* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY 5th Councilmanic District * Case No. 92-141-A

Joseph E. Armstrong Petitioner * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1801.2.C.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and from Section V.B.b.c. of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a facing window separation of 34.6 feet in lieu of the required 40 feet for a dwelling reconstruction, in accordance with Petitioner's Exhibit 1.

The Petitioner, by Clara Armstrong, appeared, and testified. Also appearing on behalf of the Petitioner was Edgar Reed. There were no Protestants.

Testimony indicated that the subject property, known as 11501 Eastern Avenue, consists of 1.35 acres zoned D.R. 5.5 and is improved with an existing two-story dwelling. Said property is located within the Chesapeake Bay Critical Areas. Petitioner is desirous of replacing the existing structure with a new dwelling and addition in accordance with Petitioner's Exhibit 1. Upon application for the building permit, Peti-Stioner was advised a variance would be necessary for a window in the proposed new dwelling. Testimony indicated that the adjoining affected property owners are members of Petitioner's family and that they have no objections to the variance requested. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

This property is located within the Chesapeake Bay Critical Areas and as such, is subject to compliance with the recommendations of the Department of Environmental Protection and Resource Management (DEPRM) upon completion of their findings.

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:

> whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

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

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

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

It is clear from the testimony that if the variance is granted, 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.

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 granted.

- 2-

Baltimore County this A day of November, 1991 that the Petition for Zoning Variance from Section 1B01.2.C.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and from Section V.B.b.c. of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a facing window separation of 34.6 feet in lieu of the required 40 feet for a dwelling reconstruction, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its

completion of their findings.

TMK:bjs

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for

original condition.

?) Compliance with the recommendations of DEPRM upon

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

- 3-

Deputy Zoning Commissioner for Baltimore County

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

November 12, 1991

Mr. Joseph E. Armstrong 11501 Eastern Avenue Baltimore, Maryland 21220

RE: PETITION FOR ZONING VARIANCE SE/S Eastern Avenue, 1100' NE of Carroll Island Road (11501 Eastern AVenue) 15th Election District - 5th Councilmanic District Joseph E. Armstrong - Petitioner Case No. 92-141-A

Dear Mr. Armstrong:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted 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,

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner for Baltimore County

TMK:bjs

cc: Chesapeake Bay Critical Areas Commission Tawes State Office Building, D-4, Annapolis, Md. 21404

Mr. Edgar Reed 3922 Misty View Road, Baltimore, Md. 21220

DEPRM

People's Counsel

File

Petition for 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 1801. 2. C. 2. b AND V. B. b. C. (CMDP) TO PERMIT A FRANCE WINDOW SEPPROTION OF 34 6 FT. IN LIEU OF THE REQUIRED

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

foundation the attacker fore because of adding an addition is new structure. me long bruit contex the x amone, foreseletion

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 l'elition. Contract Purchaser/Lessee: Attorney for Petitioner: 1150 | Ecstern Are 335-7787 Baltimere Md, 4220 Name, address and phone number of legal owner, cor tract purchaser or representative to be contacted EduarReed 3922 Mity View Rd 335-1977 Attorney's Telephone No.: LENGTH OF HEARING

AVAILABLE FOR HEARING

MON./FUES./WED. - NEXT TWO MONTHS

ALL

OTHER

REVIEWED BY:

FRANK S. LEE Registered Land Surveyor 1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237 Nos. 11501 - 03 Eastern Avenue 15th District Baltimore County, Maryland Begining for the same on the southeast side of Eastern Avenue at the distance of 1100 feet more or less measured northeasterly along the southeast side thereof from the northeast side of Carroll Island Road, thence running and binding: on the southeast side of Eastern Avenue North 65 degrees 39 minutes 40 seconds East 220.84 feet, thence running for three lines of division as: follows: South 26 degrees 47 minutes 02 seconds East 223 feet, South 63 degrees 32 minutes 53 seconds West 294.72 feet and North. 8 degrees 58 minutes 44 seconds West 242.31 feet to the place of beginning.

Containing 1.35 acres of land more or less.



