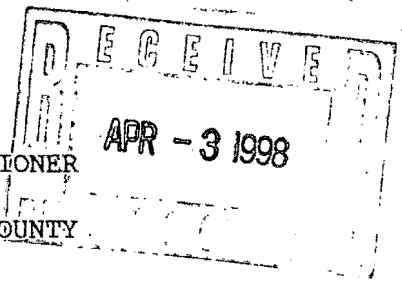


PC 3/30/98



IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Holly Beach Road, 1400 ft. *
E of c/l Henrietta Avenue * ZONING COMMISSIONER
2723 Holly Beach Road *
15th Election District * OF BALTIMORE COUNTY
5th Councilmanic District *
Michael E. Dalton, et ux * Case No. 98-306-A
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on a Petition for a Variance for the property located at 2723 Holly Beach Road in the Broring Point subdivision of eastern Baltimore County. The Petition was filed by Michael E. Dalton and Marsha A. Dalton, his wife, property owners. Variance relief is requested from Section 1A04.3.B.1.3 of the Baltimore County Zoning Regulations (BCZR) to allow a dwelling with side yard setbacks of 10 ft. and 35 ft. in lieu of the minimum required 50 ft. each, and to approve an undersized lot, pursuant to Section 304 of the BCZR and any other variances deemed necessary by the Zoning Commissioner. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit #1.

Appearing at the public hearing held for this case was Marsha Dalton, co-Petitioner. Also present were John Diegel and Michael Diegel, the builders retained by the Petitioners. There were no Protestants or interested persons present.

Testimony and evidence presented was that the subject property is a rectangularly shaped lot, approximately .754 acres in area, zoned R.C.5. The property is a waterfront lot, located adjacent to Hawks Cove and the Chesapeake Bay in eastern Baltimore County. Vehicular access is by Holly Beach Road. The subject property is actually composed of two lots, (Nos. 6 and 7) of the originally platted subdivision of Broring Point.

Mrs. Dalton testify that she and her husband have owned the property since 1993. Presently they reside in an existing one story dwelling which is located on the property. It was indicated that the house is quite old and in need of repair. Rather than substantial repairs, however, the Petitioners have decided to raze the structure and build a new house in its place. The new structure will be located essentially on the same footprint as the present dwelling. The new structure will be 1-1/2 story's tall (18 ft. in height) and will be a contemporary style dwelling. It will not feature a basement.

Variance relief is requested to permit side yard setbacks less than the 50 ft. required. As shown on the site plan, the house will be setback on the east side of the property by a distance of 35 ft. and on the west side of the property by a distance of 10 ft. These setbacks are relatively consistent with the existing situation. It is also to be noted that the lot is less than one acre in area. Section 1A04.3.B.1 of the BCZR provides that a lot less than one acre may not be created in an R.C.5 zone. In this case, the lot is not being created; rather, it is existing. Thus, the variance relief is not necessary for the lot size, only for the insufficient side yard setbacks.

Based upon the testimony and evidence offered, I am persuaded to grant the Petition for Variance. Specifically, I find that the request complies with the requirements of Section 307 of the BCZR and the case law. The property is unique by virtue of its configuration. Moreover, a practical difficulty will be suffered by the Petitioners if relief were denied. A compelling factor in support of the variance request is that the lot is already used to support a single family dwelling and that there will be no increase in residential density. The Petitioners' placement of the proposed house appears appropriate. Moreover, I find that there will

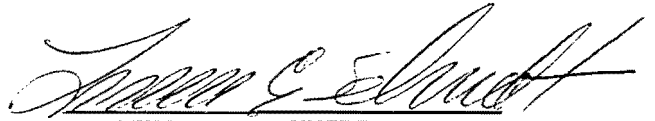
be no adverse affect to the surrounding properties. Although, I will grant the variance relief which has been requested, same shall be conditioned. Zoning Advisory Committee (ZAC) comments were received from both the Department of Environmental Protection and Resource Management (DEPRM) and The Developer's Plans Review Division of the Office of Permits and Development Management. DEPRM will require compliance with the Chesapeake Bay Critical Area Regulations and evaluation of the septic system prior to the issuance of building permits. Developer's Plans Review will require compliance with the Baltimore County Building Code as to floodplain elevations. The Petitioners and their builder indicated that the project will comply with these conditions.

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 1998 that a variance from Section 1A04.3.B.1.3 of the BCZR to allow a dwelling with side yard setbacks of 10 ft. and 35 ft. in lieu of the minimum required 50 ft. each, and to approve an undersized lot, pursuant to Section 304 of the BCZR, be and is hereby GRANTED, subject, however, to the following restrictions:

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 from 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.
2. The Petitioners shall comply with all requirements of the Department of Environmental Protection and Resource Management, as set forth in their comment dated March 11, 1998
3. Compliance with the comment submitted by the Baltimore County Zoning Plans Advisory Committee

(ZAC), namely, Developer's Plans Review Division,
dated March 9, 1998, are adopted in their
entirety and made a part of this Order.

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt", written in dark ink.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

2723 Holly Beach Road
which is presently zoned RC-5

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate 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(s)

existing house to small and needs a lot of repairs

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1 A 0 4 . 3 . B . 1 3 ; 3 0 4 To allow a dwelling with side yard setbacks of 10 ft. & 35 ft. in lieu of the minimum required 50 ft. each and to approve an undersize lot per sect. 394 with any other variances deemed necessary by the Zoning Commissioner.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Michael E. Dalton

(Type or Print Name)

Michael E. Dalton

Signature

Marsha A. Dalton

(Type or Print Name)

Marsha A. Dalton

Signature

2723 Holly Beach Road 686-3204

Address

Phone No.

Baltimore

City

Md.

State

21221

Zipcode

Name, Address and phone number of representative to be contacted.

John W. Diebel

Name

1224 Rust Ave. 21237 410 686 5943

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

2-17-88



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RE: PETITION FOR VARIANCE * BEFORE THE
2723 Holly Beach Road, S/S Holly Beach Rd, *
1400' E of c/l Henrietta Ave * ZONING COMMISSIONER
15th Election District, 5th Councilmanic * OF BALTIMORE COUNTY
Michael E. and Marsha A. Dalton *
Petitioners * CASE NO. 98-306-A

* * * * *

ENTRY OF APPEARANCE

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.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March, 1998, a copy of the foregoing Entry of Appearance was mailed to John W. Diegel, 1224 Rustic Avenue, Baltimore, MD 21237, representative for Petitioners.



PETER MAX ZIMMERMAN