Michael J. O'Malley

* BEFORE THE

* DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY

* Case No. 92-325-A

Ath Councilmanic District Petivioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Potition for Zoning Variance in which the Petitioner requests variances from the B.C.Z.R. as follows: from Section 236.1 to permit a front yard setback of 60 feet in lieu of the required 80 feet; from Section 233.1 to permit a minimum side yard of 10 feet in lieu of the required 15 feet; from Section 230.1 to permit a sum of the side yards of 26 feet in lieu of the required 35 feet; from Section 402.1 to permit the conversion of an existing single family dwelling to a duplex; and from Section 301.1 to permit an existing open carport to project into a side yard with a setback of 4 feet in lieu of the required 11.25 feet, all as more particularly described on Petitioner's Exhibit 1.

The Petitioner, Michael J. O'Malley, appeared and testified. Also appearing on behalf of the Petitioner was George E. Gavrelis, Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 4215 Old North Point Road, consists of 11,400 sq.ft., more or less, zoned B.R.-I.M., and is improved with a one story dwelling. The Petitioner is desirous of converting the existing dwelling to a duplex dwelling by constructing a second story addition and providing two apartments, one on each level. Testimony indicated that the requested variances are for existing improvements and that strict compliance will result in practical difficulty and unreasonable hardship for the Petitioner. Petitioner testified that the immediately adjoining property is zoned D.R. 5.5. and that the relief requested meets the requirements set forth in Section 402.1 of the B.C.Z.R. Petitioner also testified that he has spoken with his neighbors to advise them of his plans and that they have no objections.

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 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, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the

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.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this $\frac{9\%}{100}$ day of April, 1992 that the Petition for Zoning Variance requesting relief from the B.C.Z.R. as follows: from Section 236.1 to permit a front yard setback of 60 feet in lieu of the required 80 feet; from Section 233.1 to permit a minimum side yard of 10 feet in lieu of the required 15 feet; from Section 230.1 to permit a sum of the side yards of 26 feet in lieu of the required 35 feet; from Section 402.1 to permit the conversion of an existing single family dwelling to a duplex; and from Section 301.1 to permit an existing open carport to project into a side yard with a setback of 4 feet in lieu of the required 11.25 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.

> 2) The existing carport shall remain open on the three exposed sides and shall not be enclosed.

> > - 3-

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.

> Deputy Zoning Commissioner for Baltimore County

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

April 9, 1992

Mr. Michael J. O'Malley 4242 Old North Point Road Baltimore, Maryland 21222

RE: PETITION FOR ZONING VARIANCE SW/S Old North Point Road, 1340' NW of the c/l of North Point Boule-

(4215 Old North Point Road) 15th Election District - 7th Councilmanic District Michael J. O'Malley - Petitioner Case No. 92-325-A

Dear Mr. O'Malley:

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.

TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

cc: People's Counsel

Petition for Variance 34 to the Zoning Commissioner of Baltimore County 92-325-A 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 ___See attached.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Strict compliance with applicable standards for this existing building conversion is unecessarily burdensome and creates practical hardship.

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.
ntract Purchaser/Lessee:	Legal Owner(s):
	Michael J. O'Malley
(Type or Print Name)	Corres or Prise Nation Mole
Signature	Signature
Address	(Type or Print Name)
City and State	Signature
torney for Petitioner:	
	4242 Old North Point Road
(Type or Print Neme)	Address Phone No.
	Baltimore, MD 21222
Signature	City and State 477-0500
Address	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
	Daft-McCune-Walker, Inc.
City and State	200 Fast Pennsylvania Avenue
II	200 East Pennsylvania Avenue Towson, MD 21204 296-3333
ttorney's Telephone No.:	Address Phone No.
	OFFICE USE ONLY
ORDER RECEIVED FOR FILING	ESTIMATED LENGTH OF HEARING -1/2HJ AVAILABLE FOR HEARING MON./TUES./WED NEXT TWO MON

4215 Old North Point Road

Requested Variances

RECEIVED FOR 1

From Section 236.1, 233.1, 230.1 and 402.1 (DR-5.5) to enable

conversion of an existing residence to a duplex dwelling with:

- 1. A front yard width of 60 feet in lieu of the required 80 feet.
- 2. A minimum side yard of 10 feet in lieu of the required
- 3. A sum of the side yards of 26 feet in lieu of the required 35 feet.

