

IN RE: PETITION FOR ZONING VARIANCE
NW/4 Thompson Blvd., 2,030
SE of Sandalwood Road
15th Election District
15th Councilmanic District
OF BALTIMORE COUNTY
Case No. 88-367-A
Leslie V. Isenrock, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request variances to permit a window to tract boundary setback of 15 feet on the west side and 20 feet on the east side, both in lieu of the required 35 feet, and an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard, both as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Counsel. Robert L. Campbell, Professional Engineer with Spotts, Stevens & McCoy, Inc., appeared and testified on behalf of the Petition. There were no Protestants.

Testimony indicated that the subject property, zoned D.R. 5.5, was the subject of a previous variance Case No. 87-124-A wherein variances were granted which would have permitted five (5) building lots on the subject property. The Petitioners testified that they purchased the property and decided to resubdivide it so that there would only be two building lots. It is their intention to build a new home and an inground swimming pool on the front of the property facing the water where previously there were to be three building lots. Mrs. Isenrock testified that she has spoken to both adjoining property owners who indicated they have no objection to the requested variances and are looking forward to the less intense development of the property. Testimony indicated that due to the unique characteristics of the lot and the radius required to enter the garage, the Petitioners need the requested variances.

The Petitioners also request a variance to permit the proposed accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard as they chose to have the front of their home and their swimming pool face the water.

The Petitioners seek relief from Sections 1801.2C.6 and 400.1, pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.).

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974). It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

LOT #1

Beginning at a point on the northwesterly side of Thompson Boulevard (50 feet wide) South 27 deg. 33 min. 13 sec. West a distance of 100.00 feet from the division line between Lots No. 1 and No. 2 as shown on the plat entitled "LOTS 1 AND 2 PROPERTY OF MARION BOCEK AND WIFE" dated 10 December 1982 and recorded among the land records of Baltimore County in Plat Book E.H.K. Jr., No. 49, folio 119; thence running with and binding on the northwesterly side of Thompson Boulevard.

1. South 27 deg. 33 min. 13 sec. West a distance of 20.98 feet to a point thence leaving the northwesterly side of Thompson Boulevard and running with and binding on a portion of Lot No. 2 as shown on said property plat of Marion Bocek and Wife the four following courses and distances.
2. North 62 deg. 26 min. 47 sec. West a distance of 15.00 feet; thence
3. South 27 deg. 33 min. 13 sec. West a distance of 256.00 feet to the waters edge of the Back River; thence running along the waters edge of the Back River
4. North 50 deg. 25 min. 30 sec. West a distance of 152.87 feet; thence leaving the Back River
5. North 34 deg. 54 min. 12 sec. East a distance of 249.00 feet; thence running for a line of division through the lands of said Lot No. 2
6. South 62 deg. 05 min. 31 sec. East a distance of 132.80 feet to the place of beginning.

Containing 0.816 acres of land, more or less.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of March, 1988 that a window to tract boundary setback of 15 feet on the west side and 20 feet on the east side, both in lieu of the required 35 feet, and a proposed accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be approved, and as such, the Petition for Zoning Variance is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Petitioner shall comply with the Chesapeake Bay Critical Area requirements as set forth by the Department of Environmental Protection and Resource Management in their correspondence to Mr. J. Robert Haines, Zoning Commissioner, dated March 3, 1988, attached hereto and made a part hereof.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
of Baltimore County

LOT NO. 2

Beginning at a point on the northwesterly side of Thompson Boulevard (50 feet wide) of the line of division between Lot No. 1 and Lot No. 2 as shown on the plat entitled "LOTS 1 AND 2 PROPERTY OF MARION BOCEK AND WIFE" dated 10 December 1982 and recorded among the land records of Baltimore County in Plat Book E.H.K. Jr., No. 49, folio 119; thence running with and binding on the northwesterly side of said Thompson Boulevard.

1. South 27 deg. 33 min. 13 sec. West a distance of 100.00 feet to a point; thence running for a new line of division through the lands of Lot No. 2 as shown on the aforementioned plat
2. North 62 deg. 05 min. 31 sec. West a distance of 132.80 feet to a point on the northwesterly boundary line of said Lot No. 2, thence running with and binding on a portion of the northwesterly boundary line of Lot No. 2.
3. North 34 deg. 54 min. 12 sec. East a distance of 100.00 feet to the line of division between Lot No. 1 and Lot No. 2 as shown on said plat, thence running with and binding on said division line between Lots No. 1 and No. 2.
4. South 62 deg. 26 min. 47 sec. East a distance of 120.00 feet to the place of beginning

Containing 0.289 acres of land, more or less.

BEING the northwesterly most 100 feet of Lot No. 2 as shown on the plat entitled "Lots 1 and 2. PROPERTY OF MARION BOCEK AND WIFE" dated 10 December 1982 and recorded among the land records of Baltimore County in Plat Book E.H.K. Jr., No. 49, folio 119.

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 Variance from Section 1801.2C.6 (V.B.5a) to permit a window to tract boundary setback of 15 feet on the west side and 20 feet on the east side, both in lieu of the required 35 feet; and Section 400.1 to permit an accessory structure (swimming pool) to be located in front yard in lieu of the required rear yard, of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Site too small to comply with existing Regulations from which above Variances are needed.

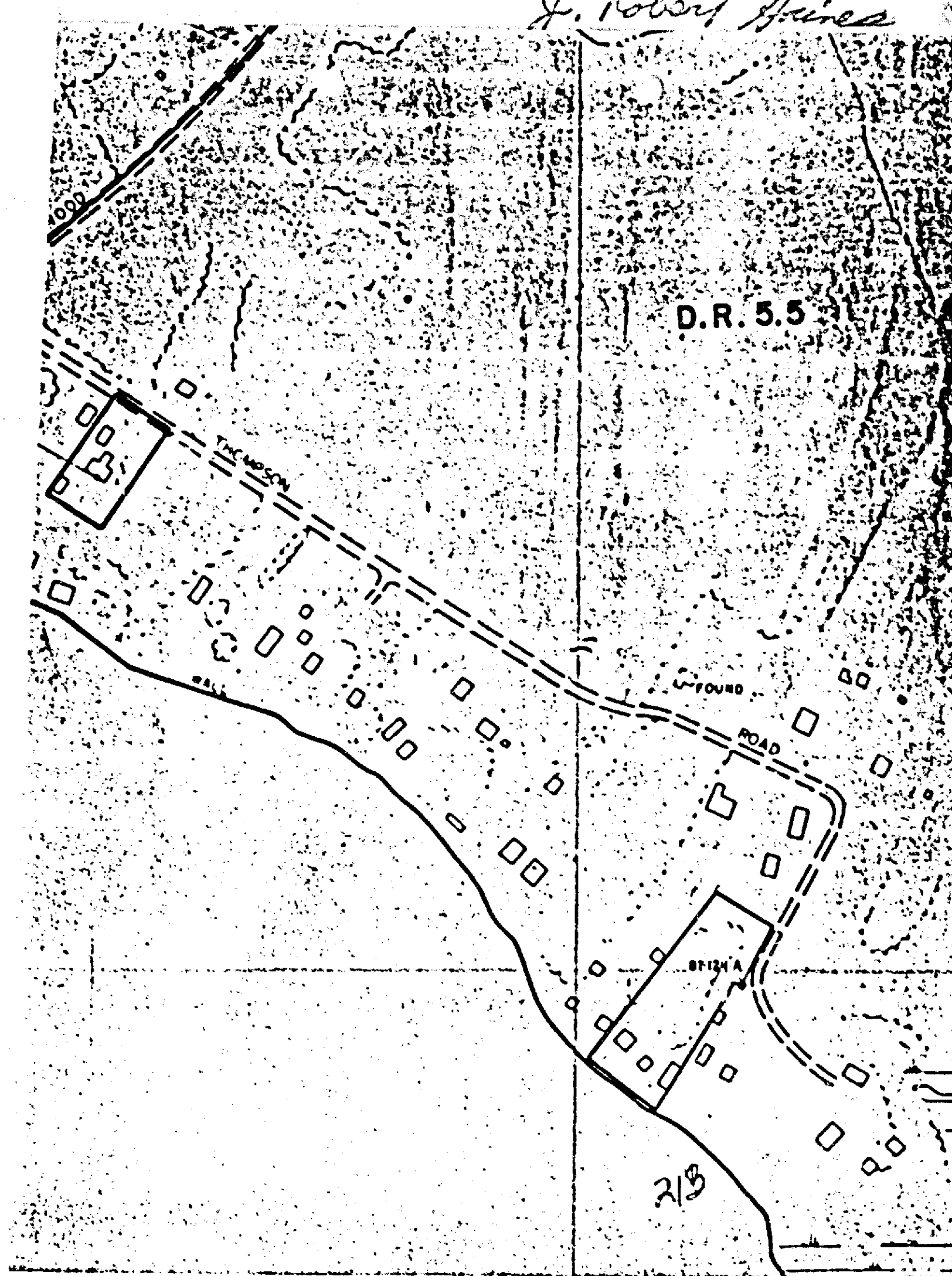
Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, 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.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
(Type or Print Name)
Signature: _____
Address: _____
City and State: _____
Legal Owner(s): _____
(Type or Print Name)
Signature: _____
Address: _____
City and State: _____
Attorney for Petitioner: _____
(Type or Print Name)
Signature: _____
Address: _____
City and State: _____
Attorney's Telephone No.: (301) 823-1800

