

M E M O R A N D U M

DATE: May 11, 2018
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-0226-A - Appeal Period Expired

The appeal period for the above-referenced case expired on May 10, 2018. 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 *
(2 Farnham Way)
8th Election District *
3rd Council District *
Karen M. Barry *
Petitioner *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2018-0226-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owner of the property, Karen M. Barry (“Petitioner”). The Petitioner is requesting Variance relief from §§ 1B01.2.C.2 (V.B.5.a & V.B.5.b) and 303.1 of the Baltimore County Zoning Regulations (“BCZR”), to permit an open projection (deck) with a side yard to tract boundary setback of 20 ft. in lieu of the required 30 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

It is to be noted that this administrative variance case closed on March 26, 2018 but was not received by OAH until April 5, 2018; the whereabouts of the case file between these dates is unknown.

Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. There were no adverse ZAC comments from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 11, 2018, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING

Date 4-10-18

By DW

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the BCC. Based upon the information available, there is no evidence in the file to indicate that the side and front yard setback variances 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 BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

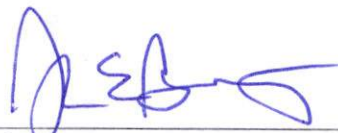
Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 10th day of **April, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B01.2.C.2 (V.B.5.a & V.B.5.b) and 303.1 of the Baltimore County Zoning Regulations ("BCZR"), to permit an open projection (deck) with a side yard to tract boundary setback of 20 ft. in lieu of the required 30 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for her appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 4-10-18

By kw



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 Hearings for Baltimore County for the property located at:

Address 2 Farnham Way Currently zoned DR 5.5
 Deed Reference 35335 1 0339 10 Digit Tax Account # 2 2 0 0 0 0 0 9 7
 Owner(s) Printed Name(s) KAREN M. BARRY

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. X **ADMINISTRATIVE VARIANCE** from Section(s)

BCZR: 1B01.2.C.2 (V.B.5.a & V.B.5.b); 301.1 → To permit an open projection (deck) with a side yard to tract boundary setback of 20 feet in lieu of the required 30 feet.

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

2. **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County.

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

I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

Karen M. Barry /
 Name #1 – Type or Print Name #2 – Type or Print
Karen M. Barry
 Signature #1 Signature #2
 2 Farnham Way Timonium, Md 21093
 Mailing Address City State
 21093 / 410-252-1357 writetokarenbarry@yahoo.com
 Zip Code Telephone # Email Address gmail

Attorney for Owner(s)/Petitioner(s):

Name- Type or Print
 Signature
 Mailing Address City State
 Zip Code Telephone # Email Address

Representative to be contacted:

Laura Mohler
 Name Type or Print
Laura Mohler
 Signature
 2734 Hess Rd. Monkton MD
 Mailing Address City State
 21111 / 410-692-0050 perosnalassistant@tdhnl.com
 Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this day of , that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2018-0226-A Filing Date 3/1/18 Estimated Posting Date 3/11/18 Reviewer JS



OF THE DEPARTMENT OF THE ARMY, WASHINGTON, D.C.

Continued

OF THE DEPARTMENT OF THE ARMY, WASHINGTON, D.C.

OF THE DEPARTMENT OF THE ARMY, WASHINGTON, D.C.

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OF THE DEPARTMENT OF THE ARMY, WASHINGTON, D.C.

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 and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 2 Farnham Way Timonium MD 21093
Print or Type Address of property City State Zip Code

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

Hardship -
Steep Slope/hill that is the backyard very
difficult to mow. It also makes the backyard
useless because it's not level, difficult to stand on.
Most yards on the block graded flat. I'd rather
build a deck to create flat space, not to disturb tree roots

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

Karen J. Barry
Signature of Owner (Affiant)
Karen J. Barry
Name- Print or Type

N/A
Signature of Owner (Affiant)
Name- Print or Type

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

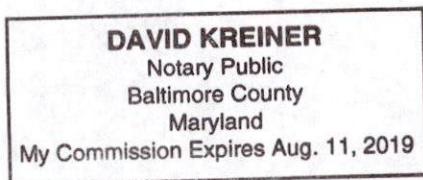
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 26th day of February, 2018, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Karen J. Barry

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

AS WITNESS my hand and Notaries Seal



[Signature]
Notary Public
08/11/2019
My Commission Expires

CONFIDENTIAL - SECURITY INFORMATION

CONFIDENTIAL - SECURITY INFORMATION

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CONFIDENTIAL - SECURITY INFORMATION

Zoning Petition Property Description

Zoning Property Description for 2 Farnham Way

Beginning at a point on the north side of 2 Farnham Way which is 33' feet wide at a distance of 42' feet west of the centerline of the nearest improved intersecting street Jenifer Rd. which is 20' feet wide.

2018-0726-A

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 3/12/2018

Case Number: 2018-0226-A

Petitioner / Developer: KAREN M. BARRY

Date of Closing: March 26, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
2 FARNHAM WAY

The sign(s) were posted on: MARCH 11, 2018



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2018- 0226 -A Address 2 FARNHAM WAY

Contact Person: JASON SEIDELMAN Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 3/1/18 Posting Date: 3/11/18 Closing Date: 3/26/18

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 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 a neighbor (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 Administrative Law Judge. The judge may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. If all County/State agencies' comments are received, you will receive written notification as to whether the petition has been granted, denied, or will proceed to a public hearing. This decision is usually made within 10 days of the closing date. The written 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 Administrative Law Judge), 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 2018- 0226 -A Address 2 FARNHAM WAY

Petitioner's Name KAREN M. BARRY Telephone 410-252-1357

Posting Date: 3/11/18 Closing Date: 3/26/18

Wording for Sign: TO PERMIT AN OPEN PROJECTION (DECK) WITH A SIDE YARD TO
TRACT BOUNDARY SETBACK OF 20 FEET IN LIEU OF THE REQUIRED 30 FEET.

Revised 6/30/2018

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2018-0226-A

Property Address: 2 Farnham Way Timonium, Md 21093

Property Description: _____

Legal Owners (Petitioners): Karen Barry

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: _____

Company/Firm (if applicable): TDA Landscaping

Address: 2734 Hess Rd.

Monkton, Md 21111

Telephone Number: 410-692-0050

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

NO 166204

Date: 3/1/18

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$ 75.00

Total: \$ 75.00

Rec From: BARRY

For: 2018-0276-A

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME JRM
3/01/2018 3/01/2018 11:31:17 3
REG NO. WALKIN CASH
RECEIPT # 764473 3/01/2018 DFLN
Dept. 5-528 ZONING VERIFICATION
CR NO. 166204

Receipt Tot \$75.00
\$75.00 CK \$1.00 CA
Baltimore County, Maryland

CASHIER'S
VALIDATION



KEVIN KAMENETZ
County Executive

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

April 3, 2018

Karen M Barry
2 Farnham Way
Timonium MD 21093

RE: Case Number: 2018-0226 A, Address: 2 Farnham Way

Dear Ms. Barry:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 1, 2018. 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 written in a cursive, flowing style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Laura Mohler, 2734 Hess Road, Monkton MD 21111

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: March 14, 2018

SUBJECT: DEPS Comment for Zoning Item # 2018-0226-A
Address 2 Farnham Way
(Barry Property)

Zoning Advisory Committee Meeting of **March 12, 2018**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

Date: 3/8/18

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

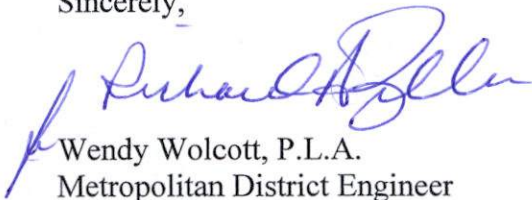
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2018-07226-A

