

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
FRANCIS A. KENNEDY, P.R.	*	CASE NO.: 3717
OF THE ESTATE OF	*	
MARGARET M. KENNEDY	*	
(Variance)	*	

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Francis A. Kennedy, P.R. of the Estate of Margaret M. Kennedy (the “Applicant”). Applicant seeks a variance from the minimum road frontage requirements for a parcel which is otherwise land locked, and seeks access to the property by the use of a 25 foot right of way known as Crouse Lane, which lane’s existence predated the County’s adoption of Subdivision Regulations and which lane is shared with several existing and adjoining properties. The property in question is a 3 acre parcel located at “South Side Crouse Lane – Vacant Land” in Elkton, Maryland, designated as Parcel 312 on Tax Map 13, in the Fourth Election District of Cecil County (the “Property”). The Property is in an area zoned Rural Residential (“RR”) and is owned by the Estate of Margaret M. Kennedy, of which the Applicant is the Personal Representative..

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

The Applicant, on behalf of the Estate of Margaret M. Kennedy, appeared with counsel, Dennis Clower, Esq., and indicated that the Estate is requesting the variance in order to allow access to the property by means of the 25 foot right of way known as Crouse Lane, which lane predated the existence of the County's Subdivision Regulations. The Applicant is seeking this variance in order to be able to access a lot that has been owned by the Kennedy family since prior to the passage of the Subdivision Regulations in the 1960's. This lot has been land locked since its inception. Applicant's counsel, Dennis Clower, Esq., referenced an Opinion dated March 26, 2002, which granted a very similar variance request for a neighboring property known as 44 Crouse Lane, Elkton, Maryland, shown on the same tax map as the property in question, i.e. Tax Map 13, Parcel 525. Mr. Clower stated that every other parcel has access to this 25 foot lane and this lane is the other lots' only access. Mr. Mark Saunders, Acting Chairperson, asked if the Applicant had ever had the property perc tested as the goal appears to be to get the property to market, and the Applicant indicated that he had as part of the settling of the Estate. Mr. Saunders further inquired as to whether a Road Maintenance Agreement existed regarding the maintenance of the road for the property owners accessing it, and Mr. Clower indicated that there is a Road Maintenance Agreement and that the Applicant is willing to be a part of that Agreement. Mr. Clower further

indicated that Crouse Lane is accepted as a road since the address of this property is "South Side Crouse Lane" and the other lots that access the lane have Crouse Lane addresses. It is a private road.

No other witnesses testified in favor of the application.

Mr. John Mitchell appeared in opposition to the variance and testified that he owned Parcel 766. He said that he and others on the lane are not in favor of it because it would result in more traffic. He indicated that the lane was put in when Bobby Crouse owned that property. Mr. James Eder asked the witness if the Applicant's becoming a part of the Road Maintenance Agreement would alleviate Mr. Mitchell's concerns regarding more traffic resulting from the granting of the variance. Mr. Mitchell indicated that his concern was that, if Mr. Kennedy sold the property, Mr. Mitchell had no guarantee that the new owners would maintain the lane. Mr. Brad Carillo asked Mr. Mitchell how long he had lived on the property and he indicated 11 years. No other witnesses testified in opposition to the application.

The Applicant added that Mr. Mitchell lives on Parcel 766 because Mr. Ulrich sought and received a variance in 2002 for the parcel to have access to Crouse Lane. That Board of Appeals Opinion in 2002 granted access to Crouse Lane.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Without this variance, the property is land locked. The variance seeks access to the same 25 foot right of way on Crouse Lane that the other property owners in the neighborhood already use for

access to their lots. Without this variance, the property would remain land locked and not be marketable in order to settle the Estate.

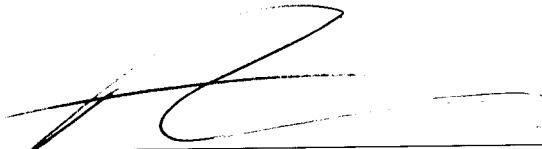
2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. Access to this property cannot be had without the requested variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels in this neighborhood are able to access their property via Crouse Lane in the manner proposed by Applicant for the property in question.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**. [All Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.]

10/23/15
Date



Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: May
 FILE NO. 3717

Received

- THIS REQUEST IS FOR:
- SPECIAL EXCEPTION RENEWAL ()
 - SPECIAL EXCEPTION ()
 - VARIANCE (X)
 - APPEAL ()

APR 16 2015
 Cecil County Office of Planning & Zoning

DATE FILED: 4/16/15
 AMOUNT PD: \$200.00
 ACCEPTED BY: CIT

1031

A. APPLICANT INFORMATION

FRANCIS ARLAND KENNEDY, Personal Representative of the Estate of Margaret M. Kennedy
 APPLICANT NAME - PLEASE PRINT CLEARLY

1445 Ebenezer Church Road Rising Sun MD 21911
 ADDRESS CITY STATE ZIP CODE

Francis A Kennedy, PR (410) 658-0179
 APPLICANT SIGNATURE PHONE NUMBER

Francis Arland Kennedy, Personal Representative

B. PROPERTY OWNER INFORMATION

Margaret M. Kennedy
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

2843 Singerly Road Elkton MD 21921
 ADDRESS CITY STATE ZIP CODE

Francis A Kennedy, PR (410) 658-0179
 PROPERTY OWNER SIGNATURE PHONE NUMBER

Francis Arland Kennedy, Personal Representative

C. PROPERTY INFORMATION

S/S Crouse Lane - Vacant Land Fourth 04-009487
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

13 17 312 3 Acres ± RR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Applicant requests a variance from the minimum road frontage requirement for the referenced lot number, which otherwise is land locked. Access to be provided by the use of a 25 foot right of way known as Crouse Lane which predated subdivision regulations and is shared with several existing and adjoining properties.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? _____ YES _____ X _____ NO
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____
 Is property in the 100 year Floodplain? _____ YES _____ X _____ NO
 Is property an Agricultural Preservation District? _____ YES _____ X _____ NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

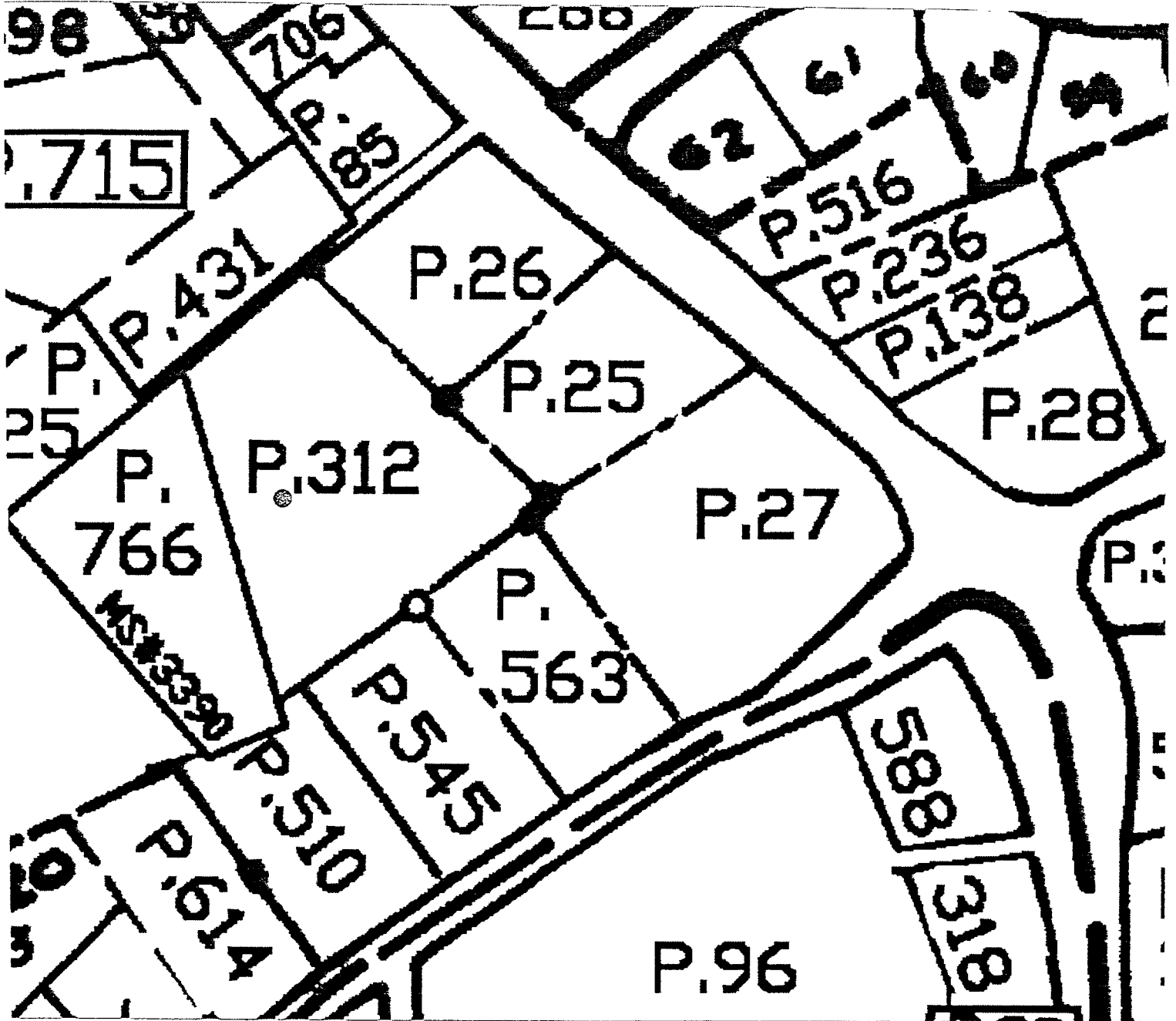
G. PROVISION OF ZONING ORDINANCE: Article VI Schedule of Zoning Regulations and Section 306 variances.

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: n/a

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? n/a If yes, distance: _____
 Will unit be visible from adjoining properties? _____ If yes, distance: _____
 Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
 Number of units on property at present time: _____

TAX MAP 13, BLOCK 17, PARCEL NO. 312



#2





File 3717
 Francis A. Kennedy
 M13 P 312

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 1 7 6
 2 3 4 5 6