From Section 301.1 to permit an existing open carport to project into a side yard with a setback of 4 feet in lieu of the required 11.25 feet.

Michael J. O'Malley 4242 Old North Point Road Baltimore, MD 21222 477-0500

DAFT-MCCUNE-WALKER, INC. 200 East Pennsylvania Avenue Towson, Maryland 21204 301 296 3333 FAX 301 296 4705 Land Planning & Development Consultants

- 4-

92-325-A Description to Accompany Petition for Zoning Variance

#4215 Old North Point Road 15th Election District, Baltimore County, Maryland



Land Planning Computer Design

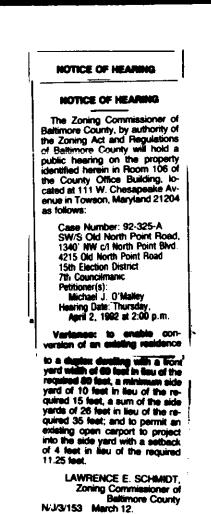
Beginning for the same at the end of the second of the two following courses and distances measured from the centerline line intersection of North Point Boulevard and Old North Point Road, (1) Landscape Architecture Northwesterly 1340 feet, more or less, and (2) South 74 degrees 19 minutes West 20.00 feet to the southwest side of Old North Point Road 40 feet wide, thence leaving said point of beginning and running and binding on said west side of Old North Point Road, (1) North 15 degrees 41 minutes West 60.00 feet, thence leaving said west side of Old North Point Road and running the three following courses and distances, viz: (2) South 74 degrees 26 minutes West 170 feet, thence (3) South 15 degrees 41 minutes 00 seconds East 60.00 feet, more or less, (4) North 74 degrees 26 minutes East 170.00 feet, to the point of beginning; containing 0.23 acres of land, more or less.

NOTE: THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE. Project No. 89094.B1 (L89094.B1)

February 19, 1992



Posted for:	
Petitioner: Physical J. C. 19. 14.	
Location of property: 1215 212 No. film? 61.	Jane Woof 14 Bent Plate
11112 664 No 12 2 1 1 16	
Location of Signs 1992 1992 1992 1992 1992 1992	<u> </u>



111 West Chesapeake Avenue

MARCH 6, 1992

CASE NUMBER: 92-325-A

4215 Old North Point Road

15th Election District - 7th Councilmanic

HEARING: THURSDAY, APRIL 2, 1992 at 2:00 p.m.

Petitioner(s): Michael J. O'Malley

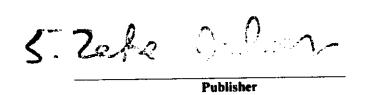
Towson, MD 2120+

CERTIFICATE OF PUBLICATION

march 12,1992 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 successive weeks, the first publication appearing on_ March 17, 1992.

> NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

> > (410) 887-3353



\$ 84,39

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

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

Variance to enable conversion of an existing residence to a duplex dwelling with a front yard width of 60

randonce to enable conversion of an existing residence to a unplex unerling with a front yard width of 60 feet in lieu of the required 15 feet, a feet in lieu of the required 15 feet, a

sum of the side yards of 26 feet in lieu of the required 35 feet; and to permit an existing open carport

to project into a side yard with a setback of 4 feet in lieu of the required 11.25 feet.

Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

SW/S Old North Point Road, 1340' NW of c/l North Point Boulevard

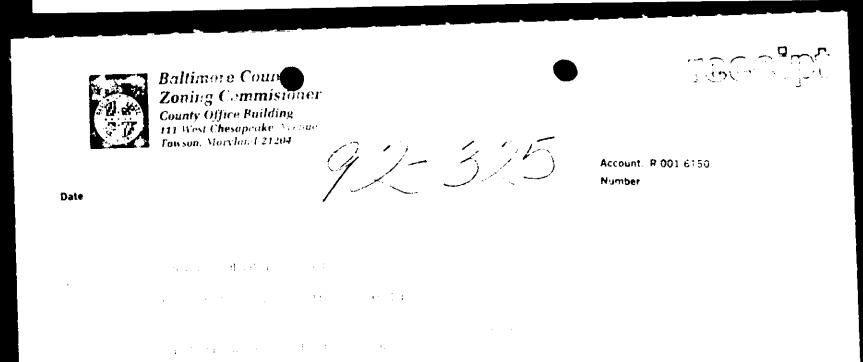
CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was

