

IN THE MATTER OF
THE APPLICATION OF
THOMAS A. REED -LEGAL OWNER
FOR VARIANCE ON PROPERTY
LOCATED ON THE E/S POWERS AVENUE,
1400' N OF INTERSECTION WITH OSAGE
ROAD (11109 POWERS AVENUE)

8th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 00-003-A

* * * * *

ORDER OF DISMISSAL OF PETITION

This case comes to the Board on appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of Will Geddes, Appellant, from the October 25, 1999 Order of the Zoning Commissioner in which the subject Petition was granted.

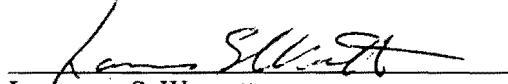
WHEREAS, the Board is receipt of a letter of withdrawal of the Petition for Variance filed May 31, 2000 by Thomas A. Reed, Petitioner (a copy of which is attached hereto and made a part hereof); and

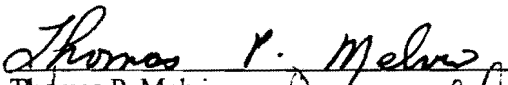
WHEREAS, said Petitioner requests that the Petition for Variance filed in the above-referenced matter be withdrawn, without prejudice, as of May 31, 2000,

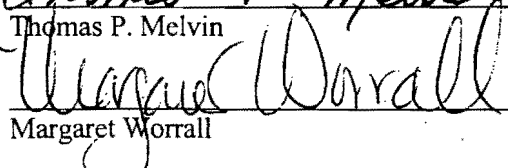
IT IS THEREFORE, this 23rd day of June, 2000, by the County Board of Appeals of Baltimore County

ORDERED that said Petition filed in Case No. 00-003-A is **WITHDRAWN AND DISMISSED, without prejudice**, and that the Zoning Commissioner's Order of October 25, 1999, including any and all relief granted therein, is rendered **null and void**.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott


Thomas P. Melvin


Margaret Worrall

Thomas A. Reed
11109 Powers Avenue
Hunt Valley, Maryland 21030-2629
410-666-8825

*didn't need
the variance
after all, did he ??*

May 30, 2000

RECEIVED
COUNTY BOARD OF APPEALS
00 MAY 31 PM 3:07

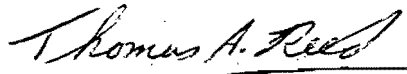
County Board of Appeals of Baltimore County
C/O Ms. Kathleen C. Bianco
Old Court House, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE. Case # 00-003-A

Dear Ms. Bianco;

I have decided to withdraw my "Petition for Variance" in the
aforementioned case. A costly evidentiary hearing would be superfluous;
therefore, original plans have been revised to comply with property setbacks.
The revised plans have been approved by all of the county agencies and a
"Building Permit" has been issued. Construction has started in accordance to the
guidelines set by Baltimore County. It is my understanding that I may pursue my
request for a variance at a later date if it becomes necessary. Thank you.

Very truly yours,



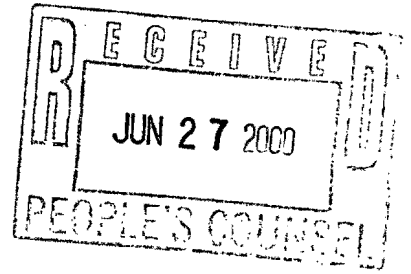
Thomas A. Reed



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

cal pmz



June 23, 2000

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, MD 21204

RE: In the Matter of Thomas A. Reed -Owner
/Petitioner Case No. 00-003-A

Dear Mr. Alderman:

Enclosed please find a copy of the Order of Dismissal of Petition issued this date by the County Board of Appeals of Baltimore County in the subject matter in which the subject Petition has been withdrawn and dismissed without prejudice.

Very truly yours,

Charlotte E. Rockcliff for
Kathleen C. Bianco
Administrator

Enclosure

cc: Thomas A. Reed
Will Geddes
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

IN RE: PETITION FOR VARIANCE
E/S Powers Avenue, 1400' north of its
Intersection w/Osage Road
(11109 Powers Avenue)
8th Election District
3rd Councilmanic District

Thomas A. Reed
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 00-003-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Thomas A. Reed. The Petitioner seeks relief from Section 1A03.4.B.2a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a dwelling to property line setback of 15 feet in lieu of the required 25 feet for a proposed addition. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing held in this case was Thomas A. Reed, property owner. Also appearing in support of the request was Bruce E. Doak, a surveyor with Gerhold, Cross & Etzel, who prepared the site plan for this property. Appearing as a Protestant in the matter was Will Geddes, adjacent property owner.

An examination of the site plan shows that the subject property consists of a gross area of .497 acres, zoned R.C.4, and is improved with a one-story single family dwelling. The property is located at the end of Powers Avenue, not far from the Loch Raven Reservoir in Cockeysville, and access thereto is by way of a lengthy driveway which terminates within the property. Mr. Reed indicated that he has owned the property and resided thereon for a number of years. Presently, he resides on the property with his 6-year old son, his girlfriend, and her 10-year old daughter. Additionally, a former roommate of Mr. Reed continues to keep a room on the property, although he is rarely there.

This property was the subject of prior zoning Case No. 87-55-A in which a variance of 35 feet in lieu of the required 50 feet was granted for a proposed addition to the front of the dwelling. Mr. Reed now comes before me seeking relief for a second addition to provide more living space for his family. As shown on the site plan, the proposed addition will provide an additional bedroom to accommodate his girlfriend's daughter, who is currently sharing a bedroom with Mr. Reed's son, and a play room. Due to the layout of the existing dwelling, the proposed location for the addition will place it within 17 feet of the side property line; thus, variance relief is necessary in order to proceed as proposed.

As noted above, Mr. Will Geddes, adjoining property owner, appeared in opposition to the request. Mr. Geddes believes that additional construction on the subject site will be detrimental to his property. He indicated that his well and septic system are downgrade from the Reed property and that the proposed development will place additional strain on his septic system. He further expressed concern over losing privacy as a result of the closeness of the addition to his property.

A review of the site plan and photographs submitted cast doubt on Mr. Geddes' assertions. Mr. Geddes' dwelling is set back a significant distance from the common property line he shares with the Reed lot. Additionally, both of these properties are wooded, thereby decreasing the visibility between the two houses. Nonetheless, Mr. Geddes' comments must be considered.

Consideration of the variance relief requested in the instant case is governed by Section 307 of the B.C.Z.R. That Section has recently been construed by the Court of Special Appeals in Cromwell v. Ward, 102 Md. App. 691 (1995). Therein, the Court set out a three-part test which the Petitioner must satisfy in order for relief to be granted. First, the Petitioner must show that the property is unique, thereby driving the need for variance relief. Second, it must be shown that a practical difficulty would result if relief were denied. Third, it must be shown that relief can be granted without detrimental impact to surrounding properties.

As to the uniqueness of the subject property, I am persuaded that the Petitioner has presented sufficient testimony to support such a finding. The uniqueness in this case is based upon

the property's topography and shape. Additionally, one must consider the location of the existing septic system serving the Reed property. Obviously, any addition cannot be located on or immediately adjacent to the septic system. All of these factors support a finding that the addition should be constructed where proposed. Second, as to the practical difficulty standard, I am persuaded that the Petitioner has met this burden. In my view, the Petitioner has presented sufficient evidence to justify the need for the proposed addition. Lastly, I find no adverse impact on surrounding properties. Admittedly, the addition will be visible to the Geddes property at certain times of the year when the deciduous trees are bare. Nonetheless, a sufficient distance between the dwellings exists to support Mr. Reed's application.

