

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners, by Vick Rogers, appeared and testified. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 24 Clearlake Court, consists of 2,080 sq.ft. zoned D.R. 16 and is improved with a single family attached dwelling which has been Petitioners' residence for the past six years. Petitioners constructed a deck around an above-ground swimming pool without obtaining a permit. Said deck has two levels and extends from the rear of the house to within 5 feet of the rear property line. Mrs. Rogers indicated she applied for a permit to install a 4-foot high fence around the pool in August 1989 and was issued a stop work order at that time. Petitioners were advised that a rear yard variance was necessary as both the fence and decking came to within 5 feet of the rear property line. Testimony indicated that the relief requested is necessary to provide security to the pool area from the rear of the property. Petitioner testified that the nature of the subject improvements is such that access to the swimming pool can only be obtained through the dwelling. In

While no Protestants appeared at the hearing, the Village of Clearlake Community Association, by its Board of Directors, indicated their opposition to the relief requested by letter dated December 15, 1989. The Board of Directors' reason for opposing the requested relief was Petitioners' failure to comply with the Association covenants, which require approval by its architectural committee prior to the construction of any improvements. The Board notes the purpose of the review is to protect property values and preserve the aesthetic integrity of the neighborhood.

The hearing in this matter is not the proper forum at which to address the Association covenants, but the setback back requirements of the zoning regulations are at issue. The pictures submitted evidence the importance of the setback requirements and result in detriment to a community in the event land is overdeveloped.

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 requirement would unreasonably prevent the use of the property for a

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

It should be noted that the decision in this case is more difficult than most due to the time, money and pride Petitioners have taken in developing their rear yard. On behalf of the Petitioners, the deck and pool occupying all but 5 feet of the rear yard appear to be well-constructed and at this time, well-maintained. However, the pictures clearly point out the reason the zoning regulations have setback requirements. Clearly, the proposed improvements requested by Petitioners are a matter of preference and not of necessity. The facts of Petitioners' request are not unique and/or different from any other neighbor and if said relief was granted freely, the result would be an overdevelopment of the property and the result would negatively impact all property owners.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of March, 1990 that the Petition for Zoning Variance to permit a rear yard setback of 5 feet in lieu of the re-

March 5, 1990

RE: PETITION FOR ZONING VARIANCE
NW/4 Clearlake Court, 321' NE of the c/l of Ridgely Avenue
(24 Clearlake Court)
11th Election District - 6th Councilmanic District
Lester L. Rogers, Jr., et ux - Petitioners
Case No. 90-255-A

Dear Mr. & Mrs. Rogers:

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 Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Q: M. No. 10000:

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Board of Directors
The Village of Clearlake
P.O. Box 8483, Baltimore, Md. 21234
People's Counsel

4-27-54

Reaction for Zoning Variance

Im applying for this variance I believe that undue hardship and practical difficulty certainly both apply.

Due to the fact that the house is located directly above the bottom end of our property, flooding is a constant problem. Also due to the elevated homes to our rear, backing our home with such a steep incline, with every hard rain again flooding is the inevitable. At times the yard is a quagmire and an engine enters one of the boys rooms of our street is directly in my back yard.

When we realized that we could not truly be used to the public's potential we walked thru our neighborhood and copied ideas of structures already existing. We did not let prejudice with our deck but conformed to standards presented before us in the examples of our community.

We also feel that our structure has in no way caused a nuisance to the public health, safety, or general welfare. This deck does however, transform dead land and space into a dry safe environment to raise my children, and at the same time adding beauty and safety to our community.

ZONING DESCRIPTION

Beginning on the northwest side of Clearlake Court, 80 feet wide, at the distance of 321 feet northeast the centerline of Ridgely Avenue. Being Lot 12, Block A, Section 2, Plat 5 of the Second Amended Partial Development Plan of Upton Village North, Book 50, Folio 109. Also known as 24 Centerlake Court containing .05 acres in the 11th Election District.

CERTIFICATE OF POSTING
WINNING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1129 Date of Posting: 10/8/89
 Posted for: Vermilion
 Petitioner: Lester Lee Rogers, et al.
 Location of property: NW 1/4 Sec 16, T1N, R1E, S1/4 NE 1/4, Sec 16
24 Clear Lake St.
 Location of Sign: Along Clear Lake St., approx 10' from road way,
E. N. 1/4 sec 16, E. 1st town.
 Remarks:
 Posted by: [Signature] Date of return: 10/8/89
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 30, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 30, 1929.

THE JEFFERSONIAN

S. Zeph O'Neal
Publisher

[illegible]

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 29, 1989.

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

Publisher

To whom it may concern,

We, the homeowners of 16 Clearlake Court

do not see any reason why the structure

in question, at 21 Clearlake Court should be

retained in any way. The structure beautifies

its surroundings and is an excellent show

of craftsmanship.

In this case, we believe that the

situation should prevail.

Sincerely,

William A. Rogers
Michelle Gross

*William A. Rogers
Michelle Gross*

VER'S
KIL 3



December 15, 1989

Mr. J. Robert Hanes
Zoning Commissioner
Room 106
Baltimore County Office Bldg.
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 90-255-A

Dear Mr. Hanes:

The Village of Clearlake Community Association hereby requests that a variance not be granted in the aforementioned case on December 20, 1989. The petitioners have not complied with the association covenants that require plans to be submitted and approved by the architectural committee prior to construction. The purpose of the architectural committee is to protect the property values and preserve the aesthetics of the neighborhood.

If you have any questions, you may contact our board president, Randy Greenwald, at 225-6072. Thank you for your attention to this matter.

Sincerely,

The Board of Directors

RECEIVED
DEC 19 1989
ZONING OFFICE

Village of Clearlake Homeowners Association, Inc. • P.O. Box 8483 • Baltimore, Md. 21234-0483

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

DEC 12 1989

Mr. & Mrs. Lester L. Rogers, Jr.
14 Clearlake Court
Baltimore, Maryland 21234

Re:

Petition for Zoning Variance
CASE NUMBER: 90-255-A
111 W. Chesapeake Avenue, 321' NE c/l of Ridgely Avenue
24 Clearlake Court
11th Election District - 6th Councilmanic
Petitioner(s): Lester Lee Rogers, Jr., et ux
HEARING: WEDNESDAY, DECEMBER 20, 1989 at 2:00 p.m.

Dear Mr. & Mrs. Rogers:

advised that \$99.86 is due for advertising and posting of the above

A POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE DAY OF THE SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE

Baltimore County
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Date 12-20-89

12/20/89

PUBLIC HEARING FEES

080 - POSTING SIGNS / ADVERTISING 1 X

LAST NAME OF OWNER: ROGERS, JR.

