

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Overlook Circle; 120 feet W of the
c/l of Holter Road
11th Election District
5th Councilmanic District
(5527 Overlook Circle)

Jason and Kelly Riebel
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 2010-0330-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, Jason and Kelly Riebel for property located at 5527 Overlook Circle. The variance request is from Sections 259.9.B.4.e and 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an open projection (deck) with a 28 feet rear setback in lieu of the required 37.5 feet, and to amend the latest Final Development Plan for "Overlook at Perry Hall" for Lot 22 only. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners have a rear door leading to the back yard; however this door does not have direct access to the back yard because there are no steps or deck to actually reach the back yard. The proposed deck will allow the Petitioner to access the back yard. This door was built in the back of the home's bump out. The current zoning regulations only allow them to build a deck 6 feet off the back of the bump out. This 6 feet section of the deck would be virtually unusable except for a walk way. This would be an eyesore and not fit in with the character of the neighborhood. The neighbors on either side had doors installed in the sides of their bump outs which allow them to build a deck 16 feet off the back of their house. Both neighbors have decks built 12 feet off the back of their house. Petitioners are requesting to build 12 feet off the back of their home which would keep

ORDER RECEIVED FOR FILING

Date 7-1-10

By pm

with the character of the neighborhood. They have discussed their plans with the adjacent neighbors and they both approve of the plans.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 6, 2010 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 1st day of July, 2010 that a variance from Sections 259.9.B.4.e and 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") is hereby GRANTED, subject to the following:

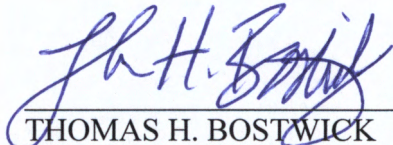
ORDER RECEIVED FOR FILING

Date 7-1-10

By [Signature]

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.

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

Date 7-1-10

By 



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

July 1, 2010

JASON AND KELLY RIEBEL
5527 OVERLOOK CIRCLE
WHITE MARSH MD 21162

Re: Petition for Administrative Variance
Case No. 2010-0330-A
Property: 5527 Overlook Circle

Dear Mr. and Mrs. Riebel:

Enclosed please find the decision rendered in the above-captioned case.

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,

A handwritten signature in dark ink, appearing to read "Tom H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 5527 Overlook Cir White Marsh
which is presently zoned DR 3.5H 21162

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) 259.9B.4.e., 301.1A. (CCZR)

TO PERMIT AN OPEN PROTECTION (DECK) WITH A 28-FOOT REAR SETBACK IN LIEU OF THE REQUIRED 37.5-FEET AND TO AMEND THE LATEST F.D.P. FOR "OVERLOOK AT PERRY HALL", LOT 22 ONLY.

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:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Date 7-1-10 Telephone No. _____
City _____ State _____ Zip Code _____

ORDER RECEIVED FOR FILING
7-1-10
p26

Legal Owner(s):

Jason Michael Riebel
Name - Type or Print _____
Signature Jason Riebel
Kelly Marie Riebel
Name - Type or Print _____
Signature Kelly Riebel
5527 Overlook Cir 410-256-0109
Address _____ Telephone No. _____
White Marsh MD 21162
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
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. 2010-0330-A

REV 10/25/01

Reviewed By D.T. Date 5/24/10

Estimated Posting Date 6/16/10

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 5527 Overlook Cir
Address
White Marsh MD 21162
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):

Please consider our request for relief from the zoning regulations for the following reasons:

1. The door that was installed in our house for the purposes of a deck was built in the back of our bump out. The current zoning regulations only allow us to build a deck 6 ft off the back of our bump out. We would not be able to use this 6 ft deep section of deck for anything but a walk way. This would be an eyesore and not fit in with the character of the neighborhood.
2. Our neighbors on either side had doors installed in the side of their bump out which allows them to build a deck up to 16 ft off the back of their house.
3. Both our neighbors built decks 12 ft off the back of their house. Similarly, we are requesting to build 12 ft off the back of our home which would keep with the character of the neighborhood.
4. We've discussed our plans with both of our neighbors and they both emphatically approve of our plans and are excited for us to begin the project.
5. We plan on spending a lot of quality time on this deck and hope you approve our request.

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.

Jason M. Riebel
Signature
Jason M. Riebel
Name - Type or Print

Kelly M. Riebel
Signature
Kelly M. Riebel
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 14th day of May, 2010, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Jason & Kelly Riebel
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Catherine Budgette Brown
Notary Public
My Commission Expires 9-22-10

REV 10/25/07



ZONING DESCRIPTION FOR 5527 OVERLOOK CIRCLE

Beginning at a point on the South side of Overlook Circle which is 50 feet wide at the distance of 120 feet West of the centerline of the nearest improved intersecting street Holter Rd. which is 50 feet wide. Being Lot # 22 in the subdivision of Overlook at Perry Hall as recorded in Baltimore County Plat Book # 76, Folio # 41, containing 7,535 square feet. Also known as 5527 Overlook Circle and located in the 11th Election District, 5th Councilmanic District.

2010-0330-A

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2010- 0330 -A Address 5527 OVERLOOK CIRCLE
Contact Person: DONNA THOMPSON Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 5/26/10 Posting Date: 6/6/10 Closing Date: 6/31/10

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

- 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.
- 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.
- 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, usually within 10 days of the closing date if all County agencies' comments are received, 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.
- 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 2010- 0330 -A Address 5527 OVERLOOK CIRCLE
Petitioner's Name RIEDEL Telephone 410-256-0104
Posting Date: 6/6/10 Closing Date: 6/21/10
Wording for Sign: To Permit AN OPEN PROTECTION (DECK) WITH A 28-FOOT
REAR SETBACK IN LIEU OF THE REQUIRED 37.5- FEET AND TO
AMEND THE LATEST F.D.P. FOR "OVERLOOK AT PERRY HALL", LOT
22 ONLY.

Revised 8/20/09

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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: 2010-0330-A

Petitioner: RIEBEL

Address or Location: 5527 OVERLOOK CIRCLE

PLEASE FORWARD ADVERTISING BILL TO:

Name: MR. JASON RIEBEL

Address: 5527 OVERLOOK CIRCLE

WHITE MARSH, MD 21162

Telephone Number: 410-256-0104

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 53210

Date: _____

Rev Sub
Source/ Rev/
Obj Sub Obj

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
201	806	10		400				15.00

Total: _____

Rec

From: _____

For: _____

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

CERTIFICATE OF POSTING

RE: Case No 2010-0330-A

Petitioner/Developer RIEBEL

Date Of Hearing/Closing: 6/21/10

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 penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 5527 OVERLOOK CIRCLE

This sign(s) were posted on June 6, 2010

Month, Day, Year

Sincerely,

Martin Ogle 6/6/10

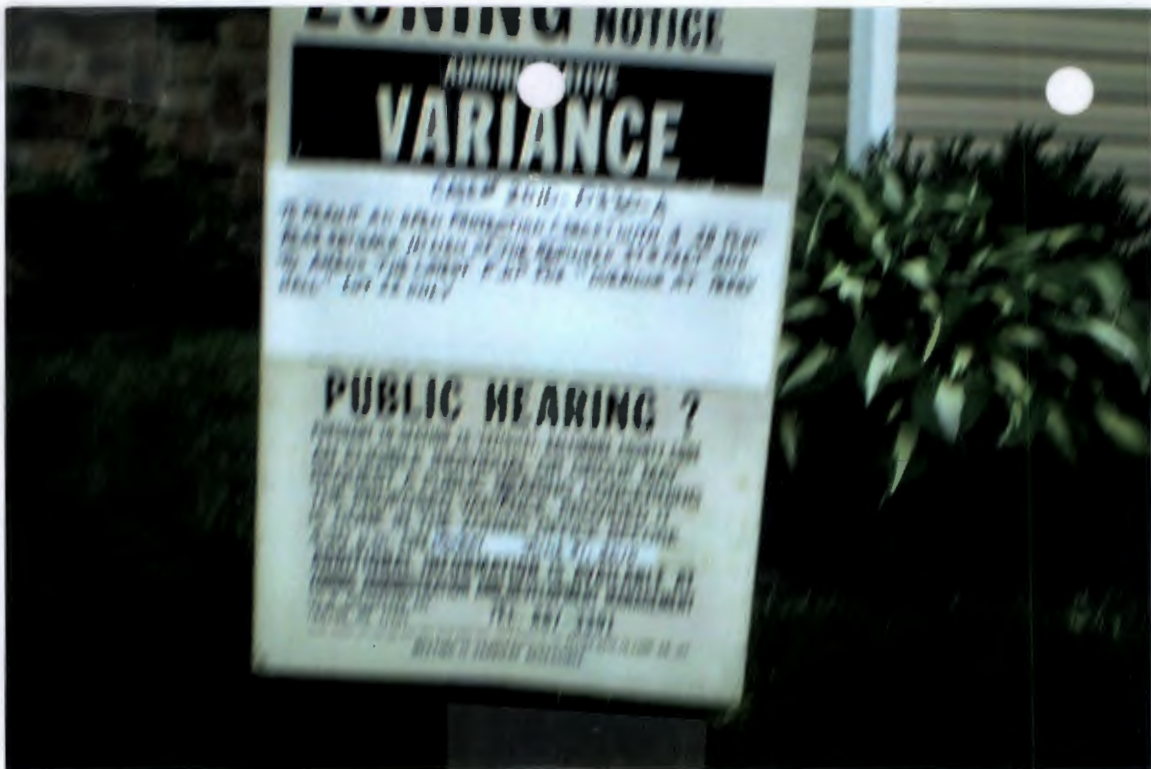
Signature of Sign Poster and Date

Martin Ogle

60 Chelmsford Court

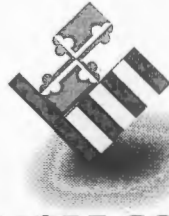
Baltimore, Md, 21220

443-629-3411



[Handwritten signature]
6/6/10

CASE# 2010-0330-A



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

June 18, 2010

Jason & Kelly Riebel
5527 Overlook Cir.
White Marsh, MD 21167

Dear: Jason & Kelly Riebel

RE: Case Number 2010-0330-A, 5527 Overlook Cir.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 26, 2010. 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



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

State Highway
Administration

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6-14-2010

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

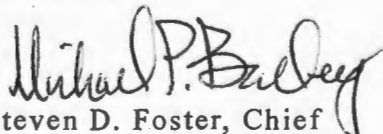
RE: Baltimore County
Item No. 2010-0330-A
5527 Overlook Cir.
RIEBEL PROPERTY
ADMIN. VARIANCE-

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. 2010-0330-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-5593 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.sha.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For June 21, 2010
Item Nos. 2010- 324, 327, 330, 332,
333, 335, 336 and 337

DATE: June 10, 2010

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-06212010 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 29, 2010

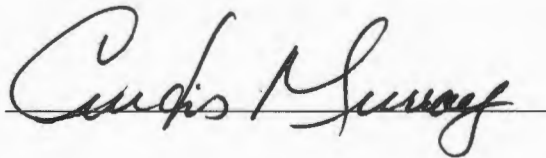
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-330- 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 Donnell Zeigler in the Office of Planning at 410-887-3480.

Prepared By:
CM/LL



RECEIVED

JUN 30 2010

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUN 29 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 28, 2010

SUBJECT: Zoning Item # 10-330-A
Address 5527 Overlook Circle
(Reibel Property)

Zoning Advisory Committee Meeting of June 7, 2010.

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

Reviewer: JWL Date: 6/28/10

Patricia Zook - Comments Needed - Admin. Variances that closed 6-21-10

From: Patricia Zook
To: Murray, Curtis
Date: 6/22/2010 11:22 AM
Subject: Comments Needed - Admin. Variances that closed 6-21-10

Hello Curtis -

We need Planning comments for the following administrative variance cases that closed June 21:

2010-0324-A
2010-0329-A
2010-0330-A

Thanks for your help!

