

IN RE: PETITIONS FOR VARIANCE  
NW/4 Delmar Ave., 12' NE of the c/o of  
McComas Ave. (Lots 17 & 18 of  
Cedarcrest, aka 3004 Delmar Ave.  
and NW/4 Delmar Ave., 10' NE of the  
c/o of McComas Ave.  
(Lots 19 & 20 of Cedarcrest))  
Case Nos. 96-240-A and  
96-241-A  
Steven Jernigan  
Petitioner

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commission as combined  
Petitions for Variance for those properties known as Lots 17, 18, 19 and  
20 of the subdivision known as Cedarcrest, located in the vicinity of  
North Point Boulevard in Edgemere. In Case No. 96-240-A, the Petitioner  
of the properties, Steven Jernigan. In Case No. 96-241-A, the Petitioner  
seeks relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations  
to permit a minimum lot width of 50 feet in lieu of the required 55  
feet for an existing dwelling, known as 3004 Delmar Avenue (Lots 17 and 18  
of Cedarcrest). In Case No. 96-241-A, the Petitioner seeks similar relief  
as noted above to permit development of the property to be known as 3004  
Delmar Avenue (Lots 19 and 20 of Cedarcrest), with a single family dwell-  
ing. The subject properties and relief requested are more particularly  
described on the site plan submitted which was accepted and marked into  
evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitioner were Rob  
Kerfoot, Developer, and J. Scott Dallas, Registered Property Line Surveyor,  
who prepared the site plan for these properties. There were no Protestants  
present.

Testimony and evidence offered revealed that Mr. Jernigan owns  
the subject four adjacent lots in the subdivision known as Cedarcrest.

which is located in Edgemere in southeastern Baltimore County. This is an  
older community which was subdivided and developed many years ago. All of  
the lots are approximately 25 feet wide by approximately 135 feet deep and  
are roughly 0.155 acres in area, zoned D.R.S.5.5. In both cases, the Peti-  
tioner seeks variance relief to permit a minimum lot width of 50 feet in  
lieu of the required 55 feet in width. In Case No. 96-240-A, the Petition-  
er seeks to legitimize existing conditions on Lots 17 and 18, which are  
improved with a single family dwelling, known as 3004 Delmar Avenue. As  
shown on the site plan, that dwelling straddles the property line dividing  
the two lots. In Case No. 96-241-A, the Petitioner proposes to develop  
Lots 19 and 20 with a single family dwelling. That dwelling will also  
straddle the property line dividing those two lots, but will maintain all  
appropriate front, side and rear setback requirements. In both cases, the  
two lots, when combined, are only 50 feet wide, 5 feet less than that  
required, and thus, the requested variance is necessary.

There was no community opposition to the relief requested. More-  
over, the Petitioner presented a series of photographs which show that  
there are a number of dwellings in this community which have been built on  
combined lots 50 feet in width. Thus, it was argued that the relief  
requested is compatible with the surrounding locale.

The Zoning Plans Advisory Committee (ZAC) comment submitted by  
the Office of Planning and Zoning supports the Petitioner's requests for  
as long as parking pads are of a width to accommodate only one vehicle,  
and that building plans for the proposed dwelling on Lots 19 and 20 be  
submitted for review by that agency. I concur that these comments are  
reasonable and appropriate and will incorporate same as a condition of  
approval. I will also require the Petitioner to comply with the ZAC

comment submitted by the Department of Environmental Protection and Re-  
source Management (DEPRM) in which they have required compliance with the  
appropriate Chesapeake Bay Critical Areas legislation.

An area variance may be granted where strict application of the  
zoning regulations would cause practical difficulty to the Petitioner and  
his property. Nelson v. Boier, 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 a grant of the variance would do a sub-  
stantial justice to the applicant as well as other  
property owners in the district or whether a lesser  
relaxation than that applied for would give sufficient  
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. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28  
(1974).

