

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
 NE/S Oliver Beach Rd. 112 ft. * ZONING COMMISSIONER
 SE of Eastern Avenue * OF BALTIMORE COUNTY
 7002 Oliver Beach Road * Case No. 93-314-A
 15th Election District *
 5th Councilmanic District *
 Puritan Construction, Inc. *
 Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 7002 Oliver Beach Road in the eastern section of Baltimore County. The Petitioner seeks relief from Section 1801.2.C. of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 20 ft., in lieu of the required 30 ft., as more particularly shown on the site plan marked as Petitioner's Exhibit No. 1.

Appearing at the public hearing held for this case was Franklin G. Gibson, on behalf of the legal owner of the property, Puritan Construction, Inc. Representing the Petitioner was Walter R. Hayes, Jr., Esquire. There were no Protestants present.

Testimony and evidence presented was that the subject property is known as lot No. 2 of a three lot subdivision of a tract known as the Diegert property. The lot is zoned D.R.5.5 and is .249 acres in area. The Petitioner is desirous of constructing a two story dwelling on the site. The property is a wide, yet shallow, property which fronts Oliver Beach Road. The entire tract is adjacent to the intersection of Oliver Beach Road and Eastern Avenue with a predominant amount of frontage on Oliver Beach Road.

Mr. Gibson testified that the subject variance was necessary in order

to construct the building as shown and to comply with Planning's recommendations from the office of Planning and Zoning. Specifically, it was agreed between the Petitioner and that agency that the proposed dwelling should front Oliver Beach Road. Because of the preferred orientation of the house, a smaller than required rear yard setback is necessary. That is, the lot is of insufficient depth to support a reasonably sized dwelling and observe the rear yard setback.

A variance may be granted where strict application of the subject zoning regulation 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 injustices 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, supra

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or struc-

ture which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

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 4th day of May, 1993 that a variance from Section 1801.2.C. of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 20 ft. in lieu of the required 30 ft., in accordance with Petitioner's 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 Petitioner is hereby made aware that proceeding at this time is at its 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.

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

LES/mnn

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

May 4, 1993

Suite 113 Courthouse
 400 Washington Avenue
 Towson, MD 21204

(410) 887-4386

Walter R. Hayes, Jr., Esquire
 6903 Harford Road
 Baltimore, Maryland 21234

RE: Case No. 93-314-A
 Petition for Variance
 Puritan Construction, Inc., Petitioner

Dear Mr. Hayes:

Enclosed please find the decision rendered in the above captioned case. The Petition for Variance has been granted, 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. Franklin G. Gibson

ORDER RECEIVED FOR FILING

Date 5/14/93
 By Mr. Hayes

ORDER RECEIVED FOR FILING

Date 5/14/93
 By Mr. Hayes

ORDER RECEIVED FOR FILING

Date 5/14/93
 By Mr. Hayes



Petition for Variance
 to the Zoning Commissioner of Baltimore County

for the property located at 7002 Oliver Beach Rd., Baltimore, MD 21220 which is presently zoned DR 5.5

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) 1801.2.C. TO PERMIT A REAR YARD SETBACK OF 20' IN LIEU OF THE REQUIRED 30'.

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 SHEET

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 Purchaser/Lessee
 Type or Print Name: Puritan Construction, Inc.
 Signature: *Josif Shafirovich*
 Address: 8106 Harford Rd. 661-6355, 486-0063
 City: Baltimore MD 21234
 State: MD Zipcode: 21234

Attorney for Petitioner
 Type or Print Name: Walter R. Hayes, Jr.
 Signature: *Walter R. Hayes, Jr.*
 Address: 6903 Harford Rd.
 City: Towson, MD 21234
 State: MD Zipcode: 21234
 Phone No: 444-5033

ESTIMATED LENGTH OF HEARING: _____
 Office Use Only
 RECEIVED BY: [Signature] DATE: 3/14/93
 ITEM # 317

PURITAN CONSTRUCTION, INC.

TEL. 410-661-6355 P.O. BOX 14728 FAX 410-653-1605
 BALTIMORE, MARYLAND 21234

Attached sheet for Petition for Variance

Reason the zoning regulations cannot be met on our property:

Puritan Construction originally proposed building on lot # 2 turned so that side of the house faced Oliver Beach Rd. without a need for variance. Baltimore County Planning Department recommended that the building be turned so the front will face Oliver Beach Road. Due to this configuration and narrowness of the site, the rear yard variance would be required to construct the house wider than 20 feet. Baltimore County Planning Department indicated their support for this variance.

Sincerely Yours
Josif Shafirovich
 Josif Shafirovich

REC 3/14/93
 ITEM # 317

MAISTE & WATTS, INC.
 SURVEYORS and ENGINEERS

FEBRUARY 25, 1993

DESCRIPTION OF #7002 OLIVER BEACH ROAD, TO ACCOMPANY PETITION FOR ZONING VARIANCE, 15-TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME ON THE NORTHEAST SIDE OF OLIVER BEACH ROAD, 60 FEET WIDE AT A POINT DISTANT 112 FEET SOUTHEASTERLY MORE OR LESS, FROM THE CENTER OF EASTERN AVE., THENCE LEAVING THE PLACE OF BEGINNING AND THE NORTHEAST SIDE OF OLIVER BEACH ROAD AND RUNNING FOR THE 3 FOLLOWING COURSES AND DISTANCES, VIZ:

- 1) NORTH 30 DEGREES 37 MINUTES 18 SECONDS EAST 79.10 FEET
- 2) SOUTH 56 DEGREES 25 MINUTES 42 SECONDS EAST 144.19 FEET AND
- 3) SOUTH 30 DEGREES 37 MINUTES 18 SECONDS WEST 71.68 FEET TO THE NORTHEAST SIDE OF OLIVER BEACH ROAD, THENCE RUNNING AND BINDING THEREON,
- 4) NORTH 59 DEGREES 22 MINUTES 42 SECONDS WEST 144.00 FEET TO THE PLACE OF BEGINNING.

CONTAINING 10,856 SQUARE FEET OR 0.249 ACRES OF LAND.



REC 3/14/93
 ITEM # 317

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 15th Date of Posting: 4/14/93
 Posted for: Variance
 Petitioner: Puritan Construction, Inc.
 Location of property: 7002 Oliver Beach Rd. 112' 50' Eastern Ave.
 Location of Signs: 15th Election District, Oliver Beach Road
 Remarks:
 Posted by: [Signature] Date of return: 4/18/93
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/1, 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 4/1, 1993

THE JEFFERSONIAN,

S. Zeke Orlean
 Publisher

#7263

93-314-A receipt

Zoning Administration & Development Management
 111 West Chesapeake Avenue
 Towson, Maryland 21284

DATE: 3/24/93

119300317

| DESCRIPTION | QTY | PRICE |
|-------------------------|-----|----------|
| FOR FILING HEARING FEES | 1 | \$50.00 |
| FOR FILING VARIANCE FEE | 1 | \$50.00 |
| TOTAL | | \$100.00 |

DIAG: #0006MICHRC \$50.00
 BA CO10-09AND3-15-93
 Please Make Checks Payable To: Baltimore County

Cashier Validation: 200 3/24/93
 ITEM # 317

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

DATE: 4/13/93

Puritan Construction, Inc.
 6106 Harford Road
 Baltimore, Maryland 21284

RE: CASE NUMBER: 93-314-A (Item 317)
 NE/S Oliver Beach Road, 112' SE of Eastern Avenue
 7002 Oliver Beach Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Puritan Construction, Inc.
 HEARING: MONDAY, APRIL 26, 1993 at 11:00 a.m. in Rm. 118, Courthouse.

Dear Petitioner(s):

Please be advised that \$ 72.63 is due for advertising and posting of the above captioned property and hearing date.

THE HEARING SIGN & POST KEY(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST KEY(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Forward your check for the above fee via return mail to the Zoning Office, (ZADM), County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Please write the case number and hearing date on the check and make same payable to Baltimore County, Maryland. To avoid delay of the Zoning Commissioner's Order in your case, immediate attention to this matter is suggested.

Arnold Jablon
 DIRECTOR

cc: Walter R. Hayes, Jr., Esq.

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

MARCH 25, 1993

NOTICE OF HEARING

The Zoning Commission 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: 93-314-A (Item 317)
 NE/S Oliver Beach Road, 112' SE of Eastern Avenue
 7002 Oliver Beach Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Puritan Construction, Inc.
 HEARING: MONDAY, APRIL 26, 1993 at 11:00 a.m. in Rm. 118, Courthouse.

Variance to permit a rear yard setback of 20 feet in lieu of the required 30 feet.

Arnold Jablon
 Director

cc: Puritan Construction, Inc.
 Walter R. Hayes, Jr., Esq.

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 (410) 887-3353

April 20, 1993

Walter R. Hayes, Jr., Esquire
 6903 Harford Road
 Baltimore, MD 21234

RE: Case No. 93-314-A, Item No. 317
 Petitioner: Puritan Construction, Inc.
 Petition for Variance

Dear Mr. Hayes:

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 March 16, 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.

SRA Maryland Department of Transportation
 State Highway Administration

O. James Lighthizer
 Secretary
 Hal Kassoff
 Administrator

3-25-93

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: 317 (LEO)

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 affected 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
 John Contestabile, Chief
 Engineering Access Permits
 Division

My telephone number is 410-333-1350

Teleprinter for Impaired Hearing or Speech
 303-7555 Baltimore Metro - 565-8481 D.C. Metro - 1-800-492-8982 Statewide Toll Free
 707 North Calvert St., Baltimore, Maryland 21202-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Zoning Administration and
 Development Management

DATE: April 1, 1993

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

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
 Item No. 308, 314, 317, 322 and 324.

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 887-3480.

Prepared by: Jeffrey M. Long
 Division Chief: Gary L. Kerns

PK/JL:lw

308.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

April 7, 1993

TO: Mr. Arnold Jablon, Director
 Zoning Administration and
 Development Management

FROM: J. Lawrence Pilsbury
 Development Coordinator, DEPRM

SUBJECT: Zoning Item #317
 (Diegert Property) Puritan Construction; 7002 Oliver Beach Road
 Zoning Advisory Committee Meeting of March 25, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

JLP:jbm

DIEGERT/TXTRMP

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF RECREATION & PARKS

Zoning Advisory Committee Comments
 relating to agenda of 3/29/93

The Department of Recreation and Parks submits a reply of "NO COMMENT" for the following item numbers:
 * 314, * 315, * 316, * 317, * 319, * 320, * 321, * 322,
 * 324

There are no other items on the agenda aside from the above.

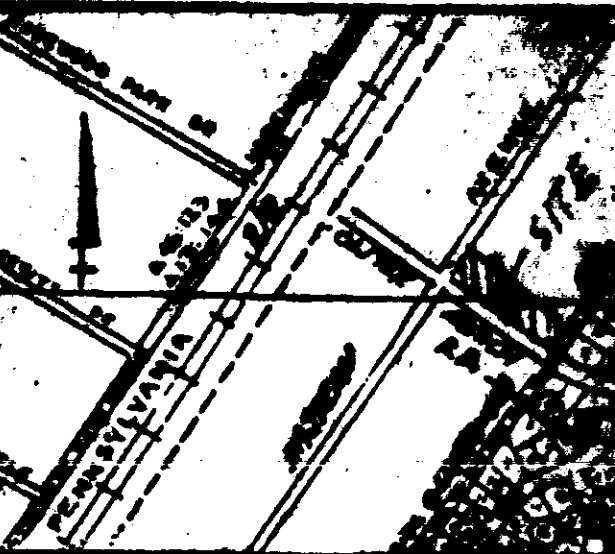
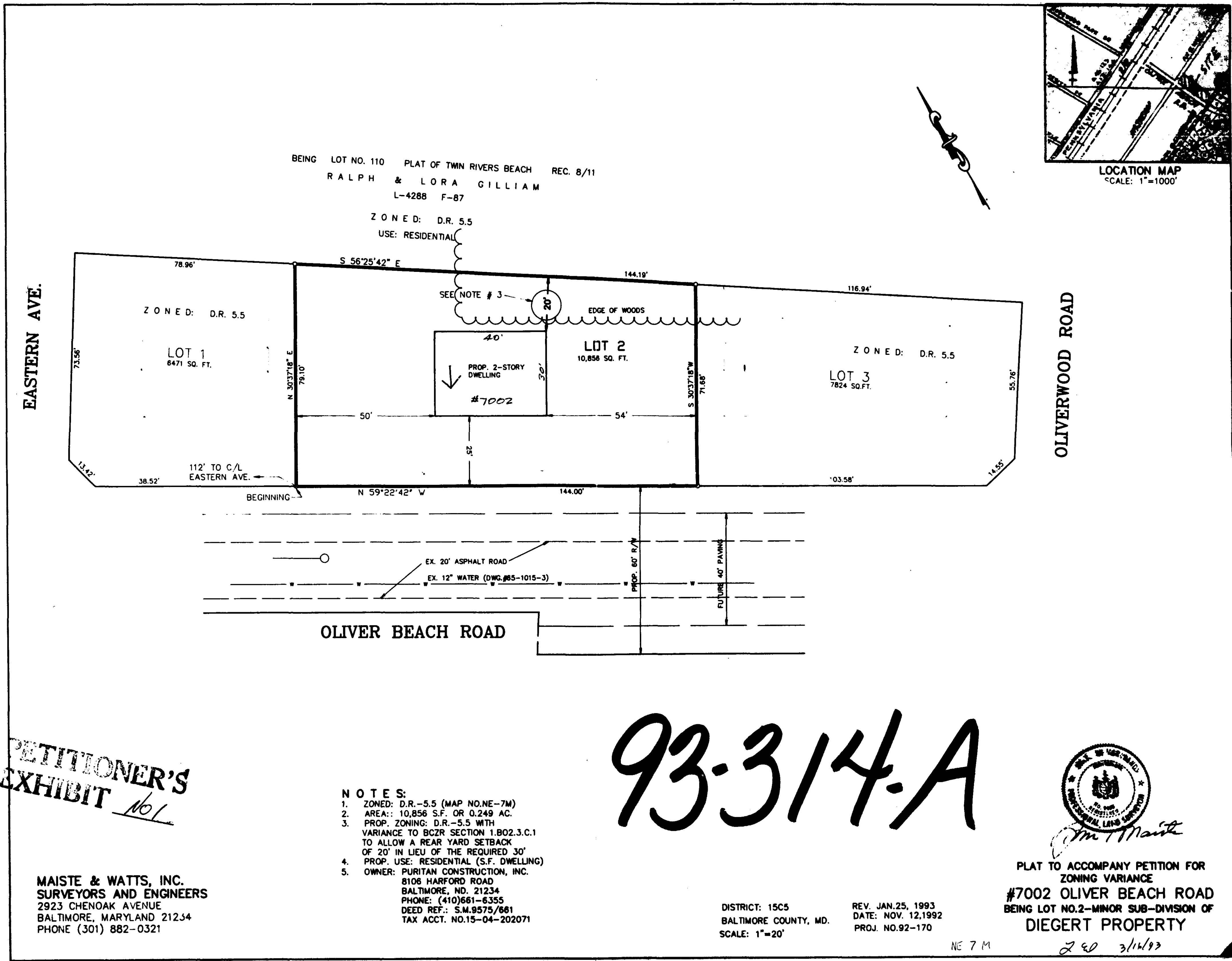
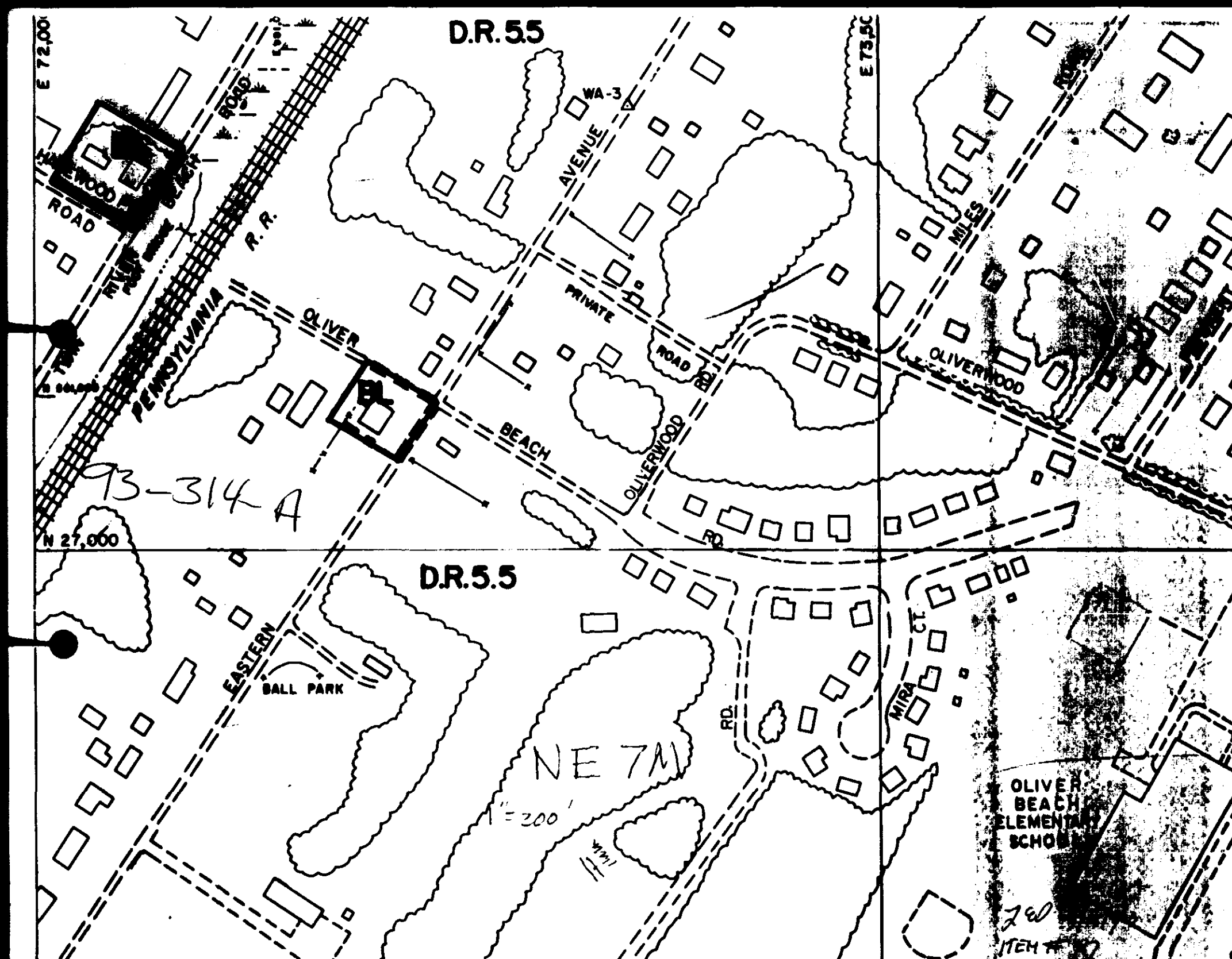
Patrick J. McDougall
 Master Plan Coordinator

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME: Frank P. [unclear] / Walter Henges
ADDRESS: 15 Odessa Ct 21234

Multiple horizontal lines for additional signatures and addresses.



PETITIONER'S EXHIBIT No. 1

MAISTE & WATTS, INC. SURVEYORS AND ENGINEERS
2923 CHENOAK AVENUE
BALTIMORE, MARYLAND 21234
PHONE (301) 882-0321

- NOTES:
1. ZONED: D.R.-5.5 (MAP NO. NE-7M)
2. AREA: 10,856 S.F. OR 0.249 AC.
3. PROP. ZONING: D.R.-5.5 WITH VARIANCE TO BCZR SECTION 1.802.3.C.1 TO ALLOW A REAR YARD SETBACK OF 20' IN LIEU OF THE REQUIRED 30'
4. PROP. USE: RESIDENTIAL (S.F. DWELLING)
5. OWNER: PURITAN CONSTRUCTION, INC. 8106 HARFORD ROAD BALTIMORE, MD. 21234 PHONE: (410) 661-6355 DEED REF.: S.M. 9575/681 TAX ACCT. NO. 15-04-202071

93-314-A

DISTRICT: 15C5 BALTIMORE COUNTY, MD. SCALE: 1"=20'

REV. JAN. 25, 1993 DATE: NOV. 12, 1992 PROJ. NO. 92-170

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE #7002 OLIVER BEACH ROAD BEING LOT NO. 2 - MINOR SUB-DIVISION OF DIEGERT PROPERTY



NE 7 M

260 3/14/93

ITEM #307