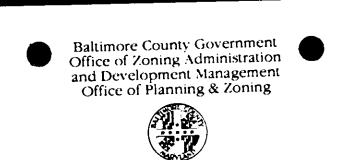
published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on March 12, 1992

THE JEFFERSONIAN.

\$84.39



Please Make Checks Payable To: Baltimore County 4 (5) Parting the second



March 27, 1992

111 West Chesapeake Avenue Towson, MD 21204

Cashler Validation

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:

Case Number: 92-325-A SW/S Old North Point Road, 1340' NW c/I North Point Blvd.

Variance: to enable conversion of an existing residence to a duplex dwelling with a front yard width of 60 feet in lieu of the required 80 feet, a minimum side yard of 10 feet in lieu of the required 15 feet, a sum of the side yards of 26 feet in lieu of the remined 15 feet, and to permit an

quired 35 feet; and to permit an

existing open carport to project into the side yard with a setback

(410) 887-3353

Mr. Michael J. O'Malley 4242 Old North Point Road Baltimore, MD 21222

RE: Item No. 341, Case No. 92-325-A Petitioner: Michael J. O'Malley Petition for Variance

Dear Mr. O'Malley:

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.

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

111 West Chesapeake Avenue Towson, MD 2120+

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Baltimore County

County Office Building 111 West Chesapeake Avenue

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Please Make Checks Payable To: Baltimore Cof

-8A 0002:18PM02-28-92 /

(410) 887-3353

Your petition has been received and accepted for filing this 28th day of February, 1992.

Received By:

Zoning Plans Advisory Comm

Petitioner: Michael J. O'Malley Petitioner's Attorney:

11 West Chesapeake Avenue Towson, MD 2120+

(410) 887-3353

Michael J. O'Malley 4242 Old North Point Road Baltimore, Maryland 21222

CASE NUMBER: 92-325-A SW/S Old North Point Road, 1340' NW of c/l North Point Boulevard 4215 Old North Point Road 15th Election District - 7th Councilmanic Petitioner(s): Michael J. O'Malley

Dear Petitioner(s):

Please be advised that \$ 109,39 is due for advertising and posting of the above captioned

Baltimore County Government Office of Zoning Administration

and Development Management Office of Planning & Zoning

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 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.

3/18/9~ 4217-91

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and Development Management

DATE: March 16, 1992

Gary Kerns, Chief

Community and Comprehensive Planning Division Office of Planning and Zoning

SUBJECT: Michael J. O'Malley, Item No. 341

In reference to the applicant's request, staff offers no comment.

GK:JL:prh

ITEM341.ZAC/ZAC1

ZONING OFFICE

Zoning Commissioner of

Michael J. O'Malley Daft-McCune-Walker

Baltimore County

700 East Joppa Road Suite 901 Towson, MD 21204-5500

(301) 887-4500

27/28-72

MARCI 3, 1992

Baltimore County Government

Fire Department

Aincle Jablon Tirector Toning Admiristration and Development Management raltinose County Office Building Towson, ID 21204

RE: Froperty Cwner: MICHAEL J. C'MALLEY

#4215 CLD NORTH POINT ROAD Location:

Zoning Agenda: MARCP 10, 1992 Item No.: 341

Gentlemen:

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

7. The Fire Prevention Bureau has no comments at this time.

Noted and Fire Prevention Bureau FEVIFVER: COST TOWN HOLD Approved Special Inspection Division

JP/KEK

BALTIMORE COUNTY ECONOMIC DEVELOPMENT COMMISSION

Memorandum

Julie Winiarski Office of Zoning Administration and Development Management

A. J. Haley, Deputy Director AUH Economic Development Commission

Zoning Advisory Comments for Meeting of March 10, 1992

This office has no comment for items 336, 337, 340, 341, 342, 344, 345 and

c: Ken Nohe

ZONING OFFICE

ZONING COMMISS THER'S POLICY MANUAL

CONVERSION OF A SINGLE FAMILY DWELLING INTO APARTMENTS

Conversions of single family homes in the D.R. (Density, Residential) zones into apartments shall be determined in a case by case review. Dwellings in R.C. zones are not included in this policy and cannot be