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.2.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 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 peculiar to the land or struc-  
ture which is the subject of this variance request 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 pub-  
lic health, safety or general welfare. Further, the granting of the Petition-  
er's request is in strict harmony with the spirit and intent of the  
S.C.2.R.

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

THEREFORE, IT IS ORDERED by the Zoning Commission for Baltimore  
County this 14th day of January, 1996 that the Petition for Variance in  
Case No. 96-240-A seeking relief from Section 1802.3.C.1 of the Baltimore  
County Zoning Regulations (S.C.2.R.) to permit a minimum lot width of 50  
feet in lieu of the required 55 feet for an existing dwelling, known as  
3004 Delmar Avenue (Lots 17 and 18 of Cedarcrest), in accordance with  
Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance in Case No.  
96-241-A seeking relief from Section 1802.3.C.1 of the S.C.2.R. to permit  
a minimum lot width of 50 feet in lieu of the required 55 feet for Lots 19  
and 20 of Cedarcrest, for a proposed dwelling to be known as 3004 Delmar  
Avenue, in accordance with Petitioner's Exhibit 1, be and is hereby GRANT-  
ED, subject to the following restrictions:

- 1) The Petitioner may apply for their building  
permit and be granted same upon receipt of this Order;  
however, Petitioner is hereby made aware that pro-  
ceeding at this time is at their 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 relief granted herein shall be rescinded.
- 2) Prior to the issuance of any permits, the Peti-  
tioner shall submit building plans to the Office of  
Planning and Zoning for review and approval.
- 3) Compliance with all Zoning Plans Advisory Commi-  
tee comments, including, but not limited to, the

ORDER RECEIVED FOR FILING  
Date  
By

ORDER RECEIVED FOR FILING  
Date  
By

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Date  
By

ORDER RECEIVED FOR FILING  
Date  
By

Office of Planning and Zoning, dated January 11, 1996,  
and the Department of Environmental Protection and  
Resource Management, dated December 27, 1995, copies  
of which have been attached hereto and made a part  
hereof.

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

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

LES:bjs



Baltimore County  
Zoning Commissioner  
Office of Planning and Zoning

Suite 112, Courthouse  
400 Washington Avenue  
Towson, Maryland 21204  
(410) 887-4386

January 30, 1996

Mr. Steven Jernigan  
1200 North Point Road  
Baltimore, Maryland 21219

RE: PETITIONS FOR VARIANCE  
NW/4 Delmar Ave., 12' NE of the c/o of McComas Ave.  
(Lots 17 & 18 of Cedarcrest, aka 3004 Delmar Ave. and  
NW/4 Delmar Ave., 10' NE of the c/o of McComas Ave.  
(Lots 19 & 20 of Cedarcrest))  
Steven Jernigan - Petitioner  
Case Nos. 96-240-A and 96-241-A

Dear Mr. Jernigan:

Enclosed please find a copy of the decision rendered in the  
above-captioned matters. The Petitions for Variance have been granted in  
accordance with the attached Order.

In the event any party finds the decision rendered is unfavor-  
able, 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 on  
filing an appeal, please contact the Zoning Administration and Development  
Management office at 897-3391.

Very truly yours,

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

LES:bjs

cc: Mr. Rob Kerfoot  
7200 North Point Road, Baltimore, Md. 21219

Mr. J. Scott Dallas  
P.O. Box 26, Baltimore, Md. 21213  
Chesapeake Bay Critical Areas Commission  
48 Calvert Street, 2nd Floor, Annapolis, Md. 21401

022; DEPRM; People's Counsel; Case File

## Petition for Variance

to the Zoning Commissioner of Baltimore County  
for the property located at Lots 19 and 20 "Cedarcrest"  
Delmar Avenue  
which is presently zoned D.R. 3.5

This Petition shall be read with the Office of Zoning Administration & Development Management.  
The undersigned, legal owner(s) of the property herein is/are desiring relief from the description and use stated  
herein and make a part hereof, hereby petition for a Variance from Section 1802.3.C.1, to allow minimum  
lot width of 50 feet in lieu of the required minimum lot width of 55 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Include a listing of  
previous efforts) Although all other zoning setback requirements can be met, improved  
Lots 19 and 20 can not stand alone as a building lot due to existing 50 foot  
width of property. Neighborhood is composed almost exclusively of single family  
homes on 50 foot lots (and narrower), as shown on enclosure plat.

Property is to be plotted and advertised as prescribed by Zoning Regulations.  
I, the undersigned, agree to pay expenses of above Zoning and advertising printing, etc., upon filing of this petition, and further agree to and am to  
be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

|                                                            |                                                                                   |
|------------------------------------------------------------|-----------------------------------------------------------------------------------|
| County Petitioner                                          | Steven Jernigan                                                                   |
| Signature of Petitioner                                    | <i>Steven Jernigan</i>                                                            |
| Address of Petitioner                                      | 1200 North Point Road<br>Baltimore MD 21219                                       |
| Address and phone number of representative to be contacted | J. Scott Dallas (J.S. Dallas, Inc.)<br>1202 Long Green Pike<br>Baltimore MD 21202 |
| Estimated expense for advertising                          | 81-6400                                                                           |
| On following day                                           | 12-27-95                                                                          |

#### ZONING DESCRIPTION FOR LOTS 19 AND 20 DELMAR AVENUE

BEGINNING at a point on the northwest side of Delmar Avenue  
which is 40 feet wide at a distance of 70 feet, more or less  
northeast of the prolongation of the northeastern most side  
of McComas Road which is 40 feet wide.

BEING Lots 19 and 20 in the subdivision of Cedarcrest as  
recorded in Baltimore County Plat Book # 12 folio 31.

CONTAINING 6739 square feet of land, more or less, or 0.155  
acres of land, more or less.



12-29-95

ORDER RECEIVED FOR FILING  
Date  
By



RECEIVED  
JUN 11 1986  
ZONING COMMISSIONER

Prepared by: Jeffrey W. Long  
Division Chief: J. J. [Signature]  
PK/JL

TO BE FILLED IN BY THE OFFICE OF PLANNING & COMMUNITY DEVELOPMENT ONLY!!

RECOMMENDATIONS/COMMENTS:

☐ Approval    ☐ Disapproval    ☐ Approval conditioned on required modifications of the permit to conform with the following recommendations:

Signed by: \_\_\_\_\_  
for the Director, Office of Planning & Community Conservation  
Revised 9/5/95

OK - NO DOUBLE WIDE  
PARKING PAD IN  
FRONT ONE SINGLE  
WIDE PAD 2 CARS  
DEEP. - WANT TO  
SEE BUILDING PLAN!  
APPROVAL.

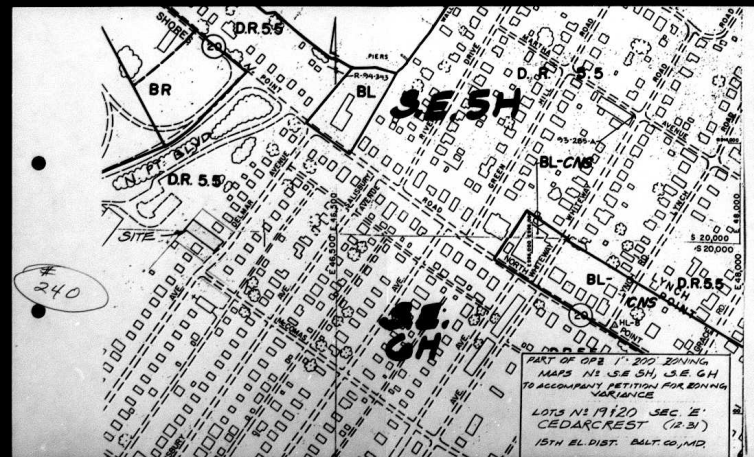
|                     |                  |                           |      |
|---------------------|------------------|---------------------------|------|
| FOR YOUR            | COMMENTS         | FILING APPROXIMATE DATE   |      |
|                     | INFORMATION FILE | SUBJECT FILE AND REPORT   |      |
|                     | REFERENCE        | DO NOT WRITE YOUR REQUEST |      |
| NOTE AND            | TELEPHONING      | DATE                      |      |
|                     | FRANK SERIAL     | AM                        | P.M. |
|                     | FILE             | DO NOT WRITE PROCEEDS     |      |
| PREPARE REQUEST FOR | RETURN TO YOU    | DATE                      |      |
|                     | BY MAIL          | DATE                      |      |
|                     | YOUR TELEPHONING | AM                        | P.M. |

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

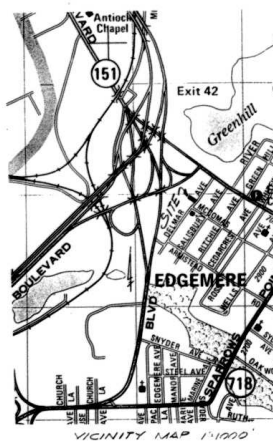
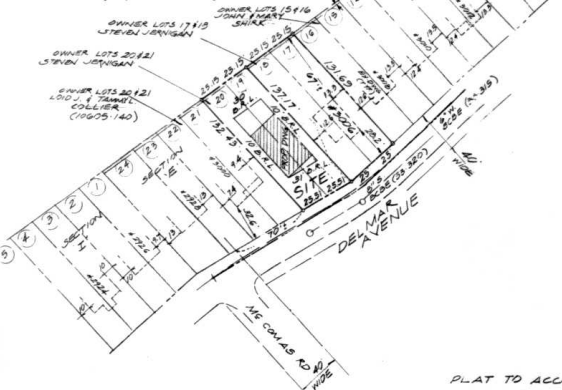
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of January, 1996, a copy of the foregoing Entry of Appearance was mailed to J. Scott Dallas, J.S. Dallas, Inc., 13523 Long Green Pike, Baldwin, MD 21013, representative for Petitioner.

Peter Max Zimmerman  
PETER MAX ZIMMERMAN



EL. DIST. 15 CONC. DIST. 7  
1"=200' SCALE MAP S.E. 54, 6-4  
ZONING OR. 5.5  
LOT SIZE: 6739 SF, 0.155 AC.



PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE  
LOTS No 19 & 20 (SEC. E)

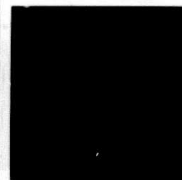
CEDARCREST (12.31) ~~No~~ <sup>No</sup> Flood zone (C).

OWNER: STEVEN JERNIGAN  
7200 NORTH POINT RD  
BALT. MD. 21219  
PHONE: 477-3800

SCALE 1"=50'  
12-1-95

Note 12/8  
Undersize Lot procedure  
Lot NOS. 19 + 20 (Also has submitted  
a VAR. Pet. for same, Item #240)

Per Petitioner, Scott Dallos  
(Honest & Reliable) Mitch stated that  
NO \$ due on fees pd. for VARIANCE  
on same lot. Mitch is on Vacation!  
John S



SI TE

HOUSES TO S.W. (ON 50' LOTS)





A horizontal line with arrows at both ends, labeled "SITE" above it.

HOUSES TO N.E. (ONSD  
LOTS)

PHOTOGRAPHS TO ACCOMPANY  
UNDERSIZED LOT REQUEST  
LOTS 19 & 20 CEDARCREST

NOTE: BLDG PLANS NOT YET FINALIZED.  
WILL MEET GENERAL NEIGHBORHOOD  
CHARACTERISTICS  
SUBJECT TO PLANNING REVIEW @ TIME  
OF BUILDING PERMIT.  
(PER CONVERSATION W/JAKE MORSEY)

**J.S. DALLAS, INC.**

**Surveying & Engineering**  
13523 LONG GREEN PIKE  
BALDWIN, MD 21013  
(410) 817-4600