

IN RE: PETITION FOR VARIANCE

NE side of Oliver Beach Road, 229.51
feet SE of Eastern Avenue
15th Election District
6th Councilmanic District
(13000 Oliverwood Road)

Thomas A. Reynolds, Jr.
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 07-593-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Thomas A. Reynolds, Jr. Petitioner is requesting variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing detached accessory structure (carport) to be located in the front yard in lieu of the permitted rear yard only, in the third of the lot farthest removed from any side street. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Thomas A. Reynolds, Jr. Also appearing as an interested citizen was James L. Seigle of 63 Alberge Lane in Middle River, MD. Mr. Seigle also indicated that he is part of the Precinct 11 Community Relations Council. There were no other interested persons or Protestants in attendance.

It should be noted that this matter stems partly from an investigation by the Code Enforcement Division of the Department of Permits and Development Management (Violation Case No. 07-8782), relative to the recent erection of the accessory structure (carport) without a building permit. Although Petitioner's decision to construct the carport without first verifying

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that the proper zoning requirements had been met is certainly not the preferred logistical method, it shall not be considered or held against Petitioner in deciding this matter, nor shall the possible time and expense to Petitioner of removing the structure be considered as a mitigating factor. The sole issue to be decided in this case is whether Petitioner is legally entitled to the relief sought.

Testimony and evidence offered revealed that the subject property contains 7,824 square feet or .18 acre, more or less, and zoned D.R.2 and D.R.5.5. The majority of Petitioner's property is D.R.2, with a small sliver in front zoned D.R.5.5. The subject property is improved with a two-story dwelling and attached two car garage and is located in the Middle River area of Baltimore County. It is also improved with a concrete driveway wide enough for two vehicles, and extends from the overhead garage door to Oliverwood Road.

The home was built in 1993 and Petitioner purchased the property in 2000. The attached garage was built in 1996 and was part of a variance request that was granted by this Commission (Case No. 96-219-A). The garage has not been used for vehicles for some time, but rather has been used as a recreation and exercise room for Petitioner's son. Petitioner also has four teenagers currently living in the home with four cars owned by the family. In order to protect the cars parked in the driveway, Petitioner looked into purchasing a carport and found Newmart Builders, Inc. in South Hill, VA, a company that offered the sale and installation of carports. Petitioner purchased a carport measuring 18 feet wide by 41 feet long, primarily because it fit the width and length measurements of his existing driveway perfectly, and because it would completely cover the four cars parked in the driveway. Petitioner offered photographs of the subject property, which were marked and accepted into evidence as Petitioner's Exhibits 3 and 4, to show that the carport could not practically be placed at any other location. Additional

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photographs which were marked and accepted into evidence as Petitioner's Exhibits 5A and B, 6A and B, and 9 showed the appearance and location of the carport, as described above. The carport was erected in the first week of May 2007. When questioned as to why he erected the carport without first checking the building permit or zoning requirements, Petitioner indicated he was not familiar with requirements and did not believe a "cover" for the cars necessitated a building permit or zoning review.

Testifying as an interested citizen was Mr. Seigle. Mr. Seigle indicated that he represented the interests of a number of nearby neighbors who were opposed to the overall length of the carport. In addition to opposition to the aesthetic appearance of the carport, extending to the edge of the driveway near the street, Mr. Seigle also indicated that the length of the carport obstructed the view of the stop sign at the corner of Oliver Beach Road and Oliverwood Road. Mr. Seigle submitted photographs of the carport and the obstructed view of the stop sign, which were marked and accepted into evidence as Protestant's Exhibits 1A through 1H.

The Zoning Advisory Committee (ZAC) comments were received and are contained in the case file. The ZAC comment received from the Office of Planning dated July 26, 2007 indicates that the Office does not support Petitioner's request as it may have a negative impact on the overall design scheme of the neighborhood and is not consistent with the existing neighborhood pattern. Granting the variance request could set a negative precedent for the neighborhood. As an alternative, Planning recommended that Petitioner revise the request to propose a carport that is 18 feet by 20 feet instead of the proposed 18 feet by 41 feet. In addition, the ZAC comment from the Bureau of Development Plans Review dated July 9, 2007

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indicated that the length of the carport should be shortened such that none of the structure, including the roof, overhangs the future right-of-way.

Based on the testimony and evidence, it is clear that Petitioner's lot is configured differently than others nearby. His is a corner lot with Oliver Beach Road on one side and a vacant, wooded area on the other side. Although part of a minor subdivision, Petitioner's property is not part of the larger Oliver Beach subdivision, with homes traditionally on smaller lots clustered closer together. 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. Petitioner has shown that there is no other location for the proposed carport and has demonstrated a necessity for the carport in order to protect his family's vehicles from sun damage and rain.

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. I am concerned, however, with the length of the carport, not only from an aesthetic viewpoint, but from the possible placement of the carport in a future County right-of-way and from a safety concern as well. As such, I will grant the requested relief with the condition that Petitioner reduce the length of the carport.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioner's variance request should be granted with conditions.

THEREFORE, IT IS ORDERED, this 25th day of September, 2007 by this Deputy Zoning Commissioner, that Petitioner's variance request from Section 400.1 of the Baltimore County Zoning Regulations to permit an existing detached accessory structure

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(carport) to be located in the front yard in lieu of the permitted rear yard only, in the third of the lot farthest removed from any side street is hereby GRANTED.

The granting of the relief herein shall be subject to the following:

1. 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Based on the photographs of the detached accessory structure (carport) accepted into evidence, the carport roof appears to rest on nine aluminum rafters, which in turn sit on nine aluminum poles on each side of the carport anchored into the concrete driveway. This visually separates the carport framing into eight "sections" from where it is attached to the garage to the end of Petitioner's driveway. As a condition of the relief granted herein, and in order to address the visual aesthetics of the locale, the safety concerns associated with the aforementioned stop sign, and the ZAC comments, Petitioner shall shorten the carport by removing the last three poles on each side of the carport closest to the end of the driveway, and by removing the carport roof from the last three "sections" of the carport closest to the end of the driveway. Failure of Petitioner to comply with this condition within sixty (60) days of the date of this Order shall invalidate the relief granted herein, and could subject Petitioner to further sanctions from the Code Enforcement Office.

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


THOMAS H. BOSFWIEK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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**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: # 07-593-A

13000 Oliverwood Road
West side of Oliver Beach
Road, 229.51 feet s/east of
Eastern Avenue

15th Election District

6th Councilmanic District

Legal Owner: Mr. Thomas
A. Reynolds, Jr.

Variance: to permit an existing detached accessory structure (carport) to be located in the front yard in lieu of the permitted rear yard only, in the third of the lot furthest removed from any side street.

Hearing: Thursday, August 30, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bestley Avenue, Towson 21204.
WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the file and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 8/6/48 Aug. 14 145277

CERTIFICATE OF PUBLICATION

8/16/2007

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 8/14/2007.

- ☒ The

CERTIFICATE OF POSTING

RE: Case No: 07-593-A

Petitioner/Developer: THOMAS A. REYNOLDS JR.

Date Of Hearing/Closing: 8/30/07

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue

Attention:

