

M E M O R A N D U M

DATE: August 7, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2013-0299-A Appeal Period Expired

The appeal period for the above-referenced case expired on August 5, 2013. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: / Case File
Office of Administrative Hearings

IN RE: PETITION FOR ADMIN. VARIANCE *

15th Election District

6th Councilmanic District *

(3905 Goose Harbor Road)

Christy and Timothy J. Layte, Sr. *

Petitioners *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2013-0299-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Christy and Timothy J. Layte, Sr., for property located at 3905 Goose Harbor Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit an accessory structure (swimming pool) to be located outside of the third of the lot farthest from any street. The subject property and requested relief are more particularly described on Petitioners' Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on July 3, 2013, indicating that Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. Section 500.14. In addition, a ZAC comment was received from the Bureau of Development Plans Review (DPR) dated June 21, 2013 indicating that Petitioners must comply with Baltimore County's various floodplain regulations and building code requirements.

ORDER RECEIVED FOR FILING

Date 7-5-13

By ISW

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 11, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the 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.

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 5th day of July, 2013 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit an accessory structure (swimming pool) to be located outside of the third of the lot farthest from any street, be and is hereby GRANTED, subject to the following:

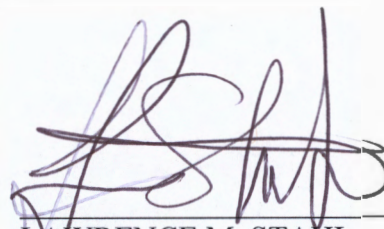
1. The Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners must comply with the ZAC comments from DEPS and DPR; copies attached and made a part hereof.

ORDER RECEIVED FOR FILING

Date 7-5-13

By [Signature]

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

A handwritten signature in purple ink, appearing to read 'L. Stahl', is written over a horizontal line.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

ORDER RECEIVED FOR FILING

Date 7-5-13

By DLW



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 5, 2013

Christy Layte
Timothy J. Layte, Sr.
3905 Goose Harbor Road
Baltimore, Maryland 21220

RE: **PETITION FOR ADMINISTRATIVE VARIANCE**
(3905 Goose Harbor Road)
Case No. 2013-0299-A

Dear Mr. and Mrs. Layte:

Enclosed please find a copy of the decision rendered in the above-captioned matter

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Very truly yours,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over the typed name "LAWRENCE M. STAHL".

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw
Enclosure

c: David Billingsley, 601 Charwood Court, Edgewood, MD 21040

CBCA



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 3905 GOOSE HARBOR RD which is presently zoned RC5
 Deed Reference L 28133 F 438 10 Digit Tax Account # 1519713510
 Property Owner(s) Printed Name(s) CHRISTY LAYTE & TIMOTHY J. LAYTE SR.

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

Administrative Variances require that the Affidavit on the reverse of this Petition Form be completed / notarized.

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

1. ☒ **ADMINISTRATIVE VARIANCE** from section(s) 400.1 TO PERMIT AN ACCESSORY STRUCTURE (SWIMMING POOL) TO BE LOCATED OUTSIDE OF THE THIRD OF THE LOT FARTHEST FROM ANY STREET.

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

2. ☐ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Sections 32-4-107(b), 32-4-223.(8), and Section 32-4-416(a)(2): (indicate type of work in this space to raze, alter or construct addition to building)

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 petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners:

CHRISTY LAYTE, TIMOTHY J. LAYTE SR.

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

3905 GOOSE HARBOR RD BALTO MD

21220 (410) 491-1804

Zip Code Telephone # Email Address

Representative to be contacted:

DAVID BILLINGSLEY

Name - Type or Print

Signature

601 CHARWOOD CT. EDGEWOOD MD

21040 (410) 679-8719 dwb0209@yahoo.com

Zip Code Telephone # Email Address

A PUBLIC HEARING having formally demanded and/or found to be required, it is ordered by the Office of Administrative Law, of Baltimore County, this 7-5-13 day of July, 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.

