FINDINGS OF FACT AND CONCLUSIONS OF LAW

.

The Petitioners herein request a variance to permit an accessory .structure (swimming pool) in the front and side yards in lieu of the required rear yard in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protestants. Testimony indicated that the subject property, known as 3157 Baybriar Road, consists of .123 acres zoned D.R. 5.5 and is improved with a single family dwelling. Said property is located within the Chesapeake Bay Critical Areas on Bullneck Creek. Petitioners are desirous of constructing an in-ground swimming pool; however, he to the location of the existing dwelling on the property, there is no other space available other than the west side of the property in which to build the proposed pool. Testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the community.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

> Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

Conserve fish, wildlife, and plant habitat; and

3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address he lact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 300 day of October, 1989 that the Petition for Zoning Variance to permit an accessory structure (swimming pool) in the front and side yards in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief grant-

> 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 30-day 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) The variance granted herein is contingent upon Petitioners completing the construction of the proposed swimming pool by no later than September 1,

1990. In the event Petitioners fail to comply with this restriction, the variance granted herein will be rescinded and Petitioners shall be responsible for returning the property to its original condition.

3) Upon completion of said pool, Petitioners shall notify both the Department of Environmental Protection and Resource Management and the Zoning Enforcement Division of the Office of Zoning to arrange for a mutually convenient date and time for a representative from both agencies to inspect the property to insure compliance with this Order; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated September 20, 1989, attached hereto and made a part hereof.

Zoning Commissioner for Baltimore County

BALTIMORE COUNTY, MARYLAND

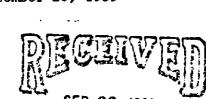
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines

DATE: September 20, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 531 Bivens Property Chesapeake Bay Critical Area Findings



ZONING OFFICE

SITE LOCATION

The subject property is located at 3157 Baybriar Road. The site is within the Chesapeake Bay Critical Area and is classified as an Intensely Developed Area (IDA).

APPLICANT'S NAME Mr. and Mrs. Calvin J. Bivens

APPLICANT PROPCSAL

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit an accessory building in the front and side yards in lieu of the required rear.

GOALS OF THE CHESAPEAVE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- 1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- Conserve fish, wildlife and plant habitat; and
- 3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

Memo to Mr. J. Robert Haines September 20, 1989

CONCLUSION

The Zoning Variance shall be conditioned so that the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with the Chesapeake Bay Critical Area Regulations, this project shall be approved. If you have further questions, please contact Mr. David Flowers at 887-3980.

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

RWS:DCF:ju Attachment

cc: The Honorable Ronald B. Hickernell The Honorable Norman R. Lauenstein The Honorable Dale T. Volz Mrs. Janice B. Outen

RELATIVE ABUNDANCE

VEGETATIVE STRATA - SHRUBS AND SMALL TREES

Asimina triloba	(Paw Paw),	Abundant
Amelanchier canadensis	(Canadian Serviceberry)	Abundant
Amelanchier laevis	(Serviceberry)	Abundant
Amelanchier obovalis	(Obovate Serviceberry)	Abundant
Clethra alnifolia	(Sweet Pepperbush)	Abundant
Cornus amomum	(Silky Dogwood)	Local
Cornus florida	(Flowering Dogwood)	Freq.Abund.
Gaylussacia frondosa	(Huckleberry)	Abundant
Ilex onaca	(American Holly)	AbundFreq.
Itaa virginica	(Tassel-White)	Infrequent
Kalmia angustifolia	(Lamb-Kill)	Abundant
Kalmia latifolia	(Mountain Laurel)	Abundant
Leucothoe racemosa	(Fetter-Bush)	Abundant
Lindera benzoin	(Common Spicabush)	Frequent
Lyonia liqustrina	(Male-Berry)	Frequent
Myrica pensylvanica	(Bayberry)	Frequent
Prunus serotinia	(Black Cherry)	Abundant
Prunus virginiana	(Choke Cherry)	Local
Rhodendron nudiflorum	(Pinxter Flower)	Infrequent

