

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/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

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Clark Turner Companies, legal owner of the subject property, by and through its attorney, Sebastian A. Cross, Esquire with Gildea & Schmidt, LLC. Petitioner requests variance relief from Sections 400.1, 400.3 and 450.4.I.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; to allow an accessory structure to have a height of 38 feet in lieu of the maximum permitted 15 feet, and to allow a sign height of 19 feet in lieu of 6 feet and a maximum square footage of 50 feet per side (face) in lieu of 25 feet for a community sign. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the hearing in support of the request were Fred Sheckells, on behalf of Clark Turner Companies, legal owner, and Jim Hermann, Registered Landscape Architect, with Morris and Ritchie Associates, Inc. (MRA), the consultants who prepared the site plan. The Petitioner was represented by Lawrence E. Schmidt, Esquire with Gildea & Schmidt, LLC. There were no Protestants or other interested persons present.

The undersigned Zoning Commissioner is familiar with the subject property by virtue of several prior cases. Testimony and evidence offered revealed that the subject property under

consideration is an 18-acre parcel known as Carriage Hills and located on the southwest side of Liberty Road near its intersection with Pikeswood Drive in the Randallstown. The property is zoned OR-2 and is presently unimproved and vacant. As will be discussed below, it is irregularly shaped and features a series of site constraints. These include an existing utility line/easement which traverses the property to accommodate a natural gas line. Additionally, there is an existing right-of-way that enters the property from Liberty Road to the north. At one time, this right-of-way was to be used to accommodate the construction of Metropolitan Boulevard, however, that road was never built.

The surrounding community is predominantly residential in character, however there are several institutional uses nearby. Specifically, immediately abutting the property on the east side is the Holy Family Catholic Church and School. Immediately to the west of the Carriage Hills property is the Colonial Baptist Church. To the south (rear) of the site is a large apartment complex (800+ units) known as the Carriage Hill Apartments. Immediately across the street from the subject property are several business/commercial uses. Liberty Road (MD Route 26) is a major thoroughfare, which runs in an east to west direction in front of the subject property from Baltimore City through Baltimore County and into Carroll County. Near Baltimore City, the Liberty Road corridor is commercial; however, it becomes more residential in nature at this location in Baltimore County.

The history of the proposed development of this property is significant. At one time, the subject property was owned by Q-C Carriage Hills LLC (hereinafter "Q-C"). This developer proposed the site for a townhouse development and its plans were processed pursuant to the County's development review regulations as contained in Article 32 of the Baltimore County Code (B.C.C.). Q-C's proposed development was the subject of the major subdivision development review processes and was reviewed by the designated reviewing agencies of Baltimore County. Ultimately, pursuant to that process, the matter came in for a public hearing before the County's Hearing Officer/Zoning Commissioner. At that public hearing, Q-C requested approval of its Development Plan, as well as a series of zoning variances which were necessary to accommodate

the proposed layout of the development. By Order of this Commission in Case Nos. II-649 and 04-026-A, dated November 12, 2003, the Development Plan was approved and the variances granted. Certain restrictions were also incorporated into that decision. There was no appeal of that decision and it became final.

Subsequently, Q-C apparently suffered financial setbacks and ultimately filed for bankruptcy. Testimony offered at the instant hearing was that the Turner Companies acquired the site through proceedings in the United States Bankruptcy Court. Turner then retained MRA to review the previously approved Development Plan and determine if the residential development as shown thereon was feasible. The Development Plan approved by the Hearing Officer/Zoning Commissioner, although subject to review by Baltimore County, is not a final plan. Rather, it is schematic in nature. Under law, the plan is further refined and additional details are added. A Final Development Plan (FDP) is then submitted to the County and later a plat is recorded in the Land Records of Baltimore County. Q-C never submitted a FDP nor recorded a plat. Thus, MRA was retained by Clark Turner Companies to ascertain whether the approved plan could proceed to FDP and ultimately record plat under current requirements and market conditions.

MRA reviewed the plan and determined that the same was viable. However, a series of changes were necessary to accommodate the changes in the market since 2003, as well as to ensure compliance with the County's evolving regulations as they relate to development. MRA prepared a revised plan which divided the proposed development into two (2) sections; shown as Phase I and Phase II. The development in Phase I will remain as proposed under the original approved Q-C Plan. The development in the area shown as Phase II required certain variances and special hearing approval. Those petitions (variance and special hearing) were considered by this Commissioner in Case No. 08-252-SPHA. By my written Opinion and Order dated March 18, 2008, the variances and special hearing approval was granted to enable the development of this site as proposed in the revised Development Plan. That Opinion not appealed is now final. Additionally, an FDP and plat have been filed and recorded as required.

The matter now returns to the undersigned for an additional variance in the instant case. This variance request relates entirely to a proposed “amenity” identification sign which is to be constructed on a portion of the property immediately adjacent to Liberty Road and therefore does not directly change the plan in any significant aspect. It was indicated at the hearing that Clark Turner Companies builds a quality home product and enjoys a favorable reputation for their home building throughout the Baltimore Metropolitan area. One signature of a Clark Turner development is the entrance signage. In this case, a monument type sign is proposed as more particularly shown on the site plan (Petitioner’s Exhibit 1). The proposed signage contains a stone base and arch, as well as a roof and copula type structure. The name of the development, “Carriage Hills” is displayed within the signage.

Three (3) separate variances are required in order to approve this monument sign package. First, the sign will be located on a corner lot within the property which will ultimately be owned by the homeowners association. This lot immediately abuts Liberty Road and an access road (Peace Chance Drive) to be constructed leading into the interior of the site. Pursuant to B.C.Z.R. Section 400.1, an accessory structure must be located in the third of the lot farthest removed from the intersection. Obviously this requirement is not practical in this instance. The purpose of the sign, *to direct visitors into the site and identify the residential subdivision*, can be accommodated only if the sign is visible from Liberty Road. Thus, the sign will be located immediately adjacent to the intersection. It will not be located within the right-of-way nor cause any detrimental impact or interference with vehicular or pedestrian traffic. However variance relief is required so the sign is visible for traffic traveling in both directions on Liberty Road. If situated on that portion of the lot as required, it would not be functional.

The second variance requested is to accommodate the height of the accessory structure. As noted above, the sign is a monument type structure which reaches the height of approximately 38 feet. This height is required for identification purposes and so the sign is visible to traffic approaching on this major thoroughfare. It is an attractively designed structure which is consistent with the architectural theme of the development. As with other Clark Turner developments, it will also serve as an appropriate gateway to the community. Moreover, given the character of Liberty Road at this location and the character of the neighborhood, it is compatible with the locale.

Finally, variance relief is requested from B.C.Z.R. Section 450.4.I.2 to allow a sign height of 19 feet and square footage of 50 feet per face. The height requirement in this regard relates to the actual area of the lettering and location of the face of the sign within the structure.

At the public hearing, the Petitioners submitted a series of exhibits in support of the variances requested. These include a series of photographs of the site and locale. These photographs were persuasive that the proposed sign and its location and size are appropriate. As noted above, Liberty Road is a major corridor which contains four (4) lanes of traffic (two east and two west). Additionally, given the mixed uses in the vicinity, there is significant signage in the area; and the design and size is appropriate. Given the residential character of the project, the sign is designed and is compatible with the residential project proposed and the neighborhood. Finally, it is to be noted that there were no Protestants present and no adverse Zoning Advisory Committee (ZAC) comments were submitted. Turner has consulted with its neighbors regarding the project and a pattern book was reviewed and approved by the Office of Planning. That agency supports the Petitioner's request.

Based upon the testimony and evidence presented, I am persuaded to grant the petition for variance. The proposed redevelopment project as a whole is appropriate for the vicinity and will

upgrade the community. The particular structure/signage proposed in this case is also appropriate for the size of the community, and I find that the Petitioner meets the requirements of B.C.Z.R. Section 307 and that relief should be granted. I find that there are unique circumstances and characteristics associated with this property that justify the variances requested. I also find that a denial of the variances would cause practical difficulty; to wit, that visibility to the development would be compromised and unduly limited. Finally, I find that the proposal is consistent with the spirit and intent of the B.C.Z.R. and that the proposal will not detrimentally impact the neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing on this 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 27th day of March 2009 that the Petition for Variance seeking relief from Sections 400.1, 400.3 and 450.4.I.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; to allow an accessory structure to have a height of 38 feet in lieu of the maximum permitted 15 feet, and to allow a sign height of 19 feet in lieu of 6 feet and a maximum square footage of 50 feet per side (face) in lieu of 25 feet for a community sign, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

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

WJW:dlw

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