CERTIFICATE OF POSTING NING DEPARTMENT OF BALTIMORE COUNTY $\mathscr{P}_{\mathcal{F}}$

District	Date of Posting 10:/14 '91
Posted for:	7 // C
Petitioner:	Arms Icmy
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Remarks:	
Posted by	Date of return: 12 2 3/
Number of Signe:)

NOTICE OF HEARING The Zoring 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 Towon, Maryland 21204 as follows: Case Number: 92-141-A S/S Eastern Avenue Extended, 1100' (+/-) E of Carroll Island Road 11501 Eastern Avenue 15th Election District 5th Councilmaint Petitioner(s): Joseph E. Armstrong Hearing Date: Wednesday, Nov. 6, 1991 at 9:00 a.m. Verience: to permit a facin window separation of 34.6 feet i lieu of the required 40 feet LAWRENCE E. SCHMIDT Zoning Commissioner o Baltimore County

CERTIFICATE OF PUBLICATION

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 ____ successive weeks, the first publication appearing on

THE JEFFERSONIAN.

< Zake Olm

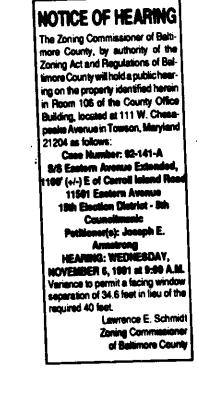
CERTIFICATE OF PUBLICATION THE AVENUE NEWS

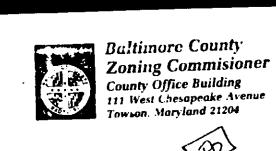
442 Eastern Blvd. Balto., MD. 21221	October 17. 19)
THIS IS TO CER	TIFY, that the annexed advertisement of	f

Joseph E. Armstron in the matter of Zoning Hearing of 11501 Eastern Ave. Case # 92-141-A. P.O. #0115297 Reg # M49759. 52.5 lines @.60 or \$31.50

was inserted in The Avenue News a weekly newspaper published in Baltimore County, Maryland once a week for _____ successive week(s) before the 18 day of 0ctober 1991; that is to say, the same was inserted in the issues of October 17 1991.

The Avenue Inc.





CRITICAL ARLEA.

Account: R-001-6150

Number

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Please Make Checks Payable To: Baltimore County

ashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

TH West Chesapeake Avenue Towson, MD 2120+

DATE: 25 9

Joseph E. Armstrong 11501 Eastern Avenue Baltimore, Maryland 21220

RE:
CASE NUMBER: 92-141-A

S/S Eastern Avenue Extended, 1100' (+/-) E of Carroll Island Road

11501 Eastern Avenue

15th Election District - 5th Councilmanic

Petitioner(s): Joseph E. Armstrong

HEARING: WEDNESDAY, NOVEMBER 6, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 29.33 is due for advertising and posting of the above captioned

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

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Lawrence E. Schmidt Zoning commissioner BALTIMORE COUNTY, MARYLAND

Zoning Plans Advisory Committe Coments Date:October 29, 1991 Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

C. Z-

Enclosures

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204 88⁻ 3353

887 3353

Your petition has been received and accepted for filing this 24th day of September, 1991.

ARNOLD JABLON
DIRECTOR

Received By:

Chairman,

Zoning Plans Advisory Committee

Petitioner: Joseph E. Armstrong
Petitioner's Attorney:

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

COPY

111 West Chesapeake Avenue Towson, MD 21204

887 3353

OCTOBER 4, 1991

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 21204 as follows:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: October 9, 1991

In reference to the petitioners' request, staff offers no

provide additional information, please contact Jeffrey Long in the

If there should be any further questions or if this office can

Zoning Administration and

Pat Keller, Deputy Director

Office of Planning and Zoning

Fogle Property, Item No. 149

Rau Property, Item No. 157

Ogundeji Property, Item 158

Armstrong Property, Item No. 145

Chiabrera Property, Item No. 151

Development Management

SUBJECT: Budziak Property, Item No. 144

Office of Planning at 887-3211.

PK/JL/rdn

ITMNO144/TXTROZ

CASE NUMBER: 92-141-A

S/S Eastern Avenue Extended, 1100' (+/-) E of Carroll Island Road

11501 Eastern Avenue

15th Election District - 5th Councilmanic

Petitioner(s): Joseph E. Armstrong

HEARING: WEDNESDAY, NOVEMBER 6, 1991 at 9:00 a.m.

Variance to permit a facing window separation of 34.6 feet in lieu of the required 40 feet.

Cause Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Joseph E. Armstrong Edgar Reed 111 West Chesapeake Avenue

October 29, 1991

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

887 3353

Mr. Joseph E. Armstrong 11501 Eastern Avenue Baltimore, MD 21220

> RE: Item No. 145, Case No. 92-141-A Petitioner: Joseph E. Armstrong Petition for Variance

Dear Mr. Armstong:

Towson, MD 21204

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: October 23, 1991

TO: Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 8, 1991

This office has no comments for item numbers 144, 145, 147, 149, 150, 151, 152, 157 and 158.

<u>AMER J JAPAG</u> Rahee J. Famili Traffic Engineer II

RJF/lvd

Too Fast Joppa Road, Suite 901 Towson, MD, 2120+5500

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revelopment Management

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TO CALL FOR THE PARTY OF THE PA

The More 145 West Aces Compete for 1991

Certherera

To smooth to your request, the referenced proporty las keen surveyed by this Purezo and the converts below one applicable and required to be corrected on incorporated that the final plans for the projectly.

The Pice Prevention Purezo tas no commonts at this time.

Approved William Fire Frevention Eurean Special Inspection Tivision

SF/HH

PALTIMORE COUNTY, MARYBAND TRIEBOFF FOR ESTORE FOR DEPOS

Figure Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for October 8, 1991

dated August 12, 1991 for this site.

failure would not impact the right of way.

The Developers Engineering Division has reviewed the subject moning items and we have no comments for Items 142, 144, 149, 150, 151, 150, 150, 156, and 158.

For Item 145, a minor subdivision is processing new. Our comments will be addressed through that process.

For Item 146, see the County Review Group comments

For Item 149, we have no comment on the garage height variance. However, regarding the swimming peak, the road grade or horizontal alignment must be revised so that no retaining wall is needed or that the well is far enough away from the right of way such that

ROPERT W. BOWLING, I.E., Chi f Developers Engineering Division

 $RWB: \cup$

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director

DATE: November 18, 1992

FROM: J. James Dieter

Office of Zoning Administration

and Development Management

SUBJECT: Petition for Zoning Variance - Case No. 92-141-A
Armstrong Property
Chesapeake Bay Critical Area Findings

ZONING OFFICE

9658 92

SITE LOCATION

The subject property is located at 11501 Eastern Avenue. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Joseph E. Armstrong

APPLICANT PROPOSAL

The applicant has requested a variance from section 1801.2.C.2.b and V.B.6.C. (CMDP) of the Baltimore County Zoning Regulations to permit a facing window separation of 34.6 feet in lieu of the required 40 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

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:

 "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 14.15.10.01.0>

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director DATE: January 14, 1993
Office of Zoning Administration
and Development Management

FROM: J. James Dieter

SUBJECT: Petition for Zoning Variance - Item 140
DiBartolomeo Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 7838 North Cove Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Anthony DiBartolomeo

APPLICANT PROPOSAL

The applicant has requested a variance from section 1B02.3.C.1 and 400.1 of the Baltimore County Zoning Regulations to permit "a rear yard setback of 19 feet in lieu of the required 30 feet and to permit an accessory structure to be located in the side yard in lieu of the required rear yard."

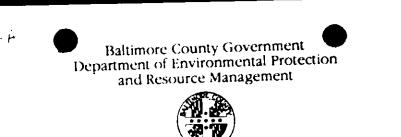
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Conserve fish, wildlife and plant habitat; and

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 14.15.10.01.0>



401 Bosley Avenue Towson, MD 21204

regualtions.

October 30, 1991

Mr. Joseph E. Armstrong 11501 Eastern Avenue Baltimore, Maryland 21220

The Baltimore County Chesapeake Bay Critical Area Program has reviewed your Findings Plan for a Petition for a Zoning Variance (Item 145) and Minor Subdivision. Your property is located in a Limited Development Area of the Chesapeake Bay Critical Area, and is therefore subject to the following

1. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>.

2. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

3. Regulation: "A minimum 25 foot buffer shall be maintained around all non-tidal wetlands so that development or other activities will not adversely affect the wetlands or the wildlife contained therein" <Baltimore County Code Sec. 22-212(a)>.

4. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

5a. Regulation: "For the alteration of forest or developed woodlands as delineated on the January, 1986 Baltimore County Forest and Developed Woodlands aerial photographs:

(1) No more than 20% of the sum of all forest and developed woodland may be cleared, and this shall be replaced by afforestation on a 1:1 acreage basis. An additional 10% of the forest or developed woodland may be cleared provided in such case, however, that every acre of forest or developed woodland cleared shall be replaced by 1.5 acres of afforestation.

(2) Forest or developed woodland cleared in LDAs shall be replaced in IDAs, LDAs, R.C. 20, or R.C. 50 Zones. Forest or developed woodland removed in the R.C. 20 or R.C. 50 Zones shall be replaced only in R.C. 20 or R.C. 50 Zones.

(3) The forest or developed woodland cleared shall be replaced according to an approved forest establishment plan. If the configuration of the site precludes on-site replacement, it is the

