

IN RE: PETITION FOR VARIANCE
S/S Oliver Beach Road, 285' W
of the c/l of Eastern Boulevard
(7007 Oliver Beach Road)
15th Election District
5th Councilmanic District
Frances M. Dukes
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-279-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owner of the subject property, Frances M. Dukes. The Petitioner requests relief from Section 1B02.3.A.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet for two windows on the southeast side of a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petitioner were Peter J. Trionfo, Sr., the Petitioner's father, and Harvey Silbermann, Professional Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 7007 Oliver Beach Road, consists of 0.4607 acres, more or less, zoned D.R. 5.5 and is presently unimproved. The Petitioner is desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Testimony indicated that the subject property was created pursuant to a minor subdivision which was approved in Case No. 91-153-M and that the relief requested is necessary in order to bring the property into compliance with the regulations that were in effect at that time. The Petitioner argued that the relief requested is minimal and will not adversely impact the health, safety or general welfare of surrounding

properties. Further testimony indicated that all other building code and setback requirements will be met by the proposed development and that to require strict compliance will result in practical difficulty for the Petitioner.

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 (1974).

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.

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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 B.C.Z.R.

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 8th day of April, 1993 that the Petition for Variance requesting relief from Section 1B02.3.A.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet for two windows on the southeast side of a proposed dwelling, 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 original condition.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 4/8/93
By [Signature]

- 3 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 847-4386

April 8, 1993

Ms. Frances M. Dukes
317 Capitol Court
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE
S/S Oliver Beach Road, 285' W of the c/l of Eastern Boulevard
(7007 Oliver Beach Road)
15th Election District - 5th Councilmanic District
Frances M. Dukes - Petitioner
Case No. 93-279-A

Dear Ms. Dukes:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Peter J. Trionfo, Sr.
7432 Greenbank Road, Baltimore, Md. 21220

People's Counsel

File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7007 OLIVER BEACH RD
which is presently zoned DRS.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated 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(s) 1B02.3.A.3, BCZR TO PERMIT A WINDOW TO TRACT SETBACK OF 30' IN LIEU OF THE REQUIRED 35'

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) THE BUILDING WAS DESIGNED AFTER APPROVAL OF THE SUBDIVISION. CURRENTLY, THERE IS A 30' SETBACK TO THE TRACT BOUNDARY. ON THE OTHER SIDE OF THE TRACT BOUNDARY, THERE IS A 25' EASEMENT, MAKING A MINIMUM OF 35'.

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.

Contact Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that here are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s)

FRANCES M. DUKES

(Type or Print Name)

Frances M. Dukes

Signature

(Type or Print Name)

Signature

317 CAPITOL CT. 410 312 21

BALTO MD 312 21

City State Zipcode

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

PETER J. TRIONFO, SR.

7432 GREENBANK RD. 335-5462

Address City State Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Responsible for Hearing

ALL OTHER

REVIEWED BY: JCM DATE: 2-18-93

291

SILBERMANN & ASSOCIATES, INC.

Engineers • Planners • Surveyors

3527 EAST JOPPA ROAD
BALTIMORE, MARYLAND 21234
(410) 661-5888
FAX NO. 661-0728

Zoning Description for # 7007 Oliver Beach Road

Election District 15 Councilmanic District 5

Beginning at a point on the south side of Oliver Beach Road which is 30 feet wide (45 feet proposed, 60 feet future) at a distance of 285 feet from the centerline of Eastern Avenue which is thirty feet wide (45 feet proposed) and continuing on the following courses:

- 1) S 59 22' 42" E 90.23'
- 2) S 33 58' 00" W 195.42'
- 3) N 56 02' 00" W 90.08'
- 4) N 33 58' 00" E 190.16' to the point of beginning.

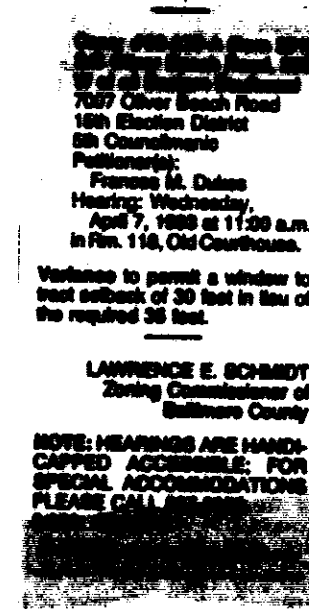
As recorded in the Land Records of Baltimore County in Deed Liber 9595 Folio 047.

Containing 17366.383 Square Feet or 0.3987 Acres.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 3/20/93
Posted for: Variance
Petitioner: Frances Dukes
Location of property: 7007 Oliver Beach Rd. 285' W of Eastern Blvd.
Location of Sign: Oliver Beach Rd. 285' W of Eastern Blvd.
Remarks: None
Posted by: M. Dukes Date of return: 3/24/93
Number of Signs: 1



CERTIFICATE OF PUBLICATION

TOWSON, MD., 34, 1993

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 34, 1993

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher

#63.22



Zoning Administration & Development Management
215 West Calverton Ave.
Towson, Maryland 21204

Date 2-18-93

93-279-A

Account: R0C14190

Number

#291

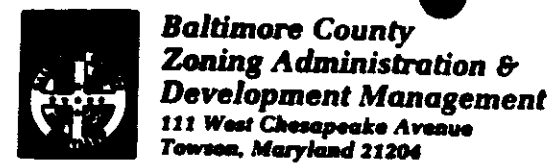
PETITIONER FRANCES DUKES
317 CAPITAL CT.
BALTO, MD. 21221

VARIANCE

\$50.00

Cashier Validation

Please Make Checks Payable To: Baltimore County



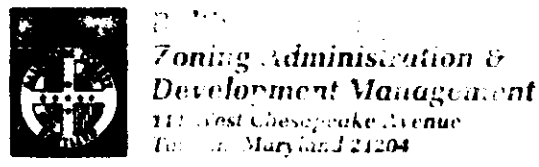
receipt

Date: 2/22/93
PAID PER HAND-WRITTEN RECEIPT
PUBLIC HEARING FEES
910 ZONING VARIANCE (1RL)
LAST NAME OF OWNER: DUKES

QTY: 1 X
PRICE: \$50.00
TOTAL: \$50.00

Please Make Checks Payable To: Baltimore County

Cashier Validation



receipt

Date: 93-277
AD 47

Account: R-091-6190
Number:

03403H002241CHRG
PA 0003-07PM03-19-93 \$63.27
Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 3-12-93

Frances M. Dukes
317 Capitol Court
Baltimore, Maryland 21221

RE: CASE NUMBER: 93-279-A (Item 291)
S/S Oliver Beach Road, 285' W of c/l Eastern Boulevard
7007 Oliver Beach Road
15th Election District - 5th Councilmanic
Petitioner(s): Frances M. Dukes
HEARING: WEDNESDAY, APRIL 7, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ 63.27 is due for advertising and posting of the above captioned property and hearing date.

THE SAVING SIGN & POST SET(S) MUST BE 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.

Forward your check for the above fee via return mail to the Zoning Office, (ZADM), County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Please write the case number and hearing date on the check and make same payable to Baltimore County, Maryland. To avoid delay of the a ruling in your case, immediate attention to this matter is suggested.

Arnold Jablon

ARNOLD JABLON
DIRECTOR

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Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

MAR 01 1993

(410) 887-3353

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, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-279-A (Item 291)
S/S Oliver Beach Road, 285' W of c/l Eastern Boulevard
7007 Oliver Beach Road
15th Election District - 5th Councilmanic
Petitioner(s): Frances M. Dukes
HEARING: WEDNESDAY, APRIL 7, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a window to tract setback of 30 feet in lieu of the required 35 feet.

Arnold Jablon

Arnold Jablon
Director

cc: Frances M. Dukes
Peter J. Trionfo, Sr.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

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Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 24, 1993

Ms. Frances M. Dukes
317 Capitol Court
Baltimore, MD 21221

RE: Case No. 93-279-A, Item No. 291
Petitioner: Frances M. Dukes
Petition for Variance

Dear Ms. Dukes:

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 indicate the appropriateness of the zoning action requested, but 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 February 18, 1993, and a hearing was 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.

1) 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 preliminary review by Zoning personnel.

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O. James Lighthizer
Secretary
Hal Kassoff
Administrator

3-1-93

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 93-279 (JCM)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5882 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: March 3, 1993
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item No. 286, 290 and 291.

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 887-3480.

Prepared by: Jeffrey M. Long
Division Chief: Edry L. Lewis

PK/JL:lw

286, ZAC/ZAC1

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

MARCH 11, 1993

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: FRANCES M. DUKES
Location: #7007 OLIVER BEACH ROAD
Item No.: 291 (JCM) Zoning Agenda: MARCH 1, 1993
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.

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

REVIEWER: Capt. Jerry Rife
Planning Group
Special Inspection Division

JP/KEKH

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93-279-A 3-7-93

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: March 16, 1993
FROM: J. Lawrence Pilson
Development Coordinator, DEPRM
SUBJECT: Zoning Item #291
Dukes Property; 7007 Oliver Beach Road
Zoning Advisory Committee Meeting of 3/1/93

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

JLP:rmp
Attachment

DUKES/DCRMP

