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. DEDUTY ZONING COMMISSIONER

William Poleski, et ux

. OF BALTIMORE COUNTY · Case No. 95-151-A

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KINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 9035 Cuckold Point Road, located in the vicinity of Edgemere in southeastern Baltimore County. The Petitions were filed by the owners of the property, William and Agnes Poleski. The Petitioners seek relief from Section 1802.3.C 1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the minimum required 55 feet and a side yard setback of 8 feet in lieu of the minimum required 10 feet for a proposed dwelling reconstruction. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Agnes Poleski, property owner, and Patrick O'Keefe, development consultant. Appearing as an interested party was Adam Szczypinski, adjoining property wher. There were no Protestants present.

restimony and evidence offered revealed that the subject property consists of 8,700 sq.ft., zoned D.R. 5.5 and is improved with a single family dwelling which is proposed to be removed. The property is located within the Chesapeake Bay Critical Areas on Hawk Cove in an older subdivision known as Swan Point, which was developed many years ago with 50-foot

wide lots. Testimony revealed that the Petitioners have resided on the property for many years and that the existing dwelling has become difficult to maintain and is unsafe. The Petitioners filed the instant Petition to reconstruct the dwelling on this lot; however, due to the narrow width of the property, the requested variances are necessary in order to proceed as proposed. Testimony revealed that Mrs. Poleski recently lost her husband but that she wishes to continue to reside on the property near her sons and the family business. Testimony indicated that the existing dwelling will be removed at such time as a use and occupancy is issued for the new dwelling. Further testimony revealed that the Petitioners also own the adjoining lot at 9033 Cuckold Point Road from which they operate the business known as Bill's Boat Rentals and that the variance requested for a side setback of 8 feet is from the property line adjoining that lot.

Mr. Adam izczypinski appeared and testified as an interested party. Mr. Szczypinski testified that he owns the adjoining property at 9037 Cuckold Point Road, zoned B.M., which has been utilized as a boat yard, known as Adam's Boats, since the 1930s. Mr. Szczypinski requested that the proposed dwelling be located the required distance of 100 feet from Hawk Cove to insure that his sight distance will not be affected by the proposed two-story dwelling. Mr. Szczypinski also expressed concern about a 6-foot high chain-link fence that exists on the common property line shared by himself and the Petitioners. Mr. Szczypinski would like to have the fence either reduced in height or removed altogether. After discussing this issue further with all parties present, it was evident that these property owners have had a property line dispute which resulted in litigation. Mrs. Poleski testified that this fence is necessary in order to separate the commercial use on Mr. Szczypinski's property from the residential use of her property. Mrs. Poleski is concerned over the safety of her grandchildren should they wander onto Mr. Szczypinski's property and interfere with the commercial activity taking place thereon.

After considering all of the testimony and evidence offered, I believe it to be in the best interests of all parties that the subject fence remain at its present height and location. Furthermore, it is the opinion of this Deputy Zoning Commissioner that the requested variances sufficiently comply with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the relief sought would adversely affect the health, safety, or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special onditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area require ments and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesaneake Ray Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for

Builimore County and conforms to the requirements as set forth in Sectio 500 14 of the B C 7 P

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

Minimize adverse impacts on water quality that result from pollutants that are discharged from struc-tures or conveyances or that have run off from sur-rounding lands;

2) Conserve fish, wildlife, and plant habitat; and

Be consistent with established land use policies for development in the Cheappeake Bay Critical Area which accommodate growth and also address the fact that, even if poliution is controlled, the number, novement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

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 Deputy Zoning Commissioner for Baltimore County this _/3 th day of December, 1994 that the Petition for Variance seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of

CEIVED FOR

ORDER Date .

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the minimum required 55 feet and a side yard setback of 8 feet in lieu of the minimum required 10 feet for a proposed dwelling reconstruction, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject

The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that pro-ceeding at this time in at their own risk until such time as the 30-day appliate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescineded.

The proposed dwelling must be set back a minimum tance of 100 feet from Hawk Cove.

When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS PURTURE ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated November 9, 1994, attached hereto and made a part hereof.

TMK:bis

Mently 16 tros Deputy Zoning Commiss for Baltimore County

mmissioner

Suite 112 Courthouse 400 Washington Aver Toward MD 21204

(410) 887-438

Mr. & Mrs. William Poleski 9035 Cuckold Point Road Baltimore, Maryland 21219

RE: PETITION FOR VARIANCE FRINTION FOR VARIANCE S/S Cuckold Point Road, 55' W of the c/l of 4th Street (9035 Cuckold Point Road) 15th Election District - 7th Councilmanic District William Poleski, et us - Petitioners Case No. 95-15-2-

Enclosed please find a copy of the decision rendered in the captioned matter. The Petition for Variance has been granted in dance 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 of filing an appeal, please contact the Zoning Administration and Development Management Office at 887-398.

Very truly yours. luther to traco

THE this

cc: Mr. Adam Szczypinski 9039 Cuckhold Point Road, Baltimore, Md. 21219

Chesapeake Bay Critical Areas Commission 45 Calvert Street, 2nd Floor, Annapolis, Md. 21401 DEPRH; People's Counsel; Case File

for the property located at # 9035 CUCKOLD POINT P.D. made to the last to be considered and the second of the se MECOCIDED SO FOOT WIDE LOT INSTEAD OF 55 FOOT MINIMUM WIDTH, CONTIGUOUSLY OWNED LOT IS COMMERCIAL EXISTING HOUSE IS AND TAFE AND ACCESSIBLE TO THIS OLDER COUPLE. (THE BRISTING HOUSE WILL BE RABED) Property is to be posted and advertised as prescribed by Zoning Regulations.

Lor ex, agree to pay exemps of above Variance advertising, posting, site, upon tiling of this poster, be bound by the zoning regulations and restrictions of Estimates (Control of Section 2018). (The do extensing decises and office, under the promiting of project, that they are impair extension of the property which is the extension of the formula. AGNES C. POLESKI - Raw Catherine Polish WILLIAM POLESKI Willia Palak #9035 CUCKOLD PT.ED, 477-5/37 BALTO. MD. ZIZA PATEICK O'KEEFE 523 PENNY LU. 21030 666-5366 - Jno - 10-18-40

Petition for Variance

95-151-A

ZOWING DESCRIPTION FOR #9035 CUCKOLD POINT ROAD

BEGINNING AT A POINT ON THE SOUTH SIDE OF CUCKOLD POINT ROAD . WHICH IS 30 FEET WIDE AT THE DISTANCE OF 55.0 FEET WEST OF THE CENTERLINE OF THE MEAREST IMPROVED INTERSECTING STREET, FOURTH STREET, UHICH IS 30 PERT UIDE.

THE FOLLOWING COURSES AND DISTANCES:

1. SOUTH 37 DEGREES -30 MINUTES - WEST - 50.0 FEET

2. SCUTH 52 DEGREES - 30 MINUTES - EAST - 182.0 FEET

3. HORTH - 32 DEGREES - 30 MINUTES - EAST - 51.0 FEET 4. NORTH 52 DEGREES - 30 MINUTES - MEST - 166.0 FEET

TO THE POINT OF REGINNING

BEING LOT #510 IN THE SUBDIVISION OF SUAN FOINT AS RECORDED IN BALTIMORE COUNTY PLAT" 9, FOLIO #5CONTAINING 8,700 SQUARE PERT. ATSO MHOTH AS #9035 CUCKOLD POINT ROAD AND LOCATED IN THE 15 WH ELECTION DISTRICT ? TH COUNCIL MANTE DISTRICT.

CHARLES SURVEYED TO THE STATE OF

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THENT OF BALTIMORE COUNTY 95-157-# CERTIFICATE OF POSTING Torono, Maryland

Date of Posting 11/1/95 Dutriet 15th Posted for ... Veringe Pattoon Ann + William Polis Ki Location of property 9035 Cuckeld Part Ba Location of Spec Formy ned Kay por property being noved

Remarks No Feb w. 4
Posted by MAThely Date of return: 11/4/95

CERTIFICATE OF PUBLICATION

Zav. 4 . 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 ___ successive weeks, the first publication appearing on nw. 3, 1994

> THE JEFFERSONIAN. a. Henrikson LEGAL AD. - TOWSON

> > (410) 887-3353

111 West Chesapeake Avenue Towson, MD 21204

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by enthority of the Zoning Act and Repulations of Baltimore County, will hold a public bearing on the property identified herein in Room 106 of the County Office Building, 111 W. Champesha herons in Yource, Haryland 22204

or Boom 118, Old Courthouse, 400 Washington France, Towner, Maryland 21204 as follows:

CASE MEMBER: 55-151-4 (Them 147)
SUS Contail Point Band
SUS Contail Band Variance to permit a 50-foot lot width in lies of 55 feet and an 8-foot side yard in lies of 10 feet.

Cel John

Agnes and William Polenki

HOTES: (1) DOTTER SIGN & POST MINT NO RETURNED TO ME. 104, 111 M. CHEMPHARE ANNUAL OF THE MEAN (2) HEARTHON AND MEMORICAPHED ACCRETINES, FOR SPECIAL ACCREMENTATION PLEASE CALL SET-1350. (3) FOR INFORMATION CONCERNED THE TILE MEMORI MEMORIUS, CONTRECT TREE OFFICE AT SET-1356.

receipt 95-151-A 147 Dete 10-15-94 CKEEFE TON PERESKI TRA 9035 CUCKOLD PY 20. CRITICAL 010 R. VAIL. 350 050 1 sien 735 AREA

(410) 887-3353

NOV : 1994

111 West Chesapeake Avenue Towson, MD 21204

MS: Case No. 95-1518, Item No. 147 Petitioner: Agens & William Poleski

The Doing Advisory Committee (IAC) has reviewed the plane submitted with the above-referenced prillion, which was ecompted for filling on October 18, 1996 and submitted for a hearing sourcipally. Bay etables, comment from a revisional passes are not included to balloate the specquieteness of the soning action requested, but the answer that all perties, 1..., andap commissioner, attempt softer the prillioner, are made aware of plane or publishes the proposed information of the proposed source of the source of the committee of the proposed source of the source of the committee of the proposed source of the proposed source of the source of the committee of the proposed source of the source of the committee of the proposed source of the source of the committee of the proposed source of the source of the committee of the proposed source of the committee of the source of the committee of the committe

May comments submitted thus far from the numbers of 22C that offer or request information on your patition are attached. Only those communits that are informative will be forwarded to you; those that are not informative will be alseed in the bearing file. The following is related only to the filling of future soming petitions and are sized at expediting the petition filling process with this office:

The director of the Office of Joning Administration and Development Renogment has instituted a
system shareby maning attorneys who feel that they are compale of filing potitions: that comply
sets all aspects of the nozing regulations and putilizan's filing reprincess con file their
potitions with this office without the secondary of a preliminary review by nozing pursonnel.

2. Repose using this system should be fully some that they are responsible for the accuracy and completeness of any each positions. Ill patitions filled in this senser will be revised and commented only sensing personnal spice to the benefit, in the event that the patition has not been filled correctly, there is the possibility that suches benefits will be required or the noting commissions will study the patition due to correct completeness.

W. Cal Walnuty Je

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Haltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Jowson, MD, 21204

(410) 887-3353

CONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Ballimore County Zoning Regulations require that notice be given to the general public/melabhoring property owners relative to property which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper 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 FOLLOWS:

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

2) Billing for legal abortining, due upon receipt, will come from and abould be remitted directly to the newspaper.
ROW-PARMENT OF AUGUSTISSING FEES WILL STAY INSURED TO ZORGING COLUMN.
ASSOLID JABLEM, DIRECTOR

For newspaper advertising:

Petitioner: AGNES & WILLIAM POLESKI Location: #9035 CUCKOLD POINT RD.

DI FACE ENDWARD ADVEDTICING BILL TO NAME: AGNES POLESKI ADDRESS: #9035 CUCKOLD POINT RD BALTO. , MD. Z1219

PHONE NUMBER: 477-5137 AJ:ggs

(Revised 04/09/93)

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TO: POTUMENT PUBLISHING COMPANY November 3, 1994 Insue - Jeffersoni

Please found billing to:

Agnes Polenki 9035 Cuckold Point Road

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by swithcrity of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 100 of the County Office Building, 111 W. Chemapeaks Person in Townson, Replied 22004

CAS. MORRO: 55-151-4 (Non-147)
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Variance to permit a 50-foot lot width in lieu of 55 feet and an 8-foot side pard in lieu of 10 feet.

LAMBING E. SOREDT COMMISSIONER FOR BALTINGSE COUNTY

HOTES: (1) HEARINGS ARE HAND/CAPPED ACCESSIBLE; FOR SPECIAL ACCOMMENDATIONS PLEASE CALL 887-3353.

(2) FOR INFORMATION CONCERNIG THE FILE AND/OR HEARING, PLEASE CALL 887-3393.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: Nov. 7, 1994
Zoning Administration and Development Management

The Developers Engineering Section has reviewed the subject zoning item. Cuckold Foint Road is an existing road, which shall ultimately be improved as a 30-foot street cross-section on a 50-foot right-of-way.

The property to be developed is located adjacent to tidewater. The Developer is advised that the proper sections of the Baltimore County Building Code sust be followed when the tidewater of tidewater of the tidewater of tidewater of the tidewater of tidewater of the tidewater of tidewater of

FROM Developers Engineering Section

RWB: ew

Zoning Advisory Committee Heeting for Nov. 7, 1994 Item No. 147

Maryland Department of Transportation State Highway Administration

11-4-94 Baltimore County Item No.: \$ 147 (JRA)

Hal Kassoff

Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204
ATTENTION: 195. JOYCE CURTON

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

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

Thank you for the opportunity to review this item.

Bob Snall

Maryland Relay Service for Impaired Hearing or Speech 1-800-735-2256 Statewide Toll Free

Mailing Address: P.O. Box 717 - Baltimore, MD 21263-6717 Street Address: 707 Storth Calvert Street - Baltimore, Maryland 21263



Office of the Fire Marshal

Demoid (2000)

Tening satisfaction and
Development Management

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Todach, NE 2000

Will State 115

RE: Propurty Current SER 951.04

Pursuant to your request, the reterenced emperty has been surveyed over the luncoused the corrects below are no isoble are recurred to to correct on incomposited with the final plans for the property.

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IN ARRESTME TO THE FOLLOWING STEM NOTHERS: 142,144,146,146,146,47,148,

ZADM

REVIEWER: L. ROBERT F. SAMERHALD Fire Parchal Office, FUCHE 667-4891, NG-1108F

Director, Office of Planning and Zoning Am: Ervin McDaniel County Courts Bidg, Rm 406 401 Bosley Av Toeson, MD 21204 Amdid Jablon, Director, Zoning Admini

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BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: November 2, 1994 Arnold Jablon, Director Zoning Administration &

Jeffrey Long JA Office of Planning & Zoning SUBJECT: 9035 Cuckold Point Rd., Item No. 147

Please be advised that comments will be submitted as part of the undersized lot review proceedure. Please contact me if you have any questions.

JL ZAC147/PZONE/TXTJWL c: Gwen Stephens

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-DESICE CORRESPONDENCE

November 9, 1994

Mr. Arnold Jablon, Director Zoning Administration and Development Management J. Lawrence Pilson

Zoning Item #147 - Poleski Property 9035 Cuckold Point Road Zoning Advisory Committee Meeting of October 31, 1994

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

This property is located in the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA). The project must comply with the following requirements to obtain Critical Area approval: All impervious surfaces, including sidewalks and impervious driveways, must be shown on the plan. The property is limited to 25% impervious surface coverage.

Existing trees must be shown on the plan. The property must contain 15% tree cover which equals 4 trees from the native species list.

3. A limit of disturbance must be shown on the site plan.

JLP:NP:so DOLESKI /DEDDM/TYTSRE

Agnes C. and William Poleski Petitioners

CASE NO. 95-151-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or

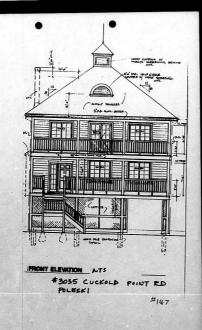
> Peter Max Tinnerman PETER MAX ZIMMERMAN People's Counsel for Baltimore County Caroles, Demilio CAROLE S. DEMILIO
> Deputy People's Counsel
> Room 47, Courthouse
> 400 Mashington Avenue
> Towson, MD 21204
> (410) 887-2188

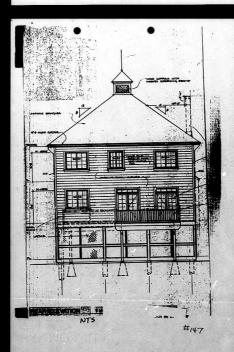
CERTIFICATE OF SERVICE

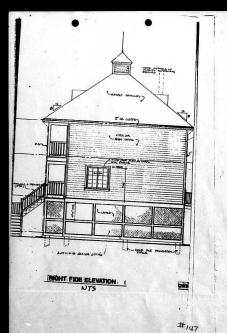
I HEREBY CERTIFY that on this + day of November, 1994, a copy of the foregoing Entry of Appearance was mailed to Patrick O'Keefe, 523 Penny Lane, Hunt Valley, MD 21030, representative for Petitioners.

Peter Max Tinnerman

OPPED MAY STMMEDMAN







The applicant appears to own a contiguous parcel of land. Therefore, compliance with the provisions of Section 304.1.C of the Baltimore County Zoning Regulations may not be possible. The Zoning Commissioner will make that determination at the Zoning Mearing.

Understand Lets

Research to Section 304 2(Batterrore County Zoning Regulations) effective June 25, 1992; this office is requesting
d comments from the Office of Panning & Zoning prior to this office's approved of a densiting parent. O AGUES 1 VILLAN RUESKI 4035 COCKAD FRUT ED. 4477-5137

DI MARIN 49035 COCKAD FT. ED. 2117 AMBRICA 15 DOME RANK 7 SURING 2,700 S.F.

Museum & OF SEPTEM COCKELD FT. ED . 55 MINES I GOOD FOURTH STEERT

MILLIAM POLESEL TE SOUR BOOK 8ANTO, MD. 21219

(AFTER ZONING)_

Francis Morsey

#147

- 11/16/94

