

IN RE: **PETITION FOR VARIANCE** * BEFORE THE
E/S Hilltop Road, 169.8' N c/line of Cainewood Court * ZONING COMMISSIONER
(119 South Hilltop Road) * OF
1st Election District * BALTIMORE COUNTY
1st Council District *
Gladding Estate, LLC * Case No. 2009-0083-A
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 Gladding Estate, LLC, through its managing member, Joseph R. Steneman, the owner of the subject property. The Petitioner has requested variance relief from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed dwelling with a front yard setback of 35 feet in lieu of the required 50 feet. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request was Joseph R. Steneman on behalf of Gladding Estate, LLC. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is a somewhat irregular shaped rectangular lot containing approximately 1.0 acres (43,560 square feet) of land zoned D.R.1. The currently unimproved property is located on the northeast side of South Hilltop Road, just south of Frederick Road, in Catonsville. As illustrated on the site plan, the lot in question, referred to as Lot 1, lies west of another larger lot, Lot 2, which had been created through the minor subdivision process (No. 07093M) and approved on August 18, 2008. Lot 2

was subsequently sold and this petition for variance only concerns the remaining one-acre lot shown as Lot 1 on Petitioner's Exhibit 1.

Further evidence demonstrated that the Petitioner is proposing to build a custom home on the subject property but has had difficulty due to the presence of a large nontidal wetland in the rear of the property. According to Mr. Steneman, the Baltimore County Department of Environmental Protection and Resource Management (DEPRM) has demanded a large rear setback in order to maintain the forest buffer easement and the integrity of the environmentally sensitive wetland, and this has driven the need to place the building envelope towards the front (western) portion of the lot. Thus, the Petitioner was advised to request a variance in order to move the proposed dwelling away from the forest buffer/forest conservation easement area. A front yard setback of 35 feet is needed in lieu of the minimum 50 feet required in order to develop the lot.

A Zoning Advisory Committee (ZAC) comment received from the Office of Planning dated October 2, 2008 indicates that they do not oppose the request. DEPRM also submitted a comment dated October 17, 2008, which evidences that development of the property must comply with the regulations for the protection of water quality, streams, wetlands and floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code). DEPRM also noted that development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code). Finally, DEPRM noted that development of this property must comply with the terms of the recently granted forest buffer variance and approved forest conservation plan.

Considering all of the testimony and evidence presented, 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 an irregular shape and the building envelope is uniquely constrained by the large nontidal wetland that dominates the rear of the property. It is also worth noting that while this property is zoned D.R.1, it is surrounded by properties with larger density zoning such as D.R.5.5 to the southeast, and D.R.2 immediately east of the property. Mr. Steneman correctly described the property as “an island of D.R.1 in a sea of larger density zones.” As shown on the site plan, adjacent homes surrounding the subject property are all built with front yard setbacks of 26 and 33 feet. Thus, I find that the imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district, and that strict compliance with B.C.Z.R. would result in practical difficulty or unreasonable hardship.

I am further convinced that the requested variance relief can be granted in strict harmony with the spirit and intent of the B.C.Z.R. and in such manner as to grant relief without injury to the public health, safety and general welfare. Decreasing the front setback will simultaneously permit an aesthetically pleasing custom home that is consistent with the pattern of development of other properties in the surrounding locale while also maintaining the integrity of the environmentally sensitive nontidal wetland in the rear of the property. Thus, I find that the request for variance meets the requirements of Section 307 of the B.C.Z.R as established 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 for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of November 2008 that the Petition for Variance seeking relief from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed dwelling with a

front yard setback of 35 feet in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following:

1. The Petitioner is advised that it may apply for any required building permits and be granted same upon receipt of this Order; however, the 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 an appeal is filed and this Order is reversed, the relief granted shall be rescinded and the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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
for Baltimore County