a residential dwelling house closest to the waterfront and a single-story storage shed in the rear portion of the property which abuts Iroquois Avenue. Testimony elicited during the case disclosed that originally the property contained only the single story storage structure. At one time that property was used as an apartment/residence by the property owner. Later, he acquired permission from the County to construct and move into the larger dwelling unit which he built in 1987. As part of the permit process to construct a new single family dwelling in the rear of the property, the Petitioner agreed that the existing structure would be converted to a storage shed and not used residentially. Notwithstanding this promise, the Petitioner now seeks approval to revitalize the shed into a dwelling unit.

In order to accomplish this goal, the property owner seeks variances from setback and area regulations. The nature of these setbacks were more clearly defined after the Deputy Zoning Commissioner's decision and a survey of the property was completed. At the Board's hearing, the Petitioner was permitted to amend his Petition so as to request a variance of 1.2' from the side yard

property line as opposed to the 2.5' variance previously requested. Additionally, the Petitioner for the first time requested a rear yard setback variance of 24' in lieu of the required 30'. Lastly, the Petitioner continued, without changes, his request for a variance permitting a buildable lot of 40' in lieu of the required 55'.

Numerous witnesses appeared both on behalf of and against the Petition. Frank Lee, a surveyor testified as to his recent survey of the property which necessitated the corrections to the Petition as outlined above. He also testified that the property was 19,000 sq. ft. and therefore, large enough to accommodate two lots. However, on cross-examination, he admitted that his computation of the property size included a bulk-headed section of the parcel which may not support improvements.

The Petitioner, Oran Todd Warner, also testified. He traced the history of the property including his one time residence in the structure now used for storage and the building of the dwelling house on the property in 1987. He indicated his desire to put a second dwelling unit on the property but stated he had no firm intentions as to the occupancy of that unit. He also noted the increased value of the property brought about by his improvements thereon and felt that a granting of the variances would benefit the entire community. Several surrounding property owners and neighbors also testified in support of the Petition. They commented on the number of two dwelling unit lots within the locale already in existence and concurred with Mr. Warner's assessment that the improvements which he seeks to construct would be an asset to the community.

Lastly, Bernard Semon, a real estate appraiser, testified. He commented on the increased value of the property by virtue of Mr. Warner's construction of the two-story dwelling house and the irregular pattern of development throughout the community. He opined that the property was large enough to support more than one dwelling unit and that adjacent properties would not be diminished in value

nor would there be a detrimental effect to the neighborhood by the granting of the Petition.

In opposition to the Petition, several neighboring property owners testified. These included the residents immediately next door at 7507 and 7511 Iroquois Avenue. Essentially, these neighbors were concerned about the proliferation of two-dwelling lots in the community and the increase in demands on utilities and in traffic caused by further development. They also disputed the extent of the Petitioner's "neighborhood" and stated that only one other waterfront property supported two dwellings.

In considering the Petitions for Variance before us, the Board is compelled to apply the law as found within Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.). This regulation governs the legal standard to be applied to Petitions for Variance. That section provides that a variance can be granted "only in cases where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

In that the subject variances request relief from the requirements governing setback distances, the variances clearly are area variances; as opposed to use variances. The Petitioner notes this distinction and within his Memorandum addresses the legal implications of considering a use variance, vis-a-vis an area variance. As the Petitioner correctly notes, the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974) prescribed different guidelines for area and use variances. Specifically, the Court imposed a difficult burden of proving undue hardship upon use variances but a lesser burden of practical difficulty when considering area variances. To prove practical difficulty for an area variance, this Board must consider the following three factors set forth within

Anderson: (1) whether strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) whether the granting of the Petition would do substantial injustice to the applicant as well as other nearby property owners 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.

Within his Memorandum, the Petitioner compares and contrasts the above three requirements with the more stringent burdens imposed by the undue hardship requirement to prove a use variance. We agree with the Petitioner that the Protestant has inappropriately addressed these more stringent, but inapplicable, standards. For example, consideration of a use variance requires the fact-finder to determine if the alleged hardship was the result of the applicant's own action. Also, the fact-finder must determine whether the property owner can secure a reasonable return or make reasonable use of his property. These two considerations, for example, are not among the requirements set forth by the Court in Anderson, supra.

Turning to the practical difficulty test for area variances, the Board will first address the second requirement of the three listed above and set forth in Anderson. Again, that requirement provides the Board to address the issue as to whether the granting of the variance would do substantial injustice to the applicant as well as other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief. In our view, the Petitioner has clearly failed to meet his burden in this regard. The Petitioner's own actions are of note in this consideration. As outlined above, the structure which the Petitioner now desires to re-convert to a new single-family dwelling unit is presently a storage shed. Previously, the

structure was used for dwelling purposes but that use was voluntarily discontinued by agreement of the Petitioner and the County when the "new" dwelling was built on the property in 1987. With this history, the Board must conclude that a denial of the variance is not unjust to the Petitioner. On the contrary, granting of the variance would do substantial injustice to other property owners. Thus, on this basis alone, we hold that the Petitioner has failed to meet his burden and that the variance should be denied.

However, we also note in passing that the Petitioner fails to comply with the standard as set forth in the third requirement listed in Anderson. Simply, we do not believe that the construction of a second dwelling as shown on the Petitioner's plat, particularly in view of the character of the surrounding properties and neighborhood and the long zoning history of this district, is within the spirit of the ordinance. Development within this area of the County should and must be carefully monitored. In view of this specific locale and its environs, we believe the public safety and welfare are best secured by the denial of the variance. For these reasons, the Board will deny the Petitions for Variance and will so order.

ORDER

It is therefore this 11th day of January, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Variance be and the same is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence E. Schmidt, acting Chairman

Lynn B. Moreland

John G. Disney

IN RE: PETITION FOR ZONING VARIANCE
S/S Iroquois Avenue, 505' SE of the c/l of Bay Front Road (7509 Iroquois Avenue)
15th Election District
7th Councilmanic District

Oran Todd Warner, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-268-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a buildable lot with a width of 40 feet in lieu of the required 55 feet, and a side yard setback of 2.5 feet in lieu of the required 10 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the Petition were Mr. Warner's parents. The following persons appeared as Protestants: Rosemary Shkor, Lea Carr, Lynda Carr, Noona Blusiewicz, and Clara Hicks.

Testimony indicated the subject property, known as 7509 Iroquois Avenue, is zoned D.R. 5.5, consists of 18,450 sq.ft., and is located near Jones Creek in the Chesapeake Bay Critical Areas. Testimony indicated the Warners purchased the subject property in approximately 1985. At that time the front of the property was improved with a small, single family dwelling containing only one bedroom. In February 1987, the Petitioners obtained a permit to construct a new single family dwelling in the rear of the subject property with the understanding that the existing dwelling would be converted to a shed upon occupancy of the new dwelling. Permits were subsequently issued for construction of the new dwelling and alterations to the existing dwelling for conversion to a workshop and storage shed. The permit for alterations indicated that all plumbing in the existing dwelling was "...to be removed except hand sink." See Protestant's Exhibit 3. Petitioners filed the instant variance as they now propose subdividing the subject property into two lots, as depicted in Petitioner's Exhibit 1, thereby permitting both dwellings to remain on the site. Due to the width of the property and location of the original dwelling, the Petitioners need the requested variances to accomplish the subdivision. To support Petitioners' request, Petitioners noted that within a one mile radius of their home there were numerous lots on which two dwellings existed. In further support of Petitioners' request, Petitioners submitted a letter dated January 13, 1989 signed by various residents of the area indicating their approval of the requested variance.

The Carrs and Rosemary Shkor, residents on both sides of Petitioners' property, are opposed to the relief requested. Ms. Blusiewicz and Ms. Hicks, who reside three houses from the subject property, also appeared in opposition. The Protestants contend the permits were issued with the understanding the existing dwelling would be converted into a garage or storage shed. The Protestants further contend the granting of the variance would result in overcrowding of the land and have an adverse affect on the health, safety and general welfare of the community. Testimony further indicated the Protestants believe the streets in the area are unable to handle the additional traffic, parking and congestion that would result if the variance were granted. Testimony presented indicated the Protestants believe the properties in the area containing two dwellings are as a result of nonconforming uses and not by a subdivision of the property. To further support their claims, the Protestants introduced a letter dated January 16, 1989 from the North Point Peninsula Community Coordinating Council indicating their opposition to the requested variance.

An area variance may be granted where strict application of the zoning regulations 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 the 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 the 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).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners was in support of a matter of preference rather than of the necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of February, 1989 that the Petition for Zoning Variance to permit a buildable lot with a width of 40 feet in lieu

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: November 15, 1988

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance Item #115
Warner Property - Lodge Forrest Lot 1145

Subject property is locate at 7509 Iroquois Avenue in Lodge Forrest, fronting on Old Road Bay. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has filed a petition for a zoning variance to allow a buildable lot with a width of 40 feet and a side yard setback of 2-1/2 feet in lieu of the required 55 feet and 10 feet, respectively.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

2. Conserve fish, wildlife and plant habitat; and

3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01 O>

The proposed development will comply with Critical Area law provided that the zoning petition is conditioned with the following requirements:

1. Four major deciduous trees or eight conifer trees shall be planted and maintained on the lot. A combination of these two tree types is acceptable provided that 4,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.

Memo to Mr. J. Robert Haines
November 15, 1988
Page 2

2. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.

3. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximimum infiltration (see attached dry well design).

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:tjg

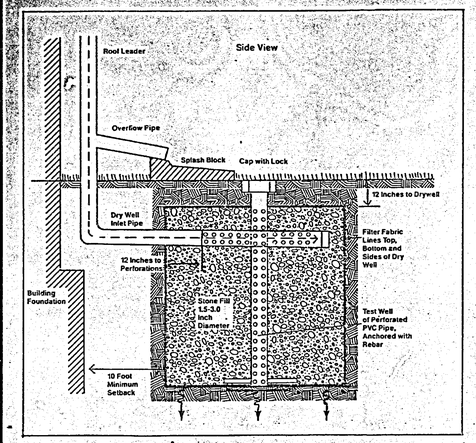
Attachment

cc: The Honorable Ronald B. Hickernell

DESIGN 4:

Dry Well Designs: (Figure 5.8) Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1984). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA,1985)



LAW FIRM
Romadka, Gontrum & Hennegan, P.A.
IRVINGTON FEDERAL BUILDING
909 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

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COUNTY BOARD OF APPEALS
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ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFTY
NANCY E. DWYER

November 9, 1989

The Honorable Lawrence E. Schmidt
Baltimore County Board of Appeals
County Office Building
Towson, Maryland 21204

Re: Oran Todd Warner,et ux.,Petitioner
Zoning Case No. 89-268-A

Dear Chairman Schmidt:

Despite the numerous attempts by Protestants to obfuscate the issue the variance case herein presented is fairly simple. Petitioners desire to convert an existing building now permitted as a storage area back to its original use as a dwelling. To do this variances are necessary from one property line and from artificial zoning lines. No subdivision of the site is proposed. Protestants have objected to the variance on the grounds that they do not want rental property on the site nor do they want to set a pattern where such fifty (50') wide lots on the south side of Illinois Avenue can be similarly used.

In order to prove a variance the Petitioner must meet the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.). This section requires the Petitioner show that strict compliance with the zoning requirements would result in practical difficulty or unreasonable hardship and that if granted that the variance would be in strict harmony with the spirit and intent of the area regulations and only in such manner as to grant relief without substantial injury to the health, safety or general welfare.

The petitioner's site is somewhat uniquely figured. Although there are numerous fifty (50) foot wide lots in Baltimore County, there are very few such lots with D.R. 5.5 zoning which have the total depth of over 377 feet. As Mr. Bernard Semon testified, from his experience such lots with such a tremendous depth are rare throughout the County. In addition, the variance requested does not involve new construction. The impact of the existing

structures can be measured. Very few lots have the placement of structures on them that can accommodate two (2) separate dwellings on them with the minimum lot size of 6,000 square feet met. As the aerial photo indicates, the lot is longer than the surrounding lots. People's Counsel makes the point that our lot is unusual in being so long. While it questions how it got to be bigger than the others, it can not refute the fact that the actual lot size is as stated on the site plan. It should be noted that one of the adjacent properties, owned by Mr. Carr one of the Protestants, is a one hundred foot (100') wide property. Mr. Carr's garage in the rear of the site already is served by water and electricity. Presumably, based on our site plan his garage could be converted to a residence without variances or public hearings. His argument is that the Board should deny his neighbor what he can have already as a matter of right.

As the Board knows, issues of zoning variance do not create precedent as each case is dependent on the factors applying to the subject property. Fears of a "domino effect" are groundless not only because legally variances do not create precedent but also because most of the fifty foot wide properties do not contain the required amount of land or have been so improved as to not lend themselves into two separate areas as does the subject property.

If the criteria for practical difficulty is examined in comparison with the criteria for undue hardship, it is clear that the requirements of proof of practical difficulty are much less stringent. For instance, in undue hardship cases which are usually associated with "use variances" it is necessary to show that there is no way for the Petitioner to obtain a reasonable use of the property without the variance; this requirement is changed for practical difficulty to whether compliance with the restrictions would unreasonably prevent compliance with the permitted use of the zoning requirements. In this case enforcement of the setbacks clearly would prevent the two dwellings allowed the site by the D.R. 5.5 zone.

The second requirement of undue hardship is that the difficulty be unique to the subject property and not to other property owners in the same district. The second requirement for practical difficulty by contrast does not even discuss uniqueness but goes to whether there is any lesser relaxation which can afford justice to all concerned. With respect to this requirement Petitioner has attempted to improve the existing conditions by means of the variance requested and the improvements offered by way of Planning Staff's comments. While we believe that the requirement of uniqueness of property has been met, we do not believe that the stringency of the requirement is applicable here.

The final requirement of undue hardship is whether the hardship was self-inflicted. This contrasts with the final requirement of practical difficulty where the requirement is whether relief can be granted in harmony with the spirit of the ordinance and with the public safety and welfare secured. McLean v. Soley, 270 Md. 208, 214-215, 310 A. 2d 783, 787 (1973) quoting 2 Rathkopf, The Law of Zoning and Planning, 45-28-29 (3d ed. (1972)).

Obviously the standard tests for practical difficulty are much less difficult to meet than are the tests for undue hardship. According to the Court in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 at 226 (1974), the reason for the distinction is that ". . . the impact of an area variance is much less drastic than that of a use variance."

Ultimately, almost all zoning variance requests can be reduced either to self-inflicted hardships or to economic hardship. As the Court recognized in McLean, however, these are not tests to be applied to area variances where practical difficulty is the standard. Prior to the decision in McLean very few zoning cases recognized the distinction between area variances and use variances and even today in the appeals courts there is a blurring of distinction as to when a variance is an area variance and when it is a use variance. In Baltimore County there are only area variances.

A case arising out of Baltimore County was the leading case which first established the distinction between practical difficulty for area variances and undue hardship for use variances. The Circuit Court for Baltimore County denied a variance for a height restriction for the Loyola Federal Building on Pennsylvania Avenue in Towson. The Court indicated that to grant it would be to grant a variance solely on the basis of economic or self-inflicted hardship; after all, the building could always be made smaller. The Court of Appeals in Loyola Loan Ass'n. v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), reversed the Circuit Court and said that the variance sought involved practical difficulty, not undue hardship, and should have been granted.

In reviewing the standards enunciated first in Soley the Court in Anderson listed numerous decisions supporting the criteria for use variances. One of the decisions listed was Easter v. City of Baltimore, 195 Md. 395, 73 A.2d 491 (1950). This decision very clearly involved a use variance request. It was also the primary state zoning case relied on in the subsequent case of Carney v. City of Baltimore, 201 Md. 129, 93 A.2d 74 (1951), cited by Peoples' Counsel. It is not clear whether that Court appreciated distinction between the standards involved in area and use variances, but it followed a use variance decision. The Carney case was not even cited in Anderson. It is clear, however, in reviewing the line of decisions that started with Loyola Loan Ass'n. and continuing through Soley and Anderson that the more recent thinking has been not to apply the economic and self-inflicted hardship tests to cases of area variances where practical difficulty is the standard. Park Shopping Center v. Lexington Park Theatre Co., 139 A.2d 843 (1958), also cited by Peoples' Counsel, is explicitly a use variance case, and consequently, is not on point with the subject variance petition.

If the third prong of the practical difficulty test is applied to that subject case, then clearly the evidence indicates that if the variance were to be granted there would be no injury to public safety or to public welfare and that the spirit of the regulations would be observed. The variances sought are primarily from lines imposed on the interior of the lot. Only one variance is from a sideyard not actually part of the lot. In considering this variance from the Carr property line several factors should be examined. First, the subject building existed as a dwelling when the neighboring properties were purchased. The subject building has a long history as a dwelling in its present location and proximity to adjacent properties. Clearly, it was never considered a hazard before this case to the safety or general welfare. Second, the Carr residence is located far from the subject building. In closer proximity are two storage sheds and a garage served by public water and electricity according to the testimony. The closest residences to the subject building are the existing dwelling on the lot and a dwelling across the street whose owner submitted a letter to the Board in favor of the variance requested. Finally, the restrictions suggested by the Office of Planning and Zoning and agreed to by the Petitioners would improve the existing condition of the subject property and its relationship to the neighboring properties. As the staff indicated, it has not had the opportunity of fully reviewing the revised plan prior to the issuance of its first comments and did not appreciate what was intended. The revised plat with the comments would afford the neighbors a better building and better landscaping than what exists.

Although the primary argument of Protestants appeared to be that the placement of two dwellings on the lot would be an overcrowding of the land, no area variance from the minimum lot size allowed by the zoning regulations has been sought. Also no new building is being sought. Had such a variance been required then depending on the configuration requested such an argument might be pertinent. The argument of Protestants seems to go more to the existing zoning and what is allowed than with the variances requested by Petitioners.

The argument that there is not enough land to support the variance requested is specious. The site plan submitted by Petitioners clearly shows enough land on the site to support two dwellings. As all the testimony indicated, the land clearly does exist. No testimony was offered that the land does not belong to the subject property. Mr. Lee and the Petitioner both testified as to what the measurements of the property actually existing. What happens when we start deleting chunks of it clearly is not relevant, for it denies the obvious. If the land had been eroded since the record plat such that what now exists was less than what was there, we would not be able to "reclaim" what is in the state's domain to obtain the necessary land size. The only fact that is pertinent is what is out on the site at this time. Clearly the entire property has been improved and is utilized. People's Counsel also overlooks the fact that the Section 101 of the zoning regulations does define "area, net" as the area of a lot not under streets or public rights of way. According to the regulations Section 1B02.3C.1 only "net area" may be considered on minimum lot size; so that for the purpose of obtaining the required 6,000 square feet, Petitioner can not add the area under Iroquois Avenue. For the purposes of overall density, however, Petitioner could add the additional 500 square feet under half of the Avenue. As the Board well knows from its review of many C.R.G. plans, density is always calculated based on the "gross acreage". That is the main reason why zoning lines go to the centerline of streets. The R.O. zoning also utilizes the distinction between gross and net lot size for its various area requirements. Lot size, therefore, is simply not a factor here.

The definition of "neighborhood" used by Protestants also is not apt. How can a neighborhood be defined to include only one side of a block in a platted subdivision? Of course, Protestants had to take this line of argument since there are several other cases of two or three dwellings per lot right across the street and in adjacent blocks. As the pictures and testimony both of Petitioner and by Mr. Semon indicate, the proposal of Petitioners is not out of character with other lots within the subdivision.

Many of the issues previously discussed come down to what the actual impact will be. As was mentioned above, Mr. Carr can build another dwelling on his lot or convert his garage to a dwelling in all likelihood without any public hearing. Similarly Petitioners could add rooms onto their house for additional people without any hearings. The impact, therefore, of an additional dwelling is minute. What Petitioner is seeking by converting the existing building will not result in any further development. In fact the existing carport will be removed. More open space rather than less will result. As an alternative to the variances Petitioners could add on to their existing house, tear down the garage and build a new one or a shed or several sheds or a swimming pool all without public hearings or control. By submitting a site plan and by complying with the restrictions proposed by Planning Staff, Petitioners are choosing instead to limit further development of their site and to improve on an existing condition. The actual impact of the variances if granted will result in an upgrading in appearance of the existing structure, more landscaping and a more environmentally sound scheme of development on the site than that which currently exists or which could otherwise exist at no sacrifice to the neighborhood safety or welfare as limited by the existing density allowed.

We believe that the restrictions proposed by Planning Staff will significantly improve the conditions on the property. By submitting to a site plan which can only be amended after public hearing Petitioners have insured to a far greater extent than others in the neighborhood without such restrictions that the development of their site will result in an improvement in the quality of life. This will comport not only with the specific intent of the zoning regulations but with the general philosophy of all zoning regulation that the property be left a little better by the regulations. The Board has recognized this principle in other cases. We contend that Petitioners are offering more to the community than which now exists or might exist under other ownership, and that factor is important.

In conclusion, we believe that the standards of practical difficulty have been met and that as indicated by the comments of County staff, the evidence, the testimony by the experts and witnesses, the petition and letters of neighbors offered by Petitioners that granting the variance as requested and as limited will be in harmony with the public welfare.

Respectfully,

Code **Enforcement**

Baltimore County
Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

* * * * * WARNING NOTICE* * * *

CASE NUMBER C-96-2152 ELECTION DISTRICT: 15

LOCATION:7509 IROQUOIS AVENUE
OWNER:ORAN & DOROTHY WARNER
SUBJECT:VARIANCE CASE NUMBER 89-268-A

DEAR OWNER/OCCUPANT:

PLEASE BE ADVISED THAT IT HAS BEEN ALLEDGED THAT YOU ARE RENTING THE (ORIGINAL DWELLING) ACCESSORY STRUCTURE/GARAGE IN VIOLATION OF A ZONING ORDER WRITTEN BY DEPUTY ZONING COMMISSIONER ANN NASTAROWICZ, ON FEBRUARY 6,1989, APPEALED AND REDENIED BY THE BALTIMORE COUNTY BOARD OF APPEALS ON JANUARY 11,1990.

CEASE THE IMPROPER USE OF THE (ORIGINAL DWELLING) ACCESSORY STRUCTURE/GARAGE.

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CONTACT THIS OFFICE AT 887-5681. FAILURE TO COMPLY MAY RESULT IN THE ISSUANCE OF A CITATION WHEREIN YOU ARE SUBJECT TO A CIVIL PENALTY OF $200.00 FOR EACH VIOLATION, AND EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION (CIVIL PENALTY BILL #132-85).

INSPECTOR: WASILEWSKI January 30, 1996

111 WEST CHESAPEAKE AVENUE

TOWSON,MARYLAND 21204

1/24
10:45
Jim 96-2152 -
Close 1/2/96
Rosemary Scott
477-3645
7509 Iroquois Ave.
Len's
living in garage

1/24
11:25
Jim
Rosemary Scott
477-3645
89-~~268~~ 268A

METRIC MAP OF
METROPOLITAN AREA

REVISIONS
BY | DATE

SCALE 1" = 200'

DATE OF PHOTOGRAPHY DEC. 1954

LOCATION LODGE FOREST

SHEET S.E. NW

Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP. LANSING, MICH.

E 45,000 | E 46,500 | E 48,000

LOT 1145 REVISED PLAT
LODGE FOREST
PLAT BOOK A/G-57
15TH DISTRICT BALTIMORE CO., MARYLAND
SCALE: 1" = 50'
DATE 8-15-57 9-12-57

FRANK S. LEE
1217 NEIGHBOR AVE.
BALTIMORE, MD. 21237

OLD ROAD BAY

TRAILER COURT

CONDOMINIUM

HEADLAND ROAD

DOWN ROAD

WAYNE ROAD

RECEIVED
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89-268-A
Petitioners
#1

89-268-A Petitioners #14

OLD ROAD

BAY

SHORE ROAD

ABANDONED RAILROAD

POINT

A-NE
A-SE

E 48,000 | E 48,500 | E 49,000 | E 49,500

PHOTOGRAPHED
BALTIMORE COUN

REVISED PLAT 9/82-87

LODGE FOREST

DEVELOPED BY
REALTY DEVELOPERS INC
1520 N. CHARLES ST. PHONE VERNON 7482
BALTIMORE MD.

SURVEYED & LAIDOUT BY
J. SPENCE HOWARD
CIVIL ENG'R S. BALTO MD
SCALE 200'to1" JUNE 15, 1922
BOOK 163 FILE 147

ROAD
POINT
NORTH
CENTER
WATER
FRONT
GROVE
LONG COVE
SOUTH
OAK
CLUB
COVE
BROOKLYN
PATAPSCO
BALTIMORE
ANNE ARUNDEL

L'ONG COVE POINT

NORTH BAY ROAD

C R E E K

P A T A P S C O

ORDER RECEIVED FOR FILING
Date 1/6/82
By [illegible]

[illegible] is ordered this [illegible] day of [illegible], that the above-mentioned Petition be and the same is hereby [illegible] in accordance with the Petitioner's request, and that the Petitioner shall forthwith cause the [illegible] to be posted on the property in question as required by the Zoning Regulations of Baltimore County.

It is further ordered that Petitioner shall, at his own cost and expense, cause the original building located in front of the subject property to be used as a second dwelling unit and/or apartment. This accessory structure will contain one fully equipped dwelling quarters, and no kitchen or bath room facilities, other than those already referred to in the permit issued for the conversion of the subject building.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Petition for Zoning Variance
NW/corner Todd's Avenue, 305' East of the c/l of Baynard Road
(7509 Iroquois Avenue)
15th Election District
Oscar Todd Warner, et ux - Petitioners
Case No. 89-268-A

January 6, 1982

Mr. Oscar Todd Warner
7509 Iroquois Avenue
Baltimore, Maryland 21219

Dear Mr. Warner:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Mr. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mrs. Rosemary Shaw
7511 Iroquois Avenue, Baltimore, Md. 21219

Mr. Lee Carr & Mrs. Lynne Carr
7505 Iroquois Avenue, Baltimore, Md. 21219

Mrs. Noona Blusiewicz
7513 Iroquois Avenue, Baltimore, Md. 21219

Mrs. Clara Hicks
7515 Iroquois Avenue, Baltimore, Md. 21219

People's Counsel
File

PETITION FOR ZONING VARIANCE

#715

[illegible] Baltimore County

[illegible] Zoning Regulations of Baltimore County, to the Zoning Commissioner of Baltimore County, for the property located as follows:

[illegible]

and which is described in the description and plat attached hereto and made a part hereof,

hereby petition for a Variance from [illegible] Section [illegible] to permit

House already existing on proposed lot #2 when property was purchased. Need to right of way to access to proposed lot #2.

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:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

Oscar Todd Warner
(Type or Print Name)

Oscar Todd Warner
Signature

Dorothy Lorraine Warner
(Type or Print Name)

Dorothy Lorraine Warner
Signature

7509 Iroquois Ave. Phone No.

Baltimore Md. 21219
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of December, 1981, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 17th day of January, 1982 at 9:45 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

#715

Critical Area

Zoning Description

Beginning on the South side of Iroquois Ave. at the distance of 37.00 ft. from the corner of Iroquois Ave. and west of the centerline of Todd Ave.

[illegible] Co. vs. [illegible] Co. et al., 243 Md. 643

[illegible] Commissioners — Approval of [illegible] — Authority of [illegible] Board — Grant of [illegible] Variance — Whether Commissioners Have Power to Grant Variance — Grounds for Variance — Whether Evidence Supports Grant of Variance — Whether Commissioners Have Power to Impose Conditions on Grant of Variance — Whether Condition Imposed Is Reasonable — Whether Condition Is Void for Uncertainty.

[illegible] Co. et al. v. [illegible]

Following parties notified of hearing set for August 31, 1989 at 10:00 a.m.:

Mrs. Thos. Orem
Rosemary Shkor
Leon Lynch Carr
Moose Blum/Eisen
Glenn Hicks
People's Counsel
P. David Fields
Pat Keller
Robert Haines
Jim Hi/Nastarowicz
James Thompson
Docket Clerk - Zoning
Arnold Jablon, County Attorney

8/15/89 - Continuance (postponement) granted at request of Counsel for Petitioners - case to his attention plan to file a hearing to resolve settlement of case set 10/10/89 hearing. (To check w/Bob if not use 11/09/89). in for 10/10/89 to see what date available, if not use 11/09/89).

7/7/89 - Above parties notified of hearing set for October 10, 1989 at 10:00 a.m.

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222

December 29, 19 88

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case #89-268-A - P.O. #07787 - Req. #M25125 - 86 lines was inserted in *The Dundalk Eagle* a weekly newspaper published in Baltimore County, Maryland, once a week for one ~~xxxxxxx~~ week before the 30th day of December 19 88 ; that is to say, the same was inserted in the issues of Dec. 29, 1988

Kimbel Publication, Inc.
per Publisher.

By K.E.D.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

89-268-A

District 15th
Posted for: Appeal
Petitioner: Oren Todd Warner, et ux
Location of property: SS Iroquois Ave., 505' SE of Bay Front Rd. 7509 Iroquois Ave.
Location of Signs: Facing Iroquois Ave., appx. 5' Fr. roadway & Fr. property of Petitioners
Remarks:
Posted by: [illegible] Date of Posting: 3/21/89
Number of Signs: 2

IN RE: PETITION FOR ZONING VARIANCE
S/S Iroquois Avenue, 505' SE C/L Bay Front Road (7509 Iroquois Avenue)
Oren Todd Warner, et ux
Petitioner

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
CASE NO. 89-268-A

APPEAL

DEAR ZONING COMMISSIONER:

Please enter an appeal to the Board of Appeals for Baltimore County in the above referenced case on behalf of the Petitioner.

John B. Gontrum
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Essex, Maryland 21221
686-8274
Attorney for Petitioner.

I HEREBY CERTIFY that on this 2nd day of March, 1989, a copy of the foregoing Appeal was mailed, postage prepaid to People's Counsel for Baltimore County, Room 304, County Office Building, Towson, Maryland 21204; Rosemary Shkor, 7505 Iroquois Avenue, Baltimore, Maryland 21219, Lea and Lynda Carr, 7503 Iroquois Avenue, Baltimore, Maryland 21219, Noona Moose, 7501 Iroquois Avenue, Baltimore, Maryland 21219, and Oren Todd Warner, 7509 Iroquois Avenue, Baltimore, Maryland 21219.

John B. Gontrum

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

No. 056000

DATE 3-2-89 ACCOUNT 001-006-6150
AMOUNT $ 70.00
RECEIVED John B. Gontrum
FOR Appeal Filing Case # 89-268-A
Oren Todd Warner, et ux
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
VALIDATION OR SIGNATURE OF CASHIER

IN RE: PETITION FOR VARIANCE
S/S Iroquois Ave., 505' SE C/L Bay Front Rd. (7509 Iroquois Ave.) 15th Election District
7th Councilmanic District
OREN TODD WARNER, et ux, Petitioners

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 89-268-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
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 6th day of January, 1989, a copy of the foregoing Entry of Appearance was mailed to Mr. and Mrs. Oren Todd Warner, 7509 Iroquois Ave., Baltimore, MD 21219, Petitioners.

Peter Max Zimmerman

CERTIFICATE OF PUBLICATION

DUPLICATE

TOWSON, MD., January 19 89

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 December 29, 1988.

THE JEFFERSONIAN,

S. Zeke Orlinsky
Publisher

PO 07788
R# H45124
case 89-268-A
price $35.63

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

89-268-A

District 15th
Posted for: Appeal
Petitioner: Oren Todd Warner, et ux
Location of property: SS Iroquois Ave., 505' SE of Bay Front Rd. 7509 Iroquois Ave.
Location of Signs: Facing Iroquois Ave., appx. 5' Fr. roadway & Fr. property of Petitioners
Remarks:
Posted by: [illegible] Date of Posting: 11/6/89
Number of Signs: 2

Date of return: 11/8/89

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

December 9, 1988

Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition For Special Hearing
CASE NUMBER: 89-268-A
SS Iroquois Avenue, 505' SE c/l Bay Front Road
7509 Iroquois Avenue
Petitioner(s): Oren Todd Warner, et ux
Hearing: Tuesday, January 17, 1989 at 2:00 p.m.

Variance to allow a buildable lot with a width of 40 feet and a side yard setback of 21 feet in lieu of the required 55 feet and 10 feet, respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Peter Max Zimmerman
People's Counsel
Robert Haines
Zoning Commissioner
File

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: Pete Zimmerman, Deputy Peoples Counsel — October 10, 1989
Joseph Nolan, Permits & Licenses
Ann Nastarowicz, Deputy Zoning Commissioner
James Thompson, Zoning Enforcement

FROM: W. Carl Richards, Jr., Zoning Development Control

SUBJECT: Permit #94673 (MR)
7905 Iroquois Avenue
15th Election District

In answer to the questions presented in Mr. Zimmerman's October 15th memo (attached) to Mr. Nolan and myself and as verbally answered by myself last week; if the dwelling construction has commenced or at the very least prior to occupancy of the new dwelling and the 21' by 41' building was not physically converted to a shed/storage building, obviously the conditions of the permit approval were not met. Notwithstanding any later zoning hearing applications, obviously the zoning approval of the permit in good faith is invalid when the specific conditions were not satisfied.

The Deputy Zoning Commissioner denied the variances on February 6, 1989; therefore, there could be no further zoning approvals until the work stated was completed. If this office denies any future permit applications on the property, this denial could also be appealed to the Board of Appeals.

WCR:scj

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

W. Carl Richards, Jr., Zoning
TO Joseph N. Nolan, Permits & Licenses Date August 15, 1989

FROM Peter Max Zimmerman, Deputy People's Counsel

SUBJECT Oren Todd Warner, et ux, Petitioners
Zoning Case No. 89-268-A (Item 115)

In 1987 a permit was approved to build a new dwelling on condition that the existing dwelling be converted to a shed upon occupancy of the new dwelling. The new dwelling is occupied, but the Petitioner is now requesting zoning variances to maintain the old building as a dwelling.

Does the filing of this petition invalidate the attached Permit No. 94673? In the alternative, would the grant of the variances for the existing dwelling invalidate the permit?

If the permit is not invalidated, does this mean that the new zoning case would supersede the provision in Permit No. 94673 that requires conversion to a shed?

I should appreciate your thoughts on this subject and a call at your earliest convenience.

Peter Max Zimmerman
Deputy People's Counsel

Enclosures

PMZ:sh

Carl: We would like your reply before 9/1/89 on this lot. Thanks Shirley

CPS-003

Baltimore County, Maryland
BOARDS & COMMISSIONS
MOOSE 504, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-3180

RECEIVED
OCT 17 1989
ZONING OFFICE

PETER MAX ZIMMERMAN
People's Counsel

October 13, 1989

Lawrence E. Schmidt
Zoning Commissioner
County Office Building
Towson, Maryland 21204

RE: Petition for Zoning Variance
S/S Iroquois Avenue, 505' SE of the c/l of Bay Front Road
15th Election District - 7th Councilmanic District
(7509 Iroquois Avenue)
OHAN TODD WARNER, ET UX - Petitioner
Case No. 89-268-A

Dear Larry:

Please be advised that an appeal of the above-referenced case was filed in this office on March 3, 1989 by John B. Gontrum, on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Peter Max Zimmerman
People's Counsel

cc: John B. Gontrum, Esquire
Lawrence E. Schmidt, Zoning Commissioner
Ann McLaughlin-Westercott, Deputy Zoning Commissioner

PMZ:mjh

- 1 -

The Honorable
Lawrence E. Schmidt
Panel Chairman
County Board of Appeals

October 13, 1989

The result in this case is that we have a recorded lot of 15,800 square feet, slightly more than one-third of an acre. It is smaller in size to 5-1 other recorded lots on Iroquois Avenue, all of which are 50 feet by the 5.3 density units permitted per acre produces a number less than two. This means that the recorded lot does not have sufficient density even to qualify for application for a variance. Even if it is assumed for the sake of argument that there has been a policy or tolerance for the area calculations, this could not overcome the clear language of the law and the logic of the situation. See Miller v. Poetry Home Building, Inc., 62 Md. App. 320 (1985).

The bottom line is that this petition rather than the split not the language of the regulations on density controls. It is necessary to add that Section 307 of the regulations does not allow density variances.

I, the Chairman, the Government exercise frequently issue approvals based on conditions or commitments of the applicant. There may occasionally be a change in circumstances which would explain a need to amend the conditions. Ordinarily, such a change would have to be major and take place over a period of substantial time. There is no good explanation to the present case. The applicant obtained a building permit for his new house, based on the conditions as they then were. There is no occupancy, the old house would be constructed to a shed. This very commitment negates a claim of hardship or practical difficulty. It is crystal clear that the petition is an attempt to circumvent existing law by the device of multiple variances. In retrospect, it is unclear why a variance was not required for the construction of the new house on this narrow lot. Examples the use of Baltimore's property and its lot's commitments.

I, Elder Implications. As the variance arose in Baltimore County, and owners desire new and more modern homes, the concern for density up on density has been attended increasingly. On October 3, 1989, the Zoning Commissioner approved a variance in the Jodie Farm Subdivision, also on old Road Bay. The approval was conditioned on the idea that this garage would not be converted to a second dwelling unit. A copy of the opinion in the case of Ocotan Library, No. 89-9-A, is attached.

The Board of Appeals is facing here a fundamental question as to the future development of the Baltimore County waterfront. If the dwellings of recreational use or density is allowed in this case, there is absolutely no reasonable basis for distinguishing similar

- 2 -

The Honorable
Lawrence E. Schmidt
Panel Chairman
County Board of Appeals

October 13, 1989

variances on other properties, whether the structures be new or old. This was not a stated of grounds for variance in the Board's Zoning Regulations, as approved such a variance as is presented here.

5. Lack to Basics. Finally, it is necessary to reiterate that there was not a showing of practical difficulty or unreasonable hardship for the property (5467) was issued on the condition that the existing structure was not completed to a shed upon completion of the new dwelling. Such a condition was clearly to avoid the very variance which is now requested. The Zoning Commissioner, in fact, would allow the petitioner to circumvent the adverse effect of this provision by itself and as a precedent. Upon this entire record, the evidence is compelling that the Petitioner has not satisfied the strict requirements for a variance.

Very truly yours,

Peter Max Zimmerman
Deputy People's Counsel

cc: John B. Gontrum, Esquire
Lawrence E. Schmidt, Zoning Commissioner
Ann McLaughlin-Westercott, Deputy Zoning Commissioner

PMZ:mjh

- 3 -

1. Applications. Pursuant to the petition filed by Ohan Todd Warner, et ux, Petitioner
Zoning Case No. 89-268-A

Hearing of the Petitioner (Ohan Todd Warner) granted and specific to this
Hearing held on the Final Argument with some
Board of Appeals
Case No. 89-268-A
Petitioner(s)
Location of property
Zoning Plat(s) filed
Date of Hearing
Zoning Commissioner's Order
Petitioner's Attorney
Protestant(s)

Testimony and Evidence

Petitioner's Exhibit 1 - Plat to accompany petition
Petitioner's Exhibit 2 - Photographs
Petitioner's Exhibit 3 - Photographs
Petitioner's Exhibit 4 - Photographs
Petitioner's Exhibit 5 - Photographs
Petitioner's Exhibit 6 - Photographs
Petitioner's Exhibit 7 - Photographs
Petitioner's Exhibit 8 - Photographs
Petitioner's Exhibit 9 - Photographs
Petitioner's Exhibit 10 - Photographs
Petitioner's Exhibit 11 - Photographs
Petitioner's Exhibit 12 - Photographs
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Petitioner's Exhibit 99 - Photographs
Petitioner's Exhibit 100 - Photographs

Public Comments

Protestant's Exhibit 1 - Photographs
Protestant's Exhibit 2 - Photographs
Protestant's Exhibit 3 - Photographs
Protestant's Exhibit 4 - Photographs
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Miscellaneous

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Petitioner's Exhibit 77 - Photographs
Petitioner's Exhibit 78 - Photographs
Petitioner's Exhibit 79 - Photographs
Petitioner's Exhibit 80 - Photographs
Petitioner's Exhibit 81 - Photographs
Petitioner's Exhibit 82 - Photographs
Petitioner's Exhibit 83 - Photographs
Petitioner's Exhibit 84 - Photographs
Petitioner's Exhibit 85 - Photographs
Petitioner's Exhibit 86 - Photographs
Petitioner's Exhibit 87 - Photographs
Petitioner's Exhibit 88 - Photographs
Petitioner's Exhibit 89 - Photographs
Petitioner's Exhibit 90 - Photographs
Petitioner's Exhibit 91 - Photographs
Petitioner's Exhibit 92 - Photographs
Petitioner's Exhibit 93 - Photographs
Petitioner's Exhibit 94 - Photographs
Petitioner's Exhibit 95 - Photographs
Petitioner's Exhibit 96 - Photographs
Petitioner's Exhibit 97 - Photographs
Petitioner's Exhibit 98 - Photographs
Petitioner's Exhibit 99 - Photographs
Petitioner's Exhibit 100 - Photographs

IN RE: PETITION FOR ZONING VARIANCE
S/S Avenue B at end of driveway,
438'+/- W of Road
(9117 Avenue B)
15th Election District
5th Councilmanic District
Gordon L. Diven, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-9-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

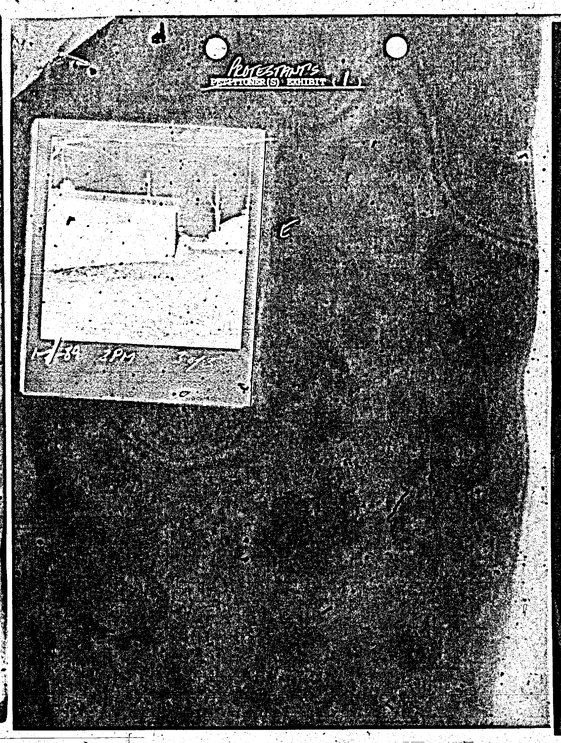
The Petitioners herein request a variance to permit a rear yard setback of 15 feet in lieu of the required 30 feet for a proposed garage as more particularly described in Petitioner's Exhibit 1 and appended Exhibits 1A and 1B.

The Petitioners appeared and testified. Also appearing on behalf of the Petition was Gordon L. Diven, Sr., Petitioner's father. Thomas Diven, Petitioners' nephew and adjoining property owner, appeared and testified as an interested party.

Testimony indicated that the subject property, known as 9117 Avenue B, consists of 0.34 acres zoned D.R. 5.5 and is improved with a single family dwelling and detached wooden shed. Said property is located within the Chesapeake Bay Critical Areas in the subdivision known as Todd's Farm on Old Road Bay. Testimony indicated Petitioners are desirous of constructing a garage attached to the principal dwelling by a breezeway as set forth in Petitioner's Exhibit 1B. Petitioners testified the existing garage foundation was constructed on the northwesterly side of the house at a time when the front door of the house was located on the northeasterly side. Subsequent to the construction of the aforementioned foundation, the front door of the dwelling was moved to the side of the house fronting Avenue B. Testimony indicated Petitioners applied for a building

Protestants Exhibit No. 1

Protestants Exhibit No. 1



NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

January 16, 1989

Ms. Ann M. Nastarowicz
Deputy Zoning Commissioner
Baltimore County Office
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Deputy Zoning Commissioner Nastarowicz:

RE: Zoning Hearing - 89-268-A; #115
7509 Iroquois Avenue-15th District
7th Councilmanic
Petitioner: Oren Todd Warner, et ux

During the January 5, 1989 meeting of the North Point Peninsula Community Coordinating Council, the subject zoning variance was discussed. It was unanimously voted to support the residents who oppose this variance.

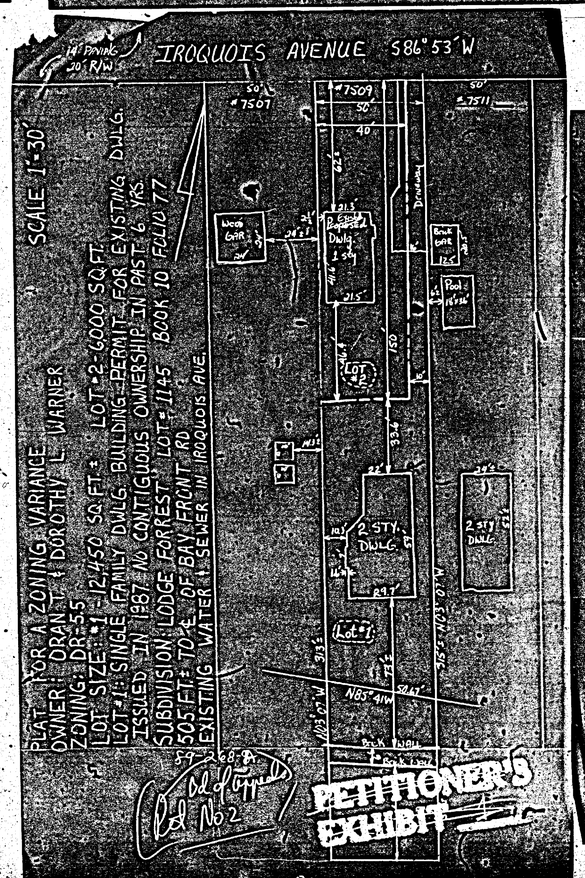
The reasons why we oppose this zoning variance are:

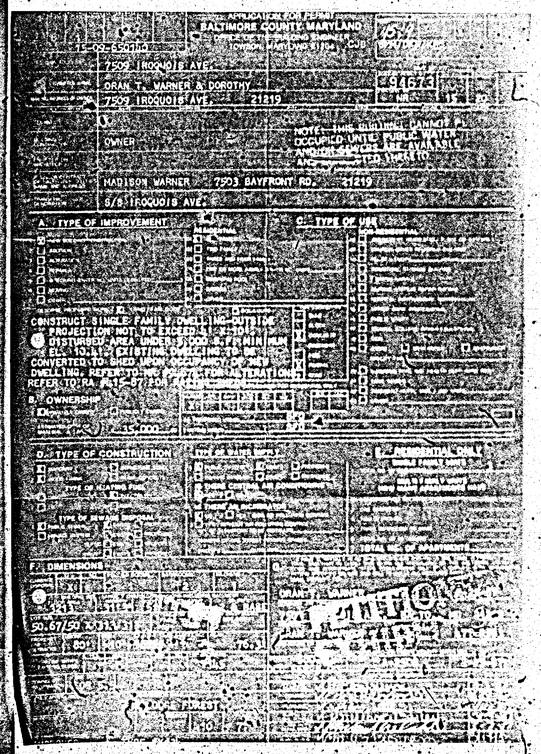
1. being waterfront property, and in the Critical Area Zone, we must preserve this area and
2. property in the Lodge Forest area is all DR5.5, with most lots 75-100 feet and to allow this size lot variance would not be compatible with the area.

Please consider this Council's opposition, when rendering a decision. Thank you for your consideration.

PROTESTANTS EXHIBIT 2

Sincerely,
Betty J. Shindle
(Miss) Betty J. Shindle
Corresponding Secretary
6605 North Point Road
Baltimore, Maryland 21219





Merrill Lynch Realty

Chris Colis, Inc.

COMPETITIVE MARKET ANALYSIS

Owner(s): Oren Noreen Warner
Sales Associate: Dale Schulz
Property Address: 7509 Iroquois Ave. Balto. Md. 21219 Date: January 15,1989

Comparable Homes Currently For Sale

	Price	Address	Bedrooms	Baths	Sq. Ft.	Design	Parking	How long listed
1.	35,000	202 S Woodlawn	2	1/0		Cottage		
2.	60,000	7502 Sparrows Pt.	2	1/0		Bungalow		
3.	65,000	2802 8th St.	2	1/0		Bungalow		
4.								
5.								

Comparable Homes Sold

	Price	Address	Bedrooms	Baths	Sq. Ft.	Design	Parking	How long listed
1.	50,000	2810 2nd St.	1	1/0		Bungalow		
2.	47,000	5915 Riverdrive	1	1/0		Bungalow		
3.	46,000	2323A Sparrows Pt. Rd.	1	1/0		Bungalow		
4.								
5.								

Owner's Home

Market Value	Address	Bedrooms	Baths	Sq. Ft.	Design	Parking	Comments
55,000	7509 Iroquois Ave.	1	1/0		Bungalow		WATERVIEW all brick fireplace

NOTE: In comparison to previous sales and homes available it is felt the current market value is $55,000.00

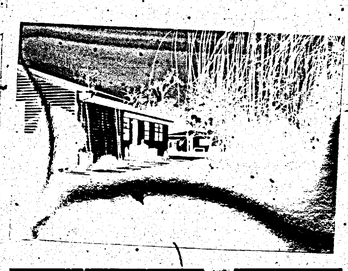
Chris Colis Inc. Realtors

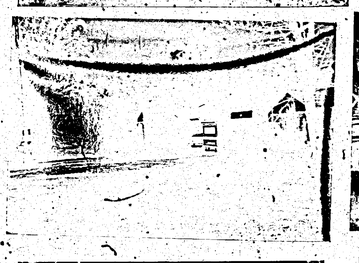
PETITIONER'S EXHIBIT #4

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Rosemary Ahlers	7511 Iroquois Ave.
Lee Ahlers	7505 Iroquois Ave.
Lynda L. Case	7505 Iroquois Avenue
None [illegible]	7519 Iroquois ave.
Rosa Hicks	7515 Iroquois Ave.





BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

1-10-90 JED

Talked with Neil Gurwell on 1/9/90 & Oran Todd Warner spoke with him 1/9/90

TO: James E. Dyer, Zoning Supervisor — Date: January 9, 1990

FROM: Peter Max Zimmerman, Deputy People's Counsel

SUBJECT: Lot Measurement Issue
Oran Todd Warner, et ux, Petitioners
Zoning Case No. 89-268-A

RECEIVED JAN 10 1990 ZONING OFFICE

Thank you very much for taking the time to clarify the question of lot measurement under the zoning regulations. Your experience and knowledge in this matter are invaluable and your memoranda have been very helpful.

I should add that the issue came up when it was suggested by the Petitioner in the Warner case that it was customary at least to include half the roadway in the lot measurement. There was also never any real effort to determine what part of the waterfront fill area was beyond mean low water. The Petitioner's engineer had included the fill in the lot area, and during the case it was argued that one-half of Iroquois Avenue should be included.

The dispute in this case causes me to wonder whether or not property owners are including in thier lot calculations roadway and waterfront areas which should not be included. As I noted, the Petitioner claimed that roadways are always included. As to the waterfront, the mean low water might require a field verification.

As you noted, the definition of net area in the regulations under BCZR 101 is very clear as to the exclusion of land in public streets. I wonder whether any additional clarification, amendment or policy would be worthwhile on the measurement of the waterfront boundary?

Peter Max Zimmerman
Deputy People's Counsel

P.S. After the above was written, I noticed that the area to the centerline of the road was again an issue in the Terrace Dale Associates Limited Partnership case, No. 90-108-SPHXA, and was rejected. Evidently, there is a common belief that the roadway area can be included by property owners in calculations despite the very clear language which you have pointed out.

cc: Pat Keller
J. Robert Haines

PMZ:sh

CPS-008

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

12-12-89 JED

TO: James E. Dyer, Zoning Supervisor — Date: December 12, 1989

FROM: Peter Max Zimmerman, Deputy People's Counsel

SUBJECT: Zoning Case #89-268-A
Oran Todd Warner, et ux, Petitioners

Thank you for your memorandum of December 4th. It was not suggesting that Sections 1B02.3.A.3 and 1B02.3.C.1 were inapplicable. My intention in referring to Section 1B01.2 was to understand the general idea in measuring lot sizes.

The question remains, for the purpose of measuring lot size, should we include:

1. Any filling of the shoreline at about water line, in this case a landing which is far below the elevation of the main property and which is flooded frequently?

2. The area between the lot boundary and the center of the street?

As you note, we were dealing here with a single lot. Of course, even if it were an entire subdivision, you have the question of the inclusion of perimeter streets in the density calculations.

I would be most interested in your further thoughts on this subject.

Peter Max Zimmerman
Deputy People's Counsel

cc: Pat Keller

PMZ:sh

RECEIVED DEC 13 1989 ZONING OFFICE

CPS-008

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Peter Max Zimmerman, Deputy People's Counsel — December 4, 1989

FROM: James E. Dyer, Zoning Supervisor

SUBJECT: Zoning Case #89-268-A
Oran Todd Warner, et ux, Petitioner

Having failed to contact you over the phone, I felt that I should advise you in writing of an error in your letter to the Board. Said memo indicates that the subdivision of the property in question is subject to the density requirement of Section 1B01.2 which I believe to be inaccurate; i.e., since the property in question is not large enough to develop six or more lots, it is subject to the regulation for small lot/tract development, Sections 1B02.3.A.3 and 1B02.3.C.1 (D.R.-3.5 in the Table).

Should you have any questions or like to discuss the above, please do not hesitate to contact me.

JED:scj

cc: Honorable Lawrence E. Schmidt
Panel Chairman, Board of Appeals

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Peter Max Zimmerman, Deputy People's Counsel — December 26, 1989

FROM: James E. Dyer, Zoning Supervisor

SUBJECT: Zoning Case #89-268-A
Oran Todd Warner, et ux, Petitioner

Your memo of December 12, 1989 still leaves some question in my mind as to your understanding of the zoning regulations that are applicable to the above referenced zoning case. In order to clarify your position, you indicate that your intention in referring to 1B01.2 was to understand the general idea in measuring lot sizes. Section 1B01.2 is not applicable and has no bearing on the measurement of the lot size. Should you read these regulations carefully you will note that Section 1B01.2 does not establish any lot area requirement, whereas 1B02.3C.1 specifically determines a minimum lot width and specific front, side and rear setbacks. Not withstanding the above you ask the following questions:

"For the purpose of measuring lot size, should we include:

1. Any filling of the shoreline at about water line, in this case a landing which is far below the elevation of the main property and which is flooded frequently?

2. The area between the lot boundary and the center of the street?"

Peter Max Zimmerman
December 26, 1989
Page 2

Your memo also states "...we were dealing here with a single lot. Of course, even if it were an entire subdivision, you have the question of the inclusion of perimeter streets in the density calculations."

I would like to state, for purposes of clarity, that an entire subdivision can include 100 lots or it can include 2, 3 or 4 lots. In the instance case, we are dealing with a 2 lot subdivision and this subdivision comes under the aforementioned regulation 1B02.3C.1 and is subject to the minimum lot size, lot widths and setback requirements as specifically stated in the aforementioned Section. As you will also note, upon reviewing this particular regulation, the minimum lot area is based upon the net lot area and, therefore, would not include one-half of the perimeter streets. It is also my understanding that in determining the net lot area of a waterfront property, no part of the lot that lies beyond mean low water should be included in the area calculation.

This memo is offered in the spirit of a mutual understanding of the zoning regulations in order that we may fairly present our understanding of the Zoning Regulations to the Board of Appeals. Should you have additional questions, I would be most happy to set down and discuss same with you at your convenience.

JED:scj

cc: Pat Keller

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

March 15, 1989

Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Zoning Variance
S/S Iroquois Avenue, 505' SE of the C/1 of Bay Front Road
(7509 Iroquois Avenue)
15th Election District, 7th Councilmanic District
ORAN TODD WARNER, ET UX - Petitioner
Case No. 89-268-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on March 3, 1989 by John B. Gontrum, on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Oran Todd Warner
7509 Iroquois Avenue, Baltimore, Md. 21219

John B. Gontrum, Romadka, Gontrum & Hennegan
809 Eastern Boulevard, Essex, Maryland 21221

Rosemary Shkor, 7511 Iroquois Avenue, Baltimore, Md. 21219

Lea & Lynda Carr, 7505 Iroquois Avenue, Baltimore, Md. 21219

Noona Blusiewicz, 7519 Iroquois Avenue, Baltimore, Md. 21219

Clara Hicks, 7515 Iroquois Avenue, Baltimore, Md 21219

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

January 11, 1990

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: Case No. 89-268-A
Oran Todd Warner, et ux

Dear Mr. Gontrum:

Enclosed please find the final Opinion and Order of the County Board of Appeals issued this date in the subject case.

Sincerely,

Lindalee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Oran T. Warner
People's Counsel for Baltimore County
Ms. Rosemary Shkor
Mesdames Lea and Lynda Carr
Ms. Noona Blusiewicz
Ms. Clara Hicks
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LAW FIRM
Romadka, Gontrum & Hennegan, P.A.
IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN G. HENNEGAN
DONALD H. SHEFFY
NANCY E. DWYER

October 25, 1989

Lawrence E. Schmidt, Esquire
Board of Appeals
200 Courthouse
Towson, Maryland 21204

Re: Oran Todd Warner, et ux, Petitioner
Zoning Case No. 89-268-A

Dear Mr. Schmidt:

We certainly appreciate your granting us the opportunity to respond to the letter-memorandum filed by People's Counsel in the above-referenced case. We hope to have our response to this filed by the end of the month.

Thanks again for your courtesy.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Peter Zimmerman, Esquire
Oran Warner

RECEIVED COUNTY BOARD OF APPEALS 89 OCT 25 PM 4:12

10/31/89 - Jno. J. Gontrum's secretary - rec'd - he is working on response & will submit shortly. pl.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) [illegible] 887-3180

HEARING ROOM -
Room 301, County Office Building

September 5, 1989

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). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-268-A — ORAN TODD WARNER, ET UX
S/S Iroquois Avenue, 505' SE of the c/l of Bay Front Road (7509 Iroquois Avenue)

15th Election District
7th Councilmanic District

VAR -To allow a buildable lot with a width of 40 ft. and a side yard setback of 2½ ft. in lieu of the required 55 ft. & 10 ft. respectively.

2/6/89 - D.Z.C.'s Order DENYING Petition for Variance

which was POSTPONED on the record on August 15, 1989 and rescheduled to October 10, 1989; and has been

REASSIGNED TO: TUESDAY, OCTOBER 10, 1989 at 10:00 a.m.

cc: John B. Gontrum, Esquire — Counsel for Appellants/Petitioners
Mr. and Mrs. Oran T. Warner — " "
Ms. Rosemary Shkor
Lee & Lynda Carr
Noona Bluiewicz
Clara Hicks
People's Counsel
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

request does not add or subtract anything from the case which basically exists before the Board in that the configuration remains the same. As soon as the site plans become available, I will forward them to you.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Peter Zimmerman, Esquire
Pat Keller, Deputy Director - Office of Planning and Zoning

89-268-A

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

Your petition has been received and accepted for filing this 16th day of November, 1988.

J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Oran T. Warner, et ux
Petitioner's Attorney:
Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: William T. Hackett, Chairman, Board of Appeals — DATE: October 9, 1989

FROM: Pat Keller, Deputy Director, Office of Planning & Zoning

SUBJECT: Oran Todd Warner, Item 115
Zoning Petition No. 89-268-A

Upon further review of the requested variances in this case and receipt of a previously unavailable proposed site plan, this office wishes to revise its previous position and offers the following comments:

In analyzing a property such as this, the Office of Planning and Zoning determines how zoning and development regulations apply in a given situation. In this particular case, density per se does not appear to be an issue; the creation of two lots, however, raises a legitimate concern. The petitioner has proffered conditions which respond to these issues, and they are provided below:

a. Petitioners are to agree by filing restricted covenants among the Land Records not to subdivide the lot into two separate properties.

b. Petitioners are to file a landscape plan in keeping with the comments of the Department of Environmental Protection and Resource Management and in keeping with this office's granting the variances. This landscape plan would address in particular landscaping around the proposed dwelling.

c. All permits to be issued for the conversion of the dwelling are to be reviewed by the Director of Planning and Zoning prior to issuance.

d. Improvements to the dwelling will commence within one year of the date of final approval of the variances or the variances will lapse.

Staff neither supports nor opposes the petitioners request.

Pat Keller, Deputy Director
Office of Planning & Zoning

PK:sb

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 11, 1989

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

Mr. & Mrs. Oran T. Warner
7509 Iroquios Avenue
Baltimore, Maryland 21219

RE: Item No. 115, Case No. 89-268-A
Petitioner: Oran T. Warner, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Warner:

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. 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
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

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

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: William T. Hackett, Chairman, Board of Appeals — DATE: August 23, 1989

FROM: Pat Keller, Deputy Director, Office of Planning and Zoning

SUBJECT: Oran Todd Warner, et ux, Item 115
Zoning Petition No. 89-268-A

In reference to this request, staff opposes the petitioners request and offers the following comments:

The need for a variance is unwarranted because the hardship has been self created. The petitioners received a building permit to construct a new dwelling at the subject property on March 18, 1989. The permit (94673) was issued on the condition that the existing dwelling be converted to a shed upon completion of the new dwelling. If this had been done, no variances would be needed now. A request such as this, if granted, would allow the petitioner to circumvent residential development policies. In fact, the Planning Board has continually expressed its policy of not allowing front yards to face rear yards in their review of cluster subdivisions and panhandle waivers. Furthermore, the Office of Planning and Zoning has a series of comments, one of which states that front yards should not face rear yards.

In reference to the subdivision issue, technically no subdivision of property is required here. However, in situations like this, a subdivision in fact is proposed and regulations regarding lot area, setbacks and lot widths apply.

PK/JL/sf

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

October 28, 1988

Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 107, 112, (115) 116, 117, 118, 119, 120, 122, 123, 125, 126, and 127.

Very truly yours,

Michael S. Flanigan
Engineering Associate

MSF/lvw

RECEIVED
NOV 9 1988
ZONING OFFICE

LAW FIRM
Romadka, Gontrum & Hennegan, P.A.
IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
NANCY E. DWYER
SHARON E. GAMBLE

October 3, 1989

RECEIVED
COUNTY BOARD OF APPEALS
89 OCT -4 PM 12: 11

William T. Hackett, Chairman
Board of Appeals
200 Courthouse
Towson, Maryland 21204

Re: Oran Todd Warner, et ux
Case No. 89-268-A

Dear Chairman Hackett:

As you may recall, we had obtained a continuance in the above case until October 10th pending a revised site plan for the Warner property. The revised plan which I am expecting in my office shortly will indicate two changes from the plan previously filed. The existing one story building for which we are requesting a use as a residence is 1.2 feet from the property line and not 2 1/2 feet as suggested by the previous site plan. Consequently, we would be seeking a variance of 1.2 feet in lieu of the required 10 feet setback. In addition to this variance, and to the variance of 40 feet in lieu of the required 50 feet, we will need an additional variance from the interior artificial zoning line from the existing dwelling. We believe that the variance will be a rear yard setback of 24 feet in lieu of the required 30 feet from the existing dwelling on the property to the interior lot line.

I have discussed this matter with Mr. Zimmerman and he is considering this revision, but at this time, I believe that this is a technical change albeit a new variance request, and that the proceeding may go forward on Tuesday. It is my feeling that this

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

October 3, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

Re: Property Owner: Oran Todd Warner, et ux (critical)

Location: SS Iroquois Avenue, 505' SE of c/l of Bay Front Road
7509 Iroquois Avenue

Item No.: 115 — Zoning Agenda: Meeting of 10/4/88

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 or ___ 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 comments at this time.

REVIEWER: Capt. Joseph Kelly 10-3-88 — Noted and Approved: John J. O'Neill
Planning Group
Special Inspection Division
Fire Prevention Bureau

/jl