

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W/S Michaelsford Road, 285' NW of		
C/line of Laurelford Court	*	ZONING COMMISSIONER
(12338 Michaelsford Road)		
	*	OF
8 th Election District		
2 nd Council District	*	BALTIMORE COUNTY
Annette Civera	*	Case No. 2010-0334-A
Petitioner		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Annette Civera. The Petitioner requests variance relief from Section 1A04.3B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to (1) permit a side yard setback of 12 feet in lieu of the required 50 feet for a proposed addition, (2) to permit a front yard setback of 64 feet in lieu of the required 75 feet from the centerline of the street, and (3) to amend the Final Development Plan (FDP) for Laurelford, Section Three, Lot 18 only. The subject property and requested relief are more particularly shown on the revised site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request were Annette Civera, property owner, her husband Armond (Skip) Civera, Bruce E. Doak, a principal of Gerhold Cross & Etzel, Ltd., the consultant who prepared the site plan for this property and is assisting the Petitioner with her variance request, and Kevin C. Michels with Icon Builders, Ltd. Also appearing was Mark A. Hyland, President of the Laurelford Improvement Association. There were no Protestants or other interested persons present. It is to be noted, however, that a letter in support was received from Matthew D. and Natalie K. Nichols, adjacent property owners at

13000 Jerome Jay Drive (Petitioner's Exhibit 3).

Testimony and evidence offered revealed that the subject property is an irregularly shaped parcel located at the north end of Michaelsford Road just before changing to Jerome Jay Drive in Cockeyville. The property known as Lot 18 of the "1st Amended Plat of Section Three, Laurelford" contains an area of 1.90 acres, more or less, zoned R.C.4¹. Presently, the site is improved with a two-story 4,193 square foot Villa-style home built in 1994 and features a stone patio and in-ground pool in the rear yard. Photographs of the property were submitted and described by Mr. Doak. He explained that an addition is desired and proposed to be located on the north side of the existing dwelling, adjacent to the Nichols property. Mrs. Civera described the site constraints associated with her property, including the existence of the pool and the location of the well and septic areas. In sum, Mr. and Mrs. Civera opined that the proposed location for the addition was most appropriate and that relief should be granted to allow a reduced setback in order to proceed. Skip Civera and Matthew and Natalie Nichols have discussed various options and the Nichols' family, being the most affected by the construction to within 12 feet of the property line, have no objection. *See* Petitioner's Exhibit 3. The addition as contemplated will be two-stories high and add an additional 1,748 square feet of livable space (2nd floor) to the home over a new two-car, 660 square foot garage as shown on Petitioner's Exhibit 4. This new living space will be connected to the main house by a hallway and will not contain a kitchen. Mr. Michaels, the builder, indicated that it would be architecturally "very difficult" from a structural standpoint to construct the addition to other parts of the house, i.e., the existing septic and pool encompass the rear yard and construction on the south side would

¹ The property is located at the edge of Laurelford and was rezoned from R.C.5 to R.C.4 during the 2000 Comprehensive Zoning Map Process (CZMP). As the Final Development Plan was vested prior to the CZMP reclassification – the older R.C.5 regulations apply here.

require removal of substantial mature trees that would be extremely costly and create a rather unpleasing appearance.² Mrs. Civera has owned the property and resided thereon since November 2009. She and her husband have been making substantial upgrades and improving the property. They obtained a previous variance on November 9, 2009 from Deputy Zoning Commissioner Thomas H. Bostwick (Case No. 2010-0129-A) for a 32-foot side yard setback in order to increase the size and livability of the home by adding an addition that contained a large family room, den and powder room. Unfortunately, since obtaining that variance relief and Home Owner Association approval for the family room addition, Mrs. Civera's 82-year old mother, Georgia Stratakis, has encountered deteriorating health problems requiring further care and she is no longer capable of living independently. Mrs. Civera testified that these new improvements would provide a new garage and living space that would give some semblance of independent living for her mother. Accordingly, the new living area is badly needed within her home. She submitted building elevations (Petitioner's Exhibit 4) which clearly show the proposed addition will be compatible with the neighborhood and aesthetically pleasing as it will match the existing home with its designed pitch roof and dormers. As illustrated on the site plan, there is a 20-foot "drainage and utility easement" bordering along the entire north boundary of the property. To the north of this "drainage and utility" easement are woods that are part of the Nichols' 1.473 acre lot that is improved with their 2-1/2 story home positioned well to the west and away from the Petitioner's home. This mature forest runs along the property boundary all the way to Jerome Jay Drive. The Nichols' property is well buffered and the new addition will not be seen from their home. In this regard, the Civera's new improvements would not appear to be noticeably closer than any other two (2) properties in the development. There would not be a

