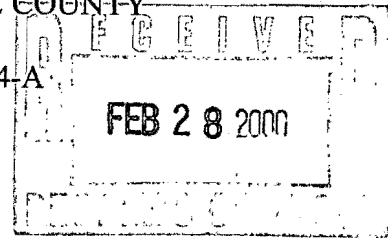


pm 2/23/00

IN RE: PETITION FOR VARIANCE  
W/S Beach Avenue, 530' NW  
Centerline Rockaway Beach Avenue  
15<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
(2403 Beach Avenue)

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 00-294-A

Pamela Hengemihle & Lucinda Garriques  
Petitioners



\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Pamela Hengemihle and Lucinda Garriques. The Petitioners are requesting a variance for property they own at 2403 Beach Avenue, which property is zoned D.R.3.5. The variance request is from Sections 303.1, 1B02.3.C, 303 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a dwelling to have a front yard setback of 16 ft. in lieu of the required front average of 25.8 ft., a side yard setback of 6 ft. totaling a sum of 12 ft. in lieu of the required 10 ft. and 25 ft. respectively, to allow an open projection with a setback of 8 ft. in lieu of the required 19.3 ft., and to approve an undersized lot.

Appearing at the hearing on behalf of the variance request were Lucinda Garriques and Pamela Hengemihle, property owners, Cheryl Williams, homebuilder and Bruce Doak, property line surveyor. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request consists of 0.193 acres, more or less, and is zoned D.R.3.5. The subject property is a waterfront lot located on Sue Creek in the Turkey Point area of Baltimore County. The property is currently improved with a small one-story single family frame dwelling. The Petitioners are

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Date 2/23/00  
By R. Garriques

desirous of tearing down the old shore home and constructing a new single family residential dwelling in its place. In order to proceed with their plans, the variance requests are necessary.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and their property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners 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 substantial 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).

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 property which is the subject of this request and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

The facts and evidence presented tend to establish that special conditions 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

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Date 02/23/00

By J. R. Gammeter

that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioners of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioners 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 Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

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 (attached herewith) which describe what steps the Petitioners must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

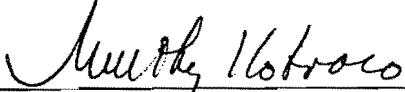
These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements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

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Date 2/23/00  
By J.P. Gorman

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED this 23<sup>rd</sup> day of February, 2000, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 303.1, 1B02.3.C, 303 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a dwelling to have a front yard setback of 16 ft. in lieu of the required front average of 25.8 ft., a side yard setback of 6 ft. totaling a sum of 12 ft. in lieu of the required 10 ft. and 25 ft. respectively, to allow an open projection with a setback of 8 ft. in lieu of the required 19.3 ft., and to approve an undersized lot, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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 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. Compliance with the Zoning Plans Advisory Committee (ZAC) comment submitted by the Department of Environmental Protection and Resource Management (DEPRM) dated January 28, 2000, a copy of which is attached hereto and made a part hereof.
3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

  
TIMOTHY M. KOTROCO  
DEPUTY ZONING COMMISSIONER  
FOR BALTIMORE COUNTY

ORDER RECEIVED FOR FILING  
Date 2/23/00  
By T. J. [Signature]

TMK:raj

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon  
FROM: R. Bruce Seeley *AMS*  
DATE: January 28, 2000  
SUBJECT: Zoning Item #294  
2403 Beach Avenue

RECEIVED FEB 04 2000

Zoning Advisory Committee Meeting of January 24, 2000

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

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

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Reviewer: Keith Kelley

Date: January 28, 2000

ORDER RECEIVED FOR FILING  
Date 2/23/00  
By R. J. G... ..



# Petition for Variance

*revised  
and  
PMZ*

to the Zoning Commissioner of Baltimore County

for the property located at 2403 BEACH AVENUE

which is presently zoned DR-3.5

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) 303.1, 1302.3.C, 303, 304

SEE ATTACHED

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

The lot is undersized for today's living standard. Being only 50' wide does not conform to the current zoning requirement of minimum 60' wide lots. The building envelope is also diminished by the 85' water line buffer area. The proposed house is normal size for house's being built today, and it had to be longer due to the narrowness of the lot. There are other houses, garages and structures in the area which are situated closer to the water and closer to the road.

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

PAMELA A. HENGEMIHLE  
Name - Type or Print

Signature

*Pamela A. Hengemihle*  
Signature

Address Telephone No.

LUCINDA GARRIQUES  
Name - Type/or Print

City State Zip Code

*Lucinda R. Garriques*  
Signature

**Attorney For Petitioner:**

2403 BEACH AVE 410-391-5617  
Address Telephone No.

Name - Type or Print

BALTIMORE MD 21221  
City State Zip Code

Signature

**Representative to be Contacted:**

Company

BRUCE DOAK  
Name

Address Telephone No.

GERHOLD CROSS + ETZEL 410-823-9970  
Name

City State Zip Code

320 E. TOWSONTOWN BLVD SUITE 100  
Address Telephone No.

BALTO MD 21286  
City State Zip Code

**OFFICE USE ONLY**

Case No. 00-294-A

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING  
Reviewed By LTM Date 1/14/00

# 294

TO PERMIT A DWELLING TO HAVE A FRONT YARD SETBACK OF 10 FEET IN LIEU OF THE REQUIRED FRONT AVERAGE OF 25.8 FEET, A SIDE YARD SETBACK OF 6 FEET TOTALING A SUM OF 12 FEET IN LIEU OF THE REQUIRED 10 FEET AND 25 FEET RESPECTIVELY, TO HAVE AN OPEN PROJECTION WITH A SETBACK OF 8 FEET IN LIEU OF THE REQUIRED 19.3 FEET AND ANY OTHER VARIANCES DEEMED NECESSARY BY THE ZONING COMMISSIONER. AND TO APPROVE AN UNDERSIZED LOT.

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

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

**Date:** January 28, 2000

RECEIVED FEB 02 2000

**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): 284, 290, and 294

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:



AFK/JL



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 3, 2000

FROM: *RWB* Robert W. Bowling, Supervisor  
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting  
for January 31, 2000  
Item Nos. 286, 288, 290, 291, 293,  
294, and 295

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon  
FROM: R. Bruce Seeley *RS*  
DATE: January 28, 2000  
SUBJECT: Zoning Item #294  
2403 Beach Avenue

RECEIVED FEB 04 2000

Zoning Advisory Committee Meeting of January 24, 2000

- The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.
- The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
- Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
  - Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
  - Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Reviewer: Keith Kelley

Date: January 28, 2000



Baltimore County  
Fire Department

Office of the Fire Marshal  
700 East Joppa Road  
Towson, Maryland 21286-5500  
410-887-4880

January 28, 2000

RECEIVED FEB 04 2000

Department of Permits and  
Development Management (PDM)  
County Office Building, Room 111  
Mail Stop #1105  
111 West Chesapeake Avenue  
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: PAMELA A. HENGEMIHLE AND LUCINDA GARRIQUES

Location: DISTRIBUTION MEETING OF JANUARY 24, 2000 Item No.: 294

Dear Ms. Stephens:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at proper intervals, along an approved road in accordance with Baltimore County Standard Design Manual Sec. 2.4.4 Fire Hydrants, as published by the Department of Public Works.
9. ACCESS FOR FIRE DEPARTMENT EMERGENCY APPARATUS IS NEEDED AT THE FOLLOWING PORTION(S) OF THE BUILDING FRONT. THE ACCESS ROAD SHALL BE A MINIMUM OF 18 FEET IN WIDTH.

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office  
PHONE 887-4881, MS-1102F

cc: File



RE: PETITION FOR VARIANCE  
2403 Beach Avenue, W/S Beach Ave,  
530' NW of c/l Rockaway Beach Ave  
15th Election District, 5th Councilmanic


Legal Owner: Pamela A. Hengemihle and  
Lucinda Garriques  
Petitioner(s)

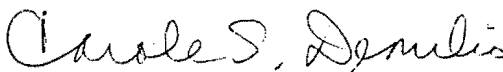
\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR  
\* BALTIMORE COUNTY  
\* Case No. 00-294-A

\* \* \* \* \*

**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 7th day of February, 2000 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