

-IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
2 <sup>nd</sup> Election District	*	OFFICE OF
4 <sup>th</sup> Councilmanic District		
<b>(9401, 9403, 9405, 9407, 9409 &amp; 9411</b>	*	ADMINISTRATIVE HEARINGS
<b>Silver Charm Drive)</b>		
CT Carriage Hills Business Trust	*	FOR BALTIMORE COUNTY
Petitioner		
	*	<b>Case No. 2013-0053-SPHA</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by CT Carriage Hills Business Trust, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to determine whether or not the Administrative Law Judge (ALJ) should approve an amendment of the 1st Amended Final Development Plan to reflect the variance request listed; to re-affirm the existing approved variances for Lot Nos. 33 through 38; and for such other further relief as may be necessary. In addition, a Petition for Variance was filed pursuant to § 1B01.2.c.1.c, to allow a minimum setback of 18' from a front building face to a public street right-of-way or property line for garage units, in lieu of the required 25' for Lots 33 through 38. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Chris (Topher) Smith, Vice President of Home Construction with Clark Turner, Inc., and Matthew A. Bishop with Morris & Ritchie Associates, Inc., the firm that prepared the site plan. Timothy M. Kotroco, Esquire appeared as counsel and represented the Petitioner. The file reveals that the Petition was properly posted as required by the Baltimore County Zoning Regulations. Though the

Department of Permits, Approvals, and Inspections (PAI) requested that Patuxent Publishing include the requisite advertisement for the case, that was not done. This however is not the applicant's fault, and I believe the posting of the property – done at two locations (Exhibit 3) suffices to provide adequate notice. There were no Protestants in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The subject property is 820,670 square feet (18.84 acres) and is zoned OR 2. The project was initially approved in 2003, and after struggling through the economic malaise, the developer has re-started the project and sales have been brisk. This case involves just six lots in the overall subdivision, which is comprised of 159 townhouses.

Based on the evidence presented, and the proffered testimony of Landscape Architect Matthew Bishop, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Indeed, the six lots in question are positioned immediately adjacent to a gas pipeline easement (which contains two 20" gas lines). While the gas line runs along the rear of Lots 33-60, the easement for the pipeline “bumps out” towards Lots 33-38, which requires the developer to position those units forward, closer to Silver Charm Drive, necessitating variance relief. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioners would essentially be unable to construct the units as planned and approved on the 2003 development

plan. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of opposition from the community and County reviewing agencies.

The special hearing petition simply seeks to amend the final development plan for Carriage Hills Townhouses, in accordance with the terms of this Order, and for Lots 33-38 only. This is an appropriate request and will be granted.

Pursuant to the posting of the property, public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 13<sup>th</sup> day of November, 2012, by the Administrative Law Judge, that the Petition for Variance seeking relief from § 1B01.2.c.1.c, to allow a minimum setback of 18' from a front building face to a public street right-of-way or property line for garage townhouse units, in lieu of the required 25' for Lots 33 through 38, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to amend the 1st Amended Final Development Plan for Carriage Hills Townhouses to reflect the variance relief granted herein and to re-affirm the existing approved variances for Lot Nos. 33 through 38, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its appropriate permits 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 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.

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

JEB/dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County