

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S side of Old York Road, 1400 feet W		
of c/l of Garrett Road	*	DEPUTY ZONING
7 th Election District		
3 rd Councilmanic District	*	COMMISSIONER
(19602 Old York Road)		
	*	FOR BALTIMORE COUNTY
John E. and Karen B. Simms		
<i>Petitioners</i>	*	Case No. 2009-0066-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, John E. and Karen B. Simms. Petitioners are requesting variance relief from Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the application of Section 26-266(4) of the Baltimore County Code to permit a panhandle driveway length of 2,000 feet in lieu of the maximum permitted 1,000 feet.¹ The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Matthew Simms, son of Petitioners John and Karen Simms, and Geoffrey Schultz with McKee & Associates, Inc., the professional land surveyor who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped parcel containing approximately 24.108 acres of land zoned R.C.2 agricultural. The property is located south of Old York Road between Twig Court and Garrett Road in the White Hall area of

¹ It should be noted that while the limitations on panhandle driveways were formerly contained in Section 26-266(4) of the Baltimore County Code, the Code was re-written several years ago and the section was changed to Section 32-4-409(e). While the instant petition cites the former section of the code, the relief requested remains the same as the Petitioners are requesting a variance to maintain a 2,000 foot long panhandle driveway in lieu of the maximum 1,000 feet permitted by the Code.

Baltimore County. Petitioners submitted several photographs of the subject property, which were marked and accepted into evidence as Petitioners' Exhibits 2A through 2D. The photographs reveal a large, primarily green, wooded property with an existing barn in the northeast section and an existing two-story single-family dwelling in the southeast section of the property. Petitioners are requesting a variance to extend an existing driveway to the southwest section of the property in order to serve a second single-family dwelling.

Further evidence revealed that Petitioners are currently undertaking a minor subdivision process to create an approximately 4.105 acre lot in the southwest region of the property on which their son Matthew and his family will reside. The layout of the property lends itself to a subdivision as proposed on the site plan since the second parcel will be tucked away from neighboring properties so as to reduce any potential impact on the surrounding locale. However, the subdivision process was interrupted when the County's Department of Environmental Protection and Resource Management ("DEPRM") informed Petitioners that their existing panhandle driveway exceeded the maximum length permitted under the Baltimore County Code. Thus, Petitioners filed the instant Petition for Variance in an attempt to gain approval for the 2,000 foot panhandle driveway, which would enable them to continue through the minor subdivision process.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated October 6, 2008, which indicated that the Office supports Petitioners' request subject to the minor subdivision review and agency comments for driveway width.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or

structure which is the subject of the variance requests. The subject property is large, uniquely shaped, and lends itself to a minor subdivision in the southwest corner of the property as depicted on the site plan. The layout of the property essentially mandates that the proposed dwelling in which Petitioners' son and family will live share the panhandle driveway, which would inevitably exceed the maximum 1,000 foot length due to the large size of the property. Therefore, I find that the imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. If Petitioners were forced to limit the panhandle driveway to 1,000 feet in length, they would not be able to gain DEPRM's approval and would be unable to complete an otherwise legitimate minor subdivision. In addition, the proposed location of the second parcel is tucked behind a 6.255 acre forest buffer so as to minimize any potential impact on the surrounding locale. If the Petition for Variance were denied, Petitioners would be forced to relocate the proposed subdivision or to increase the impervious surface on the property by constructing a new, separate driveway. I am therefore convinced that Petitioners should be allowed to maintain a 2,000-foot panhandle driveway because it would permit the subdivision process to proceed while having seemingly no effect on the surrounding locale.

After considering that the Office of Planning supports this Petition for Variance, and that the property will still be subject to the remaining regulations for minor subdivisions, I am convinced that this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

