

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Jerry Adeline Pribyl, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a special hearing under Section 504.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve amendment to development plan, lot 1, block C of Silvergate South to permit an accessory structure (detached rear) to be located in rear yard outside building envelope.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertisement, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Please contact for hearing date July 12, 1978
Mr. Eric S. DiNenna
248
4220 Winterode Way
Baltimore, MD 21234
666-1300
Professional's Attorney

ORDERED BY the Zoning Commissioner of Baltimore County, this 12th day of July, 1978, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12th day of July, 1978, at 10:00 a.m.

Deputy Zoning Commissioner of Baltimore County
(over)

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BUILDING
 111 W. Lombard Ave.
 Towson, Maryland 21204

July 5, 1978

Mr. & Mrs. Jerry Pribyl
 4220 Winterode Way
 Baltimore, Maryland 21236

RE: Special Hearing Petition
 Item No. 248
 Petitioner - Pribyl

Dear Mr. & Mrs. Pribyl:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject property, located on the northwest corner of Winterode Way and Silver Meadow Lane in the development of Silvergate South, is presently improved with an individual dwelling. Because of your proposal to construct a pool in the rear yard outside of the allowable building area on this lot, this Special Hearing to amend the final development plan is required. As I am sure you are aware, this hearing was required as a result of a request by one of your neighbors.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Nicholas B. Commodari
 NICHOLAS B. COMMODARI
 Chairman
 Zoning Plans Advisory Committee

NBCismw
 Mr. Les Riesett, L.C. Hohne Contractors, Inc. 9005 Harford Rd.
 Baltimore, Maryland 21234

Baltimore County
 Department of Public Works
 TOWSON, MARYLAND 21204

THOMAS H. DEWITT, P.E.
 DIRECTOR

July 12, 1978

Mr. & Mrs. Eric DiNenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Re: Item #248 (1977-1978)
 Property Owner: Jerry & Adeline Pribyl
 NW cor. Winterode Way & Silver Meadow La.
 Existing Zoning: D.R. 5.5
 Proposed Zoning: Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st Amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.
 District: 11H

Dear Mr. DiNenna:

The following comments are furnished in regard to the plan submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements are not directly involved and are an accessory to the proposed development, which is in connection with the development of "Silvergate South" (referred to as "Silvergate") in lot 1, block C of the plat of Silvergate South, recorded in the Baltimore County Office Building.

Development of this property through striping, grading and stabilization could result in a sediment pollution problem, causing private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the striping of top soil.

The Petitioners must provide necessary drainage facilities (temporary or permanent) to prevent grading or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item #248 (1977-1978).

Very truly yours,

Eric S. DiNenna
 ERIC S. DINENNA, P.E.
 Chief, Bureau of Engineering

END/EXH:FW/BS
 cc: C. Warfield

Baltimore County
 Office of Planning and Zoning
 TOWSON, MARYLAND 21204
 (301) 458-5211

LES E. H. GRAFT
 DIRECTOR

July 7, 1978

Mr. Eric S. DiNenna, Zoning Commissioner
 Zoning Advisory Committee
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #248, Zoning Advisory Committee Meeting, June 1, 1978, are as follows:

Property Owner: Jerry and Adeline Pribyl
 Location: NW/C Winterode Way and Silver Meadow Lane
 Existing Zoning: D.R. 5.5
 Proposed Zoning: Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st Amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.
 District: 11H

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

John L. Wimbley
 John L. Wimbley
 Planner III
 Current Planning and Development

Baltimore County
 Department of Health
 TOWSON, MARYLAND 21204
 (301) 458-5211

DONALD J. ROPP, M.D., M.P.H.
 DEPUTY STATE AND COUNTY HEALTH OFFICER

July 21, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
 Office of Planning and Zoning
 County Office Building
 Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #248, Zoning Advisory Committee Meeting of June 1, 1978, are as follows:

Property Owner: Jerry & Adeline Pribyl
 Location: NW/C Winterode Way & Silver Meadow La.
 Existing Zoning: D.R. 5.5
 Proposed Zoning: Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st Amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.

Address: 11H
 District: 11H

Metropolitan water and sewer are available, therefore no health hazards are anticipated.

Very truly yours,

Thomas H. Dewitt
 Thomas H. Dewitt, Director
 BUREAU OF ENVIRONMENTAL SERVICES

THT/BTF/rth

Baltimore County
 Department of Public Works
 TOWSON, MARYLAND 21204
 (301) 458-5211

STEPHEN COLLINS
 DIRECTOR

June 21, 1978

Mr. S. Eric DiNenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Item No. 248 - ZAC - June 1, 1978
 Property Owner: Jerry & Adeline Pribyl
 Location: NW/C Winterode Way & Silver Meadow La.
 Existing Zoning: D.R. 5.5
 Proposed Zoning: Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st Amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.

Address: 11H
 District: 11H

Dear Mr. DiNenna:
 The petition should have no effect on traffic.

Very truly yours,

Stephen E. Weber
 Stephen E. Weber
 Engineer I

SEM/dm

Baltimore County
 Fire Department
 TOWSON, MARYLAND 21204
 (301) 458-5211

Paul H. Reineke
 Chief

Office of Planning and Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Attention: N. Commodari, Chairman
 Zoning Advisory Committee

Re: Property Owner: Jerry & Adeline Pribyl

Location: NW/C Winterode Way & Silver Meadow La.

Item No. 248 Zoning Advisory Committee Meeting of 6/1/78

Comments:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the corners have been marked with as "T" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second source of vehicle access is required for the site.
3. The vehicle dead end condition shown at the intersection of the driveway and the main road is within the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 Edition prior to occupancy.
6. Site plans are approved as drawn.
7. The Fire Prevention Bureau has no comments at this time.

Approved: Stephen E. Weber
 Special Inspection Division
 Fire Prevention Bureau

June 1, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item # 215 Zoning Advisory Committee Meeting, June 1, 1978 are as follows:

Property Owner: Jerry & Adeline Pribyl
Location: 4220 Winterville Way & Silver Meadow Lane
Blasting Station: D.B. 5-5
Proposed Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.
Acreage: 11th

The items checked below are applicable:

- X A. Structure shall conform to Baltimore County Building Code (B.C.B.C.) 1970 Edition and the 1971 Supplement, State of Maryland Code for the Building and other applicable codes.
- X B. A building permit shall be required before construction can begin.
- X C. Additional miscellaneous permits shall be required.
- B. Building shall be upgraded to new use - requires alteration permit.
- E. Three sets of construction drawings will be required to file an application for a building permit.
- F. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal will be required to file an application for a building permit. (Depending on type of pool)
- G. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
- H. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.
- I. No Comment.
- J. Comments:

Very truly yours,

Charles E. Burdon
Charles E. Burdon
Planning Review Chief

CEB:raj

August 16, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item # 215 Zoning Advisory Committee Meeting, June 27, 1978 are as follows:

Property Owner: Jerry & Adeline Pribyl
Location: 4220 Winterville Way & Silver Meadow Lane
Blasting Station: D.B. 5-5
Proposed Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.
Acreage: 11th

The items checked below are applicable:

- X A. Structure shall conform to Baltimore County Building Code (B.C.B.C.) 1970 Edition and the 1971 Supplement.
- X B. A building permit shall be required before construction can begin.
- X C. Additional miscellaneous permits may be required.
- B. Building shall be upgraded to new use - requires alteration permit.
- E. Three sets of construction drawings will be required to file an application for a building permit.
- F. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal will be required to file an application for a building permit.
- G. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
- H. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.
- I. No Comment.
- J. Comments: Pool shall be properly fenced at time of construction.

Very truly yours,

Charles E. Burdon
Charles E. Burdon
Planning Review Chief

CEB:raj

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: June 1, 1978

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: June 1, 1978

RE: Item No: 248
Property Owner: Jerry & Adeline Pribyl
Location: 4220 Winterville Way & Silver Meadow Lane
Present Zoning: D.B. 5-5
Proposed Zoning: Special Hearing to amend the development plan, lot 1, block C as previously approved on the 1st Amended Final Development Plan of Silvergate South to permit an accessory structure to be located in the rear yard outside the building envelope.

District: 11th
No. Acres:

Dear Mr. DiNenna:

No hearing on student population.

Very truly yours,

W. Nick Petrucci
W. Nick Petrucci
Field Representative

WNP/hp

JOSEPH N. MCGOWAN, PRESIDENT
T. BARBARA HILLMAN, JR., VICE-PRESIDENT
MARCEL W. ROTHEARS

THOMAS H. BITTER
WPA. LORRINE F. CONNOR
ROGER S. HATTON

ALVIN LORRICK
WPA. HILTON E. DITTEL, JR.
RICHARD W. TRACY, D.V.M.

ROBERT T. DUBEL, SUPERINTENDENT

Mr. & Mrs. Jerry Pribyl
4220 Winterville Way
Baltimore, Maryland 21236

Item No. 248

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Ave.
Towson, Maryland 21204

Your Petition has been received and accepted for filing
this 16th day of June, 1978.

S. ERIC DI NENNA
Zoning Commissioner

Petitioner: Pribyl
Petitioner's Attorney:

Mr. Lee Riccobelli
L. C. Holmes Contractors, Inc.
9000 Harford Road
Baltimore, Maryland 21236

Reviewed by: *Nicholas B. Conimodari*
Nicholas B. Conimodari
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna, Zoning Commissioner Date: July 3, 1978
FROM: Leslie H. Graef, Director of Planning
SUBJECT: Petition #79-14-SPH. Petition for Special Hearing
Northwest corner of Winterville Way and Silver Meadow Lane
Petitioner - Jerry and Adeline Pribyl

11th District

HEARING: Monday, July 17, 1978 (10:15 A.M.)

There are no comprehensive planning factors requiring comment on this petition.

Leslie H. Graef
Leslie H. Graef
Director of Planning

LHG:JGH:dee

RE: PETITION FOR SPECIAL HEARING
NW corner of Winterville Way &
Silver Meadow Lane, 11th District
JERRY PRIBYL, et al, Petitioners
: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: Case No. 79-14-SPH

ORDER TO ENTER APPEARANCE

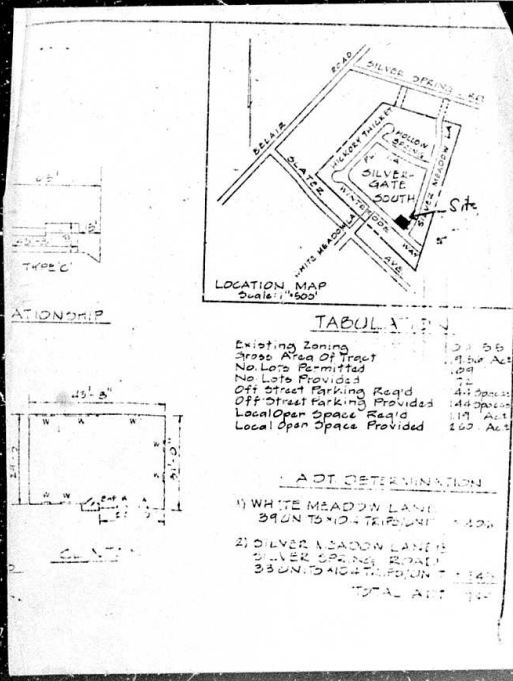
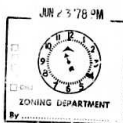
Mr. Commissioners:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Heslin III
John W. Heslin, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 22nd day of June, 1978, a copy of the foregoing Order was mailed to Mr. and Mrs. Jerry Pribyl, 4220 Winterville Way, Baltimore, Maryland 21236, Petitioners.

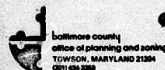
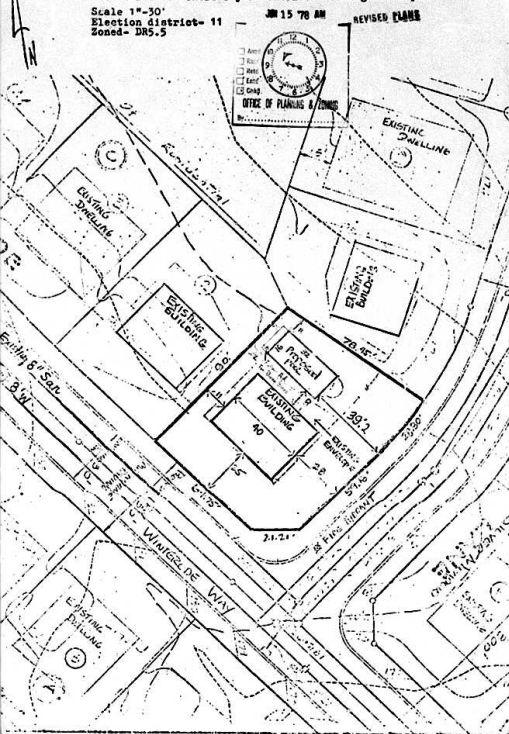


Beginning at a point in the North west corner of Winterville Way and Silver Meadow Lane and known as lot 1, block C, as shown on the plat of Silvergate South, which is recorded in the B & R of Baltimore County in Liber 30, Page 36.

Also known as 4220 Winterville Way

14-00000 and up only showing first lot. NW corner of lot 1, Block C, an previously approved on the 1st Amended Final development plan of Silvergate South to permit an accessory structure (swimming pool) to be located in rear yard outside building envelope.

Scale 1"=30'
Election district- 11
Zoned- DR-5



Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
CEN 434-2883

Robert J. Romadka, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

August 21, 1978

RE: Petition for Special Hearing
NW Corner of Winterville Way
and Silver Meadow Lane -
11th Election District
Jerry P. Pribyl, et ux -
Petitioners
NO. 79-14-SPH (Item No. 248)

Dear Mr. Romadka:

I have this date passed my Order in the above referenced matter,
in accordance with the attached.

Very truly yours,

George J. Martinak
GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM:m

Attachments:

cc: Mr. & Mrs. Walter J. Kozlaski, Jr.
4218 Winterville Way
Baltimore, Maryland 21236

Mr. & Mrs. John Byer
8602 Silver Meadow Lane
Baltimore, Maryland 21236

John W. Hession, III, Esquire
People's Counsel

Mr. and Mrs. John P. Byer
8602 Silver Meadow Lane
Baltimore, Maryland 21236

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Sir:

Please be advised that we wish to protest the decision in
Case No. 79-14-SPH (Item No. 248) of August 21, 1978 regarding
Mr. Jerry P. Pribyl, N/W Corner of Winterville Way and Silver
Meadow Lane.

Enclosed please find our check to cover the fee for the
appeal.

Many thanks for your kind attention to this matter.

Sincerely,

John P. Byer
Teresa A. Byer
Mr. and Mrs. John P. Byer

SEP 19 78 PM



January 18, 1979

Mr. and Mrs. John Byer
8602 Silver Meadow Lane
Baltimore, Md. 21236

Re: File No. 79-14-SPH
Jerry P. Pribyl, et ux

Dear Mr. and Mrs. Byer:

Enclosed herewith is a copy of the Opinion and
Order passed today by the County Board of Appeals in the above entitled
case.

Very truly yours,

Muriel E. Budzinski
Muriel E. Budzinski

End.

cc: Robert J. Romadka, Co.
Mr. and Mrs. Jerry Pribyl
John W. Hession, III, Esq.
Mr. Lee Russell
Mr. S. E. Dineen
Mr. George Martinak
Mr. Leslie Grant
Mr. James Oyer
Mr. Gerry Burl
Mrs. Carol Sarah

RE: PETITION FOR SPECIAL HEARING : BEFORE THE
NW Corner of Winterville Way and : COUNTY BOARD OF APPEALS
Silver Meadow Lane - 11th Election : OF
District : COMMISSIONER
Jerry P. Pribyl, et ux - Petitioners :
NO. 79-14-SPH (Item No. 248) :
: BALTIMORE COUNTY

This matter comes before the Deputy Zoning Commissioner as a re-
sult of a Petition for a Special Hearing to amend the development plan for
Lot No. 1, Block "C", Silvergate South, as previously approved on the First
Amended Final Development Plan, to permit an accessory structure (in-ground
swimming pool) to be located in the rear yard outside the building envelope.

Testimony on behalf of the Petitioners indicated that they desire to
have an in-ground swimming pool, 16 feet by 32 feet, more or less, construct-
ed to the rear of their corner lot, the same representing about eight percent
of their total property area. The pool would be enclosed by means of a four
foot high stockade fence, with a gate to be locked when not in use. Further
testimony indicated that all current side and rear yard setbacks prescribed
by the Baltimore County Zoning Regulations would be met.

Nearby residents, in protest, indicated that they feared the possibility
of danger to small children in the neighborhood as a result of the pool, the
possibility of leakage, noise from the filter, drainage problem, and a pre-
sumed detrimental value to their homes if the pool were installed. Some con-
cern for the effect of the pool's use upon the privacy of nearby homes was
also suggested.

Without reviewing the evidence further in detail but based upon all of
the evidence presented at the hearing, in the judgment of the Deputy Zoning
Commissioner, the prerequisites of Sections 500 and 502.1 of the Baltimore
County Zoning Regulations have been met and the Special Hearing should be
granted.

RE: PETITION FOR SPECIAL HEARING : BEFORE
on property located on the : COUNTY BOARD OF APPEALS
NW corner of Winterville Way and : OF
Silver Meadow Lane :
11th District : BALTIMORE COUNTY
Jerry P. Pribyl, et ux :
Petitioners : File No. 79-14-SPH

OPINION

This case comes before the Board on an appeal by one of the Protestants
in an Order of the Deputy Zoning Commissioner dated August 21, 1978, which granted the
petition to approve an amendment to a Development Plan to permit an accessory structure
to be located in a rear yard.