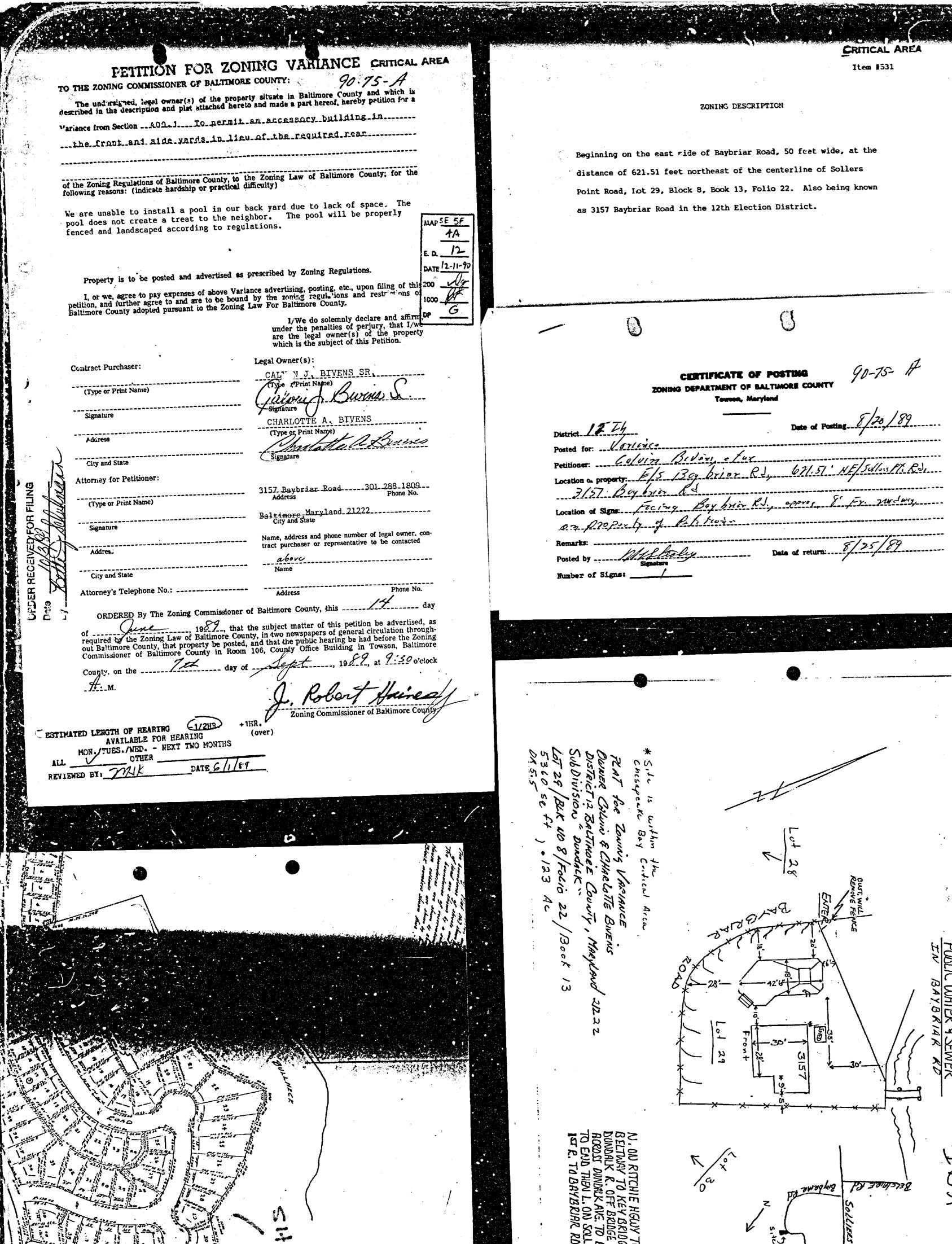
PLANT ASSOCIATION: UPLAND HOIST (Continued)

RELATIVE ABUNDANCE

Magnolia virginiana.	(Sweet Bay Magnolia)	Frequent
Nyssa sylvatica	(Black Gum)	Abundant
Populus grandidentata	(Swamp Poplar)	Infrequent
	(Cottonwood)	Infrequent
Populus deltoides	(White Oak)	Abundant
Ouercus alba	(Willow Oak)	Frequent
Ouercus phellos	(Chestnut Oak)	Abundant
Ouercus prinus	(Red Oak)	Abundant
Ouercus rubra .	(Sassafras)	Abundant
Sassafras albidum	(2422411 62)	

Source: Baltimore County Office of Planning and Zoning, May 19

THE RESIDENCE OF THE PARTY OF T Chapter 4 downfull slope so that water through the soil will collect on does not seep through the the surface and either create foundation. Once the water has health, safety, and use probbeen carried ten feet from the lems or move across the surhouse, you should regrade the โลตซ ลร excess runoif ow rain water moves surface so that runoff is re-Be on the lookout for over and through the leased gradually small wet patches in your yard ground is important Where drainage is good or These wet spots mean that the I to those of us who where infiltration devices are soil around your house has sethave expenenced flooded in use, you can regrade the tled and surface water is colbasements, wet vards, or broland to create a basin, which lecting on the ground. Plant holds all runoff and allows it to ken septic systems. Solving the growth is usually poor in these problems associated with surinfiltrate the soil over a longer areas and erosion often occurs face water runoff and poorly Filling these pockets with topperiod of time. The effectivedrained soil is also important to ness of a basin depends on the soil and seeding them with improving the health of the soil's ability to absorb and filter grass will usually solve the hesapeake Bay. the surface water. Soils with problem by letting water flow Rain from roofs and less than two feet of depth to on its natural path. bedrock or one foot of depth to driveways runs off, often erod-In some instances, you ing yards and destroying a seasonally high water table. may be able to correct an existplants. Much of the soil washed soil having a high clay content ing wet soil problem by creatoff vacant loss and lawns is caror a clay hardpan beneath the ing a system of berms and Renamentar runs dominal ned into streams and eventusurface, and low-lying soil that swales around your yard - some hitering mirough ally reaches the Bay. This sedireceives runoff from a large he soil some funning at When it's not feasible to avoid ment smothers fish and ישאילין מות עלוישי land area may not have suffia wet area, you may be able to streams. By encouraging sheilfish. Nutrients, such as nicient infiltration capacity. move it to a less used area of HOMERST TO THIS SHIPPY trogen and phosphorus from When you try to retain runoff in the yard (around shrubs or across the son so most fertilizer in runoff, can cause trees, for example) by installing these situations, the soil will of it filters into the excessive algae growth, using rapidly become saturated, and à swale to carry the water Bround you will have been up oxygen needed by the Bay's rainfall that should filter down across the yard. Plant the new western workers aquatic life. This runoff may aiso contain pesticides, oil, antifreeze, and other substances toxic to life in the Bay. Pollution also occurs when the soil is too wet to filte sewage outflow. Effluent can percolate into the groundwater without proper filtration, or it can rise to the surface and be carried into streams and drain-Deciing with Surface Runoti n large tracts of land, controlling surface water flow (Storm water management) is the developer's responsibility. There are inexpensive ways you can control excess runoff created by patios, driveways, sidewalks, and swimming pools. Whatever the soil drainage condition in your neighborhood, you can use swales, berms, and basins to control runoff on your properry, reduce its speed, and increase the time over which the runoff is released. For example, land immediately adjacent to your house needs to have a



Merington Ed

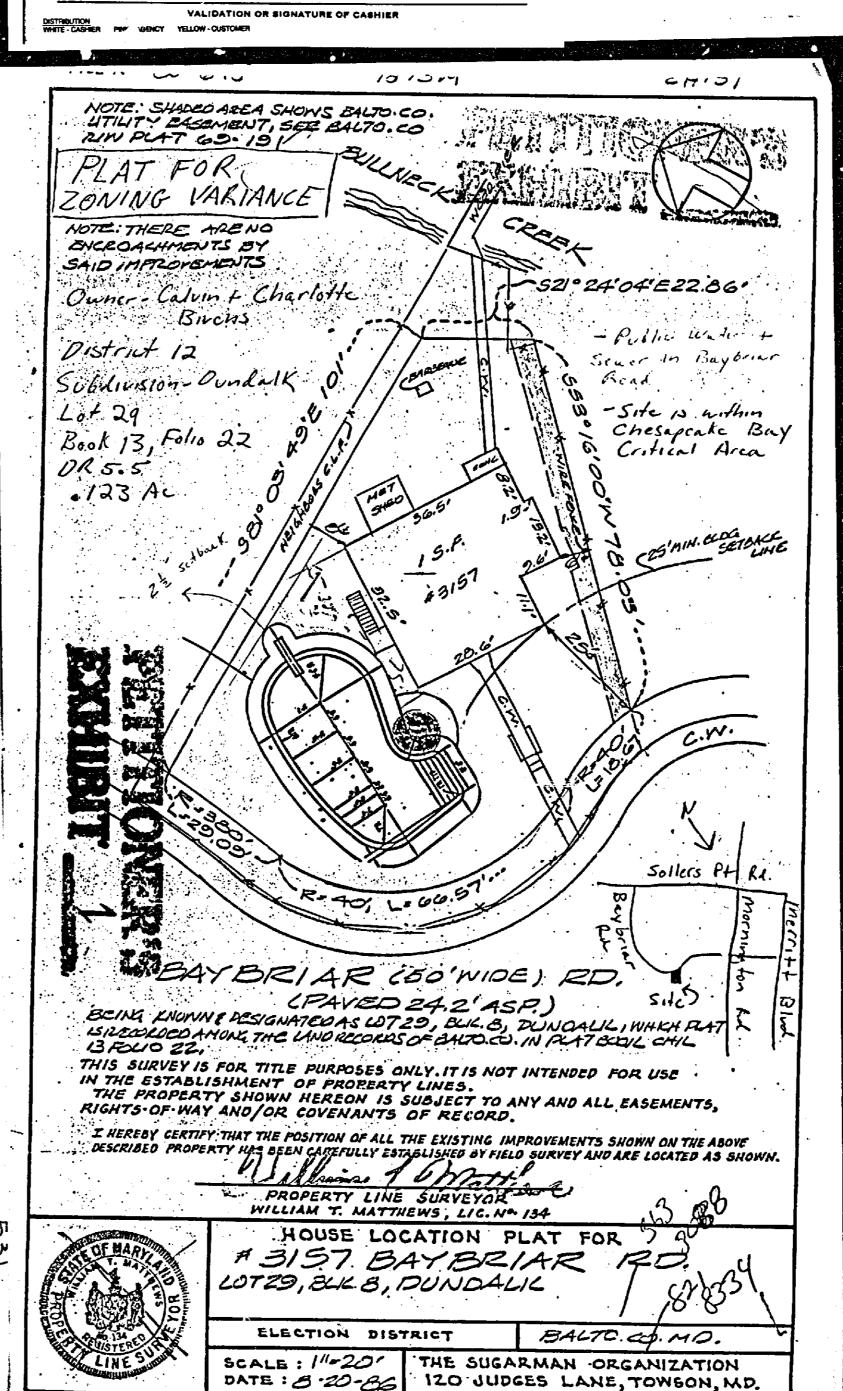
MEDEITT BLUD

Office of Planning & Zoning Towson, Marylani 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner 8-17-89 Mr. & Mrs. Calvin J. Bivens, Sr. 3157 Baybriar Road Baltimore, Maryland 21222 Denniz F. Rasmussen Petition for Zoning Variance CASE NUMBER: 90-75-A E/S Baybriar Road, 621.51' NE of centerline of Sollers Point Rd. 3157 Baybriar Court 12th Election District - 7th Councilmanic Petitioner(s): Calvin Bivens, et ux HEARING SCHEDULED: THURSDAY, SEPTEMBER 7, 1989 at 9:30 a.m. Dear Fir. & Mrs. Bivens: Please be advised that $\frac{104.40}{10}$ is due for advertising and posting of the above captioned property. THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S)

RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.

DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY

UNTIL THE DAY OF THE HEARING. Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin. Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set BALTIMORE COUNTY, MARYLAND FFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT 101-615000 104.40 8 010*****10440:a 207.F



Dundalk Eagle

4 N. Center Flace P. O. Box 8936

Dundalk, Md. 21222 August 10, THIS IS TO CERTIFY, that the annexed advertisement of

Robert Haines in the matter of Zoning Hrgs. - Case #90-75-A - P.O. #15156 - Req. #M31081 - 80 lines @ was inserted in **The Dundalk Eagle** a weekly newspaper published in Baltimore County, Maryland, once a week for 11th day of August 1989; that is to say,

the same was inserted in the issues of August 10, 1989

Kimbel Publication, Inc.

CERTIFICATE OF PUBLICATION NOTICE OF HEARING The Zoning Commissioner of Bakimore County, by authority of the Zoning Act and Regulation of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, to cated at 111 W. Chesapeake Avenue in Towagn, Manyland 21204 TOWSON, MD., _____ August 10_____, 1989 THIS IS TO CERTIFY, that the annexed advertisement was enue in Towson, Maryland 2120 as follows: published in THE JEFFERSONIAN, a weekly newspaper printed Petition for Zoning Variance Case number: 90-75-A E/S Baybriar Rod, 621.51*NE of centerline of Sollers Point Date:

Zoning Commissioner
Office of Planning & Zoning
Tourson, Maryland 21204
887-3353

NOTICE OF HEARING

The Zening Commissioner of Balti-inura County, by authority of the Zen-ing Act & Regulations of Baltimore County will hold a public hearing on

the property identifies herein in Room 108 of the County Office Building, in-cated at 111 W. Chesapeaks Avenue

in Towson, Maryland as follows: Potition for Zoning Variances CASE NUMBER: 80-75-A

E/S Buybrier Road, 821.51' MI

of conurtine of Sollers Point Rd.
3157 Baybriar Court
12th Election District
7th Councilmanic District
Putitionarist
Catrin Bivens, at ux

HEARING SCHEDULED: THURSDAY, SEPTEMBER 7, 1989 at 8:38 a.m.

Variance: To purmit an accessory building in the front and side yard in lieu of the required rear.

in the event that this Petition is

granted, a building permit may be is-sued within the thirty (30) day appeal period. The Zoning Commissioner will, however, antertain any request for a stay of the issuance of said permit during this period for

during this period for good cause shown. Such request must be in writ-

ing and received in this office by the date of the hearing set above or pre-

sented at the hearing.

J. ROBERT HAINES

12th Election District 2016
12th Election District 2016
7th Councilmanic 2016
100
Petitioner(s): 2017
Celvin Bivene, et ut 2018

Variance: to permit an ac-cessory building in the front and side yard in lieu of the required

In the event that this Pattion is

granted, a building permit may be issued within the thirty (30) day

appeal period. The Zoning Continuesioner will, however, entertain any request for a stey of the in-

THE JEFFERSONIAN,

and published in Towson, Baltimore County, Md., appearing on

- August 10 , 19 89

PG 15155 7eg M 31082 cs 90-75-A price \$ 39.40

EXHIBIT 2

TO THE NEIGHBORS OF CALVIN JAMES & CHARLOTTE BIVENS:

WE ARE TRYING TO SECURE A PERMIT TO INSTALL A 43' X 18' POOL IN OUR YARD WHICH WILL RUN FROM THE SIDE OF THE HOUSE ACROSS OUR FRONT LAWN. ALSO IT IS REQUIRED THAT WE HAVE A SIX FOOT PRIVACY FENCE PUT AROUN THE POOL. BALTIMORE COUNTY HAS INFORMED US THAT WE CANNOT PUT THE POOL ON OUR SIDE OR FRONT YARD THEREFORE WE ARE APPLYING FOR A VARIANCE TO THIS LAW. IN AN EFFORT TO PROVE THAT THERE WILL BE NO HARDSHIP ON THE NEIGHBORHOOD IF SAME IS INSTALLED I AM REQUESTING YOU TO SIGN BELOW SO THAT I MAY PRESENT THIS WHEN I GO

Dan Bandall Harlis Honaller Ethel 2. Bobo E.F. Eost

ADDRESS 3161 BAYBMAL 3148 Boylina PCl 3165 Boylina RD 3155 Baybrian Rd 3155 BAYBRIAR RD. 3161 Baybriar Rd. 3171 Baylorian Rd

• PETITIONER'S

EXHIBIT Z

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A VARIANCE TO THIS LAW. IN AN EFFORT TO PROVE THAT THERE WILL BE
NO HARDSHIP ON THE NEIGHBORHOOD IF SAME IS INSTALLED I AM
REQUESTING YOU TO SIGN BELOW SO THAT I MAY PRESENT THIS WHEN I GO TO COURT.

3146 BAYBRIAR RD. 3144 BAYBRIARAD 3153 BaybuarRd 3163 Baybuan Rels

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: August 16, 1989

J. Robert Haines Zoning Commissioner

Pat Keller, Deputy Director
Office of Planning and Zoning

Calvin and Charlotte Bivens, Item 531
SUBJECT: Zoning Petition No. 90-75A

The petitioners request a variance to permit an accessory building in the front and side yards. The Office of Planning and Zoning has no comment on the above

PK/JL/sf

request.

AUG . 7 1989

July 24, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204

ZONING OFFICE

Department of Public Works

Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204

(301) 887-3554

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 517, 519, 520, 521, 522, 524, 528, 529, 530, 537, 532, and 533.

Very truly yours,

Traffic Engineer Associate II

MSF/lab

Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500

Paul H. Reincke Chief

JUNE 14, 1989

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



CALVIN J. BIVENS, SR. RE: Property Owner:

E/S OF BAYBRIAR ROAD, 621.51' NE OF CENTERLINE OF SOLLERS POINT ROAD Location:

Zoning Agenda: JUNE 13, 1989

Gentlemen:

Item No.: 531

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the preperty.

7. The Fire Prevention Bureau has no comments at this time.

Planging Group Special Inspection Division

JK/KER

MR 0 1 ML

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989

NC: Zoning Advisory Committee Meeting for June 13, 1989

FROM: Robert W. Bowling, P.E.

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, 524, 528, 529,

[331] and 532. For Item 511, the minimum panhandle width for

one lot is 20 feet, not 10 feet as shown on the plan. For Items 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-fee frontage to a public road.

For Item 530, comments are attache

ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

BALTIMORE COUNTY, MA`YLAND INTER-OFFICE CORRESPONDENCE

DATE: July 31, 1989

J. Robert Haines Zoning Commissioner

SUBJECT: Zoning Hearing - Item 531

The Chesapeake Bay Critical Area Program requests an extension for the review of the Petition for a Zoning Variance for Mr. and Mrs.

Calvin J. Bivens Sr. Additional information is necessary to complete a Critical Area Findings for this property. For further information contact Ms. Nancy Sanford at 887-3980.

Chesapeake Bay Critical Area Program

DCF:NSS:ju

CC: Janice Outen Gwen Stephens

AUG 2 1989

ZONING OFFICE