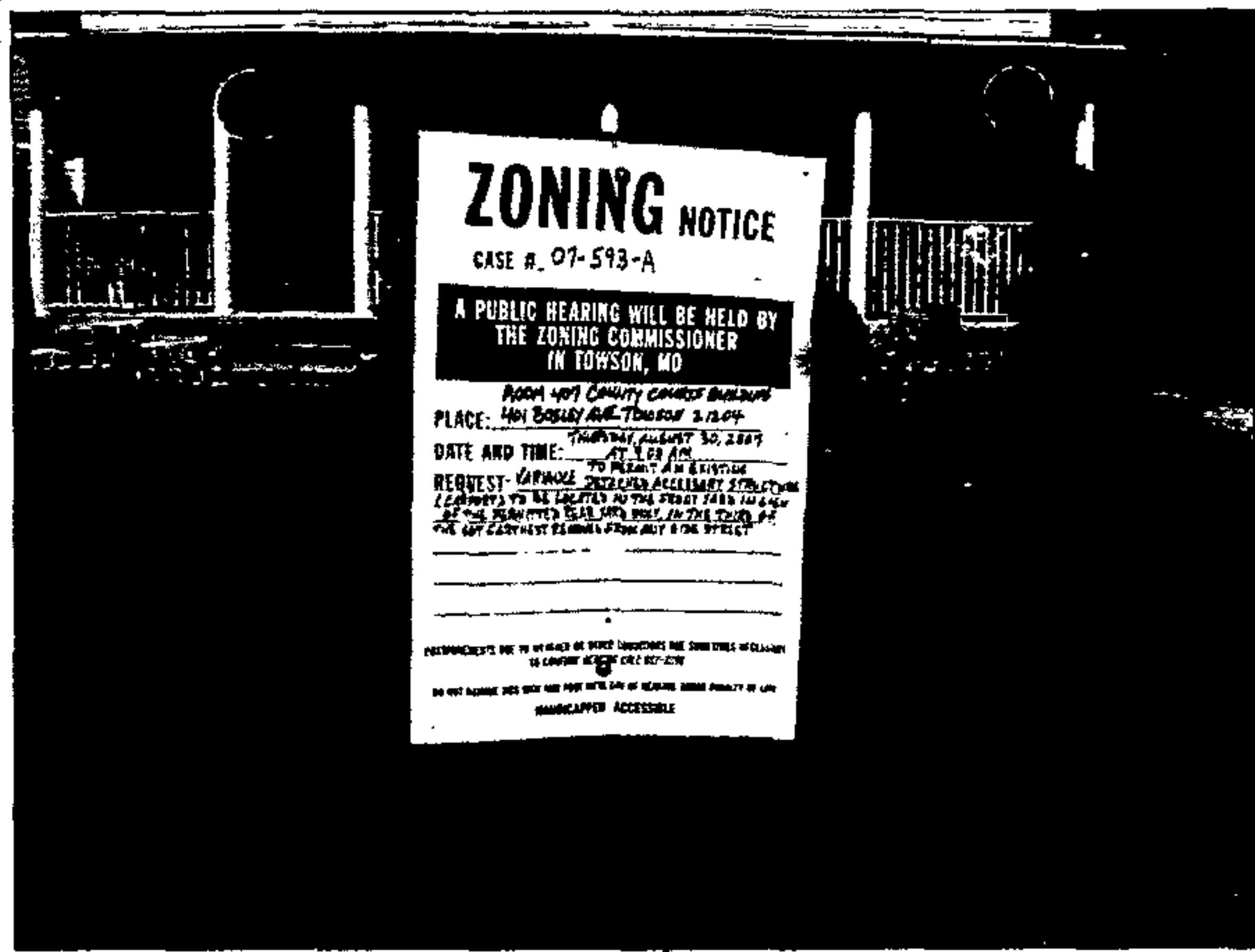
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 13000 OLIVERWOOD ROAD

This sign(s) were posted on August 14, 2007
(Month, Day, Year)

Sincerely,
Martin Ogle 8/14/07
(Signature of sign Poster and Date)

Martin Ogle
Sign Poster
16 Salix Court
Address
Balto. Md 21220
(443-629 3411)



Master of 8/14/07

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: July 9, 2007

FROM: Dennis A. ^{DAK}Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 9, 2007
Item No. 07-593

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The length of the carport must be shortened such that none of the structure, including the roof, overhangs the future right-of-way. The revertible slope easement shown appears to be superfluous and the structure may be placed within it.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 07-593-07052007.doc



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: June 2, 2007

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

RE: Baltimore County
Item No. 7-593-A
13000 OLIVERWOOD ROAD
REYNOLDS PROPERTY
VARIANCE PROPERTY

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-593-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

^{For} Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.maryland

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

July 3, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: July 2, 2007

Item Number: 573 through 578 and 580 through 594

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Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

Visit the County's Website at www.baltimorecountyonline.info



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 26, 2007

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

SUBJECT: 13000 Oliver Beach Road

INFORMATION:

Item Number: 7-593

Petitioner: Mr. Thomas A Reynolds Jr.

Zoning: DR 2 and DR 5.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. This office does not support the petitioner's request, as it may have a negative impact on the overall design scheme of the neighborhood and is not consistent with the existing neighborhood pattern. Granting this variance request could set a negative precedent for the neighborhood.

As an alternative the applicant can revise their request to propose a carport that is 18' x 20' instead of the proposed 18' x 41'.

For further information concerning the matters stated here in, please contact Nkechi Hislop at 410-887-3480.

Reviewed by:

Division Chief:
AFK/LL: CM

From: PDM Inspect
To: chasemd21220@wmconnect.com
Subject: 13000 Oliverwood

On 08/15/07 I visited the site again. The carport is a temporary structure under definition by this dept. They have applied for a zoning variance as posted on the front of their property (07-593-a) to be heard on 08/30/07 at 9 am. There had been a prior complaint several months ago. I will be checking on it again on 10/01/07.

Building Inspector
Errol Ecker