Administrative Variance
Karen M. Barry
2 Farnham Way

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

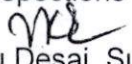
WW/RAZ

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 23, 2018

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For March 12, 2018
Item No. 2018-0218-A, 0221-A, 0222-A, 0225-SPH, 0226-A and 0227-A

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

*

*

*

*

*

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: March 14, 2018

SUBJECT: DEPS Comment for Zoning Item # 2018-0226-A
Address 2 Farnham Way
(Barry Property)

Zoning Advisory Committee Meeting of **March 12, 2018.**

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>3-23</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>NO</u>
<u>3-12</u>	DEPS (if not received, date e-mail sent _____)	<u>NO</u>
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
<u>3-8</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. <u>1994-0283-A and</u> <u>1992-0035-STH</u>)	
NEWSPAPER ADVERTISEMENT	Date: _____	
SIGN POSTING	Date: <u>3-11-18</u>	by <u>O'Keefe</u> <u>16 days</u>
PEOPLE'S COUNSEL APPEARANCE	Yes ☐ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 08 Account Number - 2200000097			
Owner Information					
Owner Name:	BARRY KAREN M		Use:	RESIDENTIAL	
Mailing Address:	2 FARNHAM WAY LUTH-TIMONIUM MD 21093-		Principal Residence:	YES	
			Deed Reference:	/35335/ 00339	
Location & Structure Information					
Premises Address:		2 FARNHAM WAY LUTHERVILLE 21093-0000		Legal Description:	.2955 AC CHAPEL GATE
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0051	0020	0634		0000	6
Block:	Lot:	Assessment Year:	Plat No:	Plat Ref:	1
P	1	2017		0064/0113	
Special Tax Areas:			Town:	NONE	
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use	
1995	2,172 SF		12,873 SF	04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	SIDING	2 full/ 1 half	1 Attached
Last Major Renovation					
Value Information					
		Base Value	Value	Phase-in Assessments	
			As of	As of	As of
			01/01/2017	07/01/2017	07/01/2018
Land:		142,200	142,200		
Improvements		308,400	301,100		
Total:		450,600	443,300	443,300	443,300
Preferential Land:		0			0
Transfer Information					
Seller: C G HOMES INC		Date: 09/05/2014		Price: \$485,000	
Type: ARMS LENGTH IMPROVED		Deed1: /35335/ 00339		Deed2:	
Seller: CIGNARALE ARMANDO J		Date: 02/15/1994		Price: \$1	
Type: NON-ARMS LENGTH OTHER		Deed1: /10346/ 00050		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2017		07/01/2018	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00		0.00 0.00	
Tax Exempt:	Special Tax Recapture:				
Exempt Class:	NONE				
Homestead Application Information					
Homestead Application Status: Approved 10/06/2014					
Homeowners' Tax Credit Application Information					
Homeowners' Tax Credit Application Status: No Application Date:					

2018-02-26-4

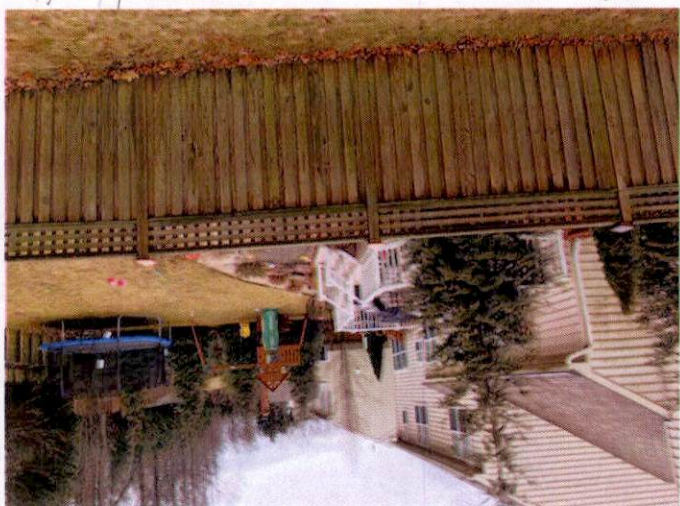
Right side facing neighbor



Right side - existing deck



Standing on existing deck facing neighbor



Back yard facing neighbors



Side yard - left side of property



Side yard - left side of property





Back yard - neighbor property



Back yard - existing deck area



Rear left side



Back side yard - Corner of Farnham + Jenifer Rd.



