

IN RE: PETITIONS FOR VARIANCE	*	BEFORE THE
S/S Greenbank Road, 315' & 265' W c/line	*	ZONING COMMISSIONER
Susquehanna Road	*	
(7335 & 7337 Greenbank Road)	*	OF
	*	
15 th Election District	*	BALTIMORE COUNTY
6 th Council District	*	
	*	
4306 Stanwood Avenue , LLC,	*	Case Nos. 2010-0185-A &
<i>Legal Owner</i>	*	2010-0186-A
Petitioner	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Variance filed by the owner of the property, 4306 Stanwood Avenue, LLC, through its managing member, Michael Dackman, and their attorney, Daniel A. Staeven, Esquire of Dackman and Heyman, LLC, for two (2) adjacent properties known as 7335 Greenbank Road (Lot 182) and 7337 Greenbank Road (Lot 183). Since the properties are owned by the entity and are located adjacent to one another, the two cases were heard contemporaneously. In Case No. 2010-0185-A (Lot 182), the Petitioner requests variance relief from Sections 1B02.3.A.5 and 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a minimum lot width of 50 feet in lieu of the required 55 feet for a proposed dwelling. In Case No. 2010-0186-A (Lot 183), Petitioner requests similar relief. Specifically, relief is requested from B.C.Z.R. Sections 1B02.3.A.5 and 1B02.3C.1 to allow a lot width of 50 feet in lieu of the minimum required lot width of 55 feet for a replacement dwelling. The subject properties and requested relief are more particularly described on the site plan submitted in each case, which were accepted into evidence and respectively marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Michael Dackman, on behalf of the property owner, Richard E. Matz, P.E., with Colbert Matz Rosenfelt, Inc., the consultant who prepared the site plan for this property, and Gordon Heyman, Esquire, council for Petitioner. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject adjacent water oriented/water view lots are located on the south side of Greenbank Road between Patapsco Road and Susquehanna Road in Middle River. The rectangular lots are identified as Lots 182 and 183 on the plat of subdivision of Oliver Beach, which is an older subdivision that was platted and recorded in the Land Records in 1940, prior to the first set of zoning regulations in Baltimore County. As is often the case with older subdivisions, many of the lots are undersized and do not meet current area and width requirements. In this regard, both lots are 50' wide x 150' deep, contain a gross area of 7,500 square feet (0.172 acres), zoned D.R.5.5 and in both cases must comply with the Chesapeake Bay Critical Area Regulations. Petitioner obtained the lots through foreclosure proceedings in May, 2009, and an investment of approximately \$150,000 needs to be recouped but difficult since the current improvements have been abandoned and are in bad condition.

Petitioner desires to redevelop the lots with new single-family dwellings. The existing garage and one-story home on Lot 183 (7337 Greenbank Road) built in 1939 will be removed and rebuilt. The new dwellings will be 30' wide x 40' deep and will meet all front, side and rear setback requirements. Public water and sewer will serve both lots. Relief is requested to approve lot widths of 50 feet respectively and to approve the properties as undersized lots (width at building line less than that required by the area regulations) to permit the proposed development. Both are lots of record and have their own tax identification numbers. There is no

physical evidence that the subject properties were used or consolidated with any other lot to invoke the doctrine of merger as described in *Friends of the Ridge v. Baltimore Gas & Electric Company* 352 Md. 645 (1999) and *Remes v. Montgomery County* 387 Md. 52 (2005). Moreover, the uncontradicted evidence clearly establishes that there has never been a desire to combine or merge the parcels, Lot 182 with Lot 183.

Testimony offered in support of the requests was that without variance relief, Lots 182 & 183 could not be developed. Obviously, strict compliance with the regulations would create a hardship as the zoning regulations result in a denial of a reasonable and sufficient use of the property (*See Belvoir Farms v. North* 355 Md. 259 [1999]). Moreover, based on the testimony and evidence presented, the Petitioner is entitled to their variances as they have met the requirements of Section 304 of the B.C.Z.R. (*See Mueller v. People's Counsel for Baltimore County* 177 Md. App. 43 [2007]). In my view, the relief requested will not result in any detriment to the health, safety and general welfare of the surrounding locale and, therefore, would meet the spirit and intent of Section 307 for relief to be granted. The proposed dwellings will meet all front, side and rear setback requirements and will be situated on the lots consistent with other houses in the community. The only deficiency in both of these instances is the lot width, which is 5 feet shy of the required 55 feet.

Pursuant to the advertisement, posting of the properties 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 24th day of February 2010, that the Petition for Variance filed in Case No. 2010-0185-A (7335 Greenbank Road), seeking relief from Sections 1B02.3.A.5 and 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed buildable lot with a width of 50 feet

in lieu of the required 55 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance filed in Case No. 2010-0186-A (7337 Greenbank Road), seeking relief from Sections 1B02.3.A.5 and 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a replacement dwelling on a lot with a width of 50 feet in lieu of the minimum required 55 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED subject to the following conditions:

1. The Petitioner(s) may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner(s) is hereby made aware that proceeding at this time is at his own risk until the thirty (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 comply with the recommendations made within the Zoning Advisory Committee (ZAC) comments submitted by the Bureau of Development Plans Review (DPR), the Department of Environmental Protection and Resource Management (DEPRM) and the Office of Planning, dated January 13, 2010, February 18, 2010, and February 22, 2010, respectively, a copy of which is attached hereto and made a part hereof.

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

WJW:dlw

____SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
of Baltimore County