

IN RE: PETITION FOR ZONING VARIANCE
W/S Dover Road, 190 ft. W of
Knox Road
12704 Dover Road
4th Election District
3rd Councilmanic District
Albert J. Swartz, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-237-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance from Section 1A03.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building to lot line setback of 47.8 ft., in lieu of the required 50 ft., and to amend the last approved Final Development Plan of Summerfield for lot No. 6. All of the relief requested is more particularly shown on Petitioners' Exhibit No. 1., the plat to accompany the Petition for Variance.

The Petitioners/property owners, Albert J. and Barbara Ann Swartz, appeared at the public hearing. Also appearing in support of the Petition was Steven Davies, the President of Davies Companies, the Builder for the project. There were no Protestants present.

Testimony and evidence presented was that the subject lot is a sizeable parcel of approximately 2.0093 acres. It is part of a subdivision of substantially sized single family dwellings known as Summerfield. The property is located north of the intersection of Baublitz and Dover Roads in the Greenspring Valley.

Testimony and evidence presented was that Mr. and Mrs. Swartz have purchased the subject lot and are building a single family dwelling to be used as their residence thereon. At this time, approximately 75% of the construction is completed. After the construction had commenced, it was

discovered that an error had been made during the property survey. As situated, the northwest corner of the house is located slightly outside of the building envelope. As a result, a front yard setback of 47.8 ft. exists, in lieu of the required 50 ft.

Both Mr. and Mrs. Swartz and Mr. Davies testified that a significant hardship would be sustained if the proposed relief was not granted. Specifically, the property owners would be forced to relocate the house a small distance (approximately 2.2 ft.) in order to bring the property into strict compliance with the regulations. Further, it was noted that the property and the surrounding lots are all large and thus, there is sufficient distance between houses in the subdivision. Further, the property which this lot faces, identified on the site plan as the Brewster property, is presently an agricultural use and is an open field. Thus, there appears to be no detrimental effect to the house remaining at its existing location.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should 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 Petitioners.

Notwithstanding my approval of the variance, a comment is in order about one of the Zoning Plans Advisory Committee comments which have been received. Specifically, an issue was raised by the Developers Engineering

Division regarding the panhandle driveway shown on the property. According to that comment, the driveway serving this property must be 16 ft. wide in accordance with zoning regulations. In this instance, the driveway is not the required width and there is no adequate turnaround.

Although this is a viable issue, it is not connected, per se, with the requested relief in this case. Further, the Petitioners produced a letter from John M. Berger, Division of Inspection and Enforcement, Department of Environmental Protection and Resource Management of Baltimore County. Mr. Berger's letter indicates that the Baltimore County's Department of Public Works will pursue construction of the adequate turnaround and necessary improvements to the driveway with the developer. Thus, it appears that issue will be resolved through normal channels and need not be addressed here.

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 8th day of March, 1993 that the Petition for a Variance from Section 1A03.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building to lot line setback of 47.8 ft. in lieu of the required 50 ft. and to amend the last approved Final Development Plan of Summerfield for lot No. 6, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, 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 return, and be responsible for returning, said property to its original condition.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn

ORDER RECEIVED FOR FILING
Date 3/8/93
By Th. Swartz

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Date 3/8/93
By Th. Swartz

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Date 3/8/93
By Th. Swartz

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 4, 1993

Mr. and Mrs. Albert J. Swartz
P.O. Box 380
McDonogh School
McDonogh, Maryland 21117-0380

RE: Case No. 93-237-A
Petition for Variance
12704 Dover Road

Dear Mr. and Mrs. Swartz:

Enclosed please find the decision rendered in the above captioned case. The Petition for Variance has been granted, with restriction, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mnn
att.
cc: Mr. Stephen E. Davies, President
Davies Companies



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 12704 DOVER RD.
which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
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(s)
1A04.3.B.3 To permit a building to lot line setback of 47.8 ft. in lieu of the required 50 ft. and to amend the last approved Final Development Plan of Summerfield for lot 6.
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED.

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.

Contract Purchase/Lease

(Type or Print Name)

Signature

Address

City

State

Zip Code

(Type or Print Name)

Signature

Address

City

State

Zip Code

(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.)

Legal Owner(s)

ALBERT J. SWARTZ

(Type or Print Name)

Albert J. Swartz

Signature

BARBARA ANN SWARTZ

(Type or Print Name)

Barbara Ann Swartz

Signature

(M) 410-681-436

McDONOGH SCHOOL 410-363-6814

Address

McDONOGH MD 21117-0380

City

State

Zip Code

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted

STEPHEN DAVIES

(M) 410-750-0007

9031 FURROW AVE. MD 410-443-4431

Address

BLUETT CRT MD 21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

minutes for Hearing

See following date

Next Two Months

ALL

OTHER

REVIEWED BY: *JP* DATE: 4/1/93

93-237-A
DUE TO A ENGINEERING AND SURVEY ERROR, THE HOUSE HAS BEEN CONSTRUCTION IN A LOCATION WHERE THE FRONT RIGHT CORNER ENCRACHES INTO THE 50' BUILDING RESTRICTIONS BY APPROXIMATELY 2'2" AT ITS WIDEST POINT.

THE HOUSE IS CURRENTLY APPROXIMATELY 50% COMPLETE, WITH FOUNDATIONS, FRAMING, ROOFING AND DOORS AND WINDOWS COMPLETE.

BY THE TIME OF THE HEARING, WE WOULD EXPECT THE HOUSE TO BE 90% COMPLETE.

DUE TO THE MINIMAL ENCRACHMENT IN ONLY ONE LOCATION WE BELIEVE THAT IT WOULD BE AN UNNECESSARY HARDSHIP TO HAVE ANY OTHER SOLUTION THAN A VARIANCE GRANTED.

ZONING DESCRIPTION FOR 12704 DOVER RD.
(address)
Election District FOURTH Councilmanic District THIRD

Beginning at a point on the WEST side of
(north, south, east or west)

DOVER ROAD which is 40 (FORTY) FEET
(street on which property fronts) (number of feet or right-of-way width)

wide at a distance of 190 NORTH
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street KNOX ROAD
(name of street)

which is 40 (FORTY) FEET wide. *Being Lot # 6.
(number of feet or right-of-way width)

Block _____, Section # _____ in the subdivision of

SUMMERFIELD as recorded in Baltimore County Plat
(name of subdivision)

Book # SM 60, Folio # 45, containing

2.0093 AC. 87525 SF.
(square feet and acres)

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 4th Date of Posting: 2/13/93
Posted for: variance
Petitioner: Albert J. Swartz et ux
Location of property: 4th (12704) Dover Rd, 190' N of Knoll Rd
Location of Sign: Being conducted by means of public driver, leading to property
Remarks: _____
Posted by: Matthew Date of return: 2/15/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/14, 1993
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/14, 1993.

THE JEFFERSONIAN,

S. Zabe Orlan
Publisher

\$70.44

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: _____
Account: R-001-8190
Number: _____
PUBLIC HEARING FEES
CHECK POSTING SIGNAGE / ADVERTISING
LAST NAME OF OWNERS (SWARTZ)
03A03H0093M1CHRC
06 0002-05PH02-23-93
\$50.00
Please Make Checks Payable To: Baltimore County
Cashier Validation

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: 2/23/93
Account: R-001-8190
Number: _____
PUBLIC HEARING FEES
CHECK POSTING SIGNAGE / ADVERTISING
LAST NAME OF OWNERS (SWARTZ)
03A03H0018M1CHRC
06 0002-05PH02-23-93
\$70.44
Please Make Checks Payable To: Baltimore County
Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 3/8/93

Albert and Barbara Swartz
12704 Dover Road
Baltimore, Maryland

RE: CASE NUMBER: 93-237-A (Item 250)
W/S Dover Road, 190' N of Knoll Road
12704 Dover Road
4th Election District - 3rd Councilmanic
Petitioner(s): Albert J. Swartz and Barbara Ann Swartz
HEARING: TUESDAY, FEBRUARY 23, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ 70.44 is due for advertising and posting of the above captioned property and hearing date.

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 forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR
cc: Stephen Davies

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JANUARY 27, 1993

NOTICE OF HEARING

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 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-237-A (Item 250)
W/S Dover Road, 190' N of Knoll Road
12704 Dover Road
4th Election District - 3rd Councilmanic
Petitioner(s): Albert J. Swartz and Barbara Ann Swartz
HEARING: TUESDAY, FEBRUARY 23, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Variance to permit a building to lot line setback of 47.8 feet in lieu of the required 50 feet and to amend the last approved Final Development Plan of Summerfield for Lot 6.

Carl Jahn
Arnold Jablon
Director

cc: Albert and Barbara Swartz
Stephen Davies

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

February 9, 1993

(410) 887-3353

Mr. Stephen Davies
9031 Furrow Avenue
Ellicott City, MD 21042

RE: Case No. 93-237-A, Item No. 250
Petitioner: Albert J. Swartz, et ux
Petition for Variance

Dear Mr. Davies:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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 January 21, 1993 and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

**BALTIMORE COUNTY, MARYLAND
INTER OFFICE CORRESPONDENCE**

TO: Arnold Jablon, Director DATE: February 8, 1993
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for February 8, 1993
Item No. 250

The Developers Engineering Division has reviewed the subject zoning item. We have no comment on the requested variance; however, we feel that we must bring another issue to your attention at this time. The driveway serving this lot has not been built in accordance with panhandle requirements. In particular, it is not 16 feet wide and there is no adequate turnaround. This 16-foot-width and the turnaround are clearly shown on the Final Development Plan.

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

RWB:DAR:s



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 93-250 (JLL)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

DPW/Traffic Engineering
Development Review Committee Response Form
Authorized signature: R. Jahn Date: 2/8/93
Project Name: Stonegate at Patapsco (Areal Property)
File Number: _____ Waiver Number: _____ Zoning Issue: _____ Meeting Date: _____
✓ Douglas E. And Mary A. Strickland 247 N/C 2-1-93
DED DEPRM RP STP TE
✓ Donald R. and Margaret E. Grempler 248 N/C
DED DEPRM RP STP TE
Catonsville Historical Society 249 W/C
DED DEPRM RP STP TE
✓ Albert J. and Barbara A. Swartz 250 N/C
DED DEPRM RP STP TE
Rolling Wind Associates Limited Partnership 252 W/C
DED DEPRM RP STP TE
✓ Russell Moore 253 N/C
COUNT 6
93-76 Stonegate at Patapsco (Areal Property) 6-1-92
COUNT 1
FINAL TOTALS
COUNT 7
*** END OF REPORT ***

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21286-5500

FEBRUARY 3, 1993

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: ALBERT J. SWARTZ AND BARBARA ANN SWARTZ

Location: #12704 DOVER ROAD

Item No.: 250(JLL) Zoning Agenda: FEBRUARY 1, 1993

Gentlemen:

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 property.

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

REVIEWER: *[Signature]*
Planning Group
Special Inspection Division

JF/KEF

Rec'd 2/4/93

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

(410) 887-3733

January 27, 1993

Albert and Barbara Swartz
P.O. Box 380
Owings Mills, Maryland 21117

Re: Summerfield
Permit #8147077

Dear Mr. & Mrs. Swartz:

The purpose of this correspondence is to confirm that use and occupancy approval of your new residence located at 12704 Dover Road by this division will not be dependent on the installation of the turnaround as shown on the development plan for this subdivision.

The Baltimore County Department of Public Works will pursue the construction of the turnaround with the developer.

If you have any questions regarding this matter, please contact me at 887-3226.

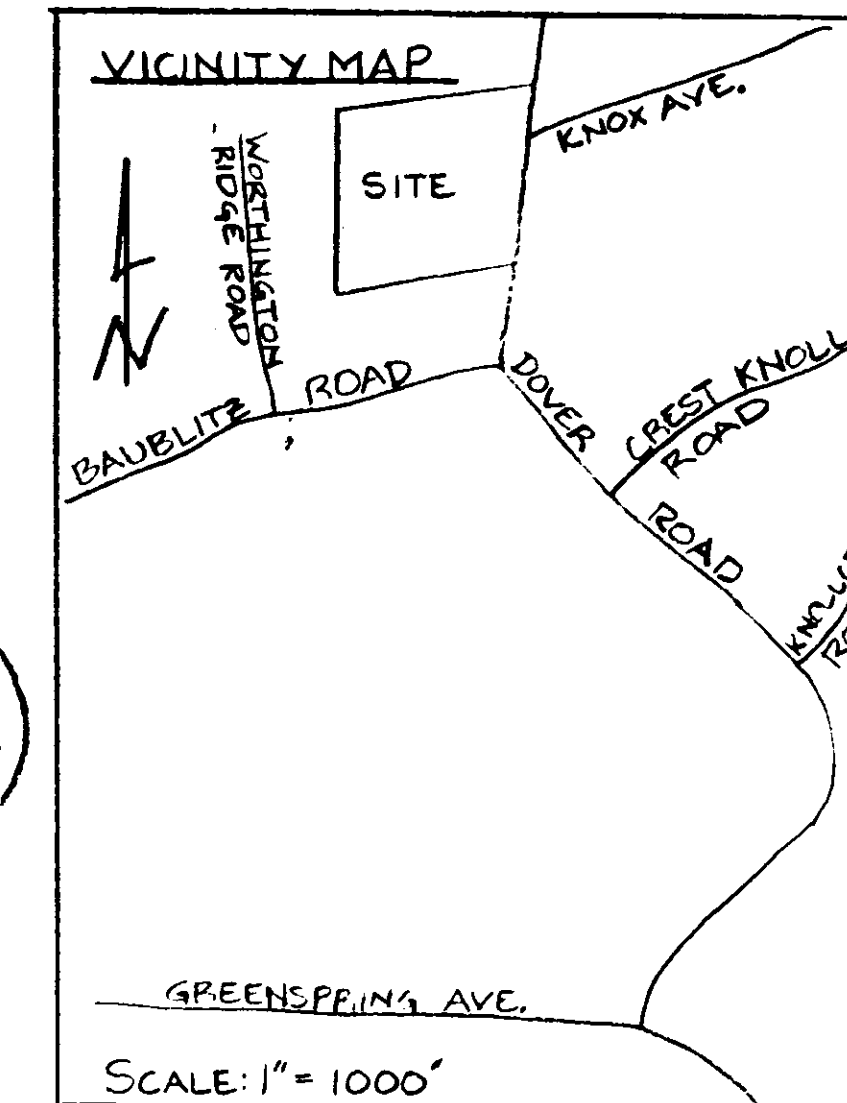
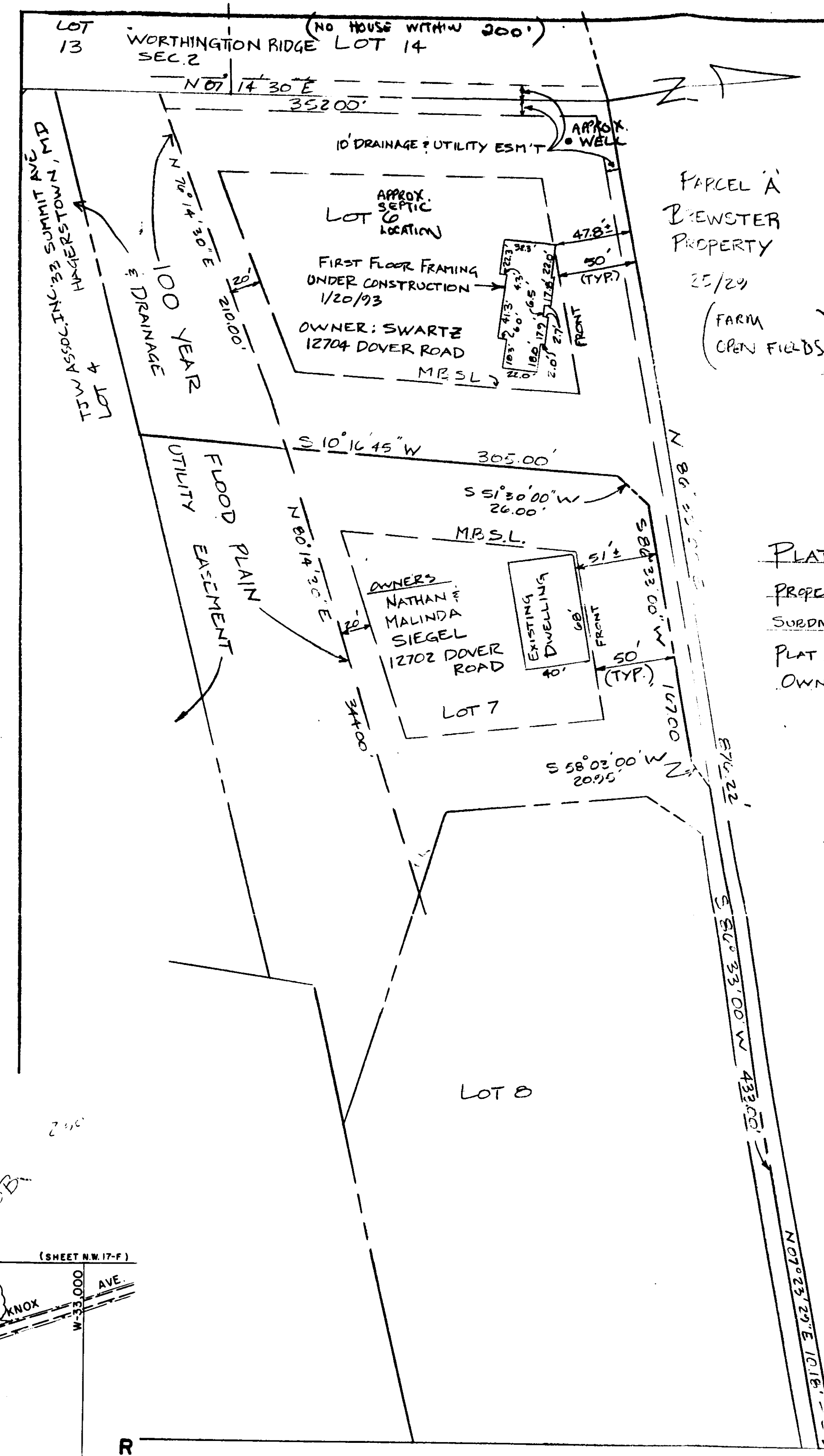
Very truly yours,

[Signature]

John M. Berger, Director
Division of Inspection and Enforcement

clk

Printed on Recycled Paper



93-237-A

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS: 12704 DOVER ROAD LOT 6

SUBMISSION NAME: SUMMERFIELD

PLAT BOOK SM 60, FOLIO 45 LOT 6

OWNER: SWARTZ

LOCATION INFORMATION

COUNCILMANIC DISTRICT: THIRD

ELECTION DISTRICT: FOURTH

ZONING: RC5

LOT SIZE: 2.0093 ACRES OR 87,525 SQ. FT.

SEWER: PRIVATE

WATER: PRIVATE

CHESAPEAKE BAY CRITICAL AREA: NO

PRIOR ZONING HEARINGS: NONE

DATE 1/20/93

SCALE OF DRAWING 1"=50'

PREPARED BY: MARKS-VOGEL ASSOC INC.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
ALBERT J. SWARTZ	P.O. Box 380
BARBARA ANN E. SWARTZ	McDONOUGH SCHOOL
STEPHEN DAVIES	OWINGS MILLS, MD 21117



Home Building and Custom Remodeling

1. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

2. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

3. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

4. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

5. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

6. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

7. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

8. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

9. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

10. I, the undersigned, hereby certify that I am the owner of the property described in the petition and that I am the owner of the property described in the petition.

[Signature]

RECEIVED
FEB 24 1993
ZONING OFFICE

9051 Baltimore National Pike / Ellicott City, Maryland 21043 / (410) 750-0007 / (Fax) 750-0009

93-237-A

