

IN THE MATTER OF : BEFORE
HARRY SHUMAN :
RE: PETITION FOR ZONING VARIANCES : COUNTY BOARD OF APPEALS
AND SPECIAL HEARING ON PROPERTY :
LOCATED ON THE SE/s OF HAWTHORNE : OF
AVENUE, 324' SW OF REISTERSTOWN :
ROAD (13 HAWTHORNE AVENUE) : BALTIMORE COUNTY
3rd ELECTION DISTRICT :
 : CASE NO. 86-454-ASPH
 :

O P I N I O N

on lot #212 that would encompass a modern air purification system for his father, who would therein reside and who is 77 years old and whose health requires such a system. He further testified that to convert the existing dwelling to meet these requirements would be almost as costly as to build a new building. It was his testimony that once this was accomplished either a family member could occupy the existing dwelling or that it could be sold or rented. Testimony in opposition to the granting of the variances indicated that the neighborhood, because of the 40-foot lot development, is already crowded and that significant storm water runoff problems already exist throughout the neighborhood and that any further development would only increase these problems. This basically concluded direct testimony in this case.

The Board is of the opinion that the requested variances other than the existing 2-foot side yard setback on the existing dwelling would not be in keeping with the intent and purpose of the Baltimore County Zoning Regulations (B.C.Z.R.). The Petitioner has an alternative in that the existing dwelling could be modified to suit his purposes. This conclusion having been reached, we will then refer to the requirement for the granting of the variance as prescribed by law. This Board has, of course, many times cited the "practical difficulty or unreasonable hardship" standard set forth in Section 307 of the B.C.Z.R. Additionally, this Board has often cited the standard used to measure practical difficulty as set forth in McClellan vs. Soley, 220 MD 208 (1973) and Anderson vs. Chesapeake Beach 22 MD App. 28 (1973). That is,

1. Whether compliance with the strict letter of the restrictions would unreasonably prevent the owner from using the property for a practical purpose or would render conformity with such restrictions unnecessarily burdensome;

2. Whether a grant of the variance would do substantial injustice to both the applicant and his neighbors, or whether a lesser relaxation than applied for would give substantial relief;
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

In applying these standards to the issue presented in this case, we must conclude that the variance cannot be granted. It is clear that the Petitioner has not met his burden that the denial of his petition would result in practical difficulty. Although possibly less desirable, renovation of the existing house is possible so as not to violate the setback requirements.

O R D E R

It is therefore this 26th day of February, 1987 by the County Board of Appeals of Baltimore County ORDERED that the petition for variances to permit lot widths of 40 feet for lots #212 and #213 and a side yard setback for a proposed dwelling on lot #212 of 6 feet in lieu of the required 10 feet is hereby DENIED. The Petition for Special Hearing to determine if density would be affected by permitting a lot area of less than 6,000 square feet by reason of the denial of these variances is moot and is hereby DISMISSED.

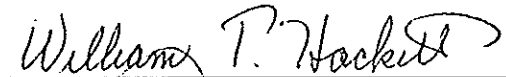
Strict compliance with the Baltimore County Zoning Regulations (B.C.Z.R.) would exist in regard to the practical difficulty and unreasonable hardship upon the Petitioner in the matter of the 2-foot setback on the existing dwelling and therefore the variance for a side yard setback for the existing dwelling on lot #213 of 2 feet in lieu of the required 10 feet is hereby GRANTED.

Case No. 86-454-ASPH
Harry Shuman

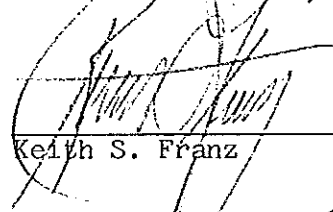
4.

Any appeal from this decision must be made in accordance with
Rules B-1 through B-13 of the Maryland Rules of Procedure.

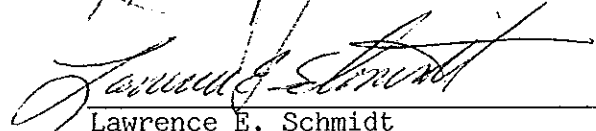
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY



William T. Hackett, Chairman



Keith S. Franz



Lawrence E. Schmidt



County Board of Appeals of Baltimore County

Room 200 Court House
Coleson, Maryland 21204
(301) 494-3180

February 26, 1987

James E. Crawford, Esquire
405 Frederick Avenue, Suite 163
Baltimore, MD 21208

RE: Case No. 86-454-ASPH
Harry Shuman

Dear Mr. Crawford:

Enclosed is a copy of the final Opinion and Order passed today by the County Board of Appeals in the subject matter.

Sincerely,

Kathi C. Weidenhamer
Kathi C. Weidenhamer
Administrative Secretary

Encl.

cc: Mr. Harry Shuman
Mr. Sheldon S. Shugerman
Ms. Pat Fetchero
Ms. Esther S. Callahan
Mr. & Mrs. John H. Fink
Mrs. Lucy M. Mason
Richard A. Levenson, P.T.
Mr. Raymond Leeson
Jerome Shuman, P.E.
Phyllis C. Friedman, Esquire
Norman E. Gerber
James G. Roswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Margaret E. du Bois

Case No. 86-454-ASPH
Harry Shuman

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

William T. Backett
William T. Backett, Chairman

Kathi C. Weidenhamer
Kathi C. Weidenhamer

Lawrence E. Schmidt
Lawrence E. Schmidt

12/02/86 - NOTIFIED OF APPEAL HEARING SCHEDULED FOR THURSDAY, DECEMBER 11, 1986 at 10 am

James E. Crawford, Esq.
Mr. Harry Shuman
Mr. Jerome Shuman
Mr. Sheldon S. Shugerman
Ms. Pat Fetchero
Ms. Esther S. Callahan
Mr. John H. Fink
Mrs. Lucy M. Mason
Mrs. Lucy M. Mason
Richard A. Levenson, P.T.
Raymond Leeson

12/11/86 - Per WTH - Crawford has two weeks to submit written memo; then People's Counsel will have week to lay down its response.

12/29/86 - T/C from Crawford requesting one week extension on deadline date for written memo due to holidays, etc. - extend to January 2, 1987.

1/07/87 - T/C from Crawford's secretary requesting additional 10-day extension from today (extended to 1/16/87). Crawford has been ill with flu; will have written memo here by the 16th. This request will be put in writing to WTH.

Case No. 86-454-ASPH
Harry Shuman

- Whether a grant of the variance would do substantial injustice to both the applicant and his neighbors, or whether a lesser relaxation than applied for would give substantial relief;
- Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

In applying these standards to the issue presented in this case, we must conclude that the variance cannot be granted. It is clear that the Petitioner has not met his burden that the denial of his petition would result in practical difficulty. Although possibly less desirable, renovation of the existing house is possible so as not to violate the setback requirements.

ORDER

It is therefore this 26th day of February, 1987 by the County Board of Appeals of Baltimore County ORDERED that the petition for variances to permit lot widths of 40 feet for lots #212 and #213 and a side yard setback for a proposed dwelling on lot #212 of 6 feet in lieu of the required 10 feet is hereby DENIED. The Petition for Special Hearing to determine if density would be affected by permitting a lot area of less than 6,000 square feet by reason of the denial of these variances is moot and is hereby DISMISSED.

Strict compliance with the Baltimore County Zoning Regulations (B.C.Z.R.) would exist in regard to the practical difficulty and unreasonable hardship upon the Petitioner in the matter of the 2-foot setback on the existing dwelling and therefore the variance for a side yard setback for the existing dwelling on lot #213 of 2 feet in lieu of the required 10 feet is hereby GRANTED.



County Board of Appeals of Baltimore County

Room 200 Court House (Hearing Room #218)
Coleson, Maryland 21204
(301) 494-3180

October 2, 1986

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 200. ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 200. COUNTY COUNCIL BILL #59-79

CASE NO. 86-454-ASPH

HARRY SHUMAN

FOR VARIANCE - LOTS WIDTHS & SETBACKS
FOR SPH - DENSITY

SE/S HAWTHORNE AVE., 324' SW OF
REISTERSTOWN ROAD (13 HAWTHORNE AVE.)

3rd District

5/16/86 - D-2.C. GRANTED 2' SETBACK ON
LOT 213; DENIED OTHER REQUESTS

ASSIGNED FOR:

THURSDAY, DECEMBER 11, 1986 at 10 a.m.

cc: James E. Crawford, Esquire

Counsel for Appellant/Petitioner

Mr. Harry Shuman

Appellant/Petitioner

Mr. Jerome Shuman

Appellee/Protestant

Mr. Sheldon S. Shugerman

" "

Ms. Pat Fetchero

" "

Ms. Esther S. Callahan

" "

Mr. John H. Fink/Mrs. Lucy M. Fink

" "

Mrs. Lucy M. Mason

" "

Richard A. Levenson, P.T.

" "

Raymond Leeson

" "

Phyllis C. Friedman, Esquire

People's Counsel

Norman E. Gerber

James Roswell

Arnold Jablon

Jean M. H. Jung

James E. Dyer

Kathi C. Weidenhamer
Administrative Secretary



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLOIN
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

June 19, 1986

Mr. Sheldon S. Shugerman
President, Kaitan County
Association
202 Purvin Place
Baltimore, Maryland 21208
Ms. Pat Fetchero
1328 Stratford Drive
Bel Air, Maryland 21014
Ms. Esther S. Callahan
9 Hawthorne Avenue
Baltimore, Maryland 21208

Mr. John H. Fink
Mrs. Lucy M. Fink
18 Hawthorne Avenue
Baltimore, Maryland 21208

Mrs. Lucy M. Mason
16 Clarendon Avenue
Pikesville, Maryland 21208
Richard A. Levenson, P.T.
12 Clarendon Avenue
Pikesville, Maryland 21208

RE: PETITION FOR ZONING VARIANCES
SE/S Hawthorne Ave., 324' SW of Reisterstown Rd.
(13 Hawthorne Ave.)
3rd Election District
Harry Shuman - Petitioner
Case No. 86-454-ASPH

Ladies and Gentlemen:

BALTIMORE COUNTY, MARYLAND		No. 021747	
OFFICE OF FINANCE REVENUE DIVISION			
MISCELLANEOUS CASH RECEIPT			
DATE	6/19/86	ACCOUNT	F-01-615-000
RECEIVED FROM	James E. Crawford, Esquire, Kaitan County Association, Professional Bldg., 405 Frederick Ave., Baltimore, MD 21204		
FOR	APPEAL FILING FEE & SIGN POSTING FEE re Case No. 86-454-ASPH		
	8 013*****30051a: 51848		
VALIDATION OR SIGNATURE OF CASHIER			

an appeal was filed
he decision rendered
e County in the above
me of the appeal
ard of Appeals.

oner

IN THE MATTER OF HARRY SHUMAN	BEFORE COUNTY BOARD OF APPEALS
RE: PETITION FOR ZONING VARIANCES AND SPECIAL HEARING ON PROPERTY LOCATED ON THE SE/S OF HAWTHORNE Avenue, 324' SW of REISTERSTOWN ROAD (13 HAWTHORNE AVENUE) 3RD ELECTION DISTRICT	OF BALTIMORE COUNTY
	CASE NO. 86-454-ASPH

OPINION

This case comes before this Board on appeal from a decision of the Deputy Zoning Commissioner dated May 16, 1986 granting the side yard setback for the existing dwelling on lot #213 of 2 feet in lieu of the required 10 feet and denying all the other requested variances and density requirements.

The Petitioner requests variances not only to the 2-foot setback for the existing dwelling on lot #213 but also requests variances to permit lot widths of 40 feet for lots #212 and #213, a side yard setback for a proposed dwelling on lot #212 of 6 feet in lieu of the required 10 feet, and, additionally, a Special Hearing to determine if density would be affected by permitting a lot area of less than 6,000 square feet and to permit a lot area of 4,760 square feet for each lot in lieu of the required 6,000 square feet.

Testimony was received from Eugene Bapfel, a land surveyor, and Mr. Jerome Shuman, son of the property owner, for Appellant. Testimony was received from Sheldon Shugerman in opposition to the requested variances. Testimony on behalf of the Petitioner indicated that this development of 40-foot lots was recorded in 1897 and that most lots have been developed residually. At the time these lots were sold, some people bought two or three lots, and as was done in the case before us, then a dwelling erected totally within one lot, maintaining the other lot as open space. Petitioner testified that he proposed to build a new dwelling

and, as such, is hereby dismissed.

It appearing, however, that strict compliance with the BCZN would result in practical difficulty and unreasonable hardship upon the Petitioner in the matter of the existing two-foot side yard setback, and the granting of that variance would not adversely affect the health, safety, and general welfare of the community, and, therefore, the variance for a side yard setback for the existing dwelling on Lot No. 213 of 2 feet in lieu of the required 10 feet is hereby GRANTED.

John M. D. Shaw
Deputy Zoning Commissioner
for Baltimore County

JUBILING

foot side yard is inadequate. There is already a serious drainage problem to the rear of the lot in question. There are concerns that the additional dwelling would set a precedence, would decrease property values, and that one of the houses would be used for rental purposes, a practice out-of-character with the neighborhood. Another area resident, whose residence is on 80 feet, testified as to the insufficiency of storm drains in the area and the impact on density of the proposed dwelling.

After due consideration of the evidence and testimony presented, a field visit to the area, and recognition that an affirmative opinion and order would create two lots, each 40 feet wide, significantly less than the 55-foot County standard, as well as 4,760 square feet in area, significantly less than the required 6,000 square feet; in the opinion of the Deputy Zoning Commissioner, the requested variances, other than the existing two-foot side yard setback, would be far removed from the spirit and intent of the Baltimore County Zoning Regulations, would not result in practical difficulty and unreasonable hardship upon the Petitioner and the granting of the variances requested would adversely affect the health, safety, and general welfare of the community, and, therefore, the variances should not be granted.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 16th day of May, 1986, that the herein Petition for Variances to permit lot widths of 40 feet for Lot Nos. 212 and 213, and a side yard setback for a proposed dwelling on Lot No. 212 of 6 feet in lieu of the required 10 feet, be hereby DENIED, from and after the date of this Order.

Not granting these requested variances, the Petition for Special Hearing to determine if density would be affected by permitting a lot area less than 6,000 square feet and if density would not be affected, to permit a lot area of 4,760 square feet for each lot in lieu of the required 6,000 square feet is moot.

IN RE: PETITION FOR ZONING VARIANCES AND SPECIAL HEARING
3623 of Hawthorne Ave.,
304' 30" of Reisterstown Road
(13 Hawthorne Avenue) -
3rd Election District
Harvey Shuman, Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-454-ASPH

Mr. Shkelov S. Shugerman
Ms. Pat Fetherston
Ms. Esther S. Callahan
Mr. John R. Fink
Mrs. Lucy M. Fink
Mrs. Lucy R. Jones
Richard A. Levenson, P.T.

June 19, 1986
Page 2

ccs: James E. Crawford, Esquire
Mr. Harry Shuman
People's Counsel

The Petitioner herein requests variances to permit lot widths of 40 feet for Lot Nos. 212 and 213, a side yard setback for the existing dwelling on Lot No. 213 of 2 feet in lieu of the required 10 feet, and a side yard setback for a proposed dwelling on Lot No. 212 of 6 feet in lieu of the required 10 feet and, additionally, a special hearing to determine if density would be affected by permitting a lot area less than 6,000 square feet and if density would not be affected, to permit a lot area of 4,760 square feet for each lot in lieu of the required 6,000 square feet.

Testimony on behalf of the Petitioner indicated that Balston (lots recorded in 1897) has been developed with houses on most of the 40-foot lots. In the instant case, one owner had two 40-foot lots and built a house with an existing two-foot side yard setback and a garage on one of those lots. The second lot was maintained in grass. The present elderly owner proposes construction of a 24' x 36' dwelling for a residence for himself and his wife. The dwelling will be elevated about 18 inches and water run off will be channeled to storm drains in Hawthorne Avenue. The drainage situation on the rear of the subject property and further south will not change because of the proposed construction.

Representatives of the adjacent neighbor and of the local community association spoke in protest. The neighborhood is already crowded. Current zoning laws need to be utilized for the protection of those already residing in the area. The lot in question has never been used for residential purposes. The adjacent house is placed on and utilizes 80 feet of lot frontage. A six-

ORDER RECEIVED FOR FILING
DATE May 16, 1986
BY John M. D. Shaw

ORDER RECEIVED FOR FILING
DATE May 16, 1986
BY John M. D. Shaw

Plat
- of -
1/275

RALSTON

HAWTHORNE

CLARENDON

BRIGHTSIDE

AVENUE

AVENUE

AVENUE

PURVIS PLACE

IVANHOE PLACE

COMMERCIAL

PETITION FOR ZONING VARIANCES AND SPECIAL HEARING
3rd Election District
Case No. 86-454-ASPH

LOCATION: Southeast Side of Hawthorne Avenue, 224 feet Southwest of Reisterstown Road (13 Hawthorne Avenue)

DATE AND TIME: Tuesday, May 6, 1986, at 1:00 p.m.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Zoning Variances to permit lot widths of 40 feet for Lot Nos. 212 and 213, a side yard setback for the existing dwelling on Lot No. 213 of 2 feet in lieu of the required 10 feet, and a side yard setback for a proposed dwelling on Lot No. 212 of 6 feet in lieu of the required 10 feet and a Special Hearing to determine if density would be affected by permitting a lot area less than 6,000 square feet and if density would not be affected, to permit a lot area of 4,760 square feet for each lot in lieu of the required 6,000 square feet

Being the property of Harry Shuman, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing, set above or made at the hearing.

BY ORDER OF
ARNOLD JARLOS
ZONING COMMISSIONER
OF BALTIMORE COUNTY

THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., appearing on April 17, 1986.

CERTIFICATE OF PUBLICATION

TOWSON, MD. April 17, 1986
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on April 17, 1986.

THE JEFFERSONIAN,

B. Blumenthal

Cost of Advertising

30.25

removing the dwelling on lot 213 it creates a change in the character of the neighborhood.

We strongly urge you to reject these variances

Pat Fitchers
Catherine Fitchers

2. There exists at the rear of these lots a long-term water problem. A large lake forms and remains for days following rains. Up to this point the county has never solved the drainage problem in the area, although they are aware of the problem. There is no doubt the construction of a dwelling on lot 212 would cause even more serious problems than already exist.

3. The granting of a variance for property lines on the right side of lot 212 would also crowd and reduction of property values.

4. The community is big and large and community of homeowners who wish it remain that way. By

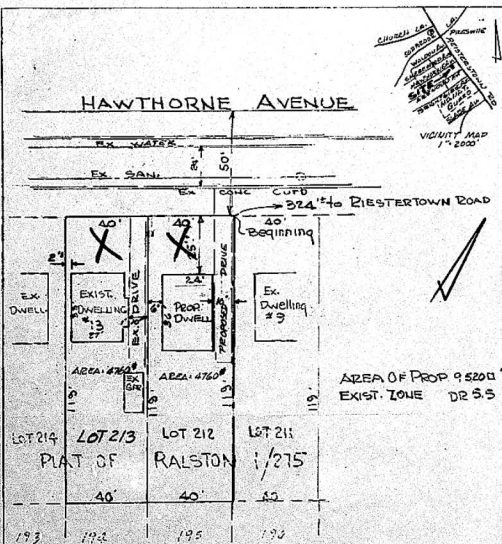
CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *210*
Posted for: *Harry Shuman*
Petitioner: *Harry Shuman*
Location of property: *334 S.W. of Hawthorne Ave.*
Location of site: *5.5' south of Hawthorne Ave. on front of subject property.*
Remarks: *See front of lot 212.*
Posted by: *M. J. Fitchers*
Date of return: *4-16-86*
Number of signs: *2*

May 16, 1986
Harry Shuman
I wish to oppose having a house built on lot #11 Hawthorne Ave, Pikesville, MD 21208.
I live on lot #9 and since the lots are narrow, a home on #11 would be too close for comfortable living.
I appreciate your help.
Shuman

John S. Callahan
Hawthorne Ave
21208



removing the dwelling on lot 213 it creates a change in the character of the neighborhood.

We strongly urge you to reject these variances

Pat Fitchers
Catherine Fitchers

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *210*
Posted for: *Harry Shuman*
Petitioner: *Harry Shuman*
Location of property: *334 S.W. of Hawthorne Ave.*
Location of site: *5.5' south of Hawthorne Ave. on front of subject property.*
Remarks: *See front of lot 212.*
Posted by: *M. J. Fitchers*
Date of return: *4-16-86*
Number of signs: *2*

May 5, 1986
Dear Young Commissioner:
As spokesman for Mrs. Esther Callahan who resides in a residence situated on lots 210 and 211 adjacent to lots 212 and 213 we strongly oppose the granting of variances to the zoning code of Baltimore County. We would like you to consider the following points.

1) The construction of a dwelling on lot 212 would not meet the requirement of lot size and would therefore add to the density and crowding of the neighborhood, creating a reduction in property values. There are other open space lots in the neighborhood and without a doubt, if this variance should pass these open lots would also be developed, increasing density and overcrowding while decreasing property values.

EXHIBIT 2

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 2nd day of April, 1986.

ARNOLD FARLOW
Zoning Commissioner

Petitioner: *Harry Shuman*
Petitioner's Attorney

Received by: *John P. Loper, Chairman*
Zoning Planning Advisory Committee

PLAT TO ACCOMPANY PETITION FOR
SIDEYARD VARIANCE, LOT
WIDTH AND LOT AREA
LOTS 212 & 213

"RALSTON" (1/275)

3" SELECT. DIST. SCALE 1"=30'

2 copies
4/2/86
86-454-ASP

C. F. RAPHIEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 GOLF WING AVENUE
TOWSON, MARYLAND 21204

Baltimore County Board of Appeals
Towson, Maryland

December 10, 1986

Dear Sir,

Please accept this letter as our objection to the proposed zoning variance for the lot on Hawthorne Avenue, Pikesville, Maryland as described in the case reference # 86454 ASPH.

The land located in the first block of Hawthorne Avenue and Clarendon Avenue off of Pikesville Road is a very low lying area. And there now exist significant water run off problems and storm drainage problems. We feel that building a home on a lot that is not suitable for building under current zoning regulations, will only make this problem worse.

Sincerely,
John T. Lucas Jr.
16 Clarendon Avenue
Pikesville, Maryland 21208
301-484-2579

2. There exists at the rear of these lots a very serious water problem. A large lake forms and remains for days following rains. Up to this point the county has never solved the drainage problem in the area, although they are aware of the problem. There is no doubt the construction of a dwelling on lot 212 would cause even more serious problems than already exist.
3. The granting of a variance for property lines on the right side of lot 212 would also crowd and reduce the property values.
4. The community as a whole and large and community of homeowners who wish it remain that way. By

1400 Clarendon Ave.
Dec. 11, 1986

County Board of Appeals, Baltimore
Room 300, Pikesville
Towson, Md. 21204

Sir,

Our main concern is the stormwater situation, which is inadequately controlled as of now and would only become worse with additional construction which would reduce ground absorption.

It is our contention that an adequate and satisfactory water control system is not only promised but implemented and proven before any construction be authorized or allowed.

Even with the small amount of rain we have had over the past several days, in spots with what a water hole we still have in our back yard.

We would hope this situation will be taken adequately into account.

Sincerely,
John T. Lucas Jr.
16 Clarendon Ave.
Pikesville, Md. 21208

Raymond H. Leason
2 Hawthorne Ave
Pikesville, Maryland
21208-Phone-484-2579

William T. Hackett
Board of Zoning Appeals
I am writing to express my objections to the granting of the property to be used between this and seven buildings are situated on the lot. In only two doors away from the lot. By reason for objecting to the run of the street, we have flooding problems in this area. The under plan lot is not run across the back of this lot, actually it runs the full length of the street. The flood is supposed to be contained by the County building, but they have done nothing to it for years. Included is a picture of the flooding shown in the picture on closed, building a home on this lot would not only damage the appearance of the other homes on this side of the street, this would cause a decrease in property value. If the lot was suitable to be built on, it would have been built fifty years ago. When the other homes were built, I would appreciate you taking my objection to the zoning appeal very seriously, when the hearing is held and let us know the decision reached. I am not attending the hearing due to medical reasons.

Sincerely,

Raymond H. Leason

COUNTY BOARD OF APPEALS
NOV 29 4 11 03

RICHARD A. LEVENSON P.T.
BARBARA L. LEVENSON P.T.
12 CLARENDON AVENUE
PIKESVILLE, MARYLAND 21208
(301) 484-7542

May 5, 1985

I am writing this letter as a concerned citizen of the Rabon Community Association, a subdivision of Pikesville, Maryland. The owner of the property adjacent to the rear of my property desires to build a house on the vacant lot next to the house he owns. For several reasons, I am strongly opposed to building a dwelling on this lot.

There exists a definite drainage problem in the rear of my property. Anytime there is a heavy rain, a problem arises with the buildup of drainage water which results in size of freestanding water as much as fifty feet in length by 25 feet in width and approximately six inches deep. An additional house would probably contribute more drainage water and further accentuate this problem.

I also feel that the permitting of the building of a house would set a precedent in the neighborhood of other property owners attempting to rezone their property to build additional homes, possibly at more profitable properties, such as rental dwellings. It is also my opinion that if a house were built on Hawthorne Avenue it would have a negative effect on several existing homes resulting in decreased property values.

I would appreciate a thorough investigation of the above matters in your consideration of granting the proposed zoning changes.

Sincerely,
Richard A. Leason
12 Clarendon Ave
Pikesville, MD 21208

July 31, 1986

Mr. Raymond H. Leason
5 Hawthorne Avenue
Pikesville, MD 21208

Dear Mr. Leason:

Re: Case No. 86-454-ASP
Harry Simon

I am writing you with reference to your letter which was received in this office on July 28, 1986.

The above case has not yet been set for hearing. Your name will be entered in the case file to be notified when the hearing date is set. At that time you will be given the opportunity to testify on the record as to your objections to the request. Your letter will be included in the case file.

Very truly yours,

William T. Hackett, Chairman
County Board of Appeals

WTH:jh

18 Hawthorne Avenue
Baltimore, Maryland 21208
May 6, 1986

Judge Arnold Jablon
Zoning Commissioner, Baltimore County
Towson, Maryland 21204

Dear Judge Jablon:

In reference to zoning hearing for the lot number 212 in the unit block of Hawthorne Avenue, Baltimore, Maryland 21208, please be advised that a dwelling with a house dimension of 74 feet by 36 feet is acceptable on said lot.

Our main concern is that construction of a home and the desired driveway for same residence will cause severe and additional flooding problems at the rear of the above lot.

After a heavy or prolonged rain, the rear property line of this lot combines a lake with water flowing over to the lots abutting this property. New construction will only increase this already existing problem and will only cause additional water buildup to the already existing properties.

Thanking you for taking this problem into consideration in your zoning decision.

Very truly yours,

John T. Lucas Jr.
John W. Fink
Lucy M. Fink

EXHIBIT 2

will.
To note, a concern exists
that the owner may use
one of the dwellings as a rental
property, which might be not
in character with the
existing community.

For all of the above reasons
the residents strongly urge
you to deny the zoning
variance.

Respectfully submitted,

Sheldon S. Shugartman

SHeldon S. SHUGARTMAN
202 PURVIS PL.
21208

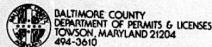
PRESIDENT,
RASTON COMMUNITY
ASSOCIATION

388-4433 DAY
653-1758 HOME

on Monday, April 9, 1986
Zoning Commissioner
PROTESTANTS
PETITIONERS
EXHIBIT 1

Dear Mr. Jablon:

On Tuesday, April 9, 1986
I called a meeting of the
residents in the first block
of Hawthorne Avenue, Raston, Maryland
Case No. 46-454-ASH. The No. 454
since residents and representation
from the community have an
election to represent a petition
appeal and voted to oppose
the proposed zoning variance.
First, the site set back
of six feet rather than the
normally required ten feet
make the dwelling quite close
to the existing dwelling.
Second, the area is zoned for
DR 5.5, obviously a lot area
of 4,760 sq. ft. will greatly
add to density problem,
impacting on an already
existing crowded community.
Third, the driveway is a
real problem in this part of
P. Raston as the engineer in
County Public Works has been very



TED ZALESKI, JR.
DIRECTOR

April 30, 1986

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Baltimore, Maryland 21208

Dear Mr. Jablon:

Comments on Item # 344, Zoning Advisory Committee Meeting are as follows:

Property Owner: Harry Shuman
Location: SE/S of Hawthorne Avenue, 324' SW of Reisterstown Road
District: 344

APPLICABLE ITEMS ARE CIRCLED:

1. All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #11-85.
The Building Code for the Residential and Small (R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-15, R-16, R-17, R-18, R-19, R-20, R-21, R-22, R-23, R-24, R-25, R-26, R-27, R-28, R-29, R-30, R-31, R-32, R-33, R-34, R-35, R-36, R-37, R-38, R-39, R-40, R-41, R-42, R-43, R-44, R-45, R-46, R-47, R-48, R-49, R-50, R-51, R-52, R-53, R-54, R-55, R-56, R-57, R-58, R-59, R-60, R-61, R-62, R-63, R-64, R-65, R-66, R-67, R-68, R-69, R-70, R-71, R-72, R-73, R-74, R-75, R-76, R-77, R-78, R-79, R-80, R-81, R-82, R-83, R-84, R-85, R-86, R-87, R-88, R-89, R-90, R-91, R-92, R-93, R-94, R-95, R-96, R-97, R-98, R-99, R-100, R-101, R-102, R-103, R-104, R-105, R-106, R-107, R-108, R-109, R-110, R-111, R-112, R-113, R-114, R-115, R-116, R-117, R-118, R-119, R-120, R-121, R-122, R-123, R-124, R-125, R-126, R-127, R-128, R-129, R-130, R-131, R-132, R-133, R-134, R-135, R-136, R-137, R-138, R-139, R-140, R-141, R-142, R-143, R-144, R-145, R-146, R-147, R-148, R-149, R-150, R-151, 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R-1758, R-1759,

JAMES E. CRAWFORD
JOHN W. STUPAK

Law Office
JAMES E. CRAWFORD
405 Frederick Avenue, Suite 163
Baltimore, Maryland 21205
(301) 744-2400



June 16, 1986

HAND DELIVERED

Zoning Commission
County Office Building
Towson, MD 21204

Re: Petitions Zoning Variances
and Special Hearing
SE/5 of Hawthorne Avenue,
32W SW of Reisterstown Road
(13) Hawthorne Avenue -
3rd Election District
Harry Shuman, Petitioner
Case No. 86-454-ASPH

Dear Sir or Madam:

Please find enclosed an Appeal to the County Board
of Appeals in reference to the above.

Please also find enclosed a check in the amount of
\$200.00 to cover the costs of filing.

Thank you for your cooperation in this matter.

Sincerely,

James E. Crawford
James E. Crawford

Enclosures

JEC:rp

CIVIL

JEROME SHUMAN
Consulting Engineer
17 BRANCHWOOD COURT
PUEBLO, MARYLAND 21006
484 7500, 484 7501
September 29, 1986

STRUCTURAL

RECEIVED
COUNTY BOARD OF APPEALS
SEP 29 10 46 AM '86

Board of Appeals
Room 200, Baltimore County Courthouse
Towson, Maryland 21204

Re: Case No. 86-454-ASPH
13 Hawthorne Avenue

Attention: Mr. William T. Hackett
Chairman

Dear Mr. Hackett:

Regarding the above noted case, an appeal was filed on June 16, 1986.
Three and one-half months have passed, and we have not obtained a hearing date.

I would like to request a hearing be scheduled as soon as possible. The
petitioners are my parents, who are currently maintaining an out-of-state
home in anticipation of returning to Baltimore to a new home on the subject
lot. Presently, they are distressed due to age and health problems, and the
delay in scheduling a hearing to resolve the appeal is causing additional
concern.

It is imperative that they return to Baltimore, and the delay in
scheduling additional hardship. I would very much appreciate your expediting
the scheduling of the requested hearing.

Thank you for your consideration.

Sincerely,

Jerome Shuman
Jerome Shuman, P. E.

JSH:RM

JAMES E. CRAWFORD
JOHN W. STUPAK

Law Office
JAMES E. CRAWFORD
405 Frederick Avenue, Suite 163
Baltimore, Maryland 21205
(301) 744-2400

JAMES E. CRAWFORD, JR.
Legal Assistant

January 7, 1987

Mr. Hackett
County Board of Appeals
of Baltimore County
Room 200 Court House
Towson, Maryland 21204

Re: Harry Shuman
Case No.: 86-454-ASPH

Dear Mr. Hackett:

Please be advised that I have been out of my office
for the past several days with the flu.
I would greatly appreciate an extension of ten (10)
days for filing of the brief in the above captioned case.

Thank you for your cooperation in this matter.

Sincerely,

James E. Crawford

JEC:rp



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 491-3180

January 9, 1987

James E. Crawford, Esquire
405 Frederick Avenue, Suite 163
Baltimore, MD 21225

Re: Case No. 86-454-ASPH
Harry Shuman

Dear Mr. Crawford:

We are in receipt of your letter of January 7 requesting
a ten-day extension for filing of the brief in the subject case.

Please be advised that Mr. Hackett has granted your
request, thereby attending the date for filing of the above-
mentioned brief to Friday, January 16, 1987.

Sincerely,

Kathi C. Weidenhammer
Administrative Secretary

JAMES E. CRAWFORD
JOHN W. STUPAK

Law Office
JAMES E. CRAWFORD
405 Frederick Avenue, Suite 163
Baltimore, Maryland 21205
(301) 744-2400

JAMES E. CRAWFORD, JR.
Legal Assistant

January 15, 1987

Hand Delivered

County Board of Appeals
of Baltimore County
Room 200, Court House
Towson, Maryland 21204

Re: Harry Shuman
Case No.: 86-454-ASPH

Dear Sirs:

Please find enclosed the Statement of Facts concerning
the above captioned case.

Thank you for your cooperation in this matter.

Sincerely,

James E. Crawford

JEC:rp

Enclosure

STATEMENT OF FACT

This case is an appeal from a decision by the Deputy Zoning
Commissioner of Baltimore County, Case Number 86-454-ASPH,
wherein Petitioner requested a variance to permit lots of widths of
forty feet for lot numbers 212 and 213, a side yard setback for
the existing dwelling on lot number 213 of two feet in lieu of the
required ten feet and a side yard setback for proposed dwelling on
lot number 212 of six feet in lieu of the required ten feet and additionally,
a special hearing to determine if density would be affected by permitting
a lot area less than 6,000 feet, and if density would not be affected,
to permit a lot area of 4,760 square feet for each lot in lieu of the
required 6,000 square feet.

In fact, the Petitioners want to erect a structure next door to their
own dwelling in the form of a dwelling of the exact setbacks that have been
existing on said property since 1897.

A record plat involving 458 odd lots, 40 by 119 were filed with Baltimore
County in the year 1897 and approved by the County. The Petitioners
are requesting to erect a structure consistent with this majority of lots
and dwellings in their area consisting of exact same setbacks as are
presently existing pursuant to the record plat filed in 1897.

LEGAL ISSUES

Is the lot in question a non-conforming use within the meaning of
Baltimore County Zoning Laws promulgated in 1945?

It is well settled that a landowner's right to use his property in a
particular manner is determined by the legal state of facts which existed
the time the use is commenced. Rathkopf, *The Law of Zoning and Planning*

at 51-36 (4th ed. 1978). If at that time by reason of a nonexistence
of a restrictive ordinance, it is determined that the landowner had the
right to operate the particular use and that the municipality would have
no right to stop them from doing so, then the landowner's rights to use
his land in the particular manner is vested. *Id.*

The Baltimore County Commissioners adopted a comprehensive set
of zoning regulations which took effect in Baltimore County on January
2, 1945. *Calhoun v. County Board of Appeals*, 277 A.2d 589 (1971).
Section XI of the original regulations provided for the continuance of
existing lawful non-conforming uses. As such, Section XI, entitled
non-conforming uses, provided that:

A lawful non-conforming use existing on the effective
date of the adoption of these regulations may continue
provided, however, upon any change from such non-
conforming use to a conforming use, or any attempt
to change from such non-conforming use to a different
non-conforming use or any discontinuance of such
non-conforming use for a period of one year... the
right to continue to resume such non-conforming use
shall terminate, provided, however, that any such
lawful non-conforming use may be extended or enlarged
to an extent not more than once again the area of the land
used in the original non-conforming use.

1945 Baltimore County Zoning Regulations
The record plat on the subject lot was filed in 1897 along with over
450 other lots of the exact same size, nature and description. There is a
dwelling erected consistent with the surrounding dwellings on a lot directly
next door to the subject lot which is the exact same type of dwelling which
is sought by Petitioner. The subject lot has not changed in its zoning form,
i.e., individual dwelling use, since the original record plat of 1897. As a
consequence, present setback regulations adopted in 1945 and subsequent
thereto by Baltimore County do not apply to the proposed dwelling on the
subject lot. To impose such regulations on the property owner would be in
violation of the property owner's constitutional right to use the subject

property in a manner in which the original developer, through his
record plat, intended to be used.

In addition, the main protestant that testified before the Board,
indicated that he lived in a dwelling consisting of the exact same lot
size and with the exact same setbacks as the proposed dwelling by Petitioner.
He is not unique in this situation. There are approximately 300 homes that
fit into this category within a four block radius of the subject lot. Some
original property owners chose to buy dual lots and to keep one lot for
an extended backyard and side yard. This, of course, does not prohibit the
erection of a structure on the subject lot, in that the record plat was filed
in 1897 and was filed with the intention of erecting structures on each lot
of 40 by 119 in size.

In addition, the practical aspects of the application include a hardship
to senior citizens who are required to erect a structure consistent with an
air filtering system that will allow comfort to the senior Mr. Shuman, in that
he has a lung disease and must live in a dust free structure type of air
filter environment. The present structure in which he lives, next door
to the subject lot, is not conducive structurally to creating the type of
environment that is necessary for Mr. Shuman's lung disease. Mr. Jerry
Shuman, the son of the Petitioner, is a registered engineer in Baltimore
County. He has testified before the Board that in his opinion, it would
be more costly to convert the present dwelling of Shuman's into the
environmental conditions necessary for Mr. Shuman's lung disease than
it would be to erect a structure of the same size on the adjacent lot.

Thank you for your consideration in this matter.

James E. Crawford
Attorney for Petitioner