

IN RE: PETITION FOR VARIANCE * BEFORE THE
S side of Blackhead Road, SW of the
intersection of Blackhead & Crooks Road * DEPUTY ZONING
15th Election District * COMMISSIONER
6th Councilmanic District (6545 Crooks Road) * FOR BALTIMORE COUNTY
Erik M. Griffin * **Case No. 2009-0176-A**
Petitioner

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IN RE: PETITION FOR VARIANCE * BEFORE THE
S side of Blackhead Road, 150 feet from
W side of Crooks Road * DEPUTY ZONING
15th Election District * COMMISSIONER
6th Councilmanic District (6537 Blackhead Road) * FOR BALTIMORE COUNTY
Erik M. Griffin * **Case No. 2009-0177-SPH**
Petitioner

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner for consideration of Petitions for Variance and Special Hearing filed by the owner of the subject properties, Erik M. Griffin. In each case number, Petitioner is requesting the following relief:

Case No. 2009-0176-A: For the property located at 6545 Crooks Road, the Variance request is from Sections 1A01.3.B.2, 1A01.3.B.3, and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot area of 0.861 acre in lieu of the required one acre, a side yard setback of 20 feet in lieu of the required 35 feet, and to permit accessory buildings (workshop and garage) on a corner lot to be located outside of the third of the lot farthest removed from any street.

Case No. 2009-0177-SPH: For the property located at 6537 Blackhead Road, the Special Hearing is requested in accordance with Section 500.7 of the B.C.Z.R. to permit a lot of 0.861 acre in lieu of the required one acre for a new dwelling. The subject properties and the requested relief are

more fully described on the site plans which were marked and accepted into evidence in each case as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the Variance and Special Hearing requests was Petitioner Erik M. Griffin. Also appearing in support of the requested relief were Robert Infussi with Expedite LLC, the land use consultant assisting Petitioner, and David Billingsley with Central Drafting & Design, Inc., the firm that prepared the site plan. There were no Protestants or other interested citizens in attendance at the hearing.

Testimony and evidence offered revealed that the properties which make up 6545 Crooks Road (Case No. 2009-0176-A) and 6537 Blackhead Road (Case No. 2009-0177-SPH) are each rectangular in shape and are zoned R.C.2. The properties are located on the south side of Blackhead Road and the west side of Crooks Road in the Bird River Beach area of Baltimore County. Both properties are 150 feet wide by 250 feet deep and both contain 0.861 acre, more or less, or 37,500 square feet. Mr. Billingsley proffered the testimony and each property shall be discussed individually below.

6545 Crooks Lane

As shown on the site plan, this property is improved with an existing one-story dwelling located near the corner of Blackhead Road and Crooks Lane. Although the mailing address for this property is Crooks Lane, the dwelling actually fronts Blackhead Road and has driveway access from Blackhead Road. There is also an existing garage as well as an existing one-story all-purpose building currently used as a game room. As shown in the Deeds indicating the chain of title for the property that were marked and accepted into evidence as Petitioner's Exhibits 3A through 3D, Petitioner acquired the subject property in August 2001 and has resided in the aforementioned dwelling with his family. At this juncture, Petitioner desires to build a two-story

dwelling on the property that would be attached to the existing one-story building used as a game room. In so doing, Petitioner also desires to retain the existing garage and also the existing dwelling as accessory structures. The dwelling would be converted to a woodworking shop.

In support of the variance requests, Petitioner submitted a copy of the plat of "Section 2, Bird River Beach," which was marked and accepted into evidence as Petitioner's Exhibit 4, and indicates the lot was recorded on September 19, 1923. The subject property consists of Lots 155, 156, and 157. Mr. Billingsley also indicated the dwelling was constructed in 1928, predating the adoption of the Zoning Regulations. Photographs of the property were also submitted and marked and accepted into evidence as Petitioner's Exhibits 5A through 5H. These photographs show the location of existing improvements. If the proposed new dwelling is permitted and attached to the existing one-story game room, this existing building would encroach into the side yard setback at the west side of the property line at 20 feet in lieu of the required 35 feet. In addition, the existing garage and dwelling would become accessory structures located on a corner lot located outside of the third of the lot farthest removed from any street; hence, Petitioner has filed the instant variance requests.

6537 Blackhead Road

As shown on the site plan, this property is currently unimproved and is located to the immediate west of 6545 Crooks Lane. This property was also acquired by Petitioner in August 2001 as Lots 152, 153, and 154, along with the aforementioned Lots 155 – 157. As shown on the plat, these lots were also recorded on September 19, 1923 as part of the "Section 2, Bird River Beach" subdivision. At this juncture, Petitioner desires to construct a new dwelling on this property for potential sale. In order to do so, Petitioner requests special hearing relief to permit this undersized lot of 0.861 acre in lieu of the required one acre in an R.C.2 Zone. In making this

request, Mr. Billingsley indicated that all other height allowances, as well as front, side and rear yard setback requirements would be met. He also stressed that this property has never been utilized as accessory to the adjacent 6545 Crooks Lane and has always been kept as a separate lot from that property; thus, it has not been “merged” with 6545 Crooks Lane as that term is often used in zoning case law.