The subject property is located on the northwest corner of Winterville
Way and Silver Meadow Lane, in the 11th Election District of Baltimore County, and the
subject property is designated as 4220 Winterville Way.

The petition is for the purpose to locate an in-ground swimming pool
in the rear portion of the Petitioner's property, the location of said swimming pool being
out of the building "envelope" for the Petitioner's residence on the recorded plot.

It is to be noted that there was no one to appear and testify in opposition
to this request, and the appellant was duly notified and, in fact, had spoken with the office
of the People's Counsel of Baltimore County approximately one week to ten days prior to
this hearing. The other party listed in opposition to this case has submitted a
letter, which is contained in the Board's file on this case, withdrawing any opposition to
the requested petition. On the day of the hearing, which was scheduled to commence
at 10:00 a.m., the Board waited until approximately 11:00 a.m. before proceeding, and
as of that time there was no request for a postponement or continuance on behalf of the
remaining party in opposition, who incidentally is a next door neighbor to the Petitioner.

The Petitioner, Mrs. Pribyl, testified, indicating she desired to have an
in-ground swimming pool, as some of her other neighbors have, located in the rear of their
property, said pool to be approximately 16 x 32 feet, and to be enclosed by means of a
4 foot high stockade fence, with a gate to be locked when not in use.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of
Baltimore County, this 21st day of August, 1978, that the above
described Special Hearing should be and the same is hereby GRANTED, from
and after the date of this Order, subject to the following:

1. The pool area shall be enclosed by means of a four foot high stockade fence and a locked gate.
2. The diving board shall be located at the side of the pool closest to Silver Meadow Lane.
3. All grading shall be accomplished so as to preclude any additional runoff onto any adjoining property.
4. Approval of the site plan by the Department of Public Works and the Office of Planning and Zoning.

George J. Martinak
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE August 21, 1978

BY *John P. Byer*
Baltimore County

Jerry P. Pribyl, et ux - File No. 79-14-SPH

Additionally, a representative of the pool company testified and
indicated that the proposed pool would conform to all Code requirements, and would be
located with all proper side and rear yard setbacks as prescribed by the Baltimore County
Zoning Regulations. Further testimony from these parties indicated that Sections 500
and 502.1 of the Baltimore County Zoning Regulations would be complied with; and
further, as evidenced on one of the exhibits in a case, a substantial number of the properties
within this subdivision have accessory uses in the rear yard and some include above ground
pools, and most notably two in-ground pools have been located, one of which is just two
properties away from the Petitioner in this case. Said in-ground pools have been in-
stalled subsequent to the commencement of this case.

Without reviewing the testimony further in detail, but based upon all of
the testimony and evidence presented to this Board and contained in the file of this case, it
is the opinion of the Board that the petition should be granted, with some restrictions. In
this regard we will reimpose the same restrictions that were contained in the Order of the
Deputy Zoning Commissioner in this case, dated August 21, 1978, with the exception of
restriction #2. There being no testimony or evidence before this Board concerning the
matters contained in that restriction, we feel it would be arbitrary to reimpose such a
restriction in a de novo hearing.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 18th
day of January, 1979, by the County Board of Appeals ORDERED, that the petiti-
on to approve an amendment to a Development Plan to permit an accessory structure to be
located in a rear yard be GRANTED, subject to the following:

1. The pool area shall be enclosed by means of a four foot high stockade fence and a locked gate.
2. All grading shall be accomplished so as to preclude any additional runoff onto any adjoining property.

3. Approval of the site plan by the Department of Public Works and the Office of Planning and Zoning.

Any appeal from this decision must be in accordance with Rules B-1 to B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gifford
Robert L. Gifford, Vice-Chairman
Herbert A. Davis
Herbert A. Davis
William T. Hockett
William T. Hockett

PETITION FOR SPECIAL HEARING
TO AMEND DEVELOPMENT PLAN
4220 WINTERODE WAY
Petitioner - Jerry Pribyl
Case No. 75-14-SPH
Item 246

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

MEMORANDUM

In accordance with Zoning Regulation 1B01.3A7, a through c, your Petitioner and property owner filed a Petition for Special Hearing to amend development plan of Lot 1, Block C, as previously approved on the first Amended Final Development Plan of Silvergate South to permit an accessory structure (swimming pool) to be located in the rear yard, outside of the building envelope.

The Petition was heard by the Planning Board of Baltimore County, at which time, both the Petitioner and adjoining property owner protesting said Petition were given an opportunity to testify. After all of the testimony was given, the Planning Board, on June 15, 1978, approved said Petition to construct a swimming pool on said subject site outside of the building envelope, as they found that the amendment was in keeping with the effect and intent of this regulation and development plan.

Upon demand by the Protestants for a further hearing, the matter was then set down for hearing before the Zoning Commissioner and heard on July 17, 1978. The Petition to Amend was heard and considered by the Zoning Commissioner through the Special Exception procedure and in the manner provided under Section 502 and 1B01.3A7b 1 through 17 of the Zoning Regulations.

At the outset of the hearing, your Petitioner, submitted without objection, the approved development plan and record plat of Silvergate South, a letter dated June 16, 1978, from the Planning Board of Baltimore County to the Zoning Commissioner approving the Petition to Amend and a copy of the restrictions and covenants as recorded among the Land Records of Baltimore County,

ROBERT J. ROMACKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

ROBERT J. ROMACKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

affecting said development known as Silvergate South. The Petitioner also filed as an exhibit, copy of the approved development plan for a development known as Nottingham, whereon, there was a printed notation that certain accessory uses, including pools, may be constructed outside of the envelope area.