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

CHECKLISTComment
ReceivedDepartmentSupport/Oppose
No Comment6-10-10

DEVELOPMENT PLANS REVIEW

nc

DEPRM

FIRE DEPARTMENT

6-29-10

PLANNING

(if not received, date e-mail sent 6-22-10)nc6-14-10

STATE HIGHWAY ADMINISTRATION

nc

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: _____

SIGN POSTING

Date: 6-6-10

PEOPLE'S COUNSEL APPEARANCE

Yes

☐

No

☒

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☒Comments, if any: X1-884 & 02-518-SPVA-H -2 previous orders

2010-0330-A



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw2.3d)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 11 Account Number - 2400005914

Owner Information

Owner Name:	RIEBEL JASON RIEBEL KELLY	Use:	RESIDENTIAL
Mailing Address:	5527 OVERLOOK CIR WHITE MARSH MD 21162-3412	Principal Residence:	YES
		Deed Reference:	1) /26531/ 102 2) /26531/ 94

Location & Structure Information

Premises Address	Legal Description
5527 OVERLOOK CIR	.173 AC
WHITE MARSH 21162-3412	5527 OVERLOOK CIR SS
	OVERLOOK AT PERRY HALL

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
73	7	312					22	3	Plat Ref: 76/ 41

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2005	2,928 SF	7,535.00 SF	04
Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2009	07/01/2010
Land	127,130	127,130		
Improvements:	368,410	291,510		
Total:	495,540	418,640	418,640	418,640
Preferential Land:	0	0	0	0

Transfer Information

Seller: NGUYEN KIM TRANG	Date: 12/31/2007	Price: \$465,000
Type: IMPROVED ARMS-LENGTH	Deed1: /26531/ 102	Deed2: /26531/ 94
Seller: TOUSA HOMES INC	Date: 06/21/2006	Price: \$545,570
Type: IMPROVED ARMS-LENGTH	Deed1: /24048/ 118	Deed2:
Seller: GAMMA CONSTRUCTION COMPANY	Date: 05/26/2005	Price: \$4,100,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /21935/ 123	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

THE COUNTY COUNCIL ON MAY 17, 1997.
IN ACCORDANCE WITH THE DESIGN GUIDELINES OF THE HONEYGO
DESIGN MANUALS SUCH AS THE COMPREHENSIVE
LANDSCAPE MANUAL.
THE COUNTY AT CURBSIDE (FRONT)

COUNTY IS GRANTED ADEQUATE ACCESS TO ALL FOREST

ITY PRIOR TO ISSUANCE OF A BUILDING PERMIT.

9.9.F.BCZR;
34 SPACES.

(Zoning Case #X1-884 & 02-518-SIVA-H continued)

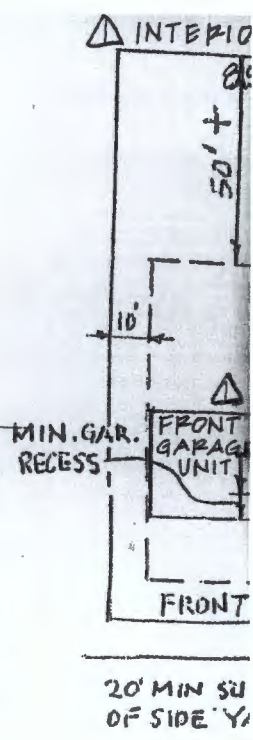
IT IS FURTHER ORDERED that the Petition for Special Variance and Variance seeking relief from Section 259.9.C.3 to allow front entry garages to be located 0 feet from the front line building face projection of the house in lieu of the required 8-foot recess for Lots 44, 45 and 46; from Section 259.9.B.4.e to permit a rear yard setback of 34 feet for Lots 1 through 10, 12 through 26, 29 through 38, and 40 through 47, and 43 feet for Lot 11, all in lieu of the required 50 feet; and, from Section 259.9.B.3 to permit the lot widths shown in Table A (Attachment 1 of the Petition), measured along both the front and rear walls of the dwelling units, in lieu of the required 85 feet for each, relief, be and are hereby DISMISSED AS MOOT.

IT IS FURTHER ORDERED that, except as specifically modified herein, the rationale, terms, and conditions as set out in the prior Order are incorporated herein and made a part hereof.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

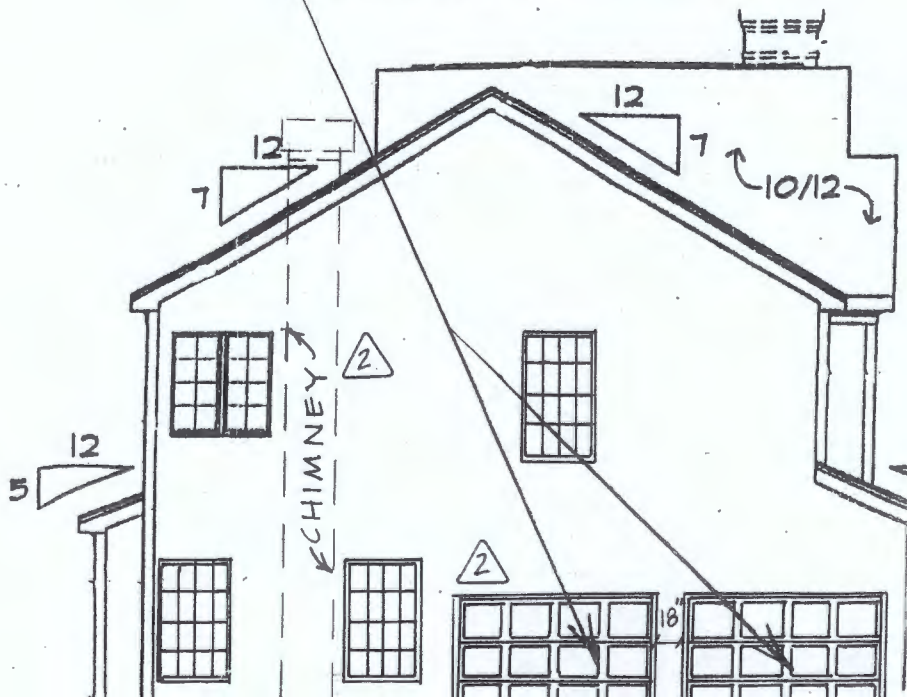
Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County

LES:bjs



Typical
Note: P

NOTE: ALL DUAL GARAGE DOORS WILL HAVE DIVIDER OF 18" IS REQUIRED PER BCZR AND THE DIVIDER WILL COMPLY W/ MATERIALS REQUIRED IN HONEYGO.