PRICE \$99.86

TOTAL: \$99.86

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

Receipt

No 750

90-255-A

POKAK

8015*****988618 2308F

Please make checks payable to: Baltimore County

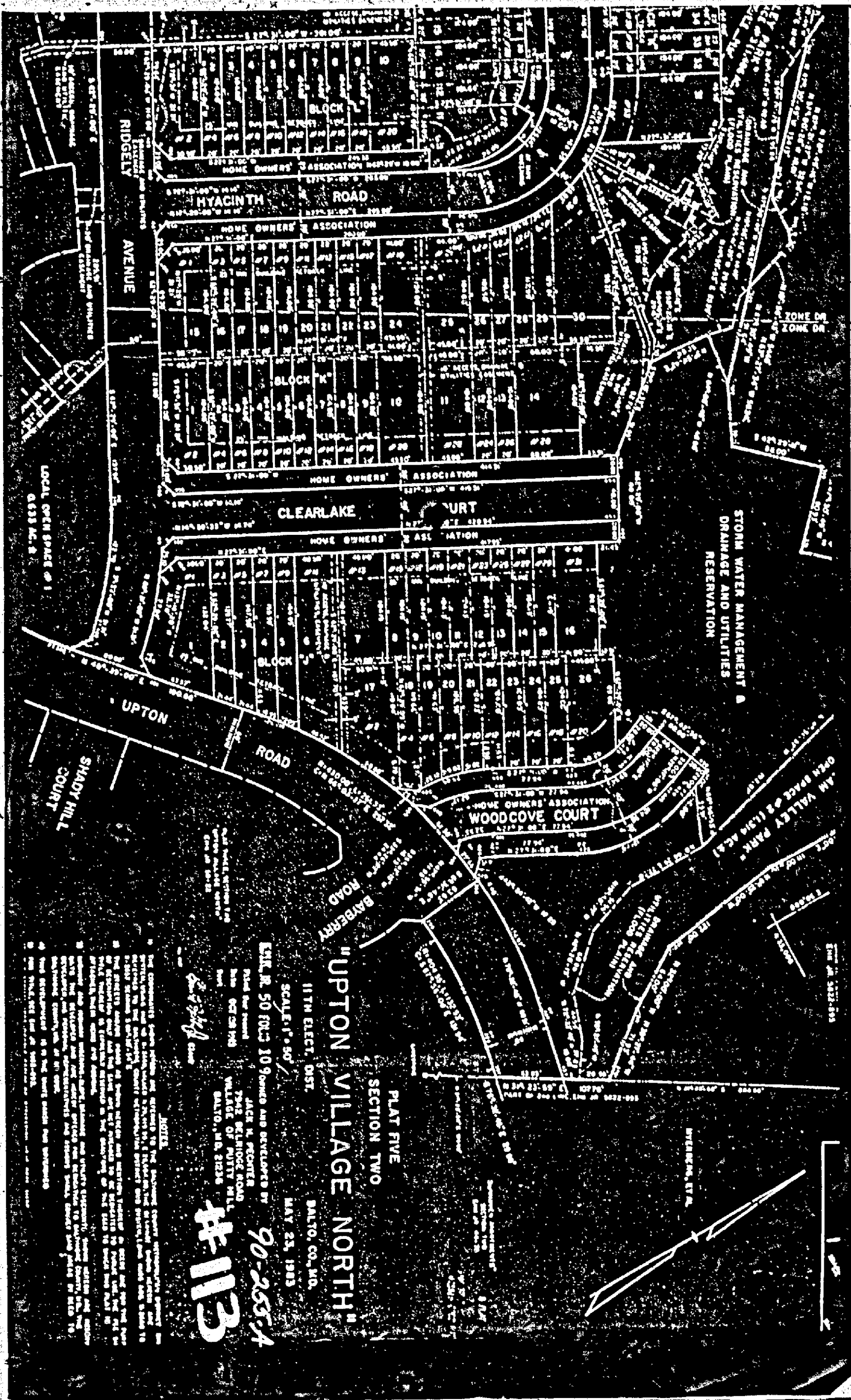
Receipt

No 750

90-255-A

POKAK

</



PETITION FOR ZONING VARIANCE **TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 29-11(a)(1) of the Zoning Ordinance of the County of Baltimore, Maryland, to permit a 3 ft. rear yard setback in lieu of minimum 25 ft. for an open projection (deck with attached pool).

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

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.

Contract Purchaser:
 (Type or Print Name)
 Signature
 Address
 City and State

Legal Owner(s):
 (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.:
 Address
 Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 11 day of May 1951, 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 20 day of May, 1951, at 2 o'clock.

Zoning Commissioner of Baltimore County

Petitioner's Exhibits

Rear yards of the street view from Clearlake Ct.

90-255-A



Petitioner's Exhibits

Rear of Clearlake Court

90-255-A

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 14, 1989

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

MEMBERS

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

Mr. & Mrs. Lester Lee Rogers, Jr.
24 Clearlake Court
Baltimore, MD 21234

RE: Item No. 113, Case No. 90-255-113
Petitioner: Lester Lee Rogers, Jr. ux
Petition for Zoning Variance

Dear Mr. & Mrs. Rogers:

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 ensure that all parties are made aware of plans or provisions 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, my 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 MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 897-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

Baltimore County
Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204
(301) 897-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
11th day of October, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Lester Lee Rogers, at ux
Petitioner's Attorney:

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2386
(301) 897-4500

Paul H. Reinke
Chief

OCTOBER 9, 1989

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: LESTER LEE ROGERS, JR.
Location: NW/4 OF CLEARLAKE COURT
Item No.: 113 Zoning Agenda: OCTOBER 10, 1989

Gentlemen:

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

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. 3 feet clear width between pool deck and side fence shall be provided for fire department access to rear of building.

REVIEWER: [Signature] Noted and Approved: [Signature]
Planning/Group Fire Prevention Bureau
Special Inspection Division

JR/KEK

OCT 10 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Building Suite 405
Towson, Maryland 21204
(301) 897-3354

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

November 9, 1989

RECEIVED
NOV 16 1989

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 110, 111, 112, 114, 115, 116, 117, and 118.

Very truly yours,

Michael S. Flanagan,
Traffic Engineer Associate II

MSP/lab

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: December 7, 1989
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Lester Lee Rodgers, Jr., Item 113
Zoning Petition No. 90-255-113

The Petitioner requests a variance to permit a 5 ft. rear yard setback in lieu of the minimum 25 ft. for an open projection.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm