

IN RE: PETITION FOR ZONING VARIANCE *
W/S Greenspring Avenue *
100 ft. N of c/o Kelly Avenue * ZONING COMMISSIONER
Miller property * OF BALTIMORE COUNTY
3rd Election District *
3rd Councilmanic District *
Howard B. Miller, et ux. Case No. 94-319-A
Petitioners * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located near the intersection of Valley Hi Court and Greenspring Avenue, owned by the Petitioners, Howard B. Miller and Linda C. Miller. Variance relief is requested from Section 1804.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side lot lines setbacks of 40 ft. each for principal buildings in an R.C.S. zone, in lieu of the required 50 ft., for lots 6, 7, 8 and 9. The Petitioners also request approval to amend the Final Development Plan for the proposed subdivision. All of the relief requested are more particularly shown on the site plan, marked as Petitioners' Exhibit No. 1, the Second Amended Final Development Plan for the Miller property located adjacent to Greenspring Avenue in northern Baltimore County.

Appearing at the public hearing held for this case was the property owner/petitioner, Howard B. Miller. He was represented by Robert W. Cannon, Esquire. Also present was David S. Thaler, of D.S. Thaler and Associates, the engineers who prepared the site plan. There were no Protestants present.

Testimony and evidence presented was that the subject site is approximately 20.15 acres and is zoned R.C.S. The property has been owned by the Petitioners for some time. Recently, the property owners decided to subdivide their property so as to create additional building lots. Thirteen

total lots were created, as shown on the site plan. The development has been through the development review process and has been approved. The original Final Development Plan was approved on November 19, 1991 and an amended plan approved on July 26, 1993.

As to the zoning history, the case came before Deputy Zoning Commissioner, Timothy M. Ketroos, in 1993 for variances for certain of the lots. Deputy Commissioner Ketroos approved this Petition.

The matter now comes before me on a Petition for Variance for four of the lots designated as lots 6, 7, 8 and 9. As noted above, relief is requested so as to permit 40 ft. side yard setbacks in lieu of the required 50 ft. setbacks. The Petitioner, through counsel and his engineer, indicated that the variances were necessary so as to properly locate the proposed building envelopes on these four lots. It was particularly noted that all of the lots are still owned by the Petitioners and that there has been no construction or sale on any of the properties. Thus, the variances relate to finalizing the development plan so as to enjoy maximum utilization of the proposed property for the contemplated community.

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

It is clear from the testimony that if the variances are 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 a practical difficulty or unreasonable hardship will result if the variances are 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 the variances requested, and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R.

It is also to be noted that the granting of the variances constitutes a technical change to the Final Development Plan. In fact, Mr. Thaler offered a red line plan in the hearing which was marked as Petitioners' Exhibit No. 1. At the Petitioners' request, this red line plan shall be approved and accepted and the Order herein will reflect an approval of the Second Amended Final Development Plan for this project.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of March, 1994 that a variance from Section 1804.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side lot lines setbacks of 40 ft. each for principal buildings in an R.C.S. zone, in lieu of the required 50 ft., for lots 6, 7, 8 and 9; and approval to amend the Final Development Plan for the proposed subdivision, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process on 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.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner
for Baltimore County

LES/mnn

ORDER RECEIVED FOR FILING
Date: 3/30/94
By: [Signature]

ORDER RECEIVED FOR FILING
Date: 3/30/94
By: [Signature]

ORDER RECEIVED FOR FILING
Date: 3/30/94
By: [Signature]

-2-

-3-

-4-

Baltimore County Government
Zoning Commission
Office of Planning and Zoning

Suite 113 Court House
400 Washington Avenue
Towson, MD 21204

(410) 867-4386

March 29, 1994

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201
RE: Case No. 94-319-A
Petition for Zoning Variance
Property: Valley Hi Court and Greenspring Avenue
Howard B. Miller, et ux. Petitioners

Dear Mr. Cannon:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

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 867-3391.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:mnn
att: Mr. David S. Thaler



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at Valley Hi Court and Greenspring Avenue
which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Enforcement. The undersigned, legal owner(s) of the property shown 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 1804.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side lot lines setbacks of 40 ft. each for principal buildings in an R.C.S. zone, in lieu of the required 50 ft., for lots 6, 7, 8 and 9 resulting in variances of 10 feet each.

The requested variances will permit the construction of the types of residential homes which are similar to those permitted in the RC-5 zone and which will not cause any adverse effect upon the zone, as all of the requested variances are within the property itself.

The grant of the variance is in harmony with the spirit and intent of the Zoning Regulations and would not result in substantial injury to the public health, safety and general welfare. Grant of Petitioner's request would cause practical difficulty and unreasonable hardship.

Property as to be petitioned and advertised as proposed by Zoning Regulations. Property as to be petitioned and advertised as proposed by Zoning Regulations. Property as to be petitioned and advertised as proposed by Zoning Regulations. Property as to be petitioned and advertised as proposed by Zoning Regulations.

Current Petitioners:
Name: Howard B. Miller
Address: 100 South Charles Street, Baltimore, Maryland 21201
Name: Linda C. Miller
Address: 100 South Charles Street, Baltimore, Maryland 21201
Name: Robert W. Cannon, Esquire
Address: 100 South Charles Street, Baltimore, Maryland 21201
Name: Lawrence E. Schmidt
Address: 100 South Charles Street, Baltimore, Maryland 21201

City of Baltimore, Md. and others, under the petition of others, that have no legal interest in the property shown 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 1804.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side lot lines setbacks of 40 ft. each for principal buildings in an R.C.S. zone, in lieu of the required 50 ft., for lots 6, 7, 8 and 9 resulting in variances of 10 feet each.

Very truly yours,
Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

February 7, 1994
DESCRIPTION TO ACCOMPANY VARIANCE REQUEST
MILLER PROPERTY

Beginning for the same at a point in the center of Greenspring Avenue, 300 feet, more or less, North from the centerline of Kelley Avenue; thence, leaving the centerline of Greenspring Avenue, South 57°41'24" West 1323.78 feet to a point; thence, North 51°05'53" West 101.29 feet to a point; thence, North 03°13'27" West 899.01 feet to a point; thence, North 58°03'12" East 449.80 feet to a point; thence, South 32°01'30" East 207.29 feet to a point; thence, North 61°29'45" East 391.08 feet to intersect the south side of the 70 foot right-of-way of Greenspring Avenue; thence, binding upon the south right-of-way line of Greenspring Avenue 134.09 feet for a curve to the left, having a radius of 1122.68 feet, to a point; thence, South 15°39'10" West 21.37 feet to a point; thence, leaving the right-of-way line of Greenspring Avenue, North 59°24'45" East 56.71 feet to intersect the centerline of Greenspring Avenue; thence, binding upon the centerline of Greenspring Avenue the two (2) following courses and distances:
1. South 38°24'16" East 362.06 feet to a point;
2. South 33°04'53" East 134.48 feet to the point of beginning.

Containing 20.6 acres of land, more or less.
This description is taken from and is intended to comply with a "Plan to Accompany Variance Request" Miller Property prepared by D.S. Thaler & Associates dated February 7, 1994.

CERTIFICATE OF PUBLICATION

TOWSON, MD., March 3, 1994

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 March 3, 1994.

THE JEFFERSONIAN,
A. H. HENNINGSON
LOCAL AD. - TOWSON



#321

321

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 02/25/94

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

RE: Property Owner: HOWARD B. MILLER & LINDA C. MILLER

LOCATION: W/S GREENSPRING AVE., 300' N OF CENTERLINE KELLY AVE.
(MILLER PROPERTY)

Item No.: 324

Zoning Agenda: VARIANCE

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.

ALL ROADS SHALL BE A MINIMUM OF 18 FEET, AND SHALL BE POSTED WITH FIRE LANE SIGNS ALONG THEIR ENTIRE LENGTH. BALTIMORE COUNTY COUNCIL BILL 102-74.

RECEIVED
FEB 28 1994

ZADM

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

cc: File



Printed on Recycled Paper

H.O.

16 Feb 94

MR Cannon understands that should the variances be granted (whether in whole or in part) ~~that~~ an amendment to the FDP needs to be filed. Because no lots have been sold, the plan may be revised with the variance info on it and resubmitted to Mitch for signature.