² This opinion is in accord with the architectural design review process undertaken by the Laurelford Home Owners Association.

change to the look and character of the neighborhood – for the worst.

Testimony was received from Mr. Hylind. While he acknowledged the Civeras as being respected neighbors, he asked that any decision on the requested variances be held in abeyance pending the Laurelford Association's architectural design review and comment. Mr. Michaels, the Petitioner's builder, indicated he would provide copies of the plans to the design review members to assist them in determining if they were compliant with the Committee's covenants. Following the public hearing, Mark Hylind provided confirmation on July 30, 2010 that Laurelford's Architectural Design Review Committee had met and approved the elevation drawings submitted by the Petitioner.

After due consideration of the testimony and evidence presented and the continued efforts undertaken by the parties to reach a resolution, I am persuaded to grant the requested relief. Based on my review of the site plan, the elevation drawings and the photographs as well as testimony, I find that the subject property is constrained which creates a unique condition bringing about a practical difficulty if B.C.Z.R. Section 1A04.3B.2.b was strictly adhered to. In the previous R.C.5 development regulations applicable here, a 50-foot setback to any property line and a 75-foot setback from any road was required. I find that the original owners placement of Petitioner's home in the northeast corner of the lot coupled with the curvature of Michaelsford Road and Jerome Jay Drive at this location warrants a variation from the regulations. While the topography slopes from elevation 570 feet at the road frontage to elevation 540 feet at its rear western property line, the Petitioner's predecessor in title could have placed the home in the center of the lot rather than in the corner and right on the building setback lines. As noted, the proposal is not only aesthetically pleasing but is appropriate in this instance and will not be out of character with other homes in the area. Moreover, in this area it is important that the

structures be well proportioned in order to match the character of the neighborhood. The addition will be screened from other lots by virtue of the surrounding mature forest buffering. Thus, I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale and within the spirit and intent of B.C.Z.R. Section 307 as interpreted in *Cromwell v. Ward*, 102. Md. App. 691 (1995). There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency; however, the Office of Planning, while they did not appear at the hearing, did want to be certain that the architectural elevations and floor plans for the addition be submitted for approval. Subsequent to the hearing, I met with Diana Itter, the area planner, who provided a revised ZAC comment and indicated her approval of the elevation drawings received by her Office.

Pursuant to the advertisement, posting of the property and public hearing on the Petition 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 30th day of July 2009 that the Petition for Variance from 1A04.3B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard (north side) setback of 12 feet in lieu of the required 50 feet for a proposed addition; to permit a front yard setback of 64 feet in lieu of the required 75 feet from the centerline of the street, and to amend the Final Development Plan (FDP) for Laurelford, Section Three, Lot 18 only, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following conditions:

- 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 proposed addition to be constructed on Lot 18 – Final Development Plan of Laurelford, Section Three, shall be in keeping with the style of architecture shown on the architectural elevation drawings submitted as Petitioner’s Exhibit 4 that have been reviewed and approved by the County’s Office of Planning and the independent local architectural design review of the Laurelford Home Owners Association.
- 3) The Ground Water Management (GWM) section of the Department of Environmental Protection and Resource Management (DEPRM) shall review for approval, at the time the building permit is issued, the location of the new well necessitated by the addition’s location over the existing well.

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

WJW:dlw

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