The Zoning Advisory Committee (ZAC) comments for these properties were received and are contained within the case file. Comments were received from the Office of Planning dated January 14, 2009 which indicates that the plumbing, etc., in the existing dwelling to be converted to a workshop at 6545 Crooks Lane shall be removed and the structure should cease to be used as a dwelling once construction of the new home is complete. Comments for both properties were received from the Department of Environmental Protection and Resource Management (DEPRM) dated March 2, 2009. The properties must comply with the Chesapeake Bay Critical Area Regulations. Both properties are within a Limited Development Area (LDA) in the Chesapeake Bay Critical Area. Lot coverage is limited to 15% of the property. Forest clearing is limited to 30% and there is mitigation required based on the amount of clearing. Clearing up to 20% requires 1:1 mitigation, and clearing between 20%-30% requires 1.5:1 mitigation for the entire area cleared. If the properties do not contain 15% forest, then there is a 15% afforestation requirement. For the property at 6545 Crooks Lane, prior to building permit approval, an evaluation of the existing septic system will be required and soil evaluations may be required. A well yield test is required. For the property at 6537 Blackhead Road, prior to building permit approval, soil evaluations must be conducted to determine a septic reserve area. A well meeting the minimum requirement of 1 gpm must be drilled. Petitioner shall contact DEPRM’s Ground Water Management Division at 410-997-2762 for more information on these issues.

Considering all the testimony and evidence presented, I am persuaded to grant the requested variance and special hearing relief. First, concerning the undersized lots, as is often the case with older subdivisions, the Bird River Beach community was laid out many years ago (September 19, 1923), well prior to the adoption of any Zoning Regulations in Baltimore County. Thus, many of the lots in the neighborhood are undersized and do not meet current area and/or width requirements. As shown on the site plan, the properties each contain 0.861 acre and are undersized by today's standards given their R.C.2 Zoning classification requiring new lots to be one acre in area with side yard set backs of 35 feet.

As to the side yard setback variance request and the request to keep the proposed accessory structures (existing garage and existing dwelling to be converted to a workshop) located on the third of the lot closest to the street, these variances are driven by the placement of the existing structures on the property. Petitioner is attempting to enhance his living space with construction of a new dwelling, while also utilizing the existing structures for accessory purposes. In my view, strict compliance with the Regulations would cause a practical difficulty upon Petitioner in that a reasonable use of the land would not be permitted. I also find that the addition of a dwelling on this property would not overcrowd the land, given the overall size of the property.

Finally, I find that the relief requested would not result in any detriment to the health, safety and general welfare of the surrounding locale and, therefore, would meet the spirit and intent of the B.C.Z.R. for relief to be granted.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and after considering the testimony and evidence offered, I find that Petitioner's variance and special hearing requests should be granted.

THEREFORE, IT IS ORDERED this 24th day of March, 2009 by this Deputy Zoning Commissioner, that the variance and special hearing relief for the properties set forth as follows:

Case No. 2009-0176-A: For the property located at 6545 Crooks Road, the Variance requests from Sections 1A01.3.B.2, 1A01.3.B.3 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot area of 0.861 acre in lieu of the required one acre, a side yard setback of 20 feet in lieu of the required 35 feet, and to permit accessory buildings (workshop and garage) on a corner lot to be located outside of the third of the lot farthest removed from any street, be and are hereby GRANTED; and

Case No. 2009-0177-SPH: For the property located at 6537 Blackhead Road, the Special Hearing relief requested in accordance with Section 500.7 of the B.C.Z.R. to permit a lot of 0.861 acre in lieu of the required one acre for a new dwelling, be and is hereby GRANTED.

Both properties are subject, however, to the following conditions precedent to the relief granted herein:

1. Petitioner may apply for any applicable building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The plumbing, etc., in the existing dwelling to be converted to a workshop shall be removed and the structure should cease to be used as a dwelling once construction of the new home is complete.
3. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
4. Both properties are within a Limited Development Area (LDA) in the Chesapeake Bay Critical Area. Lot coverage is limited to 15% of the property. Forest clearing is limited to 30% and there is mitigation required based on the amount of clearing. Clearing up to 20% requires 1:1 mitigation, and clearing between 20%-30% requires 1.5:1 mitigation for the entire area cleared. If the properties do not contain 15% forest, then there is a 15% afforestation requirement.

5. For Case No. 2009-0176-A, prior to building permit approval, an evaluation of the existing septic system will be required and soil evaluations may be required. A well yield test is required. Petitioner shall contact DEPRM's Ground Water Management Division at 410-997-2762 for more information.
6. For Case No. 2009-0177-SPH, prior to building permit approval, soil evaluations must be conducted to determine a septic reserve area. A well meeting the minimum requirement of 1 gpm must be drilled. Petitioner shall contact DEPRM's Ground Water Management Division at 410-997-2762 for more information.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz