

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S/Side Yarnall Road, 75' W of c/line of		
Annapolis Road (MD St. Rte. 648)	*	ZONING COMMISSIONER
(2799 Yarnall Road)		
13 th Election District	*	OF
1 st Council District		
	*	BALTIMORE COUNTY
Dale E. Keesee, <i>Legal Owner</i>		
Cedar Square Homes, Inc.,	*	
<i>Contract Purchaser</i>		
Petitioner	*	Case No. 2010-0130-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Petitioner Cedar Square Homes, Inc., through its President, Curtis Payne. The Petition was also signed by Dale Emory Keesee, property owner. The Petitioner, pursuant to Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.-1945-1955, Section III – “A” Residence Zone Use Regulations), requests a variance to permit a proposed single-family dwelling with a side yard setback of 10 feet (west side), a setback of 49 feet to the centerline of the road, and a rear yard setback of 46 feet in lieu of the required 15 feet, 55 feet, and 50 feet, respectively.¹ The subject property and requested relief are more particularly described on the amended redlined site plan which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Curtis Payne, on behalf of Cedar Square Homes, Inc., Matthew A. Forgen of M.A.F. & Associates, LLC, the

¹ Petitioner amended its petition and site plan at the onset of the hearing, without objection, to show a requested (west side) setback of 10 feet and rear yard setback of 46 feet (rather than the 13 feet and 32.5 feet as originally filed). Since the relief that was being requested was changed to respond to the Zoning Advisory Committee (ZAC) comment received from the Office of Planning, Cedar Square Homes, Inc. was permitted to proceed. It is also to be noted that Friendship Gardens is a residential subdivision approved by the Baltimore County Planning Board in 1955 and therefore entitled to the development standards and zoning regulations in effect at that time

consultant land planner, who prepared the amended site plan and is assisting the Petitioner through the permitting process. John E. Haislip, Esquire appeared on behalf of the Petitioner. There were no Protestants or other interested persons in attendance at the hearing and there were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies. Aaron Tsui from the Zoning Review Office supervised the changes to the site plan and confirmed that the variance relief requested was the minimal necessary to provide for a reasonable use of the property.

Testimony and evidence offered disclosed that the subject property is an irregularly shaped rectangular parcel located on the south side of Yarnall Road abutting Annapolis Road in Halethorpe. The property is a vacant *corner lot* as defined in Section 101 of the B.C.Z.R. and known as Lot 50 of Section 2 in the Friendship Gardens subdivision recorded in the Land Records of Baltimore County in 1955. Often older subdivision lots do not meet current area and/or width requirements. Such is not the case here. The subject property is 59 feet wide (at the front building line) and 115 feet deep containing a gross area of 0.178 acres (7,772 square feet), more or less, zoned B.L.-A.S. The Friendship Gardens (townhouse) development was approved and vested January 24, 1955. The 1953-1955 B.C.Z.R. regulations apply and the setback and area requirements for a detached dwelling on this lot are stated in *Section III "A" Residence Zone* as amended March 30, 1953. Those regulations required a minimum front yard setback of 25 feet, side yard - 10 feet (and for a corner lot – 40 feet to centerline of a street that is 50 feet wide or less) and a rear yard setback of 20 feet. Since Annapolis Road (State Rte. 648) is shown as 50 feet wide on Petitioner's amended site plan, it would appear to the undersigned Commissioner that the lot should have been approved by the Zoning Reviewer - for the

construction of the proposed single-family dwelling without a public hearing as it is in compliance with the applicable B.C.Z.R. statutes.

The Zoning Review Office, however, requested the Petitioner to obtain variance relief as set forth above to allow the development of the subject property with a two-story, single-family dwelling 24' wide x 32' deep. The proposed house will face Yarnall Road and the side yard will parallel Annapolis Road. Parking will be in the rear yard accessed from a 20-foot alley. As noted above, the Office of Planning supports the construction of a single-family dwelling at this particular location, preferring this use over any of the by-right commercial uses permitted in the Business, Local-Automotive Services classification. They asked only that the front setback be in line with the front setbacks of the neighboring townhouses. Rather than disputing the actual need for variance relief with the Zoning Review Office, I will clarify the situation by granting the petition to allow development of the subject property with a single-family dwelling. There will be no detrimental impacts to the surrounding locale. The improvements will not lie within the Flood Zone that is shown encroaching at the lot's northwest corner. Finally, it is clear that a practical difficulty and/or unreasonable hardship upon the Petitioner (and property owner) would result without relief that would provide for the development of this property for a reasonable and significant use.

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 19th day of January 2010, that the Petition for Variance seeking relief, pursuant to Section 1B02.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.-1945-1955, Section III – “A” Residence Zone Use Regulations), for a variance to permit a proposed single-family dwelling

with a side yard setback of 10 feet (west side), a setback (east side) of 49 feet to the centerline of the road, and a rear yard setback of 46 feet in lieu of the required 15 feet, 55 feet, and 50 feet, respectively, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED subject to the following:

- 1) The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The existing sidewalk located at the front of the property along Yarnall Road is in poor condition and shall be replaced by the Petitioner with a new concrete sidewalk.
- 3) Nonresidential uses authorized in the B.L.-A.S. zoning classification shall at this location be prohibited (other than home occupation offices which are permitted in residential zones) following the issuance of a use and occupancy permit.

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