

- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 90-30-A
- *
- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 90-31-A

WHEREAS, in Case No. 90-30-A, Petitioners requested a variance to permit a rear yard setback of 12 feet in lieu of the required 30 feet for a proposed addition and to amend the Final Development Plan for Ashley, Lot 10; and,

WHEREAS, by Order dated August 30, 1989, the relief requested in Case No. 90-30-A was granted, subject to restrictions, and the relief requested in Case No. 90-31-A was denied;

WHEREAS, by letter dated September 23, 1989, Petitioners requested a reconsideration of the matter in Case No. 90-31-A and advised the Office of Zoning of discrepancies in the heading relative to the descrip-

his rear yard property line abuts both properties. Mr. Dana testified that he and his adjoining neighbor, Mr. Doris Howard who, by letter, voiced her objection to the relief requested, indicated that the variances proposed will be detrimental to their enjoyment of their property. Mr. Dana and Dr. Bowes both contend the size of the proposed dwelling for Lot 11 and the addition to the existing dwelling on Lot 10, are larger and incompatible with those currently existing in Utherville and in response to Mr. Dana's concerns, Petitioners contend the homes in Utherville contain various types and sizes, and that many of the Victorian style homes exceed the size proposed by Petitioners.

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

- 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 the 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 a variance is granted, in Case No. 90-30-A, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

WHEREAS, the Deputy Zoning Commissioner has determined that it is appropriate to correct those discrepancies; however, the request for a reconsideration of the matter in Case No. 90-31-A shall be denied;

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 4th day of October, 1989 that the Order issued August 30, 1989 be and the same is hereby AMENDED to correctly identify the two properties in question, as modified in the heading, and,

IT IS FURTHER ORDERED that the findings, conditions and restrictions contained in the Order dated August 3, 1989 shall remain in full force and effect.

CC1 Mr. & Mrs. Lewis Gotze
9 Barts Court, Lutherville, Md. 21093

Mr. Eric Dana
318 Starlight Place, Lutherville, Md. 21093

Ms. Arlene Bowers, Lutherville Community Association
1603 Francke Avenue, Lutherville, Md. 21093

People's Counsel

File

After due consideration of the testimony and evidence presented in Case No. 90-31-A, 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 in this instance must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the variances requested in Case No. 90-30-A, as hereinafter modified, should be granted and, in Case No. 90-31-A, should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of August, 1989 that a variance to permit a rear yard setback of 20 feet in lieu of the required 30 feet for a proposed addition and to amend the final Development Plan for Ashley, Lot 10, be approved, and as such, the Petition for Zoning Variance in Case No. NO-30-A is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 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 such proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the time taken by the Petitioners to return, and be responsible for returning, said property to its original condition.
- 2) The proposed addition shall not exceed 16 feet in depth from the rear of the existing dwelling and no more than 22 feet overall. Further, the proposed addition shall be constructed in the same location as

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- * OF BALTIMORE COUNTY

In Case No. 90-30-A, the Petitioners request a variance to permit a rear yard setback of 12 feet in lieu of the required 30 feet for a proposed addition and to amend the Final Development Plan for Ashley, Lot 10, in accordance with Petitioner's Exhibit 1.

In Case No. 90-31-A, the Petitioners request a variance to permit a rear yard setback of 15 feet in lieu of the required 30 feet for a proposed dwelling and to amend the Final Development Plan for Ashley, Lot 11, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Dr. Linda Gotze, appeared and testified. Mr. Gotze joined his wife after the hearing had started. Appearing as Protestants in the matter were Eric Dana, adjoining property owner, and Dr. Arlene Bowes, on behalf of the Lutherville Community Association.

Testimony indicated that the property known as 9 Barts Court (Lot 10 of Ashley), consists of .315 acres zoned D.R. 3.5 and is improved with a single family dwelling which has been Petitioners residence since 1978.

that originally proposed and set forth in Petitioner's Exhibit 1.

- 3) The materials used for the exterior of the proposed addition shall be similar in nature and in keeping with the design of the existing dwelling.
- 4) Prior to the issuance of any building permits, Petitioners shall submit a revised site plan of the proposed addition incorporating the relief granted herein and the restrictions imposed.

IT IS FURTHER ORDERED that a variance to permit a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling and to amend the Final Development Plan for Ashley, Lot 11, be approved, and as such, the Petition for Zoning Variance in Case No. 90-31-A is hereby DENIED.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILMING
Date 8/30/89
by Bette J. Schukla

and is the subject of Case No. 70-30-A. In addition, Petitioners own the adjoining vacant property, known as Lot 11, which they purchased in 1982. Petitioners propose constructing a 22' x 24' addition to the rear of the existing dwelling on Lot 10 for use as a library/study for Dr. Lewis Goto, who is an assistant professor at Rowson State University. Testimony indicated the proposed addition will be two stories high with the lower level used as a basement storage area, while the upper level will be equal to the first floor of the house and used as the library/study area with an additional window area used as attic space. In response to comments submitted by the Office of Planning, Petitioners indicated their willingness to reduce their requested variance to 15 feet in lieu of the originally requested 12 feet. Testimony presented by Petitioners indicated that there was no room on the lot that would permit an addition of sufficient size to meet their needs and be in strict compliance with the zoning regulations.

Testimony presented relative to Case No. 90-31-A indicated that Petitioners purchased Lot 11 in 1962 for use as a future building lot and to insure that the property was maintained in a proper fashion since it adjoined their property. Petitioners testified they would like to build a house on Lot 11 that is approximately 68' x 44' wide in the next three to five years. The proposed dwelling would be larger than the existing home and would provide a nice study/office area and room for aging parents. Testimony indicated that the layout of the proposed dwelling will necessitate a rear yard setback of 15 feet. Petitioners testified that the neighbors on Barts Court do not object to their plans for either property.

Mr. Dana testified in opposition to the Petitioners' requests in both cases. Mr. Dana testified he lives at 318 Starlight Place and that

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 1902.3.A.2 (1901.2.C.4 100-70) To allow a rear yard setback of 15' in lieu of the required 30' and to amend the Final Development Plan.

Request to build house with set back from rear line being 14 feet rather than 30 feet as stated in Ashley plan. This request is being made so house can contain space for study/office which is needed to carry out requirements of job as professor, and to have room in house for aging parents.

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.

.....

Signature _____

Attorney for Petitioner

Eligible for:

Address

Attorney's Telephone

May

Commissioner of Ball

1. *Figure 10.10*

Situated at the south southeastern end of Barts Court with a 43.75' frontage on Barts Court and being 320'± south of the center of Seminary Avenue. Being Lot #10 in the subdivision of Ashley. Book E.H.K. Jr No. 39, Folio 126. Also known as 9 Barts Court in the 8th election district.

District: 9. 1st Date of Posting: July 16, 1959.
 Posted for: Lawrence
 Position: Lewis E. Gage, et. al.
 Location of property: 156 1/2 s.e. 1/4 Bartle Court, approx. 226' S. Boundary
Lawrence 9 Bartle Court.
 Location of Sign: In front of 9. Bartle Court.

Remarks:
 Posted by: J. J. Korte Date of return: July 19, 1959.
 Number of Signs: 1

TO: J. Robert Haines
Zoning Commissioner

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

SUBJECT: Lewis Gotze, Item 442
Zoning Petition No. 80-31-A

DATE: July 26, 1989

The size of the proposed dwelling appears incompatible with the existing homes on Barts Ct. and Starlight Pk. Shifting the dwelling toward the front of the building envelope would lessen the impact of the dwelling on the neighborhood. A 15 foot rear yard setback is minimal and would result in further variance requests for accessory structures. The need for a study/office is needed due to the fact that a similar request has been made in a companion case to (93) 000000000. No separate cooking facilities should be permitted to minimize the possibility of a conversion at a later time.

Lewis Gerald Gotze give permission to wife Dr. Linda Burton Gotze to present me in Petition for Zoning Variance Case numbers 90-30A and -31 A on Aug. 4, 1989.

Lewis G. Gotze
Lewis G. Gotze

TOWSON, MD., July 13, 1989
THIS IS TO CERTIFY, that the annexed advertisement was
published in TOWSON TIMES, a weekly newspaper published in
Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on July 13, 1989

S. Zehe Orkun

Publisher

PO 13701
reg H31015
co 90-31-1
price \$95.29

July 24, 1989

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

Mr. Lewis G. Gotze
9 Barts Court
Lutherville, MD 21093

RE: Item No. 482, Case No. 90-31-A
Petitioner: Lewis G. Gotze
Petition for Zoning Variance

Dear Mr. Gotze:

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 also 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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclos

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

**J. Robert Haines
Zoning Commissioner**

Mr. & Mrs. Lewis G. Dotze
9 Barts Court
Lutherville, Maryland 21093

DATE 2/21/59

Re: Petition for Zoning Variance
CASE NUMBER: 90-31-A
S/SE side Barts Court, approx. 320' S Seminary Avenue
9 Barts Court
8th Election District - 4th Councilmanic
Petitioner(s): Lewis G. Gotze, et ux
HEARING SCHEDULED: FRIDAY, AUGUST 4, 1989 at 9:30 a.m.

