

IN RE: PETITION FOR VARIANCE
S/side of Shore Road, 892 feet east of the
centerline of Riverside Blvd.

1501 Shore Road

15th Election District
6th Councilmanic District

Charles & Ingrid Castronovo
Petitioners

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
*
* Case No.: 2011-0222-A

* * * * *

OPINION & ORDER

This matter comes before the County Board of Appeals of Baltimore County (hereinafter "Board") for consideration of the appeal of the Findings of Fact and Conclusions of Law and Order of Administrative Law Judge Beverungen dated March 29, 2011. Therein, Administrative Law Judge John E. Beverungen granted in part, and denied in part, a Petition for Variance filed by the Legal Owners/Petitioners, Charles & Ingrid Castronovo. The Petition for Variance sought relief as follows: from Section 400.1 of the Baltimore County Zoning Regulations ("BCZR") to permit an accessory structure (detached garage) to be located in the front yard in lieu of the required rear yard; from Section 400.3 of the BCZR to permit a garage with a height of 18-feet +/- in lieu of the maximum 15-feet; from Section 400.1 of the BCZR to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard and (as amended) with a setback of 0-feet in lieu of the required 2½-feet; and for such other and further relief as the nature of their cause may require. The subject property and requested relief are more fully described on the site plan of the subject property which was received into evidence and is part of the Administrative Law Judge's file.

In accordance with Baltimore County Charter, Section 603, the Board conducted a de novo public hearing on the subject petition. Appearing at the public hearing in support of the variance request were Petitioners Charles & Ingrid Castronovo, by their lawyer Lawrence E.

Schmidt, Esquire of Smith, Gildea & Schmidt, LLC. Also appearing in support of the request was Paul Godwin and his attorney Edward C. Covahey, Jr., Esquire of Covahey, Boozer, Devan & Dore, P.A. Mr. Godwin owns and resides at the property known as 1492 Shore Road, which is immediately adjacent to the subject property. Pursuant to the request and agreement of the parties, a proffer of the relevant evidence was presented by Mr. Schmidt as to the necessary facts relating to the Petition. Mr. Covahey concurred that the proffer was accurate and that the information presented was agreed to by both parties.

The property in question (known as 1501 Shore Road) is irregular in shape and is approximately 23,030 square feet in area. It is a water front property located on Middle River. The property is zoned DR 5.5 and located thereon is a single-family detached dwelling, swimming pool, detached garage and shed. It is the garage and shed that are the structures that are at issue in this case. Further testimony and evidence proffered was that the subject property is located in the Wilson Point community of eastern Baltimore County and is served by public water and sewer. The Petitioners purchased the property in 2006 from the prior owners, Michael and Geraldine Forti. The current owners/Petitioners have made no changes to the property since they purchased it as the improvements on this property were in place at the time of their acquisition.

A threshold issue to be determined for the purposes of this case relates to which side of the Petitioners property constitutes the front yard. In BCZR Section 101.1, the front yard is defined as that area of a property located between the building and the front property line. In most cases, the front yard is considered that portion of the ground on a lot between the principal building and the public street on which the property is located. However, water front property (such as the subject property) presents a unique factor in that many homes are oriented towards the water and frequently the water side of those lots is considered the front yard. Recently, in

Swoboda v. Wilder, 173 Md.App. 615 (2007), the Court of Special Appeals held that identification of the front of a property should consider a variety of physical characteristics of the property and improvements thereon, including the location of the improvements in relation to one another, their exterior appearance, interior layout and entry point into the dwelling. These same factors and principles were articulated by the Court of Appeals in addressing this issue many years ago in *City of Baltimore v. Swinski* 235 Md. 262 (1964).

Petitioners presented proffered testimony and evidence establishing that the main entrance to the dwelling is facing Shore Road. Photographs which are part of the file show that the main entrance to the home faces the Shore Road side and this portion of the property is elaborately landscaped. There are double doors on that entrance which lead to a porch with a pitched roof supported by large white columns. Moreover, it is indicated that it is this location from which the Castronovos receive mail and visitors and that the interior layout of the dwelling is such that when entering from that side, an individual enters a hallway/atrium area leading to a living room, which is commonly found at the front entrance of many single-family dwellings. The Board therefore finds, as did the Administrative Law Judge, that the front yard of the subject property is that area between the dwelling and Shore Road. Based upon this conclusion, the rear yard of the property is consequently determined to be that area between the dwelling and the water.

BCZR Section 400.1 requires accessory structures in residential zones to be located in the rear yard. Although the swimming pool (defined as an accessory structure) is properly located in the rear yard, the garage is located in the front yard and thus a variance is required. Additionally, the garage measures to a height of 18-feet at its highest point and thus variance relief is required in lieu of the maximum permitted 15-foot height limitation. Further proffered testimony and evidence presented was that the variances requested in this case meet the requirements of

Cromwell vs. Ward, 307 Md.App. 1 (1991). As it is well settled, that case imposes a two part test upon the consideration of any variance. First, the property owner/petitioner must establish that the property in question is unique and that such uniqueness generates the variance requested. In this case, the water front character of the property is one such factor which makes this site unique. More importantly, the shape and configuration of the property is also a unique characteristic. In this regard, agreed testimony was that the property is irregularly shaped and sized and unlike any others in the immediate community. Additionally, the property is sloped and it was indicated that it sits at or above the highest point of any property within the Wilson Point community. Finally, the imposition of the Chesapeake Bay Critical Area regulations imposes unique site constraints on the use and development of the property. In fact, the Department of Environmental Protection and Sustainability has advised the Petitioners, in writing, that additional impervious surface on the property is not permitted under those regulations. Based upon all these factors, the Board concludes that the property meets the uniqueness test under the Cromwell standard.

Turning to the second requirement, Cromwell requires that in order for variance relief to be granted, a practical difficulty or hardship would be experienced by the petitioner if strict adherence to the regulations were required. In this regard, a denial of the petition causes a practical difficulty in that a reasonable and permitted use of the property would not be allowed. Clearly, a garage cannot be located in the rear yard given the narrowness of the lot. Simply stated the property is not wide enough to accommodate a driveway next to the dwelling and leading to the rear yard. Moreover, the introduction of additional impervious surface caused by the construction of the driveway would be contrary to the spirit and intent of the Chesapeake Bay Critical Area regulations. The garage height is justified so that the building will match the architectural style of the dwelling and reduce the size of the building footprint. For all these

reasons, the Board finds that practical difficulty would result and the variance requested will therefore be granted as to the garage.

The second variance sought relates to the storage shed. This shed is in the side yard, between the subject dwelling and the side property line which borders the Godwin property. At the hearing before the Administrative Law Judge, Mr. Godwin testified in opposition to this request. However, in the interim between the time of that hearing and the public hearing before this Board, the parties resolved their differences over this issue and others related to their common properties. Mr. Godwin, through counsel, indicated that he had no objection to the variances required for the shed. It was indicated that the shed has been modified (trimmed) since the case was heard before the Administrative Law Judge and that a previous issues regarding the location of the shed intruding over the property line and onto the Godwin property had been resolved.

Having determined that the property is unique in considering the variances for the garage, that finding is also made as it relates to the shed for those same reasons. Moreover, the Board concludes that a practical difficulty or hardship would be experienced by the Petitioner if relief were denied for the shed. Based upon the proffered testimony and evidence presented, the agreement of the parties and arguments of counsel, the Board unanimously finds that the variance with respect to the detached garage and shed can be granted in harmony with the spirit and intent of the BCZR and in such a manner without detrimental impact the public health, safety and general welfare. The parties jointly aver that the requirements of Cromwell have been met and the granting of the variances appropriate as aforesaid.

Pursuant to the advertisement, posting of the property and public hearing on this petition held, and after considering the proffered testimony and evidence offered and arguments of counsel, the Board unanimously finds that the Petition for Variance (as amended), should be GRANTED.

ORDER

Therefore, it is this 15th day of November, 2011, ORDERED, by the Board of Appeals of Baltimore County, as follows:

1. A Variance from Section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (detached garage) to be located in the front yard in lieu of the required rear yard; and

2. A Variance from Section 400.3 of the Baltimore County Zoning Regulations to permit a garage with a height of 18-feet +/- in lieu of the maximum permitted 15-feet; and

3. A Variance from Section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (shed) to be located in the side yard in lieu of the required rear yard with a setback of a total of 0-feet; be and are all hereby GRANTED, subject to the following restrictions:

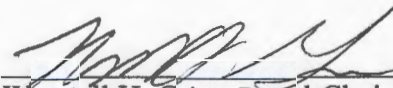
1. The Petitioners or subsequent owners shall not convert the detached garage into a separate dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area or working kitchen unless an in law apartment is approved by Baltimore County in accordance with the applicable provisions of the BCZR. A water line to the garage is existing and permitted in order to provide a sink/toilet.

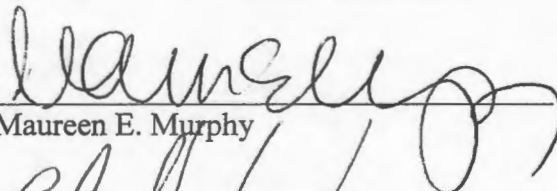
2. The Petitioners and all subsequent property owners are required to adhere to all applicable requirements of the Baltimore County Zoning Regulations as well as Baltimore

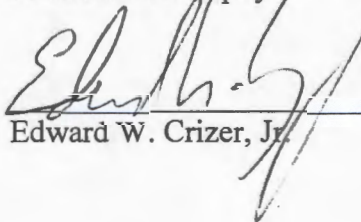
County's environmental regulations, including those regulations intended to protect the Chesapeake Bay Critical Area related thereto.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Wendell H. Grier, Panel Chairman


Maureen E. Murphy


Edward W. Crizer, Jr.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 1, 2011

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Ste 200
Towson, MD 21204

Edward C. Covahey, Jr.
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: *In the Matter of: Charles and Ingrid Castronovo – Legal Owners/Petitioners*
Case No.: 11-222-A

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c: Charles and Ingrid Castronovo
Paul Godwin
Jacqueline Hogarth
Louis Workmeister
Jeanne Walsh
Office of People's Counsel
John Beverungen, Administrative Law Judge
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Michael E. Field, County Attorney
Nancy C. West, Assistant County Attorney

3/29/11

IN RE: PETITION FOR VARIANCE
S side of Shore Road, 892 feet E of
the c/l of Riverside Blvd.
15th Election District
6th Councilmanic District
(1501 Shore Road)

Charles and Ingrid Castronovo
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **CASE NO. 2011-0222-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by the legal owners of the subject property, Charles and Ingrid Castronovo. Petitioners are requesting Variance relief as follows:

- From Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard;
- From Section 400.3 of the B.C.Z.R. to permit a garage with a height of 18 feet +/- in lieu of the maximum permitted 15 feet; and
- From Section 400.1 of the B.C.Z.R. to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard; and
- For such other and further relief as the nature of their cause may be required.

The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 2.

Appearing at the public hearing in support of the variance request were Petitioners Charles and Ingrid Castronovo, Lawrence E. Schmidt, Esquire, attorney for the Petitioners, and Louis Workmeister and Jacqueline Hogarth, who are neighboring owners. Paul Godwin and his fiancé

ORDER RECEIVED FOR FILING

Date 3-29-11

By pm

Jeanne Walsh opposed the grant of variance relief and were represented by Edward C. Covahey, Jr., Esquire.

The property in question (known as 1501 Shore Road) is rectangular and contains 23,030 square feet, and is located on the Middle River. The Petitioners bought the home in 2006, and paid \$1,925,000 for the property and improvements. The property is zoned D.R.5.5, and located thereon is a single family home, swimming pool, detached garage and shed. The garage and shed are the structures at issue in this case.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments from the Office of Planning dated February 17, 2011, indicate they do not object to the request provided the detached garage is not converted into a dwelling unit or apartment, does not contain any sleeping quarters, living area, kitchen or bathroom facilities, and is not used for commercial purposes. The Department of Environmental Protection and Sustainability, in correspondence dated February 15, 2011, offered the following comments:

1. This lot is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). No additional lot coverage is permitted on this lot. The 15% afforestation requirement must be met for any new development. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements.
2. The proposed development must comply with all LDA requirements including the 15% afforestation requirement and CBCA lot coverage requirements, prior to building permit approval. Therefore, the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property and within the tidal buffer is limited. Compliance with the Critical Area requirements, and mitigation can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

ORDER RECEIVED FOR FILING

Date 3-29-11

By [Signature]

Based upon the testimony and evidence presented which is discussed below, I am persuaded to grant the variance requests pertaining to the detached garage, but will deny variance relief with respect to the shed. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

Charles Castronovo was the first witness called by Petitioners, and he testified that he purchased the property in question on March 1, 2006 and that the property is approximately ½ acre in size and is located in the Wilson Point community which is served by public water and sewer. Mr. Castronovo testified that he has made no changes to his home since he purchased it, and that in his opinion the side of his home facing Shore Road is the front yard. In support of this, Mr. Castronovo testified and submitted photographs showing that the main entrance to his home in fact faces Shore Road, and it is also where his mail is delivered and visitors are received. He further testified that when one enters the home at that location fronting on Shore Road, there is a living room or reception area, which is commonly found in the front portion of most single family dwellings.

Mr. Castronovo testified that his lot is extremely narrow, and that it sits at or above the highest point on Wilson Point. Mr. Castronovo testified that his property slopes downward towards his adjoining neighbors, and that his proximity to the river imposes limitations concerning where he could place his garage. He testified that it would be very burdensome to attempt to relocate the garage closer to the waterfront, and that the County would not likely approve such a plan in any event.

The next witness to testify in support of the petition was Mr. Louis Workmeister, who lives 2 blocks away from the Petitioners. Mr. Workmeister testified that he has no objection to

ORDER RECEIVED FOR FILING

Date 3-29-11

By [Signature]

Petitioners' garage, and he added that the next door neighbor's garage (owned by Mr. Acree) is actually larger and taller than the Petitioners'. On cross examination, Mr. Workmeister conceded that he could not see the Petitioners' garage from his house.

Next, Jacqueline Hogarth, also a neighbor of the Petitioners, testified that she had no objection to the garage. Ms. Hogarth indicated that she has lived in the area for more than 32 years, and that she lives less than 1 block from the Petitioners. She added that she walks past the Petitioners' home frequently, and that, in her opinion, it is a gorgeous home site, and she considered the property and its owner to be an asset to the community.

Thereafter, Protestants presented their case, and the first witness was Paul Godwin, who is Petitioners' immediate neighbor. Mr. Godwin has lived in his home for 29 years. When asked why he opposed the variance being sought by the Petitioners, Mr. Godwin stated that the "Castronovos modified their bench" near their pool in or about May, 2010. He added that the bench and some plantings block his waterfront view from his living room. Mr. Godwin testified that the lots in his neighborhood are "all irregularly shaped and sized," and that he agreed with Mr. Workmeister, who also expressed this opinion during his testimony. Mr. Godwin testified that in his opinion, the front of his home faces the water, and that was also true for the orientation of the Petitioners' home.

On cross examination, Mr. Godwin conceded that the Petitioners' garage is located on the far side of the lot from his, and that he cannot see the garage from any of the windows in his home. Mr. Godwin acknowledged that the garage was constructed in 2001, and that he had never objected to its placement or size prior to the present proceeding, and he also testified that the garage does not "physically impact" his house. With regard to the shed, Mr. Godwin testified that, in his opinion, it was acceptable for the shed to be located in the side yard, but that the shed needed to be

ORDER RECEIVED FOR FILING

Date 3-29-11

By [Signature]

moved since it encroached onto his property. Again, Mr. Godwin conceded that the shed has been in its present location for more than 10 years, and that he has never on any prior occasion complained to the County or the Petitioners.

The next witness called by the Protestants was Jeanne Walsh, who is Mr. Godwin's fiancé, and she testified that she has lived at the property since 1993. Ms. Walsh advised that she opposed the variance request because of certain environmental concerns and requirements concerning impervious surfaces. Ms. Walsh added that, in her opinion, the Petitioners' bench out near their pool is an ugly obstruction, and she opined that the installation of the bench and the shrubbery were "spiteful acts" of the Petitioners.

Turning to the law applicable in this scenario, the seminal Cromwell case has been interpreted as requiring:

1. Uniqueness of the property; and
2. A practical difficulty or hardship experienced by the Petitioner.

Trinity Assembly of God v. People's Counsel for Baltimore County, 407 Md. 53, 80 (2008). Before addressing whether or not the Petitioners have satisfied the test for obtaining variance relief, I will comment on several preliminary legal issues that arose in this case.

Initially, cases from other jurisdictions establish that a petitioner can seek variance relief "nunc pro tunc," even many years after the structure in question was built. See, Irvin v. Township of Neptune, 702 A.2nd 1388, 1393 (N.J. 1997); CDK Restaurant, Inc. v. Krucklin, 500 N.Y.S. 2nd 339, 340 (1986). It appears the Court of Appeals is of like mind. Lewis v. Dept. of Natural Resources, 377 Md. 382, 424-25 (2003) (overruled by statute, on other grounds) (explaining that variance request must be considered "as if the structures are not there"). I mention this only

ORDER RECEIVED FOR FILING

Date 3-29-11

By 

because it is noteworthy that the garage in question was constructed more than 10 years ago, and I found it somewhat remarkable that a variance would be sought at this late date, although I appreciate that Petitioners are doing so as a means of "defending" against the code enforcement citation.

The next pertinent issue, which was generated by the Protestants' testimony, concerns whether or not a homeowner is entitled as a matter of law to an unobstructed view across his neighbor's property. The answer to that inquiry appears to be no. Indeed, the Court of Appeals recognized many years ago that the owner of property has air rights to the air space above his property, and that if he so chose, he could sell those rights (perhaps by a negative easement) to another individual, in which case that property right would have an independent basis capable of being assessed for tax purposes. Macht v. SDAT, 266 Md. 602 (1972). In examining out-of-state cases, the uniform rule appears to be that a property owner has no right to an unobstructed view across a neighbor's property unless he has a negative easement or restrictive covenant ensuring such a viewscape. See, In re: Riverview Development, LLC, 986 A.2d 714 (N.J. 2010); Asche v. Bloomquist, 133 P.3d 475 (Wash. 2006). In light of this authority, I cannot credit the Protestants' arguments concerning the views from their home across the Petitioners' property, even if I was otherwise convinced that such an argument had any bearing upon the variance analysis with regard to the garage and shed.

Finally, and perhaps most importantly for present purposes, there remains an issue concerning which side of the Petitioners' home is the front yard. Thankfully, this issue does not need that to be decided in a vacuum, since the Maryland courts have had occasion to address the issue in some detail. Most recently, in Swoboda v. Wilder, 173 Md. App. 615 (2007), the Court of Special Appeals held that the identification of the front of a dwelling should consider a variety of

ORDER RECEIVED FOR FILING

Date 3-29-11

By 

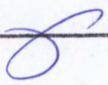
physical characteristics, including the location of the foundation walls and the garage, exterior appearance, interior layout, and the use of the door facing the road as the main entrance to a dwelling. These same factors and principles were articulated by the Court of Appeals many years ago in City of Baltimore v. Swinski, 235 Md. 262 (1964).

In their Memorandum, the Protestants do not discuss this line of cases, but instead refer to Section 400.2 of the Zoning Commissioner's Policy Manual (ZCPM), which they say establishes that the front yard of the Petitioners' house is that which faces the waterfront. Having had an opportunity to review that manual, I do not believe that it is dispositive in this regard. Initially, that section is entitled "Accessory Buildings – Waterfront Setbacks," and while this case does involve accessory buildings, setbacks are not at issue herein. More to the point, the manual states that the water shall be used as the front property line (which of course would be the point from which setbacks are determined), and that this rule would apply "when the proposed house fronts on the water." Of course, that simply begs the question, since the Petitioners herein assert that their house does not "front" on the water, but rather fronts on Shore Road.

In support of this assertion, the Petitioners testified and submitted photographs establishing that the main entrance to their home is facing Shore Road. As shown most clearly on Petitioners' Exhibits 3A-C, the main entrance to the home is elaborately landscaped and the double doors lead to a porch with a pitched roof supported by large white columns. Petitioner Castronovo testified that this is the location where he receives mail and visitors, and that the interior layout of his home is such that when you enter this location you are in a hallway/atrium area leading to a living room, which is commonly found at the front entrance of many single family dwellings. In light of this testimony and evidence, I find using the factors identified in Swoboda that the "front" of the Petitioners' home is in fact the side which faces Shore Road, as reflected in Petitioners' Exhibit

ORDER RECEIVED FOR FILING

Date 3-29-11

By 

3A. As such, the pool as an accessory structure is properly located in the rear yard, and Petitioners have correctly requested variance relief for the placement of the garage in their front yard, pursuant to B.C.Z.R. Section 400.

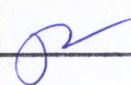
Turning now to that variance request, I find that Petitioners have adduced sufficient testimony to satisfy the test for obtaining such relief. Initially, both Petitioner Castronovo and his neighbor, Mr. Workmeister, testified that the elevation and shape of the Petitioners' lot makes it unique in the community. Indeed, Protestant Godwin himself testified that all of the parcels in the neighborhood are irregularly shaped and different sizes, and this testimony certainly supports the finding that the Petitioners' property is in fact unique.

Given that this is an area variance case (as opposed to a use variance), the Petitioners are obliged to show that the denial of variance relief would cause them to suffer a practical difficulty, and I believe that they have met this burden. Petitioner Castronovo testified that it would be extremely difficult and expensive, if not impossible, to locate his garage in any other location than where it is presently situated. In addition, the Petitioners would be forced to tear down their garage if variance relief was denied, and courts have held that being forced to raze a building or tear down a shed would cause a practical difficulty or a hardship to a homeowner. Arens v. St. Louis, 872 S.W. 2d 631, 637 (Mo. 1994); Guarisco v. Jefferson Parish, 877 So. 2d 1094, 1097 (La. 2004).

In their Memorandum, the Protestants argue that Petitioners are not entitled to variance relief, given that any hardship they may experience is in fact self-imposed, having been caused by the prior owner, Michael Forti (*See* Petitioners' Exhibit 8). It is true, as a general matter, that upon taking title to the subject property in 2006, the Castronovos took the good with the bad, and by that I mean that while they obviously enjoy the benefits of a beautiful waterfront residence, they are

ORDER RECEIVED FOR FILING

Date 3-29-11

By 

nonetheless saddled with any title defects or problems created by their predecessors in interest. Richard Roeser v. Anne Arundel Co., 368 Md. 294, 319 (2002). Even so, that does not mean that the prior owner's construction of the garage in the front yard, after constructing the swimming pool in the rear yard, amounted to a self-created hardship. A subsequent owner's purchase of property, even where he realized a variance will be needed, does not amount to a self-created hardship. Indeed, in Lewis v. Dept. of Natural Resources, the Court of Appeals held that the presence of already constructed buildings was a "red herring" because the owner would have needed a variance to build the hunting camp in any event, whether or not he had already constructed the buildings prior to the variance application. Lewis, 377 Md. at 425. Thus, as in Lewis, the variance request should be analyzed in the context of the small and irregularly shaped lot owned by Petitioners which causes the requisite "practical difficulty," and not in the "context of a self-created hardship." Id. At 425-26.

That leaves for consideration the small shed located on the side of the Petitioners' home. While the findings made in the previous portions of this memorandum are equally applicable with regard to the variance analysis, there is an additional factor that, in my opinion, prevents the grant of variance relief with respect to the shed. Specifically, Protestant Godwin testified, and the point was not disputed by Petitioners, that the shed in question in fact encroached upon the Godwin's property line. Thus, even assuming variance relief were granted to allow the shed to be placed in the side yard in lieu of the required rear yard pursuant to Section 400.1 of the B.C.Z.R., granting such relief here would be inappropriate because the structure would still be encroaching upon Mr. Godwin's property. While issues of trespass and similar tort theories are not the province of this Office, as noted in Petitioners' Memorandum, it is nonetheless the case that variance relief should not be granted when to do so would permit the continuation of an unlawful condition, on the

ORDER RECEIVED FOR FILING

Date 3-29-11

By [Signature]

theory that doing so would certainly not be in the "public interest." As such, the Petitioners variance request with respect to the shed must be denied.

Finally, I find that the variance with respect to the detached garage can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance requests should be granted in part and denied in part.

THEREFORE, IT IS ORDERED this 29 day of March, 2011, by this Administrative Law Judge that Petitioners' Variance requests as follows:

- From Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard;
- From Section 400.3 of the B.C.Z.R. to permit a garage with a height of 18 feet +/- in lieu of the maximum permitted 15 feet,

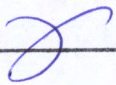
be and are hereby GRANTED, subject to the following:

1. The Petitioners or subsequent owners shall not convert the detached garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. Petitioners and any subsequent owner(s) are obliged to adhere to all B.C.Z.R. requirements, including but not limited to Critical Area regulations and requirements.

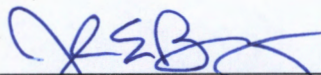
IT IS FURTHER ORDERED THAT Petitioners' Variance request from Section 400.1 of the B.C.Z.R. to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard, be and is hereby DENIED.

ORDER RECEIVED FOR FILING

Date 3-29-11

By 

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

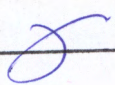


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz

ORDER RECEIVED FOR FILING

Date 3-29-11

By 



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

March 29, 2011

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Re: Petition for Variance
Case No. 2011-0222-A
Property: 1501 Shore Road

Dear Mr. Schmidt:

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 with the Department of Permits, Applications and Inspections an appeal within thirty (30) days from the date of this Order. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

Enclosure

c: Edward C. Covahey, Jr., Esquire, Covahey, Boozer, Devan & Dore, PA,
614 Bosley Avenue, Towson MD 21204

3/21/11

RECEIVED

IN RE: PETITION FOR VARIANCE
S/side of Shore Road, 892 feet east of the
centerline of Riverside Blvd.

1501 Shore Road

15th Election District
6th Councilmanic District

Charles & Ingrid Castronovo
Petitioners

* BEFORE THE

* OFFICE OF

* ADMINISTRATIVE HEARINGS

* FOR BALTIMORE COUNTY

*

* **Case No.: 2011-0222-A**

MAR 21 2011

OFFICE OF ADMINISTRATIVE HEARINGS

* * * * *

CLOSING MEMORANDUM IN LIEU OF CLOSING ARGUMENT

Charles Castronovo and Ingrid Castronovo, his wife, (hereinafter "Petitioners") by and through Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, their attorneys, submit this Closing Memorandum in Lieu of Closing Argument and respectfully state:

Introduction and Overview

Petitioners are owners of the property known as 1501 Shore Road in the Wilson Point/Middle River community of eastern Baltimore County. The subject property is on the water (Middle River), approximately one-half an acre in area, zoned D.R. 5.5. It is improved with a single family detached dwelling, a detached garage, a small shed and swimming pool. All of these improvements were present when the Petitioners purchased the property in March, 2006. As the result of a complaint filed by a neighbor (Paul Godwin) with Baltimore County, a Code Enforcement Correction Notice (Petitioners' Exhibit No. 10) was issued to Petitioners by the Department of Permits and Development Management (now known as the Department of Permits, Approvals and Inspections); requiring the Petitioners to petition for zoning variance relief to "construct 43'x25'x15' garage in rear yard." As defined in the Baltimore County Zoning Regulations (hereinafter the "BCZR") the Petitioners' garage, as well as their swimming pool and detached shed, are considered "accessory structures."

The Petitioners thereafter filed a Petition for Zoning Variance; seeking the following relief:

1. A Variance from BCZR Section 400.1 to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard;
2. A Variance from BCZR Section 400.3 to permit a garage with a height of 18-feet (+/-) in lieu of the maximum permitted 15-feet;
3. A Variance from BCZR Section 400.1 to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard; and
4. For such other and further relief as the nature of their cause may require.¹

The Petition for Variance came in for public hearing before Administrative Law Judge John E. Beverungen on March 2, 2011. The Administrative Law Judge conducted an evidentiary hearing on that date. At the hearing, Co-Petitioner Charles Castronovo testified at length about the issues presented and, through his testimony, offered fourteen (14) exhibits related to the issues presented. Two nearby neighbors (Louis Workmeister and Jacqueline Hogarth) also appeared and testified in support of the Petition. Protestant Paul Godwin testified in opposition. He was represented by Edward C. Covahey, Esquire.

Petitioners, through the evidence presented, clearly established that the requested Variances should be granted. Testimony was offered that the subject property is unique, based upon a number of factors (i.e. the width and configuration of the lot, its singular height above sea-level, its location next to the water, the application of the Chesapeake Bay Critical Area laws governing the lot which, pursuant to Baltimore County's Department of Environment and Sustainability, prohibit relocation of structures per Petitioners' Exhibit No. 12, etc.). Petitioners also offered testimony that they would suffer "practical difficulty" if the Petition was denied, in that they would be deprived of a reasonable and permitted use of the property if relief were not

¹ The relief requested actually exceeded that stated in the Correction Notice. Through their counsel, the Petitioners identified all potential issues on the property and the Petition is comprehensive.

granted. In sum, the Petitioners addressed and met the requirements for variance relief set forth in BCZR Section 307.1, as construed by the case law (*See e.g. Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424).

At the conclusion of the hearing, the Administrative Law Judge requested, in lieu of oral closing argument, counsel for the parties submit a *short* memorandum addressing three (3) specific issues. In accordance with those instructions, the Petitioners submit the following:

1. Protestant's Objection to the Bench

As noted hereinabove, the genesis of this case is the complaint registered by Mr. Godwin to Baltimore County about a bench and a row of arborvitae located on Petitioners' property next to their pool. As Mr. Godwin acknowledged on cross examination, he cannot even see the Castronovo garage which is the subject of this case from his house, as it is located on the far side of the Castronovo lot from his property. It literally has no impact on him or the use/enjoyment of his property. The bench and arborvitae (a species of evergreen) were installed by Castronovo as an amenity to the use and enjoyment of their pool and to provide privacy and screening for both the Castronovo and Godwin properties. Notwithstanding the benefits of this buffer to both lots, Godwin objects to the bench/arborvitae as they allegedly "block my view."

It is difficult to appreciate the view which Mr. Godwin believes he is entitled to. As is undisputed, the Godwin house is actually closer to the water than the Castronovo house, thus an individual looking out from the water side of the Godwin house would have an unobstructed view towards the water. Indeed, the only impediment to that view is a mature tree in the Godwin's yard! Apparently, Mr. Godwin believes that he has the "right" to look into the Castronovo yard; to apparently watch the Castronovo's family and friends swimming. His view "down the river" (i.e. across the Castronovo yard and to the south) is actually impeded by

vegetation on the neighboring Acree property, which is unimproved near the water and features mature trees at that location.² Thus, even assuming Mr. Godwin has some “right” to look across the Castronovo lot, there is no view to enjoy, based upon conditions on the Acree property.

More to the point, Godwin’s claim that his view is blocked by the bench and/or arborvitae has nothing at all to do with the issues generated by this case. As is evidenced by the Baltimore County Inspector’s Correction Notice; neither the arborvitae nor bench violates any zoning, environmental or other standard under law. They are permitted. Thus, in answer to the Administrative Law Judge’s question of, “what does the bench and arborvitae have to do with the issues in this case?”; the answer is “nothing”. For whatever reason Mr. Godwin may want to peer into his neighbor’s yard, the Castronovo’s have the absolute right to plant vegetation on their property (which actually provides an environmental and, as noted above, a visual buffer benefit) and the bench is not a regulated structure under the BCZR.

2. Identification of Front Yard

A second issue identified by the Administrative Law Judge relates to the identification of the front yard of the Castronovo lot. The Castronovos contend that their front yard is as is typical in most every case in Baltimore County; to wit, the yard area between the street and the principal structure (the dwelling). Apparently, Godwin contends that the front yard is the water side yard. In either case, the Petitioners would need a zoning variance. Pursuant to BCZR Sections 1B01.A.(18).g and 400.1., accessory structures, in this case the swimming pool and the detached garage, must be located in the rear yard. Whatever the determination in this case, the

² The Acree lot is the adjacent lot on the “other side” of the Castronovo property. The Acres were granted variance relief in two prior cases (Exhibit 13) for accessory structures in their front yard and for the height of an accessory garage. Thus, the Office of Administrative Hearings has already established that the Acree lot is unique and meets the BCZR Section 307.1 criteria for variance. Similar treatment (i.e. equal protection under the law) should be afforded the Petitioner in this case.

Castronovos require a variance for either the pool or the garage, as those structures are located on opposite yards of the property.³

BCZR Section 101.1 sets forth the definition of words used in the regulations and includes the term “yard, front.” The term is defined as “a yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building.” This definition provides no guidance in determining which yard is the front yard in this case. Additionally, the word “front” is not defined in the BCZR. In such a circumstance, the BCZR requires that the word be given its definition as stated in Webster’s International Dictionary. Webster’s, in part, defines front as “the side of a building, especially the side that contains the principal entrance.” The uncontradicted testimony offered in this case was that the principal entrance faces Shore Road. Mr. Castronovo testified that this is where he and his wife enter the dwelling, as do other family, visitors and guests. Mail is delivered to that side of the dwelling.

Identifying the front of a dwelling has historically and properly been accomplished by examining the aesthetics and location of the main entrance. See *City of Baltimore v. Swinski*, 235 Md. 262, 264 (1964). However, other relevant evidence concerning the physical characteristics of the property may be examined. *Id.* In addition to considering the location of foundation walls and the garage, other physical factors should be considered, including exterior appearance, interior layout, length of each face, and the consistent use of the door facing the road as the main entrance. See *Swoboda v. Wilder*, 173 Md. App. 615, 638 (2007).

Swoboda arose as a Baltimore County case and therein the Court rejected the argument that language in the BCZR definition of “front yard” and BCZR restrictions on placement of garages dispositively answers the orientation question presented. *Id.* Specifically, there is nothing

³ This assumes that every property in Baltimore County has one front yard and one rear yard and cannot have two rear yards. To the best of Petitioners’ knowledge, this position has never been asserted nor considered for interpretation as to property adjacent to water by Baltimore County and/or the Courts of this State.

in the garage regulation which creates an irrebuttable presumption that a nonconforming garage is located in the rear yard. *Id*

Finally, the street side of a waterfront lot has previously been considered the front yard for setback purposes. See *Chesley v. City of Annapolis*, 176 Md. App. 413, 418 (2007) (where a detached garage was located on the street side of the house and a pool was located on the waterfront).

Therefore, both under the criteria applied through the use of Webster's Dictionary (i.e. the location of the principal entrance) and pursuant to the case law (i.e. an examination of the characteristics of the lot and structure), the front yard is where the Castronovo's say it is; namely, between the house and Shore Road.

Finally, it is to be noted that the prior owners (Forti) who built the current dwelling, as well as the pool and the garage, established the front yard as on the street side. Building permits were obtained for both the pool and the garage. The permit for the pool was obtained first in time. It stated that the pool was to be located in the rear (waterside) of the lot. Having established that location even before the garage was constructed; it should continue to be given credence.

Apparently, Godwin asserts that the Zoning Commissioner's Policy Manual ("ZCPM") definitively establishes that the front yard must be the water side on water front lots. Through counsel, Godwin submitted a portion of the ZCPM (pages 4.1 and 4-1.5, Protestant's Exhibit No. 4) purportedly as evidence that the front yard is necessarily the water side. Such a contention is unsupported by these pages.

First, although the ZCPM was properly adopted by Baltimore County, it has been construed as a "guide" only to the interpretation of the BCZR. See *Antwerpen v. Baltimore County*, 163 Md. App. 194, 197 (2005) ("The Baltimore County Zoning Commissioner's Policy

Manual, which is authorized by BCZR Section 26-135, permits the Director of the Zoning Office to promulgate rules and policies as a guide to the application of zoning regulations,” pg. 197). Thus, the ZCPM is not to be construed as binding authority on this issue.

Second, page 4-1.5 is not the controlling section of the ZCPM. That page (labeled Section 400.1.a) is entitled “Accessory Buildings - Waterfront **Setbacks**” (emphasis added). It provides guidance as to issues related to required setbacks, not to the establishment of what constitutes a front, rear or side yard. The language therein states; “on all waterfront, **when** the proposed house fronts on the water, use the water as the front property line.” (emphasis added) The use of the word “when” is significant; in that it indicates that only when the dwelling fronts the water; front yard setbacks will be measured from the water. Indeed, this language supports the Petitioners’ claim that the front yard for a property which abuts the water need be determined on a case by case basis; based upon the factors enunciated in *Swoboda*. The language does not mandate that the water side be absolutely considered the front.

The relevant portion of the ZCPM is found on page 4-1. That section is entitled “Accessory Buildings - Waterfront Property” and enunciates a number of factors to be considered in determining the front yard. Consistent with *Swoboda* and the other cases cited herein above, page 4-1 states that the orientation of the existing dwelling and the orientation of buildings on the subject lot and neighboring lots need be considered.

Finally, the undersigned directs the Administrative Law Judge’s attention to the Circuit Court decision in *Dohme v. Board of Appeals*, Case No.: 85 CG 2764 (attached). Rejecting the Board of Appeals’ attempt to create a “presumption” that the front yard was necessarily located between the dwelling and the water, the Court noted that each case must be decided based upon

its own merits and that any attempt to establish the “presumption” was an improper attempt to legislate by administrative fiat.

In conclusion, both factually and legally, the front yard of the Castronovo property is between the dwelling and the road. Thus, Variance relief was properly requested for the garage; as the pool is properly located.

3. The Setback Required for the Shed

The final issue relates to the location of the shed. As noted above, the Petition for Variance specifically identified the shed as a structure for which Variance relief was sought. The specific Variance requested was as to the *location* of the shed; to wit, that it was located in the side yard abutting the property line rather than the rear yard. During the course of the hearing, testimony was offered that the shed was located in the side yard immediately abutting the property line, thereby not in conformance with the two and one-half foot setback requirement in BCZR Section 400.1.⁴

The Petitioners offered to trim back any portion of the shed that extends over the property line and indeed that issue is a potential civil matter between these neighbors in trespass. The County’s Zoning authorities do not have jurisdiction as to trespass disputes and insofar as setbacks are concerned, can only grant a petition to permit a zero foot setback (whether the structure is on the property line or over it, there is no such thing as a “minus” setback). As to the zoning issue, the Administrative Law Judge directed that the parties address the issue as whether a Variance can be granted when it was not specifically requested in the Petition.

This issue can be addressed in separate contexts, as an issue of pleading or one of notice. As to pleading, the Petition for Variance filed by the Castronovos, can and is hereby amended to

⁴ The Godwin garage, which also is situated on the Castronovo/Godwin property line, also fails to maintain a two and one-half (2.5) foot setback.

specifically request relief from the two and one-half (2.5) foot setback requirement. A setback of zero (0) feet is requested. Pleadings in the Courts of this State can be amended. As noted by the Court of Special Appeals, “amendments are allowed so that cases are tried on their merits and not on the niceties of pleading.” See, e.g. *Walls v. Bank of Glen Burnie*, 135 Md. App. 229 (2000). This rationale is even more appropriate in the administrative setting before the Administrative Law Judge. More importantly, the Petition itself requested approval “for such other and further relief as the nature of their cause may require.”

Of greater significance is the issue of notice. Does the failure to request the specific setback variance render it unavailable in this case? The clear answer to this inquiry is “no.” Mr. Godwin, as the complaining party to Baltimore County and immediate neighbor to the shed was surely aware of its location. He raised the issue at the hearing. Notification is adequate if it fairly informs the noticee of the nature of the proceedings and the capacity in which he is required to appear and answer. See *Cassidy v. Baltimore County Board of Appeals*, 218 Md. 418, 424 (1958). The noticee should be apprised clearly of the character of the action proposed and enough of the basis upon which it rests to enable him intelligently to prepare for the hearing. If this minimum requirement is met, the notification is adequate, no matter how much it may fall short of the standards of pleading in judicial contests. *Id.*

Moreover, additional notice ordinarily will not be required when the initial notice is broad enough to indicate the possibility of substantial change and substantial changes are made at the initial hearing of the same fundamental character as contained in the notice. See *O'Donnell v. Basslers, Inc.*, 56 Md. App. 507, 520 (1983) (notice of hearing was legally sufficient to notify any interested person of the character of the action, as appellants appeared in response to the notice and fully participated in the hearings at all levels). A notice has been said to be sufficient

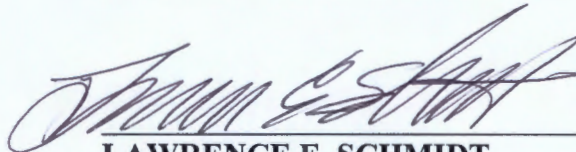
if it gives the average reader reasonable warning that property in which he has an interest may be affected by the proposed zoning legislation, and affords him an opportunity by the exercise of reasonable diligence to determine whether such is the fact. *Id.*

Additionally, in an adversary proceeding, due process requires that an individual against whom proceedings are instituted be given notice and an opportunity to be heard. See *Hider v. Department of Labor, Licensing and Regulation*, 115 Md. App. 258, 275 (1997). The notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” See *Castruccio v. Dr. Bruce Goldberg, Inc.*, 103 Md. App. 492, 496 (1995). A Court, in considering the reasonableness of notice, “must balance the interests of the state or the giver of notice against the individual interest sought to be protected by the fourteenth amendment.” See *Golden Sands Club Condominium, Inc. v. Waller*, 313 Md. 484, 496 (1988). Thus, in determining whether notice was reasonable, a court must evaluate the specific circumstances of each case. *Id.* In administrative proceedings, reasonable notice of the nature of the allegations must be given to the party so that it can prepare a suitable defense. See *Bragunier Masonry Contractors, Inc. v. Maryland Commissioner of Labor and Industry*, 111 Md. App. 698, 713 (1996). Here, the petition for variance clearly satisfies the notice requirement.

As to the merits of the variance to allow a zero (0) foot setback, the Petitioners will not repeat herein the testimony and evidence offered at the hearing. Suffice it to say, the narrowness of the lot and location of existing structures on both the Castronovo property and adjacent Godwin lot justify the grant of relief.

Wherefore, having addressed the issues identified by the Administrative Law Judge at the conclusion of the hearing, the Petitioners requests that the Petition for Variance; as amended, be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of **March, 2011**, a copy of the foregoing Closing Memorandum in Lieu of Closing Argument was mailed first-class pre-paid postage to:

Edward C. Covahey, Jr., Esquire
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204
Attorney for Protestants



LAWRENCE E. SCHMIDT

3/21/11
IN RE: PETITION FOR VARIANCE
ON PROPERTY AT 1501 SHORE ROAD

CHARLES CASTRONOVO,
INGRID CASTRONOVO
Petitioners

PAUL GODWIN
Protestant

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE
* HEARINGS
* Case No.: 11-0222-A

* * * * *

BRIEF OF PAUL GODWIN, PROTESTANT

NOW COMES Paul Godwin, Protestant, by Edward C. Covahey, Jr., Bruce Edward Covahey, and Covahey, Boozer, Devan & Dore, P.A., his attorneys, and respectfully submits this Brief in lieu of closing argument as requested by Administrative Law Judge John E. Beverungen at the conclusion of the hearing held on March 2, 2011.

STATEMENT OF THE FACTS

The instant case comes before the Office of Administrative Hearings as a result of a Petition filed by Petitioners, owners of the real estate located at 1501 Shore Road, Middle River, Maryland 21220 (hereinafter referred to as the "Property"), whereby Petitioners seek (1) a variance from §400.1 of the Baltimore County Zoning Regulations (hereinafter referred to as "BCZR") to permit a garage as an accessory structure in the front yard in lieu of the rear yard, (2) a variance from BCZR §400.3 to permit a garage with a height of 18 ft. in lieu of the maximum 15 ft., and (3) a variance from BCZR §400.1 to permit a shed as an accessory structure to be located in the side yard in lieu of the rear

yard. Protestant at the hearing moved that the Petition be dismissed because it did not set forth the hardship or practical difficulty that would be encountered by the Petitioner if the relief were denied. The Court denied Protestant's motion and ruled that the omission in the form Petition did not invalidate the notice or otherwise entitle the Protestant to have the motion granted.

The Petitioners' property at 1501 Shore Road is immediately adjacent to the east of the Protestant's property located at 1452 Shore Road. Both properties have frontage on Middle River and are the personal residences of the parties. The Petitioners are the immediate successors in title to Michael C. Forti, et ux. from whom they acquired the Property in March of 2006. At the time of acquisition, the Property was improved by the existing garage and shed for which the variances are sought and a pool located between Petitioners' dwelling and Middle River. Petitioners introduced into evidence an application for a permit dated October 4, 2000 to install a swimming pool "in rear yard" as accompanied by KCI Technologies, Inc., plat that failed to show that the pool was to be located between the two-story frame dwelling and Middle River. Petr.'s Ex. 7. Significantly, this application arbitrarily treated Middle River frontage as the rear yard and, consequently, a variance was not requested as the pool is a permitted use as an accessory structure in the rear yard.

On March 29, 2002, the Petitioners' same predecessor in title filed an application for the permit to construct the garage that is the subject of these proceedings "in rear of property". Petr.'s Ex. 8. Predicated on the aforesaid two applications, Forti erected the pool between the house and Middle River and the

garage between the house and Shore Road, having treated both sites as rear yards, and thus subverting the BCZR by treating the property as having two rear yards and no front yard. The KCI Technologies, Inc., plat that accompanied the pool building permit application was also used for the garage application, except that it did not show the pool that existed at that time and showed the 43 ft. by 25 ft. garage to be located adjacent to Shore Road as being in the rear yard. Petr.'s Ex. 8.

Petitioner offered into evidence the Findings of Fact and Conclusions of Law regarding a petition for variance for the property at 1503 Shore Road, which is adjacent to Petitioners on the east, whereby Petitioners' neighbor, Charles Thomas Acree, et ux., sought a variance to construct a swimming pool in the front yard in lieu of the rear yard. Petr.'s Ex. 13A. Acree also sought a height variance for a garage in his rear yard, which he stated was located between his home and Shore Road. Petr.'s Ex. 13B. Unlike the Petitioners, the adjacent property owner treated the area between his house and Middle River as the front yard. Accordingly, Acree now has a variance and permit allowing construction of a pool immediately adjacent to Petitioners' pool, notwithstanding that for purposes of this case, Petitioners are arbitrarily treating the yard as it abuts Shore Road as the front of the property to obviate requesting a variance for the pool and the pool structures that block Protestant's view of Middle River.

Petitioners' Exhibit 2, the plat accompanying the Petition, as hand-drawn by Charles Castronovo, not to scale, is clearly inaccurate, as evidenced by the fact that the shed as depicted on the plat does not adjoin the property line

between Petitioners and Protestant when the evidence offered by Petitioners was that it directly abutted the property line. Petr.'s Ex. 2. Protestant Paul Godwin's testimony and Protestant's photographic exhibits established that the shed, in fact, encroaches across the property line into Protestant's property. Further, the Petition for a Variance for the shed to permit the shed to be located in the side yard in lieu of the rear yard does not address the fact that the shed needs to sit back 2½ ft. from Petitioners' property line with Protestant.

With regard to the nature of the Property, Petitioners testified that their lot is 70 ft. wide, Acree's property to the east is 80 ft. in width, and that the lots in the neighborhood are generally irregular. Petitioners' witness Mr. Workmister, a longtime resident of 1303 Shore Road, whose property is 50 ft. wide, testified that the lots in the neighborhood of Petitioners' property are "all different sizes". Charles Castronovo described them as "irregular".

Charles Castronovo eyeballed that his lot is approximately a foot higher than Protestant, to which Protestant generally agreed. However, there were no mathematical calculations as to the elevations of other lots and the aerial photographs introduced into evidence by Petitioners established that the elevations are generally uniform. Petr.'s Ex. 9A-D. Charles Castronovo opined that his lot was approximately 18 ft. above sea level, without the technical definition of sea level. Extrapolating his testimony, he effectively opined that Protestant's lot is 17 ft. above sea level. There was no direct testimony from Charles Castronovo as to specific elevations of other neighboring properties.

Protestant Paul Godwin testified that he was concerned with the impact the granting of the variance would have on his property value and both he and his fiancée, Ms. Jeanne Walsh, voiced their objections to the pool with the trees and the bench. Protestant's photographs, as introduced into evidence, established that looking to the left from Godwin's yard, the view of Middle River is obscured by the bench adjacent to the pool, which extended above the head of Paul Godwin. Prot.'s Ex. 3A.

QUESTIONS PRESENTED

The Administrative Law Judge submitted three questions to be addressed in the parties' briefs:

1. What determines the front and rear yard of waterfront properties?
2. How is Petitioner's bench, that is adjacent to the pool and blocks Protestant's view of Middle River, relevant to the variances sought?
3. How is the variance to locate the shed in the side yard instead of the rear yard effected when there is no request for a side yard setback from §400.1 of BCZR?

Protestants submit that, in addition to the three cogent questions propounded by the Court, the initial threshold question is whether Petitioners met their burden of proof to establish that the property is unique and that denial of their request would cause them a practical difficulty or unreasonable hardship.

ARGUMENT

I. PETITIONERS FAILED TO MEET THEIR BURDEN OF PROOF TO ESTABLISH THAT THE PROPERTY IS UNIQUE AND THAT DENIAL OF THEIR REQUEST WOULD CAUSE THEM A PRACTICAL DIFFICULTY OR UNREASONABLE HARDSHIP.

The seminal appellate decision on the issue of zoning variances in Maryland is Cromwell v. Ward, 102 Md.App. 691 (1995), in which the Court of Special Appeals considered a request for a variance from the provision of the BCZR governing the height of auxiliary structures. In reviewing the law governing variance requests, the Cromwell Court first noted that “[t]he general rule is that the authority to grant a variance should be exercised *sparingly* and only under *exceptional circumstances*.” Cromwell, 102 Md.App. at 703. The Court of Special Appeals went on to note that cases affirming the grant of variances were “exceedingly rare.” Id. at 708.

In Cromwell, the Court of Special Appeals set forth the benchmark against which all Baltimore County variance cases are to be measured. Judge Cathell, writing for the Court of Special Appeals, which reversed a decision affirming the granting of a variance by the County Board of Appeals for Baltimore County, crystallized the variance process as a two step process:

The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here

and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

Cromwell, 102 Md.App. at 694.

Judge Cathell, writing for the Court of Special Appeals in North v. St. Mary's County, 99 Md.App. 502 (1994), previously expounded on what is required in order to show that a property is unique:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an *inherent characteristic not shared by other properties in the area*, i.e., its shape, topography, subsurface condition, environmental factors, historic significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

North, 99 Md.App. at 514 (emphasis added).

The evidence presented before the Court failed to establish that the Property is unique or peculiar in any manner. In fact, Petitioners have by their own evidence established that the size of their lot is not "unique or peculiar".

First, an insignificant difference in elevation with an adjacent property does not make this property unique. Beyond that, the fact that all of the lots in the neighborhood are irregular, instead of establishing that the Property is unique, establishes in fact that this property is like the neighboring properties in that they are all of differing dimensions.

In addition, the Petitioners in attempting to meet the mandates of BCZR §307.1, did not offer any expert testimony to establish that their property was different from neighboring properties or was subject to conditions that are

peculiar to that tract. Instead, they relied solely on the lay testimony of Charles Castronovo and Mr. Workmister.

Petitioners in some manner seek to bootstrap their argument that the Property is unique by relying on Petitioners' Exhibit 12, the letter from the County Department of Environmental Protection. This letter, in fact, establishes that Petitioners' impervious surface as it covers the lot is 13,175 sq. ft. on a 36,300 sq. ft. lot. The letter points out that the property is therefore not in compliance with current Chesapeake Bay Critical Area regulations. The Court has the opportunity at this time by denying the garage variance to eliminate 1,750 sq. ft. of lot coverage that by Petitioners' own exhibit is detrimental to the Chesapeake Bay Watershed and especially Middle River.

II. THE PETITIONERS HAVE FAILED TO PROVE THAT A "PRACTICAL DIFFICULTY" EXISTS UNDER THE FACTS OF THIS CASE.

As noted above, Cromwell provides that the Board need not continue its inquiry since the Property is not "unique." Cromwell, 102 Md.App. at 694. However, assuming the Court finds that the Petitioners have scaled their first hurdle, the Protestant will address the second prong of the Cromwell test.

Whether the Court must apply the "undue hardship" or "practical difficulty" standard in reviewing a variance depends upon the nature of the variance in question. When the request is for a use variance, the "undue hardship" standard applies, while the "practical difficulty" standard applies to area variances.

In this instance, the Petitioners have requested an area variance, as they have sought relief from setback requirements and/or restrictions governing the

location of their pool and shed, and a height variance regarding their garage. Accordingly, the "practical difficulty" standard applies.

In McLean v. Soley, 270 Md. 208 (1973), the Court of Appeals set forth the burden that must be met to establish a "practical difficulty", assuming the party seeking the variance can first prove that his property is unique. The McLean Court stated that the party seeking a variance must show:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean 270 Md. at 214-15.

Assuming the Court concludes that the Property is unique, the facts of the case at bar demonstrate that the Petitioners have not proven that they will sustain a "practical difficulty" in the event the variance is denied.

Applying the standard set forth in McLean, the Court must first consider whether strict compliance with BCZR § 400.1 "would unreasonably prevent the [Petitioners] from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." McLean, 270 Md. 214. As noted above, a residence has already been constructed on the Property, thus the Petitioners are making a reasonable use of the property.

Beyond that, the Petitioners' letter to the Protestants negates any idea of practical difficulty or unreasonable hardship as Petitioners advise that they will prevail and "there are other ways to keep our property as it is." Prot.'s Ex. 2. Petitioner Charles Castronovo in his own words has established that he does not need a variance as the structures will remain even if the variance is denied. Accordingly, the Court should accommodate Mr. Castronovo, and allow him to deal with the Code Enforcement issues as enumerated in Petitioners' Exhibit 10.

As shown above, the Petitioners cannot prove that compliance with the applicable regulations would "prevent [them] from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." Therefore, they have failed to meet the first prong of the test set forth in McLean.

The Court must next consider "whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners." McLean, 270 Md. at 214-15. This portion of the test dovetails with the language of BCZR § 307 requiring the Court to grant a variance only "in such manner as to grant relief without injury to public health, safety and general welfare." BCZR § 307.

The evidence shows that the granting of the Petitioners' variance request would subject the Protestant to the *permanent* imposition of injuries he has *already* suffered as a result of the Petitioner's pool construction. Whereas the

review of most variance petitions requires the finder of fact to speculate as to the injury to other parties, the fact that the Petitioners have already installed their pool allows the Court to see that actual, ongoing harm is already occurring.

In addition, the aerial photograph offered by the Petitioners reaffirms the impervious areas of Petitioners' lot and its adverse effect on the Middle River and Chesapeake Bay Watershed. Petr.'s Ex. 9A. Clearly, granting the requested variance would increase the burden on the environment and the already fragile Chesapeake Bay.

The final portion of the Court's analysis requires determining "[w]hether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured." This prong parallels the language of BCZR § 307 allowing the Board to grant a variance only if the variance is "in strict harmony with the spirit and intent" of the applicable regulations. BCZR § 307.

The "spirit and intent" of BCZR § 400.1 is to shield neighboring owners from the sights, sounds and impacts typically associated with accessory uses and structures, including pools and garages. Forcing the Protestant to encounter the Petitioners' pool and other obtrusive structures while trying to enjoy his waterfront property is wholly inconsistent with the "spirit and intent" of that regulation.

Overall, the application of the McLean standard demonstrates that strict application of the provisions of BCZR § 400.1 would not result in a "practical

difficulty” for the Petitioners. Accordingly, their Petition for Variance must be denied.

III. THE PETITIONERS ARE NOT ENTITLED TO A VARIANCE REGARDING THE HEIGHT OF THEIR GARAGE BECAUSE ANY HARDSHIP OR DIFFICULTY ASSOCIATED WITH THE HEIGHT OF THE GARAGE ROOF WAS SELF-CREATED.

The law is crystal clear that as set forth in Roeser v. Anne Arundel County, 368 Md. 294 (2002) , “[i]f the peculiar circumstances which render the property incapable of being used in accordance with the restrictions contained in the ordinance have been themselves caused or created by the property owner or *his predecessor in title*, the essential basis of the variance, *i.e.*, that the hardship be caused solely through the manner of operation of the ordinance upon the particular property, is lacking. In such case, a variance will not be granted.” Roeser, 368 Md. at 315 (quoting Salisbury Board of Zoning Appeals v. Bounds, 240 Md. 547, 554-55 (1965))(emphasis in the original).

Petitioners’ case is virtually identical to Cromwell v. Ward, *supra*, with respect to the height variance in that in Cromwell the property owner, Ward, constructed a 21 ft. garage, violating the 15 ft. height requirements, after obtaining a building permit in the same fashion as Forti. Both Ward and Forti represented the height on their building permits as 15 feet with the actual construction exceeding height as detailed on a permit application. Ward was found to have impermissibly created his own hardship and his request for variance was denied. Id. The Petitioners’ predecessor in title created any

hardship that may exist in this instance, meaning their variance request must also be denied.

IV. THE WATERS OF MIDDLE RIVER CONSTITUTE THE FRONT PROPERTY LINE OF PETITIONERS' HOUSE AND, CONSEQUENTLY, THE PORTION ABUTTING MIDDLE RIVER IS THE FRONT YARD OF THE PROPERTY.

§ 32-3-301 of the Baltimore County Code grants the Zoning Commissioner authority to interpret the BCZR in reviewing variance petitions and other requests for relief. In order to provide a uniform system for interpreting the BCZR, the Zoning Commissioner developed the Zoning Commissioner's Policy Manual (hereinafter referred to as "ZCPM") pursuant to the authority granted to the Zoning Commissioner by § 32-3-105 of the Baltimore County Code. *See also, Antwerpen v. Baltimore County*, 163 Md.App. 194 (2005).

§400.2.a(1) of the ZCPM, in referencing the construction of accessory structures such as swimming pools and other accessory buildings on waterfront properties, provides "on all waterfront, when the proposed house fronts on the water use the water as the front property line." ZCPM §400.2.a(1); Prot.'s Ex. 4. The rationale underlying this requirement is evident in that water views are one of the attractive features of waterfront property and should not be obscured by swimming pools, garages, or other accessory structures. Petitioners are seeking a variance for the garage when, in fact, they should have sought a variance for the pool, which the testimony of Paul Godwin and his fiancé

established was a structure that offended them because of the pool bench and the trees that were constructed to shield the pool that was constructed illegally.

Petitioners' predecessor in title, when filing the building application for the pool and the garage, used the same survey, and misrepresented the front yard on the pool application which was filed first, referencing it as the rear yard. He then correctly designated the area between the house and Shore Road as the rear yard on the application for the garage building permit.

The Court's attention is directed to the fact that Petitioners' neighbor Acree was granted a variance to locate a pool between his house and Middle River and that contrary to Petitioner, Acree correctly designated this as the front yard. Acree's garage is adjacent to Petitioners' garage, and is in his rear yard. Petrs.' Ex. 9A. The Acrees correctly obtained a variance for their future pool to be located adjacent to Petitioners' pool in the front yard.

Petitioners' Exhibit 9A, the aerial photograph, shows at least six (6) garages on the eleven (11) properties shown, none of which are located on the water side of the respective properties. Petr.'s Ex. 9A. §400.1.a(2) of the ZCPM, in referencing the placement of accessory buildings on waterfront properties, sets forth the criteria to be considered in the placement of such structures when it states that "the orientation of other houses and accessory buildings on other nearby waterfront lots" is a factor to be considered. ZCPM §400.1.a(2). Petitioners' Exhibit 9A details the orientation of the garages on the nearby lots and again each of the six (6) lots that have a garage have same located between the dwelling and Shore Road. It is clear that the Petitioners'

garage is located in the rear yard and a variance is not needed in that Petitioner is attempting to thwart the regulations and treat the pool as being located in the rear yard. The garage is now located consistent with neighboring garages and the pool requires the variance.

Petitioners' Petition for Variance should be denied and dismissed based on the simple fact that the existing garage is located in the rear yard in accordance with §400.1 of the BCZR and there is no need for a variance regarding the location of the garage. Petitioners should have filed the variance to locate the pool in the front yard in lieu of the rear yard in that the pool is clearly located in the front yard and the garage is in the back yard, again in accordance with the garage permit application as filed by Forti.

V. THE POOL BENCH AND ACCESSORIES THAT OBSTRUCT PROTESTANT'S VIEW ARE CLEARLY RELEVANT TO THE THRESHOLD ISSUE BEFORE THE COURT.

Protestant and Jeanne Walsh both testified that the unsightly bench adjacent to their property line obstructs their view and enjoyment of the Middle River vista. Petitioners and their counsel recognized that it would be more difficult to obtain the pool variance than the garage variance and arbitrarily designated the pool as being located in the rear yard. That designation is contrary to the ZCPM and contrary to the Forti garage application, which again depicts the garage as being located in the rear yard as confirmed by the garage building permit introduced into evidence as Petitioners' Exhibit 8.

Recognizing that the authority to grant variances should be exercised sparingly and only under exceptional circumstances, Cromwell, *supra*,

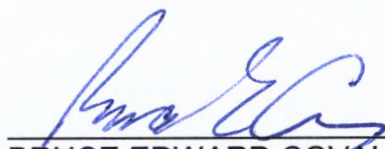
Protestant's concerns are germane for the simple reason that the strong burden to obtain the variance is on the Petitioners. The Petitioners did not, pursuant to Cromwell, establish that their property had any inherent characteristics that were not shared by other properties, such as topography, shape, and other similar restrictions on its use.

VI. PETITION FOR THE VARIANCE TO PERMIT THE SHED AS AN ACCESSORY STRUCTURE TO BE LOCATED IN THE SIDE YARD SHOULD BE DENIED AS THE REQUEST IS INCOMPLETE.

Protestant's testimony and the photographs introduced into evidence all established that the shed not only straddles the property line between Protestant and Petitioners but, in fact, protrudes into Protestant's yard by several inches. §400.1 BCZR requires that the shed as an accessory structure be located no less than 2½ feet from any side property line. Accordingly, the shed variance is incomplete, is still a violation, and should be denied.

VII. CONCLUSION

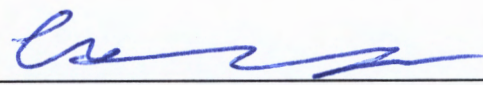
All the variances should be denied in that in the first instance Petitioners did not establish that their property was unique or different from those of their neighbors. Secondly, they failed to show or demonstrate an unreasonable or practical difficulty. Petitioners' pool is located in the front yard and the garage is in the rear yard and, consequently, the Petition should be denied and the Petitioners be required to file for a pool variance in the front yard. The shed variance is incomplete as it does not set back 2½ feet from Protestants' property line and should, accordingly, be denied.


EDWARD C. COVAHEY, JR.
BRUCE EDWARD COVAHEY
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204
410-828-9441
Attorneys for Protestant Paul Godwin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March, 2011, a copy of
the foregoing Brief was mailed first class, postage prepaid to:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Attorney for Petitioners


EDWARD C. COVAHEY, JR.

kcr110310

COVAHEY, BOOZER, DEVAN & DORE, P. A.

**ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204**

**EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
FRANK V. BOOZER, JR.**

410-828-9441

FAX 410-823-7530

**ANNEX OFFICE
11350 MCCORMICK ROAD
EXECUTIVE PLAZA III, SUITE 400
HUNT VALLEY, MD 21031
443-541-8600
FAX 410-296-2131**

March 21, 2011

***ALSO ADMITTED TO D.C. BAR**

**John E. Beverungen,
Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204**

RECEIVED

MAR 21 2011

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Petition for Variance – 1501 Shore Road

Dear Mr. Beverungen:

Enclosed please find original of a Brief related to the above-captioned subject matter.

If you have any questions, please do not hesitate to give me a call.

Very truly yours,

Edward C. Covahey, Jr.

**ECC/kcr
Enclosures**

0321kcr02



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 1501 Shore Road

which is presently zoned: DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s):

PLEASE SEE ATTACHED

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

TO BE PRESENTED AT HEARING

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

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt

Name - Type or Print

Signature

Smith, Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Charles Castronovo

Name - Type or Print

Signature

Ingric Castronovo

Name - Type or Print

Signature

1501 Shore Road

Address

Telephone No.

Baltimore

MD

21220

City

State

Zip Code

Representative to be Contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

Case No. 2011-0222-A

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

ATSUI

Date

1/25/2011

REV 9/15/98 ORDER RECEIVED FOR FILING

Date 3-29-11

By

ATTACHMENT TO PETITION FOR VARIANCE
1501 Shore Road

1. A Variance from BCZR Section 400.1 to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard;
2. A Variance from BCZR Section 400.3 to permit a garage with a height of 18-feet (+/-) in lieu of the maximum permitted 15-feet;
3. A Variance from BCZR Section 400.1 to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard; and
4. For such other and further relief as the nature of their cause may require.

2011-0222-A

Zoning Description - 1501 Shore Road

Beginning at a point on the south side of Shore Road which is 30 feet wide at the distance of 892-feet east of the centerline of the nearest improved intersecting street Riverside Blvd. which is 21-feet wide. Being Lot # 57, in the subdivision Bull Neck as recorded in Baltimore County Plat Book #WPC #4, Folio 172, containing 22,920 +/- square feet. Also known as 1501 Shore Road and located in 15th Election District, 6th Councilmanic District.

2011-0222-A

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2011-0222-A

1501 Shore Road

S/side of Shore Road, 892 feet east of the centerline of Riverside Blvd.

15th Election District — 6th Councilmanic District

Legal Owner(s): Charles & Ingrid Castronovo

Variance: to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; to permit a garage with a height of 18 feet +/- in lieu of the maximum permitted 15 feet; to permit an accessory structure (shed) to be located in the side yard, in lieu of the rear yard and for such other and further relief as the nature of their cause may require.

Hearing: Wednesday, March 2, 2011 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

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

IT 2/6/9 February 15

267173

CERTIFICATE OF PUBLICATION

2/17/, 2011

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/15/, 2011.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2011-0222-A

RE: Case No.: _____

Petitioner/Developer: _____

Charles & Ingrid Castronovo

Date of Hearing/Closing: _____

Mar 2, 2011

1:30pm

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Matthews:

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: _____

1501 Shore Road

February 15, 2011

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,



February 15, 2011

(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)

ZONING NOTICE

CASE #2011-0222-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

Room 205, JEFFERSON BUILDING 21204
105 WEST CHESAPEAKE AVENUE, TOWSON

PLACE

DATE AND TIME WEDNESDAY, MARCH 2, 2011 AT 1:30^{P.M.}

REQUEST: VARIANCE TO PERMIT AN ACCESSORY STRUCTURE
(DETACHED GARAGE) TO BE LOCATED IN THE FRONT YARD IN
LIEU OF THE REAR YARD; TO PERMIT A GARAGE WITH A HEIGHT
OF 18 FEET +/- IN LIEU OF THE MAXIMUM PERMITTED 15 FEET
TO PERMIT AN ACCESSORY STRUCTURE (SHED) TO BE LOCATED IN
THE SIDE YARD, IN LIEU OF THE REAR YARD AND FOR SUCH OTHER
AND FURTHER RELIEF AS THE NATURE OF THEIR CAUSE MAY REQUIRE.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3301

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 8, 2011

NOTICE OF DELIBERATION

CASE #: 11-222-A

IN THE MATTER OF: Charles R. and Ingrid Castronovo
Legal Owners / Petitioners
1501 Shore Road./15th Election District; 6th Councilmanic District

Re: Petition for Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; permit a garage with a height of 18 ft +/- in lieu of the maximum 15 ft; and permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard.

3/29/11 Finding of Fact and Conclusion of Law issued by Office of Administrative Hearings wherein the Petition for Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard and to permit a garage with a height of 18 ft in lieu of the maximum permitted 15 ft were GRANTED with conditions and the Petition for Variance to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard was DENIED.

Having concluded this matter on 9/7/11 a public deliberation has been scheduled for the following:

DATE AND TIME : TUESDAY, OCTOBER 18, 2011 at 9:45 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

c:	Counsel for Petitioners/Legal Owners	: Lawrence E. Schmidt, Esquire
	Petitioners/Legal Owners	: Charles R. and Ingrid Castronovo
	Counsel for Appellant	: Edward C. Covahey, Jr., Esquire
	Appellant	: Paul Godwin

Jacqueline Hogarth Louis Workmeister Jeanne Walsh
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Planning
Nancy C. West, Assistant County Attorney

John Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Michael E. Field, County Attorney



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

July 13, 2011

NOTICE OF ASSIGNMENT / AGREED DATE

CASE #: 11-222-A

IN THE MATTER OF: Charles R. and Ingrid Castronovo
Legal Owners / Petitioners
1501 Shore Road./15th Election District; 6th Councilmanic District

Re: Petition for Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; permit a garage with a height of 18 ft +/- in lieu of the maximum 15 ft; and permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard.

3/29/11 Finding of Fact and Conclusion of Law issued by Office of Administrative Hearings wherein the Petition for Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard and to permit a garage with a height of 18 ft in lieu of the maximum permitted 15 ft were GRANTED with conditions and the Petition for Variance to permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard was DENIED.

ASSIGNED FOR: WEDNESDAY, SEPTEMBER 7, 2011 AT 10:00 A.M.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c: Counsel for Petitioners/Legal Owners
Petitioners/Legal Owners

: Lawrence E. Schmidt, Esquire
: Charles R. and Ingrid Castronovo

Counsel for Appellant
Appellant

: Edward C. Covahey, Jr., Esquire
: Paul Godwin

Jacqueline Hogarth Louis Workmeister Jeanne Walsh
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Planning
Nancy C. West, Assistant County Attorney

John Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Michael E. Field, County Attorney

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 15, 2011 Issue - Jeffersonian

Please forward billing to:
Lawrence Schmidt
Gildea & Schmidt
600 Washington Ave., Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

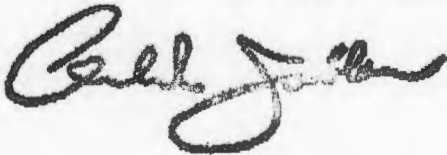
The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0222-A

1501 Shore Road
S/side of Shore Road, 892 feet east of the centerline of Riverside Blvd.
15th Election District – 6th Councilmanic District
Legal Owners: Charles & Ingrid Castronovo

Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; to permit a garage with a height of 18 feet +/- in lieu of the maximum permitted 15 feet; to permit an accessory structure (shed) to be located in the side yard, in lieu of the rear yard and for such other and further relief as the nature of their cause may require.

Hearing: Wednesday, March 2, 2011 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

February 3, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0222-A

1501 Shore Road

S/side of Shore Road, 892 feet east of the centerline of Riverside Blvd.

15th Election District – 6th Councilmanic District

Legal Owners: Charles & Ingrid Castronovo

Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; to permit a garage with a height of 18 feet +/- in lieu of the maximum permitted 15 feet; to permit an accessory structure (shed) to be located in the side yard, in lieu of the rear yard and for such other and further relief as the nature of their cause may require.

Hearing: Wednesday, March 2, 2011 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director, PAI

AJ:kl

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Mr. & Mrs. Castronovo, 1501 Shore Road, Baltimore 21220

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 15, 2011.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE OFFICE OF ADMINISTRATIVE HEARINGS AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

February 24, 2011

Mr. & Mrs. Charles Castronovo
1501 Shore Road
Baltimore, MD 21220

RE: Case Number 2011-0222 A, 1501 Shore Road, Baltimore, MD 21220

Dear Mr. & Mrs. Charles Castronovo,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 25, 2011. 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Ste. 200
Towson, MD 21204

Zoning Review | County Office Building
111 West Chesapeake Avenue, Room 111 | Towson, Maryland 21204 | Phone 410-887-3391 | Fax 410-887-3048
www.baltimorecountymd.gov

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

FEB 15 2011



ZONING COMMISSIONER

TO: Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Dave Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: February 15, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-222-A
Address 1501 Shore Road
(Castronovo Property)

Zoning Advisory Committee Meeting of January 31, 2011.

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. This lot is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). No additional lot coverage is permitted on this lot. The 15% afforestation requirement must be met for any new development. Based on this, DEPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with compliance and mitigation pursuant to Critical Area requirements.
2. The proposed development must comply with all LDA requirements including the 15% afforestation requirement and CBCA lot coverage requirements, prior to building permit approval. Therefore, the subject zoning petition will conserve fish, wildlife, and plant habitat.
3. The proposed development is permitted under the State-mandated Critical Area regulations provided that development is in compliance with all Critical Area requirements. Lot coverage on the property and within the tidal buffer is limited. Compliance with the Critical Area requirements, and mitigation can allow the subject development to be consistent with established land use policy for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

- Regina Esslinger; Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits,
Approvals and Inspections

DATE: February 17, 2011

RECEIVED

FROM: Jeff Mayhew
(Acting) Director, Office of Planning

FEB 23 2011

ZONING COMMISSIONER

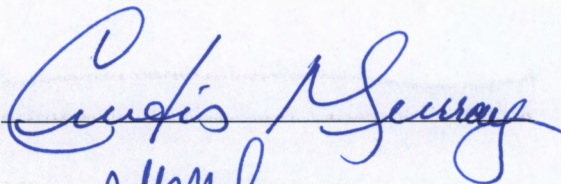
SUBJECT: 11-222 -Variance

The Office of Planning does not oppose the petitioner's request to permit an existing accessory structure (detached garage) with a height of 18 feet in lieu of the maximum permitted 15 feet and to be located in the front yard in lieu of the required rear yard and to permit a existing shed to be located in the side yard in lieu of the required rear yard provided the following conditions are met:

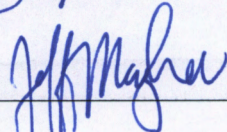
1. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. The accessory structure shall not be used for commercial purposes.

For further information concerning the matters stated herein, please contact Laurie Hay at 410-887-3480.

Prepared by:



Acting Director:



JM/LL: CM



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

3/2/11

Date: 2-14-2011

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

RE: Baltimore County
Item No 2011-0222-A
1901 SHORE RD
CASTRONOVO PROPERTY
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. 2011-0222-A

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

Very truly yours,

For Steven D. Foster, Chief
Access Management 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



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

February 3, 2011

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

ATTENTION: Zoning Review

Distribution Meeting of: **January 31, 2011**

Item No.:

Administrative Variance: 2011-0215A – 0216A, 2011-0224A

Special Hearing: 2011-0213-SPH, 2011-0219-SPHA, 2011-0220-SPH, 2011-0225-SPHA

Variance: 2011-0217A, 2011-0219-SPHA, 2011-0221-XA, 2011-0222A – 0223A, 2011-0225-SPHA

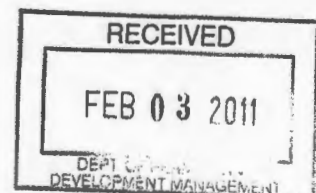
3-2

Special Exception: 2011-0221-XA,

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Acting Lieutenant
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For February 7, 2011
Item Nos. 2011- 213, 215, 216, 217,
219, 220, 221, 222 and 223

DATE: February 2, 2011

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

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-02072011 -NO COMMENTS.doc

RE: PETITION FOR VARIANCE * BEFORE THE *fore*
1501 Shore Rd.; S/side of Shore Rd., * ZONING COMMISSIONER
892ft. east of the centerline of
Riverside Blvd. *
15th Election & 6th Councilmanic Districts * FOR
Legal Owner(s): Charles & Ingrid Castronovo *
Petitioner(s) * BALTIMORE COUNTY
* 2011-0222-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

FEB 02 2011

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of February, 2011, a copy of the foregoing Entry of Appearance was mailed to Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

COVAHEY, BOOZER, DEVAN & DORE, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
FRANK V. BOOZER, JR.

410-828-9441
FAX 410-823-7530

ANNEX OFFICE
11350 MCCORMICK ROAD
EXECUTIVE PLAZA III, SUITE 400
HUNT VALLEY, MD 21031
443-541-8600
FAX 410-296-2131

*ALSO ADMITTED TO D.C. BAR

April 27, 2011

HAND DELIVERED

Office of Administrative Hearings
Attn: Hon. John E. Beverungen, Admin. Law Judge
111 West Chesapeake Avenue
Room 111
Towson, Maryland 21204

RECEIVED

APR 27 2011

le

Re: Petition for Variance
S. Side of Shore Road, 892 feet E. of c/l of Riverside Blvd.
15th Election District
6th Councilmanic District
(1501 Shore Road)
Case No. 2011-02224

Dear Judge Beverungen:

Please consider this letter to represent a notice of appeal on behalf of Protestant, Paul Godwin, from the Findings of Fact and Conclusions of Law issued in this matter by the Office of Administrative Hearings on or about March 29, 2011. A check in the amount of \$265.00 payable to the Baltimore County Board of Appeals representing the filing fee for the appeal is enclosed herewith.

Please do not hesitate to contact my office should you have any questions or require any additional information.

Very truly yours,

Edward C. Covahey, Jr.
Edward C. Covahey, Jr.

BEC
Enclosure
Cc: Lawrence E. Schmidt, Esquire
(Attorney for Petitioners)

0426bec01



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

June 9, 2011

RECEIVED
JUN 13 2011
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

RE: Case : 2011-0222-A, 1501 Shore Road

Dear Schmidt,

Please be advised that an appeal of the above-referenced case was filed in this office on June 9, 2011 by Edward C. Covahey, Jr., Esquire. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with the first name "Arnold" and last name "Jablon" clearly distinguishable.

Arnold Jablon
Director of PAI

AJ:mcn

c: Administrative Law Judge
Arnold Jablon, Director of PAI
People's Counsel
Edward Covahey, Jr., Esquire, Covahey, Boozer, Devan & Dore, PA,
614 Bosley Avenue, Towson, MD 21204

APPEAL

Petition for Variance
1501 Shore Road
S side of Shore Road, 892 feet E of the c/l of Riverside Blvd.
15th Election District – 6th Councilmanic District
Legal Owners: Charles R. and Ingrid Castronovo

Case No.: 2011-0222-A

Petition for Variance January 25, 2011

Zoning Description of Property

Notice of Zoning Hearing February 30, 2011

Certification of Publication (1) February 15, 2011

Certificate of Posting (1) by SSG Robert Black – February 15, 2011

Entry of Appearance by People's Counsel (February 2, 2011)

Petitioner(s) Sign-In Sheet (1)

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet (1)

Zoning Advisory Committee Comments (5)

Petitioners' Exhibit: (14)

1. Deed to 1501 Shore Road
2. Site Plan – Accompany Petition
3. Photos - A-S – Admitted
4. Bldg. Permit – Razing
5. Bldg. Permit for SFD
6. A&B - Permit – Electrical SFD -3/2001
7. Permit – Pool
8. Permit for Garage
9. Aerial Photographs (9 A-D)
10. County Code Citation
11. Covahey 9/3/10 letter
12. DEPRM – 11/3/10 letter
13. A-03-471 – Variances – B-07-406 Variances
14. Photo of fence & neighbor's garage

Protestants' Exhibits:

1. Plat to accompany pool application
2. Letter to neighbor – Paul and Jeannie - 2/26/11
3. Photos
 - 3a. Photo - bush
 - 3b. Photo – man standing in yard by bushes.
 - 3c. Photo – showing flowers and water
 - 3d1. Photo – showing bushes and water
 - 3d2 Photo – picture taken out of window pointed towards fence.
4. Zoning Manual – section pertaining to case.
5. Photo taken out of window at tree line – not listed on Exhibit Sheet

Miscellaneous (Not Marked as Exhibit) (3)

1. Letter from Jacqueline Hogarth – February 23, 2011
2. Letter from Donald & Gayle Durham – February 25, 2011
3. Letter from Tori Switzer – February 27, 2011
4. Letter from Sheila Connelly & Anthony DePalo – March 1, 2011
5. Letter & Brief from Edward C. Covahey, Jr. - March 21, 2011
6. Closing Memorandum in Lieu of Closing Argument – March 21, 2011

Administrative Law Judge Order (1) GRANTED – March 29, 2011

Notice of Appeal received on - Edward C. Covahey, Jr. – April 27, 2011

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM

June 9, 2011/mcn

APPEAL

Petition for Variance
1501 Shore Road

S side of Shore Road, 892 feet E of the c/l of Riverside Blvd.
15th Election District – 6th Councilmanic District
Legal Owners: Charles R. and Ingrid Castronovo

Case No.: 2011-0222-A

RECEIVED

JUN 13 2011

BALTIMORE COUNTY
BOARD OF APPEALS

- ✓ Petition for Variance January 25, 2011
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing February 30, 2011
- ✓ Certification of Publication (1) February 15, 2011
- ✓ Certificate of Posting (1) by SSG Robert Black – February 15, 2011
- ✓ Entry of Appearance by People's Counsel (February 2, 2011)
- ✓ Petitioner(s) Sign-In Sheet (1)
- Protestant(s) Sign-In Sheet - None
- ✓ Citizen(s) Sign-In Sheet (1)
- ✓ Zoning Advisory Committee Comments (5)
- ✓ Petitioners' Exhibit: (14)
 - ✓ 1. Deed to 1501 Shore Road
 - ✓ 2. Site Plan – Accompany Petition
 - ✓ 3. Photos - A-S – Admitted
 - ✓ 4. Bldg. Permit – Razing
 - ✓ 5. Bldg. Permit for SFD
 - ✓ 6. A&B - Permit – Electrical SFD -3/2001
 - ✓ 7. Permit – Pool
 - ✓ 8. Permit for Garage
 - ✓ 9. Aerial Photographs (9 A-D)
 - ✓ 10. County Code Citation
 - ✓ 11. Covahey 9/3/10 letter
 - ✓ 12. DEPRM – 11/3/10 letter
 - ✓ 13. A-03-471 – Variances – B-07-406 Variances
 - ✓ 14. Photo of fence & neighbor's garage
- ✓ Protestants' Exhibits:
 - ✓ 1. Plat to accompany pool application
 - ✓ 2. Letter to neighbor – Paul and Jeannie - 2/26/11
 - ✓ 3. Photos
 - ✓ 3a. Photo - bush
 - ✓ 3b. Photo – man standing in yard by bushes.
 - ✓ 3c. Photo – showing flowers and water
 - ✓ 3d1. Photo – showing bushes and water
 - ✓ 3d2 Photo – picture taken out of window pointed towards fence.
 - ✓ 4. Zoning Manual – section pertaining to case.
 - ✓ 5. Photo taken out of window at tree line – not listed on Exhibit Sheet
- Miscellaneous (Not Marked as Exhibit) (3)
 - ✓ 1. Letter from Jacqueline Hogarth – February 23, 2011
 - ✓ 2. Letter from Donald & Gayle Durham – February 25, 2011
 - ✓ 3. Letter from Tori Switzer – February 27, 2011
 - ✓ 4. Letter from Sheila Connelly & Anthony DePalo – March 1, 2011
 - ✓ 5. Letter & Brief from Edward C. Covahey, Jr. - March 21, 2011
 - ✓ 6. Closing Memorandum in Lieu of Closing Argument – March 21, 2011
- ✓ Administrative Law Judge Order (1) GRANTED – March 29, 2011
- ✓ Notice of Appeal received on - Edward C. Covahey, Jr. – April 27, 2011

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM

June 9, 2011/mcn

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Charles and Ingrid Castronovo 11-222-A

DATE: October 18, 2011

BOARD/PANEL: Wendell Grier
Maureen Murphy
Edward Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to permit an accessory structure (detached garage) to be located in the front yard in lieu of the rear yard; permit a garage with a height of 18 ft +/- in lieu of the maximum 15 ft; and permit an accessory structure (shed) to be located in the side yard in lieu of the rear yard.
2. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
3. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?
4. Proposed Opinion and Order submitted by Counsel Granting Petitions for Variance.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the history of this matter. The Administrative Law Judge Denied the requested Petition for Variance below. This matter came to the Board on appeal. The parties attended a hearing before the Board and presented a proposed settlement on the record.
- The Board discussed the requirements of Cromwell and the subject property. The parties are in agreement that the subject property's width and shape are what make the property unique pursuant to the requirements of Cromwell.
- The subject property is a waterfront lot. The Board discussed the issue of which side of the property is the front or rear of the property, with regard to the water. Previously developers made improvements to the property without going through the proper channels. The Petitioners purchased the property and inherited the problems. The developers built the detached garage with a height of 18 feet +/- on the road-side of the property. The property also has an existing in ground pool on the water-side of the

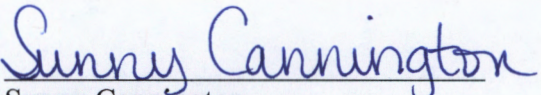
property. The Board determined that the water-side of the property is the rear yard and the road side of the property is the front yard.

DECISION BY BOARD MEMBERS: The Board decided to grant the Petitions for Variance.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petitions for Variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

July 5, 2011

Edward C. Covahey, Jr., Esquire
COVAHEY, BOOZER, DEVAN & DORE, P.A.
614 Bosley Avenue
Towson, MD 21204

Lawrence E. Schmidt, Esquire
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Re: In the Matter of: CHARLES R. AND INGRID CASTRONOVO
1501 SHORE ROAD
Case No.: 11-222-A

Dear Counsel:

In order to schedule a hearing without conflict; I am providing dates available on the Board's docket. The Board sits on Tuesday, Wednesday and Thursday of each week. The following dates are open on the Board's docket for assignment:

*no good
Schmidt* { Thursday, August 11, 2011 at 10:00;
Tuesday, August 16, 2011 at 10:00; and
Wednesday, August 17, 2011 at 10:00.

This office requests that the parties in the above referenced matter, contact the Board of Appeals upon receipt of this letter to confirm availability

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Theresa R. Shelton
Theresa R. Shelton
Administrator

Duplicate Original

cc: Charles and Ingrid Castronovo
Paul Godwin
Office of People's Counsel

*8/11 @ 11:00
9/11 @ 10:00
9/16 @ 10:00
9/17 @ 10:00*

JB
3-2-11

February 25, 2011

1505 Shore Road
Middle River, Maryland 21220

Administrative Law Judges, Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

FEB 28 2011

Re: Case Number: 2011-0222-A Zoning Variance
1501 Shore Road
Middle River, Maryland 21220

ZONING COMMISSIONER

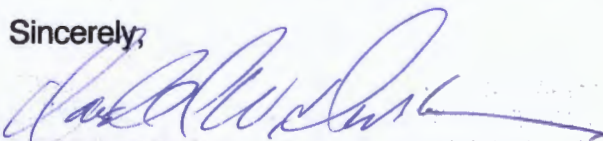
We live on the water 1 lot East of 1501 Shore Road.

We strongly support the present zoning that concerns waterfront lots. The portion of land behind the house toward the street is the back yard, and the property between the residence and the water is the front yard - subject to all present zoning restrictions of the Baltimore County code.

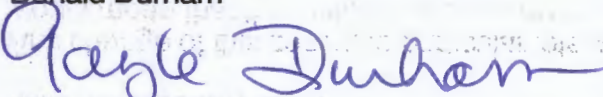
Any change of this zoning to particular lots would cause chaos to adjoining properties. It would mean that the waterfront property owners that obtain this change would have to place sheds, boats, trailers, recreational vehicles, pools, and any other restricted items on the waterfront side of their house. All waterfront properties have DEPS restrictions concerning the first 100' feet from the water, so there would be no purpose in reversing zoning as most waterfront properties on Middle River are built 100' or less from the water.

1501 Shore Road was purchased from the original builder/owner a few years ago. It is in the same condition as built. We see no reason why the improvements on that property cannot be approved as constructed. It is presumed that the property was constructed and approved by the County when built.

Sincerely,



Donald Durham



Gayle Durham

1415 Third Road
Middle River, MD 21220
February 23, 2011

Administrative Law Judges, Baltimore County
111 West Chesapeake Avenue
Towson, MD 21204

Dear Sirs:

This letter is in reference to case number: 2011-0222-A, which concerns 1501 Shore Rd. There is a hearing set for March 2, 2011.

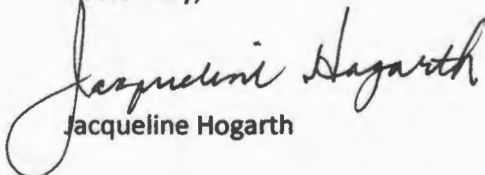
I have lived in the Wilson Point community for 30 years, around the corner from 1501 Shore Rd. I take daily walks by this house, neighboring ones, and most of the other homes in the neighborhood. This has given me a good perspective regarding the appearance of homes and garages in the community.

I think that the garage in question poses no issue for anyone. It has been there about ten years with no issues being raised until last fall, it made me wonder why it suddenly bothered anybody. This garage is well-landscaped with beautiful, large evergreens screening a good deal of it. What seems odd to me is that the neighbors to the immediate left have an even bigger and taller garage and no one seems to have complained about that. That garage even has big windows onto the street and is extremely prominent. The neighbors to the immediate right have a very unsightly garage that looks makeshift and even dilapidated on the back and gives an unattractive impression. It also crowds the property line and looks like it is not set back correctly. These same people also have an unsightly pile of dirt with weeds growing out of it which has been there for some years and is most visible from the street.

The garage at 1501 Shore Rd. is not an eyesore in ANY way. Almost no one has a view of it except the inhabitants at the home across the street, and I understand they have no objection to the garage.

I think it would be unfair not to grant a variance for the garage at 1501 Shore Road. There would be NO purpose served and the owners would experience unnecessary pain and suffering, not to mention a large expenditure of money to demolish or relocate it. The garage and home actually enhance this community.

Yours truly,


Jacqueline Hogarth

14 Geranium Place

Middle River, MD 21220

February 27, 2011

Administrative Law Judges, Baltimore County

111 West Chesapeake Avenue

Towson, MD 21204

Dear Judge:

We are writing to you about case number 2011-0222-A, to support the request for the variance for a garage, etc. for the Castronovos.

We live RIGHT ACROSS THE STREET from the Castronovos and face their house and garage. We are the only neighbors who actually see the garage anywhere from their property. We have absolutely no problem with their garage being just where it is. They have a lot of real nice landscaping in front it and the whole view over there is very nice. We were pretty shocked when we heard some neighbors complained about their yard!

We cannot come in person because we cannot leave our job and child in the middle of the day. But, we really hope you take our opinion into consideration since it would be a hardship for us to attend the hearing.

Yours truly,

Tori Switzer C. Switzer

George and Tori Switzer

Sheila Connelly
Anthony DePalo
1304 Shore Road
Middle River, MD 21220

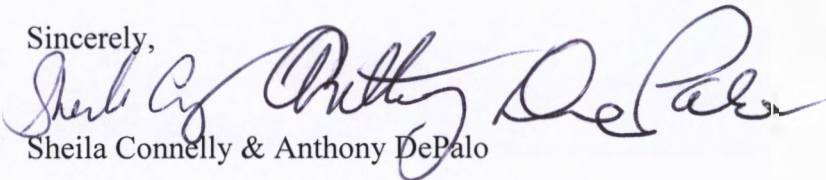
Administrative Law Judges of Baltimore County

March 1, 2011

Dear Sir or Madam:

This letter is addressing case # 2011-0222A, the garage at 1501 Shore Road, owners Ingrid and Charles Castronovo. My husband and I have lived on Shore Road for about 5 years. Since we have moved in, a few times every week we walk along Shore Road. Our walks take us by the home of Ingrid and Charles Castronovo. My husband and I marvel at the how aesthetically pleasing their home, garage, and driveway are to the eye. The cool colors, the perfectly paired patterns, and the crisp clean lines really make this scene a work of art. The house, garage, and driveway really compliment one another on this property I believe a drastic change of the garage would really be displeasing to the eye. It is easy to see the house, the garage, and the driveway are works of art, one relying on the other to make a balanced scene, one of the most beautiful on Shore Road.

Sincerely,



Sheila Connelly & Anthony DePalo

CASE NAME Castroinos
CASE NUMBER 2011-0222-A
DATE 3-2-11

[illegible]

PLEASE PRINT CLEARLY

CASE NAME Castro Nov
CASE NUMBER 2011-0222-A
DATE 3-2-11

CITIZEN'S SIGN-IN SHEET

[illegible]

122.

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

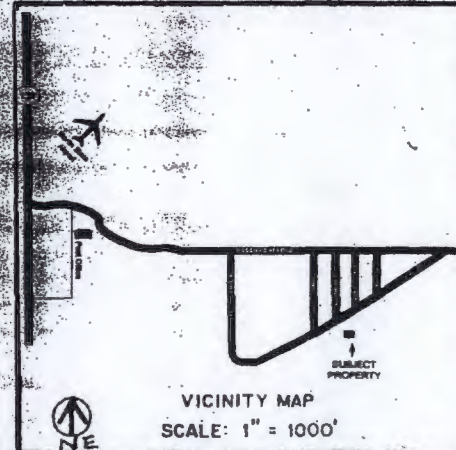
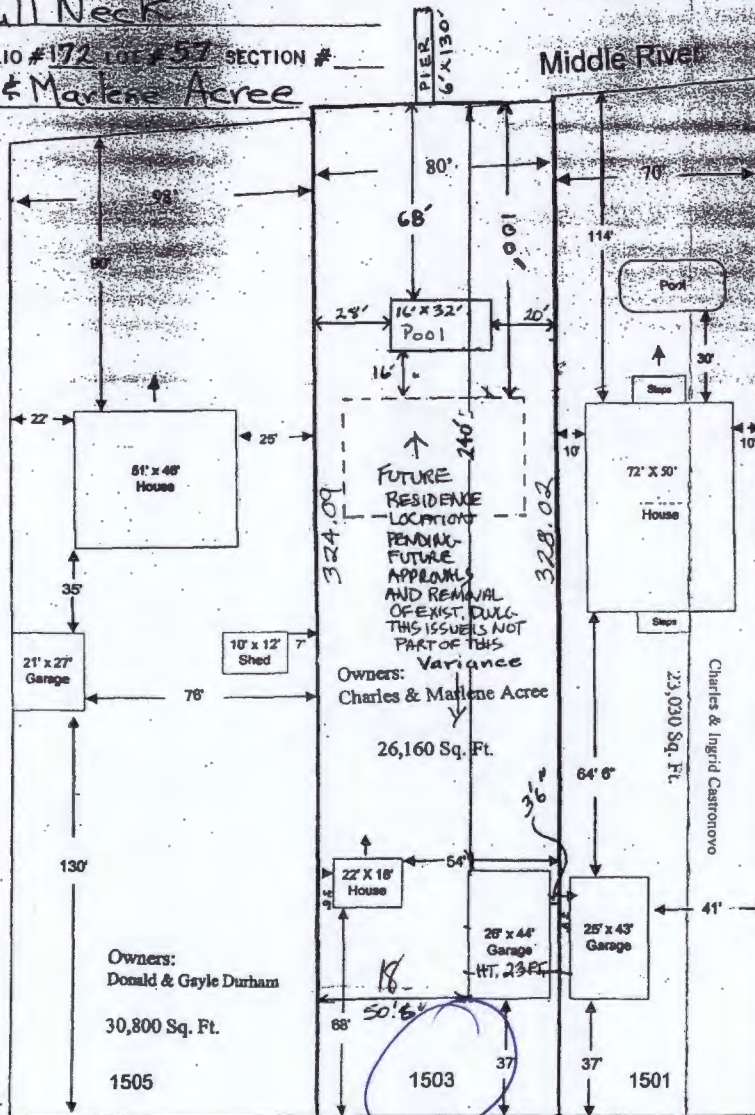
PROPERTY ADDRESS 1503 Shore Rd.

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

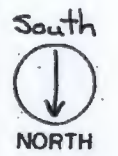
SUBDIVISION NAME Bull Neck

PLAT BOOK # 4 FOLIO # 172 LOT # 53 SECTION #

OWNER Charles & Marlene Acree



LOCATION INFORMATION			
ELECTION DISTRICT	15		
COUNCILMANIC DISTRICT	6		
1" = 200' SCALE MAP #	NE 2J 091A2 092A1		
ZONING	DR 5.5		
LOT SIZE	.6	26,160	
	ACREAGE	SQUARE FEET	
SEWER	☒	☐	
WATER	☒	☐	
CHESAPEAKE BAY CRITICAL AREA	☒	☐	YES NO
100 YEAR FLOOD PLAIN	☐	☒	
HISTORIC PROPERTY/BUILDING	☐	☒	
PRIOR ZONING HEARING	03-471-SPHA		
ZONING OFFICE USE ONLY			
REVIEWED BY	ITEM #	CASE #	
D.T.	406	07-406A	



PREPARED BY Charles Acree

Scale: 1" = 40'

Shore Road

Geranium Road

-15-

*Jim Gardlin
violation*

*2 CASES ON
1503 SHORE RD
FOR REFERENCE*

2011-0222-A

Case No: 11-222-A

Case Name: Charles + Ingrid Castonovo

Exhibit List

Party: Petitioners

Date: 9-7-11

[illegible]



Petex 2A

CBA-11-222-A Castronovo 9-7-11 Petex 2A



PetEx 2 B

Case No.:

2011-0222-A

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Deed to 1501 Shore Rd.	Plat to accompany pool application.
No. 2	Site Plan - Accompanying Petition	Letter to neighbor
No. 3	Photos A-S - Admitted	Photos → 3A re: Bench 3D - over prop. line
No. 4	Bldg. Permits - Razing	ZC Policy Manual
No. 5	Bldg Permit - for SFD	
No. 6 + 6B	Permit - ^{6A} Electrical SFD 3/2001	
No. 7	Permit - Permit - Pool 5/5/2001	
No. 8	Permit for Garage	
No. 9	Aerial Photographs 9A-D	
No. 10	County Code Citation	
No. 11	Cavaney 9-3-10 letter	
No. 12	DEPRM 11-3-10 letter	

No. 13 | A - 03-471
B - 07406 } VARIANCES

No. 14 - Photo of fence + neighbor's garage.

EXHIBIT NO. 1

This Deed, Made this 1st day of March, in the year two thousand six, by and between Michael C. Forti and Geraldine E. Forti, his wife, collectively residents of the State of Maryland, parties of the first part, the Grantors; and Charles Castronovo and Ingrid Castronovo, his wife, collectively of Baltimore County, State of Maryland, parties of the second part, the Grantees.

Witnesseth, That in consideration of the sum of One Million Nine Hundred Twenty-Five Thousand and 00/100 Dollars (\$1,925,000.00), the actual sum paid, or to be paid, and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part do hereby grant and convey unto the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and unto the survivor's personal representatives and assigns, in fee simple, all that parcel of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING FOR THE SAME at a point in the southern line of Shore Road, (previously referred to erroneously as Share Drive), formerly known as Riverside Boulevard, as said boulevard is laid out on a Plat of "Bull Neck", which Plat is duly recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 172, at the distance of 892 feet easterly from the intersection of the southerly line of said Riverside Boulevard and the eastern side of Stansbury Avenue, as said Stansbury Avenue is laid out on said Plat, thence running south 31 degrees west 325 feet, more or less to the shore of Middle River, thence in a northwesterly direction, 70 feet, more or less, along the shore of Middle River to a point in a line drawn parallel to the first line of the lot herein described, thence along this line North 31 degrees East 333 feet, more or less, to the southernmost line of Riverside Boulevard, South 59 degrees east 70 feet to the place of beginning. The improvements thereon being known as No. 1501 Shore Road.

BEING the same parcel of ground which by Deed dated May 26, 2000 and recorded among the Land Records of Baltimore County, State of Maryland in Liber SM No. 0014510 folio 612, was granted and conveyed by Roberta Carol Huesman, unto Michael C. Forti and Geraldine E. Forti, his wife, the Grantors herein.,

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described parcel of ground and premises to the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and unto the survivor's personal representatives and assigns, forever in fee simple.

AND the said parties of the first part do hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

3A



3B

18.11.2010



3c



20.02.2011

3D



20.02.2011

3E



1/24/00 RAZE



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B428828 CONTROL #: RA DIST: 15 PREC: 09
DATE ISSUED: 09/29/2000 TAX ACCOUNT #: 1523002660 CLASS: 34

PLANS: CONST 00 PLOT 0 R PLAT 0 DATA 0 ELEC NO PLUM YES
LOCATION: 1501 SHORE RD
SUBDIVISION: BULL NECK

OWNERS INFORMATION

NAME: FORTI, MICHAEL C & GERALDINE E
ADDR: 9 CHRIS ELIOT CT 21030

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: RAZE SFD-DEBRIS TO BE HAULED TO APPROVED
SANITARY LANDFILL PER APPLICABLE BALTO CO
SITE REGS. SEWER TO BE CAPPED. PERMIT EXPIRES
90 DAYS FROM DATE OF ISSUE. HOUSE BUILT IN 1923.
40X33=2640SF. ISSUE W/NR B428830.
P429644 FINAL 9/28/2000

BLDG. CODE: BOCA CODE

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: VACANT

EXISTING USE: SFD

TYPE OF IMPRV: WRECKING

USE: ONE FAMILY

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 23,030SF

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC

SIDE STR SETB:

REAR SETB: NC

#4



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B432672 CONTROL #: NR DIST: 15 PREC: 09
DATE ISSUED: 11/14/2000 TAX ACCOUNT #: 1523002660 CLASS: 34

PLANS: CONST 2 PLOT 7 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 1501 SHORE RD
SUBDIVISION: BULL NECK

OWNERS INFORMATION

NAME: FORTI, MICHAEL & GERALDINE
ADDR: 9 CHRIS ELIOT CT

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: CONST SFD W/2FL DECK, ELEVATOR & 3 BDRMS.
50'X72'X42'=10,428SF. SEE B430275 FOR
FOUNDATION. ZONE B
CBCA

BLDG. CODE: 1 AND 2 FAM. CODE

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD
250,000.00 EXISTING USE: FOUNDATION UNDER CONST B430275

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

USE: ONE FAMILY

FOUNDATION: CONCRETE

BASEMENT: FULL

SEWAGE: PUBLIC EXIST

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 23030SF

FRONT STREET:

SIDE STREET:

FRONT SETB: 138'

SIDE SETB: 10'/10'

SIDE STR SETB:

REAR SETB: 115'

DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT
NOTICE TO BUILDERS
IS PART OF THIS PERMIT

#5



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

abeyne miller

[Signature]
DIRECTOR

ELECTRICAL PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: E443666

XREF #: B432672

DIST: 15

PREC: 00

JOB LOCATION: 1501

SHORE RD

SUBDIVISION: BULL NECK

DATE ISSUED: 03/12/2001

OWNERS INFORMATION

NAME: FORTI, MICHAEL & GERALDINE

ADDR: 9 CHRIS ELIOT CT

OCCUPANT INFORMATION

NAME: OWNER

ADDR:

PHONE #:

APPLICANT INFORMATION

CUB HILL ELECTRIC

P.O. BOX 587

FALLSTON, MD. 21047030

PHONE #: 410-592-3301

LICENSE #: MG1

EXISTING METER #:

FOL

STRUCTURE USE: RESIDENTIAL

BUILDING:

INSPECTOR REQUESTED DATE:

DATE

ELECTRICAL INSPECTION BY BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT	
INSPECTOR	<i>[Signature]</i>
CONCEALED WIRING O.K. DATE	<i>Banding 4/13/01</i>
METER APPROVAL DATE	<i>[Signature]</i>
PLEASE CALL FOR FINAL APPROVAL DATE	<i>[Signature]</i>
PHONE 410-887-3960	

DETAIL OF WORK AND ADDITIONAL INFORMATION

WIRE NEW RESIDENCE WITH 400 AMPERE SERVICE

FEE: 80.00

ROUGH WIRING OUTLETS

LIGHT 54

SWITCH 58

RECEPT 100

LOW VOLTAGE

MISC

EQUIPMENT

54 FIXTURES

2

KW DRYER

400

AMP SERV EQUIPMT

400 AMP SERV CONDUCT

8

KW OVEN

1

KW GARBAGE

3 BRNR W/C

1

KW DISHWSH

6A

#6



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

PLUMBING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: P441953

CONTROL #: 441953

DIST: 15

PREC: 00

NUMBER OF FIXTURES

EX NEW REC REM

TYPE OF FIXTURES

NO.

@

TOTAL

000	000	000	000	LAVATORY	002	1.00	2.00
000	002	000	000	SINK/FOOD DISP/DW	002	3.00	6.00
000	002	000	000	WASHING MACHINE	002	3.00	6.00
000	002	000	000	BIDET	002	4.00	8.00
000	001	000	000	ICE MAKER	001	1.00	1.00
000	027	000	000	----- TOTALS -----	000	1.00	47.000

JOB NUMBER:

DRAWING NUMBER: 1940-778

REMARKS SD EX.MTR 04-088982-00-6 TO BE UPGRADED CONN

EXISTS. OTHERS TO INCLUDE 5 F/P, GENERATOR, DRYER

& POOL HTR. SEWER EJECTOR FOR BSMT ONLY. OK PER DAS

LINEAL FEET OF

SEWER LOCATION:

DEPTH 10'

HOUSE CONNECTION

Y BRANCH IS 1459

DEPTH 11'

BALTIMORE COUNTY, MARYLAND

Plumbing Inspection Division

DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT

Telephone 410-887-3620

Part Of Building Inspected:

Approved (X)

Disapproved ()

Remarks:

Date

Inspector

BALTIMORE COUNTY, MARYLAND

Plumbing Inspection Division

DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT

Telephone 410-887-3620

Part Of Building Inspected:

60 PSI TEST - Extension

Approved (X)

Disapproved ()

Remarks:

Date

Inspector



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B430279 CONTROL #: RS DIST: 15 PREC: 09
DATE ISSUED: 10/25/2000 TAX ACCOUNT #: 1523002660 CLASS: 34

PLANS: CONST 00 PLOT 4 R FLAT 0 DATA 0 ELEC YES PLUM NO
LOCATION: 1501 SHORE RD
SUBDIVISION: BULL NECK

OWNERS INFORMATION

NAME: FORTI, MICHAEL & GERALDINE
ADDR: 9 CHRIS ELIOT CT

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: INSTALL INGROUND POOL IN REAR YARD,
37'X16'=592SF, 3'-8" DEEP, SAND FILTER, FILL
BY TRUCK, POOL LETTER ATT'D, SEE B428168MR FOR
6' HIGH FENCE, FLOOD ZONE B, CBCA

BLDG. CODE: BOCA CODE

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

12,000 PROPOSED USE: FOUNDATION FOR FUTURE SFD/FENCE & POOL
EXISTING USE: SFD RAZED-B428828

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

USE: SWIMMING POOL

FOUNDATION:

BASEMENT:

SEWAGE: PUBLIC EXIST

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 23,030SF

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 10'/23'

SIDE STR SETB:

REAR SETB: 74'

#1
#7



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B480168 CONTROL #: MR DIST: 15 PREC: 09
DATE ISSUED: 04/03/2002 TAX ACCOUNT #: 1523002660 CLASS: 34

PLANS: CONST 00 PLOT 2 R PLAT 0 DATA 0 ELEC YES PLUM NO
LOCATION: 1501 SHORE RD
SUBDIVISION: BULL NECK

OWNERS INFORMATION
NAME: FORTI, MICHAEL & GERALDINE
ADDR: 1501 SHORE ROAD

TENANT:
CONTR: OWNER
ENGR:
SELLR:
WORK: CONSTRUCT FREE-STANDING GARAGE ON REAR OF
PROPERTY. 43'X25'X15'HIGH=1,075SF.CBCA
OK TO WAIVE CONST PLANS PER JMA

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & DETACHED GARAGE
EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: GARAGE
FOUNDATION: BLOCK BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 23,030SF
FRONT STREET:
SIDE STREET:
FRONT SETB: NC
SIDE SETB: 3'4"/42'
SIDE STR SETB:
REAR SETB: 34'

#2
TOWSON, MD
EX-100-0000
YEAR 1999
CITY OF BALTIMORE

49xiii



9B



9C



9D



1501 Shore Rd, Middle River, MD 21220

Imagery Date: 8/29/2010

© 2011 Google
© 2011 Europa Technologies

39°18'53.03" N 76°25'04.78" W elev 11 ft

© 2010 Google

Eye alt 510 ft



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Ref No
10
15#R

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620

Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. 0077343	Property No. 1523002660	Zoning: BCE 400.1
-------------------------------------	-----------------------------------	-----------------------------

Name(s): **Charles Castonovo**
Ingrid Castonovo

Address: **1501 Shore Rd.**

Violation Location: **1501 Shore Rd.**

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Baltimore County Zoning Regulations
BCZR 1955; Bill # 27-1963
SECTION 400, 400.1 Location
Lot Coverage.

Must File For VARIANCE
see permit B480168 - Construct
43'x25'x15' GARAGE in REAR YARD.
Records indicate this permit was
issued after permit B430279 was
issued FOR inground swimming pool on
opposite end of property - Regular
Variance with Public Hearing Required

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 12/6/2010	DATE ISSUED: 11/8/10
-----------------------------------	--------------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name **JAMES GARLAND**

INSPECTOR: **[Signature]**

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE:	DATE ISSUED:
---------------	--------------

INSPECTOR: _____

COVAHEY, BOOZER, DEVAN & DORE, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-828-9441

FAX 410-823-7530

Ret 11

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
FRANK V. BOOZER, JR.

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204
410-828-5525
FAX 410-296-2131

*ALSO ADMITTED TO D.C. BAR

September 3, 2010

Timothy M. Kotroco, Director
Permits & Development Management
111 W. Chesapeake Ave., Suite 105
Towson, Maryland 21204

Re: Zoning Permit Violations –
1501 Shore Road, Middle River, Maryland
Record Owner of Title: Charles Castronovo and Ingrid Castronovo

Dear Mr. Kotroco:

Please be advised this office represents Paul Godwin, the owner of that real estate located at 1452 Shore Road, which immediately abuts the above-referenced property to the northwest. Both the Godwin property at 1452 Shore Road and the Castronovo property at 1501 Shore Road front on Middle River. The Castronovo property at 1501 Shore Road is improved by a swimming pool located between the existing dwelling and Middle River, which I am advised was constructed without a building permit. In addition, the swimming pool is an accessory structure that was built in the front yard without a zoning variance in violation of §400.1 of the Baltimore County Zoning Regulations. To further compound the problem, the Castronovos have erected a large, oversized bench adjacent to the pool within several feet of the common property line, which obstructs the Godwins' view of Middle River. I know you are aware of what an idyllic setting Middle River is, and in order to preserve this area, it is respectfully requested that your office intervene with respect to correcting the Code violations referenced above.

The location of the pool also raises serious questions with respect to the Chesapeake Bay Critical Area law and the Rules and Regulations applicable thereto.

The intervention of the good graces of your office in investigating this matter would be sincerely appreciated.

Very truly yours,

Edward C. Covahey, Jr.

ECC/ldr
0820ldr01
cc: Paul Godwin



BALTIMORE COUNTY
MARYLAND

OVER
Ref 12

JAMES T. SMITH, JR.
County Executive

November 3, 2010

JONAS A. JACOBSON, *Director*
Department of Environmental Protection
and Resource Management

Mr. & Mrs. Castronovo
1501 Shore Road
Baltimore, MD 21220-5419

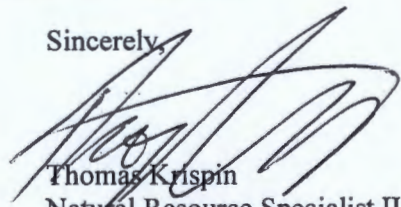
Re: 1501 Shore Road
Chesapeake Bay Critical Area Complaint

Dear Mr. & Mrs. Castronovo,

As you are aware, staff of this Department visited your property on November 1, 2010 to measure lot coverage and verify conformance with the Chesapeake Bay Critical Area (CBCA) Regulations. Your property is located in the Limited Development Area (LDA) and Buffer Management Area (BMA) of the CBCA. According to tax records, your lot measures 23,030 square feet. Grandfathered lots of similar size (between 21,781 – 36,300 square feet) are allowed a maximum of 5,445 square feet of lot coverage. The BMA program, which applies to heavily developed shoreline areas of the Critical Area, was developed to eliminate the need for variances for many buffer disturbances and to provide more expeditious review of building permits. An element of the BMA requirements includes no man made structures within the 25-foot buffer, with the exception of direct pier access. While certain structures are permitted within the 100-foot buffer, BMA regulations specify that adequate mitigation must be provided to offset the proposed impacts to the buffer (see attached).

Department personnel measured the lot coverage (via aerial photos) as 13,175 square feet, or 57% of the lot size. Your property measures 7,730 square feet over the maximum lot coverage. It was noted during the review that the house, pool, and garage all have building permits associated with their construction and the lot coverage has remained unchanged since you have owned the lot. Please note that while this Department is not requiring you to remove lot coverage at this time, if in the future you make modifications to structures and or all additional lot coverage (i.e. shed, sidewalk, paving, gravel) on your property your property will need to be brought into compliance with current CBCA laws. If you have any questions regarding these regulations or need further assistance, please contact me at (410) 887-3980.

Sincerely,



Thomas Krispin
Natural Resource Specialist II
Environmental Impact Review

Enclosures

J:\Tom K\Violation letters\1501shorerd-CA.doc

1208134

JD
6/11

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE
S/S Shore Road, 30' E
of Geranium Road
15th Election District
6th Councilmanic District
(1503 Shore Road)

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-471-SPHA

Marlene C. & Charles T. Acree
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commissioner on a Petition for Special Hearing and Petition for Variance for the property located at 1503 Shore Road in Middle River. The Petition was filed by Charles T. Acree and Marlene C. Acree, his wife. Special Hearing relief is requested to permit the construction of a detached accessory building (garage) which is larger than the existing dwelling (principal building). Variance relief is requested from Section 400 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed garage with a height of 23 ft. in lieu of the maximum permitted 15 ft. and to be located partially in the side yard in lieu of the required rear yard. The subject property and requested relief are more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Special Hearing and Variance.

