

IN RE: PETITION FOR VARIANCE
NE side of Chesapeake Avenue, SE
side of the c/l of Baylight Avenue
15th Election District
7th Councilmanic District
(8810 Chesapeake Avenue)

Jane Marie and Thomas Leonard Shoemaker
Petitioner
Melvin Wolinski
Contract Purchaser

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY

CASE NO. 07-554-A

* * * * *

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, Jane Marie and Thomas Leonard Shoemaker. The Petitioners are requesting variance relief for property located at 8810 Chesapeake Avenue. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed single family dwelling to be erected on a lot with a lot width of 50 feet in lieu of the required 55 feet.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: Comments were received from the Office of Planning dated July 12, 2007, and comments that the Office does not support the Petitioners' request for a lot width of 50 feet in lieu of the required 55 feet. The Planning Office would support a lot line adjustment or a minor subdivision to be approved by the DRIC. The Petitioners own sufficient adjoining property to configure this lot in a manner meeting the minimum requirements of the DR 5.5 zone. Comments were received from the Bureau of Development Plans Review dated June 21, 2007 which states that the property must comply with the County's flood prevention

regulations. Comments were received from the Department of Environmental Protection and Resource Management dated August 2, 2007 which states that the property must comply with the Chesapeake Bay Critical Area Regulations and the Resource Conservation Area.

Interested Persons

Appearing at the hearing on behalf of the variance request were Jane Marie and Thomas Leonard Shoemaker, Petitioners, and Melvin Wolinski, contract purchaser.

Testimony and Evidence

The subject property contains 7,500 square feet or 0.172 acres zoned DR 5.5

Findings of Fact and Conclusions of Law

I further find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. These lots were created before zoning was imposed on these properties. These are the kind of peculiar circumstances that make the regulations impact this property disproportionately compared to others in the district. Therefore I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

Finally, I find 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.

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 _____ day of August, 2007 by this Deputy Zoning Commissioner, that the Petitioners' variance request from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed single family dwelling to be erected on a lot with a lot width of 50 feet in lieu of the required 55 feet is hereby _____ subject to the following:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The base flood elevation for this site is 9.4 feet Baltimore County Datum.
3. The flood protection elevation for this site is 10.4 feet.
4. In conformance with *Federal Flood Insurance* Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
5. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
6. The building engineer shall require a permit for this project.
7. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
8. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
9. Provide landscaping along the public road, if it is consistent with the existing streetscape;
10. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
11. This property is within the Resource Conservation Area (RCA) of the CBCA. RCA regulations state that the lot is limited to 25% impervious surface area and that 15% tree cover be maintained. The property also borders State tidal wetlands, which requires a 100 foot buffer to tidal waters. Any disturbance to the 100 foot buffer will require a Critical Area Variance.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz