

IN RE: PETITION FOR ADMIN. VARIANCE

SW side of Chesapeake Avenue, N
of Chester Avenue
15th Election District
6th Councilmanic District
(1320 Chesapeake Avenue)

Robert James Evans
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* Case No. 2012-0097-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owner of the subject property, Robert James Evans for property located at 1320 Chesapeake Avenue. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (pole building) with a height of 20 feet in lieu of the permitted 15 feet height. The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1. Petitioner proposes to construct an accessory structure measuring 30 feet x 40 feet x 20 feet high. The structure height is needed to comply with the Baltimore County maximum snow weight requirement of 30 lbs. per square foot. The adjacent property at 1318 Chesapeake Avenue (Case No. 04-117-A) was also granted an Administrative Variance for an accessory structure 20 feet high.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated October 20, 2011, which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code

ORDER RECEIVED FOR FILING

Date 11-8-11

By [Signature]

which adopts the International Building Code. Comments were received from the Department of Environmental Protection and Sustainability dated November 2, 2011. DEPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area lot coverage requirements. The applicant is proposing to exceed the height limits for a shed. To minimize impacts on water quality, lot coverage requirements must be met. Additional storage on a second level, rather than an expanded footprint, help reduce lot coverage. By meeting the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is waterfront, but the proposed shed is not within the 100-foot buffer. It is unclear from the applicant's plan accompanying this zoning petition whether the requested relief will exceed the lot coverage limit on site. If the proposal does not exceed lot coverage limits, it will help conserve fish habitat in Middle River.
3. If lot coverage limits are met, then the applicant's proposal is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 16, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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

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Date 11-8-11

2

By [Signature]

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 8th day of November, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (pole building) with a height of 20 feet in lieu of the permitted 15 feet height, be and is hereby GRANTED, subject to the following:

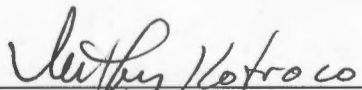
1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The 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.
3. The accessory structure shall not be used for commercial purposes.
4. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated October 20, 2011, and the Department of Environmental Protection and Sustainability dated November 2, 2011; copies of which are attached hereto and made a part hereof.
5. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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By 

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

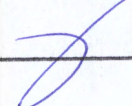


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

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Date 11-8-11

By 

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For October 31, 2011
Item No. 2012-0097

DATE: October 20, 2011

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

The base flood elevation for this site is 8.5 feet [NAVD 88].

The flood protection elevation is 9.5 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

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

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

DAK:CEN
cc: File
ZAC-ITEM NO 12-0097-10312011.doc

ORDER RECEIVED FOR FILING

Date 11-8-11

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 02 2011



OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: November 2, 2011

SUBJECT: DEPS Comment for Zoning Item # 2012-0097-A
Address 1320 Chesapeake Avenue
(Evans Property)

Zoning Advisory Committee Meeting of October 17, 2011.

DEPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area lot coverage requirements. The applicant is proposing to exceed the height limits for a shed. To minimize impacts on water quality, lot coverage requirements must be met. Additional storage on a second level, rather than an expanded footprint, help reduce lot coverage. By meeting the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal impacts to water quality.
2. This property is waterfront, but the proposed shed is not within the 100-foot buffer. It is unclear from the applicant's plan accompanying this zoning petition whether the requested relief will exceed the lot coverage limit on site. If the proposal does not exceed lot coverage limits, it will help conserve fish habitat in Middle River.
3. If lot coverage limits are met, then the applicant's proposal is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

Reviewer: Regina Esslinger

Date: October 31, 2011

ORDER RECEIVED FOR FILING

Date 11-8-11

By [Signature]



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County for the property located at 1320 Chesapeake Ave Middle River, Md 21220 which is presently zoned DR 3.5

Deed Reference: 180 15 100003 Tax Account # 180 000 12 779

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3; BCZR, to permit an accessory structure with a height of 20 ft. in lieu of the permitted 15 ft.

pole bldg

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

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

Legal Owner(s):

Robert James Evans

Name - Type or Print

Signature

Name - Type or Print

Signature

1320 Chesapeake Ave 410-335-7158

Address

Telephone No.

Middle River, Md. 21220-4300

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

Case No. 2012-0097-A

Reviewed By [Signature]

Date 10.5.11

ORDER RECEIVED FOR FILING

Estimated Posting Date

10.16.11

FRM476_09

Date 11-8-11

By [Signature]

Rev 3/09

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently own and reside at 1320 Chesapeake Ave.
Address number Road or Street name

and that this address is the subject of this variance request as required by law.

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

Request is Attached

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

Robert James Evans Jr
Signature

Robert James Evans
Name- print or type

Signature

Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 28 day of September, 2011, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

(Name Affiant(s) here): ROBERT J. EVANS JR
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Kathy E. Davis

KATHY E. DAVIS
Name of Notary Public

05.02.2012
Commission expires

Balto. Co. Md

PLACE SEAL HERE



20110928 + 1009 + 10102

Request for Administrative Variance Statement

I am requesting a 20 foot height variance at 1320 Chesapeake Ave. Middle River, MD. 21220-4300 for a new prefabricated Pole building kit to be built. The 20 foot height is needed to comply with Baltimore county maxim snow weight requirement of 30 lbs. per square foot. As well as the kit cannot be modified without a major cost increase that I will not be able to afford. The people owning the lot next to me (lot 167) got a variance and put up a new building a few years ago and it is 20' tall.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
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Item No. 2012-0097

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DAK:CEN
cc: File
ZAC-ITEM NO 12-0097-10312011.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 02 2011



OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: November 2, 2011

SUBJECT: DEPS Comment for Zoning Item # 2012-0097-A
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Reviewer: Regina Esslinger

Date: October 31, 2011

CERTIFICATE OF POSTING
CERTIFICATE OF POSTING

RE: CASE NO: 2012-0097

PETITIONER/DEVELOPER ROBERT
EVANS

DATE OF HEARING/CLOSING: _____
10/31/11

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT 1320 CHESAPEAKE AVE

THIS SIGN(S) WERE POSTED ON October 16, 2011
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)
60 CHELMSFORD COURT
BALTIMORE, MD 21220
(ADDRESS)
PHONE NUMBER: 443-629-3411