Appearing at the requisite public hearing held for this case were the Petitioners, Charles T. Acree and Marlene C. Acree. There were no protestants or other interested persons present.

The subject property under consideration is a rectangularly shaped waterfront property located adjacent to Middle River in eastern Baltimore County. Vehicular access to the subject property is by way of Shore Road. The property is approximately 80 ft. in width and 325 ft. in depth. The property is 26,160 sq. ft. in area, zoned D.R.5.5. Mr. and Mrs. Acree have owned the

Prob 133

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
S side Shore Road, 18 feet W of c/l of
Geranium Place
15th Election District * DEPUTY ZONING COMMISSIONER
6th Councilmanic District * BALTIMORE COUNTY
(1503 Shore Road)
Charles Thomas and Marlene Carmen Acree
Petitioners * CASE NO. 07-406-A

* * * * *

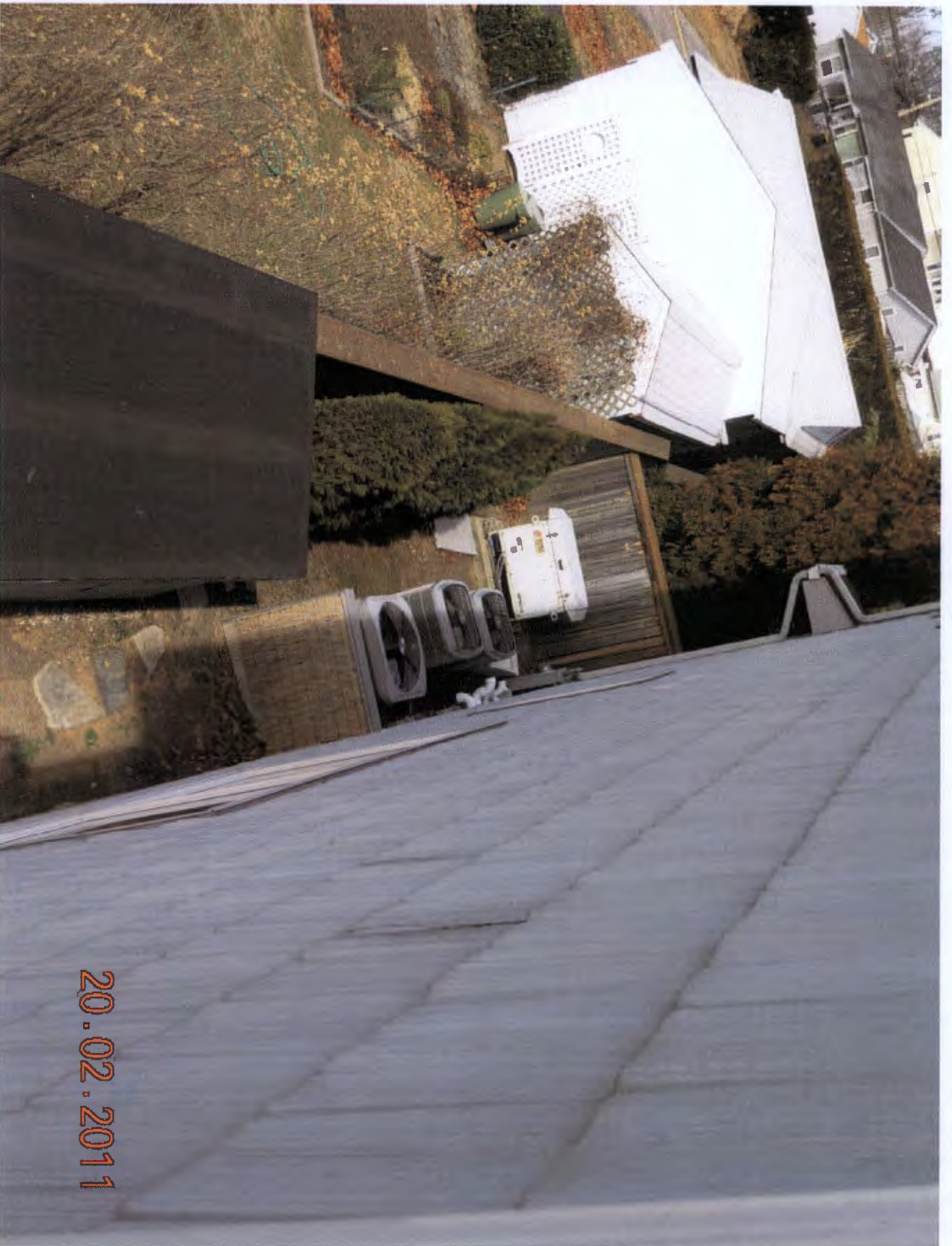
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Charles Thomas and Marlene Carmen Acree. The variance request is for property located at 1503 Shore Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (in-ground pool) in the front yard in lieu of the required rear yard. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners want to construct the in-ground pool in a location that allows privacy, sunshine and a view of the river. The neighbors at 1501 Shore Road have a pool in the front yard.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Department of Environmental Protection and Resource Management dated April 18, 2007 which contains restrictions, and from the Bureau of Development Plans Review dated March 19, 2007 which contains restrictions. Copies of these comments are incorporated herein and made a part hereof the file.

RECEIVED FOR FILE
4-30-07
P3



20.02.2011

Case No.:

2011-0222-A

Exhibit Sheet

Petitioner/Developer

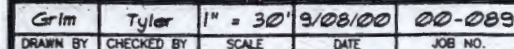
Protestants

No. 1	Deed to 1501 Shore Rd.	Plat to accompany pool application.
No. 2	Site Plan - Accompanying Petition	Letter to neighbor
No. 3	Photos A-S - Admitted	Photos → 3A re: Bench 3D-over-prop. line
No. 4	Bldg. Permits - Razing	ZC Policy Manual
No. 5	Bldg Permit - for SFD	
No. 6 + 6B	Permit - 6A Electrical SFD 3/2001	
No. 7	Permit - Permit - Pool 5/5/2001	
No. 8	Permit for Garage	
No. 9	Aerial Photographs 9A-D	
No. 10	County Code Citation	
No. 11	Covachy 9-3-10 letter	
No. 12	DEPRM 11-3-10 letter	

NO. 13 | A-03-471
B-07406 } VARIANCES

NO. 14 - Photo of fence + neighbor's garage

1) THIS PROPERTY LIES WITHIN FLOOD ZONES "A-10", "B" & "C":
ZONE "A-10", AREAS OF 100-YEAR FLOOD.
ZONE "B", AREAS BETWEEN 100-YEAR AND 500-YEAR FLOOD.
ZONE "C", AREAS OF MINIMAL FLOODING.
AS SHOWN ON F.I.R.M. MAP No. 240010 0435 B, EFFECTIVE 3/02/81.



Protestants
EX2

Saturday 26 Feb '11

Paul and Jeannie,

I was going to phone you. However, a brief note might be better.
You may or may not agree with any of this, but there is no harm in simply getting it said.

As you know our variance hearing is set for this Wednesday, 2 March.

Here's how things stand:

This conflict, however it turns out, will have exactly two losers and two winners.

LOSER # 1- US:

We are the biggest losers. Even if we "win" the variance, we lose.

Lots of money on legal issues. Plenty of worry and suffering.

We've been threatened with fines and imprisonment for something done by a total stranger 10 years ago.

LOSER #2 - YOU:

Even if you "win" in stopping our variance, you lose.

You will not get what you want.

Trees and pool furniture are not legal issues.

Our property will remain as it is.

Whatever you have spent on legal issues and your own fretting over this will ultimately yield nothing.

TWO WINNERS:

The two and ONLY winners are the lawyers Kovahey and Schmidt.

They get their fees from each of us, whatever the outcome.

THE FUTURE - You have a choice - EITHER:

1) You can further escalate the conflict by opposing or appealing the variance.

We will eventually prevail, whatever you do.

There are other ways to keep our property as it is.

Our privacy can be further enhanced very easily.

You have obvious zoning issues of your own, which we can pursue.

Once a zoning complaint is started, the citation process cannot be stopped.

We have NOT pulled the trigger on that un-stoppable process, in case you are wondering.

If the hearing and/or appeal process gets contentious, those issues may attract Zoning attention even without our pointing them out. You could find yourselves in a situation very much like ours.

OR

2) You can stop this conflict now, by not opposing or appealing the variance.

To sum up: You may have more to lose than to gain by continuing the conflict.

Please think it over. What happens next is up to you.

Charlie and Ingrid

410 780-6248





ZONING COMMISSIONER'S POLICY MANUAL

-TENTS - are permitted on a temporary basis for periods not exceeding 30 days for religious, educational or recreational uses.

-TRAILERS/TRUCKS - If originally constructed, fitted, designed, or used as a trailer, shipping container, truck body, or other similar vehicle are not permitted on residential property as principal or accessory structures such as sheds, garages, storage buildings or otherwise.

-UNUSUAL AND/OR LARGE STRUCTURES/USES not listed above or specifically exempted in 400.1.d below may be subject to a special hearing before the Zoning Commissioner:

(1) See the following cases:

- 83-259 (outdoor model train layout)
- 85-62-SPH (large greenhouse)

400.1.f - THINGS NOT CONSIDERED AS ACCESSORY and therefore not subject to the provisions of Section 400 B.C.Z.R.

- Air conditioning/heating units
- Bird baths
- Children's play equipment (not including treehouses/playhouses)
- Flag poles
- Handicapped access ramps
- Lawn furniture (moveable)

SECTION 400.2.a - ACCESSORY BUILDINGS - WATERFRONT SETBACKS

- (1) On all waterfront, when the proposed house fronts on the water, use the water as the front property line.
- (2) In D.R. zones the same maximum average setback requirements apply on waterfront.
- (3) In R.C. zones, the front yard requirement on the water would be the same as the street property line requirements based on a 50 ft. street.

SECTION 400.2.b - ACCESSORY BUILDINGS - SETBACKS FROM PAPER STREETS/ALLEYS

For the purposes of determining required setbacks, unimproved (paper) streets or alleys shall be considered the same as existing (improved) streets. The same shall apply to corner lots regarding the placement of accessory buildings. The applicant has the option of either petitioning for a variance or a road closing. To initiate a road closing procedure, a person should contact:

Law Office	887-4420
Bureau of Land Acquisition	887-3252

PROTESTANT' S

EXHIBIT NO. 4

Plat to Accompany Petition for Variance

Property Address:
1501 Shore Road

Plat of Bill Neck -

Plat Book W.P.C. No 4
10/10-172

Deed Reference: 0023652
620

OWNERS-

Charles CASTRONOVO

Ingrid CASTRONOVO (wife)

Prepared by: Charles Castonovo

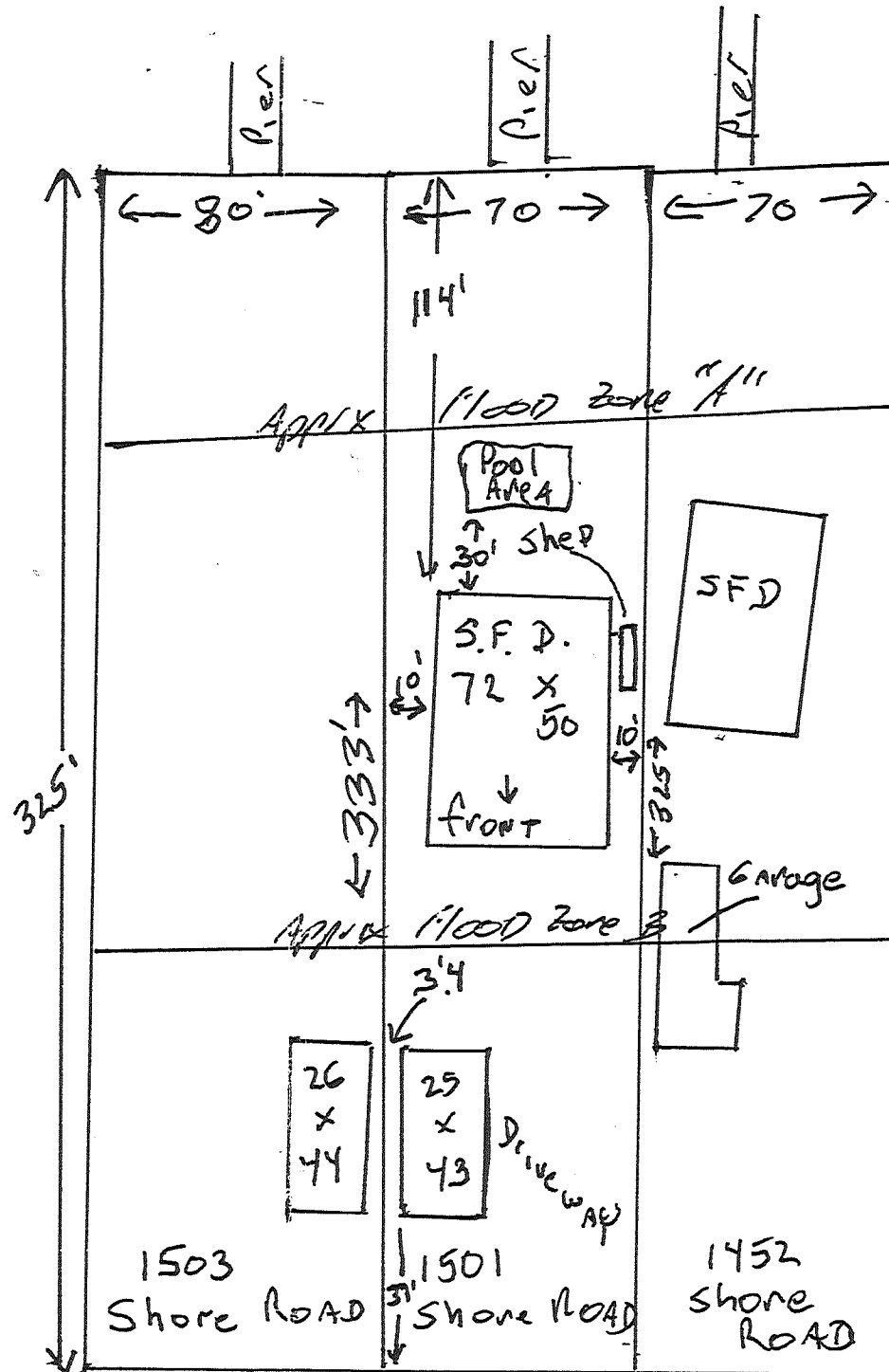


1 inch = 50 feet

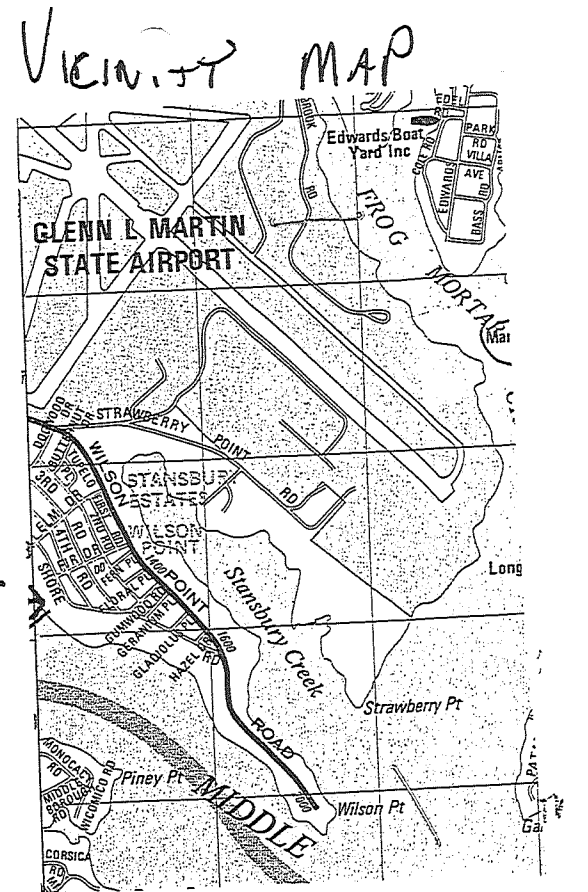
PETITIONER'S

EXHIBIT NO. 2

Middle River



Shore Road
21' PAVING, 30' R/W



Site

Location Information:

Election District - 15th

Councilmanic District - 6th

Zoning - D.R. 5.5

Lot Size - 22,920[±] sq ft
1.52 acres [±]

Chesapeake Bay
Cultural Area - Yes

Historic Bldg/Property:
No

Prev Zoning
Hearings - None Known

Water - Public
Sewer - Public