FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a series of variances for a portion of that residential development known as Chapelgate, Section 6, located in the Timonium area of Beltimore County. The Petition is filed by the property owners, C.G. Homes, Inc. Relief is requested from several sections of the Baltimore County Zoning Regulations (8.C.Z.R.) and Comprehensive Manual of Development Policies (CMDP) as

1. From Section 1801.2.C.1 of the BCZR and CMDP, Section V.B.3 to permit a 20 ft. building to building separation in lieu of the required 25, 30 and 40 ft. for building heights more than 20 ft. but not more than 40 ft. for lots 1 through 12:

From CMDP Section V.B.6.b to permit 10 ft. window to side lot line setback in lieu of the required 15 ft. for lots 1 through 12;

32 From CMOP Section V.B.6.c. to permit a 20 ft. side window to side window separation in lieu of the required 40 ft. for lots 1 through 12; and 41. From Section 1801.2.C.2.a and CMDP Section V.B.5.a V.B.5.b to permit a 15 ft. side window and/or building face to tract boundary in lieu of the required 35 ft. and 30 ft. for lot No. 12.

Also requested is an amendment to the Final Development Plan of Chapelgate, Section 6. All of the relief requested is more particularly shown on the site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Ton Faust and Armando Cignarale, principals in C.G. Homes, Inc., property owner. Also appearing was Michael Maguire, the property line surveyor who prepared the plan. The Petitioner was represented by John B. Gontrus, Esquire. There were no Protestants present.

Testimony and evidence presented was that the subject tract is part of a larger residential subdivision known as Chapelgate. As noted above, the property is located in Timonium, adjacent to the Mays Chapel Village subdivision. Section 6 of Chapelgate is approximately 30 acres in area and the entire subdivision totals approximately 94 acres. The entire subdivision is predominantly zoned D.R.5.5 with a small portion of D.R.3.5

As shown on the site plan, Section 6 of Chapelgate will be improved with a series of tomphouses and single family homes. The townhouses are to the interior of the site and are not the subject of the variance request. Single family houses which total 12 in number, are located immediately next to Jennifer Road and are the subject of the variance relief

Testimony and evidence offered by the Petitioner was that a series of blanket variances are necessary for the 12 single family lots. These relate to internal side yard to side yard setbacks, window to window setbacks, building to building setbacks and building to tract boundary setbacks, all as more precisely described in the Petition. The Petitioner also noted that the site complies with the standards in the current version of the C.M.D.P. As is well known, the C.M.D.P. was recently comprehensively amended. Although the proposed plan is in compliance with the setbacks required in the current C.M.D.P., compliance or variance relief

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is necessary for the subject property in that the development plan for same was approved when the old version of the C.M.D.P. was in effect.

The Detitioner testified that there would be no detrimental effect to the surrounding community if the variances were granted. Specifically, it was testified that this is an internally oriented community with the sine gle family louses facing the townhomes. Moreover, strict compliance with the setback regulations would cause loss of a building lot and disrupt the flow and scheme of the single family community.

As noted above, there were no Protestants at the hearing. A commen

was received from the Office of Planning and Zoning (OPZ) which seemingly supports the variance request and notes that the proposed layout is in compliance wit the current C.M.D.P. standards. Moreover. OPZ succests that additional street trees, one per lot should be planted along the right of way to compensate for the reduction of side yard setbacks. The Developer has agreed to this restriction. Also, OPZ requests that a tot lot or other amenity should be incorporated. In this respect, it is to be noted that significant open space already origin within Section 6 of the Changingto community. Specifically, there are several large areas of open shown on the plan which the Petitioner believes will serve not only use residents but also the single family residents. Moreover, the Mays Chapel United Methodist Church is located immediately next door and has outdoor facilities which might be utilized by the residents reover. Padonia Park Swim Club, an extensive recreational facility, is located nearby and although not open to the public would be available to the members of this community. Based on the availability of these other facilities. I concur that a tot lot is not necessary and need not be added

Lastly, the Petitioner noted that it believes that OP2's ZAC comment to be in error regarding the 25 ft. setback. Specifically, in that the houses are oriented towards townhomes, the Developer believes that a rear yard setback towards Jennifer Road requirement need only be 25 ft. and

An area variance may be granted where strict application of the you ing regulations would cause practical difficulty to the Petitioner and his property. McLuan 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 proper ty for a permitted purpose or render conformant

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxa-tion than that applied for would give substantial

whether relief can be granted in such fash-that the spirit of the ordinance will be rved and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App 20 /10741

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 S.C.Z.R. and

will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it clear that a 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 necellar to the land or struc-

ture which is the subject of the variance requested, and that the require-

ments 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 and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

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Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief remiested should be granted

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Beltimore County this 4th day of March, 1994 that a variance from Section 1801.2.C.1 of the BCZR and CMDP, Section V.B.3 to permit a 20 ft. building to building separation in lieu of the required 25, 30 and 40 ft. for building heights more than 20 ft. but not more than 40 ft. for lots 1 through 12. be and is hereby GRANTED: and.

IT IS FURTHER ORDERED that a variance from CMDP Section V.B.6.b to permit 10 ft. window to side lot line setback in lieu of the required 15 ft. for lots 1 through 12, be and is hereby GRANTED; AND,

IT IS FURTHER ORDERED, that a variance from CMDP Section V.B.6.c. to permit a 20 ft. side window to side window separation in lieu of the required 40 ft. for lots 1 through 12, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that a variance from Section 1801.2.C.2.a am CMMP Section V.B.5.a V.B.5.b to permit a 15 ft. side window and/or building face to tract boundary in lieu of the required 35 ft. and 30 ft. for lot No. 12, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that approval to amend the Final Development Plan of Chapelgate, Section 6, in accordance with Petitioners' Exhibit No.

1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

The Petitioner is hereby made sware that proceeding at this time is at its 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 Petitionern would be required to return, and be responsible for

The Petitioner shall cause these to be added; I street tree per lot for each of the 12 single femily lots in Chapelgate, Section 6. The size, location and species of the tree shall be

CARRENCE E. SCHMIOT Zonipa (1997)

LES/

Suite 113 Courthous 400 Washington Ave Towson, MD 21204

(410) 887-4386

March 1, 1994

John B. Gontrum, Esquire 814 Eastern Boulevard Essex, Maryland 21221

RE: Case No. 94-283-A Petition for Zoning Variance C.G. Homes, Inc., Petitione

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 687-3591.

from Ishon

Mr. T. Faust Mr. Armando Cignarale C.G. Nomes, Inc., P.O. Box 4357, Timonium, Md. 21093

283 Petition for Variance to the Zoning Communication for the property located at SM Side Parnham Nav

CER ATTRACTOR one of Belenor County, to the Zoning Law of Belienor County, for the following resons: (ndicate hardship Former Zoning regulations under which development plan approved on not allow flexibility for the proposed houses on tract, which is

Perhantan	White dis substants declares and affirm, under the paradities of property, that have are the regard exercises of the property affects in the halifact of the Phillipse. Logal Commission.
M44	C.G. Homes INC.
Application of the second	Vanor LEart 2562
	Property Principles
B Contrum, Esquire	DA B. WAS
-	P.O. ROX 439) 560-192

Timopium, ord 21053

orset KA, GONTTAM & MCLAUGHLIN, P.A. 814 Eastern Blvd.

Essex, Maryland 21221 94101696-9274 DROP - OFF REVIEW

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HARTSMORE BROMESTER

A. Section 1801.20.1 of the BCZR and OCP Section V.B.3 pursuant to Section 504 BCZR to permit a 20 foot building to building separation in lieu of the required 25.30, and 40 feet for building heights more than 20 but not more than 40 feet - Lots 1 through 12.

B. OOP Section V.B.6.b. pursuant to Section 504 BCZR, to permit a 10 foot window to side lot line setback in lieu of the required 15 feet - Lots 1 through 12.