Administrative Law Judge of Baltimore County

CASE NUMBER 2013-0299-A Filing Date 6/7/13 Estimated Posting Date 6/16/13 Reviewer AT

~ 7/1/13

Rev 10/12/11

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury to the Administrative Law Judge of Baltimore County, the following: That the information herein given is within the personal knowledge of the Affiant(s) and that the 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 property is not under an active zoning violation citation and Affiant(s) is/are the resident home owner(s) of this residential lot, or is/are the contract purchaser(s) of this residential lot, who will, upon purchase, reside at the existing dwelling on said property located at:

Address: 3905 GOOSE HARBOR RD BALTO. MD. 21220
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts which I/we base the request for an Administrative Variance at the above address. (Clearly state practical difficulty or hardship here)

SEE ATTACHED

(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

Christy Layte
Signature of Affiant
CHRISTY LAYTE
Name- Print or Type

Timothy J. Layte, Jr.
Signature of Affiant
TIMOTHY J. LAYTE, JR
Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF HARFORD to wit:

I HEREBY CERTIFY, this 6 day of June 2013, before me a Notary of Maryland, in and for the County aforesaid, personally appeared CHRISTY LAYTE AND TIMOTHY J. LAYTE, SR.

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s) (Print name(s) here)

AS WITNESS my hand and Notaries Seal



Diann C. Harmon
Notary Public

11/21/15
My Commission Expires

PRACTICAL DIFFICULTY OR HARDSHIP
3905 GOOSE HARBOR ROAD

The Petitioners purchased the referenced property and constructed a new dwelling in 2009. As part of the permit process they were required to locate existing wetland areas on the property and establish a Critical Area Easement to protect those areas. Subsequently, a Declaration of Protective Covenants and Restrictions was prepared and recorded in the Baltimore County Land Records in Liber 26965 Folio 721. The Critical Area Easement is shown on the Plat To Accompany The Administrative Variance Petition. The third of the lot farthest from any street is also shown with cross hatching. The cross hatched area is entirely within the Critical Area Easement, therefor, the pool cannot be constructed within the third of the lot farthest from any street.

Short of the above, the Petitioners would like to construct the proposed pool in the rear of the existing dwelling in a location which will not be visible to adjacent residences. Under normal circumstances, with the property not being a corner lot, the proposed location would meet the County regulations in that it will be located to the rear of the existing dwelling.

Construction of the pool in the location as proposed, will not require removal of existing trees within the Chesapeake Bay Critical Area.

ZONING DESCRIPTION
3905 GOOSE HARBOR ROAD

Beginning at a point formed by the intersection of the south side of Goose Harbor Road (30 feet wide) with the east side of Miami Beach Road (30 feet wide) thence:

- (1) N° 74 14' E 320.28 feet, thence
- (2) S 47° 28' 10" E 202.35 feet, thence
- (3) S 42° 33' 50" W 312.61 feet, thence
- (4) N 50° 47' W 50.98 feet, thence
- (5) N 39° 48' 30" W 322.50 feet to the place of beginning.

Containing 87,037 square feet or 2.00 acres of land, more or less.

Being known as 3905 Miami Beach Road. Located in the 15TH Election District, 6TH Councilmanic District of Baltimore County, Maryland.

2013-0299-A

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2013- 0299 -A Address 3905 GOOSE HARBOR ROAD

Contact Person: AARON TSUI Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 6/7/13 Posting Date: 6/16/13 Closing Date: 07/01/13

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

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

(Detach Along Dotted Line)

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

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2013- 0299 -A Address 3905 GOOSE HARBOR ROAD

Petitioner's Name TIMOTHY LAYTE Telephone 410-491-1804

Posting Date: 6/16/13 Closing Date: 07/01/13

Wording for Sign: To Permit AN ACCESSORY STRUCTURE (SWIMMING POOL)
IN THE REAR YARD OUTSIDE OF THE THIRD OF THE LOT
FARTHEST REMOVED FROM ANY STREET

Revised 7/06/11

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

No. 099636

Date: 6/7/13

PAID RECEIPT

BUSINESS ACTUAL TIME DPM
6/10/2013 6/07/2013 09:07:51 2

REC US02 WALKIN JENN JEE
>>RECEIPT # 827319 6/07/2013 OFM

Dept 5 526 DRUGS VERIFICATION
TR NO. 099636

Recpt Tot \$75.00
\$75.00 CR 4.00 CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150						\$75-

Total: \$75-

Rec From:

TIMOTHY LAYTE

For:

3905 GOOSE HARBOR RD

2013-0299-A

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

CERTIFICATE OF POSTING

June 13, 2013

Re:

Case Number: 2013- 0299-A

Petitioner / Developer: Timothy Layte

Date of Closing: July 01, 2013

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

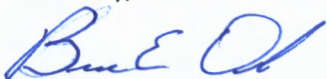
Attention: Kristen Lewis

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 **3905 Goose Harbor Road**.

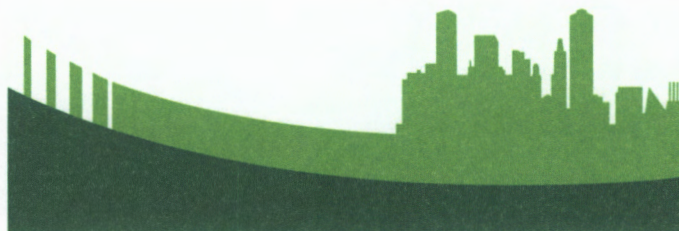
The sign(s) were posted on **June 11, 2013**.

Sincerely,



Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)



Land Use Expert and Surveyor

ZONING NOTICE

ADMINISTRATIVE VARIANCE

CASE NO. 2013-0299-A

**REQUEST: TO PERMIT AN ACCESSORY
STRUCTURE (SWIMMING POOL) IN THE REAR YARD
OUTSIDE OF THE THIRD OF THE LOT FARTHEST
REMOVED FROM ANY STREET.**

PUBLIC HEARING?

**PURSUANT TO SECTION 26-127(b)(1) BALTIMORE
COUNTY CODE, AN ELIGIBLE INDIVIDUAL OR GROUP
MAY REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED IT IS DONE
IN THE ZONING OFFICE BEFORE ~~JUNE~~ 01, 2013.**

JULY

**ADDITIONAL INFORMATION IS AVAILABLE AT ZONING
ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVENUE TOWSON, MD 21204
410-887-3391**

ZONING NOTICE

ADMINISTRATIVE VARIANCE

CASE NO. 2013-0299-A

**REQUEST: TO PERMIT AN ACCESSORY
STRUCTURE (SWIMMING POOL) IN THE REAR YARD
OUTSIDE OF THE THIRD OF THE LOT FARTHEST
REMOVED FROM ANY STREET.**

PUBLIC HEARING?

**PURSUANT TO SECTION 20-127(b)(1) BALTIMORE
COUNTY CODE, AN ELIGIBLE INDIVIDUAL OR GROUP
MAY REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED IT IS DONE
IN THE ZONING OFFICE BEFORE ~~JUNE~~ JULY 01, 2013.**

**ADDITIONAL INFORMATION IS AVAILABLE AT ZONING
ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVENUE TOWSON, MD 21204
410-587-3331**

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
<u>7-3</u>	DEPS (if not received, date e-mail sent <u>7-3</u>)	<u>C</u>
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
<u>6-17</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 07-0495-SHA)

NEWSPAPER ADVERTISEMENT Date: _____

SIGN POSTING Date: 6-11-13 by Dook

PEOPLE'S COUNSEL APPEARANCE Yes ☐ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____



KEVIN KAMENETZ
County Executive

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

July 2, 2013

Christy & Timothy J. Layte Sr.
3905 Goose Harbor Road
Baltimore MD 21220

RE: Case Number: 2013-0299 A, Address: 3905 Goose Harbor Road

Dear Mr. & Ms. Layte:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 7, 2013. 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 that reads "W. Carl Richards, Jr." The signature is fluid and cursive.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
David Billingsley, 601 Charwood Court, Edgewood MD 21040

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 24, 2013
Item No. 2013-0299

DATE: June 21, 2013

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.

DAK: CEN.
Cc: file.
ZAC-ITEM NO 13-0299-06242013.doc

BALTIMORE COUNTY, MARYLAND

RECEIVED

Inter-Office Correspondence

JUL 03 2013

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: July 3, 2013

SUBJECT: DEPS Comment for Zoning Item # 2013-0299-A
Address 3905 Goose Harbor Road
(Layte Property)

Zoning Advisory Committee Meeting of June 17, 2013.

EPS 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. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. The applicant is proposing to allow a pool outside of the third of the lot located farthest from the street. The lot is not waterfront but there are non-tidal wetlands on site within a recorded Critical Area Easement. The proposed pool is outside of the Easement. Current lot coverage is well below the limit of 15%. The pool is within the allowable limits. No forest clearing is proposed. Therefore, the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is not waterfront. The pool will not exceed lot coverage limits nor require the removal of any trees or forest. Therefore, the proposal will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the

ORDER RECEIVED FOR FILING

Date 7-5-13

By [Signature]

fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

The proposal is consistent with lot coverage and forest requirements, so the relief requested will be consistent with established land-use policies.

Reviewer: *Regina Esslinger – Environmental Impact Review (EIR)*

ORDER RECEIVED FOR FILING

Date 7-5-13

By ES

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 June 24, 2013
Item No. 2013-0299

DATE: June 21, 2013

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.

DAK: CEN.
Cc: file.
ZAC-ITEM NO 13-0299-06242013.doc

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Date 7-5-13

By low



State Highway
Administration

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

Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6/17/13

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

RE: Baltimore County
Item No 2013-0299-A
Administrative Variance
Christy & Timothy J. Layton
3905 Goose Harbor Road.

Dear Ms. Lewis:

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. 2013-0299-A.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us).

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/raz

Debra Wiley - Re: 2013-0299-A (Admin. Var. Closing Date: 7/1/13)

From: Jeffrey Livingston
To: Wiley, Debra
Date: 7/3/2013 11:21 AM
Subject: Re: 2013-0299-A (Admin. Var. Closing Date: 7/1/13)

I'll see what I can do.

>>> Debra Wiley 7/3/2013 11:21 AM >>>
Hi Jeff,

In reviewing the above referenced case, there appears to be no ZAC comment in the file from your department. It is located in CBCA area and the address is 3905 Goose Harbor Road, 21220.

Thanks in advance.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

IN RE: **PETITIONS FOR SPECIAL HEARING ***
AND VARIANCE

S/Side Goose Harbor Road, Corner of *
Side of Miami Beach Road *
(3905 Goose Harbor Road)

15th Election District *
6th Council District *

Christy Layte *
Petitioner *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-495-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owner of the subject property, Christy Layte. The Petitioner requests variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory building (existing garage and storage building) to be located in a side yard in lieu of the rear yard in the required third of the lot furthest removed from any street. In addition, special hearing relief is requested to permit a principal building (single-family dwelling) to be situated 57 feet (front) and 52 feet (side) from the centerline of a street or road in lieu of the required 75 feet, pursuant to B.C.Z.R. Section 1A04.3.B.2.b. The subject property and requested relief are more particularly described on the amended site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing held in support of the request was David Billingsley of Central Drafting and Design, Inc., the consultant who prepared the revised site plan, dated July 13, 2007, for this property. There were no Protestants or other interested persons present.

Testimony and evidence offered disclosed that the subject property is an irregularly shaped parcel approximately 2 acres in area (87,037 square feet), zoned R.C.5 and located in Bowleys Quarters, not far from the Chesapeake Bay. The property is a corner lot positioned at the end of Miami Beach Road at its intersection with Goose Harbor Road. Given its unique configuration, the property has 320 feet of frontage on Goose Harbor Road and 373 feet along Miami Beach Road. The property is served by public water and sewer. Wetlands with extensive forest buffer encompass over 40% of the lot on the northeast side of the existing 1-story home built by the Petitioner's father in 1960. When Ms. Layte's father died in 2005, she inherited the property and improvements (*See* Petitioner's Exhibit 2 – Deed of Record). She now desires to raze the existing home and build a new 1-1/2 story structure (*See* Building Elevations submitted as Petitioner's Exhibit 4) in the same location. As shown on the site plan, she wishes to retain the existing garage and storage building that will be reconditioned and re-sided so that the exterior will match the architectural exterior of the new home and give the accessory structures a residential appearance. In addition to the environmental constraints noted above, the rear of the buildable site area is covered with mature trees which in the spirit of saving the trees, Ms. Layte has filed the petition for special hearing rather than relocating the home further back in the forested area of the lot. As a result of this configuration, the northeast and southeast corners of the new home will be located within 57 and 52 feet respectively from the centerline of the roadways. In this regard, the Petitioner has the support of her neighbors and the Bowleys Quarters Community Association. Mike Vivirito, the association's president, visited the site and reviewed the plans and has no objection. Moreover, the Office of Planning finds the proposal to be in accordance with the spirit and intent of the R.C.5 regulations and performance standards outlined in Council Bill 55-04.

After due consideration of the testimony and evidence presented, I am persuaded to grant both the variance relief and the special hearing request to allow the home to be positioned closer to the street centerline than permitted. I must consider the request in accordance with the mandate of *Cromwell v. Ward*, 102 Md. 691 (1995) and Section 307 of the B.C.Z.R. The Court interpreted the regulation to require that two tests be met in order for variance relief to be granted. First, it must be shown that the property is unique in some manner and that this uniqueness drives the need for variance relief. Secondly, upon the determination that the property is unique, then it must be considered whether compliance with the regulation would cause a practical difficulty upon the property owner and be unnecessarily burdensome. In my judgment, there was evidence of unusual conditions or characteristics that are unique to this lot, namely, the environmental constraints and preservation of mature trees. It was demonstrated at the hearing that the trees would need to be sacrificed if not for the sensitive placement of the dwelling. An area variance may be granted where strict application of the zoning regulations would cause practical difficulty or undue hardship to the Petitioner and her property. See *McLean v. Soley*, 270 Md. 208 (1973). I am convinced that practical difficulty would result if B.C.Z.R. Section 400.1 was strictly adhered to. I find that the required finite location of the garage and storage building is appropriate in this instance and within the spirit and intent of the zoning regulations and will not be out of character with the other homes in the area. It has been established that special circumstances exist in this case and that the relief requested will not cause any injury to the public health, safety or general welfare.

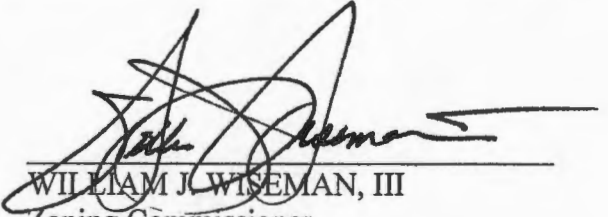
Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of July, 2007 that the Petition for Special Hearing approve a principal building (single-family dwelling) to be situated 57 feet (front) and 52 feet (side) from the centerline of a street or road in lieu of the required 75 feet, pursuant to Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance to permit an accessory building (existing garage and storage building) to be located in a side yard in lieu of the rear yard in the required third of the lot furthest removed from any street, pursuant to Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at her own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioner shall provide elevations of the garage, storage building and the remaining sides of the dwelling to the Office of Planning for review and approval prior to the issuance of any building permits. Garage doors shall be given additional architectural detail to provide for a more residential character.
- 3) Compliance with the ZAC comments submitted by the Department of Environmental Protection and Resource Management (DEPRM) and the Bureau of Development Plans Review relative to Chesapeake Bay Critical Area regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations for the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated July 10, 2007 and May 8, 2007 respectively, have been attached hereto and made a part hereof.
- 4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the
Baltimore County Code.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

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Account Identifier:

District - 15 Account Number - 1519713510 ✓

Owner Information

Owner Name: LAYTE CHRISTY
LAYTE TIMOTHY J SR
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 3905 GOOSE HARBOR RD
BALTIMORE MD 21220-4017
Deed Reference: 1) /28133/ 00438
2)

Location & Structure Information

Premises Address
3905 GOOSE HARBOR RD
0-0000

Legal Description
2 AC
3905 GOOSE HARBOR RD SES
SE COR MIAMI BEACH R

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0098	0006	0026		0000				3	Plat Ref:

Special Tax Areas
Town NONE
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2009	2,380 SF	2.0000 AC	04

Stories	Basement	Type	Exterior
	NO	STANDARD UNIT SIDING	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	142,800	142,700		
Improvements:	298,100	212,600		
Total:	440,900	355,300	355,300	355,300
Preferential Land:	0			0

Transfer Information

Seller: LAYTE CHRISTY	Date: 05/27/2009	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /28133/ 00438	Deed2:
Seller: STABILE JOSEPH H	Date: 06/29/2005	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /22134/ 00280	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

Homestead Application Information

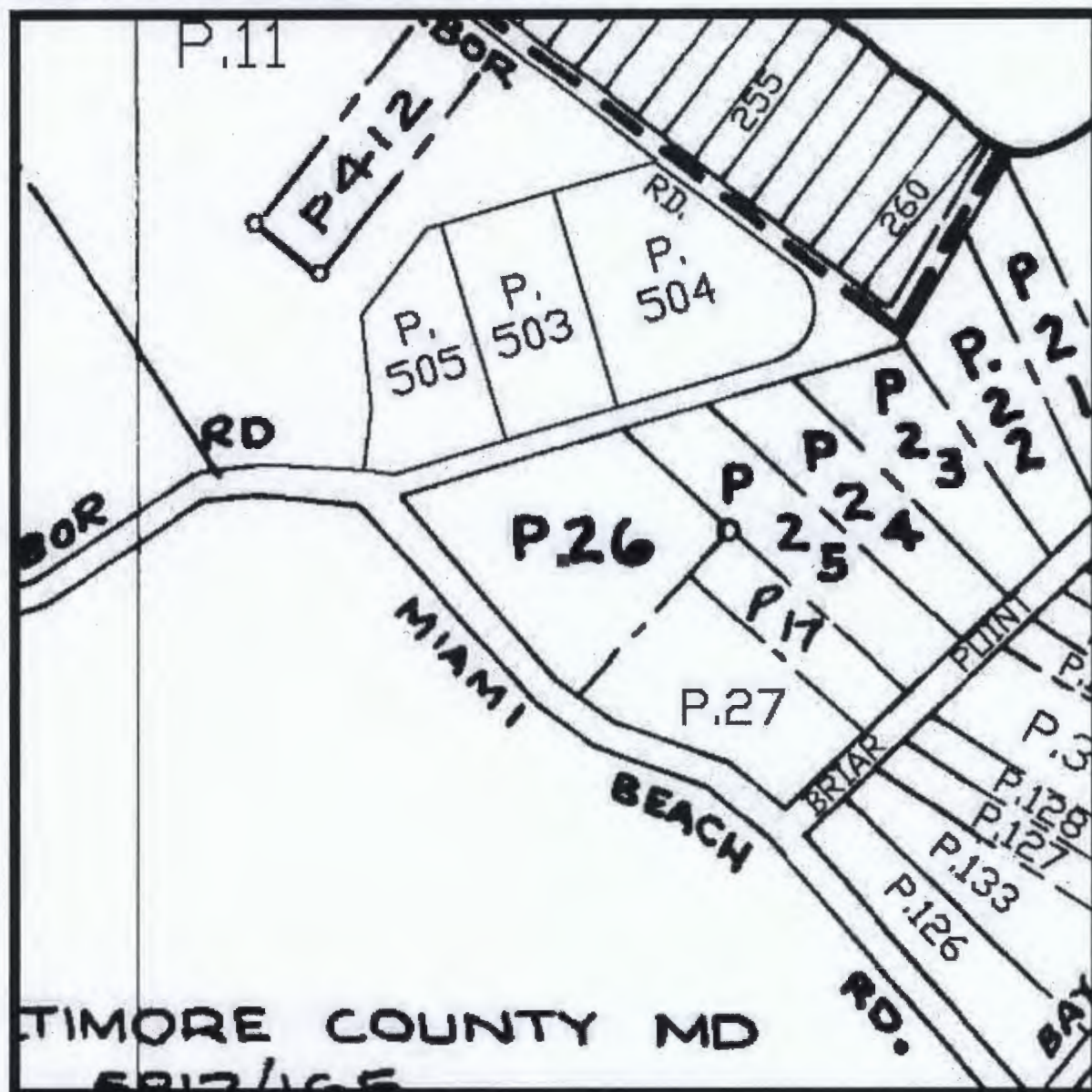
Homestead Application Status: Approved 11/15/2010



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District - 15 Account Number - 1519713510



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

Property maps provided courtesy of the Maryland Department of Planning ©2011.
 For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml



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②



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