

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SW/Side Liberty Road, 659' NW c/line of		
Pikeswood Road	*	ZONING COMMISSIONER
(Carriage Hills Townhouses)		
2 nd Election District	*	OF
4 th Council District		
	*	BALTIMORE COUNTY
Clark Turner Companies		
Petitioner	*	Case No. 2009-0111-A

* * * * *

RULING ON MOTION FOR RECONSIDERATION

This matter returns to the undersigned on a Motion for Reconsideration of the Findings of Fact and Conclusions of Law and Order issued in this case on March 27, 2009. The Motion for Reconsideration was requested by Carole S. DeMilio, Esquire, Deputy People’s Counsel of Baltimore County, and filed on April 23, 2009.

A brief overview of this project and history of the case is appropriate. The subject property known as the Carriage Hills Development is situated upon 18 acres of land located on the southwest side of Liberty Road near its intersection with Pikeswood Drive in the Randallstown community of northwestern Baltimore County. The property is owned by the Clark Turner Companies (CTC or Petitioner); a well known residential developer and home building company which is predominant in the Baltimore metropolitan area. The property is proposed with development of a large townhouse community, which will feature in excess of one hundred and fifty (150) units.

Originally, the proposed development and associated zoning relief were approved by the Hearing Officer/Zoning Commissioner of Baltimore County in Case Nos. II-649 and 04-026-A. This written decision approved a Development Plan for the proposed subdivision and certain

variances associated therewith. At the time, the property was owned by Q-C Carriage Hills, LLC.

Q-C Carriage Hills, LLC never moved forward with the development and eventually filed for bankruptcy due to unforeseen financial difficulties. The property and project was then acquired by the Petitioner through the United States Bankruptcy Court. Following its acquisition, the Petitioner modestly revised the Development Plan and returned to the Office of the Zoning Commissioner for approval of those modifications and amendments to the Development Plan through Case No. 08-252-SPHA. Those changes were approved by the Order of the undersigned on March 18, 2008.

The instant case is the third case in the zoning history trilogy; however, deals with only a single issue related to the overall Development Plan. Specifically, the Petitioner submitted a Petition for Variance for the “entrance feature” and “signage” associated therewith proposed for the development. By my Order, dated March 27, 2009, certain variance relief was granted that approved a proposed accessory structure (gatehouse) and related signage for the property.

As stated in my prior Opinion and Order, a unique signature of any CTC residential development is the “entrance feature;” which serves as a gateway to the subdivision. In this case, the developer proposes a structure adjacent to the property’s frontage on Liberty Road which includes an impressive accessory gatehouse and monument sign; featuring a stone base and arch, as well as a roof and copula type structure. This entrance feature will predominantly display the name of the community and will advertise the entrance to the site to travelers on Liberty Road.

As noted, following a public hearing on the proposal, I granted certain variances to approve the entrance feature and signage thereon. Those variances generally permitted the

height and area of the structure and signage to be greater than otherwise permitted. To the extent appropriate, the Findings of Fact and Conclusions of Law supporting that approval are incorporated herein. Following the issuance of that decision, a Motion for Reconsideration was filed by the Office of People's Counsel. Although People's Counsel had not appeared at the public hearing before me, that Office had entered its appearance in the case. The Motion for Reconsideration requested modifications of the relief granted which would result in a reduction in mass and height to the proposed structure. The Motion also indicated that the Office of People's Counsel and CTC's representatives were discussing modifications to what had been approved that would be acceptable to both parties.

Obviously, a significant lapse in time has occurred since the filing of that Motion and the issuance of this Order. The parties have advised that this is largely due to the current economic recession and changes that have been brought about to the housing market due to these circumstances. However, notwithstanding the delay, I have been advised that the parties have agreed to a compromise which they now request that I incorporate in this Opinion and Order. Having reviewed the proposed revisions and based upon the representations of the parties, I will therefore grant the Motion for Reconsideration and modify my prior decision as indicated herein below.

First, the proposed height of the accessory structure will be reduced to 31-feet, in lieu of the 38-feet previously approved. This height still exceeds the 15-foot limitation pursuant to B.C.Z.R. Section 400.3 and thus a variance to that section is still required. Second, the height of the actual signage is also adjusted accordingly so that it is now proposed to be 16-feet, 2-inches in height rather than the 19-feet previously approved. This amended request also requires a

variance, given that B.C.Z.R. Section 450.4.I.2¹ permits a max height of 6-feet for a sign. Finally, the area of the face of the sign is likewise reduced from 50-feet to 32-feet, in lieu of the maximum permitted 25-feet. Again, a variance is still required, notwithstanding this reduction in area.

Attached to correspondence of counsel advising of this agreement is a schematic rendering of the proposed sign, which shall be entered as “Petitioner’s Exhibit 1 – Motion for Reconsideration.” This schematic depicts the accessory structure and signage, as modified pursuant to the agreement of the parties.

As noted above, I hereby incorporate the findings previously made and hereby affirm that the Petitioner has met the requisite standard for the granting of variance relief. I find that the Petitioner has presented the required testimony as to standards of uniqueness, practical difficulty and compliance with the spirit and intent of the B.C.Z.R. as required under B.C.Z.R. Section 307 and case law. In that I previously made such findings in granting the variance as originally proposed, I adopt them by reference herein to support the granting of the Motion for Reconsideration and the revisions to the relief previously approved.

For the reasons set forth above, the Motion for Reconsideration shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of October 2010, that the Motion for Reconsideration shall be GRANTED; and

IT IS FURTHER ORDERED that the Revised Variance relief from Sections 400.1, 400.3 and 450.4 Attachment 1.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory building to be located in either a front and/or side yard, rather than the permitted rear yard and to be located not in the third of the lot farthest removed from any street for a corner lot;

¹ The Table of Sign Regulations was moved to the end of Article 4 in 2008. It is now referred to as Attachment 1 and should now be cited 450.4 Attachment 1.2.

to allow an accessory structure to have a height of 31 feet in lieu of the maximum permitted 15 feet, and to allow a sign height of 16 feet, 2 inches, in lieu of the maximum 6 feet and a maximum square footage area of 32 feet per side (face) in lieu of the maximum permitted 25 feet for a community sign, in accordance with Petitioner's Exhibit 1 – Motion for Reconsideration, be and is hereby GRANTED.

To the extent applicable, this Order shall supersede and replace the Order previously issued in this matter on March 27, 2009.

In accordance with Baltimore County Code (B.C.C.) Section 32-3-401, any appeal from this Order shall be filed within thirty (30) days of the date of this Order.

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