

IN RE: PETITION FOR ZONING VARIANCE  
 N/S Jarsey Avenue, 148' W of  
 Peake Avenue  
 (Lots 72 - 74 of Krakow)  
 15th Election District  
 5th Councilmanic District  
 Michael Prince, et ux  
 Petitioners

BEFORE THE  
 DEPUTY ZONING COMMISSIONER  
 OF BALTIMORE COUNTY  
 Case No. 91-433-A

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Petitioners herein request a variance to permit a front yard setback of 21.6 feet in lieu of the minimum required 25 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners, by Michael Prince, appeared and testified. Also appearing on behalf of the Petitioners was Wayne Males, Contract Purchaser. Nancy Sanford appeared and testified on behalf of the Baltimore County Department of Environmental Protection and Resource Management (DEPRM). There were no Protestants.

Testimony indicated that the subject property, known as Lots 72 through 74 of Krakow, consists of 9,375 sq.ft. zoned D.R. 5.5 and is presently unimproved. Said property is located within the Chesapeake Bay Critical Areas near Jones Creek. Petitioners have entered into a contract of sale with Wayne Males who is desirous of constructing a single family dwelling on the property in accordance with Petitioner's Exhibit 1. Testimony indicated that the variance requested is necessary in order to construct the proposed dwelling which is a pre-fabricated model offered by Caplan Builders and only comes in one size. Petitioners testified that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and that to deny same would only create practical difficulty and unreasonable hardship for them

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 By [Signature]

without benefit to the community. Testimony indicated the relief requested is minimal and that Petitioners are working diligently with the Department of Environmental Protection and Resource Management (DEPRM) in order to meet all recommendations concerning Critical Areas requirements.

Nancy Sanford appeared and testified on behalf of DEPRM and concurred with the testimony presented. Ms. Sanford testified that non-tidal wetlands exist on the subject property and that their locations must be field delineated onto the site plan. Petitioners were advised at the hearing to continue to work with DEPRM and to submit a revised site plan taking into consideration the requirements and recommendations set forth by DEPRM.

As of the date of this Order, the Petitioners are still attempting to resolve the concerns raised by DEPRM as set forth in their preliminary comments dated July 5, 1991. Petitioners will be required to meet any and all recommendations made by DEPRM as a condition of this Order.

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.), provided Petitioners can comply with the recommendations of DEPRM. 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;

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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, provided compliance with DEPRM recommendations can be met, 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 nonconforming, 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:

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 By [Signature]

- 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,

petitioner's Exhibit 1, be and is hereby approved, subject to the following restrictions:

- 1) The Petitioner may apply for a permit and be granted same as set forth in the permit, however, Petitioners are hereby made aware that the time as the 40-day appellate period has expired. If, for whatever reason, the decision is reversed, the Petitioner shall be responsible for returning the property to its original condition.
- 2) Prior to the issuance of an appeal, the Petitioner shall submit a revised site plan for consideration of the requirements and recommendations of DEPRM and which has been approved by DEPRM. The approved site plan shall be submitted to the Office for final approval and determination of the file.
- 3) The Petitioner has thirty (30) days from the date of this order to take an appeal of this decision. In the event that the Petitioner does not appeal, the

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Decision, then by virtue of no appeal being taken, the Petitioner hereby consents and agrees to be bound by the restrictions stated above.

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 July 5, 1991, attached hereto and made a part hereof.

TIMOTHY M. KOTROCO  
 Deputy Zoning Commissioner  
 for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING  
 Date 7/26/91  
 By [Signature]

**PETITION FOR ZONING VARIANCE**  
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-433-A

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 1802.3.C.1. To allow a front yard setback of 21.6 feet in lieu of the minimum required 25 ft.

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: WAYNE MALES  
 (Type or Print Name)  
 Signature: [Signature]  
 Address: 40 JANAR DR.  
SEVERNA PARK, MD. 21146  
 City and State

Legal Owner(s):  
 MICHAEL PRINCE  
 (Type or Print Name)  
 Signature: [Signature]  
 MARGARET PRINCE  
 (Type or Print Name)  
 Signature: [Signature]

Attorney for Petitioner: \_\_\_\_\_  
 (Type or Print Name) Address: 2501 VERONICA AVE Phone No. \_\_\_\_\_  
 City and State: BALTO, MD. 21219 477-8002

Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City and State: \_\_\_\_\_  
 Phone No. \_\_\_\_\_

ORDERED By The Zoning Commissioner of Baltimore County, this 15 day of May 1991, 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 108, County Office Building in Towson, Baltimore County, on the 17th day of July 1991 at 10:30 o'clock A.M.

ESTIMATED LENGTH OF HEARING: 4/25 MIN.  
 ZONING COMMISSIONER OF BALTIMORE COUNTY  
 J. Robert Haines  
 ORDER RECEIVED FOR FILING  
 Date 7/26/91  
 By [Signature]

Baltimore County Government  
 Department of Environmental Protection  
 and Resource Management

401 Bosley Avenue  
 Towson, MD 21284

887-3733

June 26, 1991

Mr. Wayne Males  
 40 Janar Drive  
 Severna Park, Maryland 21146

Dear Mr. Males:

Baltimore County's Chesapeake Bay Critical Area Program can not complete its review of your Zoning Variance Petition. Wetlands and a possible stream exist to the west of this property within 100 feet of your proposed dwelling. These must be field verified since the wetlands or their associated buffers may or may not affect the location of your proposed house. I have requested a preliminary wetland assessment from the Division of Environmental Impact Review and will inform you of their findings as soon as they are available.

If you have any questions, please contact Ms. Nancy Sanford at 887-2904.

Very truly yours,  
 David Flowers  
 Program Coordinator  
 Chesapeake Bay Critical Area Program

DCF:kfp  
 CC: Mr. J. Robert Haines

**PETITIONER'S EXHIBIT 2**

**PETITIONER'S EXHIBIT**  
 BALTIMORE COUNTY  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
 INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
 Zoning Commissioner

DATE: July 6, 1991

FROM: Mr. J. James Dieter, Director

SUBJECT: Petition for Zoning Variance - Item 420  
 Prince Property  
 Chesapeake Bay Critical Area Findings

**SITE LOCATION**

The subject property is located at the dead end of Jarsey Avenue. The site is within the Chesapeake Bay Critical Area and classified as a Limited Development Area (LDA).

**APPLICANT'S NAME** Mr. Wayne Males

**APPLICANT PROPOSAL**

The applicant is proposing to build a new single family residence. The applicant has requested a variance from section 1802.3.C.1 of the Baltimore County Zoning Regulations to permit a front yard setback of 21.5 feet in lieu of the minimum required 25 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 14.15.10.01.0)

Memo to Mr. J. Robert Haines  
 July 5, 1991  
 Page 2

**REGULATIONS AND FINDINGS**

- Regulation:** "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

**Finding:** This property is located approximately 300 feet from the tidal waters of Jones Creek. Tidal water is not adjacent to this property. Therefore, no disturbance of the shoreline buffer shall occur.
- Regulation:** "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>.

**Finding:** Non-tidal wetlands and/or their associated buffers exist on this development site. These must be field delineated and surveyed onto the site plan. Protection measures must be shown on the plan to ensure that these areas shall not be disturbed. This plan shall not be approved until this non-tidal wetland information is provided.
- Regulation:** "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

**Finding:** The proposed dwelling creates impervious surfaces that sum to 11% of the lot. The driveway is proposed to be made of porous gravel underlain with filter cloth. The sum of impervious surfaces shall not exceed 15% of the lot.
- Regulation:** "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland of at least 15%" <COMAR 14.15.02.04 C.(5)>.

**Finding:** The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 4 items - ball and burlap or 2 gallon container size

Tree list: 2 items - minimum 4 foot size

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

Memo to Mr. J. Robert Haines  
 July 5, 1991  
 Page 3

- Regulation:** "The stormwater management system shall be designed so that:

  - Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;
  - Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and
  - Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.
- Finding:** In order to comply with the above regulation, rooftop runoff shall be directed through downspouts and into Dutch drains or seepage pits (see attached drainage information sheet). This will encourage maximum infiltration of stormwater and decrease the amount of runoff leaving the site.

**CONCLUSION**

This project cannot be approved as proposed because non-tidal wetlands and buffers have not yet been shown on the site plan. This may affect the location of the proposed dwelling. When a revised site plan has been submitted to this Department, it will be reviewed and an amended findings written.

If there are any questions, please contact Mr. David C. Flowers at 887-2904.

*J. James Dietz*  
 J. James Dietz, Director

JJD:NSS:ju  
 Attachment  
 cc: The Honorable Vincent Gardina  
 The Honorable Donald Mason  
 Mr. Ronald B. Hickenmell  
 Mr. and Mrs. Michael Prince  
 Mr. Wayne Males  
 Mr. Steve Stewart

CRITICAL AREA #420  
 Zoning Description **91-433-A**

Beginning at a point on the north side of Jarsey Ave which is 30 ft. wide at the distance of 148 ft. west of Peck Ave. Being lot nos. 72-74 in the subdivision of Krakow as recorded in BALTO. CO. Plat Book WPC 6 folio 153 containing 0.215 ac. ±. Also located in the 15th Elect. Dist.

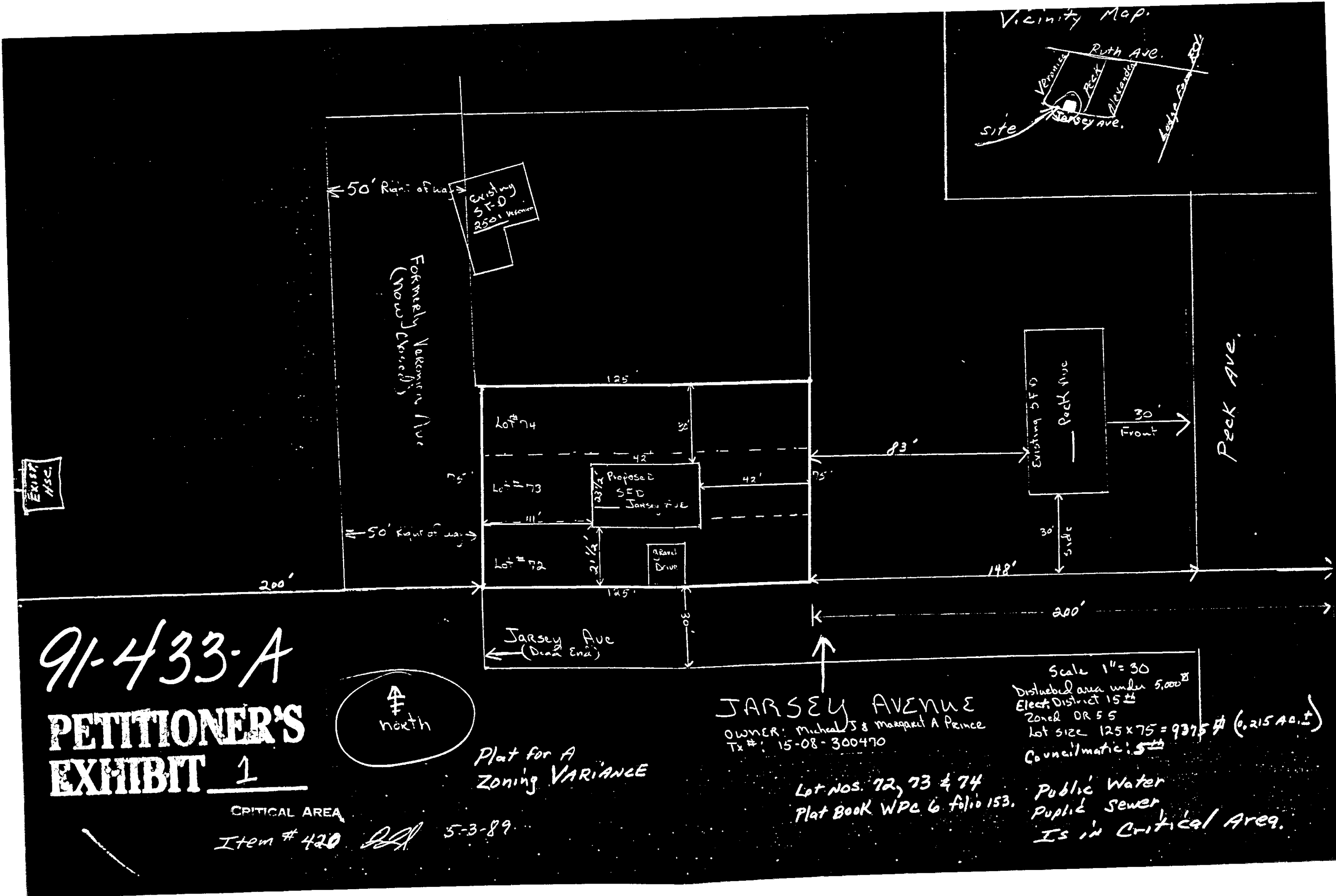
Baltimore County  
 Zoning Commission  
 County Office Building  
 111 West Chesapeake Avenue  
 Towson, Maryland 21286

receipt

**CRITICAL AREA**

DATE	DESCRIPTION	QTY	PRICE
5/23/91	PUBLIC HEARING FEES	1 X	\$35.00
	CRITICAL AREA VARIANCE (IRL)	1 X	\$35.00
	LAST NAME OF OWNER: PRINCE		TOTAL: \$70.00

Please Make Checks Payable To Baltimore County  
 04A04W0109NICHRC  
 011107AN05-03-91



Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning



111 West Chesapeake Avenue  
Towson, MD 21284

887-3353

June 18, 1991

Mr. & Mrs. Michael Prince  
2501 Veronica Avenue  
Baltimore, MD 21219

RE: Item No. 420, Case No. 91-433-A  
Petitioner: Michael Prince, et ux  
Petition for Zoning Variance

Dear Mr. & Mrs. Prince:

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. 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 remainders of the zoning 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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

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

JED:jw

Enclosures

cc: Mr. Wayne Males

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning



111 West Chesapeake Avenue  
Towson, MD 21284

887-3353

September 20, 1991

Mr. & Mrs. Michael Prince  
3501 Veronica Avenue  
Baltimore, Maryland 21219

RE: PETITION FOR ZONING VARIANCE  
N/S Jarsey Avenue, 148' W of Peake Avenue  
(Lots 72 through 74 of Krakow)  
15th Election District - 5th Councilmanic District  
Michael Prince, et ux - Petitioner  
Case No. 91-433-A

Dear Mr. & Mrs. Prince:

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 finds 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 Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,  
*Timothy M. Kotrood*  
TIMOTHY M. KOTROOD  
Deputy Zoning Commissioner  
for Baltimore County

TKM:bjs

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

Ms. Nancy Sanford - DEPRM

People's Counsel

File

Baltimore County Government  
Department of Environmental Protection  
and Resource Management



401 Bosley Avenue  
Towson, MD 21284

887-5733

June 26, 1991

Mr. Wayne Males  
40 Janar Drive  
Severna Park, Maryland 21146

Dear Mr. Males:

Baltimore County's Chesapeake Bay Critical Area Program can not complete its review of your Zoning Variance Petition. Wetlands and a possible stream exist to the west of this property within 100 feet of your proposed dwelling. These must be field verified since the wetlands or their associated buffers may or may not affect the location of your proposed house. I have requested a preliminary wetland assessment from the Division of Environmental Impact Review and will inform you of their findings as soon as they are available.

If you have any questions, please contact Ms. Nancy Sanford at 887-2904.

Very truly yours,

*David C. Flowers*  
David C. Flowers  
Program Coordinator  
Chesapeake Bay Critical Area Program

DCF:krp

cc: Mr. J. Robert Haines

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: July 10, 1991  
Zoning Commissioner

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Michael Prince, Item No. 420

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEM420/ZAC1

*aid. per 7/17/91*

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: June 10, 1991  
Zoning Commissioner

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Michael Prince, Item No. 420  
Michael J. Maccubin, Item No. 431  
Jay S. Lebow, M.D., Item No. 433  
Raymond A. Ricci, Item No. 434  
Terry W. Deitz, Item No. 435  
Kathleen B. Thompson, Item No. 436  
William Buzby, Item No. 437  
Thomas P. Sisk, Item No. 441  
Elmer S. Cochran, Item No. 444  
Richard W. Offutt, Item No. 448  
Joseph C. Hiltner, Item No. 449  
Jan Frederick, Item No. 451  
Joseph Klein, III, Item No. 452  
Carl W. Miles, Item No. 457

In reference to the Petitioners' requests, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

VARIED.ZAC/ZAC1

BUREAU OF TRAFFIC ENGINEERING  
DEPARTMENT OF PUBLIC WORKS  
BALTIMORE COUNTY, MARYLAND

DATE: May 29, 1991

TO: Mr. J. Robert Haines  
Zoning Commissioner

FROM: Rahee J. Famill

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: May 14, 1991

This office has no comments for items number 413, 414, 415, 416, 417, 418, 419, 420, 421, 422 and 423.

*Rahee J. Famill*  
Rahee J. Famill  
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 15, 1991

FROM: Dennis A. Kennedy, P.E.

RE: Zoning Advisory Committee Meeting  
for May 14, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 413, 416, 418, 420, 422 and 423.

For Item 417, the previous County Review Group Meeting comments are still applicable. The panhandle to Lot 3 should be 20 feet between Lots 1 and 2.

For Item 419, the previous County Review Group Meeting comments are still applicable.

For Item 414, a 10-foot drainage and utility easement exists along the north property line, as shown on record plat 40/122. No permanent structures are allowed within County easements.

For Item 415, a County Review Group Meeting is required.

For Item 421, this site must be submitted through the minor subdivision process for review and comments.

*Dennis A. Kennedy*  
Dennis A. Kennedy, P.E., Acting Chief,  
Developers Engineering Division

DAK:s

