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IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE

ES of Marlyn Avenue, line of a 20 ft. rightof-way easement from Marlyn Avenue, 117.5 ft. from the side of Marlyn Avenue 15th Election District 7th Councilmanic District (555 South Marlyn Avenue)

Cox Properties, LLC
By: Clarence Cox, Owner

Petitioner

BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* CASE NO. 04-495-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the property located at 555 S. Marlyn Avenue in the eastern area of Baltimore County. The Petition was filed by Cox Properties, LLC, by Clarence Cox, the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the continuation of non-conforming use of duplexes on under-sized lots after subdivision and to permit access to street by right-of-way per Baltimore County Code Section 26-266(2). In addition, variance relief is requested from Section 102.4 of the B.C.Z.R., to permit a subdivision parcel containing dwelling units that do not have in fee access to a 30 ft. public right-of-way.

The property was posted with Notice of Hearing on June 1, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 2, 2004, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given

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hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 307 of the B.C.Z.R. - Variances.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

## **Revised Petition**

The Petitioner noted that he had revised the petition eliminating relief originally requested in the Special Hearing to permit a subdivision of a parcel containing dwelling units which does not abut a right-of-way as described in B.C.Z.R. Section 102.4.

## **Zoning Advisory Committee Comments**

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: None.

## **Interested Persons**

Appearing at the hearing on behalf of the requested special hearing and variance relief were Clarence Cox and Shirley Cox-Seifert on behalf of the Petitioner. John B. Gontrum, Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

## Testimony and Evidence

Mr. Gontrum proffered that the subject property is a portion of the Cox family properties in the Marlyn Avenue area which are zoned DR 5.5 and BL. The Petitioner would like to subdivide his property which he purchased in the 1960's starting with a fuel service station and eventually acquiring a set of duplex and single family homes which extend between Marlyn and Tisben Avenues in a 64 ft. wide strip. These homes are shown on the inset on Petitioner's Exhibit No. 1. Mr. Cox is 82 years old and would like to be able to sell his properties, but to do so he would like to subdivide the set of homes so that he can sell individual homes where this makes sense. Mr. Gontrum pointed to the inset on the petition to explain that the homes at 555-J and 555-H had already been subdivided from the original parcel and each home now had its own lot. On the other hand, 555-E, 555-G and 555-H would still be on one lot as shown, because the parking, yards and amenities common to all three homes require keeping these together.

However, Mr. Gontrum noted that duplex homes 555-A & B and 555-C & D, which are the subject of this zoning hearing, could be separated from the rest provided the requested variances were granted. Access to the public road at Marlyn Avenue for each home in the strip is had by traveling a 20 ft. wide private right-of-way which starts just north of the Brick car wash located at 601 Marlyn Avenue. The right-of-way then continues as a 16 ft. right-of-way along the rear of the car wash until it connects to the 20 ft. wide paved right-of-way known as Cacox Lane which provides access to all the homes along the strip. By analogy, Mr. Gontrum notes that Section 26-266.2 of the Code allows access to properties by way of right-of-way in cases where the right of way had been established prior to submitting a development plan. He also noted that Section 102.4 of the B.C.Z.R. prohibits building dwellings on lots less than 20,000 sq. ft. on a 30 ft. wide right of way, but that these are all existing buildings and no new building will take place. However, this right-of-way is only 20 ft. or 16 ft. wide and so does not meet the width requirement for such a

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right-of-way. Mr. Gontrum indicated that there was no land available for the Petitioner to purchase to widen the right-of-way. He indicated that the structures on the strip between Marlyn and Tibsen Avenues were unique and presented special circumstances. He noted that this area of Marlyn Avenue was laid out and recorded before the DR zoning regulations were applied. Petitioner's Exhibit No. 2 refers to the 16 ft. wide right-of-way dating from 1952.

In order to provide 555-A & B (Lot 1) with a reasonable size lot, the Petitioner will transfer parcel A with approximately 2,800 sq. ft. to Lot 1 by way of a lot line adjustment from property owned by Mr. Cox. Parcel A was in fact 555-A & B's back yard. This transfer also solves an encroachment problem by the existing duplex on the lot from which this parcel is taken. Taken together, Lot 1 would contain approximately 0.2 acres, whereas Lot 1 would contain 0.17 acres. Both lots would meet the minimum size for DR 5.5 zoned property if single family dwellings were located there. However, because the existing homes are duplexes, Section 402.2 of the B.C.Z.R. requires 10,000 sq. ft for a lot and consequently neither of these lots meet the minimum size. Thus the request for the Special Hearing to allow nonconforming duplexes on undersized lots.

Finally, in regard to the issue of nonconforming use, Mr. Gontrum indicated that Mr. Cox (who is 82) would testify that he has been familiar with the property since he purchased an adjacent fuel service station in 1962 when he confirmed the duplexes already existed. In an attachment to the deeds for this purpose, the subject property was designated R-6. A letter received from John Warrender who is 83 years old indicated that he lived in 555-E during World War II and that the subject properties were used continuously and with out interruption as duplexes since that time.

## Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that pursuant to Section 104 of the B.C.Z.R. that the duplexes at 555-A & B and 555-C & D were a legal residential use (R-6) prior to the imposition of DR zoning on the property in 1955. I further find that these uses have existed continuously and

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without interruption prior to the imposition of DR 5.5 zoning. Therefore, I will approve the continuation of these uses as nonconforming as requested in the Special Hearing.

I further find that even though both lots would meet the minimum size for DR 5.5 zoned property if single family dwellings were located there, because the existing homes are duplexes, Section 402.2 of the B.C.Z.R. requires 10,000 sq. ft for a lot. Even after transferring Parcel A to lot 1, neither lot meets the minimum size. There is no other land that the owner can transfer or purchase to make up the deficiency. Consequently, I will grant the request for the Special Hearing to allow the existing nonconforming duplexes on undersized lots.

Finally, I find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, I find that this string of homes arrayed between Marlyn and Tisben Avenues is essentially a no man's land between two old subdivisions, "Marlyn Manor" and "Marlyshire", which were established much before the DR zoning regulations were imposed on the area. This long strip of land was improved by single-family and duplex housing in a peculiar manner that would not be allowed today. However, all evidence before me indicates that the right-of-way leading to Marlyn Avenue, although only 16 ft. wide in places, functions acceptably and I see no reason that the public purchasing either property would not be sufficiently warned by routine title search that there was no access to the public road but rather only by the right-of-way. I find that Mr. Cox would suffer hardship and practical difficulty if relief from the 30 ft. right of way requirement were not allowed. I further find that this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 23 day of June, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R), to permit the

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continuation of nonconforming use of duplexes on under-sized lots after subdivision, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief requested from Section 102.4 of the B.C.Z.R., to permit a subdivision parcel containing dwelling units that do not have in fee access to a 30 ft. public right-of-way, be and they are hereby GRANTED; and

IT IS FURTHER ORDERED, that the Petitioner's request to permit access to street by right-of-way per Baltimore County Code Section 26-266(2) is DENIED as being moot because the Petitioner has withdrawn this request.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

## Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



## Baltimore County

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

June 23, 2004

John B. Gontrum, Esquire Whiteford, Taylor & Preston, LLP 210 W. Pennsylvania Avenue, 4th Floor Towson, Maryland 21204

> Re: Petitions for Variance & Special Hearing Case No. 04-495-SPHA Property: 555 Marlyn Avenue

Dear Mr. Gontrum:

Enclosed please find the decision rendered in the above-captioned case. The petitions for variance and special hearing have been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:raj Enclosure

c: Clarence Cox Shirley Cox-Seifert 528 Eastern Boulevard Baltimore, MD 21221





# Petition for Variance

## to the Zoning Commissioner of Baltimore County

for the property located at 555 Marlyn Avenue
which is presently zoned D.R. 5.5

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)

to permit a subdivision of a parcel containing dwelling units that do not have in fee access to a 30' public right of way as described in the Baltimore County Zoning Regulations § 102.4.