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 1988, 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 308, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1988, at _____ o'clock _____ M.



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Date: FEB 23 1988

Mr. & Mrs. Leslie V. Isenock
8214 Grayhaven Road
Baltimore, Maryland 21222

Re: Petition for Zoning Variance
Case numbers: 88-367-A
2030' SE Sandalwood Road
15th Election District - 5th Councilmanic District
Petitioners: Leslie V. Isenock, et ux
HEARING SCHEDULED: THURSDAY, MARCH 3, 1988 at 9:00 a.m.

Dear Mr. & Mrs. Isenock:

Please be advised that \$77.38 is due for advertising and posting of the above-referenced property. All advertising and posting fees must be paid prior to the hearing. Do not remove the sign(s) from the property from the time it posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and forward to the Zoning Office, County Office Building, Room 113, Towson, Maryland 21204.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 3/2/88 ACCOUNT: 50277
AMOUNT: \$77.98
RECEIVED FROM: [Signature]
VALIDATION OR SIGNATURE OF CARRIER: [Signature]

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Date: FEB 23 1988

Mr. & Mrs. Leslie V. Isenock
8214 Grayhaven Road
Baltimore, Maryland 21222

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BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 12/1/87 ACCOUNT: 01-615
AMOUNT: \$35.00
RECEIVED FROM: [Signature]
VALIDATION OR SIGNATURE OF CARRIER: [Signature]

The Times
Middle River, Md., Feb 11 1988
This is to Certify, That the annexed
was inserted in The Times, a newspaper printed
and published in Baltimore County, once in each
of the following weeks before the day of
the hearing: Feb 11, 1988
Feb 18, 1988
Feb 25, 1988
Feb 25, 1988
Publisher.

"DUPLICATE"
TOWSON, MD., Feb 11 1988
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
Feb 11, 1988
THE JEFFERSONIAN,
Susan [Signature]
Publisher

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Posted for: [Signature]
Petitioner: [Signature]
Location of property: [Signature]
Location of sign: [Signature]
Remarks: [Signature]
Posted by: [Signature]
Number of signs: [Signature]

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
day of January 1988

Received by: [Signature]
Chairman, Zoning Plans
Advisory Committee

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4700

Date: December 30, 1987

Mr. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: Leslie V. Isenock, et ux (critical area)
Location: NW/8 Thompson Blvd., 2030' SE Sandalwood Road
Item No.: 213 Zoning Agenda: Meeting of 12/15/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" 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 _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at _____ EXCEEDS 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.

REVIEWER: [Signature] Noted and Approved: [Signature]
Planning Section Fire Prevention Bureau
Special Inspection Division

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

Mr. James Robert Haines
TO: Zoning Commissioner Date: March 3, 1988

FROM: Mr. Robert W. Sheesley

Zoning Variance:
SUBJECT: Leslie V. Isenock

In accordance with Section 8-1813 Prior Project approval of the Chesapeake Bay Critical Area Law the proposed development will comply with the terms of Section 8-1813 for minimizing adverse impacts on water quality and protecting identified habitats, provided that the zoning petition is conditioned on compliance with the following requirements:

1. Three major deciduous tree or six conifers or six minor deciduous trees are planted and maintained on the lot. A combination of these three tree types is acceptable provided that 1,000 square feet of tree cover is provided. A large deciduous tree is estimated to cover 1,000 square feet and a minor deciduous or conifer 500 square feet.
2. Storm water run-off from impervious surfaces associated with this petition should be directed over pervious areas such as lawn to encourage maximum infiltration.

Robert W. Sheesley
Director
Department of Environmental Protection
and Resource Management

RWS:tjg

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Suite 405
Towson, Maryland 21204
494-3354

Date: January 7, 1988

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comment for items number 206, 208, 209, 210, 211, 213 and 214.

Very truly yours,
Michael S. Flanagan
Traffic Engineer Associate II

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE
February 16, 1988

RE: Item No. 213 - Case No. 88-367-A
Petitioners: Leslie V. Isenock, et ux
Petition for Zoning Variance

Dear Mr. Stone:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. 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.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:kbb
Enclosures

cc: Spotts, Stevens and McCoy, Inc.
698 Fairmount Avenue, Suite 105
Towson, Maryland 21204

March 4, 1988

E. Harrison Stone, Esquire
102 W. Pennsylvania Avenue, Suite 600
Towson, Maryland 21204

RE: Petition for Zoning Variance
NW/S Thompson Boulevard, 2,030' SE of Sandalwood Road
15th Election District - 5th Councilmanic District
Leslie V. Isennoek, et ux - Petitioners
Case No. 88-367-A

Dear Mr. Stone:

Enclosed please find a copy of comments from Robert W. Sheesley, Director of the Department of Environmental Protection and Resource Management which were received after the hearing on the subject matter.

Please review same with your clients and advise me in writing of their concerns within seven (7) days if the Petitioners contend the requirements set forth in Mr. Sheesley's letter should not be imposed on them in the event the subject variances are granted.

Thank you for your consideration in this matter. If you have any questions on the subject, please do not hesitate to call me.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
of Baltimore County

AMN:bjs
cc: Case File

Enclosure

ROYSTON, MUELLER, MCLEAN & REID
ATTORNEYS AT LAW

R. TAYLOR MCLEAN
RICHARD A. REID
E. HARRISON STONE
MILTON R. SMITH, JR.
C. S. KLINGELHOFER III
THOMAS F. McDONOUGH
LAWRENCE F. HALLIP

LAUREL P. EVANS
KEITH R. TRUPPER
ROBERT S. HANDZO
EDWARD J. GILLISS
C. LARRY HOFMEISTER, JR.
ELIZABETH P. S. STELLMANN

SUITE 800
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575
(301) 823-1800
TELECOMER FAX (301) 826-7858

OF COUNSEL
CARROLL W. ROYSTON
H. ANTHONY MUELLER
JOHN L. ASKEW

March 7, 1988

RECEIVED
MAR 7 1988

ZONING OFFICE

Ann M. Nastarowicz
Deputy Zoning Commissioner of
Baltimore County
Office of Planning & Zoning
Towson, MD 21204
HAND DELIVERED

Re: Petition for Zoning Variance
NW/S Thompson Boulevard, 2,030' SE of Sandalwood Road
15th Election District - 5th Councilmanic District
Leslie V. Isennoek, et ux - Petitioners
Case No. 88-367-A

Dear Ms. Nastarowicz:

We have reviewed your letter of March 4, 1988, in which you enclosed the comments from Robert W. Sheesley of the Department of Environmental Protection and Resource Management.

Please be advised that we have no objections to the requirements set forth in Mr. Sheesley's comments being imposed upon Petitioners should you grant the subject variances. In fact, Note No. 8 on the plat we introduced as "Petitioners' Exhibit No. 1" contains essentially the same requirement as to number and type of trees, etc.

Thank you for your prompt attention in this case.

Sincerely yours,

E. Harrison Stone

EHS:jz
0138h

IN RE: PETITION FOR ZONING VARIANCE
NW/S of Thompson Boulevard,
369.13' SW of the c/l of
Hoffatetter Avenue
15th Election District

Michael H. Yeager, Jr.

Petitioner

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 87-124-A

The Petitioner herein requests a zoning variance to permit a tract boundary setback of 20 feet in lieu of the required 35 feet on Lots 1, 4 and 5, and additionally, to permit a 10-foot setback to the property line in lieu of the required 15 feet for Lots 4 and 5 to construct a housing development on Back River.

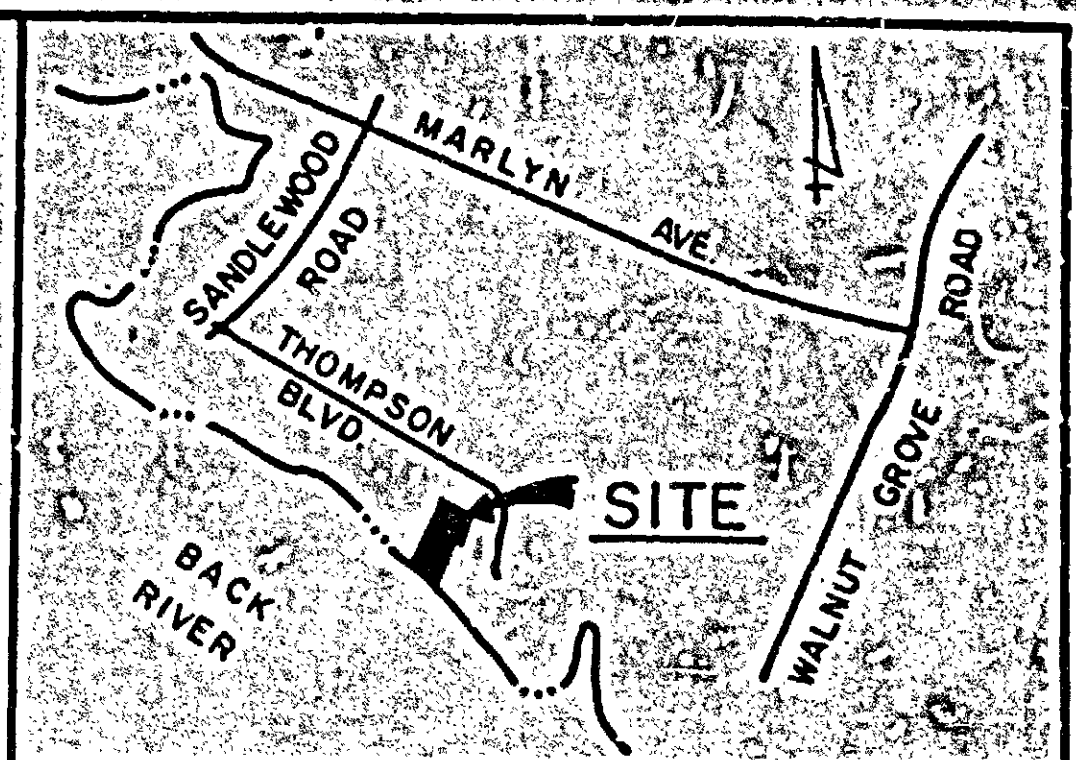
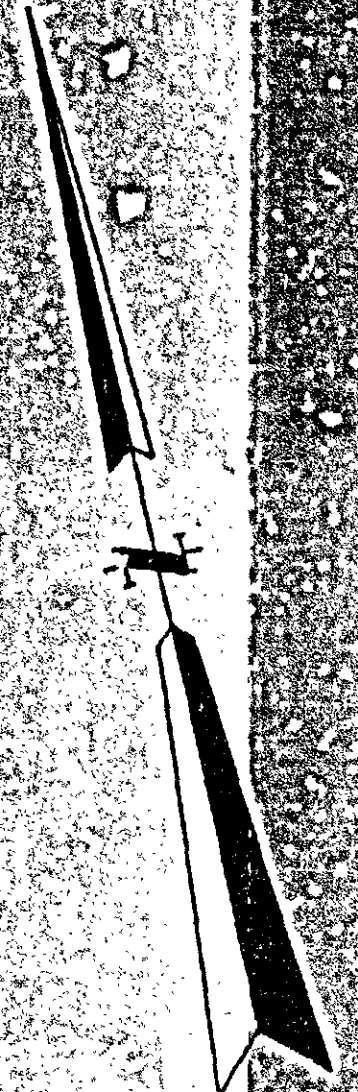
Testimony by the contract purchaser indicates that the existing DR 5.5 zoning entitles the developer to subdivide the subject property into six building lots. The Chesapeake Bay Critical Area legislation, however, mandates a 100-foot wide buffer area adjacent to the water, and thus prohibits the developer from subdividing the property into more than five lots. The requested variance will not permit more building lots but will enhance the arrangement and quality of the lots to be improved and will allow the proposed homes to have windows in certain walls, which otherwise would not be permitted. The developer will comply with the requirements of the Chesapeake Bay Critical Area legislation.

There were no Protestants.

Pursuant to the advertisement, posting of property, and public hearing on the petition, it appearing that strict application of the Baltimore County Zoning Regulations (BCZR) would result in practical difficulty and unreasonable hardship upon the Petitioners; Baltimore County having reviewed the application involving property located in the Maryland Chesapeake Bay Critical Areas and having ascertained that it is consistent with the

PETITIONER'S

3



VICINITY MAP
SCALE: 1" = 1000'

GENERAL NOTES

1. Applicant:
Mr. & Mrs. Leslie Inasnoch
8214 Gray Haven Road
Baltimore, Maryland 21222
2. Deed Reference: 6492/625
3. Election District: 15 Councilmanic District: 5
Census Tract: 4511
4. Watershed: 21 Subwatershed: 39
5. Site Data:
Current Zoning: DR 5.5
Total Site Area: Gross = 1.173 Ac.
Number of Lots Allowed = 6.45
Number of Lots Proposed = 2.00
6. Baltimore County Public Services
CRG No. was 86139
7. No building or construction of any impervious surface is to be allowed in the 100' critical buffer area.
8. Landscaping of the critical buffer area will consist of either three major deciduous, three evergreen or six minor deciduous tree prior to occupancy.
9. This property located within Chesapeake Bay critical area.
10. New development activities, including structures, roads, parking areas and impervious surfaces, are not permitted in the buffer, except those necessarily associated with the use of the pier.
11. The buffer shall be maintained in natural vegetation but may include planted vegetation where necessary to protect, stabilize or enhance the shoreline.

PETITIONER'S
EXHIBIT 1
Sign

PLAT TO ACCOMPANY
ZONING PETITION
OF
PROPERTY PLAT OF
MICHAEL H. YEAGER, JR.
THOMPSON BOULEVARD
BALTIMORE CO. MD.
ELECTION DISTRICT 15th.
BALTIMORE, MARYLAND 21221



ROBERT L. CAMPBELL
678 FAIRMOUNT AVENUE
SUITE 105
TOWSON, MARYLAND 21204

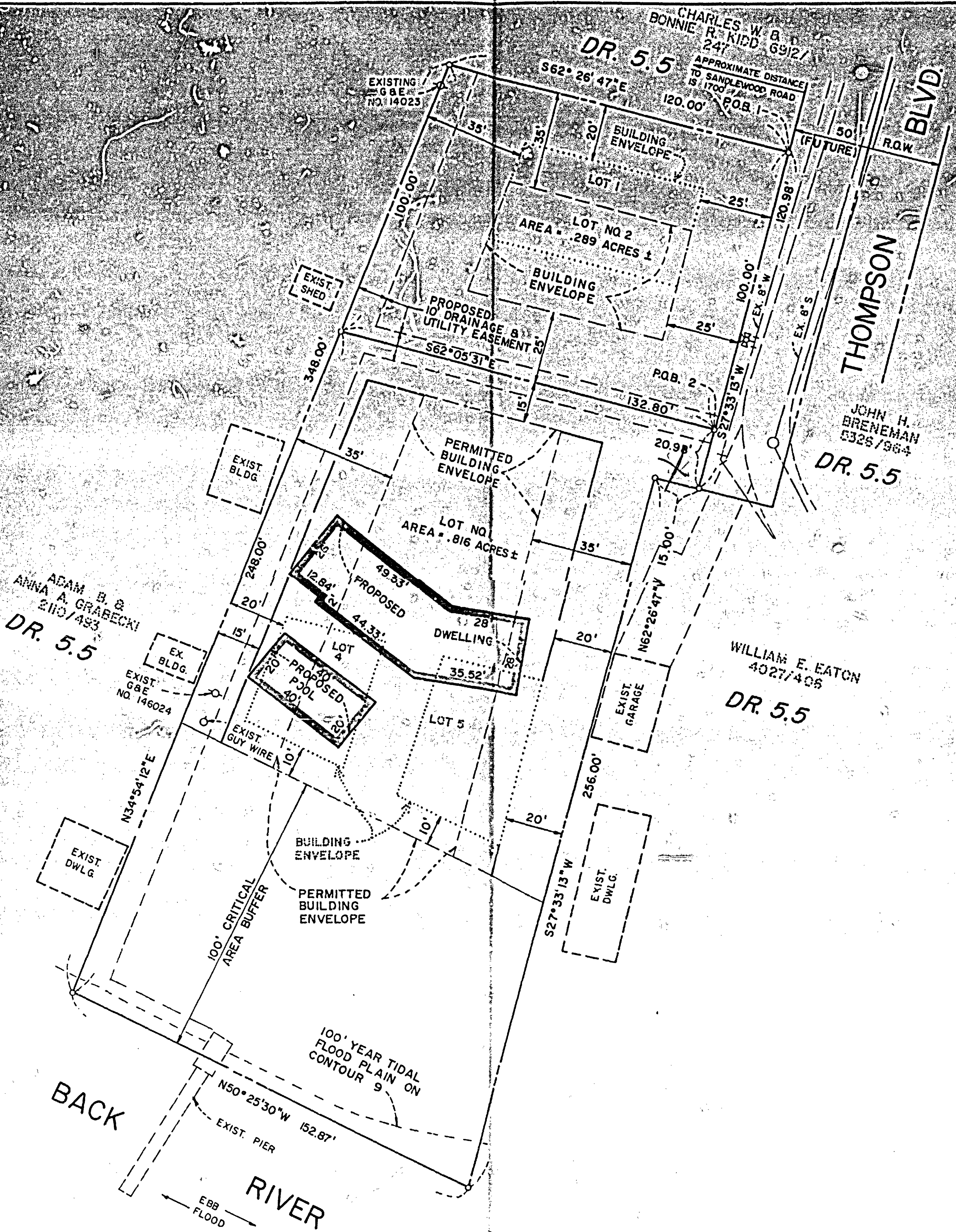


J.K.		NOV 1987
WAVE CHECK	APPROVALS	DATE
1" = 20'	10 000-521	
SCALE	THROWING NUMBER	REV

LEGEND

- ZONING VARIANCE GRANTED
CASE NO. 87-124-A,
APPROVED 9-25-85
- SETBACK REQ.-OUT
OF TRANSITION
- SETBACK VARIANCE
REQUESTED
- ===== PROPOSED DWELLING &
POOL

PLAN	DATE
REVISED	BY
NOTED	
REVISION	
FIELD BOOK NUMBER	



VICINITY MAP

LEGEND

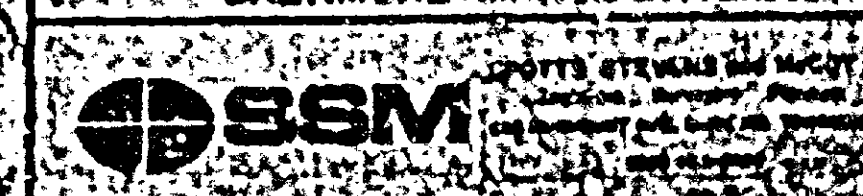
PROPERTY LINE	---
RIGHT OF WAY LINE	---
EXISTING CONTOUR	---
EXISTING DRIVE	---
EXISTING FENCE	---
EXISTING SANITARY LINE	---
EXISTING WATER LINE	---
PROPOSED DRIVEWAY	---
EXIST. MANHOLE	○
EXIST. UTILITY POLE	○
PROF. CONTOUR	---

PETITIONER'S EXHIBIT

STAPLES & COMPANY, INC.
 3830 FALLS ROAD
 BALTIMORE, MARYLAND 21211
 (301) 235-3705

PUBLIC SERVICE
 CRG NO. 85132
 PLATING NO.

CRG PLAN
YEAGER PROPERTY
 ELECTION DISTRICT 15.01
 BALTIMORE, MARYLAND 21221

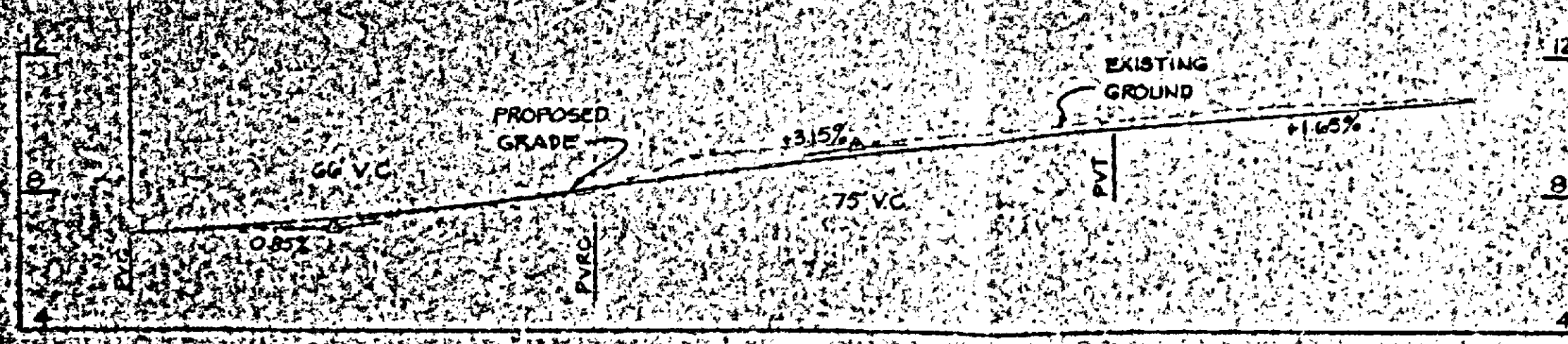


DATE	2-20-85	BY	WTP
NO.	45	DESCRIPTION	WTP
DATE	2-20-85	BY	WTP
NO.	45	DESCRIPTION	WTP

8766-000



PROFILE DRIVEWAY



Scale: 1" = 4' VERT.
 1" = 20' HORIZ.

NO.	DATE	DESCRIPTION	BY
1	2-20-85	CRG PLAN	WTP
2	2-20-85	CRG PLAN	WTP
3	2-20-85	CRG PLAN	WTP