front right side

2018-0726-A

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
 SW/S Farnham Way, SE of * ZONING COMMISSIONER
 Padonia Road * OF BALTIMORE COUNTY
 Chapelgate, Section 6 *
 8th Election District *
 3th Councilmanic District * Case No. 94-283-A
 C. G. Homes, Inc.
 Petitioner *
 * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a series of variances for a portion of that residential development known as Chapelgate, Section 6, located in the Timonium area of Baltimore County. The Petition is filed by the property owners, C.G. Homes, Inc. Relief is requested from several sections of the Baltimore County Zoning Regulations (B.C.Z.R.) and Comprehensive Manual of Development Policies (CMDP) as follows:

1. From Section 1B01.2.C.1 of the BCZR and CMDP, Section V.B.3 to permit a 20 ft. building to building separation in lieu of the required 25, 30 and 40 ft. for building heights more than 20 ft. but not more than 40 ft. for lots 1 through 12;
2. From CMDP Section V.B.6.b to permit 10 ft. window to side lot line setback in lieu of the required 15 ft. for lots 1 through 12;
3. From CMDP Section V.B.6.c. to permit a 20 ft. side window to side window separation in lieu of the required 40 ft. for lots 1 through 12; and
4. From Section 1B01.2.C.2.a and CMDP Section V.B.5.a V.B.5.b to permit a 15 ft. side window and/or building face to tract boundary in lieu of the required 35 ft. and 30 ft. for lot No. 12.

Also requested is an amendment to the Final Development Plan of Chapelgate, Section 6. All of the relief requested is more particularly shown on the site plan, submitted as Petitioner's Exhibit No. 1.

ORDER RECEIVED FOR FILING

Date

By

M. Gork

Appearing at the requisite public hearing held for this case was Tom Faust and Armando Cignarala, principals in C.G. Homes, Inc., property owner. Also appearing was Michael Maguire, the property line surveyor who prepared the plan. The Petitioner was represented by John B. Gontrum, Esquire. There were no Protestants present.

Testimony and evidence presented was that the subject tract is part of a larger residential subdivision known as Chapelgate. As noted above, the property is located in Timonium, adjacent to the Mayn Chapel Village subdivision. Section 6 of Chapelgate is approximately 30 acres in area and the entire subdivision totals approximately 94 acres. The entire subdivision is predominantly zoned D.R.5.5 with a small portion of D.R.3.5 and D.R.10.5.

As shown on the site plan, Section 6 of Chapelgate will be improved with a series of townhouses and single family homes. The townhouses are to the interior of the site and are not the subject of the variance request. Single family houses which total 12 in number, are located immediately next to Jennifer Road and are the subject of the variance relief which is requested.

Testimony and evidence offered by the Petitioner was that a series of blanket variances are necessary for the 12 single family lots. These relate to internal side yard to side yard setbacks, window to window setbacks, building to building setbacks and building to tract boundary setbacks, all as more precisely described in the Petition. The Petitioner also noted that the site complies with the standards in the current version of the C.M.D.P. As is well known, the C.M.D.P. was recently comprehensively amended. Although the proposed plan is in compliance with the setbacks required in the current C.M.D.P., compliance or variance relief

ORDER RECEIVED FOR FILING

Date

By

is necessary for the subject property in that the development plan for same was approved when the old version of the C.M.D.P. was in effect.

