

IN RE: PETITION FOR ADMIN. VARIANCE

W side Riverside Avenue, 150 N of
Mitchells Road
15th Election District
6th Councilmanic District
(1328 East Riverside Avenue)

James Gernhart and Christine W. Gernhart
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-530-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, James Gernhart and Christine W. Gernhart for property located at 1328 East Riverside Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard. The subject waterfront property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners state that the existing shed has been in the front yard and in use since the home was constructed in 2007. Photographs submitted by the Petitioners depict many similar accessory structures in front yards of neighboring properties. In fact, the adjacent properties located at 1332 East Riverside Drive, 1322 East Riverside Drive and 1330 East Riverside Drive expressed support for the accessory structure located in the front yard.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated June 4, 2008 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations and must comply with maximum impervious surface limits, 15% minimum forest cover and restrictions on any disturbance or development within the 100 foot tidal buffer based on Limited Development Area and Buffer

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Management Area requirements. Comments were received from the Bureau of Development Plans Review dated May 26, 2008 which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 18, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 5th day of June, 2008 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard is hereby GRANTED, subject to the following:

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6-5-08
13

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. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100 foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.
4. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
5. The flood protection elevation for this site is 11.2 feet.
6. 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.
7. 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.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.

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

ORDER RECEIVED FOR FILING

6-5-08
pz



TAX. ACCOUNT # 1511150310
1507471200

Petition for Administrative Variance
to the Zoning Commissioner of Baltimore County

for the property located at 1328 E RIVERSIDE AVE
which is presently zoned RC 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) 400.1 TO ALLOW AN ACCESSORY STRUCTURE IN THE FRONT YARD OF AN EX SINGLE FAMILY DWELLING IN LIEU OF THE REQUIRED REAR YARD

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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:

James GERHART JR.
Name - Type or Print
[Signature]
Signature
1328 E. Riverside Ave. 410 852-0793
Address Telephone No.
Baltimore - MD. 21221
City State Zip Code

Attorney For Petitioner:

N/A
Name - Type or Print
Signature
Company
Address Telephone No.
City State Zip Code

Legal Owner(s):

James Gerhart Jr.
Name - Type or Print
[Signature]
Signature
Christine W. Gerhart
Name - Type or Print
C.W. Gerhart
Signature
1328 E. Riverside Ave 410-852-
Address Telephone No. 843
Balto. MD. 21221
City State Zip Code

Representative to be Contacted:

JAMES GERHART JR.
Name
1328 E. Riverside Ave 410
Address Telephone No. 852-0793
Balto. MD. 21221
City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2008 - 0530 - A

Reviewed By CM Date 5-9-08

REV 10/25/01

Estimated Posting Date 5-18-08

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

1328 E. Riverside Ave
Address
Balto. MD. 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The shed in question was in the front yard and has been being used in such capacity. It would create undue hardship to relocate shed at this time. It is understood that when the shed is no longer usable that the property will revert to the existing Building Code. This condition was pre existing prior to my constructing a SFD.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

[Signature]
Signature
JAMES GERNHART JR.
Name - Type or Print

Signature

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 17th day of APRIL, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

HAROLD, JAMES GERNHART JR.
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Joseph A. Grzelik
Notary Public
My Commission Expires 6/1/2009

ZONING DESCRIPTION

Zoning description for 1328 E. Riverside Ave.

Beginning at a point on the West side of East Riverside Ave. which is 150 feet North of the intersecting street Mitchells Rd. Being lot # 14 & 15 in the subdivision of Back River Neck Park as recorded in Baltimore County plat book # 7, Folio # 4 containing 40450 sq. ft. and located in the 15th. Election District, 6th. Councilmanic district.

0530

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **13960**

Date: **5-9-08**

PAID RECEIPT

BUSINESS ACTUAL TIME DES
 5/12/2008 5/09/2008 15:17:06 2

REC 1002 MAIL JANA JEE
 >>RECEIPT N 577834 5/09/2008 OFLN

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		006		0150				65.00

Total: **65.00**

Rec
 From: **J. Gennaro**

For: **1328 E. Krollville Ave - As Vnd**
2008-0506-A

Dept 5 538 ZONING VERIFICATION
 013960
 Recpt Tot. 65.00
 65.00 CH 1.00 CA
 Baltimore County, Maryland

DISTRIBUTION
 WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No. 08-0530-A

Petitioner/Developer: J.

GERNHART

Date of Hearing/Closing: 6-2-08

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 perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

1328 E. RIVERSIDE AVE

The sign(s) were posted on 5-18-08
(Month, Day, Year)

Sincerely,

Robert Black 5-20-08
(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)



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Contact Person: CRAIG Mc Graw Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 5-9-08 Posting Date: 5-18-08 Closing Date: 6-02-08

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

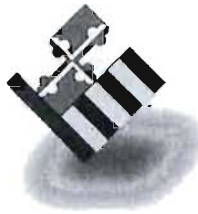
Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Petitioner's Name J. GERHART Telephone 410-852-243

Posting Date: 5-18-08 Closing Date: 6-2-08

Wording for Sign: TO PERMIT ALLOW AN ACCESSORY STRUCTURE IN THE FRONT
YARDS OF AN EX. SINGLE FAMILY DWELLING IN LIEU OF THE
REQUIRED REAR YARDS

WCR - Revised 6/25/04



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.

County Executive

James & Christine W. Gernhart
1328 E, Riverside Ave.
Baltimore, MD 21221

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management
June 2, 2008

Dear: James & Christine W. Gernhart

RE: Case Number 2008-0530-A, Address: 1328 E, Riverside Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 09, 2008. This letter is not an approval, but only a **NOTIFICATION**.

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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 22, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 26, 2008
Item No. 08-530

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

The base flood elevation for this site is 10.2 feet Baltimore County Datum.

The flood protection elevation for this site is 11.2 feet.

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.

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.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK:CEN:lrk

cc: File

ZAC-ITEM NO 08-530-05212008.doc



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

May 20, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: May 19, 2008

Item No.: 518, 520-528, 530, and 532-534.

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.

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

Don W. Muddiman, Acting Lieutenant
Fire Marshal's Office
(Office) 410-887-4880
MS-1102F

cc: File



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: May 20, 2008

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

RE: Baltimore County
Item No. B-530-A
1328 RIVERSIDE AVENUE
GREENHART PROPERTY
ADMINISTRATIVE VARIANCE

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. B-530-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,

Fo^a 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.marylandroads.com

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 28, 2008

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

RECEIVED
MAY 28 2008

BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-530- Administrative Variance**

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 Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By:



CM/LL

AV
6-2-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 04 2008

BY:

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *JWL*

DATE: June 4, 2008

SUBJECT: Zoning Item # 08-530-A
Address 1328 E. Riverside Avenue
(Gernhart Property)

Zoning Advisory Committee Meeting of May 19, 2008.

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

X 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 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

X 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).

Additional Comments: This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100-foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.

Reviewer: Paul Dennis

Date: May 21, 2008

April 15, 2008

To Whom It May Concern,

We the undersigned do hereby give our approval for the residents at 1328 E. Riverside Ave. to have an accessory structure in there front yard. This would not create any undo hardship to us, the immediate neighbors or the neighborhood in general.

1332 E. Riverside Ave.

1322 E. Riverside Ave.

1330 E. Riverside Ave.

Mark Dyson

MARK DYSON

E. J. Wendelstedt

MRS. WENDELSTEDT

Florence E. Christensen

WILLIAM CHRISTENSEN

0530

previous
order

IN RE: PETITION FOR VARIANCE
W/S of East Riverside Avenue, 200 feet
south of Mitchell Road
15th Election District
6th Councilmanic District
(1326 and 1328 East Riverside Avenue)

Joseph and Noel Bates
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 06-559-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, Joseph and Noel Bates. The Petitioners are requesting variance relief for property located at 1326 and 1328 East Riverside Avenue. Variance relief is requested from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively.

The property was posted with notice of the public hearing date and time on June 18, 2006. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 20, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

Applicable Law

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, off-street 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."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Bureau of Development Plans Review dated May 17, 2006 and contains restrictions. A ZAC comment letter was received from the Department of Environmental Planning and Resource Management dated June 8, 2006 which contains restrictions. A ZAC comment letter was received from the Office of Planning dated June 6, 2006, which contains restrictions. Subsequently the Planning Office issued revised comments dated July 5, 2006, a copy of which is incorporated into the file of this case.

Interested Persons

Appearing at the hearing on behalf of the variance request were James Gernhart and Joseph Bates, Petitioner. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the subject property contains 0.86 acres zoned RC 5 and is improved by two single family dwellings. As shown on the Plat to

Accompany exhibit 1, the Petitioner proposes to raze both dwellings and erect one large modern home to replace the existing homes shown on the Petitioner's photographs, exhibit 4 A. The new home would be located on two 50 foot wide lots whereas the two existing homes are each located on one 50 foot lot.

Mr. Gernhart indicated that the two lots are Lot 14 and 15 of the Back River Neck Park subdivision which was recorded among the land records in 1921 as shown on exhibit 2. He indicated that he understood that this property had been zoned DR 5.5 until very recently when the area was down zoned to RC 5. He noted that a home on lots 14 and 15 as proposed would have met all DR 5.5 regulations but now the same house requires variances. Finally he noted that as shown on the lots originally were approximately 450 feet long which would have meant the combined lots contained about an acre. However the area suffered significant erosion over the past eighty years and as a result today the combined lots have only 0.86 acres.

In regard to the height variance, Mr. Gernhart noted that the Bureau of Development Plans Review comment requires the first floor to be elevated above ground level at least 10.4 feet to avoid being flooded in an Isabel type storm. This means that his proposed two story home will reach 47 feet at the peak of the roof and so does not meet the 35 foot height regulation. However, he also noted that the lots behind the subject property are vacant or farm land so that there will be no complaints about the height cutting off view of the water. Also see photographs 5 A, 5 B and 5 C. In fact he contacted the owner of the lots to the rear who supported the requests because of lower density.

In regard to the side yard setbacks, the Petitioner points out that even by combining two lots into one 100 foot wide lot, the 50 foot side yard setback requirements of RC 5 can not be met. Nor is there any property on either side which the Petitioner can purchase to meet the regulations. Finally he noted that the existing house on lot 14 is only 9 feet from the property line and his proposal is to increase this to 10 feet. The new house is 24 feet from the property line on the other side to allow a side loaded garage as shown.

The Planning Office comments originally indicated that the side yard setback should be 15 feet on each side as well as requesting information to allow a finding of compatibility in this RC 5 zoned property. However the Planning Office issued revised comments after the Petitioner supplied the information requested, found the proposed home to be compatible, and agreed to a 10 foot side yard setback under the circumstances.

A letter of opposition was received from Jackie Nickel objecting to the size of the proposed home.

Findings of Fact and Conclusions of Law

I suppose technically the requests for variance for lot size and width could have been filed as a request for special hearing under Section 1A04.3 B.1. The height would still require a variance. I will treat all requests for variance as indicated in the Petition.

The file shows a letter in opposition from a neighbor whose primary objections seems to be the size of the proposed dwelling. However it appears from the testimony and photographs that the lots behind the new home are either vacant or farm. The

Petitioner indicated the community association did not oppose the size of the dwelling considering two homes would be replaced with one.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This subdivision and the subject lots were created much before the zoning was imposed on the area. The imposition of RC 5 zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. The proposed dwelling on two lots would have met the prior DR 5.5 regulations.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There is no more land on either side which the Petitioner can purchase to meet the regulations. Even with 100 foot combined lot, he still can not meet a 50 foot side yard setback or the area requirements.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance as the Petitioner is razing two homes to be replaced by one.

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. This is an improved pattern of development whereas there were two homes on each 50 foot lot now there is one home on a 100 foot lot. There will be no change to the character of the neighborhood. The water view lots behind are vacant or farm.

THEREFORE, IT IS ORDERED, this 6th day of July, 2006, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively is hereby GRANTED, subject to the following conditions:

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. 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).
3. This property is within the Limited Development Area of the CBCA. The impervious surface limit is 15% of the lot size, and 15% tree cover must be maintained. The property is also in a Buffer Management Area, which establishes a 100 foot buffer.
4. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.

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

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER

JVM:pz



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3)

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Account Identifier: District - 15 **Account Number -** 1507471200

Owner Information

Owner Name:	GERNHART JAMES R,JR GERNHART CHRISTINE W	Use:	RESIDENTIAL
Mailing Address:	1328 E RIVERSIDE AVE BALTIMORE MD 21221-6319	Principal Residence:	YES
		Deed Reference:	1) /24504/ 524 2)

Location & Structure Information

Premises Address	Legal Description
1328 E RIVERSIDE AVE	1328 E RIVERSIDE AVE
	BACK RIVER NECK PARK
	WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	6	226					14	3	Plat Ref: 7/ 4

Special Tax Areas

Town	
Ad Valorem	
Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2007	5,176 SF	22,700.00 SF	34
Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value	Phase-In Assessments	
		As Of	As Of	As Of
		01/01/2006	07/01/2007	07/01/2008
Land	134,670	204,670		
Improvements:	489,820	626,980		
Total:	624,490	831,650	762,596	831,650
Preferential Land:	0	0	0	0

Transfer Information

Seller: BATES JOSEPH C	Date: 09/21/2006	Price: \$700,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /24504/ 524	Deed2:
Seller: BARNETT KEVIN H BARNETT JOYCE L	Date: 04/17/1992	Price: \$112,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 9141/ 766	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

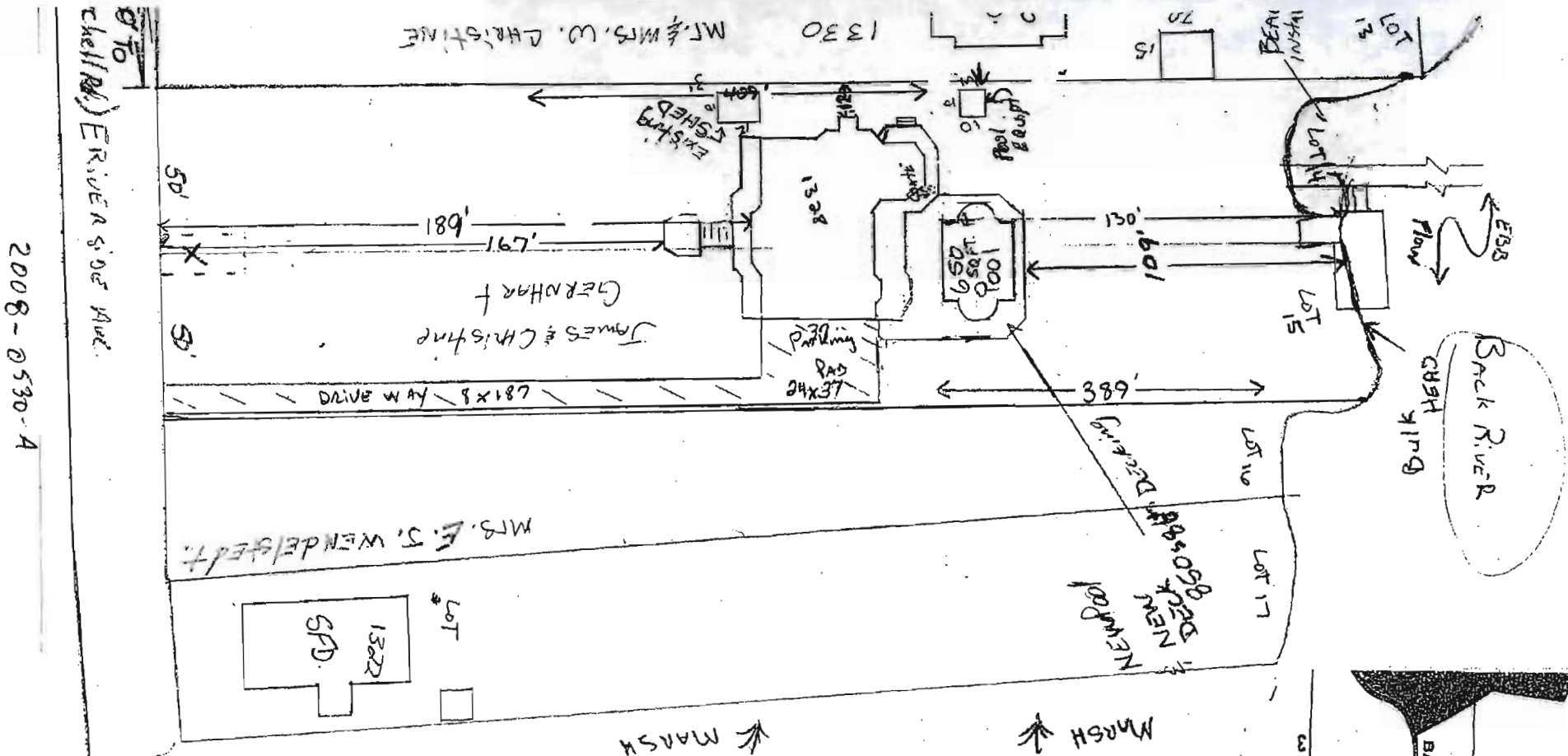
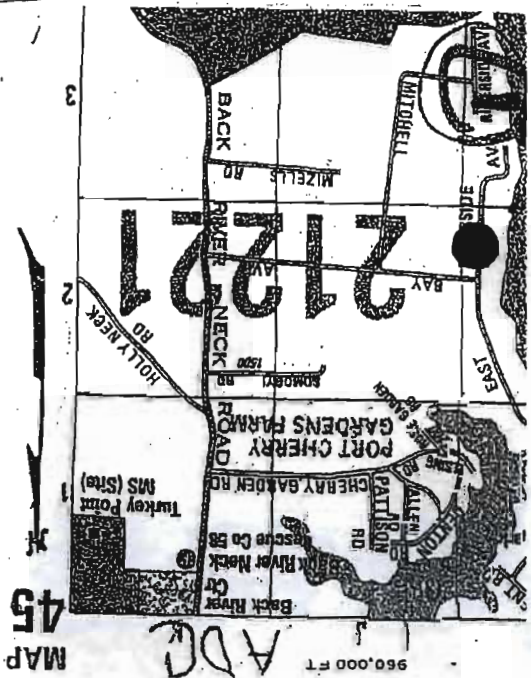
Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

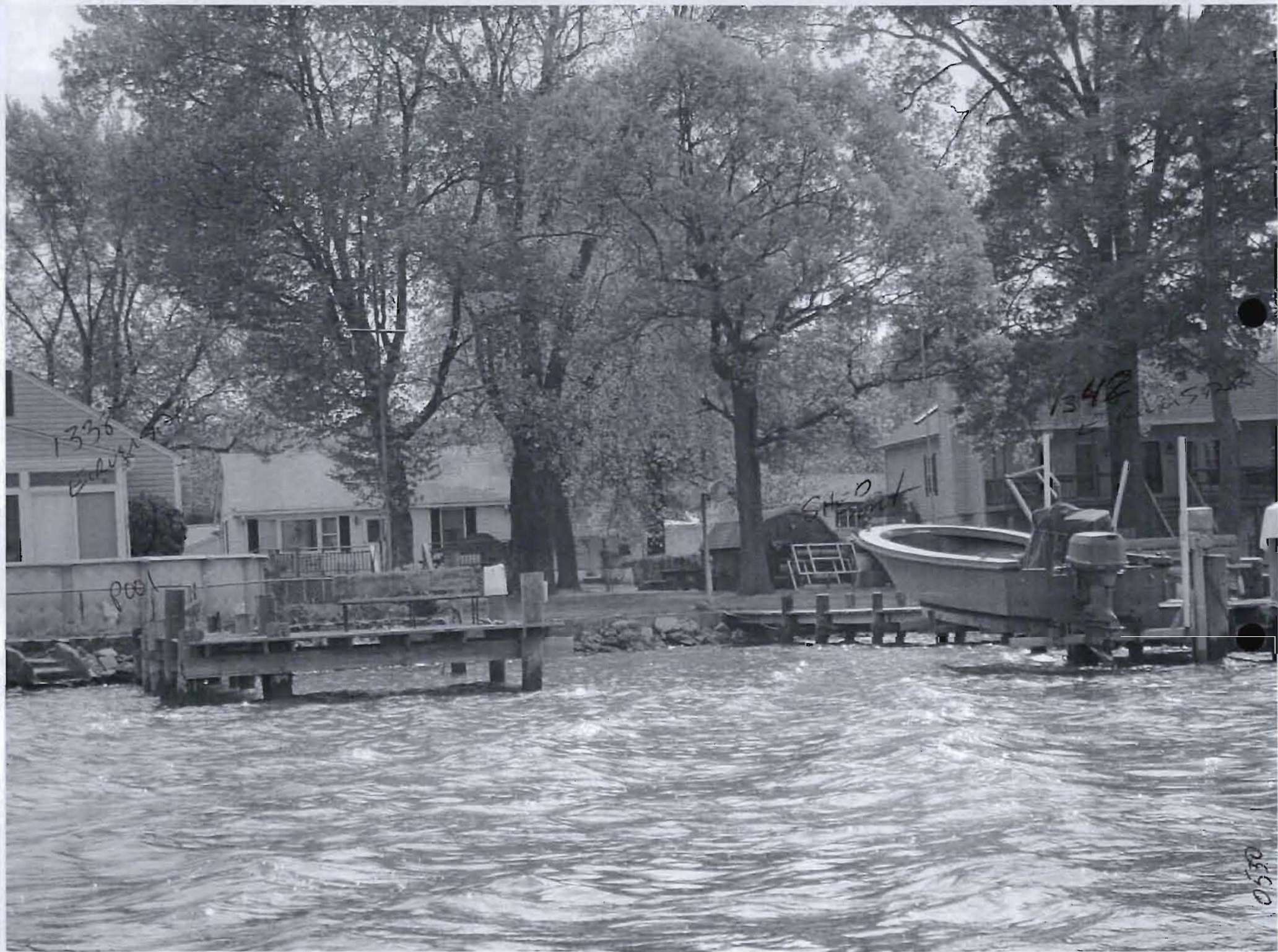
Sec 1150



OWNER: JAMES & CHRISTINE GENDRAL
ADDRESS: 1320 E 327 E RIVER SIDE AVE.
SUBDIV: RICH RIVER WALK PARK
PLAT BOOK = 2 Folio # Lot = 14 & 15
TUBS 1607 Folio 223
ELECT. DIST. 15 Council: 6
Zone: RE 5 Lot 572 4045056
Public Water & Sewer: 100 yr Flood
Chasapeake Bay Critical Area: YES
Historic Property: no prior warning
06-559-A

2008-0530-A







0530



1328 E. River St.
ReAR





