

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
SE/Side Jarrettsville Pike, 545' S c/line		
Whitesworth Road	*	ZONING COMMISSIONER
<b>(14009 Jarrettsville Pike)</b>		
	*	OF
10 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	BALTIMORE COUNTY
LCO Services, LLC	*	<b>Case No. 2010-0135-A</b>
Petitioner		

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Allan W. Laird, managing member of LCO Services, LLC, the owner of the subject property. Petitioner is requesting Variance relief from Section 1A07.8.B.5.a(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 63 feet (southwest) and 34 feet (northeast) from neighboring principal buildings in lieu of the minimum required 80 feet. The subject property and requested relief are more fully depicted on the amended site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.<sup>1</sup>

Appearing at the requisite public hearing in support of the variance request were Allan and Sophie Laird on behalf of LCO Services, LLC. Also appearing in support of the requested relief was J. Scott Dallas of J.S. Dallas, Inc., the professional land use and zoning consultant who prepared the site plan for this property. There were no Protestants or other interested persons in attendance nor were there any adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel containing approximately 0.6 acres of land zoned R.C.6. The currently unimproved

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<sup>1</sup> The plan was amended in response to a Zoning Advisory Committee (ZAC) comment received from the Office of Planning requesting the eliminating of the front-loaded garage.

property is located in a residential area on the southeast side of Jarrettsville Pike (Md. Rt. 146) near the intersection of Sweet Air Road in the Phoenix area of the County. While the property is currently zoned R.C.6, testimony revealed that it has been a lot of record since 1971, prior to the passage of County Council Bill 73-2000, now codified as Section 1A07.8.B.4 of the B.C.Z.R., which permits a single-family building on a lot of record in existence prior to the adoption of the new R.C.6 zoning ordinance.

Further evidence revealed that the Laird family purchased this property through a corporate entity, LCO Services, LLC, and originally intended to operate a business on the site. When the family was unable to gain approval to operate a business, they determined that the property could be used in character with the surrounding neighborhood if it was improved with a single-family dwelling in which one of their children could reside. Mr. Laird was clear at the public hearing that while the property is owned by a corporate entity, the family solely intends to use the property for residential purposes. Accordingly, the Petitioner had a site plan prepared illustrating a proposed building envelope for a single family dwelling which was presented at the hearing.

In an effort to assist the undersigned, Mr. Dallas marked the site plan in green to show the location and size of the proposed dwelling, and in pink to show the shape of the revised driveway and side loaded garage. Due to the size and shape of the property, and the 80-foot building-to-building separation imposed on properties in the R.C.6 zone, Petitioner was advised to apply for a variance from the principal building setbacks on each of adjacent properties.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. As earlier noted, a comment was received from the Office of Planning dated November 9, 2009, which indicated no opposition to the variance request. The property

has existed prior to the effective date of Bill 73-2000 and can therefore be developed with a single-family dwelling. However, because of the small lot size the Planning Office will not support any further variance relief for this property. Planning also recommends that the property be kept within the character of the community by placing the garage to the side or rear of the dwelling, not in the front. Existing dwellings in the area do not have garages in front of the principal building line. If this cannot be accomplished then Planning recommended that the garage feature be removed. To further assure compatibility with the performance standards, their comment continued to specify: (1) The building shall reflect the traditional rural character of the area in architectural form, scale, materials, and detailing and in landscaping concept, (2) All exterior walls of the building shall be treated similarly with respect to architectural details and materials, (3) Accessory structures, including solar panels, antennas, and storage sheds will not be permitted in the front yard of any principal use, and (4) Fencing shall be in keeping with the rural character and that any fence must be either split rail or board on post and be consistent throughout the property. Comments were also received from the State Highway Administration, dated October 30, 2009, which indicated no opposition to the requested relief. The comment stated that the applicant must contact the Administration to obtain an entrance permit for the property.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The property has been a lot of record since 1971, well before Council Bill 73-2000 was passed. Section 1A07.8.B.4 of the B.C.Z.R. provides for the construction of single-family dwellings on a previously recorded lot in the R.C.6 zone. Considering the layout of this property, I find that imposing an 80-foot building-

to-building setback from each adjacent property would cause the Petitioner to suffer practical difficulty and undue hardship. The building envelope would be so constricted without the requested variance that the property would not be buildable, contrary to the intent of Bill 73-2000.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety and general welfare. The property to the northeast of the subject property where a 34-foot setback is proposed is owned by Mr. and Mrs. Laird's son. He indicated no opposition to the construction of a reasonably sized single-family dwelling on the LLC-owned property. Mr. Dallas also indicated that the neighbor to the southwest, where a 63-foot setback is proposed, likewise had no objection to the requested variance. Petitioner is requesting relief to build a single-family dwelling in a residential neighborhood where the neighboring owners have no objection, the pattern of development is similar, and the law specifically permits single-family dwellings on lots of record. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as construed in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17<sup>th</sup> day of December, 2009 that the Petition for Variance seeking relief from Section 1A07.8.B.5.a(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 63 feet (southwest - side) and 34 feet (northeast - side) from neighboring principal buildings in

lieu of the minimum required 80 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner must contact the State Highway Administration to obtain approval for a use-in-common driveway or obtain an entrance permit.
3. Petitioner must meet the R.C.6 performance standards as indicated in the Office of Planning comment dated November 9, 2009 by submitting building elevation drawings for review and approval.

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

WJW:dlw

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SIGNED  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County