C. CMDP Section V.B.6.c. pursuant to Section 504 BCZR, to permit a 20 foot side window to side window separation in lieu of the required 40 feet - Lots 1 through 12.

D. Section 1801.2.C.2.a and CMDP Section V.B.5.a and V.B.5.b pursuant to Section 504 BCZS, to permit a 15 foot side window and/or building face to tract boundary in lieu of the required 35 and 30 feet, respectively. Lot 12.

and to amend the Final Development Plan of Chapelgate, Section 6.

Description

1283

to Accompany Petition for Zoning Variance. 2 887 Acre Parcel, Southwest Side of Farnham Way

Southeast of Padonia Road Fighth Election District, Baltimore County, Maryland

Beginning for the same on the northeast side of Jenuer Road and at a point Date M. Cases Walker, Inc. distant 30 feet, as measured North 33 degrees 37 minutes 00 seconds East from a point on the centerline of said lenifer Road, said last mentioned point being Town Maryland 27,286 distant 33 feet, as measured South 56 degrees 23 minutes 00 seconds East along said for 200 100 centerline from its intersection with 'he centerline of Farnham Way, thence 4 Town of load Pleaser running from the aforementioned point of beginning, (1) North 11 degrees 23 Landary Archests. minutes 00 seconds West 14.14 feet, thence binding on the southeast, south and southwest side of said Farnham Way the following ten courses and distances, viz:

(2) North 33 degrees 37 minutes 00 seconds East 5.48 feet, thence (3) Easterly, by a

curve to the right with the radius of 122.50 feet, the arc distance of 197.77 feet, said arc being subtended by a chord bearing North 79 degrees 52 minutes 06 seconds East 176.98 feet, thence (4) South 53 degrees 52 minutes 48 seconds East 100.37 feet, thence (5) Southeasterly, by a curve to the left with the radius of 3048.00 feet, the arc distance of 100.81 feet, said arc being subtc.:ded by a chord bearing South 54 degrees 49 minutes 39 seconds East 100.80 feet, thence (6) South 55 degrees 46 minutes 30 seconds Fast 233 64 feet, thence (7) Southeasterly, by a curve to the right with the radius of 1407.00 feet, the arc distance of 351.45 feet, said arc being subtended by a chord bearing South 48 degrees 37 minutes 09 seconds East 350.54 feet, thence (8) South 41 degrees 27 minutes 48 seconds East 12.21 feet, thence (*

Page 1 of 2

South 03 degrees 32 minutes 12 seconds West 12.83 feet, thence (10) South 48 degrees 32 minutes 12 seconds West 7.93 feet, and thence (11) South 41 degrees 27 minutes 48 seconds East 83.67 feet, thence (12) South 52 degrees 46 minutes 30 seconds West i12.60 feet to a point on the northeast side of lenifer Road herein referred to, and thence binding on said northeast side of lenifer Road the following two courses and distances, viz: (13) Northwesterly, by a curve to the left with the radius of 1330.00 feet, the arc distance of 429.99 feet, said arc being subtended by a chord bearing North 47 degrees 07 minutes 17 seconds West 428.12 feet, and thence (14) North 56 degrees 23 minutes 00 seconds West 537.38 feet to the point of beginning: containing 2 887 acres of land more or less THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE. November 22, 1993

Project No. 86064.Q1 (L86064Q1)

Page 2 of 2

STREET OF BALTIMORE COUNTY 91-273-4

District. For Date of Passage Mary Posted for Lexiste Postone C. 6. 110 mm. I. Location of property 5 4/5 Form him Klay St. fledoria Rt. Location of Same Francy Rodaing an property being round

Dete of return: 2/11/99 Pumber of Signet _____



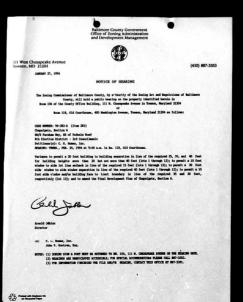




HATES: (1) MEASTERS AND HAMPICAPPED ACCESSING; FOR SPECIAL ACCOMPRESSIONS FLASS CALL 887-3353.
(2) FOR INFORMATION CONCREME THE PILE MED/OR MEASURE, PLEASE CALL 887-3393.

To: PUTULENT PUBLISHING COMPANY Teb. 3, 1994 Insee - Jeffen

Please found billing to:



111 West Chesapeake Avenue Towson, MD 21204

(410) 887,3353

February 16, 1994

RE: Case No. 94-283-A, Item No. 283 Petitioner: C.G. Homes, Inc. Petition for Variance

The Sming Plans Sdvisory Committee (EAC) has reviewed the plans smallted units of the state of t

Exclosed or all comments submitted thus far from the members of ZAC that on one process of the comments are received information on your petition. If additional comments are received than to the comments are received than to proceed the process of the comments of the co

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

the director of Zoning Administration and Development Management into Library and the profession of the Control of Control of

Baltimore County Government Fire Department

DATE: 01/27/94

Arneld Jablen Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: C.G. HOMES, INC.

LOCATION: SW/S FARNHAM WAY., SE OF PADONIA RD. (CHAPELGATE, SECTION 6) Item No.: 283 (WCR)

Zoning Agenda: VARIANCE

PETITIONER(S) SIGN-IN SHEET

108 w Timorium Rd.

200 K. FRINSYLVANIA KYK.

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.



ZADM

REVIEWER: LT. ROBERT P. SAUFRWALD Fire Prevention, PHONE 887-4881, MS-1102F

PLEASE PRINT CLEARLY NAME

> ARMINOS Clammine MUNEL AKAROR

Maryland Department of Transportation State Highway Administration

Ms. Charlotte Minton

2-17-94

Baltimore County Item No.: + 283 (WCR)

94-283-4 FEB 2 3 1994

ZONING COMMISSIONER

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 project.

Please contact Bob Small at 410-333-1350 if you have any questions. Thank you for the opportunity to review this item.

> Bob Small DAYLO N. RAHDEY, ACTING CHIEF

Maryland Relay Service for Impaired Hearing or Speech 1-800-735-2258 Statewide Toll Free Mailing Address: P.O. Box 717 - Battimore, MD 21203-9717 Street Address: 707 North Calvert Street - Baltimore, Maryland 21202 designation.

111 West Chesapeake Avenue Towson, MD 21204

88 -----

(410) 887-3353

January 11 1994

John B. Gontrum, Esquire Romadka, Gontrum & McLaughlin, P.A. 814 Eastern Boulevard Eusex, ND 21221

Preliminary Petition Review (Item #283) Legal Owner: C.G. Homes, Inc. SM/S Parnhem May (Chapelgate, Section 6) 8th Election District

ower Mr. concrusiposer M

Clearly indicate which lots (1-12?) are being varianced on the plan.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

FEB 2 - 1998

Enclosure (receipt) cc: Zoning Commissioner PECELAE

ZAC. 283/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon. Director Zoning Administration & Development Management FEB 1 7 1994 ZONING COMMISSIONER

Pat Keller, Deputy Director Office of Planning and Zoni DATE: February 10, 1994

SUBJECT: Southwest side Farnham Way

Put it ioner C. G. Homes Inc. Property Size Zonina: Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided, staff offers the following comments. - Variance requests A, B, C, and D conform to current C.M.D.P. standards for the D.R. 5.5 zone.

The rear yard building setback is incorrect as the plan shows and 25' setback and a minimum of 30' is required. Therefore, the Petition for Variance should be amended to reflect the deficient setback for Lots 1 through 12.

Additional street trees (one additional per lot) should be planted along the right of way to compensate for the reduction of side setbacks.

- A tot lot should be incorporated into the plan to provide additional recreation-

PK /.II. - 1 -

STA MICRO-WAY TOWER 0 **∄**⊕ R.C. 5

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Pg. 1