*previous
order 1*

IN RE: DEVELOPMENT PLAN HEARING and * BEFORE THE
PETITIONS FOR SPECIAL VARIANCE
NW/S Old Philadelphia Road, 408' W of * ZONING COMMISSIONER
the c/l Holter Road (Overlook @ Perry Hall)
(11324 Philadelphia Road) * OF BALTIMORE COUNTY
11th Election District
5th Council District * Cases Nos. XI-884 & 02-518-SPVA-H

Estate of Anna Schaech, Owners; *
Valmor, Inc., Contract Purchaser/Developer

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a single public hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.), which allows an Owner/Applicant to request zoning relief within the same public hearing wherein development plan approval is also requested. Pursuant to the development review regulations codified in Title 26 thereof, The Estate of Anna Schaech, property owners, and the Developers, Valmor, Inc., request approval of a red-lined development plan prepared by Site Rite Surveying, Inc. for the proposed development of the subject property with 47 single family dwellings. In addition, special variance and variance relief is requested from Sections 259.8 and 4A02.4F of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the issuance of building permits for the proposed development (prior to the completion of certain road improvements to Cross Road and Forge Roads). In addition, a series of area variances are requested from the B.C.Z.R. as follows: From Section 259.9.C.3 to allow front entry garages to be located 0 feet from the front line building face projection of the house in lieu of the required 8-foot recess for Lots 44, 45 and 46; from Section 259.9.B.4.e to permit a rear yard setback of 34 feet for Lots 1 through 10, 12 through 26, 29 through 38, and 40 through 47, and 43 feet for Lot 11, all in lieu of the required 50 feet; from Section 259.9.C.8 to permit storm water management pond slopes of 2:1 in lieu of the maximum allowed 3:1 slope; and, from Section 259.9.B.3 to permit the lot widths shown in Table A (Attachment 1 of the Petition), measured along both the front and rear walls of the dwelling units, in lieu of the required 85 feet for each, together with a determination that Lots 21 and 22 comply with the provisions of Section 259.7S (Threshold Limits - Honeygo Area), due to the existence of a

ridge line and not involving issues of capacity, all as more particularly shown on the development plan/site plan. The proposed subdivision and requested zoning relief are more particularly described on the two-page, red-lined development plan submitted into evidence as Developer's Exhibit 1A.

This proposal has been reviewed in accordance with the development review process codified in Title 26 of the Baltimore County Code. That process is initiated by the filing of a concept plan depicting a schematic design of the proposed development. In this case, a concept plan was prepared and a conference held thereon between the Developers' consultants and County agency representatives on November 13, 2001. The second step of the process mandates community participation by way of a Community Input Meeting (CIM), which is held during the evening hours at a location in proximity of the proposed development so that residents of the locale have an opportunity to review the plan. In this case, the CIM was held on December 13, 2001 at the Chapel Hill Elementary School. Thereafter, the Developer submits a revised plan for review and consideration by County agency representatives at a Development Plan Conference (DPC), which in this case, was held on June 12, 2002. The final step of the first phase of the review process is the Hearing Officer's Hearing before the Zoning Commissioner/Deputy Zoning Commissioner at which time a more refined plan is presented and testimony and evidence are received thereon. As noted above, the development plan and zoning relief sought in the instant cases were combined under a single public hearing (Hearing Officer's Hearing), which was held on July 11, 2002.

Appearing at the public hearing on behalf of the proposal was Laura Schaech, a representative of The Estate of Anna Schaech, property owners, and her attorney Akia Fox, Esquire. Also appearing were Uri Ben-Or, Principal of Valmor, Inc., Developer; Vincent Moskunas, a representative of Site Rite Surveying, Inc., the consultants who prepared the development plan/site plan, and Howard L. Alderman, Jr., Attorney for the Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Walt Smith, Project Manager; Bob Bowling, Development Plans Review;

Ron Goodwin, Land Acquisition; and, Jeffrey Perlow, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley and Bryce Savage, Department of Environmental Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). In addition, Larry Gredlein and Kevin Sullivan appeared on behalf of the Maryland State Highway Administration (SHA).

The proposal generated significant public interest and numerous residents from the surrounding locale appeared, including Jim and Mary Lou Wloczewski, and Betty Ann Kearney, who reside immediately across Philadelphia Road from the subject site. Also appearing were Ronald O. Schaftel, a principal of Southern Land Company, Contract Purchasers of an adjacent parcel, and Dennis Eckard, Vice President of the Perry Hall Improvement Association. The Citizen Sign-In sheets circulated at the hearing will reflect the attendance of those individuals of the community who appeared at the hearing, most of whom were opposed to the request.

The subject property consists of a gross area of 17.65 acres, more or less, split zoned D.R.3.5H and D.R.2H, and is located in the Honeygo District of Perry Hall. The property is a rectangular shaped parcel, approximately 537 feet wide by 1500 feet deep, located with frontage on the west side of Old Philadelphia Road (Maryland Route 7), just south of Holter Road, and abuts the JFK Memorial Highway (I-95) to the rear. The property is presently improved with one single-family dwelling, which will be razed, and features a strand of mature trees and some environmental constraints, including wetlands.

The north side boundary of the subject property abuts a residential community known as Saddlebrook that was built approximately 5 years ago as the result of the development of the Holter property. That community contains 40 single-family dwellings. To the south side of the subject site is an unimproved property known as the Kangro parcel, which is presently under contract of sale to Southern Land Company and may ultimately be developed.

As noted above, the Developer proposes the construction of 47 single-family dwellings. Vehicular access to the interior of the site will be accomplished by two road connections. First, a road will be constructed leading from Philadelphia Road into the interior of the site to provide

primary access. Holter Road, which presently serves the adjacent Saddlebrook community, will be extended from its present terminus into the subject property to provide a second means of access. Indeed, the extension of Holter Road into the property was the subject of much discussion at the Hearing Officer's Hearing.

Many of the proposed 47 single-family lots will be undersized contrary to the requirements for lots in the Honeygo District. As noted above, the subject property is split zoned D.R.3.5H and D.R.2H and is located within the Honeygo District wherein more stringent development requirements are mandated under the B.C.Z.R. The Owner/Developer seeks variance relief from some of these requirements under the Petition for Special Variance. In addition to the building lots, the plan shows an area of passive and local open space centrally located within the interior of the lot. Additionally, the Owner/Developer proposes a storm water management reservation area to the rear of the site that will divert, maintain and appropriately release storm water into an existing outfall adjacent to I-95. The plan also shows an area of forest buffer and forest conservation.