CAM

See letter to me dated Feb 14, 94

- 321

795-94

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

(410) 332-8300
WASHINGTON AREA (301) 470-7400

FACSIMILE
(410) 332-8882

WRITER : DIRECT DIAL NUMBER

(410) 332-8816

94-319-A

2/15/94
g

February 14, 1994

10480 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
(410) 740-8900

FILE NUMBER
20058.2

VIA HAND DELIVERY

Ms. Catherine (Kate) Wilton
Baltimore County Zoning Administration
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Howard B. Miller
Greenspring Avenue and Valley Hi Court

Dear Kate:

I thought I would send the material to you that I intended to review with you last Friday. We were snowed out.

Enclosed you will find 3 original Petitions, 12 copies of the plat, 3 copies of the description, 1 copy of the zoning map and a check made payable to Baltimore County in the amount of \$235.00 representing the filing fee of \$200.00 at \$50.00 per lot and the sign fee of \$35.00. All of the lots in the subdivision are still owned by the Millers.

Please call me with any questions you have after you have had an opportunity to review the enclosures.

Sincerely yours,

Bob Cannon
Robert W. Cannon

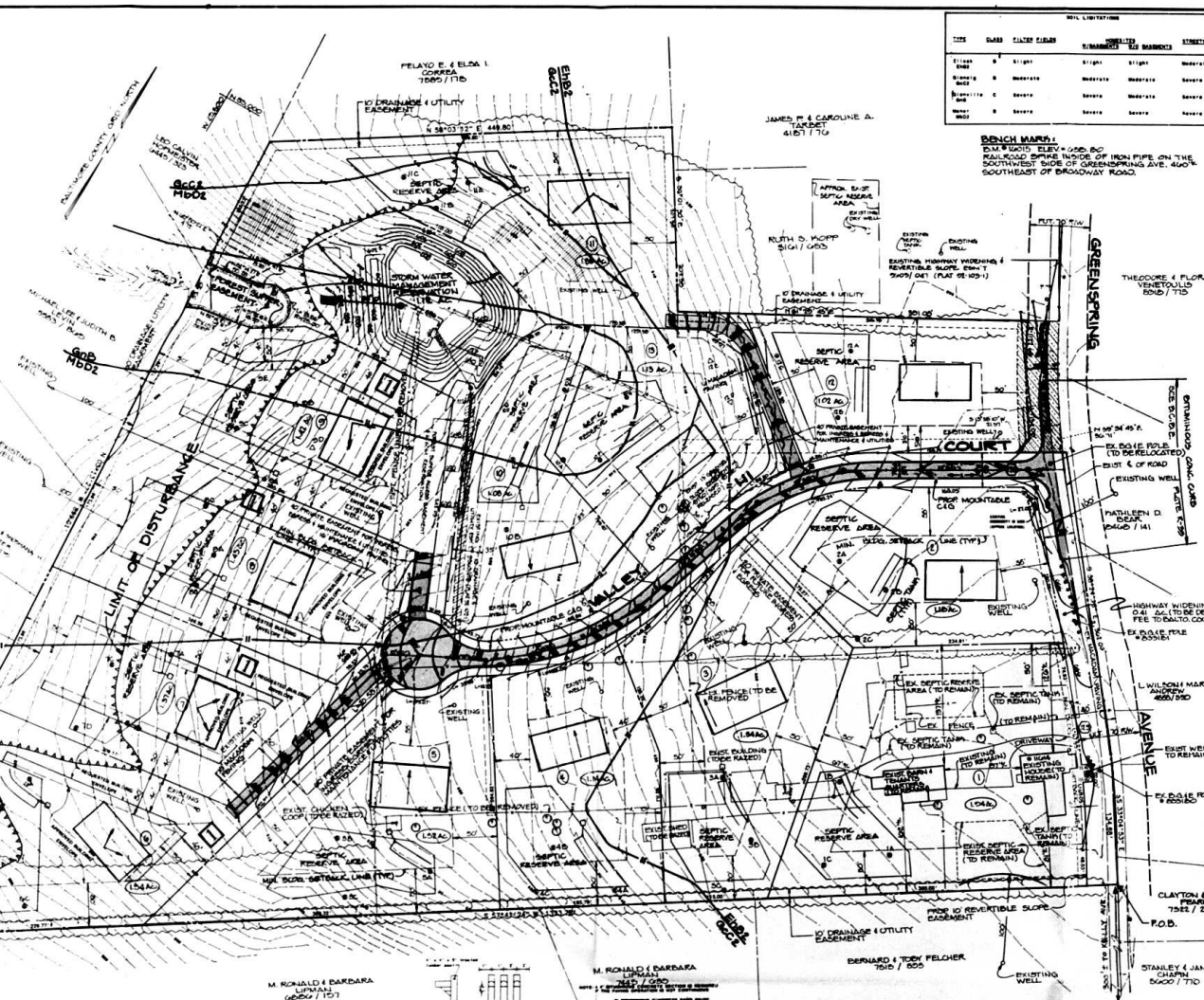
0818p/0081/kzm

Enclosures

RECEIVED
FEB 14 1994

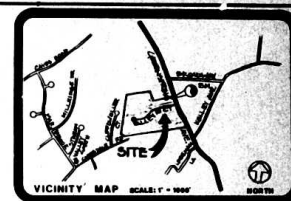
ZADM

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NOIL LIMITATIONS						
TYPE	CLASS	FILTER	FUEL	NOISE		STATUS
				W/NOISE	W/ NOISE	
Class ENR	B	Slight		Slight	Slight	Modest
Class NoC2	B	Moderate		Moderate	Moderate	Severe
Class and	C	Severe		Severe	Moderate	Severe
Class NoC2	B	Severe		Severe	Severe	Severe

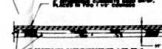
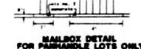
BENCH MARK:
D.M. # 16015 ELEV. 450.80
RAILROAD SPIKE INSIDE OF IRON PIPE ON THE
SOUTHWEST SIDE OF GREENSPRING AVE. 400
