

IN RE: **PETITIONS FOR VARIANCE** \* BEFORE THE  
N/S Bay Front Road, 60' & 110' E of \* ZONING COMMISSIONER  
Alma Avenue \* OF  
**(7302 & 7304 Bay Front Road)** \* BALTIMORE COUNTY  
15<sup>th</sup> Election District \* Petitioners \* **Case Nos. 2010-0131-A &**  
7<sup>th</sup> Council District \* **2010-0132-A**

\* \* \* \* \*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

These matters come before this Zoning Commissioner for consideration of Petitions for Variance filed by the owners of the subject adjacent properties, Andrew L. Straka, and his wife, Frances P. Straka. Since the properties are under common ownership and are adjacent to one another, the two (2) cases were heard contemporaneously. In both cases, the Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width(s) of 50 feet in lieu of the required 55 feet. The subject properties and requested relief are more particularly shown on the site plan submitted in each case and marked into evidence as Petitioners' Exhibits 1, respectively.

Appearing at the requisite public hearing on behalf of the Petitions were Andrew and Frances Straka. It is to be noted that letters of support were received from the adjoining and adjacent neighbors, namely Joseph Hickman (2107 Alma Avenue) and Frank Maddox (7306 Bay Front Road) and marked as Petitioners' Exhibit 2. There were no Protestants or other interested persons in attendance nor were there any adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

Testimony indicated that the subject properties, known as 7302 and 7304 Bay Front Road, are each 50' wide x 200' deep consisting of area(s) of 10,000 square feet, zoned D.R.5.5

and located within the Chesapeake Bay Critical Area (CBCA) near Old Road Bay at the mouth of the Patapsco River. Vehicular access is by way of Bay Front Road. On the south side of the road towards Anna Avenue (to the west) is the Old Bay Marina – directly across Bay Front Road in front of the Petitioners property is a critical area easement created as part of the Plantation Landing subdivision (PDM No. MS 05032). The wetlands will feature unobstructed water views from the subject properties. The Straka's seek the necessary zoning approval to construct new dwellings on the properties in accordance with Petitioners' Exhibit 1 that will be compatible in both size and architectural detail with those other homes existing in the area. Mr. and Mrs. Straka will reside in the new home built on 7304 Bay Front Road; their daughter, Heather Pecoraro and her husband, at 7302 Bay Front Road, that had previously been improved with two (2) dwellings built in the 1920's. Mr. Straka stated that following the purchase of the properties in 2008, he had a structural inspection performed that disclosed the larger home (on the front of Lot 15) was devastated with termite infestation and he applied for a permit and had it taken down. The second home at the rear of the lot is in good condition but only 650 square feet in size. The Straka's will convert the structure to an accessory building for storage. Due to the history of the properties and narrow width of the lots, the relief requested as set forth above is necessary.

As noted above, the properties are zoned D.R.5.5. The D.R.5.5 zoning classification imposes a number of requirements for the construction of single-family dwellings thereon. First, each lot must be a minimum 6,000 square feet in area, a requirement which is easily met in this case. Secondly, for any single-family dwelling on a D.R.5.5 lot, the minimum front property line setback is 25 feet and a 30-foot rear property line setback must be maintained. Finally, 10-foot side yard setbacks must be maintained on each side. In this regard, the Petitioners proposal

meets or exceeds all of these requirements. The only deficiency under the current regulations relates to the lot widths. Under the D.R.5.5 zoning regulations, a minimum lot width of 55 feet is required. As noted above, these lots were originally laid out as 50-foot wide lots. Although recorded well prior to the adoption of the zoning regulations, the current requirements must be maintained or variance relief acquired before building permits can be approved. Finally, Mr. Straka noted that many of the houses in the immediate vicinity are situated on 50-foot wide lots. This fact was confirmed during a site visit by the Office of Planning. Indeed, this Commission has approved similar variance relief in this area. *See* Case Nos.: 92-382-A (7610 Bay Front Road), 96-040-A (7413 Bay Front Road), and 07-288-SPH (7320 Bay Front Road).

Based upon the cumulative testimony and evidence offered, I am persuaded that variance relief should be granted. In my judgment, relief is justified particularly given the age of the Chesapeake Terrace subdivision and the original configuration of the properties under consideration. I find that the Petitioners have met the requirements of Section 307 of the B.C.Z.R. and that variance relief should be granted. The new homes will be served by public water and sewer. I also note that the Office of Planning (OP) issued a favorable Zoning Advisory Committee (ZAC) comment as to the proposal. That agency no doubt concluded that the side-by-side orientation of two (2) new dwellings in this neighborhood will not increase residential density beyond that otherwise allowed by the zoning regulations. Each lot exceeds the minimum lot size of 6,000 square feet. Strict compliance with the regulations would result in a practical difficulty or unreasonable hardship. As indicated above, I find that the request fits the pattern of development in the neighborhood and will not adversely impact the surrounding locale.

Both properties are located within the Chesapeake Bay Critical Area and as such are subject to compliance with any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) and the Bureau of Development Plans Review (DPR) concerning Federal flood insurance requirements. The granting of the relief requested herein is contingent upon Petitioners' compliance with these recommendations.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions 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 14<sup>th</sup> day of December 2009 that the Petition for Variance filed in Case No. 2010-0131-A seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, for a replacement dwelling to be built on Lot 15 at 7302 Bay Front Road, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance in Case No. 2010-0132-A seeking similar relief from Section 1B02.3.C.1 of the B.C.Z.R. to permit a lot width of 50 feet in lieu of the required 55 feet for a proposed dwelling on Lot 16 at 7304 Bay Front Road, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions imposed in both cases:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
2. Petitioners shall comply with the Zoning Advisory Committee (ZAC) comments submitted by the Office of Planning, dated November 13, 2009, Department of Environmental Protection and Resource Management

3. The Petitioners shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) reasonable access to the previously used second dwelling on Lot 15 to confirm its conversion to an accessory storage shed. There shall be no living quarters, kitchen or commercial uses permitted in the 25' x 25' structure following the issuance of building permits for the proposed single-family dwellings.

Any appeal of this decision shall be taken in accordance with the Baltimore County Code

Section 32-3-401.

\_\_\_\_SIGNED\_\_\_\_\_  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
For Baltimore County