IN RE- DEVELOPMENT PLAN HEARING AND ETITION FOR VARIANCE - Fnd of mensfield, W of Cheste Chester[ield Addition] nic District

. REFORE THE terfield * DEPUTY ZONING COMMISSIONER

. OF BALTIMORY COUNTY * Care Nos VIII-335 5 94-367-A

Dr. F. Mitchell Cummins, Owner -Thomas L. Pittman, Jr., Contract Purchaser and Developer

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Hearing Officer/Deputy Zoning Commissioner for consideration of a development plan and Petition for Variance for the proposed development of the subject property by F. Mitchell Cummins, M.D., Owner, and Thomas L. Pittman, Jr., Contract Purchaser, with Il single family dwellings in accordance with the development plan submitted into evidence as Developer's Exhibit 1. The proposed development known as Chesterfield Addition, is located at the end of Baconsfield Lane, and of Charter ield Court in the Pine Hill area of northern Baltimore County The development plan was prepared by McKee and Associates, Inc., Engineers, Surveyors, and Real Estate Developers. In addition to development plan approval, the Applicants also seek relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure (outbuilding) to be located partially in the side yard in lieu of completely in the rear yard as required, and from Section 400.3 of the B.C.Z.B. to permit said accessory structure to have a height of 19 feet in last of the maximum permitted 15 feet. The Developer seeks approx al of the development plan, pursuant to Section 26-206 of the Baltimore County Code, and the relief sought pursuant to the Petition for Variance.

Assessment at the public hearing required for this project were Thomas Pittman, Jr., Contract Purchaser, James McKee, Geoffrey Schultz,

Developer will maintain all drainage as it currently exists on the west side of the private driveway at the same level after the proposed development takes place, and will insure that same shall continue to drain onto the Mayo property and not diverted eisewhere. Inasmuch as the parties reached an agreement on this issue, it was not necessary to recount the testimony offered at the hearing. However, as a condition of approval, I will require a restriction that the water drainage patterns to the west of the private driveway will be maintained to the extent possible as they

There were other smaller issues identified by some of the citizens who appeared at the hearing. However, it is the understanding of this Hearing Officer that the Developer and the attorney for the Protestants have agreed to enter into a covenant agreement concerning the development of this property and that these other issues will be addressed by restrictions imposed within the agreement which will be executed by the Developer and the citizens. Therefore, it is not necessary, nor have I been asked, to make a decision regarding these other smaller issues. I will leave those issues to be resolved pursuant to the agreement reached by the two

In addition to seeking approval of the development plan, the Developer also seeks variance relief for an existing accessory structure. This structure is a two-story stone outbuilding located slightly in the side yard of the main dwelling which is to be retained on proposed Lot 10. This accessory structure is 19 feet tall. The relief requested is necessary to permit the existing outbuilding to remain in its present location with a height in excess of the 15-foot maximum permitted. Mr. Trueschler and Guy Mard with McKee and Associates, Inc., Michael Ellison, and Jim Gracey. The Developer was represented by Howard L. Alderman, Jr., Esquire Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing. In addition, numerous residents of the surrounding community appeared as Protestants in the matter. These residents were represented by John Trueschler, Esquire.

As to the history of this project, a concept plan conference for this development was conducted on July 26, 1993. As required, a community input meeting was held at the Hereford Middle School on August 30, 1993. Subsequently, a development plan was submitted and a conference thereon was conducted on April 13, 1994. Following the submission of that plan, development plan comments were submitted by the appropriate agencies of Bultimore County and a revised development plan incorporating these comments and bearing a revision date of April 19, 1994 was submitted at the hearing held before me on May 4, 1994

At the public hearing before me, I am required to determine what, if any, agency comments remain unresolved. Several issues were identified by the various representatives of the Baltimore County agencies who appeared at the hearing. Many of these issues were minor in nature and were agreed to be resolved by the Developer. Therefore, there was no need to take testimony on those issues. However, other issues were raised by the County agency representatives and the citizens who were in attendance upon which testimony needed to be taken.

The first major issue involved the storm water management system proposed for this development. It was clear that all of those in attendance, including the citizens, County representatives and the Developer were in agreement that a storm water management pond would not be a suit-

and the citizens in attendance stated that they have no objections to the

zoning regulations would cause practical difficulty to the Petitioner and

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical

whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

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

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, Youn of Chesapeake Beach, 22 Md. App. 28

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 health, safety or general

resolving same pursuant to this Order and the restrictions contained here-

inafter, the development plan for Chesterfield Addition, as smended, shall

more County as contained within the B.C.Z.R. and Subtitle 26 of the Balti-

It is clear from the testimony that if the variance is granted,

Having addressed all of the issues raised at the hearing and

Pursuant to the zoning and development plan regulations of Balti-

difficulty for an area variance, the Petitioner must meet the following:

An area variance may be granted where strict application of the

granting of the variances requested for this structure

storm water management system for the subject site. The preferred method of storm water management was determined to be a level spreader system es set forth on Developer's Exhibit 1. Insamuch as everyone was in agreement that this was the preferred method of storm water management, any proposal to use a storm water management pond will be dispensed herewith. The Developer will be required, pursuant to this Order, to proceed with a level spreader type of storm water management system

On behalf of the Department of Environmental Protection and Resource Management (DEPRM), Messrs. Ed Smouse and Jeff Molinski testified that in order for the level spreader system to be acceptable to the County, a suitable outfall must be made available to the Developer. The outfall identified by the Developer as well as County representatives was termed the "Hessier" outfall by virtue of its location on property owned by David and Julia Hessler. This outfall is really the beginning of an unnamed stream that exists just to the west of the proposed development, and continues in a westerly direction across the Hessler property and the property of Mr. John G. (Jack) Leonard. Messrs. Smouse and Wolinski testified that in order for this unnamed stream to be a suitable outfall, some stream restoration must be done before approval would be given to the level spreader system. Testimony was then offered by the Developer as to the proposed stream restoration for this project

Appearing and testifying on behalf of the Developer was James Gracey, the principal involved with Brightwater, Inc., an environmental consulting firm. Mr. Gracey was recognized in this case as well as others as an expert in the area of stream quality assessment and restoration Submitted into evidence as Developer's Exhibit 2 was the proposed stream restoration for the Chesterfield Addition prepared by Mr. Gracey's company.

Mr. Gracey testified in detail as to the improvements proposed for the unnamed stream in order for same to be a suitable outfall for the level spreader system of storm water management proposed for this development.

All those in attendance were basically in agreement with the needed repairs to this stream; however some were concerned over the type of materials that will be used to perform this stream restoration. As indicated at the hearing, I will defer to the judgment of those representatives of DEPRW who will oversee this stream restoration project to choose the most suitable materials to be used in the restoration of this stream That is, Messrs. Smouse and Wolinski will choose rocks native to this area for the wortex rock weirs that will be utilized on the Hessier property to restore the existing stream thereon

Purthermore, the selection of the root wads and other materials necessary to stabilize the "S" bend located further downstream, will also be supervised by the representatives of DEPRM. As a condition of development plan approval, the developer will be required to perform the stream restoration to the satisfaction of Messrs. Smouse and Molinski of DEPRM.

The second issue raised by the citizens concerned the naturally occuring drainage for this development. The community was concerned that the Developer would attempt to divert the drainage from this site towards the Hessler outfall. Concern was voiced over rechanneling the water that currently drains to the south of this property onto the Mayo property, located adjacent to the proposed development, and rediverting that water flow over to the Hessler outfall. Testimony was offered on this issue from both sides. However, at the close of the hearing, the Developer met with Mr. Trueschler, the attorney for the Protestants, and an agreement was reached concerning this issue. The agreement reached was that the

drain in a southerly direction and outfall over the Mayo property. The amount of post-development drain-tended to the south of the south of the south of the same to the notent possible as pro-development of the spe. The drainage from this area shall not be rediverted to outfall towards the Hessler property.

When applying for any permits, the site plan ad must reference this case and set forth and ad-

to the Zoning Administration and Development Hanagement (ZADM) office

within ten (10) days of the date of this Order, a revised development plan

which reflects and incorporates +>e terms, conditions, and restrictions of

IT IS FURTHER ORDERED that the Developer shall propare and submit

Any appeal of this decision must be taken in accordance with

the restrictions of this Order

Section 26-209 of the Baltimore County Code.

THEREFORE, IT IS ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County this 10 th day of May, 1994 that the development plan for Chesterfield Addition, identified herein as Develop er's Exhibit 1. be and is hereby APPROVED, pursuant to the developmen regulations codified in Section 26-166, et sec. of the Seltimore County

relief from Section from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure to be located partially in the side ward in lieu of completely in the rear ward as required, and from Section 400.3 of the B.C.Z.R. to permit an eviating accessory structure with a height of 19 feet in lieu of the maximum permitted 15 feet, in accordance with Petitioner's Exhibit 1, he and is hereby

1) The level approach restriction in the second sec ing the stream rertoration project. The representatives of DEPRH shall insure that no damage is cause to either the Hessler or Leonard properties over an

thereon, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter

Code: and.

IT IS FURTHER ORDERED that the Petition for Variance seeking GRANTED, subject to the following restrictions:

2) The Developer shall insure, to the extent possi-ble, that all drainage which currently emanates from the west side of the existing driveway continues to

SALLEY

STURE ROA

walfara

more County Code, the advertising of the property and public hearing held 6

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May 10, 1994

Suite 113 Courthouse

(410) 887,4386

INCLIGHTET TAN HEADER AND PETITION TWO MALLANCE.
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 The First December Court of Council Massic Diluttied.
 Director and two Court of Council Massic Diluttied.
 Director and Georgies - Applicants.
 Case Nov. (1911-19). 5, 91-93-91.

Enclosed please find a copy of the decision rendered in the over-captioned matter. The Development Plan and Potition for Variance to been approved 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 (10) days of the date of this Order. For further information of filing an appeal, piezae contact the Zoning Administration and Development Bonaperent Office at 807-1419.

Sunthey Hotroco TIMOTHY M. KOTROCO Deputy Zoning Commissione: for Baltimore County

... Br. Joseph Maranto - Brojest Manager People's Counsel Unse File

> CENTRICATE OF BOSTON ARTMENT OF BALTIMORE COUNTY 94-367-4

Date of Pasting . H. 1/54 ... Posted for Larries Positioner F. M. Hall Curry 1 M + Thomas L. P. Hours de Location of property Fred of Sest rafield levy, SN chalmfullet 1/0 __ section of sugar to a maked to sever at a dec at frage to Ne Pel- und

Posted by Mattacky Date of recurs: 4/2/94

CERTIFICATE OF PUBLICATION

april 8, 194 THIS IS TO CERTIFY, that the annexed advertisement was

THE JEFFERSONIAN.

Henrican LEGAL AD. - TOWSON

Petition for Variance to the Zoning Commissioner of Bultimore County for the property located at BACONSPIELD LANE

which to presently record RC 5

PLEASE REFER TO ATTACHED SHEET

PLEASE REFER TO ATTACHED SHEET

With the extensive duminor and editor, writer the presence of property, they have not begin extensively of the following within the last the party of the following of the follo Thomas L. Pietman, Jr Mitchell Cummins, MD Ten tions 7. Tentotero Cumming un 15722 Irish Avenue

c/o David Downes, Esq VB6H 11 Thistle Lane 494-6252 New York 10580

■ Im 354 94-367-A - Jum

3-18-94 BAZONSFIELD LANE : 50.00 POSTING (080) -35.co

85. 19

94-367-A

CONTRACT PURCHASER:

VARIANCES

From Baltimore County Zoning Regulations (BCZR) § 400.1 to permit an existing accessory structure to be located partially in the side yard in lite of completely in the rare yard as required, and from § 400.5 to permit an existing accessory structure having a height of 19 feet in lites of the 15 foot maximum.

PETITION FOR VARIANCE

JUSTIPICATION

The variances requested are to permit a pre-existing accessory structure to

The historic nature of the existing structure prevents it from being moved so as to comply with the applicable regulations;

The accessory structure is on the MHT Inventory.

For such other reasons as will be presented at the time of the hearing on this

354

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

HUNT VALLEY, MARYLAND 21030 Secretaria (AM) C17 (CO)

March 8. 1994

ZONING DESCRIPTION OF PROPOSED LOT TEN CHESTERFIELD ADDITION EIGHTM ELECTION DISTRICT THIRD COUNCILMANIC DISTRICT BALTIMORE COUNTY, MARYLAND Beginning at spoint in the centerline of Reconsided Lane model (40 feet wide private road), said point being located and produce to the centerline of Chesterfield Court (30 feet wide); these can be controlled to the controlled court (30 feet wide); these can be controlled to the controlled court (30 feet feet, and southwesterly 460 feet to a point incommence of the Seconsided Lane; themes along said centerline northwesterly and and arc length of 156 feet to the piece of beginning.

Containing 2.1 acres of land, more or less, as recorded in deed Liber 2489, folio 365.

Being known and designated as Lot Tes of the proposed subdivision of Chesterfield Addition as intended to be recorded among the Land Records of Baltimore County.



(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS AND PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject to property out the property which is the subject to property of some property of a public bearing a time of a notice in at least one newspayer of general circulation in the County.

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

PAYMENT WILL BE MADE AS POLLOWS:

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

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

ARNOLD JABLON, DIRECTOR For newspaper advertising:

Item No.: 354

Petitioner: F. Mitchell Cummins, HD/Thomas L. Pittman, Jr., Contract Pur PLEASE PORMARD ADVERTISING BILL TO:

NAME: Thomas L. Pittman, Jr. ADDRESS: 15722 Irish Avenue

Monkton, MD 21111 PHONE NUMBER: 667-0800

AJ:ggs (Revised 3/29/93)

for Personn Published Company April 7, 1994 Lama - Jeffersonia

The Smaley Consistence of Bulliarre County, by authority of the Smaley for and Supplications of Bulliarre County, will had a public beneing on the property identified Service In Son 150 of the County of This Bulliary, 110. Companies Service in Towns, Surpliand 22206 or Ress 158, Old Courthours, 600 Smalington Service, Towns, Suryland 22206 are follows:

Cliff HUMBER 99-367-b (10m 354)

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Logal Conse(s): 7. Michael Commiss, N.D.

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MEASURE: MEMBERSHIP, MET 4, 1994 at 9:00 a.m., No. 118 Old Courthouse.

NOTE: (1) MEASURES AND READICALMED ACCESSIBLE; FOR SPECIAL ACCESSORATION FRAME CALL 807-3353.

(2) FOR INFORMATION CONCERNING THE FILE MONOR MEASURE, PLEASE CALL 807-339.

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning let and Regulations of BaltimoreCounty, will hold a public hearing on the property identified herein in Bosm 118, Old Courthouse. A00 Mathington Berney. Towors, Maryland 22004 and follows:

DEVELOPMENT PLAN HEARING DEMILISHENT FLAR STARTS
Project Rame: CHESTERFIELD MOSTION
Project Rame: Till-335
Location: End of Reconstited Lame, and from c/l Chesterfield Court
Explicant: Thomas L. Filtern, Jr.
Explaners: Rides & Rascelster, Inc. Proposal: 12 simile family decilinas

CASE MINUER: 94-367-8 (Item 354) "Chesterfield Addition, 850":/- SM from c/l Chesterfield Court 8th Election District - 3rd Councilmanic Construct Purchaser: Themas L. Pittmen, Jr

Terinare to permit an existing accessory structure to be located partially in the side yard in line of completely in the cree yard as required; and to permit an extraing accessory structure having a height of 19 feet in line of the 15 feet maximum. SEASTED: MITMESSEE, MAY 4, 1994 at 9:00 a.m., Rm. 118 014 Courthouse.

Bel Jake Arnold Jablon, Directo

111 West Chesapeake Avenue Towson, MD 2120)

MURCH 29, 1991

WHIS: (1) NORING SOUS & FOOT MEST HE RETURNED TO RM. 104, 111 M. CHESAPHAKE AWARDE ON THE REALING DAYS.

(2) HEARINGS HE PRODUCTION ECCESSIVELY FOR STRUCKLE ACCORDING PERSON STRUKE CHARLE CALL PROPERTY.

(3) FOR IMPOSSIZATION CONTENTED THE FILE ARM/ON PRAISE, CONTENT THIS STRUCK AT 887-3391.

Protect with Scatters Int.

94-367-A MCKEE & ASSOCIATES, INC. HUNT VALLEY, MARYLAND 21030 FACSIMILE (410) 527-1563

SHAWAN PLACE, 5 SHAWAN ROAD TELEPHONE, 1410: 527-1555 DATE: March 17,1994

TO Levin, Gan RE: Chesterfield Addition 305 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: Howard Alderman, Jr. □ We are submitting

Zoning Variance Package Blank check for filing fee - please record amount

£) For your use ☐ Please call when read ☐ In accordance with your request GOOD LUCK REMEMBER TO REQUEST Z DAYS

FOR HEARING. For further information, please contact the writer at this office

Goeffrey C. Schultz, Pice President

111 West Chesapeake Avenu Towson, MD 21204

April 22, 1994

(410) 887-3353

Howard L. Alderman, Jr. Levin & Gann, P.A. Suite 113

Towson, Maryland 21204 RE: Case No. 94-367-A, Item No. 354
Petitioner: F. Mitchell Cummins, M.D., et al
Petition for Variance

The Zoning Plans Advisory Committee (ZAC) has revised the plans and sitted with the above referenced petition. The attached comments from execution the state of the soning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are ands easers of plans or problems with regard to the proposed improvements that may have a Dearing and the petitioner of the proposed improvements that may have a Dearing the problems with regard to the proposed improvements that may have a Dearing and the proposed improvements that may have a Dearing the proposed improvements that may have been proposed improvements that may have been proposed improvements that may be a Dearing the proposed improvements that may be a Dearing the proposed improvements that may have been proposed improvements that may be a Dearing that the proposed improvements that may be a Dearing that the proposed improvements that may be a Dearing the proposed improvements that may be a Dearing that the proposed improvements that may be a Dearing that the proposed improvements that the proposed improvements that may be a Dearing that the proposed improvements that the proposed improvement that the proposed improvements the proposed improvements that the proposed improvements the proposed improvements the proposed improvements that the proposed improvements the proposed improvements the proposed improvements the proposed improvements the proposed improvement

Enclosed are all comments submitted hims for from the seabers of 20.6 that offer or request information on or "title". If deditional comments are submitted to the comments of 20.6, I will forward these to you, otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 18, 1994, 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.

The director of Zoning Administration and Development Knoppeant has instituted a graph of the Property of the Control of the Complex of the Control of the Control of the Complex of the Complex 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 coming personnic.

State Highway Administration

Zoning Administration and

111 W. Chesapeake Avenu Towson, Maryland 21204

Dear Ms. Minton

Bob Small

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

Maryland Relay Service for Impaired Hearing or Speech 1-600-735-2256 Statewide Toll Free

Mailing Address: P.O. Box 717 - Baltimore, MO 21203-0717 Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

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

Thank you for the opportunity to review this item.

3-26-94

Baltimore County Item No.: \$ 354 (TCM)

DAVIO XI. EAMSEY, ACTING CHIEF
John Contessibile, Chief
Engineering Access Permits

700 East Joppa Road Suite 901 Towson, MD 21296-5500

(410) 887-4500

General Addition
Director
Zening Scheinistration and
Development Hanagement
Baltimore Scinity Office Development
Teamon, ID 21209
MAIL SIGP-1105

RE: Property Owner: SEE RELOG LOCATION: SEE DELON

Item Ho.: SEE DELOG Zonina figordas

Pursuant to year request, the referenced property has been surveyed by this Bureau and the cosmolate halou are applicable and required to be corrected or incorporated into the finel plans for the property.

9. The Fire Presention Burson bas in comments at this time, IN REFERENCE TO THE FOLLOWING ITEM ISSUERS: 200, 200, 200, 201,000 259

RECEIVED MAR 25 1994

ZADM

REVIEWER: LT. ROBERT F. SAMESHALD Fire Prevention, PHESE 587-4881, HS-1108F cc: File