Dear Mr. & Mrs. Gates:

Please be advised that \$ 120.29 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S)
RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.
DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY
UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

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

No. 074609

DATE 4/1/89 ACCOUNT ROLANDSON

AMOUNT \$ 120.00

RECEIVED FROM [unclear] [unclear] [unclear]

FOR PA 90-1-A

B 0104*****102091 3045F

VALIDATION OR SIGNATURE OF CARRIER

DATE TIME FIRM AGENCY FIELD CARRIER

post set(s), there
for each such set

Gwen & Sophia,
These two cases should be
set at the same time (Jems 481-482)
they are contiguous properties with the
same ownership - also the partition
is out of town on vacat. Aug
21-25 (last schedule) - both should
be under 1/2 hr. (Not in old with will)

Items 481-482

90-31-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
17th day of May, 1989.

Petitioner, Lewin G. Gotze
Petitioner's
Attorney

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

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

J. Robert Haines
Zoning Commissioner

June 29, 1988

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 proper use identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

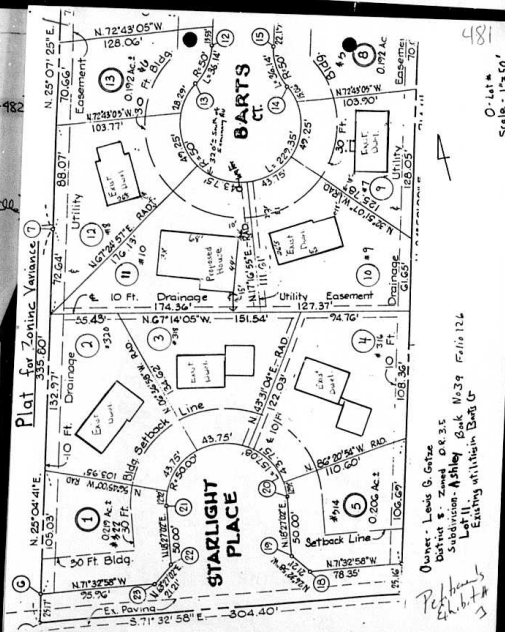
Petition for Zoning Variance
CASE NUMBER: 90-31-A
S/SE side Barts Court, approx. 320's S Seminary Avenue
S Barts Court
8th Election District - 4th Councilmanic
Petitioner(s): Lewis G. Gotze, et ux
HEARING SCHEDULED: FRIDAY, AUGUST 4, 1989 at 9:30 a.m.

Variances To allow a rear yard setback of 15 ft. in lieu of the required 30 ft. and the Final Development Plan.

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
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs
cc: Mr. & Mrs. Gotze
File



June 6, 1989



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 item numbers 253, 313, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, ~~482~~, 483, 484, 485, and 486.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSE/LWW

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

Paul H. Reincke
Chief

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: Lewis G. Gotze

Location: SSE side of Barts Court
(#9 Barts Court)

Item No.: 482

Zoning Agenda: May 16, 1989

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: *CH 3-11-89*
Planning Group
Special Inspection Division

Noted and
Approved: *Capt. Tom Brasington*
Fire Prevention Bureau

/j1

JUN 17 1989

BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 1, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for May 16, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 466, 468, 469, 470, 471, 474, 475, 476, 478, 480, 481, ~~482~~, 485, and 486.

For Item 253 the previous County Review Group Comments still apply.

For Item 313 contact the State Highway Administration for right-of-way requirements for Reisterstown Road.

For Item 467 contact the State Highway Administration for the necessary improvements for Reisterstown Road.

For Item 472 the previous County Review Group Comments for Festival at Woodholme still apply.

For Item 473 the building being in a revertible slope easement must be addressed prior to approval.

For Item 477 the previous County Review Group Comments still apply.

For Item 479 the previous County Review Group Comments still apply.

For Item 483 contact the State Highway Administration for right-of-way requirements on Park Heights Avenue.

For Item 484 the previous County Review Group Comments still apply.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

JUN 02 1989