OF BALTIMORE COUNTY

Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAN

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 2706 Holly Beach Road in Essex. Variance relief is requested from Sections 1A04.3 B.3 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and the Zoning Commissioner's Policy Manual, Section 400.2 A.3., to permit a setback of 45 ft. from the dwelling to the point of mean low tide; side yard setback variances to allow setbacks of 8 ft. and 10 ft., in lieu of the required 50 ft. Also variance relief is sought to permit an existing accessory structure (garage) to be located in the front yard of the subject site in lieu of the required rear yard. Lastly, approval is requested for an undersized lot pursuant to Section 304 of the B.C.Z.R. All of the relief requested and subject property are more particularly shown on the site plan submitted and marked as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Malcolm E. Stephanic, Jr., property owner. There were no other interested persons or Protestants present

Test mony and evidence presented was that the subject site is .33 acres and is zoned R.C.5. This is a waterfront property located off of Holly Beach Road adjacent to Middle River. The subject lot is long and narrow in configuration. As is the case with other lots in this older subdivision the property is 50 ft. wide. However, it extends to a depth

to the shore line of 284.18 ft. Mr. Stephanic indicated that the lot was laid out wany years and and this is a community of shore homes, many of which have been converted to year around residences

Moreover, the property is presently improved with an existing house This house is located towards the shore side of the property and has been in place for many years. The balance of the property is vacant but for a driveway and a small garage located on the south side of the property near Holly Beach Road.

The Petitioner proposes razing the existing house and replacing same with another dwelling. Apparently, the existing house cannot be renovated due to its age and condition. It is more cost effective to raze the structure and ruplace same. The new property will be substantially the same size and located on the same portion of the property. It will be slightly larger in terms of actual dwelling area but will have a smaller in area footprint in that it will not contain porches and similar im location of the existing dwelling and the proposed im is evident that the new house will not constitute a significant in the use of this property in that same is located on nearly part of the lot and will be substantially the same size. Actualconstruction of the new house may be beneficial to the locale in that it will be slightly farther away from the water line

As to the variances for the required distances to the side yard prop lines and low mean tide point, I am persuaded that same should be granted. As her been stated often in opinions from this office, the Petitioner must satisfy the requirements of Section 307 of the B.C.Z.R. in order for a variance to be granted. That section requires that the Petitioner must demonstrate that practical difficulty or unreasonable hardshi would result if the Petition was denied. Clearly, if the variances were not granted the lot could not be used for a permitted purpose, e.g., residential. The site constraints imposed by this narrow, yet deep, lot are self evident and justify the variances requested. Thus, relief shall be granted to allow a setback of 45 ft. to the point of mean low tide, as well as the 8 ft. and 10 ft. side yard setbacks.

As to the existing garage, it has been held by the Board of Appeals and Circuit Court of Baltimore County that the front ward of a waterfront property is that part of the lot between the dwelling and water. That is, unlike other properties, the front ward is not between the house and road. In that the garage is located between the house and road in this instance, same must be considered within the back ward of the property and a variance is not necessary. That is, the accessory structure (garage) is already within its mandated location

Lastly, the Petitioner requests that this site be designated as an dersized lot pursuant to Section 304 of the B.C.Z.R. That section allows having an area width less than required in certain circumstances. In this case, designation of an undersized lot is not necessary in that the

Further, certain Zoning Plans Advisory Committee (ZAC) comments have been received regarding this Petition. Obviously the site is environment tally sensitive and the Petitioner has indicated that he has worked with artment of Environmental Protection and Resource Management (DEPRH in order to obtain approval from that agency for construction. The matter presently under review with that agency and thus this Order shall be conditioned upon the Petitioner obtaining DEPRM's approval before construc-

Petition for Variance

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tion is allowed. As to the comment from the Office of Planning and Zoning (OPS). It is to be noted that elevation drawings have in fact been submitted showing the proposed improvements. These dwellings have been reviewed and approved by OPZ. Also, the Petitioner indicated that the elevation of the proposed dwelling is, in fact, above the 2 ft. 0" maximum flood level of the 100 year flood storm. Thus, it appears that the site complies with that request.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25 day of April, 1994 that a variance from Sections 1A04.3.B.3 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and the Zoning Commissioner's Policy Manual, Section 400.2 A.3. to permit a setback of 45 ft. from the dwelling to the point of mean low tide, be and is hereby GRANTED: and.

IT IS FURTHER ORDERED that a variance to allow setbacks of 8 ft. and 10 ft., in lieu of the required 50 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance to allow an occessory structure (garage) to be located in the front ward of the subject site in lieu of the required rear yard, be and is hereby declared unnecessary, in that the subject garage is located in the rear yard, as required; and,

IT IS FURTHER ORDERED that approval from Section 304 of the B.C.Z.R. to allow an undersized lot, be and is hereby MOOT, in view of the variance os granted herein; and.

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IT IS FURTHER ORDERED that the relief granted herein is subject, however, to the following restrictions which are conditions precedent to

- The Petitioner is bereby made sware 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 Petitions would be required to return, and be responsed to could be returning, and property to its original.
- The Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
- Compliance with the Department of Environmental Protection and Resource Manageme recommendations to be submitted upon completio of their review of this matter.

LAMBENCE E. SCIPLIOT

 Baltimore County Government Zoning Commissioner Office of Planning and Zoning T

(410) 887-4386

April 22, 1994

Mr. Malcolm E. Stephanic, Jr 2706 Holly Beach Road

Property: 2706 Holly Beach Road

Suite 113 Courthouse

400 Washington Avenue Towson, MD 21204

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

In the event the decision rendered is unfavorable to any party, please beduied 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 867-391.

Very truly yours, Amer & Shoot Lawrence E. Schmidt

to the Zoning Commissioner of Baltimore County for the property located at 2706 Hour State Ab. ESSLY, me 2724 RC-5 The interspect that exceed in the power of the billions Court of the billions White the second property of the party of th MALCOLA E. STEPHANIC JE mell & Hy gulla He 2706 HOLLY ASKED CO. WARD STY-7215 MALCOLA E. STEPHANE JR. EDET HOW LIBERTY

@ -----

EXAMPLE 3 - Zoning Description 94-359-A Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type of print on 8-1/2* x ll* sheet. ZONING DESCRIPTION FOR 2706 HOLLY BEACH PA SSLY, AD 2123 (address)
Councilmanic District Election District /5 Beginning at a point on the WORTH side of Hally Banca RE (street on which property fronts) which is 25' wide at a distance of (number of feet) (northterline of the nearest improved intersecting street HENRIETA AUE which is 25° (number of feet of right-of-way width) wide. "Being Lot s... . , Section # as recorded in Baltimore County Plat (neme of subdivision) Book # ______ , Folio # 276 12,400 sq/pr .284 man COST Aumin HIST MUY BEAUTH. 25'50" THEN LOCATE PROCESS 200'50" THEN THEN WIST AND PROCESS 400'11" TO FREE 200'50" THEN THEN WIST AND "Theograph pasted sadra 28'." To ARA.
"Theograph postry is not recorded by Pilt Book and Folio Number, then Da Nor attempt to use the Lot, Block and Subdivision descriptions, as shown, instead state: "As recorded in Deed Example of metes and bounds: N.ST. 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. M.S. ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

- 3 conies

LES/mm

the relief granted herein:

636

Date of Posting 4/3/94....

Location of See Fosing The dway on property being towed

Posted by Mithely Date of return 7/ 5/54 Pumber of Signer __/___

halfact or municipal to the control of the Zonne Commissional & Ballencer County, by authority of the Zonney Act and Regulations of Ballencer County in hold a guide hearing of the County of the Coun

Posted for

Postore Molcala E. Stephen, la

Location of property 2706 Helly Beer & Sel. M/s.

CERTIFICATE OF PUBLICATION march 24, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Beltimore County, Md., once in each of ____ successive weeks, the first publication appearing on March 24, 19 24.

> THE JEFFERSONIAN. Henriken LEGAL AD. - TOWSON

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Multimere County, by archevity of the Zoning Act and Segulations of Multimere County, will hold a public learning on the property identified herein in from 105 of the County Office Multilage, 111 ts. Chempenia Resons in Tourism, Maryland 21204

or Noom 118, Old Courthouse, 400 Mashington Avenue, Towson, Maryland 21204 as follows

CASE REPRENT 94-359-1 (Item 201)
2700. Bully Seech Sand
NJS Bully Seach Sand.
1300' E of Exertatia Avenue
NJS Bully Seach Send.
1300' E of Exertatia Avenue
Nutlification 1: Sephenic, Nr.
Nutlification 1: Sephenic, Nr.
Nutlification 2: Sephenic, Nr.
Nutlification 3: Sephenic, Nr.

Yariance to permit a methack of 65 feet to mean low tide; to permit side yard methacks of 8 feet and to feet to line of the required 50 feet; to premit an emission account structure (parage) to be located in the front yard in line of the required eraw yard; and to approve an undersized lost.

Call In

POTES: (1) EMEINS SIGN & FORT MOST AN RETWORD TO BE, 10M, 111 M, ORESPEKER STREET ON THE MEASURE DETECTION OF THE MEASURE DETECTION FULL MODERATIONS FULLS CALL RET-3353.

(3) FOR INFORMATION CONCRESSO THE STELL ANALYSE MEASURE, CONTECT THIS OFFICE IT SET-3391.

Date 3/10/94 RES VAR FILINGFEE CODE OLD \$50.00 (1) SIEN POSTING CODE 080 35.00 85.00 TOTAL = OWNER STEPHANIC LOC: 2706 HOLLY BENCHED. Please Make Checks Psysble To: Baltimore County 14 LAM03-10-94

CRITICAL

receipt

(410) 887-3353

Account R-001-4150

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Baltimore County G Office of Zoning Add

111 West Chesapeake Avenue Towson, MD 21204

April 8, 1994

Mr. Malcolm E. Stephanic, Jr. 2706 Holly Beach Road Essex, Maryland 21221

RE: Case No. 94-359-A, Item No. 341 Petitioner: Malcolm E. Stephanic, Jr. Petition for Variance

The Zoning Plans Advisory Committee (EC) has presented the plans and the Committee of the C

Enclosed are all comments submitted thus far from the numbers of like the comments are reported information on year property of the comments are received in the comments are received that the comments are received that the comments are received that the parties of the comments are comments are commented to the comments of the bearing fills. This petition was excepted for filing on barch 10, 1994, and a hearing was enclosed secured layer.

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 Aministration and Development Recognishs
has instituted a system descript positions and the company attempts to the company attempts the company attempts to the zoning regulations and prittings first programments can file their petitions with this encourage attempts are presented to precise the concept of a preliminary certain by nonling personnel.

(1) Zoning Notice Sign and Post Set(s) @ \$60.00/set = \$60.00 Due*

Zening Notice Sign and Post Set(s).

*Amount Due waived .pon return of the COMPLETE sign and post set(s).
When you return size, bring this form with you.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 28, 1994 Zoning Administration and Development Hanagement

The Developers Engineering Section has reviewed the subject soning item. If the variance is approved, the firm of the section of the section of the section of the level of the 100-year stora (riverine or tidal, whichever is greater), per Department of Public Norke Standard Design Hannal Flate D-19.

Bobert W. Bowling, P.E., Chief Developers Engineering Section

Zoning Advisory Committee Heeting for Harch 28, 1994 Item No. 341

THIS IS A PENALTY CHARGE. IN LIEU OF PAYMENT, WE WOULD PREFER THAT YOU RETURN THE SIGN/POST SET(S) AND USE OF THE INVOICE WAIVER BELOW.

for 7ADM

DUE DATE: CLOSING DATE OF HEARING DATE

CASE NUMBER/PROJECT NAME: 94-359-A

CASE NUMBER/PROJECT NAME: 94-359-A

Printed and Statement

(410) 887-3353

111 West Chesapeake Avenue Towson, MD 21204

ZORING REARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

<u>Ballimore County Zoning Regulations</u> require that notice be given to the questal public/maighboring property commer relative to property that the property of the property of the property of the maintenance as public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one excepper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are astisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE HADE AS FOLLOWS:

Posting fees will be accessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

HOM-PAYMENT OF ANYENTISING FEES WILL STAY ISSUESCE OF ZORDIG GENERAL ABSOLD JAMAGEM, DIRECTOR

(410) 887-3353

For newspaper advertising

Item No.: 34/

Petitioner: MALCOLM S. STEPHANIC TR. Location: 2706 Hally BEACH RR BALTIMORS PTD 21221

PLEASE FORMARD ADVERTISING BILL TO:

HANG: MALCOLM S. STATAGUE JR. ADDRESS: 2706 HOLLY BEACH RA BALTIMORE PA 2122.

PHONE NUMBER: 4/0. 574. 7265

AJ:qqs

(Revised 04/09/93)

Maryland Department of Transportation State Highway Administration

O. James Lighthize Hal Kassoff

3-17-74

Ms. Charlotte Minton Zoning Administration and Development Management County Office Building

111 W. Chesapeake Avenue Towson, Maryland 21204

ansi onice 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.

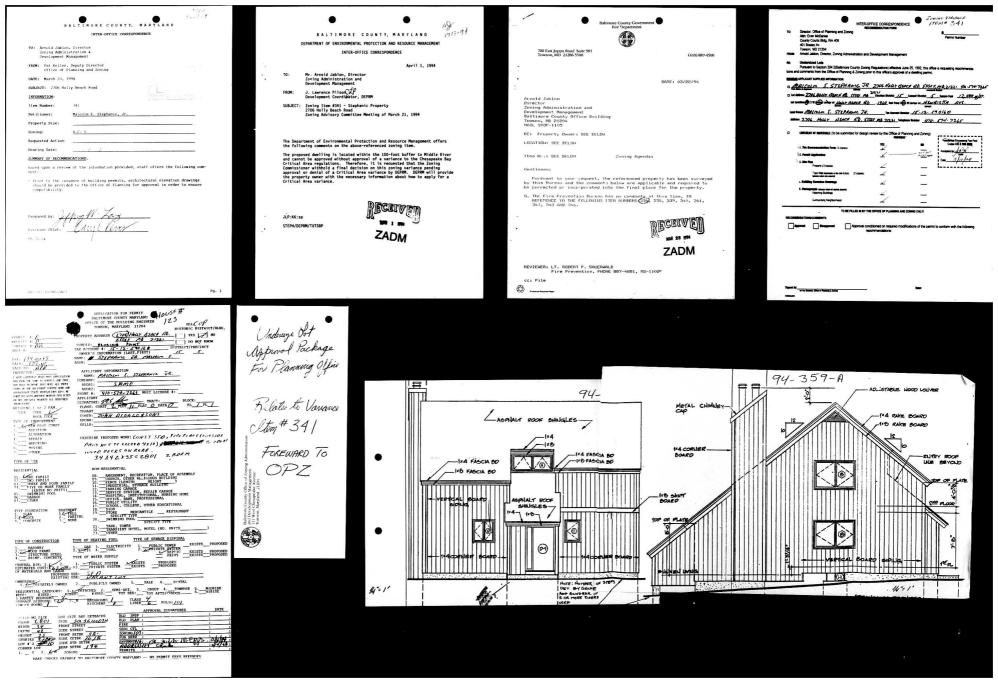
Thank you for the opportunity to review this item.

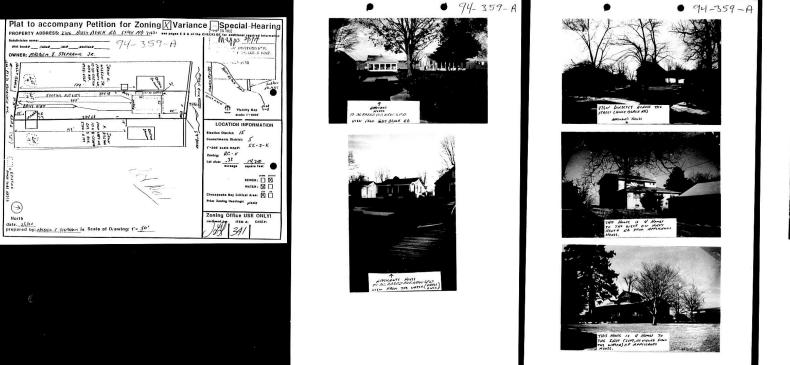
Bob Snell

DAVIO N. KATISEY, ACTING CHIEF

Baltimore County Item No.: 4 341 (JLL)

Maryland Relay Service for Impaired Hearing or Speech 1-600-735-2258 Statewide Toll Free Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717









94-359-H