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

The property has two (2) existing dwelling units (duplexes) with the current frontage on a public road and for such other and valid reasons as may be presented at the time of the hearing.

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):

•		Cox Properties, LLC
Name - Type or Print		Name - Type or Print?
Signature	<del></del>	Signature (134)
Address	Telephone No.	Clarence Cox, Owner Name - Type or Print
City State	Zip Code	Signature
Attorney For Petitioner:		528 Eastern Boulevard (410) 686-1422
		Address Telephone No.
John B. Contram Esquire Name-Type of Print		Baltimore, Maryland 21221
Name - Type or Print		City State Zip Code
Signature Signature		Representative to be Contacted:
Whiteford, Taylor & Preston	LLP	John B. Gontrum, Esquire
Company	······	Name
210 West Pennsylvania Avenu	e, 4th Fl.	210 W. Pennsylvania Ave., (410) 832-2055
Address Towson, MD 21204 State	Telephone No.	Address Telephone No.
Towson, MD 21204		Towson, Maryland 21204
	Zip Code	City State Zip Code
		OFFICE USE ONLY
Case No 0 4-495	JPHA	ESTIMATED LENGTH OF HEARING
REV'9715/98	Reviewed	BY UNAVAILABLE FOR HEARING



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at _	<u>555</u>	Marlyn Ave	nue
<del>-</del>		tly zoned D.R.	<u> </u>

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

To permit a subdivision of a parcel containing owelling units which does not abut a right-of-way as described in BCZR 102.4.

Legal Owner(s):

To permit continuation of non-conforming use of duplexes on under-sized lots after subdivision and to permit access to street by right of way per county case & 26-266(2)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, 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.

Date \_ 4/29/04

#### Contract Purchaser/Lessee:

			Cox Properties, LLC
Name - Type or Print			Name - Type or Print Clerus A
Signature		·	Signature
Address	Te	ephone No.	Clarence Cox, Owner Name-Type or Print Clary D
City	State	Zip Code	Signature
Attorney For Petitioner:			528 Eastern Boulevard (410) 686-1422 Address Telephone No.
John B. Gentrum, E Name Type or Finit	squire		Baltimore, Maryland 21221 City State Zip Code
Signature			Representative to be Contacted:
Whiteford, Taylor Company	& Preston	LLP	John B. Gontrum, Esquire Name
210 West Pennnsylv Addess (410) 8	ania Aveni 32-2055 Tek	ephone No.	210 W. Pennsylvania Ave., (410) 832-205 Address Telephone No.
Torson, Maryland City	21204 State	Zip Code	Towson, Maryland 21204 City State Zip Code
			OFFICE USE ONLY
3			ESTIMATED LENGTH OF HEARING
Ceses No. 04-49.	5-SPHA		UNAVAILABLE FOR HEARING

## ZONING DESCRIPTION 15982/148 Parcel 7 Revised

BEGINNING at a point at the Southernmost corner of Lot 34 as shown on Plat No. 1 "Marlyn Manor", dated November 20, 1951 and recorded among the Land Records of Baltimore County, Maryland in Plat Book No. 17, folio 91; Thence running for the following six (6) courses and distances:

- 1) North 77° 25' 30" East, 146.55 feet;
- 2) South 12° 34' 30" East, 64.00 feet;
- 3) South 77° 25' 30" West, 214.05 feet;
- 4) North 12° 34' 30" East, 106.00 feet;
- 5) North 77° 25' 30" East, 67.50 feet; and
- South 12° 34' 30" East, 42.00 feet to the place of beginning.

CONTAINING 0.3796 acres of land, more or less.

#495

# ZONING DESCRIPTION PROPOSED LOT 1

BEGINNING at a point at the Southernmost corner of Lot 34 as shown on Plat No. 1 "Marlyn Manor", dated November 20, 1951 and recorded among the Land Records of Baltimore County, Maryland in Plat Book No. 17, folio 91; Thence running for the following six (6) courses and distances:

- 1) North 77° 25' 30" East, 26.55 feet;
- 2) South 12° 34' 30" East, 64.00 feet;
- 3) South 77° 25' 30" West, 94.05 feet;
- 4) North 12° 34' 30" East, 106.00 feet;
- 5) North 77° 25' 30" East, 67.50 feet; and
- South 12° 34' 30" East, 42.00 feet to the place of beginning.

