

IN RE: PETITION FOR ZONING VARIANCE
3013 Holly Tree Road, 260 +/-
S of Burke Road
(1620 Holly Tree Road)
15th Election District
5th Council District
Joseph R. Euler, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-206-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an existing accessory structure (swimming pool) with a side yard setback of 6 inches in lieu of the required 2.5 feet in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 1620 Holly Tree Road, consists of 14,250 sq. ft. zoned R.C. 5 and is improved with a single family dwelling, detached garage, and swimming pool. Said property is located within the Chesapeake Bay Critical Areas on Galloway Creek. Petitioners testified they had the subject swimming pool installed in May 1983 approximately 6 inches from the north side property line.

Testimony indicated that as a result of a recent complaint filed in the Zoning Office, they were advised that a variance was necessary to maintain the swimming pool in its present location. Petitioners testified that due to the size of the property and the location of existing improvements thereon, there is no other suitable location to place the pool and further, that to require its relocation will result in the pool being destroyed in view of its age. Petitioners presented several letters from surrounding neighbors indicating their support of Petitioners' request. Further testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community. It

was also noted that the complainant have since sold the property they once owned adjacent to the subject site and have moved out of state.

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:

- 1) 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;
- 2) 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 the fact 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.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of December, 1989 that the Petition for Zoning Variance to permit an existing accessory structure (swimming pool) with a side yard setback of 6 inches in lieu of the required 2.5 feet in

accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners would be required to bring the property into compliance with the zoning regulations; 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 12/27/89, attached hereto and made a part hereof.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: November 27, 1989

FROM: Mr. Robert W. Sheasley
Zoning Commissioner

SUBJECT: Petition for Zoning Variance - Item 78
Subject Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 1620 Holly Tree Road on Galloway Creek. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME: Mr. and Mrs. Euler

APPLICANT'S REQUEST

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (pool) with a side yard setback of 6 inches in lieu of the required 2.5 feet.

GOALS OF THE CHESAPEAKE 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;
2. 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 14.15.10-01.02>

Memo to Mr. J. Robert Haines
November 27, 1989
Page 2

REGULATION AND FINDING

1. Regulation Grandfathering

"After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 14.15.11" <COMAR 14.15.07.A>.

Finding This zoning variance request was initiated in order to correct an on-going setback violation from February, 1989. According to the above regulation, any use in existence prior to the date of program approval, February 1989, is permitted. Therefore, this request does not violate a Chesapeake Bay Critical Area finding.

CONCLUSION

A Critical Area Finding is not required for this petition. If there are any questions, please contact Mr. David Flowers at 897-2904.

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

RWS:DMJ:jg

cc: The Honorable Ronald E. Hicker - 11
The Honorable Norman R. Lauenstein
The Honorable Dale T. Vols
Mrs. Janice B. Ostas

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(410) 897-3333
J. Robert Haines
Zoning Commissioner

December 7, 1989

Mr. & Mrs. Joseph R. Euler
1620 Holly Tree Road
Baltimore, Maryland 21220

RE: PETITION FOR ZONING VARIANCE
3013 Holly Tree Road, 260 +/- S of Burke Road
(1620 Holly Tree Road)
15th Election District - 5th Council District
Joseph R. Euler, et ux - Petitioners
Case No. 90-206-A

Dear Mr. & Mrs. Euler:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party files the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Mr. Charlotte Redcliffe at 897-3391.

Very truly yours,

J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Chesapeake Bay Critical Areas Commission
Towson State Office Building, D-4, Annapolis, Md. 21404

DEPT:

People's Counsel

File

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-206-A

The undersigned, legal owner(s) of the property situated 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 400.1 of the Baltimore County Zoning Regulations to allow an accessory structure (pool) with a side yard setback of 6 inches in lieu of the required 2.5 feet.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate briefly why you request the variance.)
1. Due to the fact that the pool has been in place since May, 1983, the tracking and supports are rusted together.
 2. The sidewalk is 12" from the pool on the other side.
 3. The water service pipe is on the opposite side of the yard and we couldn't put anything over our water pipe.
 4. The electrical service cable runs across the other part of our yard, so we couldn't put a pool in that spot.
 5. If we had to remove the pool our children would have to use the property to be posted and advertised as prohibited by Zoning Regulations, polluted river.

or we agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I, the undersigned, hereby declare and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):
Joseph Raymond Euler
(Type or Print Name)
Joseph R. Euler
Signature
Mary Ann Euler
(Type or Print Name)
Mary Ann Euler
Signature

Contract Purchaser:
(Type or Print Name)
City and State
Address
City and State

Attorney for Petitioner:
(Type or Print Name)
Address
City and State

Name, address and phone number of legal owner, contracted purchaser or the petitioner as he or she is called:
Joseph R. Euler
1620 Holly Tree Road, 335-5849
Baltimore, Maryland 21220
City and State

Attorney's Telephone No.:
City and State

ORDERED BY THE Zoning Commissioner of Baltimore County, this 29th day of December, 1989, that the subject variance of this petition be granted in accordance with the attached Order.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Baltimore County, Maryland, at Towson, Maryland, this 29th day of December, 1989, at 2:10 o'clock P.M.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

NOTED LENGTH OF HEARING (1/2/89) - 1:15
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS (over)

DETERMINED BY: *JRH* DATE: 12-27-89

#78
CRITICAL AREA

JOINT INFORMATION

Being known as Lot No. 193, Flat No. 1, as shown on the plat of the property of Bowley's Quarters Company of Baltimore County, which plat is duly filed among the Land Records of Baltimore County in Flat Book W.F.C. No. 7, folio 12; said lot being situated on the west side of Holly Tree Road. Also known as 1620 Holly Tree Road in the 15th Election District.

PETITIONER'S EXHIBIT 2

November 28, 1989

To whom it may concern:

We, Timothy M. Fisher and Denise M. Fisher, are writing on behalf of Ray and Marianne Euler.

We have known the Eulers for over two years. We reside at 1616 Holly Tree Road. This is two houses to the right of the Eulers (on the pool side). Since we have lived here, we have not found the Euler's pool to be a problem of any sort. Marianne maintains her yard to perfection, and we have never seen her, or any member of her family go into the Steiners yard for any reason.

It is known by many of the neighbors that the Steiners and Eulers do not associate with each other for personal reasons. We are friends with both families, but feel that this complaint which has been filed against the Euler's pool is very uncalled for.

The Steiners spend the entire summer in Maine, which represents 95% of the time the pool is in use. We, however, live here all year and enjoy the pool a great deal. It would appear to many of us that this complaint was filed in direct retaliation to a suite that was brought against the Steiners last year. Prior to this action the pool was never a problem.

The Steiners were living in their summer home in Maine when this complaint was initiated, and have sold their Holly Tree home while living in New England and will not be returning to our neighborhood. Since none of the neighbors still living here have any objection to this pool, used by all of our children, then we hope the courts will see to it that the Eulers will be able to leave it where it now stands.

Respectfully yours,

Timothy M. Fisher
Timothy M. Fisher
 Denise M. Fisher
Denise M. Fisher

November 24, 1989

Case No. 90206 A

Dear Sirs:

I recently purchased 1618 Holly Tree Road. I understand there is a hearing concerning the distance of the above ground swimming pool from the property line - i.e. 6 inches instead of the required 2 1/2 feet required.

As the owner of the adjoining property at 1618 Holly Tree Road, I am not opposed to the present location of the above ground swimming pool at 1620 Holly Tree Road.

Sincerely yours,
Mary Katherine Schuler
 Mary Katherine Schuler

PETITIONER'S EXHIBIT 3



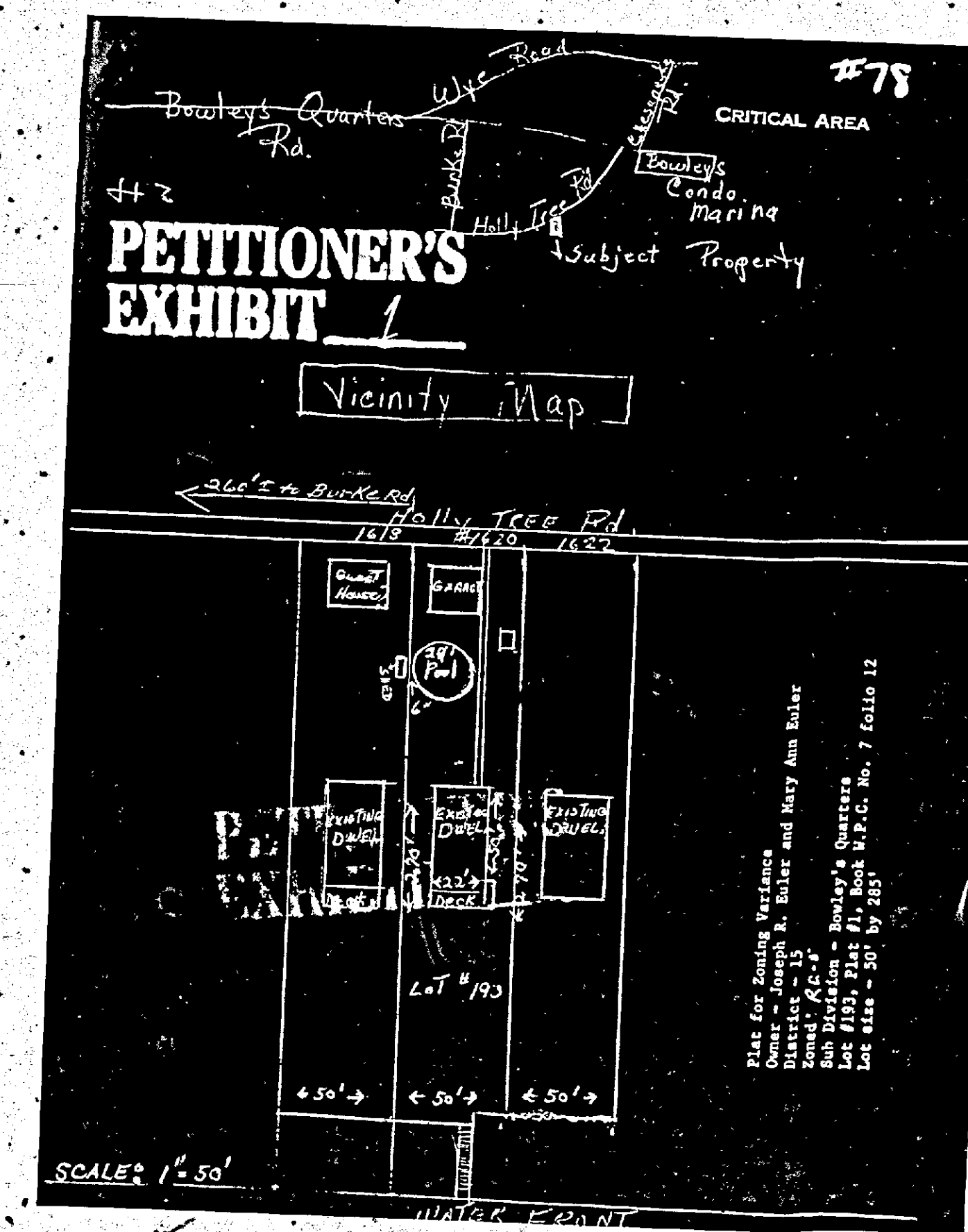
To whom it may concern

RE: 1620 HOLLY TREE RD
 Balto. MD 21220

We residents of 1614 Holly Tree Rd for the past year and a half years have not experienced the effects of a pool at the above mentioned address as being a public or neighborhood nuisance.

Mrs. Mrs. George Schuler

PETITIONER'S EXHIBIT 5



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 837-3353
J. Robert Haines
Zoning Commissioner

October 17, 1989

NOTICE OF HEARING

Dennis F. Reamussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-236-A
SWS Holly Tree Road, 250' x 5 of Burke Road
1620 Holly Tree Road
15th Election District - 5th Councilmanic
Petitioner(s): Joseph Raymond Euler, et al
HEARING: WEDNESDAY, NOVEMBER 29, 1989 at 2:30 p.m.

Variance: To allow an accessory structure (pool) with a side yard setback of 5 inches in lieu of the required 2 1/2 feet.

In the event that this Petition 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 time and hold permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:
(If "Phase II" of the "SOS" EMERGENCY PLAN is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 837-3351 to confirm hearing date.)

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

3801ps
cc: Mr. & Mrs. Euler
Ronald Steiner
File

ZONING ENFORCEMENT Baltimore County
Zoning Office
Towson, Maryland 21204

INTER-OFFICE CORRESPONDENCE

TO: James R. Dyer
Zoning Supervisor

DATE: 9/05/89

FROM: James H. Thompson
Zoning Enforcement Coordinator

RE: Item No. 78 (if known)
Petitioner: Euler (if known)

VIOLATION CASE # C99-2248

LOCATION OF VIOLATION 1620 Holly Tree Rd.

DEFENDANT Joseph R. & Mary Ann Euler

ADDRESS 1620 Holly Tree Rd., Balto, MD 21220

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
Ronald Steiner	1618 Holly Tree Rd. Balto, MD 21220

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

sch/

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

receipt

No. 501
70-200

DATE: 11/29/89

DESCRIPTION	QTY	PRICE
FULL HEARING FEE	1	\$122.33
POSTING SIGNS	1	\$122.33
ADVERTISING	1	\$122.33
TOTAL		\$122.33

LAST NAME OF OWNER: EULER

8 036*****122331a *226F

Consider Validation: Please make checks payable to: Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15TH

Posted for: Variance

Date of Posting: 11/15/89

Petitioner: Joseph Raymond Euler, et al

Location of property: 1620 Holly Tree Rd., 250' x 5 of Burke Rd.

Location of Sign: 1620 Holly Tree Rd., 250' x 5 of Burke Rd.

Remarks: 10' x 10' sign for property of J.R. Euler

Posted by: M. Haines

Number of Signs: 1

Date of return: 11/15/89

CERTIFICATE OF PUBLICATION
Office of
THE AVENUE NEWS

442 Eastern Blvd.
Baltimore, MD 21221

November 2, 1989

THIS IS TO CERTIFY, that the annexed advertisement of

Joseph Raymond Euler in the matter of
Petition for Zoning Variance for 1620
Holly Tree Road, Case # 90-236-A
P.O. # 0018419 - Reg. # H34294 91 lines.
@ .55 or \$50.05

was inserted in **The Avenue News** a weekly newspaper
published in Baltimore County, Maryland once a week for _____
successive week(s) before 8 a.m. _____ day of Nov. 1989.

It is to say, the same was inserted in the issues of Nov. 2, 1989.

The Avenue Inc.
per Publisher
By *Dianna Caldwell*

Notice of the
Zoning Commission
of Baltimore County
The Zoning Commission
of Baltimore County
will hold a public hearing
on the property identified
herein in Room 108 of the
County Office Building, located
at 111 W. Chesapeake Avenue
in Towson, Maryland as follows:
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J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 837-3353
J. Robert Haines
Zoning Commissioner

DATE: 11/7/89

Mr. & Mrs. Joseph Raymond Euler
1620 Holly Tree Road
Baltimore, Maryland 21220

Re: Petition for Zoning Variance
CASE NUMBER: 90-236-A
SWS Holly Tree Road, 250' x 5 of Burke Road
1620 Holly Tree Road
15th Election District - 5th Councilmanic
Petitioner(s): Joseph Raymond Euler, et al
HEARING: WEDNESDAY, NOVEMBER 29, 1989 at 2:30 p.m.

Dear Mr. & Mrs. Euler:

Please be advised that \$122.33 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 not returned.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

3801ps
cc: File

NOTE:
(If "Phase II" of the "SOS" EMERGENCY PLAN is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 837-3351 to confirm hearing date.)