Based upon all of these factors, I am persuaded to grant the variance. However, in so granting, I will require that the Petitioner comply with the Zoning Advisory Comments submitted by the Department of Environmental Protection and Resource Management (DEPRM), dated September 2, 1999, a copy of which is attached hereto. Moreover, I will require the Petitioner to install downspouts and gutters on the proposed addition so as to direct all water runoff from the proposed addition away from the Geddes property. The Petitioner shall seek direction from DEPRM as to any other appropriate methods for directing water runoff away from the Geddes property.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of October, 1999 that the Petition for Variance seeking relief from Section 1A03.4.B.2a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a dwelling to property line setback of 15 feet in lieu of the required 25 feet for a proposed addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period

from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) Compliance with the Zoning Advisory Committee (ZAC) comment submitted by the Department of Environmental Protection and Resource Management (DEPRM), dated September 2, 1999, a copy of which is attached hereto and made a part hereof.
- 3) The proposed addition shall be equipped with appropriate gutters and downspouts to insure that all water runoff is directed away from the improvements on the Geddes property.
- 4) 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
Zoning Commissioner
for Baltimore County

LES:bjs

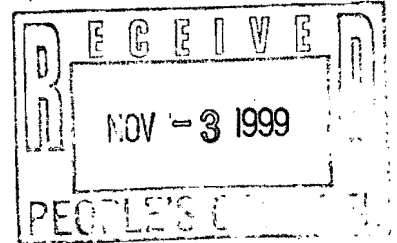


Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

October 25, 1999

Mr. Thomas A. Reed
11109 Powers Avenue
Cockeysville, Maryland 21030



RE: PETITION FOR VARIANCE
E/S Powers Avenue, 1400' N of its intersection w/Osage Avenue
(11109 Powers Avenue)
8th Election District – 3rd Councilmanic District
Thomas A. Reed - Petitioners
Case No. 00-003-A

Dear Mr. Reed:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, 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 (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 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Bruce E. Doak, Gerhold, Cross & Etzel
320 E. Towson Blvd., Suite 100, Towson, Md. 21286
Mr. Will Geddes
P.O. Box 24829, Baltimore, Md. 21220-0829
People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us





Petition for Variance

to the Zoning Commissioner of Baltimore County ⁴⁰ *11/7*

for the property located at 11109 POWERS AVENUE
which is presently zoned RC 4

This Petition shall be filed with the Department of Permits and 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) 1A03.4.B.2a

TO PERMIT A SETBACK OF 15' ~~TO THE SIDE~~, FROM DWELLING TO PROPERTY LINE, IN LIEU OF REQUIRED 25'.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) DUE TO THE SIZE AND SHAPE OF THE PROPERTY, THE LOCATION OF THE EXISTING DWELLING ON THE PROPERTY AND THE LAYOUT OF THE DWELLING, THE PROPOSED ADDITION NEEDS TO BE PLACED IN THE LOCATION SHOWN.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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.

Contract Purchaser/Lessee:

Legal Owner(s):

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Name - Type or Print _____

Signature _____

THOMAS A. REED
Name - Type or Print _____

Thomas A. Reed
Signature _____

Attorney For Petitioner:

11109 POWERS AVENUE 410-666-8825
Address Telephone No.

COCKEYSVILLE, MARYLAND 21030
City State Zip Code

Name - Type or Print _____

Signature _____

Company _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Representative to be Contacted:
BRUCE E. DOAK
GERHOLD, CROSS & ETZEL, LTD
Name SUITE 100

320 E. TOWSONTOWN BLVD 410-823-4470
Address Telephone No.

TOWSON, MARYLAND 21286
City State Zip Code

OFFICE USE ONLY

Case No. 00-3A

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING
Reviewed By Jum Date 7-1-99

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Date: September 2, 1999

TO: Lawrence E. Schmidt
Zoning Commissioner

FROM: R. Bruce Seeley *RBS*
Project Manager, DEPRM

SUBJECT: Zoning Item #00-3A
11109 Powers Avenue

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

Prior to approval of a building permit, the following items must be addressed:

- Soil percolation tests must be conducted on the septic reserve area which remains. An application to conduct the tests is not required. Review of the test results must provide space for at least two complete repairs of the septic system, the design of which will be based on a four bedroom dwelling.
- An additional sewage disposal field component may be required to be installed at this time.
- The septic tank will be required to be cleaned, inspected and repaired as necessary. A sewage filter will be required to be installed on the outlet and be accessible from final grade.
- All plumbing fixtures in the dwelling will be required to be equipped with water saving devices or be of the water saving type/variety.