SOUTHEAST OF BROADWAY ROAD.



GENERAL NOTES :

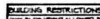
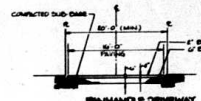
- [illegible]

94-319-A

[illegible]

TYPICAL PAVING SECTION

NOT TO SCALE

ELEVATION, SETBACK, HEIGHT
TO HEIGHT RELATIONSHIP DETAIL

DENSITY CALCULATIONS :

1. TOTAL GROSS AREA OF SITE : 30.60 AC.
2. TOTAL AREA OF RIGHT OF WAY WAY WIDTH ALONG GREENSPRING AVE/L : 1.00 AC.
3. TOTAL NET AREA OF SITE : 30.10 AC.
4. EXISTING ZONE - RC 8
5. NUMBER OF LOTS ALLOWED - 0.667/ACRE X 30.60 = 19.74 UNITS
6. TOTAL NUMBER OF LOTS PROPOSED - 19
7. PARKING SPACES REQUIRED - 2 PER LOT X 19 UNITS = 38 SPACES
8. PARKING SPACES PROVIDED - 50

NOTE: THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD IN TRUST BY THE OWNERSHIP SINCE 1999. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS TRUSTEES OR AS TO SUPPORT ANY OFF-SITE INFRASTRUCTURE.

ZONING HEARING REQUESTS

- 1** To permit side lot setbacks of 40' high for the principal buildings in an RC-4 zone in lieu of the 50' feet required by DCZR Section 1804.3 B.3 for Lots No. 6, 7, 8, and 9.

**MILLER PROPERTY /
GREENSPRING AVENUE**

ELECTION DISTRICT : 8 BALTIMORE COUNTY, MD
DATE : FEBRUARY 7, 1994 SCALE : 1" = 1/2 MI

THE F.A.P. WAS APPROVED BY THE DIRECTOR
BASED ON HIS INTERPRETATION OF THE

PUBLIC SERVICES C.O.G. No. PLANNING No. 15-344

ED, SUBDIVIDED OR DEVELOPED FOR
PLANS OR ANY PURPOSE OTHER THAN THAT
INTENT ON SAID PLAN. UTILIZATION WILL
BEEN A BUILDING IS CONSTRUCTED AND

D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
7116 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21207
(301) 544-2200, (301) 544-2047



OWNER / DEVELOPER
HOWLIN PROPERTIES, INC.
HOWARD B. & LINDA C. MILLER
1014 GREENSPRING AVENUE
BALTIMORE, MARYLAND 21003
(301) 522-6710



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