

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
N/S Wake Robin Drive, 315' SW c/line of		
Sherwood Road	*	ZONING COMMISSIONER
<b>(428 Wake Robin Drive)</b>		
8 <sup>th</sup> Election District	*	OF
3 <sup>rd</sup> Council District		
	*	BALTIMORE COUNTY
Sterling S. Wyand, <i>Legal Owner</i>		
Steve Schneidereith, <i>Contract Purchaser</i>	*	<b>Case No. 2010-0038-A</b>
Petitioners		

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Sterling S. Wyand, and Steve Schneidereith, of Regional Homes of Maryland, the contract purchaser. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 23 feet in lieu of the required 40 feet and a front yard setback of 40 feet in lieu of the required front averaging setback of 45 feet pursuant to B.C.Z.R. Section 303.1 for a proposed dwelling. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request was Steve Schneidereith, Vice President of Regional Homes of Maryland. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a triangular shaped corner lot<sup>1</sup> containing approximately 23,739 square feet of land zoned D.R.2. The currently unimproved property is located on the northeast corner of Wake Robin Drive and Topsfield Drive in Cockeysville. As illustrated on the record plat of Dun Rovin, the lot in question known as Parcel A, was created through a Major Subdivision Process approved in 1956.

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<sup>1</sup> The lot is 156 feet deep at the western boundary and tapers to a 60-foot width at Topsfield Road (eastern boundary) with 160 feet of frontage along Wake Robin Drive.

The subject parcel, known as Lot 12, was deemed an unbuildable lot due to poor soil conditions. In the 1980's, however, public water became available negating the previous 100-foot distance restriction between well and septic areas. The Ground Water Management Division of the Department of Environmental Protection and Resource Management (DEPRM) has approved perc tests and located the septic reserve area on the western half of the property. The instant variances only concern this remaining half acre lot that is by comparison wider than the other hundred lots in Dun Rovin but has a narrow range of depth given its triangular corner lot configuration.

Further evidence demonstrated that Regional Homes of Maryland is proposing to build a custom home but is having difficulty due to the septic reserve area being located at the widest portion of the lot and a 5 foot storm drainage right-of-way running along the rear of the property. According to Mr. Schneidereith, DEPRM has demanded a 20-foot side yard setback from the septic reserve area with no grading permitted between the house and reserve area. As illustrated on the photographs submitted and confirmed by the Office of Planning in its Zoning Advisory Committee (ZAC) comment, the northern and western portions of the property contain mature evergreen trees along its boundaries that buffer the views from the property from adjacent homes and particularly the existing dwelling at 426 Wake Robin Drive. Building elevations were submitted as Petitioners' Exhibit 2 denoting a 52' wide x 50' deep, two-story home with a front-loaded garage that will be setback 40 feet from Wake Robin Drive's right-of-way. The closest home is setback 45 feet from the right-of-way line but contains a covered porch that measures 41 feet from the roadway. Thus, the Petitioners were advised to request a front yard setback of 40 feet in accordance with the front yard averaging requirements of B.C.Z.R. Section 303.1.

After due consideration of all the evidence presented, I am persuaded to grant the variance. It is clear that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioners and prevent use of the property for a permitted purpose. Moreover, testimony and evidence demonstrated that many of the homes in

the immediate vicinity are set back a similar distance from the public right-of-ways. There were no adverse ZAC comments submitted by any County reviewing agency and the proposal appears compatible with the pattern of development in the area. Thus, I find that the relief requested is appropriate in this instance and will not be detrimental to adjoining properties or the surrounding locale. Further, it was Mr. Schneidereith's opinion that the history and shape of the subject property make the property unique. It was also Mr. Schneidereith's additional opinion that a grant of the requested variances would be in harmony with the intent of the zoning regulations and would not create injury to the public, health, safety and welfare. As noted above, he has a reputation of providing an exceptional custom home product.

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 19<sup>th</sup> day of October 2009 that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed dwelling with a rear yard setback of 23 feet in lieu of the required 40 feet and a front yard setback of 40 feet in lieu of the required front averaging setback of 45 feet, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the thirty (30) day appeal period from the date of this Order has expired. If, for whatever reason this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Regional Homes of Maryland shall submit its plans for the new single-family dwelling as part of the building permit process to the Office of Planning for review with particular attention to providing a full front porch with the garage projection not to exceed 8 feet.
3. Petitioners shall not remove or interfere with the evergreen landscaping along the western property boundary without the approval

4. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).

WJW:dlw

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