The property owner, Mrs. Adeline Pribyl, stated that she and her husband purchased the property known as 4220 Winterode Way in 1977 and they now reside there with their son. The Petitioner stated that their property is a corner lot located at the intersection of Winterode Way and Silver Meadow Lane; that the lot is much larger than the other lots in the development. Her testimony showed that they entered into a contract with H. C. Hohne Construction Company for the installation of an in-ground pool, a picture and brochure of which was submitted as an exhibit. The pool would be 16' x 32' and located in the rear quarter of said property as shown on a site plan filed with said Petition. It would be located out of the envelope area. The pool site meets all zoning requirements for side and rear yard setbacks. The square footage of the pool represents eight per cent (8%) of the total area of the property. There would be constructed around the pool a four foot high stockade fence with a gate that would be kept locked. Mrs. Pribyl stated that in accordance with the requirements of the building restrictions previously introduced as an exhibit, a written request and plans were submitted to the developer to construct said pool. The Petitioner introduced as an exhibit, a letter she had received from said developer approving her request and plans. Mrs. Pribyl stated that the pool would only be used for her family and would use the pool mostly on weekends since she and her husband both work during the week.

The uncontradicted testimony of Mrs. Pribyl showed that there are many accessory uses constructed outside of the envelope area on homesites in the immediate neighborhood. There are a number of metal sheds and wooden sheds constructed on the different lots, there are at least two large above ground pools located on the

- 2 -

same street as the Petitioner and that there is a two car garage and addition to a house being constructed in the immediate neighborhood. Mrs. Pribyl, as well as the protestants, testified that all of these accessory uses could be seen from their property. Mrs. Pribyl stated that in her opinion, it would not be detrimental to health, safety or general welfare of the neighborhood that it would not overcrowd the land and that it would be consistent with the spirit and intent of the original development plan in full compliance with the restrictions and covenants in said development plan.

Witness for the Petitioner, Mr. Les Riesett, representative of the H. C. Hohne Construction Company, testified to the following that the cost of the pool to be installed was \$6,000.00, plus additional cost for the fence and sidewalk around the pool; that this particular style pool had been constructed by his company for the past 20 years and is trouble free; that there never has been any leaking, structural problems or collapsing of this type of pool. He testified that a pump for the filtration system would be located next to the air conditioner compressor of the Petitioner and that the noise of the air conditioner was far excessive of an negligible noise that may come from the pump. Mr. Riesett testified that the property would be graded in the area of the pool site in such a way that no storm drain water would run onto any adjoining owner's property and that this grading would actually improve the drainage between the property of the Petitioner and the adjoining property owner, John Byer, as the storm drain water now fails to completely run off and stagnates on both properties. Mr. Riesett introduced a picture of this present water condition. Mr. Riesett likewise introduced several pictures he had taken the previous day depicting the various sheds, above ground pools and house and car garage additions, which had been testified to by Mrs. Pribyl. He stated that he was the former owner of a dwelling with an in-ground pool and that it greatly enhanced the value of his property as well as the value of the adjoining property. It was his expert opinion

- 3 -

that an in-ground pool was much safer than an above ground pool. He has known of several instances where these pools have collapsed and could cause severe harm to people. For this reason, his company refuses to sell or construct above ground pools. Mr. Riesett testified that approximately two blocks away from the subject site, his company has installed a number of in-ground pools; that these pools are located in an adjoining development and the size of lots in said development are the same as the lots in the subject development; that the Petitioner's lot is actually larger than other lots that have been improved with an in-ground pool. Mr. Riesett stated that he did not feel that the granting of this amendment would in any way be detrimental to the safety, health or welfare of the neighborhood and that it would be consistent with the spirit and intent of the development plan.

Mr. Walt Kozloski, adjoining property owner at 4218 Winterode Way, testified that he was opposed to the granting of this amendment for the following reasons: That there lived in the area many small children that there would be noise from the people using the pool and that he would be able to see the pool from his bedroom window. He admitted that his air conditioner compressor, which was located outside his bedroom window, would make more noise than the filtration pump from the pool. He further stated that he didn't object to the above ground pools in the neighborhood and agreed that people would make noise using that type of pool.

Mr. John Byer, the adjoining property owner at 8602 Silver Meadow Lane, gave basically the same reasons in opposing said Amended Development Plan, but admitted, upon cross-examination, that he could only see from the rear of his home a very small portion of the pool; that the side of his house was without windows except for a side entrance door.

Mr. Riesett, in his testimony, stated that the ground on that side of Mr. Byer's property would be elevated three feet to four feet high and with the four foot stockade fence located on top of

that grade, it would be eight feet high, making it almost impossible for Mr. Byer to see the pool.

There were two other witnesses from the neighborhood who could not see the pool, but objected to it being constructed.

The Petitioner has met the requirements provided under Section 502 of the Zoning Regulations. The safety of the pool is in its construction as testified by Mr. Riesett. It is removed from the general public by its location to the extreme rear of the lot away from the street and by having a stockade fence build around it with a locked gate. The possibility of a child climbing over the stockade fence to get to the pool is highly remote. The above ground pools located on the same street are much more accessible as no fence is constructed around these pools and is highly visible from the street as indicated by the Petitioner's pictures.

The pool is not a health menace as it has an adequate chlorinated filtration system. It is not detrimental to the general welfare and is in keeping with the spirit and intent of the development plan as the evidence and testimony showed that there were many other accessory uses constructed outside of the envelope area including above ground pools. It was un rebutted that an in-ground pool is more aesthetically accepted, better structurally built and less noticeable to the general public than an above ground pool. The site plan clearly shows that the pool does not overcrowd the Petitioner's land or the abutting property owner's land.

Mr. Kozloski, on the question of noise, admitted that the pool site could be used for other types of recreational use which could be noisier or more objectionable than using the property for a pool. The protestants have failed to submit any testimony or evidence to rebut the evidence produced by the Petitioner in complying with Section 502. The protestants failed to rebut the Petitioner's evidence in proving the amendment to the development plan is consistent with the spirit and intent of the original development plan.

ROBERT J. ROMACKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

ROBERT J. ROMACKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

Your Petitioner submitted as an exhibit a development plan of Nottingham Village as recently adopted by the Office of Planning and Zoning, whereby certain accessory uses, including pools, are exempt from having to be constructed within the envelope area.

This exemption is as a result of a change in County policy by the Office of Planning and Zoning, whereby they now recognize certain uses that may be constructed outside of the envelope area as the uses are not inconsistent with the spirit and intent of the development plan, thereby not requiring the property owner to request an amendment to the approved development plan.

Therefore, for the reasons herein stated, your Petitioner feels that they have complied with Section 502 and 1B01.3A7b, 1 through 17, of the Zoning Regulations and respectfully requests that your Petitioner's amendment to the development plan, Lot 1, Block, as previously approved on the 1st Amended Final development plan of Silvergate South to permit an accessory structure (swimming pool) to be located in rear yard outside building envelope be affirmed.

Respectfully submitted,

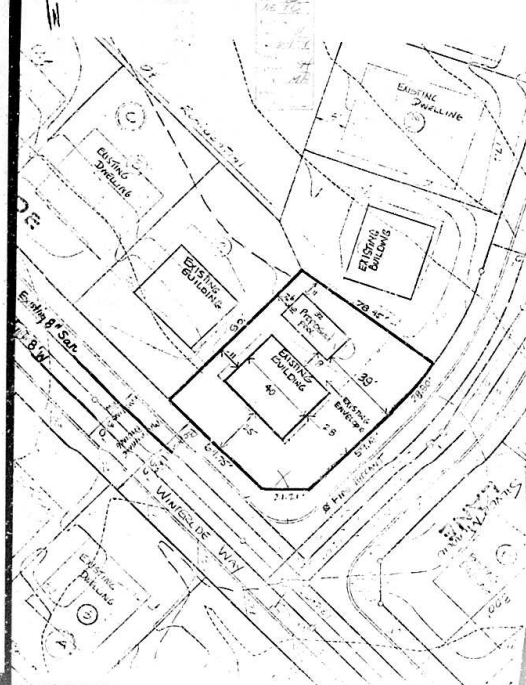
ROBERT J. ROMACKA
ATTORNEY FOR PETITIONER,
JERRY PRIBYL AND WIFE

- 6 -

Variance and Special Hearing Plat for Mr. & Mrs. Jerry Pribyl
4220 Winterode Way
Baltimore, Md. 21236

Reason: amendment to development plan lot 1, Block C, as previously approved on the 1st Amended Final development plan of Silvergate South to permit an accessory structure (swimming pool) to be located in rear yard outside building envelope.

Scale 1"=30'
Election district- 11
Zoned- DB5.5



ROBERT J. ROMACKA
ATTORNEY AT LAW
BALTIMORE, MARYLAND

4218 Winterville Way
Baltimore, Maryland 21236
October 7, 1978

Mr. Walter A. Reiter, Jr.
County Board of Appeals
Room 219 - Court House
Towson, Maryland 21204

Dear Mr. Reiter:

We would appreciate it if you would correct your records and remove our name as protestants in this case. We did not file for an appeal. An appeal was filed, however, by Mr. & Mrs. John Byer of Silver Meadow Lane.

Attached are the most recent letters forwarded to our address. Please be sure to send all future correspondence to Mr. & Mrs. Byer.

Thank you.

Very truly yours,

Mr. & Mrs. Steven J. Kosloski, Jr.
Mr. & Mrs. Walter J. Kosloski, Jr.

attch: 5

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

September 27, 1978

Mr. and Mrs. Walter J. Kosloski, Jr.
4218 Winterville Way
Baltimore, Md. 21236

Re: File #79-14-SPH
Jerry P. Prybil, et al

Dear Mr. and Mrs. Kosloski:

You are protestant of record in the above captioned case. In order to assist the Board in scheduling your case and allotting sufficient time for its hearing, it is requested that you furnish us, by return mail, the information asked on the attached questionnaire. In the event you find that you will require more time than originally anticipated, it is requested that you advise the Board at least ten (10) days prior to the hearing date. Failure to furnish the information requested may result in the case not being scheduled for hearing.

Very truly yours,

Walter A. Reiter, Jr., Chairman

4218 Winterville Way
Baltimore, Md. 21236
August 6, 1978

Mr. George Martinak
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Proposed Pool Construction
4220 Winterville Way
Baltimore, Md. 21236

Dear Mr. Martinak:

We are still totally opposed to the proposed amendment to the envelope laws in Section 11 - Silvergate South. The amendment being the installation of an in-ground swimming pool at 4220 Winterville Way. However, if the amendment is granted we would like to suggest the following stipulation:

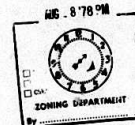
That the diving board and filter be located on the street side (Silver Meadow Lane) of their property.

We also would like to recommend that perhaps a smaller size pool be installed (including the above stipulation). This would not violate the present envelope laws. It would also act as a deterrent for any future permanent construction which would require amending the envelope laws in our community.

Thank you very much for your consideration and assistance in this matter.

Very truly yours,

Mr. & Mrs. Steven J. Kosloski, Jr.



Mr. George J. Martinak, Jr.
Deputy Zoning Commissioner
111 W. Chesapeake Ave. - Room 109
Towson, MD 21204

Re: Jerry Prybil

Things to be noted:

1. Representative of Buster Crabbe Pools stated that the pool was at its safest location, however the lot is 78 feet wide and the pool must be one half of that distance from the street. The pool is 32 feet long. One half of 78 feet is 39 feet, plus 32 feet, plus 5 feet minimum on the other end of the pool is 76 feet. The balance is 2 feet. This indicates to us that this is the safe location for the pool. This is not the safest location.
2. The pool will be set out of the ground 16 inches to 18 inches. This will create a slope between the end of the pool and the Kosloski's fence. You have to keep in mind that the perimeter around the pool must be a minimum of 34 inches or 30 inches depending upon the type of deck which is installed. This will create an even steeper slope between all properties involved.
3. You should consider the swale which is not located on the property line, but inside of the Prybil's property. It is located close to the proposed pool. Mr. J. Ward Bauer, Inspector of Permit Control, for Baltimore County, states that the Prybil's can not relocate the swale.
4. The other structures which the lawyer pointed out as violations of the envelope laws are not permanent structures. The pool would be a permanent structure.
5. The pools which are located in our development are not deeper than 4 feet. We feel that with an out-of-ground pool with steel sides would make it harder for a child to fall into this type of pool. However, the Prybil's pool will be in ground and 8 feet deep. It is easier for a child to fall into this pool. Also with an out-of-ground pool you remove the ladder and this makes it virtually impossible for a small child to get hurt.

Mr. George J. Martinak, Jr.
Re: Jerry Prybil

Page 2

6. Pools which are 1' foot in diameter or less do not require permits and subsequently our neighbors and myself could not protect their installation. However, we do feel as stated in (5) above, these are safer pools where the children are concerned.

7. The representative of Buster Crabbe Pools provided testimony as to the evaluation of real property with respect to property having pools and the appreciation in their value. We appreciate his opinion, however as he is not a qualified real estate appraiser, his testimony is not that of an expert witness and is useless testimony as he is a party to this transaction hoping to make a profit from a pool sale. We reinforce our opinion as to the devaluation of the surrounding properties due to the proximity of the proposed pool.

Mr. and Mrs. John Byer
8602 Silver Meadow Lane
(21236)

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 15422
DATE 1/2/79 ACCOUNT 01-712
AMOUNT \$3.50
RECEIVED FROM: WHITE - CASH, YELLOW - CUSTOMER
R. J. Kosloski, Esq. Copies of documents in file
Towson, Md. 21204 #79-14-SPH
3.50 MB

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 73527
DATE September 21, 1978 ACCOUNT 01-568
AMOUNT \$0.00
RECEIVED FROM: John V. Byer, 8602 Silver Meadow Lane, Baltimore, Md. 21236, Court of Appeal for Case No. 79-14-SPH
FOR: \$0.00
40.00 MB

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 73465
DATE August 17, 1978 ACCOUNT 01-568
AMOUNT \$47.00
RECEIVED FROM: Mrs. Judith Prybil
FOR: Cost of Advertising and Posting Case No. 79-14-SPH
\$47.00 MB

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 73341
DATE June 20, 1978 ACCOUNT 01-568
AMOUNT \$25.00
RECEIVED FROM: J. C. Robins Contractors, Inc. 9000 Harford Rd., Baltimore, Md. 21236, Filing Fee For Case No. 79-14-SPH
FOR: \$25.00
25.00 MB

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

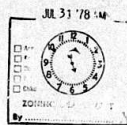
District 11
Posted for: Board of Appeals
Petitioner: Steven J. Kosloski, Jr.
Location of property: 4220 Winterville Way, Baltimore, Md.
Location of Sign: Corner of property (4220 Winterville Way)
Remarks: 2nd posting to Bd. of Appeals
Posted by: Don Coleman
Date of return: 11/1/79
No. of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11
Posted for: Board of Appeals
Petitioner: Steven J. Kosloski, Jr.
Location of property: 4220 Winterville Way, Baltimore, Md.
Location of Sign: Corner of property (4220 Winterville Way)
Remarks: 1st sign
Posted by: Don Coleman
Date of return: 9-29-78

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11
Posted for: Board of Appeals
Petitioner: Steven J. Kosloski, Jr.
Location of property: 4220 Winterville Way, Baltimore, Md.
Location of Sign: Corner of property (4220 Winterville Way)
Remarks: 1st sign
Posted by: Don Coleman
Date of return: 9/29/78



PETITION MAPPING PROGRESS SHEET										
FUNCTION	Well Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map					6-8	JH				
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>JA</u>			Revised Plans:				Change in outline or description		Yes No	
Previous case: <u>None</u>			Map # <u>NE-96</u>							

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received * this 17 day of
May 1978. Filing Fee \$ 25.00. Received ☒ check
☐ Cash
☐ Other

S. Eric DiCerna
S. Eric DiCerna,
Zoning Commissioner

Petitioner Jerry & Adeline Pribyl Submitted by LC Thorne
Petitioner's Attorney _____ reviewed by LC

* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.



TOWSON, MD. 21204 June 29 19 78

THIS IS TO CERTIFY, that the annexed advertisement of PETITION FOR SPECIAL HEARING - Jerry & Adeline Pribyl was inserted in the following:

- | | |
|---|--|
| ☐ Catonsville Times | ☐ Towson Times |
| ☐ Dundalk Times | ☐ Arbutus Times |
| ☒ Essex Times | ☐ Community Times |
| ☐ Suburban Times Fast | ☐ Suburban Times West |

weekly newspapers published in Baltimore, County, Maryland, once a week for one successive weeks before the 30th day of June 19 78, that is to say, the same was inserted in the issues of June 29, 1978

STROMBERG PUBLICATIONS, INC.

BY Frederic Berque

CERTIFICATE OF PUBLICATION

TOWSON, MD. JUNE 29 1978.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on June 29 at one time successive weeks before the 30th day of July 19 78, the first publication appearing on the 29th day of June 19 78.

THE JEFFERSONIAN,

S. Frank Smith
Manager.

Cost of Advertisement: \$ _____

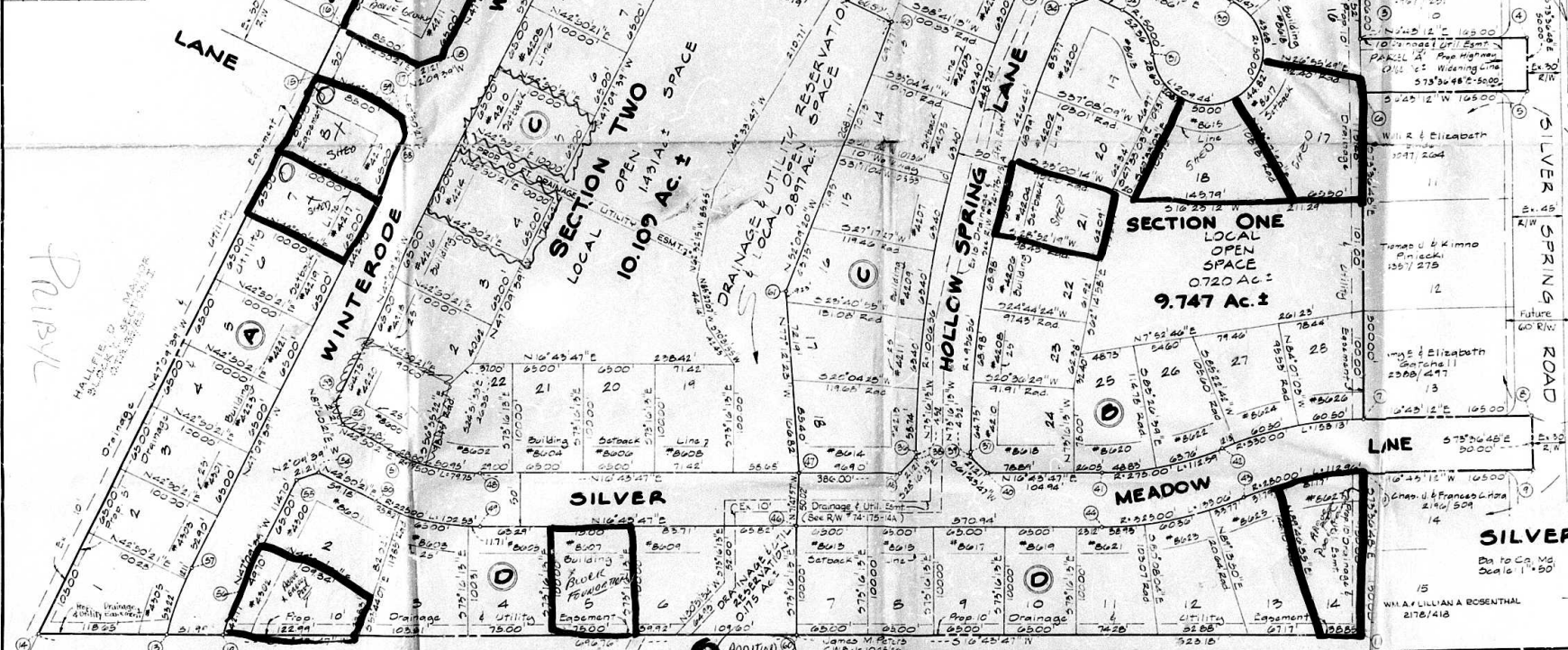
Baltimore county
office of planning and zoning
TOWSON, MARYLAND 21204

DZC
PROTESTANTS'
EXHIBITS A, B, C

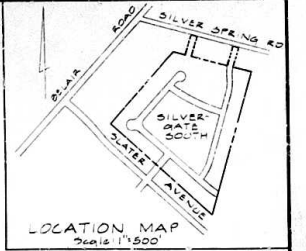
#79-14-SPH
J.P. Pribyl



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10	551175J	551060K	50 551556
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13	551175M	551060N	53 551559
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47	551175U	551060V	87 551593
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99	100	50000	481035



LEGEND

Outline Tract Shown Thus
Public Roads Shown Thus
Lot Nos Shown Thus
Building Footprint Shown Thus
Basement Lines Shown Thus
Coordinate Points Shown Thus
House Nos. Shown Thus
Block Nos. Shown Thus

TABULATION		Acres	Total
Existing Zoning	DR-55	0.85	0.85
Proposed Zoning	DR-55	0.85	0.85
No. Lots Proposed	37	37	37
Off Street Parking	74	74	74
Off Street Parking	74	74	74
Local Open Space	0.58	0.58	0.58
Local Open Space	0.58	0.58	0.58

PETITION

SILVERGAE EXHIBIT 99

SOUTH

Section 11
Date Dec 5, 1975

OWNER & DEVELOPER
WILLIAM L. ROSENTHAL
2176/418

NOTE: COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE BASED ON THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN AREA AND ARE BASED ON THE FOLLOWING TRAVEL STATIONS: X-2259 N 55°42'22" E 555481.5 X-2260 N 54°49'46" E 559177.5	NOTE: THE STREETS AND/OR ALLEYS AS SHOWN HEREON ARE THE PROPOSED STREETS AND/OR ALLEYS FOR THE PURPOSE OF BEING THE BASIS FOR THE RECORDING OF THIS PLAT AND ARE NOT TO BE CONSIDERED AS A BASIS FOR THE RECORDING OF THIS PLAT AND ARE NOT TO BE CONSIDERED AS A BASIS FOR THE RECORDING OF THIS PLAT.	OWNERS CERTIFICATE: THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT THE BASIS OF ITS RECORDING IS THE REQUIREMENT OF SUBSECTION (C) OF SECTION 11 OF THE EASEMENT ACT OF 1948 AND THAT THE PLAT IS NOT A BASIS FOR THE RECORDING OF THIS PLAT.	SURVEYORS CERTIFICATE: THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE PLAT IS THE BASIS FOR THE RECORDING OF THIS PLAT AND THAT THE PLAT IS NOT A BASIS FOR THE RECORDING OF THIS PLAT.	APPROVED BY BALTIMORE COUNTY HEALTH DEPARTMENT <i>James M. Peters</i>	APPROVED BY BALTIMORE COUNTY PLANNING BOARD <i>William D. Jones</i>	GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC. CIVIL ENGINEERS & LAND SURVEYORS TOWNSHIP, MARYLAND 21204	COMPUTED BY <i>WOP</i> CHECKED BY <i>WOP</i> PLANNING BOARD <i>WOP</i> DATE <i>12/5/75</i> DRAWN BY <i>WOP</i> NO. <i>WOP</i>
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