Prior to the adoption of the 1955 Baltimore County Zoning Regulations, many of the homes were built on a much larger scale (both dwelling and lots) than was common at that time. The County Council took this factor into account when in 1955 they adopted Section 402, B.C.Z.R. which established setback, lot width and area standards as special conditions to allow conversions of these

Under the authority of Section 402, conversions of existing one family dwellings to multi-family dwellings are permitted in the

402.1 Eligibility
A dwelling may be converted to multi-family occupancy only after a

A. Conditions (1) If the setbacks or the lot width standards are

a dwelling is a single family dwelling, the most i.e., a summer basement kitchen or a patio kitchen, etc.) Other factors would include, but would not necessarily be limited to, the floor plan or layout of

(3) See the following cases: 84-225-A (conversion with deficient setbacks)

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 13, 1992 Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

Zoning Advisory Committee Meeting for March 10, 1992

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 337, 340, 341, 342, 344, 345 and 346.

For Item 336, the previous County Review Group Comments still apply.

> ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

4199-92

ZONING OFFICE

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

DATE: April 8, 1992

1/4/92

119 47.9-

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

Rahee J. Famili SUBJECT: Z.A.C. Comments

42-325-A 4/2

Z.A.C. MEETING DATE: March 10, 1992

ITFM NUMBER: 341

MING COMMISSIONER

Access to this site should be limited to a single driveway.

Ranee J. Famili Traffic Engineer II

RJF/lvd

ZONING COMMISSIONER - WITNESS FORM

NAME: George E. GAYDELLS ADDRESS: 200 FAST PENNSYLVANIA AVE COMPANY: DART. Mc Cure. Walker

converted to apartments.

large single-family homes into apartments, as a matter of right.

D.R. zones, subject to the dimensional and area standards and the following policy:

five year occupancy* as a single family dwelling.

deficient, a variance (public hearing) may be requested. (2) If the lot area is deficient, the conversion cannot be

approved. (Lot area can affect density and density cannot be varianced.)

(3) Conversions are not subject to the Residential Transition Area (R.T.A.) standards.

*Interpretation

(1) The application of this policy may be subject to a special hearing by the Zoning Commissioner to confirm the good faith occupancy.

(2) If it is unclear or there is disagreement as to whether

important determining factor would be the existence or proposal of more than one kitchen. (This is not to say that a single family dwelling cannot have two kitchens; the living quarters, partitioning, and the owner's

Section 402--CONVERSION OF DWELLINGS [B.C.Z.R., 1955.] For residential use: [B.C.Z.R., 1955.]

402.1-- The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows. [B.C.Z.R., 1955.]

402.2-- Separate cooking facilities and a separate bathroom shall be provided for each family unit. [B.C.Z.R., 1955.]

> CONVERSION OF ONE-FAMILY DWELLINGS² MINIMUM DIMENSIONS

Zone	Width of Lot in Feet at Front Building Line		Lot Area In Square Feet		Side Yards—Feet			
	Duplex ³	Semi- Detached ³	Each Add. Fam.	Two Families	Each Add. Family	Min. for One	Sum of Both	
R.40 ⁴	175	175	25	50,000		Interior— 25 Corner— 50	Interior— 60 Corner— 75	
R.20 ⁴	125	125	25	25,000	7,500	Int.—20 Cor. —35	Int.—50 Cor.—60	
R.10 ⁴	90	100	15	12,500	4,000	Int. —20 Cor. —30	C 50	or 26'sum
R.6 4	80 60	90	15	10,000 10,200	3,000	Int.—15 Cor.—25	Int. —35	
R.G.4	70	80	10	Interior— 8,050 Corner— 9,200	2,500	int.—15 Cor.—25		
R.A. ⁴	70	80	10	Interior— 8,050 Corner— 9,200	2,500	Int.—15 Cor.—25	int.—30 Cor.—40	

4-3

4-3