The Petitioner testified that there would be no detrimental effect to the surrounding community if the variances were granted. Specifically, it was testified that this is an internally oriented community with the single family houses facing the townhouses. Moreover, strict compliance with the setback regulations would cause loss of a building lot and disrupt the flow and scheme of the single family community.

As noted above, there were no Protestants at the hearing. A comment was received from the Office of Planning and Zoning (OPZ) which seemingly supports the variance request and notes that the proposed layout is in compliance with the current C.M.D.P. standards. Moreover, OPZ suggests that additional street trees, one per lot should be planted along the right of way to compensate for the reduction of side yard setbacks. The Developer has agreed to this restriction. Also, OPZ requests that a tot lot or other amenity should be incorporated. In this respect, it is to be noted that significant open space already exists within Section 6 of the Chapelgate community. Specifically, there are several large areas of open space shown on the plan which the Petitioner believes will serve not only the townhouse residents but also the single family residents. Moreover, the Maya Chapel United Methodist Church is located immediately next door and has outdoor facilities which might be utilized by the residents. Moreover, Padonia Park Swim Club, an extensive recreational facility, is located nearby and although not open to the public would be available to the members of this community. Based on the availability of these other facilities, I concur that a tot lot is not necessary and need not be added.

ORDER RECEIVED FOR FILING

Date

By

Lastly, the Petitioner noted that it believes that OPZ's ZAC comment to be in error regarding the 25 ft. setback. Specifically, in that the houses are oriented towards townhomes, the Developer believes that a rear yard setback towards Jennifer Road requirement need only be 25 ft. and same is complied with for all lots.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the require-

ORDER RECEIVED FOR FILING
Date 3/1/90
By Mr. Spork

ments from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of March, 1994 that a variance from Section 1B01.2.C.1 of the BCZR and CNDP, Section V.B.3 to permit a 20 ft. building to building separation in lieu of the required 25, 30 and 40 ft. for building heights more than 20 ft. but not more than 40 ft. for lots 1 through 12, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from CNDP Section V.B.6.b to permit 10 ft. window to side lot line setback in lieu of the required 15 ft. for lots 1 through 12, be and is hereby GRANTED; AND,

IT IS FURTHER ORDERED, that a variance from CNDP Section V.B.6.c. to permit a 20 ft. side window to side window separation in lieu of the required 40 ft. for lots 1 through 12, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.2.a and CNDP Section V.B.5.a V.B.5.b to permit a 15 ft. side window and/or building face to tract boundary in lieu of the required 35 ft. and 30 ft. for lot No. 12, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that approval to amend the Final Development Plan of Chapelgate, Section 6, in accordance with Petitioners' Exhibit No.

ORDER RECEIVED FOR FILING

Date

By

1. be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its 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 shall cause these to be added; 1 street tree per lot for each of the 12 single family lots in Chapelgate, Section 6. The size, location and species of the tree shall be determined by the Landscape Architect of Baltimore County.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LRS/mm

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Date 3/1/94

By M. Hook

2400012701

DR 3.5

0802021325

Lot # 1

0811015200

PAI # 088047

PAI # 088047

Pt. Bk./Folio # 005041D

500

510

PAI # 088040

PAI # 088040

2400003093
2400003095
2400003099
2400003097
2400003091

2400003094
2400003096
2400003088
2400003098
2400003092

Pt. Bk./Folio # C025140

2400003086
2400003087
2400003100
2400003089
2400003090

DR 1 NC

1992-0035-SPH

Pt. Bk. 0000064, Folio 0113

PADIAN LN

1992-0035-SPH

8 ED

051A3

NW 15-C

3 CD

DR 5.5

Lot # 5
2200000106

FARNHAM WAY

Lot # 1

PAI # 080376

Pt. Bk./Folio # 064113

DR 5.5

Lot # 2

1992-0035-SPH

PAI # 080376

PAI # 080376

2200000098

Lot # 3

1994-0283-A

2200000099

Lot # 4

2200000100

RC 5

0810095187

GROWTH TIER 3

(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)

JENIFER RD

2200000101