CONTAINING 0.2033 acres of land, more or less.

# 475

# ZONING DESCRIPTION PROPOSED LOT 2

BEGINNING at a point distant North 77° 25' 30" East, 26.55 feet from the Southernmost corner of Lot 34 as shown on Plat No. 1 "Marlyn Manor", dated November 20, 1951 and recorded among the Land Records of Baltimore County, Maryland in Plat Book No. 17, folio 91; Thence running for the following four (4) courses and distances:

- 1) North 77° 25' 30" East, 120.00 feet;
- 2) South 12° 34' 30" East, 64.00 feet;
- 3) South 77° 25' 30" West, 120.00 feet;
- 4) North 12° 34' 30" East, 64.00 feet to the place of beginning.

CONTAINING 0.1763 acres of land, more or less.

#### COMBINED ZONING DESCRIPTION

BEGINNING at a point on the N 77°25′30″ E. line of an 20′ wide right of way easement from Marlyn Avenue 117.50′ from the side of Marlyn Avenue 143′ south of its intersection with Belwood Avenue and continuing along the same line 67.50′ then leaving said line and running the following courses and distances 5 12°34′30″ E 42.00′ N 77°25′30″ E 146.55′ S 12°34′30″ E 64.00′ S 77°25′30″ W 214.05′ N 12°34′30″ W 106.00′ along a 16′ wide right of way to the point of beginning.

#495

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## CORRECTED NOTICE OF ZOMBIG 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: # 04-495-SPHA

555 South Martyn Avenue East/side of Martyn Avenue, line of a 20-foot right of way easement form Martyn Ave., 117.5 ft. from side of Marlyn Avenue

15th Election District - 7th Councilmanic District

Legal Owner(s): Cox Properties, Clarence Cox, Owner

Special Hearing to permit continuation of nonconforming use of duplexes on undersized lots after subdivision and to permit access to street by right of way per

county codes § 26-26 (2).

Variance: to permit a subdivision of a parcel containing dwelling units that do not have in fee access to a 30' public right of way as described in the Baltimore County Zon-

ing Regulations § 102.4. Hearing: Thursday, June 17, 2004 at 11:00 a.m. in Room 487, County Courts Building, 481 Bosley Ave nue.

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 6/629 June 1

## CERTIFICATE OF PUBLICATION

62,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 61,20 <u>04.</u>
The Jeffersonian Arbutus Times Catonsville Times Towson Times Owings Mills Times NE Booster/Reporter North County News

LEGAL ADVERTISING

## CERTIFICATE OF POSTING

	RE: Case No. 04 - 495 - SPHA
	Petitioner/Developer: CLARENCE
	Cox
	Date of Hearing/Closing: JUNE 17,20
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Kristen Matthews {(410) 887-3394}	
Ladies and Gentlemen:	
This letter is to certify under the penalties of perposted conspicuously on the property located at:	jury that the necessary sign(s) required by law were
555 S. N	ARLYN AVE
The sign(s) were posted on	(Month, Day, Year)
	Sincerely,
• · · · · · · · · · · · · · · · · · · ·	
	: Robert Black 6/2/04
	(Signature of Sign Poster) (Date)
	SSG Robert Black
	(Print Name)
	1508 Leslie Road
	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY

Tuesday, June 1, 2004 Issue - Jeffersonian

Please forward billing to:

Cox Properties 528 Eastern Blvd. Baltimore, MD 21221 410-686-1422

## **CORRECTED 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 NUMBER: 04-495-SPHA

555 South Marlyn Avenue

E/side of Maryln Avenue, line of a 20-foot right of way easement form Marlyn Ave., 117.5 ft.

from side of Marlyn Avenue

15<sup>th</sup> Election District – 7<sup>th</sup> Councilmanic District

Legal Owners: Cox Properties, Clarence Cox, Owner

Special Hearing to permit continuation of non-conforming use of duplexes on undersized lots after subdivision and to permit access to street by right of way per county codes § 26-26 (2). Variance to permit a subdivision of a parcel containing dwelling units that do not have in fee access to a 30' public right of way as described in the Baltimore County Zoning Regulations § 102.4.