Turning first to the development plan proposal and the standards governing same, Section 26-206 of the Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, requires that I first identify any unresolved agency comments or issues. The primary issue identified relates to the extension of Holter Road into the property. As noted above, the plan shows that Holter Road will be extended from its present terminus at the northern property line into the subject site. The plan shows that Holter Road will terminate at a "T" intersection within the property. Baltimore County's Department of Public Works (DPW) and Office of Planning (OP) have requested a further extension of Holter Road. Specifically, they desire that Holter Road extend across the entire width of the property, and that the Developer connect same to the property's southern boundary at the Kangro property line. The State Highway Administration (SHA) and Mr. Schaftel, Contract Purchaser of that parcel, also endorse this request. The reason for the request is obvious. In the event the adjacent property is developed, an additional road connection other than through Philadelphia Road will be available. In effect,

Holter Road will serve as a parallel road to Philadelphia Road for these residential subdivisions as they develop in the area. Some of the community representatives object to the proposal. They fear an increase of traffic within their residential subdivision.

I am appreciative of the neighbors' concerns, however, I am ultimately persuaded by the request and rationale offered by representatives from the SHA, OP and DPW. The issue is decided not only based upon questions of traffic congestion and access, but also matters of public safety. More than one means of access to these properties is appropriate. If entrances to this subdivision from Philadelphia Road were blocked, emergency vehicles could not reach those residents. Moreover, I do not anticipate heavy volumes of traffic along these internal community roads; however, the ultimate construction of Holter Road would promote a better traffic flow and ease congestion. For all of these reasons, I would require that any development plan for the subject site would provide for the extension of Holter Road across the entire width of the property.

A second issue identified during the development plan review phase of the hearing relates to passive open space. Mr. Cook on behalf of the Department of Recreation and Parks (R&P) testified about the requirements of the Adequate Public Facilities Act and Local Open Space Manual, which standards are enforced by his Department. Apparently the area of "active" open space shown on the plan meets all County requirements insofar as acreage, grade, etc. The area of passive open space meets the County's requirements insofar as area; however, an issue was raised as to whether the passive open space meets all of the standards. Specifically, it was indicated that a part of the passive open space area is over the 10% maximum grade (estimated at 12%) and is wooded. Although some trees are permitted in areas of passive open space, it must generally be cleared and graded. This issue also impacts the Developer's storm water management plan in that the methodology to devise an appropriate method to handle storm water runoff is dependent, in part, on the clearing and grading of property.

Based upon the testimony and evidence offered, I would require that the Developer retain the passive open space at its present grade and character. Mr. Cook candidly acknowledged that the areas shown as passive open space would meet the spirit and intent of the Local Open

Space Manual. In my judgment, the trees should not be removed and that area of the property should not be graded. I find that sufficient factors exist to justify a retention of that area in its natural state.

There were several other issues relating to the development plan which were identified at that phase of the hearing; however, those issues appeared more easily resolvable. For example, the Office of Planning (OP) requested that the plan be amended to show driveways for proposed Lots 42 and 43. Additionally, the Land Acquisition division of DPDM requested further notations regarding easements on the property, and DEPRM requested other notes regarding technical standards be added. It is also to be noted that the Developer need obtain an access permit and meet all relevant SHA standards for the proposed road that will provide access to the site from Philadelphia Road. These include potential road improvements to Philadelphia Road, including the continuation of an auxiliary lane that presently exists abutting the Holter property. Other relatively minor issues relative to landscaping and screening and appropriate notes and changes evidencing same were identified at the hearing.

It is also to be noted that Mr. & Mrs. Wloczewski raised an issue regarding the storm water management plan. In this regard, a portion of the current drainage pattern on the site is being altered so as to capture more water runoff and direct same to the rear. Although most of the property presently drains to the rear and I-95, a portion of the front of the lot drains toward Philadelphia Road. Mr. Savage from DEPRM and the Developer's consultants indicated that part of the drainage towards the front of the site would be redirected to the rear so that there might ultimately be a net reduction in discharge along the front of the property, irrespective of the road improvements and development of the site. In this regard, it appears that the storm water management plan has been appropriately designed and will not cause adverse impact to the Wloczewski property or other adjacent parcels.

In sum, it appears that a development plan for this site could be approved consistent with the comments set forth above. Primarily, the plan need be amended to accommodate the

extension of Holter Road; however, the other issues appear resolvable. However, the primary opposition to the plan relates to the zoning relief requested, a discussion of which follows.

As noted above, a series of variances have been requested. The first variance sought is from the Threshold Limits for the Honeygo Area, which were established by Section 259.7 of the B.C.Z.R. In this case, those threshold limits would require the completion of certain road improvements to Cross Road and Forge Road before building permits could be issued for this project. Essentially, the Honeygo regulations and threshold limits established therein are designed to insure that sufficient infrastructure exists and is in place before development proceeds. As part of its Petition for Special Variance, the Developer seeks relief so that building permits can be released and the development built out before the improvements to Cross Road and Forge Road are completed.

Ken Schmid, a traffic engineer retained by the Owner/Developer, offered testimony in support of this request. His undisputed testimony was that the proposed development would have little if any impact on Forge and Cross Roads. Owing to its location, Mr. Schmid testified that most traffic would exit the site and use Philadelphia Road, Pulaski Highway (Maryland Route 40), I-95, and Joppa Road to reach employment and commercial destinations. Indeed, a review of the vicinity map for the general area shows that there will be little traffic that will be anticipated to use the Forge Road/Cross Road extensions. Mr. Eckard, on behalf of the Perry Hall Community Association, does not oppose the granting of this particular variance and acknowledged his agreement with Mr. Schmid's conclusions. Thus, in my judgment, that portion of the Petition for Special Variance would be appropriately granted.

A second variance requested relates to the storm water management pond. Under DEPRM's general regulations, the grade of the storm water management pond cannot exceed a slope of 2:1. Indeed, a 2:1 slope is proposed here; however, due to the enhanced standards of the Honeygo regulations found in Section 259.9.C.8 of the B.C.Z.R., the maximum permitted grade is a slope of 3:1. Thus, variance relief is requested. In this regard, Mr. Church indicated that the variance was needed to properly locate the pond where shown. He indicated that although the

slope would be slightly steeper than that allowed, it would result in a smaller pond from a footprint standpoint. That is, if the pond slope is steeper and the pond, therefore deeper, it will be smaller in diameter and circumference. Based upon the undisputed testimony and evidence offered on this issue, the grant of this variance seems appropriate.

The third variance requested relates to Lots 44, 45, and 46. Again, relief is requested from the stringent requirements of the Honeygo regulations. Those regulations require that attached garages be located 8 feet behind the front wall of a dwelling. It was indicated that all of the proposed homes for this project would feature attached two-car garages. Moreover, these garages would be setback 8 feet from the front building plane of the houses, except for those on Lots 44, 45, and 46. On those lots, the garages will be located on the same plane as the front wall of the houses. However, it was indicated that the driveways would have a minimum depth of 20 feet so that cars parked thereon would not extend over the public sidewalk or into the street right-of-way. The justification for this variance relates to the depth of those lots. Again, this is a variance, which on a limited basis, may be warranted for these three particular lots.

The two final variances requested were the main source of contention. Essentially, they might be characterized as blanket variances in that they are requested for a majority of the lots in the subdivision. The first of these requests seeks reduced side yard setbacks of as little as 34 feet in some instances and 43 feet in others in lieu of the required 50 feet. That is, a majority of these lots will be shorter in depth than permitted by the Honeygo regulations. The second variance that generated significant opposition relates to lot widths. Again, the Honeygo enhanced standards require a lot width of 85 feet. As shown on the site plan, a majority of the lots do not meet that minimum requirement. As the plan shows, two of the lots are as narrow as 65 feet wide, while others range in width from 70 feet to 80 feet.

Mr. Moskunas testified in support of the requested variances. He opined that the property is unique by virtue of its configuration. Specifically, he noted that the site is three times as deep as it is wide (approximately 540' wide by 1500' deep) and that this constraint justifies the

variance relief. He also noted the property's environmental constraints and the extension of Holter Road were factors that justified the variances.

The Protestants who appeared vigorously opposed the requests. They believe that, if granted, the variances will result in an overcrowded neighborhood inconsistent with the vicinity. They request strict application of the enhanced Honeygo standards and believe that the variances should not be granted.

Upon due consideration of the issues presented, I am persuaded to deny the variances from lot width and depth requirements. I concur with the Protestants' assertions that the plan as proposed represents an over-development of the site. The blanket variances requested are simply too inconsistent with the Honeygo standards and should not be approved.

Arguably, the narrowness of the property may justify some variance relief for the rear yard setbacks and reduced depths of certain lots. That is, the tract's narrow width coupled with the orientation of the houses in a north and south direction limits development possibilities. This might be remedied by the elimination of some lots in the interior of the site thereby providing the lots along the perimeter, (i.e., Lots 1 through 7, 11 through 21, and 40 through 47) with greater depths. However, the blanket variance request is simply inappropriate.

As to lot width, there is simply no testimony or evidence persuasive to a finding that relief should be granted. Although arguably the narrowness of the lots might cause a reduction in lot depths, the width of the lots are unaffected by that constraint. For example, the removal of one or two lots among that row of lots designated as Lots 11 through 21 would permit larger widths along that portion of the site. There is no persuasive testimony in the record supporting a reduction of lot widths, other than the Developer's apparent desire to maximize the number of units in this subdivision. I specifically find that neither the configuration of the lots, the environmental constraints associated with this property, nor the development plan requirements are factors sufficient to justify a variance from the lot width standards. The Developer has clearly not met the criteria contained in Section 307 of the B.C.Z.R. for variance relief as construed by Cromwell v. Ward, 102 Md. App. 691 (1995).

Having made this determination, that part of the Petition for Variance seeking relief from lot width and lot depth requirements shall be denied. In view thereof, the other variances that have been requested shall be dismissed as moot and the development plan shall be denied.

All that being said, residential development of this property is appropriate. This is not a case where any development of the site is inappropriate, merely this proposal. Therefore, if it so desires, the Developer may resubmit a development plan to Baltimore County without starting the review process anew. In that event, I would direct that an additional CIM be conducted in view of the community interest and significant anticipated changes to the plan. Thereafter, the matter would be scheduled for a DPC and ultimately, a Hearing Officer's Hearing. Moreover, I am not precluding the possibility that any variance relief associated with this project would be denied. As discussed above, a variance necessary to permit the storm water management plan as configured is appropriate, as is the special variance relating to the threshold limits and the potential extension of Cross Road and Forge Roads. Finally, in certain instances, reduced setbacks for the garages might be appropriate. Moreover, even some lots of slightly insufficient width or depth might be appropriate, given the general character of the property. I am not precluding the possibility that variance relief could be granted in some instances; however, the Developer's blanket request to variance the vast majority of all of these lots, both from a width and depth standpoint, is unacceptable.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be denied and the Petition for Special Variance and Variance granted in part and dismissed in part, in accordance with the attached Order.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this _____ day of July, 2002 that the red-lined development plan for Overlook at Perry Hall, identified herein as Developer's Exhibit 1A, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Variance seeking relief from Sections 259.8 and 4A02.4F of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the issuance of building permits for the proposed development (prior to the completion of certain road improvements to Cross Road and Forge Roads), be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Special Variance seeking relief from the B.C.Z.R. as follows: From Section 259.9.C.3 to allow front entry garages to be located 0 feet from the front line building face projection of the house in lieu of the required 8-foot recess for Lots 44, 45 and 46; and, from Section 259.9.C.8 to permit storm water management pond slopes of 2:1 in lieu of the maximum allowed 3:1 slope, in accordance with Developer's Exhibit 1A, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Special Variance seeking relief from Section 259.9.B.4.e of the B.C.Z.R. to permit a rear yard setback of 34 feet for Lots 1 through 10, 12 through 26, 29 through 38, and 40 through 47, and 43 feet for Lot 11, all in lieu of the required 50 feet; and from Section 259.9.B.3 of the B.C.Z.R. to permit the lot widths shown in Table A (Attachment 1 of the Petition), measured along both the front and rear walls of the dwelling units, in lieu of the required 85 feet for each, together with a determination that Lots 21 and 22 comply with the provisions of Section 259.7S (Threshold Limits - Honeygo Area), due to the existence of a ridge line and not involving issues of capacity, in accordance with the development plan/site plan marked as Developer's Exhibit 1A, and be and is hereby DENIED.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County

*previous
order 2*

IN RE: DEVELOPMENT PLAN HEARING and * BEFORE THE
PETITIONS FOR SPECIAL VARIANCE
NW/S Old Philadelphia Road, 408' W of * ZONING COMMISSIONER
the c/l Holter Road (Overlook @ Perry Hall)
(11324 Philadelphia Road) * OF BALTIMORE COUNTY
11th Election District
5th Council District * Cases Nos. XI-884 & 02-518-SPVA-H

Estate of Anna Schaech, Owners; *
Valmor, Inc., Contract Purchaser/Developer

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER ON REMAND

This matter comes before this Hearing Officer/Zoning Commissioner for further proceedings regarding the revised development plan and related zoning relief for the proposed residential subdivision to be known as Overlook @ Perry Hall. Pursuant to the development regulations codified in Title 26 of the Baltimore County Code (B.C.C.), the Owners/Developers request approval of a revised development plan prepared by Site Rite Surveying, Inc. for development of the subject property with 42 single-family dwelling lots. In addition, modified variance relief is requested from Sections 259.8 and 4A02.4F of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the issuance of building permits for the proposed development (prior to the completion of certain road improvements to Cross Road and Forge Roads); from Section 259.9.C.8 to permit storm water management pond slopes of 2:1 in lieu of the maximum allowed 3:1 slope; and, from Section 259.9.B.3 to confirm that Lots 37 and 42 comply with the provisions of Section 259.7S (Threshold Limits - Honeygo Area), due to the existence of a ridge line and not involving issues of capacity. The revised proposal and requested relief are more particularly shown on the revised development plan/site plan, marked as Developer's Exhibit 3.

This proposal has been reviewed in accordance with the development review process codified in Title 26 of the Baltimore County Code. Initially, the Developer filed a concept plan for the proposed development and a Concept Plan Conference (CPC) was held thereon between the Developer and County agency representatives on November 13, 2001. Thereafter, a Community Input Meeting (CIM) was held on December 13, 2001 at the Chapel Hill Elementary School. The Developer then submitted a revised plan for review and consideration by County agency representatives at a Development Plan Conference (DPC) on June 12, 2002. The matter then came

for a hearing before the undersigned on July 11, 2002. Following that hearing, a Hearing Officer's Opinion and Development Plan Order was issued on July 23, 2002. That Order denied approval of the development plan and related zoning requests for lot widths and depths of less than required and dismissed as moot the remaining variance requests. However, an opportunity was provided for the Developer to revise its plan and the case was remanded to renew the development review process commencing with a Community Input Meeting.

Subsequent to the issuance of that Order, the Developer filed a Motion for Reconsideration, seeking to strike that portion of the Order requiring an additional CIM; however, agreed to submit a revised plan at a Development Plan Conference (DPC). The Motion for Reconsideration was granted by Order dated August 20, 2002. Thereafter, in accordance with the schedule set forth therein, a DPC on the revised plan was held on October 2, 2002, and the Hearing Officer's Hearing was reconvened on October 25, 2002. Moreover, as required, notice of the reconvened Hearing Officer's Hearing along with a copy of the revised plan, was forwarded to all attendees of the original hearing by Counsel for the Developers.

As noted in the original Order, the subject property consists of a gross area of 17.65 acres, more or less, split zoned D.R.3.5H and D.R.2H, and is located in the Honeygo District of Perry Hall. The property is a rectangular shaped parcel, approximately 537 feet wide by 1500 feet deep, located with frontage on the west side of Old Philadelphia Road (Maryland Route 7), just south of Holter Road, and abuts the JFK Memorial Highway (I-95) to the rear. The property is presently improved with one single-family dwelling, which will be razed, and features a strand of mature trees and some environmental constraints, including wetlands.

Under the original plan, the Developer proposed the construction of 47 single-family dwellings. In order to accommodate this number of lots, the Developer sought variance relief to reduce lot widths and depths less than the standard required under the Honeygo District zoning regulations. As noted in the original Order, the undersigned determined that the original proposal represented an over-development of the site. The blanket variances requested for insufficiently sized lots were simply too inconsistent with the Honeygo standards and could not be approved. In view of that decision, the Developer has revised its plan and now proposes 42 single-family lots. More

significant is the fact that all of the lots meet the minimum lot width and depth requirements under the Honeygo regulations. Thus, no special variance relief is requested.

As noted above, this revised plan was submitted for County review at the second DPC on October 2, 2002, and at the Hearing Officer's Hearing on October 25, 2002. Appearing at the hearing on that date were Akia Fox, Esquire, on behalf of The Estate of Anna Schaeck, property owners, and Uri Ben-Or, Principal of Valmor, Inc., Developer. Also appearing were Vincent Moskunas, a representative of Site Rite Surveying, Inc., the consultants who prepared the development plan/site plan; John Caoles of Eco Science Prof., Inc.; and Howard L. Alderman, Jr., Attorney for the Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Walt Smith, Project Manager; Bob Bowling, Development Plans Review; Ron Goodwin, Land Acquisition; and, Jeffrey Perlow, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley, Department of Environmental Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). Appearing as interested persons were Ronald O. Schaftel and David E. Altfeld on behalf of Southern Land, Inc., adjacent property owners, and their attorney, Robert Porter, Esquire. Although advised of the reconvened Hearing Officer's Hearing, only Debra Beaty, a nearby resident appeared from the community. In addition, Larry Gredlein and Kevin Sullivan appeared on behalf of the Maryland State Highway Administration (SHA).

At the hearing, Developer's Counsel proffered that the plan had been revised to meet all County standards and regulations. The County agency representatives present largely corroborated this testimony. Specifically, Mr. Bowling indicated that there were no open issues of concern to the Department of Public Works, and Mr. Goodwin indicated that the Bureau of Land Acquisition had no unresolved issues. Similarly, Mr. Cook indicated that there were no open issues of concern to the Department of Recreation and Parks. Mr. Perlow of the Zoning Review Division of DPDM indicated that certain comments relative to the final development plan need to be adjusted and/or deleted; however, these were identified as housekeeping items. Mr. Seeley on behalf of DEPRM indicated that an existing well on the property need be back-filled prior to record plat. In this regard,

the timing on the filling of that well was discussed. As noted above, there is an existing dwelling on the property that is presently occupied. It is anticipated that this dwelling will continue to be occupied until that portion of the site is developed. In my judgment and in accordance with environmental regulations, the well should be filled prior to the filing of the record plat; thus, I will require same as a condition to the approval of the plan. Mr. Seeley also made reference to Notes Nos. 17 and 28 on the plan. In this regard, he confirmed the validity of those notes and indicated that DEPRM will require that any underground tanks on the property need be removed.

Mr. Cunningham from the Office of Planning indicated that the plan now meets his agency's requirements. The Developer again affirmed that all of the lots shown meet the minimum lot width requirement (85 feet) and the minimum rear setback requirement (50 feet). It was also noted that the proposed garages also meet the setback requirements.

On behalf of Southern Land, Mr. Porter produced a letter dated October 9, 2002, which was marked as Community Exhibit 1, identifying certain issues of concern. In this regard, an issue between Southern Land and the Developer concerning the extension of Holter Road to provide access to the Southern Land tract has been resolved. As now shown on the plan, that road will be extended to the tract boundary so as to provide access to the adjacent parcel. An issue does remain open regarding certain utility easements. As more particularly shown on the plan, there is a sewer line proposed between Lots 11 and 12. It is anticipated that when Southern Land develops its adjacent property, a utility hook-up will be made at this location. However, Mr. Porter indicated that Southern Land sought to have an alternative hook-up connection between Lots 9 and 10, in the event the hook-up between Lots 11 and 12 is insufficient for this project. In my view, requiring the Developer to provide an easement for such an ultimate connection is appropriate. However, I do not believe that this Developer should be required to actually install that connection, given that the utility will not serve its property, but is only for the convenience and necessity of an adjacent property owner. Thus, I will require that the Developer provide an easement for the potential alternative utility hook-up between Lots 9 and 10; however, will not be required to construct the sewer connection and any such connection will be at the expense of the adjacent property owner. Again,

this is an appropriate resolution given that the proposed connection will benefit the adjacent property owner and is not necessary for the development of the subject site.

But for this open issue, it appears that all other matters of concern between the adjacent property owner and this Developer have been resolved. In considering the revised development plan, I am persuaded that same is appropriate and in compliance with all relevant development regulations. In my judgment, the revised proposal is a superior alternative to the original plan for which approval was denied. The project as presently configured does not represent an over-development of the site and is consistent with the intent of the Honeygo regulations. Thus, but for the minor conditions enumerated above, the development plan shall be approved.

As noted above, certain of the original variance requests were denied and/or dismissed as moot. Specifically, Variance requests identified on the Petition for Variance as Nos. 2 and 3 relative to rear yard and garage setback requirements, and No. 5 relative to lot width requirements are not required under the revised plan. The other variances should be approved for reasons set forth in the original Hearing Officer's Opinion and Order. Specifically, variance relief should be granted from Section 259.8 and 4A02.4F to permit the issuance of residential building permits for the construction of single family homes as shown on the revised plan. Also, Variance Request No. 4 will be granted to permit storm water management pond slopes of 2:1 in lieu of the required 3:1. Additionally, I find that Lots 37 and 42 (previously identified as Lots 21 and 22 under the old plan) comply with the provisions of Section 259.7S, due to the existing ridgeline, and do not involve issues of capacity. In this regard, the findings and conclusions set out in the prior opinion and order are incorporated herein and need not be repeated.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the revised development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this _____ day of November, 2002 that the revised development plan for the

Overlook @ Perry Hall, identified herein as Developer's Exhibit 3, be and is hereby APPROVED, subject to the following terms and conditions:

- 1) The existing well will be back-filled prior to record plat.
- 2) The Developer shall provide an easement between Lots 9 and 10 as an alternative for the potential utility extension to the adjacent property owned by Southern Land; however, the Developer is not required to actually install utilities within that easement.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 259.8 and 4A02.4F of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the issuance of building permits for the proposed development (prior to the completion of certain road improvements to Cross Road and Forge Roads); from Section 259.9.C.8 to permit storm water management pond slopes of 2:1 in lieu of the maximum allowed 3:1 slope; and, from Section 259.9.B.3 to approve that Lots 37 and 42 comply with the provisions of Section 259.7S (Threshold Limits - Honeygo Area), due to the existence of a ridge line and not involving issues of capacity, in accordance with Developer's Exhibit 3, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Variance and Variance seeking relief from Section 259.9.C.3 to allow front entry garages to be located 0 feet from the front line building face projection of the house in lieu of the required 8-foot recess for Lots 44, 45 and 46; from Section 259.9.B.4.e to permit a rear yard setback of 34 feet for Lots 1 through 10, 12 through 26, 29 through 38, and 40 through 47, and 43 feet for Lot 11, all in lieu of the required 50 feet; and, from Section 259.9.B.3 to permit the lot widths shown in Table A (Attachment 1 of the Petition), measured along both the front and rear walls of the dwelling units, in lieu of the required 85 feet for each, relief, be and are hereby DISMISSED AS MOOT.

IT IS FURTHER ORDERED that, except as specifically modified herein, the rationale, terms, and conditions as set out in the prior Order are incorporated herein and made a part hereof.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County



5527 OVERLOOK CIRCLE

2010-0330-1



5527 OVERLOOK CIRCLE

2010-0330-A



NEIGHBOR @ 5529 OVERLOOK CIRCLE

2010-0330-A



NEIGHBOR @ 5525 OVERLOOK CIRCLE

2010-0330-A

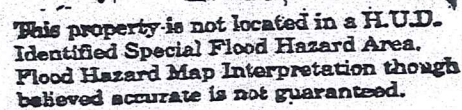


2010-0330-A

see pages 5 & 6 of the CHECKLIST for additional required information

plat book# 76 , folio# 41 , lat# 22 , section#

2400005914



prepared by: Jason Riebel

Scale of Drawing: $1'' = 20'$

- * NOT IN 100 YEAR FLOOD PLAIN
- * NOT HISTORIC



2010-
0330-A