The owner is advised to contact Mr. Rob Powell at (410) 887-2762, prior to applying for a building permit.

ord

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: July 20, 1999

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s):
Item No(s): 525, 528, 003, 004, and 007

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief: *Jeffrey M. Long*

AFK/JL



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 7.20.99

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 003 JCM

Dear Ms Stephens:

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 affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

A handwritten signature in cursive script, appearing to read 'M. M. Lenhart'.

for Michael M. Lenhart, Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

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

60 PM

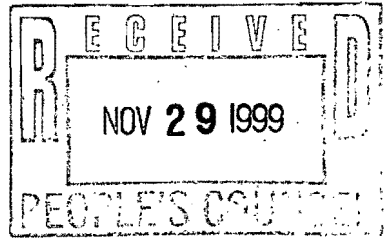


Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

November 23, 1999

Mr. Thomas A. Reed
11109 Powers Avenue
Cockeysville, MD 21030



Dear Mr. Reed:

THOMAS A. REED

RE: Case Number 00-003-A, 11109 Powers Avenue, 8th Election District:

Please be advised that an appeal of the above referenced case was filed in this office on November 22, 1999 by Howard L. Alderman, Jr., Esquire on behalf of Mr. Will Geddes. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Arnold Jablon
Director

AJ:scj

C: Howard L. Alderman, Jr.
Will Geddes
Bruce E. Doak
People's Counsel

APPEAL

Petition for Variance
11109 Powers Avenue
E/S Powers Avenue, 1400' N of intersection with Osage Road
8th Election District – 3rd Councilmanic District
Thomas A. Reed - Legal Owner
Case Number: 00-003-A

Petition for Variance

Description of Property

Notice of Zoning Hearing (dated 7/27/99)

Certificate of Posting (Patrick M. O'Keefe – 8/7/99)

Certification of Publication (The Jeffersonian – 8/5/99)

Entry of Appearance by People's Counsel (8/3/99)

Petitioner(s) Sign-In Sheet (1)

Citizen Sign-In Sheet (1)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat to Accompany a Petition for Variance – Reed Property (dated 6/11/99; revised 7/1/99)
- 2A. Plan to Accompany Photographs (same plat as Exhibit 1)
- 3A-3M Photographs

Misc. (Not Marked as Exhibits):

1. House Plans (5 sheets)
2. Financial History of 11109 Powers Avenue
3. Variance Information of 11109 Powers Avenue
4. Letter from Thomas Reed to Will (dated 8/15/99)
5. Letter from Lola & Robert Williar (dated 8/22/99)

Zoning Commissioner's Order dated 10/25/99 (Granted)

Notice of Appeal received on 11/22/99 by Howard L. Alderman, Jr., Esquire, on behalf of Mr. Will Geddes

C: Thomas A. Reed, 11109 Powers Avenue, Cockeysville 21030
Howard L. Alderman, Jr., Esquire, 305 W. Chesapeake Avenue, Towson 21204
Bruce E. Doak, 320 E. Towsontown Blvd., Suite 100, Towson 21286
Will Geddes, 11107 Powers Avenue, Cockeysville 21030
People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

RE: PETITION FOR VARIANCE
11109 Powers Avenue, E/S Powers Ave,
5000' +/- N of c/l Sherwood Road
8th Election District, 3rd Councilmanic

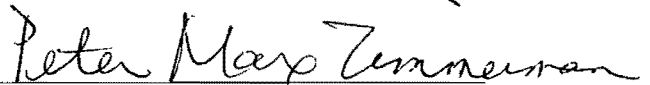
Legal Owner: Thomas A. Reed
Petitioner(s)

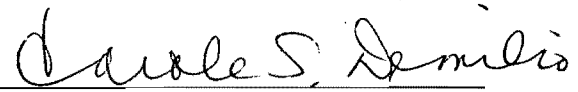
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 00-3-A

* * * * *

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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of August, 1999 a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontowne Blvd., Suite 100, Towson, MD 21286, representative for Petitioners.


PETER MAX ZIMMERMAN