Hearing: Thursday, June 17, 2004, at 11:00 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 ACCOMODATIONS, 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.



## Department of Permits and Development Management

Director's Office County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 Tel: 410-887-3353 • Fax: 410-887-5708



## **Baltimore County**

James T Smith, Jr., County Executive Timothy M Kotroco, Director

May 13, 2004

## 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 NUMBER: 04-495-SPHA

555 South Marlyn Avenue

E/side of Maryln Avenue, line of a 20-foot right of way easement form Marlyn Ave., 117.5 ft.

from side of Marlyn Avenue

15<sup>th</sup> Election District – 7<sup>th</sup> Councilmanic District

Legal Owners: Cox Properties, Clarence Cox, Owner

end to permit aurss constneet by right of way present a south 26-26(60). Special Hearing to permit continuation of non-conforming use of duplexes on undersized lots after subdivision. Variance to permit a subdivision of a parcel containing dwelling units that do not have in fee access to a 30' public right of way as described in the Baltimore County Zoning

Regulations § 102.4.

Hearing: Thursday, June 17, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

buth Kotroco Timothy Kotroco Director

TK:klm

C: John Gontrum, Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., 4th Fl., Towson 21204 Cox Properties, Clarence Cox, 528 Eastern Blvd., Baltimore 21221

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 2, 2004.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 04- 495 - SPHA
Petitioner:cox_ Proventies, UC
Address or Location: 555 5. maylan Arene
PLEASE FORWARD ADVERTISING BILL TO:
Name: Cox Properties, LLC
Address: 528 Eastern Blod.
_BMI, md. 2122/
Telephone Number: 4/0-686-1428

## Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708



## **Baltimore County**

James T. Smith, Jr, County Executive Timothy M. Kotroco, Director

June 8, 2004

John B. Gontrum Whiteford, Taylor, & Preston 210 West Pennsylvania Avenue Towson, Maryland 21204

Dear Mr. Gontrum:

RE: Case Number:04-495-SPHA 555 Marlyn Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 29, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,
U. Callilald

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel Cox Properties, Inc. Clarence Cox 528 Eastern Blvd. Baltimore 21221



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

May 10, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: May 10, 2004

Item No.:

472, 488, 490-501

Dear Ms. Hart:

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.

6. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK Fire Marshal's Office PHONE 887-4881 MS-1102F

cc: File

## Fire Department

700 East Joppa Road Towson, Maryland 21286-5500 Tel. 410-887-4500



## Baltimore County

James T. Smith, Jr., County Executive John J Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

May 18, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: May 18, 2004

Item No.:

495, 502-511, 513-515, 517

Dear Ms. Hart:

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.

The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK . Fire Marshal's Office PHONE 887-4881 MS-1102F

cc: File

## BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** June 2, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For May 24, 2004 Item No. 495

The Bureau of Development Plans Review has reviewed the subject-zoning item, and we did not receive drawings for this item.

RWB:CEN:jrb

cc: File



TO:

Tim Kotroco

FROM:

R. Bruce Seeley

DATE:

May 24, 2004

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 17, 2004

\_\_\_\_\_X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-495

04-502

04-503

04-506

04-507

04-508

04-509

04-512

04-513

04-514

04-517

Reviewers:

Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**DATE:** May 24, 2004

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case 4-495

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared By:

**Division Chief:** 

MAC/LL



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Robert L. Fianagan, Secretary Neil J. Pedersen, Administrator

#### MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 5.11.04

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

RE:

Baltimore County

Item No.

495

JRF

Dear. Ms. Matthews:

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,

1. 1 double

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

### MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 5.17.64

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

RE: **Baltimore County** 

Item No. 174-495 - 5PHA

(JF)

Dear. Ms. Matthews:

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,

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

f. f. Arelle

RE: PETITION FOR SPECIAL HEARING

555 South Marlyn Ave; E/side of Marlyn Ave

with a 20' easement, 117.5' from side 15<sup>th</sup> Election & 7<sup>th</sup> Councilmanic Districts

Legal Owner(s): Cox Properties, LLC,

Clarence Cox, Owner

Petitioner(s) \*

BEFORE THE

**ZONING COMMISSIONER** 

**FOR** 

BALTIMORE COUNTY

04-495-SPH

\* \* \* \* \* \* \* \* \*

## ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

ETER 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 12<sup>th</sup> day of May, 2004, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

#### TO WHOM IT MAY CONCERN:

I SOLEMNLY DECLARE AND AFFIRM THAT THE FACTS CONTAINED IN THE FOLLOWING STATEMENT ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF:

My name is John Warrender and I reside at 408 North Marlyn Avenue in Essex, Maryland. I am 83 years old and have resided in Essex for most of my life. During War World II I was Employed at the Glen L. Martin Company in Middle River and lived in what is now known as 555-E South Marlyn Avenue. The property now is owned by Mr. Clarence A. Cox and known As Cox's Properties. Clarence Cox and I belong to the Essex United Methodist Church of Essex, Md..

I was and am familiar with the duplexes owned by Mr. Cox, now known as 555-A & B, and 555-C & D South Marlyn Avenue. These duplexes were present during World War II, when I resided next door. Since then, I have moved, but I still live in the area with my family. The buildings have been used as duplex Residential units to my knowledge continuously and without interruption by all of the owners of the property including Mr. Cox. These buildings all have a private right of way that accesses Marlyn Avenue.

John Warrender

June 17, 2004

IN 653-429-149-336

Memo: A Man in the middle House (#F) lives on German Hill Road in Dundalk, Maryland.

We both lived next door to each other there back in 1947.

If needed, I could give you his name and address.

FROM

CLARENCE A. COX AND
MAGGIE G. COX, HIS WIFE
TO

MAGGIE G. COX, HIS WIFE

CL ARENCE

BLOCK NO.

Received for Record \_\_\_\_\_\_\_19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. Same day recorded

6 30

in Liber\_\_\_\_\_ No.\_\_\_Folio\_\_\_\_&c.,

one of the Land Records of

, and examined per

Cost of Record, §

SIBREA & BLOOM 453 EQUITABLE BUILDING BALTIMORE, MARYLAND 21202 LUCAS PROS, INC., BALTIMORE 2, MD FORM #26

- 2. The provisions in Sections 26-447 through 26-451 and Section 26-454 of the Baltimore County Code, pertaining to wetlands, buffers, habitat protection areas and water-dependent facilities.
- Other applicable county laws or regulations in effect at the time a right is exercised.

# Section 104 Nonconforming Uses [BCZR 1955]

- A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]
- A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty. [Bill No. 124-1991]
- No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]
- Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]
- Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this section is subject to the provisions of Sections 104.1, 104.2 and 104.3 and to the variance provisions and procedures of Section 26-207, 26-445 or 26-453 of the Baltimore County Code, 1988 Edition, as revised, whichever is or are applicable. [Bill Nos. 32-1988; 124-1991; 9-1996]
- A striptease business lawfully operating prior to the effective date of this legislation<sup>34</sup> that is in violation of the requirements contained herein shall be deemed a nonconforming use. A striptease business which is a nonconforming use:

Editor's Note: Apparently refers to Bill No. 137-1990.

# CONVERSION OF ONE-FAMILY DWELLINGS MINIMUM DIMENSIONS

	Width of Lot in Feet at Front Building Line				In Square eet	Side Yards (feet)	
Zone	Duplex <sup>1</sup>	Semi- Detached <sup>1</sup>	Each Add. Fam.	Two Families	Each Add. Family	Min. For One	Sum of Both
D.R.1	175	175	25	50,000	10,000	Int. 25 Cor. 50	Int. 60 Cor. 75
D.R.2	125	125	25	25,000	7,500	Int. 20 Cor. 35	Int. 50 Cor. 60
D.R.3.5	90	100	15	12,500	4,000	Int. 20 Cor. 30	Int. 40 Cor. 50
D.R.5.5	80	90	15	10,000	3,000	Int. 15 Cor. 25	Int. 35 Cor. 40
D.R.10.5	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40
D.R.16	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40

#### NOTES:

The original BCZR 1955 definitions of "dwelling, duplex" and "dwelling, semi-detached" were deleted from Section 101 by Bill No. 100-1970. The entries previously read as follows:

<sup>&</sup>quot;Dwelling, Duplex: A two-family detached building with one housekeeping unit over the other.

<sup>&</sup>quot;Dwelling, Semi-detached: A building that has two one-family housekeeping units erected side by side on adjoining lots, separated from each other by an approved masonry party wall extending from the basement or cellar floor to the roof along the dividing lot line, and separated from any other building by space on all sides."

Zoning Classifica- tion	Minimum Net Lot Area per Dwlling Unit (sq. ft.)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Width of Individual Side Yard (feet)	Minimum Sum of Side Yard Widths (feet)	Minimum Rear Yard Depth (feet)
D.R.1	40,000	150	50	20	50	50
D.R.2	20,000	100	40	15	40	40
D.R.3.5	10,000	70	30	10	25	30
D.R.5.5	6,000	55	25	10		30
D.R.10.5	3,000	20	10	10		50
D.R.16	2,500	20	10	25		30

- 2. Other standards for development of small lots on tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.
- D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Section 1B01.3.A.7.

- No portion of an alley shall be considered as any part of a side or rear yard.
- No dwelling, other than a multifamily building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in Section 26-266 of the Baltimore County Code, 1988 Edition, as revised. [Bill Nos. 172-1989; 2-1992]
- On a corner lot in any residential zone, no planting, fence, wall, building or other obstruction to vision more than three feet in height shall be placed or maintained within the triangular area bounded on two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections), each of which points is 25 feet distant from the point of intersection. At the intersection of a street and an alley, the dimension corresponding to the 25 feet noted above shall be 15 feet and 10 feet at the intersection of two alleys. Poles, posts and guys for streetlights and for other utility services shall not be considered obstructions to vision within the meaning of this section. [Resolution, November 21, 1956]
- No building permit shall be issued for any commercial, industrial or apartment development until the proposed plan for vehicular access thereto shall have been first approved by the Baltimore County Department of Permits and Development Management. [Resolution, November 21, 1956]
- Where development of a property includes both a special exception and a residential subdivision, the area allocated for use as a special exception shall not be included in the calculation of residential density. [Bill No. 74-2000]

# Section 103 Application of Zoning Regulations [BCZR 1955]

These regulations shall apply as of the date of their adoption but the provisions pertaining to use, height, area and density of population shall not apply to any development, subdivision or parcel of land, the preliminary plan for which was originally submitted to the (then) Baltimore County Planning Commission (now Planning Board) and approved or tentatively approved (including any approval made subject to any condition or conditions) under the then existing official procedure in Baltimore County, prior to the adoption of these regulations. The Zoning Regulations applicable to any such development, subdivision or parcel of land as aforesaid shall be the Zoning Regulations in effect at the time such plan, as aforesaid, was originally submitted to the Baltimore County Planning Commission.

Provided further, however, that the use and development of land in M.L. Zones shall not be affected by the foregoing provision, but development is permitted in accordance with any preliminary development plan approved by the Office of Planning before the effective date of this further proviso, even though such development may be counter to then-current regulations for M.L. Zones, if, on the

<sup>&</sup>lt;sup>5</sup> Editor's Note: Refers to the Baltimore County Zoning Regulations (BCZR) adopted March 30, 1955.

PLEASE PRINT CLEARLY

CASE NAME 555 S. March A. CASE NUMBER 04-495.5PHA DATE 6/12/04

# PETITIONER'S SIGN-IN SHEET

E- MAIL				
ESSEX MA 21221 Better, Ind. 21221				
ADDRESS SASTEMSTERN 528 Eastern Blud				
MAME Olema of Cast Shilly cont. Light				



