

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Queensberry Road, 300' E of the c/l
Broadbridge Road
(117 Queensberry Road)
14th Election District
6th Election District
Council
Stephen R. Coutant, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 03-452-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Stephen R. and Theresa J. Coutant. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for a proposed addition. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 26-127 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, any property owner residing within 1,000 feet of the property in question who objects to the relief requested has 15 days from the date of the sign posting to demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate. In this case, a letter was received from the adjacent property owner, Mrs. Sandy Kratochvil, in which she raised several concerns regarding the proposal and the matter was scheduled for a public hearing on June 17, 2003. Appearing at that hearing in support of the request were Stephen and Theresa

ORDER RECEIVED FOR FILING
Date 7/1/03
By [Signature]

Coutant, property owners. Ms. Kratochvil appeared in opposition to the request. There were no other interested persons present.

Testimony and evidence offered revealed that the subject property is a triangular shaped parcel located on the south side of Queensberry Road, in the relatively new residential community of Maple Ridge in White Marsh. The property, which is also known as Lot 31 of Maple Ridge, contains a gross area of .289 acres (12,589 sq.ft.), more or less, zoned D.R.5.5, and is improved with a new single-family dwelling. The Petitioners have owned and resided on the property since construction of the dwelling was completed in October 2002. The subject of the variance request relates to a proposed deck that the Petitioners now wish to construct along the rear of their home. The house was built into the grade of the property so that there is a walkout basement; thus, the deck will be elevated and access thereto will be by a way of a sliding, patio door off the kitchen. Photographs of the site show that the builder of the house installed the door in anticipation of the construction of a deck. The proposed deck will be 15 feet deep and 30 feet wide, nearly the entire width of the house.

A further examination of the site plan shows that the rear of the house is located 33 feet from the rear property line, which abuts the Kratochvil property. Additionally, the side of the dwelling is located 8 feet from the side property line adjoining Lot 30 of this subdivision. Setback relief is requested as described above to permit the proposed construction.

Mr. & Mrs. Coutant testified that their property is unique by virtue of its configuration and size. They indicated that the proposed location was the only practical site to construct a deck. They also indicated that the depth of 15 feet was the minimum amount needed in order to provide a usable area. Photographs were submitted which show that there are existing trees and shrubs along the rear property line. This landscaping is actually located on the Kratochvil property, but does serve to buffer this new community from the Kratochvil home. There is also a 10' drainage and utility easement along the Petitioners' rear property line. Photographs were submitted which show storm water draining along that area during inclement weather.

ORDER OF THE BOARD OF ZONING
Date 7/1/03
By [Signature]

Ms. Kratochvil appeared and testified in opposition to the request. She believes that the deck will invade her privacy. Interestingly, the home on adjacent Lot 30 also features a deck on the first floor. Likewise, that house features a walkout basement; thus, the deck is elevated. Moreover, the lot itself is at a higher level than the subject property.

In the judgment of the undersigned, the existing deck on Lot 30 is as obtrusive as the proposal on the subject property. Although the Coutant's house is closer, this distance is offset by the height of the deck on the adjacent property. The primary focus of Ms. Kratochvil's objection seems to be at the Maple Ridge community at large. She believes that the houses are located too close to her property line. It is to be noted that her property is not part of this subdivision and apparently pre-dates the Maple Ridge community.

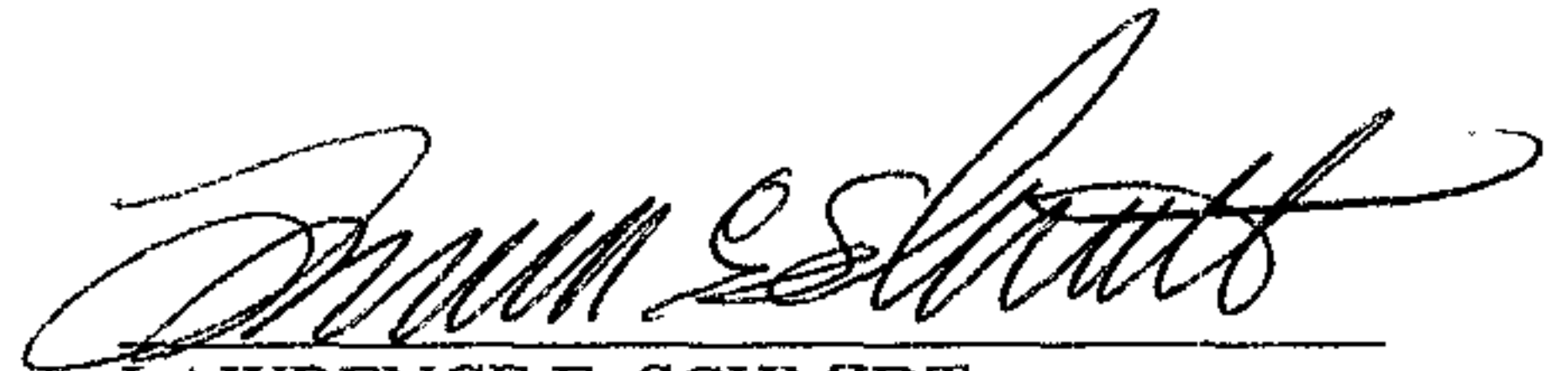
Based upon all of the testimony and evidence presented, I am persuaded to grant the variance. I find that the Petitioners have satisfied the requirements set forth in Section 307 of the B.C.Z.R. and case law. That Section has been considered by the Court of Special Appeals of Maryland, most notably in Cromwell v. Ward, 307 Md. 1 (1997). In Cromwell, the Court required a finding of uniqueness in order for variance relief to be considered. The uniqueness associated with the subject property is its unusual shape, which drives the location of the house and deck. Moreover, to deny the relief requested would be a practical difficulty upon the Petitioner in that a reasonable use of the property would not be permitted. Although I understand Ms. Kratochvil's objections, I do not believe that the deck will cause detrimental impacts on her property. As noted above, the deck is consistent with other development in the area, including the existing house on the immediately adjacent lot. For all of these reasons, I will grant the requested variance.

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 1st day of July 2003, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for a

proposed addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at her 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.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR PLANNING
2/1/03
bjs

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Queensberry Road, 300' E of the c/l
Broadbridge Road
(117 Queensberry Road)
14th Election District
6th Election District

Stephen R. Coutant, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 03-452-A

*

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Stephen R. and Theresa J. Coutant. The Petitioners sought relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet, for a proposed deck.

Although the Petition was filed through the administrative variance process, a demand for hearing was requested by the adjacent property owner, Sandy Kratochvil, and the matter was scheduled for further proceedings on June 17, 2003. Mr. & Mrs. Coutant attended that hearing as did Ms. Kratochvil. After due consideration of the testimony and evidence presented, I granted the relief requested by Order dated July 1, 2003.

Subsequent to the issuance of said Order, Ms. Kratochvil submitted a letter (received via facsimile on July 9, 2003) seeking a reconsideration of my decision. Essentially, she suggested a modification of the relief granted in my Order to allow a reduced deck on the subject property and require additional landscaping. As a courtesy, I forwarded a copy of her letter to the Petitioners so that they could respond and their comment was received on July 23, 2003.

After due consideration of the arguments presented by both sides, I am persuaded to deny the Motion and will affirm my original decision in this matter. As stated in my prior Order, I find that the Petitioners have met the requirements of Section 307 for relief to be granted and that

ORDER RECEIVED FOR FILING

Date

By

8/1/03

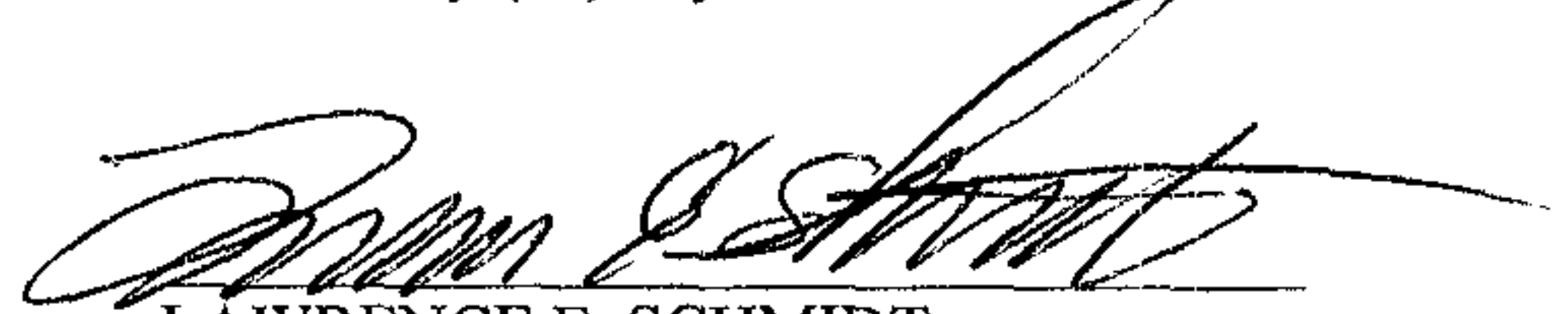
[Signature]

the proposed deck is reasonably sized and consistent with others in the neighborhood and will not cause adverse impacts to adjacent properties. I am appreciative of Ms. Kratochvil's desire for privacy; however, the fact remains that the Petitioners are entitled to variance relief, given the unique configuration of their property and the site constraints associated with the drainage and utility easement along their rear property line. In this regard, it appears the potential for additional screening on the Coutant property to buffer its view from the Kratochvil lot is not feasible given the wet conditions that exist in their lower yard.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 1st day of August 2003, that the Motion for Reconsideration be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the relief granted in my Findings of Fact and Conclusions of Law and Order dated July 1, 2003 shall remain in full force and effect.

Any appeal of this decision must be entered within thirty (30) days of the date hereof.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. & Mrs. Stephen R. Coutant
117 Queensberry Road, Baltimore, Md. 21237
Mrs. Sandy Kratochvil
5008 Bucks School House Road, Baltimore, Md. 21237
People's Counsel; Case File

ORDER RECORDED
DATE 8/1/03
BY [signature]



Baltimore County
Zoning Commissioner

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

July 2, 2003

Mr. & Mrs. Stephen R. Coutant
117 Queensberry Road
Baltimore, Maryland 21237

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S Queensberry Road, 300' E of the c/l Broadbridge Road
(117 Queensberry Road)
14th Election District – 6th Council District
Stephen R. Coutant, et ux - Petitioners
Case No. 03-452-A

Dear Mr. & Mrs. Coutant:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative 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 Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mrs. Sandy Kratochvil
5008 Bucks School House Road, Baltimore, Md. 21237
People's Counsel; Case File

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Baltimore County
Zoning Commissioner

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

July 15, 2003

Mr. & Mrs. Stephen R. Coutant
117 Queensberry Road
Baltimore, Maryland 21237

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S Queensberry Road, 300' E of the c/l Broadbridge Road
(117 Queensberry Road)
14th Election District -- 6th Council District
Stephen R. Coutant, et ux - Petitioners
Case No. 03-452-A

Dear Mr. & Mrs. Coutant:

Enclosed please find a copy of a letter I recently received from Mrs. Kratochvil requesting a reconsideration of my decision in the above-captioned matter. Within her letter, she has suggested a compromise, which I would like your response to prior to my making a decision on her request. Please submit your comments on her proposal within 10) days of your receipt of this letter and I shall make a decision thereafter.

Very truly yours,

A handwritten signature in cursive script, reading "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mrs. Sandy Kratochvil
5008 Bucks School House Road, Baltimore, Md. 21237
People's Counsel; Case File





Affidavit in

Affidavit in Support of Administrative Variance

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23027

DATE 4/17/03 ACCOUNT 001 006 6150

AMOUNT \$ 50.00

RECEIVED FROM: Sandra Kratochvil

FOR: Hearing Demand. 03-452-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

DATE RECEIPT
TIME

BUSINESS ACTUAL TIME DRW
4/17/2003 4/17/2003 10:17:33 2
REG 0304 WALKIN DOOR DND
RECEIPT # 223716 4/17/2003 OFLN
DET 5 520 ZONING VERIFICATION
CR 70. 023027

Receipt Tot \$50.00
50.00 CR .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

452
No. 23177

DATE 5-29-63 ACCOUNT 661-616-6150

AMOUNT \$ 63.00

RECEIVED FROM: S. CONTANT 11760-30

FOR: AD YAR.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

RECEIVED
MAY 30 1963
OFFICE OF BUDGET & FINANCE
BALTIMORE COUNTY, MARYLAND
AD
11760-30

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

452
No. 23111

DATE 5-28-63 ACCOUNT CC - 116-6152

AMOUNT \$ 65.00

RECEIVED S. CLINT
FROM: 176-6152

FOR: AJ 11A2

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

RECEIVED
OFFICE OF BUDGET & FINANCE
BALTIMORE COUNTY, MARYLAND
MAY 29 1963
176-6152

NOTICE OF ZONING

HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #03-452-A

117 Queensbury Road
S/Side of Queensbury Road,
300 feet east of centerline
of Broadbridge Road

14th Election District

6th Councilmanic District

Legal Owner(s): Stephen and Theresa Coutant

Administrative Variance: to permit a rear setback of 18 feet and a side yard setback of 8 feet in lieu of the required 30 feet and 10 feet respectively for an addition.
Hearing: Tuesday, June 17, 2003 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible for special accommodations. Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the file and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT/6/19 June 3 0607476

CERTIFICATE OF PUBLICATION

6/5/, 2003

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/3/, 2003.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

P. Wilkinson

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DEPARTMENT OF PERMITS AND DEVELOPMENT