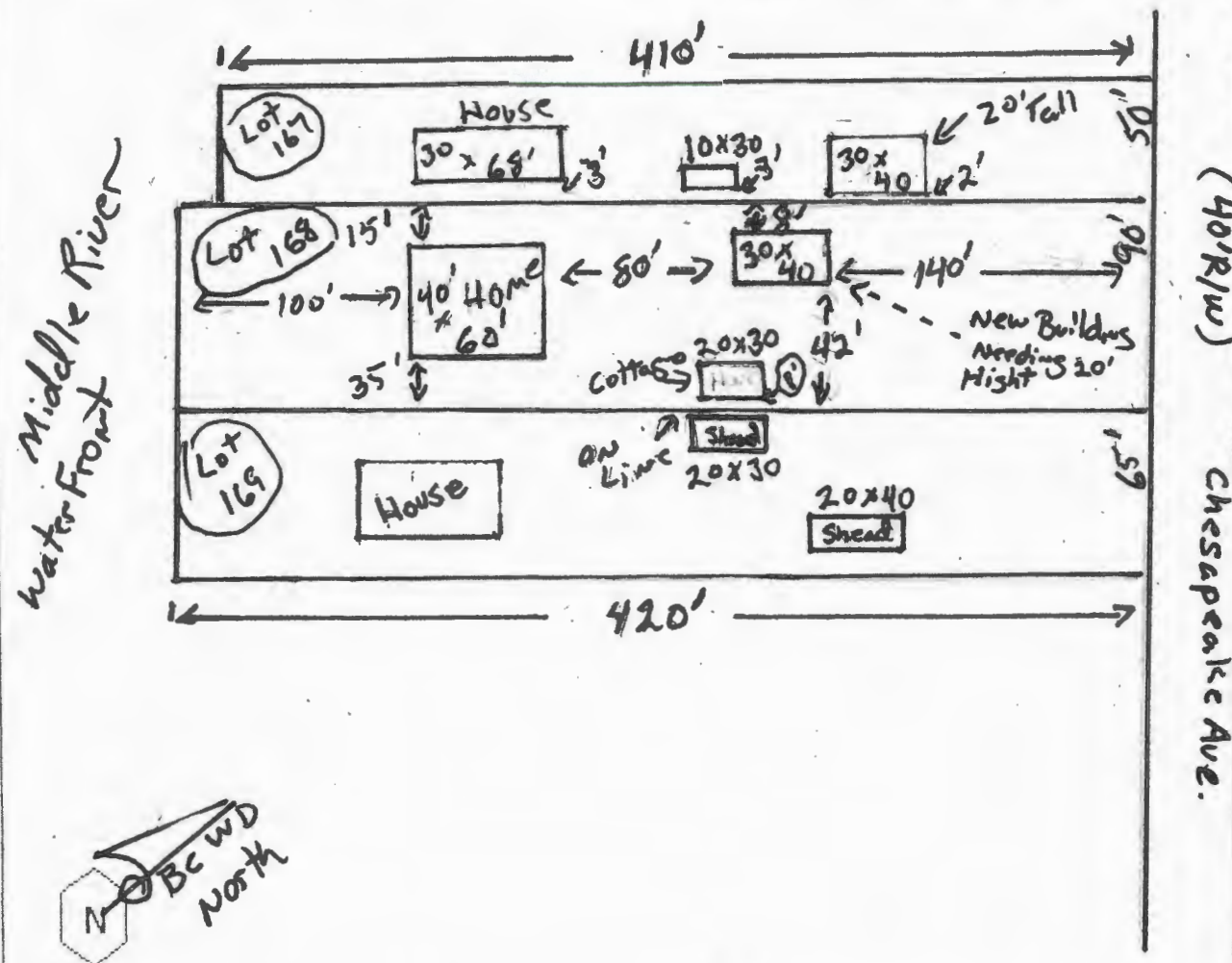
Martin Ogle 10/16/11

ZONING HEARING PLAN FOR VARIANCE x FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

ADDRESS 1320 Chesapeake Ave. OWNER(S) NAME(S) Robert J. Evans

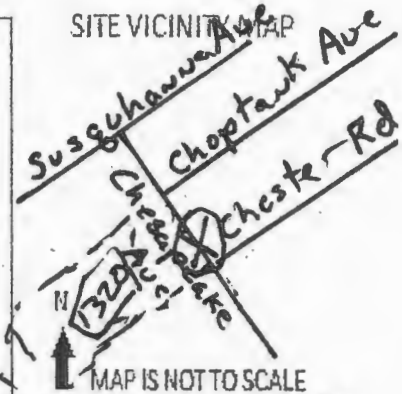
SUBDIVISION NAME Long Beach Estates LOT # 168 BLOCK # _____ SECTION # _____

PLAT BOOK # 4 FOLIO # 131 10 DIGIT TAX # 1800012779 DEED REF. # 18015 / 000013



PLAN DRAWN BY Robert J. Evans DATE 9-18-11 SCALE: 1 INCH = 80 FEET

SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP# 098B1

SITE ZONED DR 3.5

ELECTION DISTRICT 6CD

COUNCIL DISTRICT _____

LOT AREA ACREAGE 37,440

OR SQUARE FEET 160

HISTORIC? NO

IN CBCA? YES

IN FLOOD PLAIN? _____

UTILITIES? MARK WITH X

WATER IS:

PUBLIC x PRIVATE _____

SEWER IS:

PUBLIC x PRIVATE _____

PRIOR HEARING? NO

IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW

VIOLATION CASE INFO: