to locate and determine the propriety of these improvements. He indicated that he spoke to both Mr. Frascketti and individuals in Baltimore County's Zoning Enforcement Office prior to doing construction of the pier. Despite these attempts, Mr. Waggoner is frustrated with what he believes is an illegally constructed pier, notwithstanding the expression of his concerns to both the County and Mr. Frascketti in advance of its construction. Moreover, he believes that the pier is detrimental to the surrounding locale because it will be over utilized by other users and will crowd the land. Also, he is concerned about the location of the new pier as it relates to his house. Specifically, because of the angled position of the shoreline and location of his house on his lot, the new pier is visible from the rear of his house and backyard. Mr. Waggoner believes that construction of the pier is detrimental to his view and will negatively affect the use and enjoyment of his property. Also, in view of the environmental regulations prohibiting piers being located close together, he believes that the pier will negatively affect his property in that same reduces the amount of area on his side of the property line on which a pier can be constructed. He noted that he does not have a pier on his property at this time.

In considering this case, it is necessary to first define the issues presented. The case has been brought as a Petition for Variance to permit the pier to remain where located and amend the Final Development Plan to accurately reflect field conditions. Thus, my inquiry is limited to those issues only.

As has been often stated, a variance from the height and area regulations of Baltimore County can be granted only if same is in accordance with the standards enunciated in Section 307 of the B.C.Z.R. Therein, a 3

ORDER RECEIVED FOR FILING
Date
By

prong test is offered which the Petitioner must meet in order for variance relief to be granted. First, the Petitioner must show that they and their property will suffer a practical difficulty if the variance relief has been denied. Practical difficulty has been defined by the appellate courts of this State. Specifically, in McLean v. Soley, 270 Md. 208 (1973), the Court identified the practical difficulty test as:

> 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 injustice 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, 22 Md. App. 28 (1974).

In addition to a showing of practical difficulty, the Petitioner must also demonstrate that a grant of the variance will be within the spirit and intent of the B.C.Z.R.

Lastly, the relief can only be granted if the proposed use and construction will not be detrimental to the health, safety and general welfare of the surrounding locale.

Although a close case, I find that the Petitioner has satisfied its burden under law. I make this decision not based upon the fact that these piers are already in place but upon testimony and evidence as applied to these legal standards. Although it has been said that it is easier for one to get forgiveness than permission, my decision is not based upon that

ORDER RECEIVED FOR FILING
Date
By

philosophy. Rather, I find, as fact, that the Petitioner has satisfied its burden under law.

As to practical difficulty, the topography of the land is a significant consideration. As was testified by Mr. Moriconi, the Frascketti property at the shore line is of uneven grade. Towards the east side of the property, the shore line rises dramatically. It is lower in the middle and slightly higher on the west side. These site constraints justify a finding of practical difficulty in this case. I believe that strict adherence to the required setback distances would be unnecessarily burdensome. For this reason, I believe that the Petitioners have satisfied their burden.

Likewise, I believe that the relief which will be granted satisfies the spirit and intent of the regulations. In this respect, the piers and their layout were approved by the Department of Environmental Protection and Resource Management (DEPRM). Admittedly, the process under which the piers were built was improper. The requested variances should have been obtained first. However, I believe the end result is consistent with the purposes of the BCZR and the location of the piers is sensitive to environmental concerns.

Lastly, I do not believe that a grant of the variance would be detrimental to the health and welfare of the locale. To the contrary, a required removal of the pier would be harmful to the environment. In this respect, significant degradation of the shoreline would be suffered if the piers were removed and/or relocated. Moreover, although there is some impact by the location of the pier on the Waggoner property, I do not find same to be so detrimental so as to justify a denial of the variance. The Waggoners do have useable shore front from which to construct their own

ORDER RECEIVED FOR FILING
Date
By

pier if they so desire and I do not believe that the size and scale of the pier is so overwhelming so as to adversely affect their view. Therefore, I am persuaded that the subject variance should be granted.

Nonetheless, I appreciate their concerns about overuse of the piers. Thus, I shall restrict the relief granted herein to allow only the owners of the subject lots (i.e., lot 3 and 3A) to use the piers. That is, there shall be no additional storage of boats for rent or hire at the piers and their use is restricted to the property owners and their short term guests.

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 27th day of May, 1994 that a variance from Sections 417.3.B. and 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), as well as the Zoning Commissioner's Policy Manual diagram so as to allow a distance between piers of 17 ft., in lieu of the required 20 ft., and a distance between the property line and the subject pier of 4 ft., in lieu of the required 10 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that approval to amend the Final Development Plan of the Frascketti property 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 return, and be responsible for returning, said property to its original condition.

ORDER RECEIVED FOR FILING
Date
By

MICROFILMED

2. The piers shall not be used for commercial purposes, or be available for rent or hire. The "L" shaped pier as shown on the plan shall be used only by the owners of lot 3 and 3A and the straight (new) pier shall be used only by the owners of lot 3.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

ORDER RECEIVED FOR FILING
Date
By

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

May 27, 1994

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-85-A
Petition for Variance
Property: 950 Thompson Boulevard
Salvatore A. Frascketti, et ux, Petitioners

Dear Mr. Lichter:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, with restrictions, 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
Zoning Commissioner

LES:mmn
att.
cc: Mr. and Mrs. Salvatore A. Frascketti
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
cc: Mr. and Mrs. Jeffrey A. Waggoner
Gordon D. Fronk, Esquire

GGS #87
No PHONE NUMBER FOR LEGAL OWNER.
Sophia
8/24/93

CRITICAL 87

Petition for Variance

94-85-A

to the Zoning Commissioner of Baltimore County

for the property located at 950 Thompson Boulevard
Baltimore, Maryland 21220

which is presently zoned DR5.5

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) 417.3B and 417.4 and Zoning Commissioner's Policy Manual Diagram to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) to maintain an existing wood pier which was erected in accordance with an Amended Final Development Plan approved by the Department of Public Works on June 12, 1992 and pursuant to a building permit B143939 which was issued utilizing a site plan that was not as shown on the Amended Final Development Plan

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/Lessee
(Type or Print Name)
Signature
Address
City State Zipcode

Legal Owner(s)
Salvatore A. Frascketti Jr.
(Type or Print Name)
Signature
Deborah A. Frascketti
(Type or Print Name)
Signature

Attorney for Petitioner
Julius W. Lichter
(Type or Print Name)
Signature
305 W. Chesapeake Ave. 321-0600
Address Phone No
Towson, MD 21204
City State Zipcode

950 Thompson Boulevard
Address Phone No
Baltimore, MD 21220
City State Zipcode
Name, Address and phone number of representative to be contacted
Julius W. Lichter, Esquire
Name
305 W. Chesapeake Ave. 321-0600
Address Towson, MD 21204 Phone No

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following dates Next Two Months
ALL OTHER
REVIEWED BY DATE

No REVIEW
8-20-93
WCR

Printed with Soybean Ink on Recycled Paper

MICROFILMED

Lawrence E. Schmidt
March 1, 1994
Page 4

Petitioners claim to have erected the new pier in accordance with an Amended Final Development Plan, which had been approved by the Department of Public Works and pursuant to a building permit, which was issued, utilizing a site plan that was not as shown on said Amended Final Development Plan. The Petitioners would contend that they acted in reliance on approvals obtained from County agencies. The Protestants rebut the suggestion that the Petitioners were justified in relying upon County agencies for several reasons:

First, the County agencies must rely on representations made on the plats and plans, as certified by the Petitioners' engineer. The County agencies had reason to believe that the proposed new pier would have been constructed with the minimum setback requirements satisfied because of the representations made on the plans and plats.

Second, the County Office of Planning and Zoning observed that the re-subdivision of Lot 3 obligated the Petitioners to comply with Code Section 26-169, *et seq.*, which included processing through the County Review Group (CRG) and the submission of a Final Development Plan; no such final plan, with the triangular waterfront parcel, was ever approved by all required agencies.

Third, initially, the Petitioners filed for a building permit and submitted a plot plan (not drawn to scale), which depicted the 0.033-acre rectangular waterfront parcel and showed the proposed (new) pier, with 10' minimum setbacks on either side. In responding to the application for building permit, Catherine A. Milton, by letter, dated October 19, 1992, advised the Petitioners that the building permit was denied because (a) the pier was not 10' from the property line, and (b) the existing [old] pier location had changed from the location shown on the approved Final Development Plan.

Fourth, subsequently, the plot plan was revised on 1/12/93 to depict the triangular waterfront parcel and show the proposed [new] pier, with the minimum setbacks on either side. A building permit was issued, when the application was supported by exhibits purporting to comply with the Code. However, careful scrutiny would have revealed that the frontage of the revised triangular waterfront parcel was only 15.9' to the southwest corner of said parcel, which was not nearly enough frontage within which to construct the pier. The requirement for satisfying the minimum setbacks was obfuscated by depicting the shoreline as receding to the southeast corner of the Protestants' property and by adding

Lawrence E. Schmidt
March 1, 1994
Page 5

dash lines extending into Back River purportedly to show that the setback requirements were being satisfied.

Fifth, the Protestants advised the Petitioners that there was insufficient room to construct the pier at the time the location was being staked out by the contractor and at several times subsequent thereto, during various phases of construction of the pier. Additionally, Protestants contacted the Office of Planning and Zoning, Enforcement Division, and the County Executive to advise of their objection to the proposed new pier. The Petitioners proceeded with construction of the new pier, even though it was quite evident from the dimensions determined by their engineers that there was insufficient distance within which to construct the pier in conformity with the Code.

Based upon the foregoing facts determined from the County files and from the testimony and exhibits heretofore submitted, we respectfully request the Petition for Variance be denied and that the Petitioners be required to remove the new pier.

Sincerely,

Gordon D. Fronk

je

cc Julius W. Lichter, Esquire
Mr. and Mrs. Jeffrey Waggoner

LAW OFFICE
GORDON D. FRONK P.A.
SUITE 700 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
410-823-7966

April 20, 1994

Lawrence E. Schmidt
Zoning Commissioner
400 Washington Avenue
Towson MD 21204

Re: Case No. 94-85-A
Item No. 87
Petitioner: Salvatore A. Frascketti, et ux.
Petition for Variance

Dear Mr. Schmidt:

I am writing this letter at the request of my client to determine when a decision might be received in this case. It has been a little better than six weeks since I wrote to you regarding my synopsis of the facts. As I have seen no correspondence from Mr. Lichter, I trust that there is nothing further for you to consider and that a decision will be forthcoming soon.

The favor of your response will be greatly appreciated.

Sincerely,

Gordon D. Fronk

je

cc Julius W. Lichter, Esquire
Mr. and Mrs. Jeffrey A. Waggoner

LAW OFFICE
GORDON D. FRONK P.A.
SUITE 700 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
410-823-7966

June 28, 1994

94 JUN 30 PM 3:13

Baltimore County Board of Appeals
Room 49
Old Court House
Towson MD 21204

Re: Petition for Variance
SW/S Thompson Blvd., SE of Sandlewood Road
(950 Thompson Blvd.)
15th Election District
5th Councilmanic District
Salvatore A. Frascketti, Jr., *et ux*, Petitioner
Case No. 94-85-A

Gentlemen:

Please enter the appearance of the undersigned on behalf of Jeffrey A. Waggoner and Theresa L. Waggoner.

Sincerely,

Gordon D. Fronk

je

cc Mr. and Mrs. Jeffrey A. Waggoner
Julius W. Lichter, Esquire

6/30/94

LAW OFFICE
GORDON D. FRONK P.A.
SUITE 700 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
410-823-7966

94 SEP 20 PM 1:58

September 20, 1994

William T. Hackett, Chairman
County Board of Appeals
Room 49
400 Washington Avenue
Towson MD 21204

Judson H. Lipowitz, Esquire
County Board of Appeals
Room 49
400 Washington Avenue
Towson MD 21204

Harry E. Buchheister, Jr.
County Board of Appeals
Room 49
400 Washington Avenue
Towson MD 21204

Re: Case No. 94-85A
Salvatore A. Frascketti, Jr., *et ux*
Motion for Reconsideration

Dear Messrs. Hackett, Lipowitz and Buchheister:

During the public deliberation on the subject case, I attempted to take notes of the comments, which each of you made, as you reached your determination to grant the variance requested by Mr. and Mrs. Frascketti (the "Petitioners"). I understood and respected the fact that it was not appropriate for me to interrupt or comment, but only to listen and thereafter await the receipt of the written findings and opinion. However, my notes reveal that certain of the prefatory comments were not accurate recitations of the facts. I would be remiss, if I failed to identify the inaccuracies, which may become the basis for your conclusions to grant the variance. Accordingly, I am writing this letter, in the form of a Motion for Reconsideration, and wish to highlight the following inaccuracies or inconsistencies in the comments, which were made.

1. Mr. Buchheister observed that the Petitioners magnanimously had taken 15 feet of their land and provided it as an easement for the benefit of the community. In fact, Exhibit No. 3, First Amended Subdivision Plat, dated January 11, 1983, and recorded September 21, 1983, provides for a "20-foot Private Easement for Lots 1 and 2 for access to river." I submit this was not a "magnanimous gesture" to the community, but merely intended to improve the value of Lots 1 and 2, which had been subdivided from the parcel for sale by the Petitioners.

William T. Hackett, Chairman
Judson H. Lipowitz, Esquire
Harry E. Buchheister, Jr.
September 20, 1994
Page 2

2. Mr. Buchheister observed that the topography did not lend itself to the building of an additional pier and that a considerable tonnage of rip-rap had been installed purportedly to prevent erosion. In fact, the testimony confirms that, after they acquired the property, the Petitioners altered the slope to the shoreline during the construction of the house built on Lot 3, in order to provide a better sight line from the house to the water's edge. After having built the house and graded the property to suit their purposes, the Petitioners built the first L-shaped pier in the spring of 1987. The pier could have been located any place along the waterfront; however, the Petitioners were not contemplating the resubdivision of Lot 3 and the desirability to construct a second pier; therefore, the Petitioners chose to locate the first pier within 26 feet of the property line contiguous to the Waggoners. In summary, the Petitioners made three affirmative elections: (a) to grade and change the topography, (b) to install the first L-shaped pier at a location, which was too close to the contiguous property line, to permit the construction of a second pier between the original pier and the Waggoner property line, and (c) to nonetheless construct the second pier between the L-shaped pier and the Waggoners' property, when, in fact, there was ample waterfront to construct the second pier on the other side of the original L-shaped pier. If a hardship has been created, it was at the hand of the Petitioners, and cannot be found as the basis for the granting of a variance at this time.

3. Mr. Buchheister observed that the Petitioners had retained an experienced pile driver and an engineer, upon whom the Petitioners relied. The testimony will reveal that Mr. Waggoner advised the Petitioners and the pile driver, prior to the pier being constructed, that the proposed location was too close to the property line and in violation of the setback restrictions. Further, the testimony will reveal that the Petitioners did not use the services of any other engineer to survey the site for the purpose of locating the new pier. Had they done so, the Petitioners, the engineer and the pile driver would have recognized the need to apply for a variance prior to construction of the pier, rather than constructing the pier and then seeking a variance, after being cited by Zoning Enforcement for a violation.

4. Mr. Buchheister observed that the Petitioners had the approval of Baltimore County for everything that they did. In fact, the building permit (Exhibit No. 10) is drawn to provide for a ten-foot setback on either side of the pier. The County had approved the proper construction and location of the pier, but not an improper location, as has occurred.

5. Mr. Buchheister observed that the Petitioners have incurred considerable expense for attorney's fees, as a result of which the Petitioners determined to rely upon the decision of the Zoning Commissioner as a basis for their presentation before the Board of Appeals. Likewise, the Waggoners have incurred considerable expense for engineering and attorney's fees to attempt to correct a violation, which was not of their making. On January 22, 1993, Mr. Waggoner reported his concern to the County Executive and filed a complaint with Zoning Enforcement. He was told that nothing could be done until the pier was built. When the pier was built, Mr. Waggoner was required to retain the engineer, Thomas Phelps, to locate the pier and submit to Zoning

William T. Hackett, Chairman
Judson H. Lipowitz, Esquire
Harry E. Buchheister, Jr.
September 20, 1994
Page 3

Enforcement an accurate drawing of the location of the pier. As a result, on May 4, 1993, Zoning Enforcement signed a notice, charging the Petitioners with construction of the pier that did not conform to the Final Development Plan. If the Petitioners had exercised the prudent caution of having the pier located by a surveyor, all of the considerable expense, which each of the parties has been caused to incur, would have been prevented. The new pier very readily could have been constructed on the other side of the original L-shaped pier. Alternatively, the owners of Lots 3 and 3A could have shared the original L-shaped pier.

6. In conclusion, Mr. Buchheister observed that he was inclined to concur with the decision of the Zoning Commissioner. On Page 10 of the Zoning Commissioner's finding of facts and conclusions of law, you will observe that he was sensitive to the overuse of the piers and restricted their use "to allow only the owners of the subject lots (*i.e.*, Lot 3 and 3A) to use the pier." Such relief effectively precludes the owners of Lots 1 and 2 from access to the shoreline, which was granted to them in the original subdivision and continues and is intended to continue through the present. The location of the new pier and the riprap on either side thereof precludes the owners of Lots 1 and 2 from having access to the river.

7. Mr. Hackett observed that the Petitioners have done nothing that the County did not know they were doing. In fact, the County approved construction of a pier, with proper setbacks of ten feet on either side. The County did not know that the pier was being constructed with a setback of seven feet to one side and three or four feet to the other side.

8. Mr. Hackett observed that Mr. Sweicker (the pile driver) had relied on Mr. Phelps (the engineer). In fact, Mr. Phelps was retained by Mr. Waggoner to locate the pier, after it had been constructed, and was not involved in the initial location of the pier. In fact, no engineer was involved in the location of the pier.

I respectfully request that you reconsider and evaluate the facts on which you base your conclusions and review the standards set forth in the case of Anderson v. Board of Appeals, 22 Md. App. 28, before writing your opinion. I concur with Mr. Lipowitz's comment that the Board must find that the granting of the variance is in strict harmony with the spirit and intent of the zoning regulations. I submit that, in the instant case, the Petitioners sought and obtained approval from Baltimore County to construct the new pier, with ten-foot setbacks to each property line. In fact, the Petitioners had the pier constructed within seven feet of one property line and three or four of the other property line. It cannot be within the spirit and intent of the zoning regulations to permit the intentional and flagrant violation of the Code and afterwards seek a variance and rely on hardship or practical difficulty as the basis for such petition.

William T. Hackett, Chairman
Judson H. Lipowitz, Esquire
Harry E. Buchheister, Jr.
September 20, 1994
Page 4

If appropriate, I would like the opportunity to review the facts with you and the Petitioners, before you write your opinion. The Petitioners determined to rely upon the Zoning Commissioners' decision; the Protestants are relying on the testimony of the Petitioner, as well as on the considerable information revealed by a careful scrutiny of the several Exhibits,which were presented to you in chronological order, intended to emphasize the sequence of events and demonstrate that Petitioners had every opportunity to either (1) construct the pier, without requiring a variance, or (2) request the variance before constructing the pier.

Your favorable consideration of this request will be greatly appreciated and hopefully avoid, for both parties, the requirement to incur additional costs in resolving this matter. I await your response.

Sincerely,

Gordon D. Fronk

cc Mr. and Mrs. Jeffrey A. Waggoner
Mr. and Mrs. Salvatore A. Frascketti, Jr.

PETITION OF JEFFREY A. WAGGONER and TERRY WAGGONER	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF BALTIMORE COUNTY	*	FOR
	*	BALTIMORE COUNTY
IN THE CASE OF: IN THE MATTER OF SALVATORE A. FRASCKETTI, JR. FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT CASE NO.: 94-85-A	*	Civil Action No.: 94CV11048/97/332

* * * * * * * *

RESPONSE TO MOTION TO STRIKE JUDGMENT AND SCHEDULE CASE FOR TRIAL

NOW COMES JEFFREY A. WAGGONER and TERRY WAGGONER, Petitioners, and state unto this Honorable Court, as follows:

1. Petitioners admit Paragraphs 1 through 16 and neither admit nor deny Paragraphs 17 through 20, and deny Paragraph 21.

2. Petitioners, the County Board of Appeals of Baltimore County and the Clerk's office and/or Assignment Office of this Honorable Court, made no mistake in failing to provide a copy of the Scheduling Order to the Respondents and, in all events, did properly comply with provisions of Maryland Rules 7-202, et seq. However, the Respondent failed to comply with Rule 7-204 by failing to file a written response, stating the intent to

participate in the action for judicial review within thirty (30) days after the date the County Board of Appeals of Baltimore County had mailed notice of the filing of Petition, as a consequence of which the Respondent abandoned the status of being a party to the proceeding and entitled to any further notice thereof.

WHEREFORE, the Petitioners pray:

A. That this Honorable Court deny the Motion to Strike Judgment and Schedule Case for Trial;

B. That this Honorable Court deny the request for hearing, as the issue has already been resolved and the Respondent has no further status in the proceedings; and,

C. That the Petitioners be granted such other and further relief as the nature of their case may require.

Gordon D. Fronk
Suite 700 Court Towers
210 West Pennsylvania Avenue
Towson MD 21204
(410) 823-7966

Attorney for Petitioners

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 7-204, Maryland Rules of Civil Procedure, Norris v. Howard Research and Development Corp. (273 Md. 417, at Page 423, provides that one who has a status of a party at the administra-

tive level and is thus entitled to notice of the judicial review proceeding "abandons this status by failing to file in the ... court an answer or other permissible pleading, as directed by [former] Rule B-9 [now, Rule 7-204].

CERTIFICATE OF NOTICE

I HEREBY CERTIFY that on this 5th day of October, 1995, a copy of the foregoing Response to Motion to Strike Judgment and Schedule Case for Trial was mailed, postage prepaid to Stephen H. Sacks, Third Floor, 16 South Calvert Street, Baltimore, Maryland 21202, Attorney for Respondents; and to Charlotte E. Radcliffe, Legal Secretary, County Board of Appeals, Room 49, Basement, Old Courthouse, 400 WAshington Avenue, Towson, Maryland 21204.

Gordon D. Fronk

STEPHEN H. SACKS
ATTORNEY AT LAW

16 S. CALVERT ST.
3rd FLOOR
BALTIMORE, MARYLAND 21202

OFFICE
(410) 962-5552

RESIDENCE
(410) 522-6160

September 8, 1995

Clerk's Office - Civil Division
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition of Jeffrey A. Waggoner and
Terry Waggoner
For Judicial Review of the Decision
of the County Board of Baltimore County
In the Case of: In the Matter of
Salvatore A. Frascketti, Jr.
Civil Action No.: 94CV11048/97/332

Dear Mr. Clerk:

Please find enclosed the Motion to Strike Judgment and Schedule Case for Trial and Request for Hearing in reference to the above captioned case.

Thank you very much for your cooperation in this matter.

Very truly yours,

STEPHEN H. SACKS

SHS/klj

Enclosure

cc: Gordon D. Fronk, Esquire
Charlotte E. Radcliffe, Esquire

PETITION OF JEFFREY A. WAGGONER and TERRY WAGGONER	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF BALTIMORE COUNTY	*	FOR
	*	BALTIMORE COUNTY
IN THE CASE OF: IN THE MATTER OF SALVATORE A. FRASCKETTI, JR. FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT CASE NO.: 94-85-A	*	Civil Action No.: 94CV11048/97/332

****

MOTION TO STRIKE JUDGMENT AND SCHEDULE CASE FOR TRIAL

Now comes Salvatore A. Frascketti, Jr. and Deborah A. Frascketti, Respondent, and states unto this Honorable Court as follows:

1. That on August 20, 1993, the Petitioners filed a Petition for Variance by Julius W. Lichter, Esquire, attorney, to allow a distance between piers of 17 feet in lieu of 20 feet in a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property.

2. That on August 12, 1993, a hearing was held on the Petition by the Zoning Commission.

3. That on May 27, 1994, the Zoning Commissioner issued an Order granting the Petition for Variance.

4. That on June 13, 1994, a Notice of Appeal to the County Board of Appeals was filed by Gordon D. Fronk, Esquire on behalf of Jeffrey A. Waggoner and Theresa L. Waggoner, Protestants.

5. That on August 10, 1994, a hearing was held before the County Board of Appeals.

6. That on November 4, 1994, the County Board of Appeals issued an Opinion and Order in which the Petition for Variance was granted.

7. That on December 2, 1994, the Protestants filed a Petition for Judicial Review in the Circuit Court for Baltimore County.

8. On December 5, 1994, a Motion for Reconsideration was filed by the Protestants in the County Board of Appeals.

9. That on December 9, 1994, a Certificate of Notice was sent to all interested parties, including the Respondents, indicating the filing of the Petition for Judicial Review. (A copy of which is attached hereto and made a part hereof).

10. That on February 3, 1995, the transcript of testimony was filed in the Circuit Court for Baltimore County.

11. That on February 7, 1995, a Notice of Filing of the Record was filed in the Circuit Court for Baltimore County.

12. That a review of the notice of the filing of the record of proceeding dated February 7, 1995, indicated that copies of the notice were forwarded only to Gordon D. Fronk, Esquire, attorney for the Protestors, and Charlotte E. Radcliffe, Legal Secretary of the County Board of Appeals of Baltimore County.

13. That on March 7, 1995, a Notice of Civil Track Assignment and Scheduling Order was issued by the Circuit Court for Baltimore County. (A copy of which is attached hereto and made a part hereof).

14. That a review of the Notice of Civil Track Assignment and Scheduling Order indicates in the upper left corner the names, Gordon D. Fronk, Esquire, and Charlotte E. Radcliffe, Esquire, indicating apparently those being the only two persons to receive copies of the Scheduling Order.

15. That a review of the Memorandum Opinion and Order of the Court in the within case dated June 30, 1995, indicates that copies apparently were not forwarded to the Respondents

16. That as apparently the notice of the filing of the record of proceedings, the Scheduling Order indicating the trial date of June 8, 1995, and the Opinion and Order of this Court copied to all parties except the Respondents appears to indicate that the Respondents did not have notice of the trial date in the within case.

17. That counsel for the Respondents has been advised by the Respondents that they did not receive notice of the June 8, 1995, trial date in the within case.

18. That counsel for the Respondents has been advised by the Respondents that although Julius W. Lichter, Esquire represented them through the County Board of Appeals was not retained to represent them in reference to the Petition for Judicial Review.

19. That although the Respondents did receive a copy of the Proceedings Before the Zoning Commissioner and the Board of Appeals of Baltimore County filed by Charlotte E. Radcliffe, Esquire, Legal Secretary to the County Board of Appeals of Baltimore County, they are not attorneys and, expected to receive a trial date in the normal course of business.

20. That the Respondents aver that they have a meritorious defense to the appeal of the Protestants as evidenced by findings in their favor by the Zoning Commissioner and the County Board of Appeals.

21. That, as apparently a mistake was made in the Clerk's Office and/or Assignment Office in not noting a copy of the Scheduling Order to the Respondents, it would be in the interests of justice for this Court to strike the judgment and reschedule a hearing in the within case.

WHEREFORE, the Respondents pray:

A. That this Court strike the judgment entered by this Court on June 30, 1995;

B. That this Court issue a new Scheduling Order setting this case in for a hearing on the merits;

C. That they be granted such other and further relief as the nature of their cause may require.

STEPHEN H. SACKS
16 S. Calvert Street
Third Floor
Baltimore, Maryland 21202
(410) 962-5552
Attorney for Respondents

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 2-535(b), Maryland Rules of Civil Procedure.

STEPHEN H. SACKS

LAW OFFICE
GORDON D. FRONK P.A.
SUITE 700 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
410-823-7966

December 5, 1994

County Board of Appeals of Baltimore County
Room 49
400 Washington Avenue
Towson MD 21204

Re: Case No. 94-85A
Salvatore A. Frascketti, Jr., *et ux* (Petitioners)
Motion for Reconsideration

Gentlemen:

On behalf of Jeffrey A. Waggoner and Terry Waggoner, his wife (Protestants), I respectfully submit this Motion for Reconsideration of the Opinion and Order by the County Board of Appeals of Baltimore County, dated November 4, 1994.

1. The Opinion states that "Fred Sweicker, the pile-driving contractor, got the permit for the pier...after complying with Baltimore County's written regulation." However, the Opinion fails to take into consideration that the contractor depicted ten foot (10') side setbacks between property lines, then proceeded to construct the pier, in violation of the distances he provided on the application. Baltimore County could not have known that he was going to ignore the setback requirements, even when he had been forewarned by the Protestant, Jeffrey A. Waggoner.

2. The Opinion states that "...the pile-driving contractor...done (sic) the very best he could do with the situation as presented to him." On the contrary, a prudent man would have obtained an engineering stake-out to confirm that the proposed location of the pier was in conformity with zoning regulations and the permit he had been granted.

The testimony will reveal that Mr. Waggoner advised the Petitioners and the pile driver, prior to the pier being constructed, that the proposed location was too close to the property line and in violation of the setback restrictions. Further, the testimony will reveal that the Petitioners did not use the services of any other engineer to survey the site for the purpose of locating the new pier. Had they done so, the Petitioners, the engineer and the pile driver would have recognized the need to apply for a variance prior to construction of the pier, rather than constructing the pier and then seeking a variance, after being cited by Zoning Enforcement for a violation.

County Board of Appeals of Baltimore County
December 5, 1994
Page 2

3. The Opinion states that the evidence provides that "this pier is in the best location for its existence because of the contours of the shore line." In fact, the testimony confirms that, after they acquired the property, the Petitioners altered the slope to the shoreline during the construction of the house built on Lot 3, in order to provide a better sight line from the house to the water's edge. After having built the house and graded the property to suit their purposes, the Petitioners built the first L-shaped pier in the spring of 1987. The pier could have been located any place along the waterfront; however, the Petitioners were not contemplating the resubdivision of Lot 3 and the desirability to construct a second pier; therefore, the Petitioners chose to locate the first pier within 26 feet of the property line contiguous to the Waggoners. In summary, the Petitioners made three affirmative elections: (a) to grade and change the topography, (b) to install the first L-shaped pier at a location, which was too close to the contiguous property line, to permit the construction of a second pier between the original pier and the Waggoner property line, and (c) to nonetheless construct the second pier between the L-shaped pier and the Waggoners' property, when, in fact, there was ample waterfront to construct the second pier on the other side of the original L-shaped pier. If a hardship has been created, it was at the hand of the Petitioners and cannot be found as the basis for the granting of a variance at this time.

4. The Opinion states that "the piers and their layout were approved by the Department of Environmental Protection and Resource Management (DEPRM). The building permit (Exhibit No. 10) is drawn to provide for a ten-foot setback on either side of the pier. The County had approved the proper construction and location of the pier, but not an improper location, as had occurred.

On January 22, 1993, Mr. Waggoner reported his concern to the County Executive and filed a complaint with Zoning Enforcement. He was told that nothing could be done, until the pier was built. When the pier was built, Mr. Waggoner was required to retain the engineer, Thomas Phelps, to locate the pier and submit to Zoning Enforcement an accurate drawing of the location of the pier. As a result, on May 4, 1993, Zoning Enforcement signed a notice, charging the Petitioners with construction of the pier that did not conform to the Final Development Plan. If the Petitioners had exercised the prudent caution of having the pier located by a surveyor, all of the considerable expense, which each of the parties has been caused to incur, would have been prevented. The new pier very readily could have been constructed on the other side of the original L-shaped pier. Alternatively, the owners of Lots 3 and 3A could have shared the original L-shaped pier.

5. The Opinion states that the Board will "restrict the relief granted herein to allow only the owners of the subject lot, *i.e.*, Lots 1, 2, 3 and 3A) to use the piers, " while the Order states that "the straight (new) pier shall be used only by the owners of Lot 3." Such relief effectively precludes the owners of Lots 1 and, 2 from access to the shoreline, which was granted to them in the original subdivision and continues and is intended to continue through the present. The location of the new pier and the riprap on either side thereof precludes the owners of Lots 1 and 2 from having access to the river.

County Board of Appeals of Baltimore County
December 5, 1994
Page 3

I respectfully request that you reconsider and evaluate the facts on which you base your conclusions and review the standards set forth in the case of Anderson v. Board of Appeals, 22 Md. App. 28. The Board must find that the granting of the variance is in strict harmony with the spirit and intent of the zoning regulations. I submit that, in the instant case, the Petitioners sought and obtained approval from Baltimore County to construct the new pier, with ten-foot setbacks to each property line. In fact, the Petitioners had the pier constructed within seven feet of one property line and three or four of the other property line. It cannot be within the spirit and intent of the zoning regulations to permit the intentional and flagrant violation of the Code and afterwards seek a variance and rely on hardship or practical difficulty as the basis for such petition.

At the hearing, the Petitioners determined to rely upon the Zoning Commissioners' decision; the Protestants relied upon the testimony of the Petitioner, as well as on the considerable information revealed by a careful scrutiny of the several Exhibits, which were presented to you in chronological order, intended to emphasize the sequence of events and demonstrate that Petitioners had every opportunity to either (1) construct the pier, without requiring a variance, or (2) request the variance before constructing the pier.

Your favorable consideration of this Motion will be greatly appreciated and hopefully avoid, for both parties, the requirement to incur additional costs in resolving this matter. I await your response.

Sincerely,

Gordon D. Frank

Gordon D. Fronk

je

cc Mr. and Mrs. Jeffrey A. Waggoner
Mr. and Mrs. Salvatore A. Frascketti, Jr.

Salvatore & Deborah Frascketti
950 Thompson Blvd
Balto. Md.
21221

Case # 9485A

Dear Mr. Hackett,

Our zoning variance was granted by Commissioner Schmidt on May 27, 1994 after several hearings & months of waiting for this variance. We have been under a financial burden since the property involved is our previous home & we have 2 housepayments until this matter is solved.

We are urgently requesting you to reschedule the appeal hearing at the earliest date possible. We greatly appreciate your understanding.

Sincerely,

Mr. & Mrs. Salvatore Frascketti

94 JUL 11 AM 11:37

3027-94
JW

6/14/94
8

In RE: Petition for Zoning Variance
SW/S Thompson Blvd.
SE of Sandalwood Road
950 Thompson Blvd
15 Election District
5th Councilmanic District
Salvatore A. Frascketti
et ux Petitioners

Please find a check for $210 for which I would like to begin the appeal process for a variance granted for which an illegal pier is allowed to remain

Protestants in case
948 THOMPSON BLVD

Jeffery A Waggoner
Therese L Waggoner

Thank you
J. A. Waggoner

RECEIVED
JUN 13 1994
ZADM

PLEASE PRINT CLEARLY **PETITIONER(S) SIGN-IN SHEET**

NAME	ADDRESS
~~Jeffer A Waggoner~~	~~948 Thompson Blvd~~
Washington Bowie	700 Goucher Avenue
Salvatore Frascketti	950 Thompson Blvd.
Deborah Frascketti	" "
Thomas O. Shanahan	[illegible]
Bryan Zubeck	1900 Delvale Ave

PLEASE PRINT CLEARLY **PETITIONER(S) SIGN-IN SHEET**

NAME	ADDRESS
Julius W. Lichter Esq	305 W. Chesapeake Ave
David T. Moriconi, P.E. ✓	2219 York Road Timonium MD 21093
Thomas O. Shanahan ✓	254 Old Liberty Rd [illegible] 21
Bryan J Zubeck ✓	2219 York Road Timonium MD 21093
Salvatore Frascketti Jr.	950 Thompson Blvd. Md 21221
Deborah Fr[illegible]	
Linda D. Miller	952 Thompson [illegible]
Donna L. [illegible] Vaina	952A Thompson Blvd Balto 21221

Printed with Soybean Ink on Recycled Paper

PLEASE PRINT CLEARLY **CITIZEN SIGN-IN SHEET**

NAME	ADDRESS
Jeffery A Waggoner	948 Thompson Blvd
Theresa L. Waggoner	948 Thompson Blvd
	Balto. Maryland 21221
Thomas Phelps	945 Barron Ave
	Balt, Md. 21221
Doug Burgess	210 W. Penna. Ave Ste 700
	Towson, MD 21204

MICROFILMED

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
THOMAS PHELPS	945 EARLSON AVE 21221
JEFFREY WAGGONER	948 THOMPSON BLVD 21221
THERESA WAGGONER	949 THOMPSON BLVD 21221
DOUG BURGESS	210 W. PENNA. AVE
	STE 700 21204

ORIGINAL 94 CV 11048

IN THE MATTER OF	*	BEFORE THE
SALVATORE A. FRASCKETTI,	*	COUNTY BOARD OF APPEALS
JR., et ux.	*	OF BALTIMORE COUNTY
SW/s Thompson Boulevard,	*	Case No. 94-85-A
SE of Sandlewood Road	*	
(950 Thompson Boulevard	*	August 10, 1994
variance - To permit	*	
distance between piers of	*	
17' in lieu of required 20';	*	
distance between property	*	
line 4' in lieu of required	*	
10; also amend FDP	*	

* * * * *

The above-entitled matter came on for hearing before the Baltimore County Board of Appeals at the Old Courthouse, 401 Washington Avenue, Towson, Maryland 21204 at 10 o'clock a.m., August 10, 1994.

* * * * *

Reported by:

C.E. Peatt

Box 273

BOARD OF APPEALS

LIBER 8990 PAGE 124

498A

8409/119

THIS DEED, made this 28th day of October, 1991, by and between SALVATORE A. FRASCKETTI, JR. and DEBORAH A. FRASCKETTI, his wife, of Baltimore County, State of Maryland, of the first part; and SALVATORE A. FRASCKETTI, JR. and DEBORAH A. FRASCKETTI, his wife, of the second part.

RECORDED 31.00
FILMED 3.
CC 1MP
02 111138 33.00
12/04/91

WITNESSETH, That for NO CONSIDERATION, the said SALVATORE A. FRASCKETTI, JR. and DEBORAH A. FRASCKETTI, his wife, do grant and convey unto SALVATORE A. FRASCKETTI, JR. and DEBORAH A. FRASCKETTI, his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, all that piece or parcel of land situate and lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

BEGINNING for the first or "Revised Lot 3" at a pipe now set at the intersection of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the plat records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94, with the south side of an additional road widening parcel for Thompson Boulevard containing o.003 of an Acre, said beginning pipe being distant South 26 degrees 34 minutes 46 seconds West 5.00 feet measured reversely along said division line from the end thereof and running thence from said place of beginning and binding reversely on a part of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as now surveyed and the courses are now referred to the Baltimore County Grid Meridian South 26 degrees 34 minutes 46 seconds West 109.39 feet to the southwest corner of said Lot 2, thence leaving said corner and running for a line of division which is the prolongation of said division line between Lot 2 and Lot 3 South 26 degrees 34 minutes 46 seconds West 5.63 feet to a pipe, thence continuing to run for a line of division South 62 degrees 13 minutes 12 seconds East 140.92 feet to a pipe now set in the easternmost outline of Lot 3 distance South 35 degrees 04 minutes 46 seconds West 6.02 feet, measured along said easternmost outline as now surveyed, from the southeast corner of Lot 1 as laid out on the aforesaid "1st Amended Subdivision Plat Frascketti Property Thompson Blvd.", thence running with and binding on a part of said easternmost outline of Lot 3, as now surveyed, South 35 degrees 04 minutes 46 seconds West 151.23 feet to a point, thence leaving said outline and running for lines of division the four following courses and distances viz: North 62 degrees 13 minutes 12 seconds West 118.56 feet to a pipe now set, North 26 degrees 34 minutes 46

Rt 100

Rt 100

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE DATE 12 4 91

OVER

LIBER 8990 PAGE 125

seconds East, running parallel with and distant 20 feet southeasterly, measured at right angles, from the North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on said plat, 121.75 to a pipe now set, North 18 degrees 25 minutes 14 seconds West 14.14 feet to a pipe now set, and North 26 degrees 34 minutes 46 seconds East, running parallel with and distant 10 feet southeasterly, measured at right angles, from said North 26 degrees 29 minutes 10 seconds East 500 foot line, 130.80 feet to a pipe now set and to intersect the aforesaid south side of the additional road widening line of Thompson Boulevard and thence binding on the said south side of Thompson Boulevard, South 77 degrees 27 minutes 25 seconds East 10.31 feet to the place of beginning.

CONTAINING 0.478 of an Acre of land more or less.
SEE ATTACHED EXHIBIT "A"

BEING a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94.

BEING part of a parcel of land which by deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife.

SUBJECT to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

SUBJECT to and together with the right and use thereof in common with the owners of Lot 3A, now laid out, their heirs and assigns and known as No. 948 A Thompson Boulevard, Jeffrey A. Waggoner and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6937, folio 411, and known as No. 948 Thompson Boulevard, and Michael J. Lhotsky and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6944, folio 529 and known as No. 946 Thompson Boulevard of the use and maintenance of the existing driveway leading from the above mentioned three owners' parcels of land in a northeasterly direction to Thompson Boulevard.

See also an Order in the Matter of the Closing of a Portion of Model Camp Road (a paper road) dated May 21, 1984 in Liber I, folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the east side of said revised Lot 3 and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

OVER

LIBER 8990 PAGE 126

Also subject to a new 10 foot drainage and utility easement to be conveyed by the Grantors herein to Baltimore County, Maryland and shown on Bureau of Land Acquisition R/W Plat No.

BEGINNING for the second or "Part of Lot 3" lot at a pipe now set in the first line of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and wife distant South 26 degrees 34 minutes 46 seconds West 460 feet measured along said first line from the beginning of said parcel of land and said pipe is in the westernmost or North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94 and running from said place of beginning and running with and binding on a part of said first line and on a part of the second line of said parcel of land which was conveyed by Poston to Fraseketti and binding on part of the lines of said plat as the courses are now referred to Baltimore County Grid Meridian as now surveyed the two following courses and distances viz: South 26 degrees 34 minutes 46 seconds West 40.00 feet to the waters of Back River and South 37 degrees 05 minutes 26 seconds East, binding on the waters of Back River, 15.90 feet and thence leaving said outlines and river and running for lines of division the two following courses and distances viz: North 50 degrees 22 minutes 46 seconds East 51.42 feet to a pipe and North 63 degrees 25 minutes 14 seconds West 35.00 feet to the place of beginning.

Containing 0.025 of an Acre of land more or less and being known as "Part of Lot 3" Lot. SEE ATTACHED EXHIBIT "A" DESIGNATED AS LOT 3

BEING a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94.

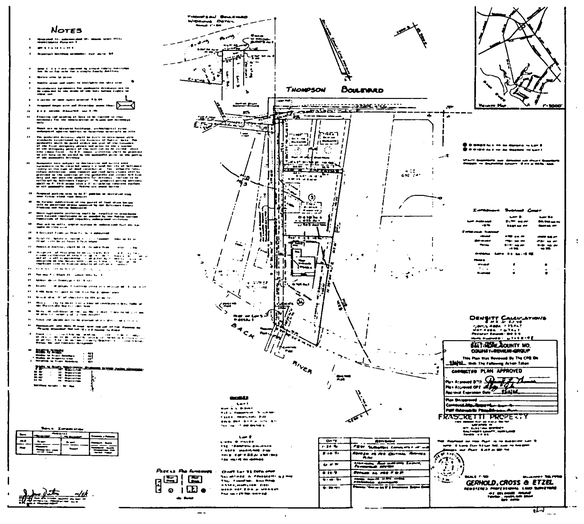
BEING part of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti Jr. and Deborah A. Fraseketti, his wife.

SUBJECT to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

SUBJECT to and with the express reservation that no structure, building, fence, shrubbery, or other objects be placed upon this lot which would exceed

(OVER)

EXHIBIT "A"



one foot in height, thereby preserving for all the water view intended to run with the land.

See also an Order in the Matter of the Closing of a Portion of Model camp Road (a paper road) dated May 21, 1984 in Liber 1, folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the west side of said "Part of Lot 3" and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

See also approved Critical Findings Report in the Files of the Baltimore County Department of Environmental Protection and Resource Management.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, forever, in fee simple.

AND the said Grantors hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such further assurances as may be requisite.

WITNESS the hands and seals of said Grantors.

WITNESS:

Nicholas A. Gauci — Salvatore A. Frascketti (SEAL)
SALVATORE A. FRASCKETTI, JR.

Nicholas A. Gauci — Deborah A. Frascketti (SEAL)
DEBORAH A. FRASCKETTI

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 26 day of February, 1991, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, and acknowledged the foregoing Deed to be their act.

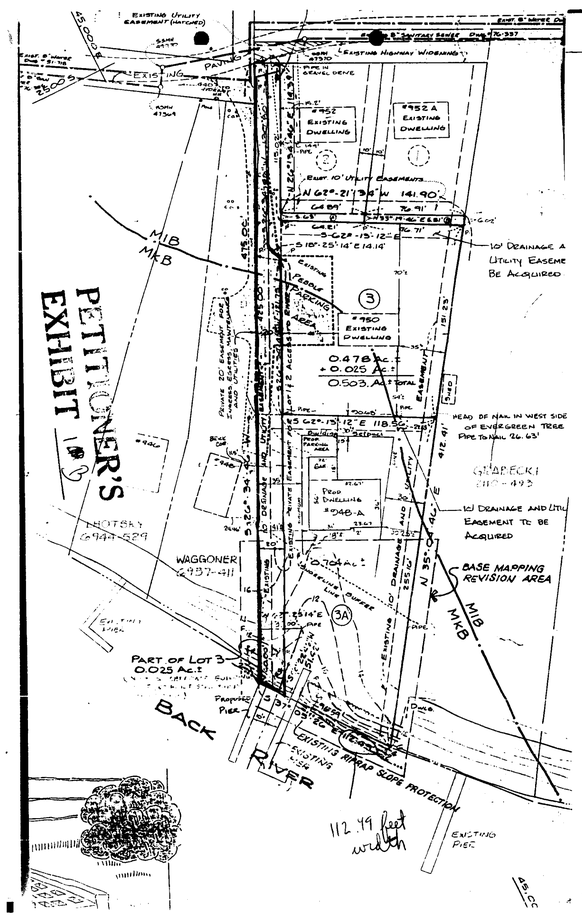
AS WITNESS my hand and Notarial Seal.

Myles F. Friedman
NOTARY PUBLIC

My Commission Expires: 8-7-95

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Myles F. Friedman
MYLES F. FRIEDMAN



FEE-SIMPLE DEED—CODE—City or County

This Deed, Made this 13th day of May in the year one thousand nine hundred and eighty, by and between

RICHARD F. S. POSTON and ELMA M. POSTON, his wife

of Baltimore County in the State of Maryland, of the first part, and

SALVATORE A. FRASEKETTI, JR. and DEBORAH A. FRASEKETTI, his wife

of the second part.

Witnesseth, That in consideration of the sum of Thirty-Two Thousand Five Hundred Dollars ($32,500.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the said Richard F. S. Poston and Elma M. Poston, his wife

MY 14-80 129107SE ***3125
MY 14-80 129108SE ***1625
MY 14-80 129109SE ***1625
MY 14-80 129110SE ****1625

do grant and convey unto the said Salvatore A. Frasketti, Jr. and Deborah A. Frasketti, his wife, as tenants by the entireties, the survivor of them, and the survivor's

heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:—

Beginning for the same at the south corner of a road 30 feet wide and road 20 feet wide known as Hofstetter Avenue which place of beginning is about 18 feet southerly from the intersection of the centre lines of said two roads the beginning point of the first line of the tract of land (13.6 acres) firstly described in a deed from Daniel Crook, widower, to Herman J. Hughes, dated the 1nd day of August, 1915, and recorded among the Land Records of Baltimore County in Liber WPC No. 451, folio 109, and running thence from the aforesaid corner binding on the southeast side of said road 30 feet wide south 35°41' west 500 feet more or less to the waters of Back River, thence binding on said Back River south 34°45' east 113 feet, thence north 41°34' east 556 feet more or less to Hofstetter Avenue, and thence binding on the southwest side of Hofstetter Avenue north 56°56' west 183 feet to the place of beginning.

BEING the same lot of ground described in a Deed dated May 23, 1967 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4762, folio 470, which was granted and conveyed by Frederick G. Winterling and Madeline Winterling, his wife, and Heber S. Dixon and Marie Dixon, his wife to Richard F. S. Poston and Elma M. Poston, his wife, the Grantors herein.

Rd Not

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B114000 CONTROL #: NR DIST: 15 PREC: 12
DATE ISSUED: 08/11/92 TAX ACCOUNT #: 1900009185 CLASS: 04

PLANS: CONST 2 PLOT 7 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 948A THOMPSON BLVD
SUBDIVISION: FRASEKETTI PROPERTY

OWNERS INFORMATION
NAME: FRASEKETTI, SALVATORE & DEBORAH
ADDR: 950 THOMPSON BLVD., 21221

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

CONTR: QUALITY CRAFT CONTRACTORS, INC.

[illegible] DEVELOPED BY DEED, NEW LOT
SQ/ 50/26SQ/42/50 LIBER 8B SQ/FOLIO 145.
NEW LOT NO. 2 BEDROOMS 54'BC'X56'X38'=4377SF

ZONE: CODE: 1 AND 2 FAM. CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD
EXISTING USE: VACANT LOT

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

FOUNDATION: BLOCK BASEMENT: FULL
SEWER: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS
LOT: [illegible]
FRONT STREET:
SIDE STREET:
FRONT SETB: 31
SIDE SETB: 40/30
SIDE STR SETB:
REAR SETB: 130

Bet?

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said *Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife, as tenants by the entireties, the survivor of them, and the survivor's* heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that ~~they~~ will warrant specially the property granted and they ~~will~~ will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

RICHARD F. S. POSTON (SEAL)

ELMA M. POSTON (SEAL)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 13th day of May in the year one thousand nine hundred and eighty, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared RICHARD F. S. POSTON and ELMA M. POSTON, his wife

the above named grantors and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

Barbara A. Blackman
Notary Public.

Rec'd for record MAY 14 1980 at 1:57 A
Per Elmer H. Kahlins, Jr., Clerk
Mail to [illegible]
Receipt No. [illegible]

FEE-SIMPLE DEED—CODE—City or County

94-085-A

This Deed, Made this 13th day of May in the year one thousand nine hundred and eighty, by and between

RICHARD F. S. POSTON and ELMA M. POSTON, his wife

of Baltimore County in the State of Maryland, of the first part, and

SALVATORE A. FRASEKETTI, JR. and DEBORAH A. FRASEKETTI, his wife

of the second part.

Witnesseth, That in consideration of the sum of *Thirty-Two Thousand Five Hundred Dollars ($32,500.00) and other good and valuable considerations, the receipt of which is hereby acknowledged,* the said *Richard F. S. Poston and Elma M. Poston, his wife*

do grant and convey unto the said *Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife, as tenants by the entireties, the survivor of them, and the survivor's* heirs and assigns, in fee simple, all *that lot* of ground, situate, lying and being in *Baltimore County, State of Maryland*, aforesaid, and described as follows, that is to say:—

Beginning for the *same at the south corner of a road 30 feet wide and road 20 feet wide known as Hofstetter Avenue which place of beginning is about 18 feet southerly from the intersection of the centre lines of said two roads the beginning point of the first line of the tract of land (13.6 acres) firstly described in a deed from Daniel Crook, widower, to Herman J. Hughes, dated the 2nd day of August, 1915, and recorded among the Land Records of Baltimore County in Liber WPC No. 451, folio 109, and running thence from the aforesaid corner binding on the southeast side of said road 30 feet wide south 39°4' west 500 feet more or less to the waters of Back River, thence binding on said Back River south 34°45' east 175 feet, thence north 41°34' east 556 feet more or less to Hofstetter Avenue, and thence binding on the southwest side of Hofstetter Avenue north 56°56' west 183 feet to the place of beginning.*

BEING the same lot of ground described in a Deed dated May 23, 1967 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4785, folio 470, which was granted and conveyed by Frederick G. Winterling and Madeline Winterling, his wife, and Weber S. Dixon and Marie Dixon, his wife to Richard F. S. Poston and Elma M. Poston, his wife, the Grantors herein.

Day 77

B

LIBER 6164 PAGE 510

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said *Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife, as tenants by the entireties, the survivor of them, and the survivor's* heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that ~~they~~ will warrant specially the property granted and they ~~will~~ will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

RICHARD F. S. POSTON (SEAL)

ELMA M. POSTON (SEAL)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 13th day of May in the year one thousand nine hundred and eighty, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared RICHARD F. S. POSTON and ELMA M. POSTON, his wife

the above named grantors and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

Barbara A. Blackman
Notary Public.

Rec'd for record MAY 14 1980 at 1:57 A
Per Elmer H. Kahlins, Jr., Clerk
Mail to [illegible]
Receipt No. [illegible]

Plat to accompany Petition for Zoning ☐ Variance ☐ Special Hearing

see pages 5 & 6 of the CHECKLIST for additional required information

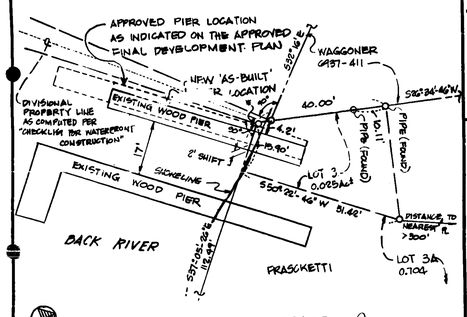
PROPERTY ADDRESS: 250 THOMPSON BOULEVARD

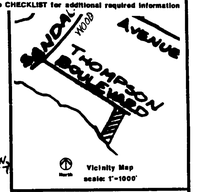
Subdivision name: FRASCKETTI PROPERTY

plat book# 52, folio# 96, lot# 3, section#

OWNER: SALVATORE A. FRASCKETTI, JR & WIFE

* NOT PLAT [illegible] TION TO EXIST. PIER = [illegible]'





North
Vicinity Map
scale: 1"=1000'

LOCATION INFORMATION

Election District: 15TH

Councilmanic District: 5

1"=200' scale map#: SE1H

Zoning: DR 5.5

Lot size: 0.503 acreage; 21,911 square feet

	public	private
SEWER:	☒	☐
WATER:	☒	☐

Chesapeake Bay Critical Area: ☒ yes ☐ no

Prior Zoning Hearings:

Zoning Office USE ONLY!
reviewed by: ITEM #: 87 CASE#:

94-85-A

North
date: 7-9-93
prepared by: DTM
Scale of Drawing: 1"= 20'

Pd No3

DECLARATION OF NANCY L. SPIRKO

I, NANCY L. SPIRKO, do hereby declare pursuant to 28 U.S.C. 1746 as follows:

1. I am employed by the U.S. Army Corps of Engineers, Baltimore District, Operations Division, Regulatory Branch, Western Shore Permits Section, as an Office Automation Secretary, and as such I am in charge of the permit files which include those for Back River, Baltimore County, Maryland.

2. I searched the computer data base, and the permit files for any and all information on a permit for Salvatore Franscketti, 950 Thompson Boulevard, Baltimore, Maryland 21221. The search showed that a General Permit was authorized for the construction of a pier, permit No. NABOP-RW(Franscketti, Salvatore) 87-0971-6. The only documents concerning this General permit in the District files are the computer print-out with the heading FGP,11/13/1086,<NULL>, and the copy of the permit card from the file, which states the waterway and location is "In Back River near Hyde Park, Baltimore County, Md."

3. Copies of these two documents are attached.

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

EXECUTED ON October 8, 1993

Nancy L. Spirko
NANCY L. SPIRKO

Plat #10

FGP,11/13/1986,<NULL>
PROJECT MANAGER:BURKE
KEYWORDS:,,
INSPECTION SCHEDULED & PERFORMED:
INSPECTOR:

ACTION ID:198700971
NAME:FRANSCKETTI,SALVATORE,A1
CHESAPEAKE BAY CONSTRUCTION CO.,C1
,,AC
PROJECT NAME:FRANSCKETTI
WATERWAY:BACK RIVER
APPROVED WORK:
FIRST LINE OF DESCRIPTION:
COUNTY & STATE:Baltimore,MD
STATUS & START DATE:PPG,04/09/1987,04/25/1987
FGP,04/25/1987,<NULL>
PROJECT MANAGER:MORGAN
KEYWORDS:PIER,PILES,
INSPECTION SCHEDULED & PERFORMED:
INSPECTOR:

WATERWAY AND LOCATION: In Back River near Hyde Park, Baltimore County, Md.

FILE NUMBER / RECORD OF PERMITS: NABOP-RW(Franscketti, Salvatore) 87-0971-6

GP-2

STRUCTURE OR WORK: to construct a 70 foot pier with a 10' x 20' "L" and to install four mooring piles, none of the work to extend more than 70 feet channelward of the mean high water shoreline.

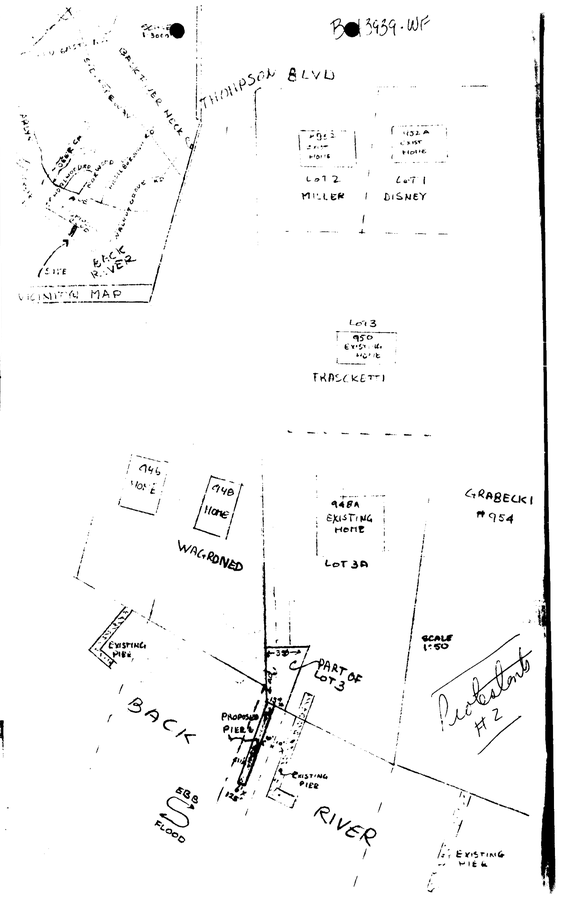
NAME AND ADDRESS OF APPLICANT: Mr. Salvatore Franscketti Baltimore, Md. 21221
950 Thompson Blvd.

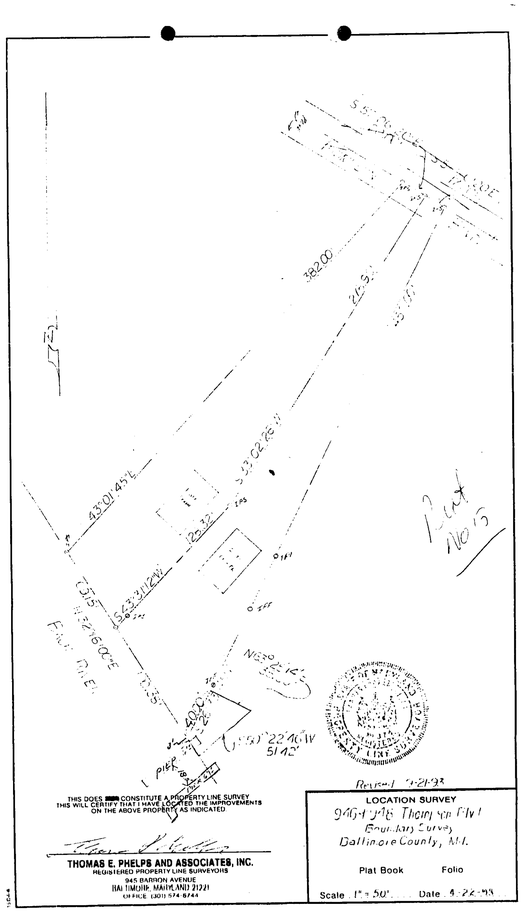
DATE OF APPLICATION	DATE RECEIVED	DATE ISSUED	ISSUED BY	DATE OF EXPIRATION
4 Apr. 87	13 Apr. 87	3 June 87	District Engineer	31 Dec. 1988

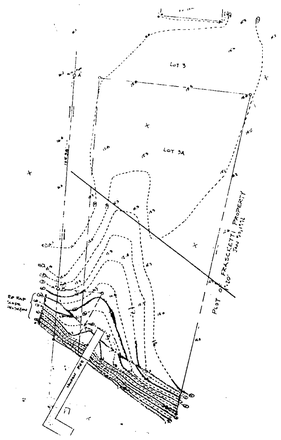
DATE FORWARDED TO PERMITTEE	TIME TO COMPLETE EXTENDED: DATE EXTENDED	EXTENDED TO	CERTIFICATION RECEIVED: YES ☐ NO ☐

DATE INSPECTED	NAME OF INSPECTOR	DATE WORK STARTED	DATE WORK COMPLETED

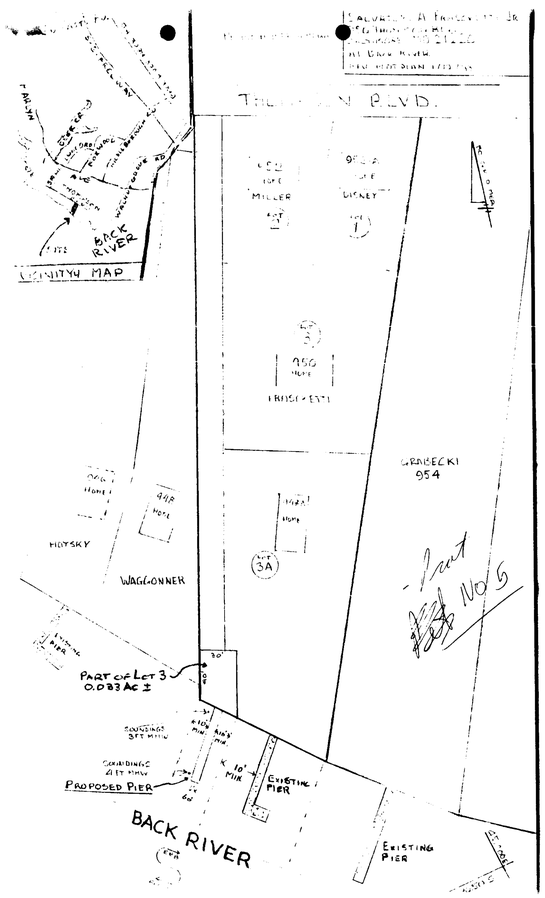
REMARKS: GP-2



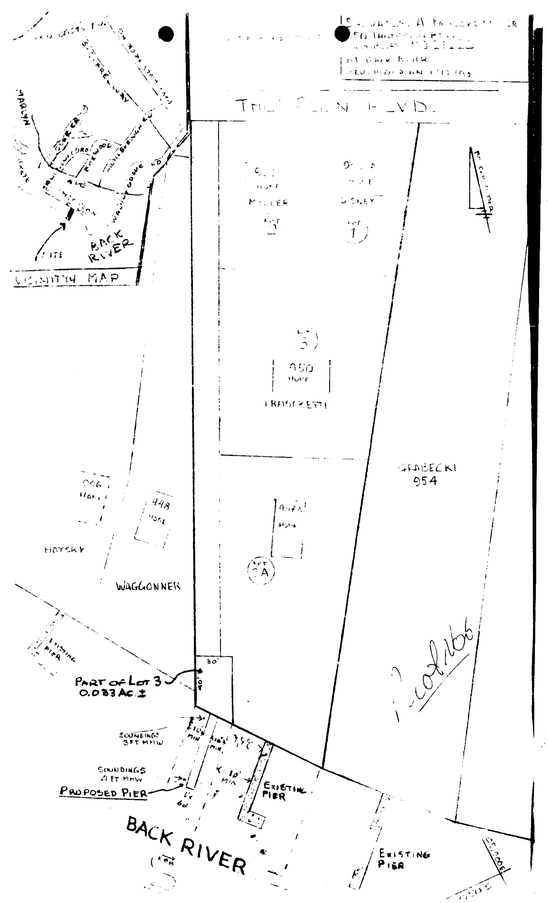




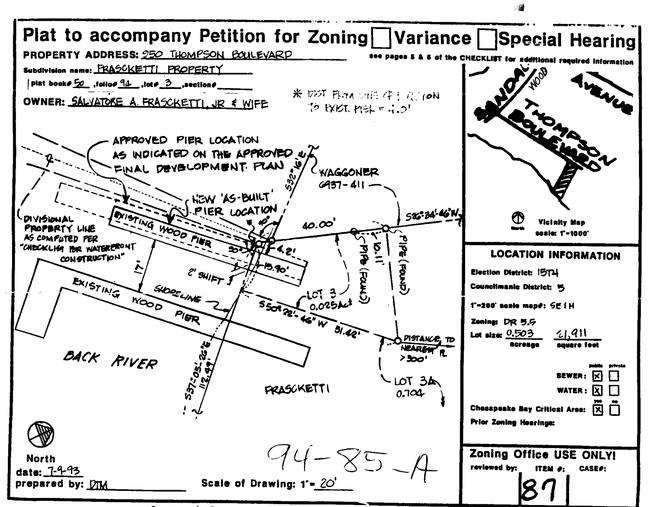
Prot No 1



Prot No 5



Prot No 6



Sub #7

LIBER 8990 PAGE 119

#8

B RC/F	24.00
BC IMP	5.00
DEED	0
SM CLERK	29.00

THIS DEED, made this 28th day of October, 1991, by and between **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI,** his wife, of Baltimore County, State of Maryland, of the first part; and **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI,** his wife, of the second part.

WITNESSETH, That for **NO CONSIDERATION,** the said **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI,** his wife, do grant and convey unto **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI,** his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, all that piece or parcel of land situate and lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

BEGINNING for the same at a pipe now set at the intersection of the first or South 33 degrees 04 minutes West 500 foot more or less line of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Frasketti, Jr. and wife with the south side of an additional road widening parcel for Thompson Boulevard containing 0.003 of an Acre, said pipe being distant South 26 degrees 34 minutes 46 seconds West 35.00 feet measured along said line from the beginning of said parcel of land, said pipe also being in the North 26 degrees 29 minutes 10 seconds East 500 foot line of Lot 3 as laid out on a Plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the plat records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94, said same pipe being distant South 26 degrees 34 minutes 46 seconds West 10.00 feet measured reversely along said North 26 degrees 29 minutes 10 seconds East 500 foot line from the south side of an existing Highway Widening Strip of Thompson Boulevard as shown and laid out on said 1st Amended Plat and thence leaving said Boulevard and running with and binding on a part of said 1st line and binding reversely on a part of said North 26 degrees 29 minutes 10 seconds East 500 foot line of said Lot 3 as now surveyed and as the courses are referred to the Baltimore County Grid Meridian, South 26 degrees 34 minutes 46 seconds West 425.00 feet to a pipe now set at the northwest corner of a parcel of land known as "Part of Lot 3" and now laid out, thence leaving said outline and running for lines of division and binding on the outlines of said "Part of Lot 3" the two following courses and distances viz: South 63 degrees 25 minutes 14 seconds East 35.00 feet to a pipe and South 50 degrees 22 minutes 46 seconds West 51.42 feet to the waters of Back River and to intersect

RECEIVED FOR TRANSFER
State Department of Assessments & Taxation for Baltimore County

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE ____ DATE 12-4-91

the second line of said parcel of land which was conveyed by Poston to Fraseketti, thence binding on the waters of Back River and running with and binding on a part of said second line and on a part of the third line of said parcel of land which was conveyed by Poston to Fraseketti, the two following courses and distances viz: South 37 degrees 05 minutes 26 seconds East 96.59 feet and leaving said river North 35 degrees 04 minutes 46 seconds East binding on the eastern outline as shown on the aforesaid plat, as now surveyed, 255.16 feet to a point near a tree, thence leaving said outline and running for lines of division now made, the four following courses and distances viz: North 62 degrees ~~149~~ minutes 12 seconds West 118.56 feet to a pipe now set, North 26 degrees 34 minutes 46 seconds East running parallel with and distant 20 feet southeasterly, measured at right angles, from the first line of the herein described parcel of land, 121.75 feet to a pipe now set, North 18 degrees 25 minutes 14 seconds West 14.14 feet to a pipe now set and North 26 degrees 34 minutes 46 seconds East, running parallel with and distant 10 feet southeasterly, measured at right angles, from the said first line of the herein described parcel of land, 130.80 feet to a pipe now set and to intersect the aforesaid south side of the additional road widening line of Thompson Boulevard and thence binding on the said south side of Thompson Boulevard as widened North 77 degrees 27 minutes 25 seconds West 10.31 feet to the place of beginning.

Containing 0.704 of an Acre of land more or less.
Net based on approved subdivision as per SP

BEING a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94.

BEING part of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife.

SUBJECT to and together with the right and use thereof in common with the owners of Lot 2, Lot 1, and Revised Lot 3 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

SUBJECT to and together with the right and use thereof in common with the owners of Revised Lot 3, now laid out, their heirs and assigns and known as No. 950 Thompson Boulevard, Jeffrey A. Waggoner and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6937, folio 411 and known as No. 948 Thompson Boulevard and Michael J. Lhotsky and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6944, folio 529 and known as No. 946 Thompson Boulevard of the use and maintenance

of the existing driveway leading from the above mentioned three owners' parcels of land in a northeasterly direction to Thompson Boulevard.

See also an Order in the Matter of the Closing of a Portion of Modal Camp Road (a paper road) dted May 21, 1984 in Liber 1, folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the east side of said Lot 3A and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd.

Also subject to a new 10 foot drainage and utility easement to be conveyed by the Grantors herein to Baltimore County, Maryland and shown on Bureau of Land Acquisition R/W Plat No.

See also approved Critical Findings Report in the Files of the Baltimore County Department of Environmental Protection and Resource Management.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, forever, in fee simple.

AND the said Grantors hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such further assurances as may be requisite.

WITNESS the hands and seals of said Grantors.

WITNESS:

Debra A. Brown — Salvatore A. Frascketti
SALVATORE A. FRASCKETTI, JR.

Debra A. Brown — Deborah A. Frascketti
DEBORAH A. FRASCKETTI

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 28 day of October, 1991, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, and acknowledged the foregoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

Myles F. Friedman
NOTARY PUBLIC

My Commission Expires: 5-7-95

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Myles F. Friedman
MYLES F. FRIEDMAN

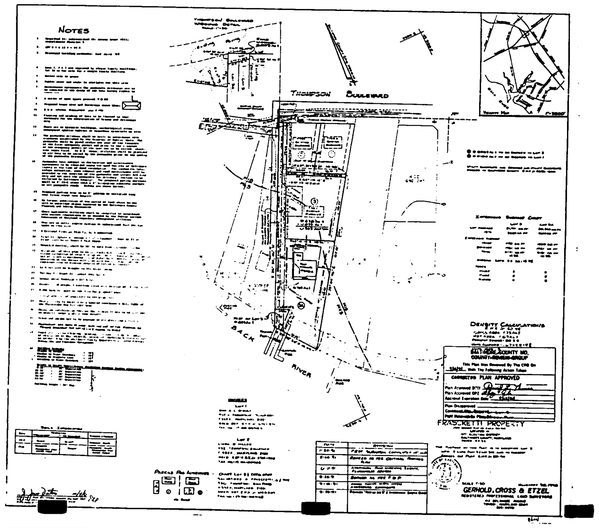
THIS DEED, made this 28th day of October, 1991, by and between **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, of Baltimore County, State of Maryland, of the first part; and **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, of the second part.

WITNESSETH, That for **NO CONSIDERATION**, the said **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, do grant and convey unto **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, all that piece or parcel of land situate and lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

BEGINNING for the first or "Revised Lot 3" at a pipe now set at the intersection of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the plat records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94, with the south side of an additional road widening parcel for Thompson Boulevard containing 0.003 of an Acre, said beginning pipe being distant South 26 degrees 34 minutes 46 seconds West 5.00 feet measured reversely along said division line from the end thereof and running thence from said place of beginning and binding reversely on a part of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as now surveyed and the courses are now referred to the Baltimore County Grid Meridian South 26 degrees 34 minutes 46 seconds West 109.39 feet to the southwest corner of said Lot 2, thence leaving said corner and running for a line of division which is the prolongation of said division line between Lot 2 and Lot 3 South 26 degrees 34 minutes 46 seconds West 5.63 feet to a pipe, thence continuing to run for a line of division South 62 degrees 13 minutes 12 seconds East 140.92 feet to a pipe now set in the easternmost outline of Lot 3 distance South 35 degrees 04 minutes 46 seconds West 6.02 feet, measured along said easternmost outline as now surveyed, from the southeast corner of Lot 1 as laid out on the aforesaid "1st Amended Subdivision Plat Frascketti Property Thompson Blvd.", thence running with and binding on a part of said easternmost outline of Lot 3, as now surveyed, South 35 degrees 04 minutes 46 seconds West 151.23 feet to a point, thence leaving said outline and running for lines of division the four following courses and distances viz: North 62 degrees 13 minutes 12 seconds West 118.56 feet to a pipe now set, North 26 degrees 34 minutes 46

RECEIVED FOR TRANSFER
State Department of Assessments & Taxation for Baltimore County
AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE DATE 11/4/91

EXHIBIT "A"



PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

87

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

94-85-A

September 30, 1991

REVISED LOT 3
0.478 of an Acre

All that piece or parcel of land situate, lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the first or "Revised Lot 3" at a pipe now set at the intersection of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the plat records of Baltimore County in Plat Book E.H.K.JR No. 50 folio 94, with the south side of an additional road widening parcel for Thompson Boulevard 0.003 of an Acre, said beginning pipe being distant South 26 degrees 34 minutes 46 seconds West 5.00 feet measured reversely along said division line from the end thereof and running thence from said place of beginning and binding reversely on a part of the North 26 degrees 29 minutes 10 seconds East 114.10 foot division line between Lot 2 and Lot 3 as now surveyed and the courses are now referred to the Baltimore County Grid Meridian South 26 degrees 34 minutes 46 seconds West 109.39 feet to the southwest corner of said Lot 2, thence leaving said corner and running for a line of division which is the prolongation of said division line between Lot 2 and Lot 3 South 26 degrees 34 minutes 46 seconds West 5.63 feet to a pipe, thence continuing to run for a line of division South 62 degrees 13 minutes 12 seconds East 140.92 feet to a pipe now set in the easternmost outline of Lot 3 distant South 35 degrees 04 minutes 46 seconds West 6.02 feet, measured along said easternmost outline as now surveyed, from the southeast corner of Lot 1 as laid out on the aforesaid "1st Amended Subdivision Plat Frascketti Property Thompson Blvd.", thence running with and binding on a part of said easternmost outline of Lot 3, as now surveyed, South 35 degrees 04 minutes 46 seconds West 151.23 feet to a point, thence leaving said outline and running for lines of division the four following courses and distances viz: North 62 degrees 13 minutes 12 seconds West 118.56 feet to a pipe now set, North 26 degrees 34 minutes 46 seconds East, running parallel with and distant 20 feet southeasterly, measured at right angles, from the North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on said plat, 121.75 to a pipe now set, North 18 degrees 25 minutes 14 seconds West 14.14 feet to a pipe now set, and North 26 degrees 34 minutes 46 seconds East, running parallel with and distant 10 feet southeasterly, measured at right angles, from said North 26 degrees 29 minutes 10 seconds East 500 foot line, 130.80 feet to a pipe now set and to intersect the aforesaid south side of the additional road widening line of Thompson Boulevard and thence binding on the said south side of Thompson Boulevard, South 77 degrees 27 minutes 25 seconds East 10.31 feet to the place of beginning.

Containing 0.478 of an Acre of land more or less.

MICROFILMED

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

REVISED LOT 3
0.478 of an Acre

94-85-A

Being a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.JR No. 50 folio 94.

Being part of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.JR No. 6164 folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti Jr. and Deborah A. Fraseketti, his wife.

Subject to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

Subject to and together with the right and use thereof in common with the owners of Lot 3A, now laid out, their heirs and assigns and known as No. 948 A Thompson Boulevard, Jeffrey A. Waggoner and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.JR No. 6937 folio 411 and known as No. 948 Thompson Boulevard, and Michael J. Lhotsky and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.JR No. 6944 folio 529 and known ad No. 946 Thompson Boulevard of the use and maintenance of the existing driveway leading from the above mentioned three owners' parcels of land in a northeasterly direction to Thompson Boulevard.

See also an order in the matter of the Closing of a Portion of Model Camp Road (a paper road) dated May 21, 1984 in Liber 1 folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the east side of said revised Lot 3 and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

Also subject to a new 10 foot drainage and utility easement to be conveyed by the Grantors herein to Baltimore County, Maryland and shown on Bureau of Land Acquisition R/W Plat No.

Beginning for the second or "Part of Lot 3" lot at a pipe now set in the first line of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.JR No. 6164 folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and wife distant South 26 degrees 34 minutes 46 seconds West 460 feet measured along said first line from the beginning of said parcel of land and said pipe is in the westernmost or North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which

---

PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON
DAVID E. RANSONE

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG
CARL L. GERHOLD

"PART OF LOT 3" LOT
0.025 of an Acre

94-85-A

plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.JR No. 50 folio 94 and running from said place of beginning and running with and binding on a part of said first line and on a part of the second line of said parcel of land which was conveyed by Poston to Fraseketti and binding on part of the lines of said plat as the courses are now referred to Baltimore County Grid Meridian as now surveyed the two following courses and distances viz: South 26 degrees 34 minutes 46 seconds West 40.00 feet to the waters of Back River and South 37 degrees 05 minutes 26 seconds East, binding on the waters of Back River, 15.90 feet and thence leaving said outlines and river and running for lines of division the two following courses and distances viz: North 50 degrees 22 minutes 46 seconds East 51.42 feet to a pipe and North 63 degrees 25 minutes 14 seconds West 35.00 feet to the place of beginning.

Containing 0.025 of an Acre of land more or less and being known as "Part of Lot 3" Lot.

Being a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.JR No. 50 folio 94.

Being part of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.JR No. 6164 folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti Jr. and Deborah A. Fraseketti, his wife.

Subject to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

See also an order in the matter of the Closing of a Portion of Model Camp Road (a paper road) dated May 21, 1984 in Liber 1 folio 563

Also subject to an existing 10 foot drainage and utility easement binding on the west side of said "Part of Lot 3" and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

See also approved Critical Findings Report in the Files of the Baltimore County Department of Environmental Protection and Resource Management.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

94-85-A

District: 15th — Date of Posting: 9/17/93
Posted for: Variance
Petitioner: Salvatore & Deborah Frascketti
Location of property: 950 Thompson Blvd., S/s, SE/Sandlewood Rd
Location of Signs: Facing roadway, on property being zoned
Remarks:
Posted by: [signature] (Signature) — Date of return: 9/24/93
Number of Signs: 1

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: #94-85-A (Item 87)
950 Thompson Boulevard
SW/S Thompson Boulevard, SE of Sandlewood Road
15th Election District
8th Councilmanic
Petitioner(s):
Salvatore A. Frascketti, Jr. and Deborah A. Frascketti
Hearing: Tuesday, October 12, 1993 at 10:30 a.m. in Rm. 106, County Office Building.

Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1)Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.
(2)For information concerning the File and/or Hearing, Please Call 887-3391.
9/053 Sept. 2.

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept. 2, 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 Sept. 2, 1993.

THE JEFFERSONIAN,
A. Henrickson
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND — No.
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE — ACCOUNT
AMOUNT $
RECEIVED FROM:
FOR: Frascketti Case
VALIDATION OR SIGNATURE OF CASHIER
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND — No. 14802
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 6/14/94 — ACCOUNT R-001-6150
AMOUNT $ 175.00
RECEIVED FROM: Jeffrey + Theresa Waggoner
FOR: Appeal 94-85-A
Salvatore A. Frascketti, et ux
950 Thompson ...
BA C002:25PM06-14-94
VALIDATION OR SIGNATURE OF CASHIER
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND — No. 14803
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 6/14/94 — ACCOUNT R-001-6150
AMOUNT $35.00
RECEIVED FROM: Jeffrey + Theresa Waggoner
FOR: Appeal Sign 94-85-A
Salvatore A. Frascketti, et ux
950 Thompson ... 0BA0301018MICHRC $35.00
BA C002:25PM06-14-94
VALIDATION OR SIGNATURE OF CASHIER
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

---

94 JUN 24 AM 11:35

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

94-85-A

District: 15th — Date of Posting: 6/18/94
Posted for: Appeal
Petitioner: Salvatore A. Frascketti, Jr. et al
Location of property: SW/s Thompson Blvd, 950, SE of Sandlewood Rd
Location of Signs: Posted at roadway, entrance leading to property being zoned
Remarks:
Posted by: [signature] (Signature) — Date of return: 6/25/94
Number of Signs: 1

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

receipt

94-85-A

Account: R-001-6150
Number
DROP-OFF; NO REVIEW
Date 8/20/93 — ITEM #87 (WCR)

#010 - VARIANCE ---------- $50.00
#080 - SIGN POSTING ---------- $35.00
TOTAL ---------- $85.00

Legal Owner: Deborah & Salvatore Frascketti, Jr.
Address: 950 Thompson Boulevard
District: 15c5
Attorney: Julius W. Lichter

--CRITICAL AREA--

03A03#0204MICHRC $85.00
BA C011:01AM08-24-93

Please Make Checks Payable To: Baltimore County

Cashier Validation

MICROFILMED

seconds East, running parallel with and distant 20 feet southeasterly, measured at right angles, from the North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on said plat, 121.75 to a pipe now set, North 18 degrees 25 minutes 14 seconds West 14.14 feet to a pipe now set, and North 26 degrees 34 minutes 46 seconds East, running parallel with and distant 10 feet southeasterly, measured at right angles, from said North 26 degrees 29 minutes 10 seconds East 500 foot line, 130.80 feet to a pipe now set and to intersect the aforesaid south side of the additional road widening line of Thompson Boulevard and thence binding on the said south side of Thompson Boulevard, South 77 degrees 27 minutes 25 seconds East 10.31 feet to the place of beginning.

CONTAINING 0.478 of an Acre of land more or less.
SEE ATTACHED EXHIBIT "A"

BEING a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94.

BEING part of a parcel of land which by deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and Deborah A. Fraseketti, his wife.

SUBJECT to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

SUBJECT to and together with the right and use thereof in common with the owners of Lot 3A, now laid out, their heirs and assigns and known as No. 948 A Thompson Boulevard, Jeffrey A. Waggoner and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6937, folio 411, and known as No. 948 Thompson Boulevard, and Michael J. Lhotsky and wife, their heirs and assigns, owners of a parcel of land described in a deed E.H.K.Jr. No. 6944, folio 529 and known as No. 946 Thompson Boulevard of the use and maintenance of the existing driveway leading from the above mentioned three owners' parcels of land in a northeasterly direction to Thompson Boulevard.

See also an Order in the Matter of the Closing of a Portion of Model Camp Road (a paper road) dated May 21, 1984 in Liber 1, folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the east side of said revised Lot 3 and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

Also subject to a new 10 foot drainage and utility easement to be conveyed by the Grantors herein to Baltimore County, Maryland and shown on Bureau of Land Acquisition R/W Plat No.

BEGINNING for the second or "Part of Lot 3" lot at a pipe now set in the first line of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti, Jr. and wife distant South 26 degrees 34 minutes 46 seconds West 460 feet measured along said first line from the beginning of said parcel of land and said pipe is in the westernmost or North 26 degrees 29 minutes 10 seconds East 500 foot line as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94 and running from said place of beginning and running with and binding on a part of said first line and on a part of the second line of said parcel of land which was conveyed by Poston to Fraseketti and binding on part of the lines of said plat as the courses are now referred to Baltimore County Grid Meridian as now surveyed the two following courses and distances viz: South 26 degrees 34 minutes 46 seconds West 40.00 feet to the waters of Back River and South 37 degrees 05 minutes 26 seconds East, binding on the waters of Back River, 15.90 feet and thence leaving said outlines and river and running for lines of division the two following courses and distances viz: North 50 degrees 22 minutes 46 seconds East 51.42 feet to a pipe and North 63 degrees 25 minutes 14 seconds West 35.00 feet to the place of beginning.

Containing 0.025 of an Acre of land more or less and being known as "Part of Lot 3" Lot. *SEE ATTACHED EXHIBIT "A" DESCRIPTION AS LOT 3*

BEING a part of Lot 3 as shown on a plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd." which plat is recorded among the Plat Records of Baltimore County in Plat Book E.H.K.Jr. No. 50, folio 94.

BEING part of a parcel of land which by a deed dated May 12, 1980 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6164, folio 509 was conveyed by Richard F. S. Poston and wife to Salvatore A. Fraseketti Jr. and Deborah A. Fraseketti, his wife.

SUBJECT to and together with the right and use thereof in common with the owners of Lot 2 and Lot 1 of a 20 foot private easement for ingress and egress access to and from Back River and said 20 foot easement is shown and laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

SUBJECT to and with the express reservation that no structure, building, fence, shrubbery, or other objects be placed upon this lot which would exceed

one foot in height, thereby preserving for all the water view intended to run with the land.

See also an Order in the Matter of the Closing of a Portion of Model Camp Road (a paper road) dated May 21, 1984 in Liber 1, folio 563.

Also subject to an existing 10 foot drainage and utility easement binding on the west side of said "Part of Lot 3" and heretofore laid out on the plat titled "1st Amended Subdivision Plat Frascketti Property Thompson Blvd."

See also approved Critical Findings Report in the Files of the Baltimore County Department of Environmental Protection and Resource Management.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, as tenants by the entireties, the survivor of them, and the survivor's heirs and assigns, forever, in fee simple.

AND the said Grantors hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such further assurances as may be requisite.

WITNESS the hands and seals of said Grantors.

WITNESS:

Patricia A. Gruber — Salvatore A. Frascketti, Jr.
SALVATORE A. FRASCKETTI, JR.

Patricia A. Gruber — Deborah A. Frascketti
DEBORAH A. FRASCKETTI

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 26 of June, 1991, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **SALVATORE A. FRASCKETTI, JR.** and **DEBORAH A. FRASCKETTI**, his wife, and acknowledged the foregoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

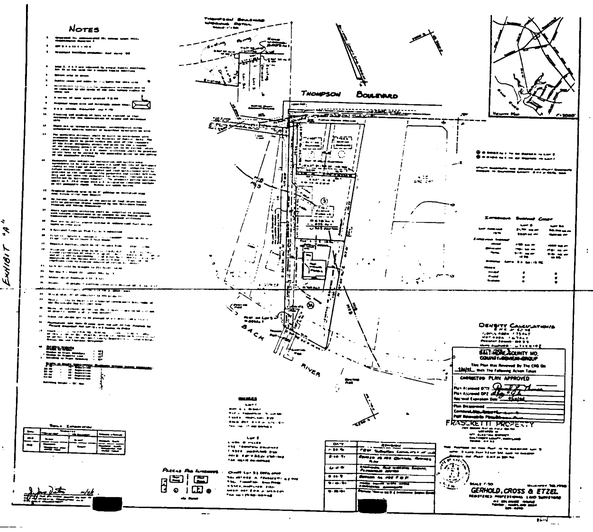
Patricia A. Gruber
NOTARY PUBLIC

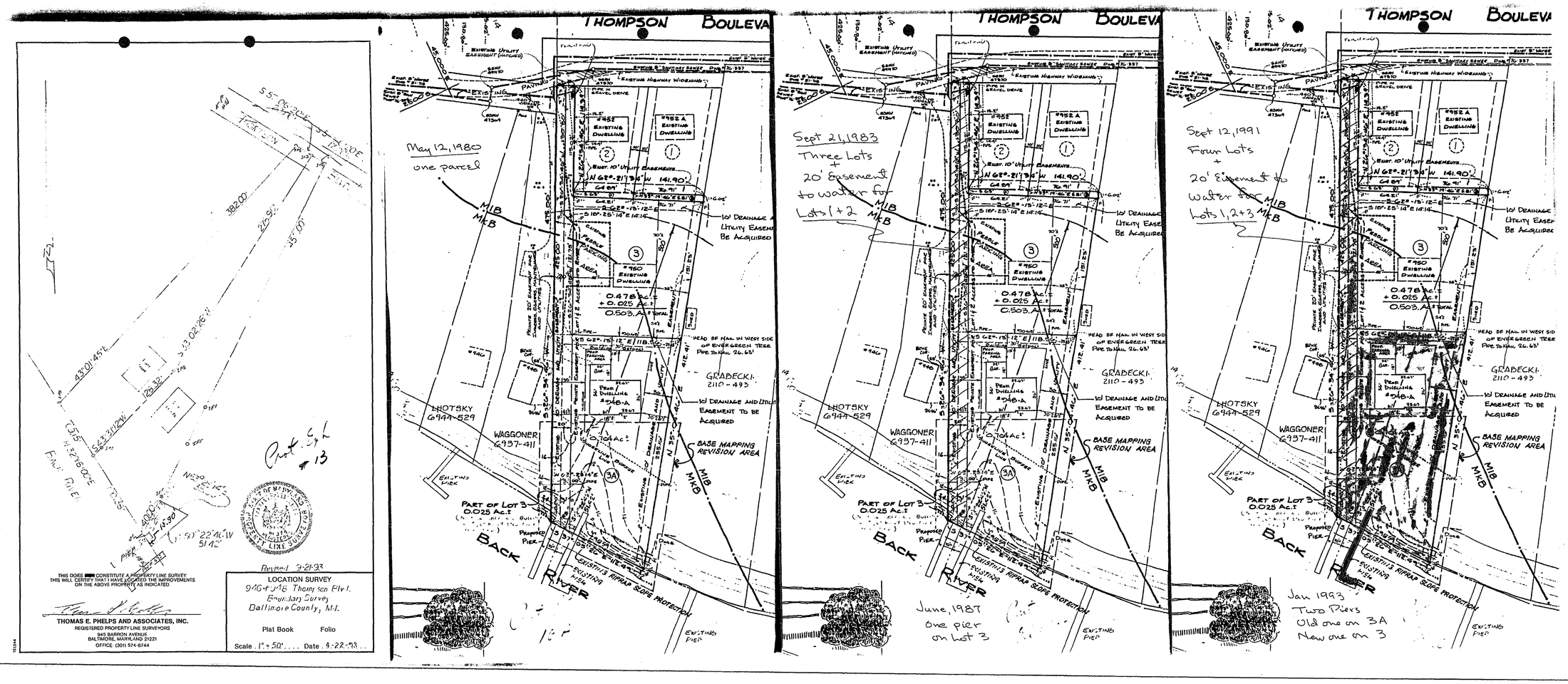
My Commission Expires: 8-7-95

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Myles D. Friedman
MYLES F. FRIEDMAN

Exhibit "A"




THOMPSON BOULEVA
May 12, 1980
one parcel
Sept 21, 1983
Three Lots
+
20' Easement
to water for
Lots 1 + 2
Sept 12, 1991
Four Lots
+
20' Easement to
water for
Lots 1, 2 + 3
June, 1987
one pier
on Lot 3
Jan 1993
Two Piers
Old one on 3A
New one on 3
#955 EXISTING DWELLING
#952 A EXISTING DWELLING
#960 EXISTING DWELLING
0.478 Ac.±
+ 0.025 Ac.±
0.503 Ac.± TOTAL
GRADECKI
2110-493
LHOTSKY
6944-529
WAGGONER
6937-411
PART OF LOT 3
0.025 Ac.±
BACK RIVER
BASE MAPPING REVISION AREA
10' DRAINAGE AND UTILITY EASEMENT TO BE ACQUIRED
EXISTING RIPRAP SLOPE PROTECTION
EXISTING PIER
PROPOSED PIER
HEAD OF NAIL IN WEST SIDE OF EVERGREEN TREE
PIPE TO NAIL 26.63'
MLB
MKB
S 57°06'00" E
N 62°21'36" W 141.90'
S 10°25'14" E 14.14'
N 35°01'45" E
S 43°31'12" W
N 62°22'46" W
51.42'
Plat Book 13
Revised 3-21-93
THIS DOES CONSTITUTE A PROPERTY LINE SURVEY
THIS WILL CERTIFY THAT I HAVE LOCATED THE IMPROVEMENTS ON THE ABOVE PROPERTY AS INDICATED
THOMAS E. PHELPS AND ASSOCIATES, INC.
REGISTERED PROPERTY LINE SURVEYORS
945 BARRON AVENUE
BALTIMORE, MARYLAND 21221
OFFICE: (301) 574-6744
LOCATION SURVEY
946 + 948 Thompson Blvd.
Boundary Survey
Baltimore County, Md.
Plat Book
Folio
Scale 1" = 50'
Date 4-22-93

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of September, 1995, a copy of the foregoing Motion was mailed, postage prepaid, to Gordon D. Fronk, Esquire, Suite 700, Court Towers, 210 W. Pennsylvania Avenue, Towson, Maryland 21204, attorney for Jeffrey A. Waggoner and Terry Waggoner; and Charlotte E. Radcliffe, Esquire, Legal Secretary County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

STEPHEN H. SACKS

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF JEFFREY A. WAGGONER AND TERRY WAGGONER 948 Thompson Boulevard Baltimore, MD 21220	*	
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Room 49, Old Courthouse, 400 Washing- ton Avenue, Towson, MD 21204	*	CIVIL ACTION No. 94-CV-11048 /97/332
IN THE CASE OF: IN THE MATTER OF SALVATORE A. FRASCKETTI, JR. FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD (950 THOMPSON BOULEVARD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT CASE NO. 94-85-A	*	

* * * \

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

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

October 19, 1992

Mr. Salvatore A. Frascketti, Jr.
950 Thompson Blvd.
Baltimore, MD 21221

RE: Permit #B143939
Control # WF

Dear Mr. Frascketti:

Your pier permit application was denied. The factors that led to this decision were:

1. The pier is not 10' from the property line as established on the Final Development Plan.
2. The existing pier location has changed from the location shown on the approved Final Development Plan.
3. The lot line as shown is different than that shown on the approved Final Development Plan.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Catherine A. Milton
Planner I

CAM/hek

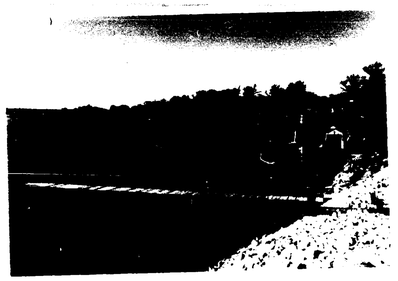
cc: Mr. Fred Slicher
Chesapeake Bay Construction
7320 Greenbank Road
Baltimore, MD 21220

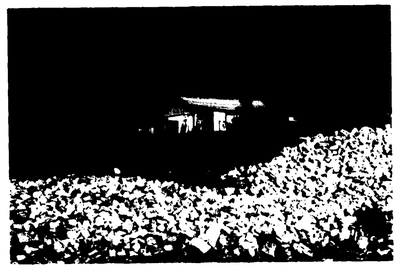
Pict #3

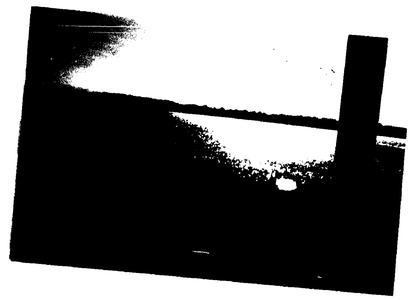
#11

Rec 109

Printed on Recycled Paper

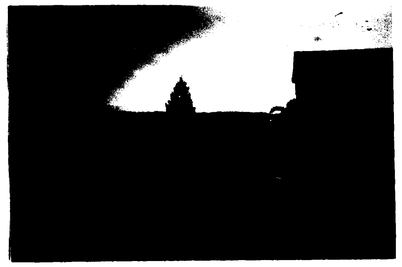




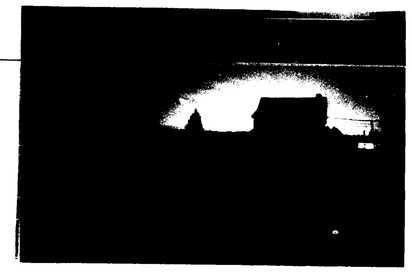


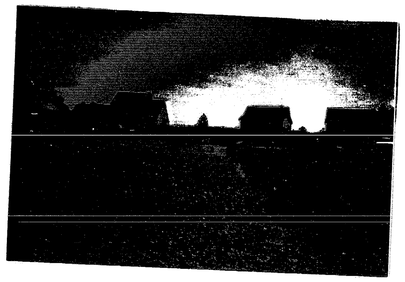
C

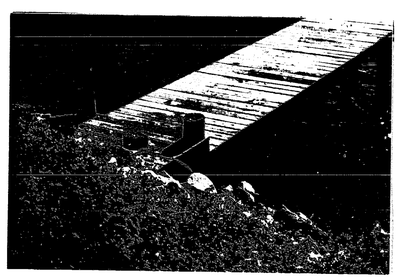
D



E







94 CV 11048

This folder was found empty when the atty came in to look at it. The atty said his secretary ~~could~~ was supposed to come in and look at it. The ~~tape~~ folder was over at the far table. The atty came in the next morning.

JAA

Found in BOX 273.
The Exhibits must have been separated for a few weeks and or ~~were~~ were returned at a later date. JAA 5/26/95

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE #36
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space grantad. 9-21-88
9. Proposed house site and direction shown thus:
10. S.W.M. ~~[illegible]~~ WAIVER GRANTED JAN. 9, 1991
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8' CR-6 stone with a 3' bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. Ther are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 9.4' - basement floor or first floor; will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE SHOWN 10 FEET WIDE WITH THE USE OF EXISTING 50' PRIVATE EASEMENT FOR LOT 1 & 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
34. ZONING COMMISSIONER'S NOTE

    This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.
35. ACCESSORY STRUCTURE NOTE

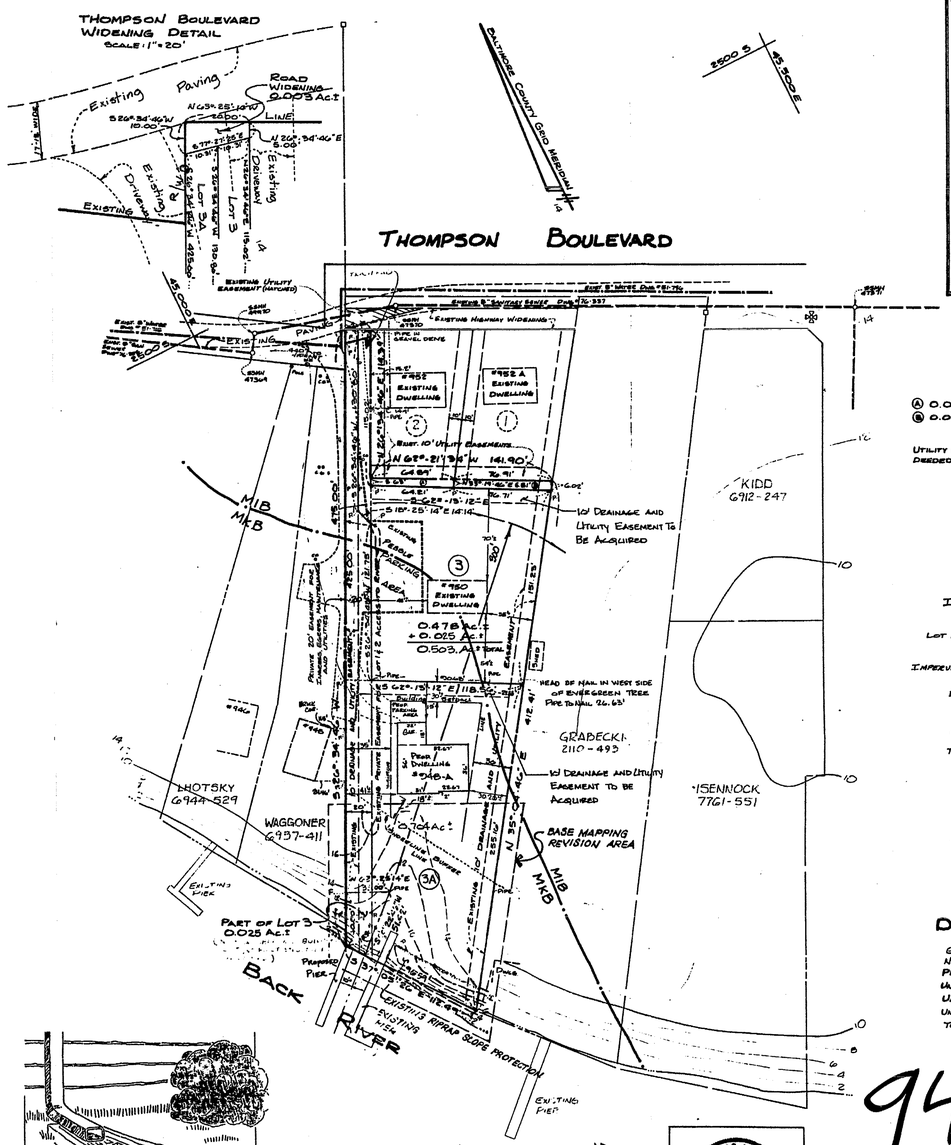
    Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)
36. Building Setbacks

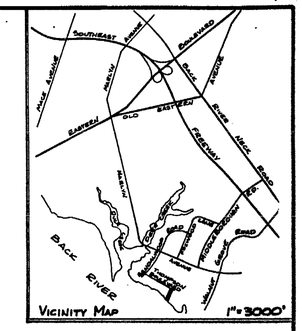
Window to Window	- 40'
Window to Tract Boundary	- 35'
Window to Property Line	- 15'
Building to Tract Boundary	- 30'

Height to Height Requirements (Distances between facing elevation):

0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

Building height - 50' Max.





Ⓐ 0.0085 Ac.± TO BE DEEDED TO LOT 2
Ⓑ 0.0104 Ac.± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6656-666.

IMPERVIOUS SURFACE CHART

	LOT 3	LOT 3A
LOT ACREAGE	21,911 SQ.FT.	30,666 SQ.FT.
15%	3287 SQ.FT.	4600 SQ.FT.
IMPERVIOUS SURFACE		
HOUSE	1150 SQ.FT.	2155 SQ.FT.
DRIVEWAY	1981 SQ.FT.	1981 SQ.FT.
TOTAL	3131 SQ.FT. 14.3%	4137 SQ.FT. 13.5%

OVERALL LOTS 3 & 3A: 14.3

TREES		
MAJOR	2	3
MINOR	4	6
SHRUBS	4	6

DISTURBED AREAS

DWELLING	2400 #
DRIVEWAY & PARKING	800 #
LAWN	2000 #
TOTAL	5,200 SQ.FT.

DENSITY CALCULATIONS

E.H.K. Jr. 50-94

GROSS AREA: 1.73 Ac.±
NET AREA: 1.67 Ac.±
PRESENT ZONING: DR 5.5
UNITS ALLOWED: 1.67 x 5.5 = 9.2
UNITS USED: 3
UNITS PROPOSED: 1
TOTAL # UNITS UTILIZED: 4

94-85-A

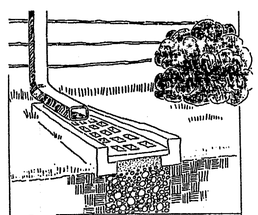
~~PLAT PLAN - LOT 3A~~

AMENDED FINAL DEVELOPMENT PLAN
RESUBDIVISION OF LOT 3
1ST AMENDED SUBDIVISION PLAT

FRASCKETTI PROPERTY

(SEE RECORD PLAT NO. EHKJr 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: DR 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K. Jr. 50-94



DETAIL DOWNSPOUT INFILTRATION DEVICE
NO SCALE

OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX No.: 19-00-009183

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6764-505
TAX No.: 19-00-009184

OWNER LOT 3 & DEVELOPER
SALVATORE A. FRASECKETTI, Jr. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6644-509
TAX No.: 19-00-009185

STATE OF MARYLAND — DAVID THOMAS MARIONI — No. 10158 — PROPERTY LINE SURVEYOR

I ATTEST TO THE ACCURACY OF THIS BASE MAPPING REVISION AS OUTLINED ON THE ABOVE PLAN.

DAVID T. MARIONI	3-29-92
NAME	DATE

PARKING PAD ALTERNATES

SOILS INFORMATION

SOIL	HOMESITES w/BASEMENT	HOMESITES w/o BASEMENT	STREETS & PARKING
MKB	SLIGHT	SLIGHT	MODERATE: SLOPE
MIB	MODERATE: MODERATELY HIGH WATER TABLE	SLIGHT	MODERATE: SLOPE, MODERATELY HIGH WATER TABLE

REVISED - AUGUST 16, 1993
REVISED - FEBRUARY 27, 1992
REVISED - SEPTEMBER 27, 1991

SCALE: 1"=50' JULY 20, 1991

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

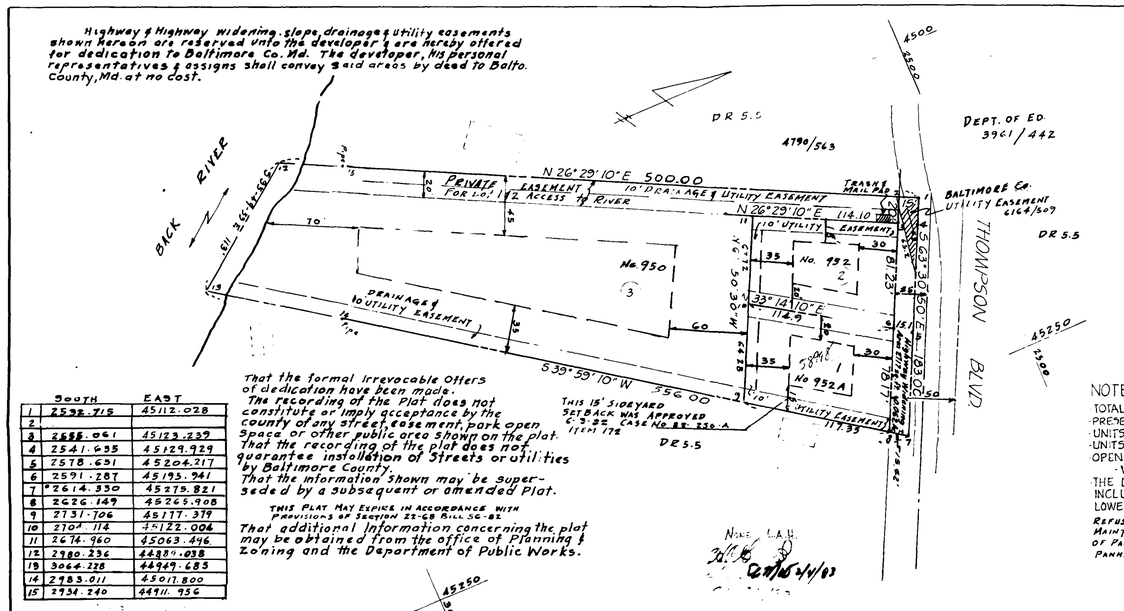
OFFICE OF PLANNING AND ZONING
APPROVED BY

DIRECTOR OF PLANNING — DATE

ZONING COMMISSIONER — DATE

MICROFILMED 87

Highway & Highway Widening, slope, drainage & utility easements shown hereon are reserved unto the developer & are hereby offered for dedication to Baltimore Co. Md. The developer, his personal representatives & assigns shall convey said areas by deed to Balto. County, Md. at no cost.



	SOUTH	EAST
1	2532.715	45112.028
2		
3	2555.061	45123.239
4	2541.635	45129.929
5	2578.651	45204.217
6	2591.287	45193.341
7	2614.350	45275.821
8	2626.149	45265.908
9	2731.706	45177.379
10	2704.114	45122.006
11	2674.960	45063.496
12	2980.236	44889.038
13	3064.228	44949.685
14	2983.011	45017.800
15	2934.240	44911.956

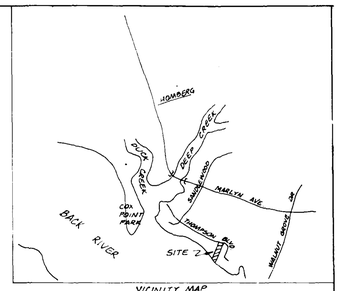
That the formal irrevocable offers of dedication have been made.
The recording of the Plat does not constitute or imply acceptance by the county of any street, easement, park open space or other public area shown on the plat.
That the recording of the plat does not guarantee installation of streets or utilities by Baltimore County.
That the information shown may be superseded by a subsequent or amended Plat.

THIS PLAT MAY EXPIRE IN ACCORDANCE WITH PROVISIONS OF SECTION 22-68 BILL 56-82

That additional information concerning the plat may be obtained from the office of Planning & Zoning and the Department of Public Works.

NOTE: L.A.H. 3/14/83

COORDINATES SHOWN ARE REFERRED TO THE BALTIMORE COUNTY METROPOLITAN DISTRICT SYSTEM AND ARE BASED ON COORDINATES X-8015 S1473.03 E44385.29
X-8076 S1184.03 E44587.27



VICINITY MAP
1" = 2000'

E.H.K., JR. 90 FOLIO 11
Filed for record
Date APR 28 1983
Test
Clerk

NOTES:
TOTAL ACREAGE 1.35
PRESENT ZONING DR 5.5
UNITS ALLOWED (1.35 x 5.5) 7.4
UNITS PROPOSED 3.0
OPEN SPACE REQ'D. 0.081 AC±
WAIVER TO BE APPLIED FOR THE LOWEST FLOOR OF ANY BUILDING, INCLUDING BASEMENT, SHALL NOT BE LOWER THAN ELEVATION 10.4
REFUSE COLLECTION SHOW REMOVAL & ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF PANHANDLE & ROAD R/W LINE ONLY, & NOT TO PANHANDLE LOT DRIVEWAY.

XV-309

OWNER: SAM FRASCKETTI, JR.
8131 MURRAY POINT RD
DUNDALK, MARYLAND 21222
PHONE: 282-1666

DEED 6164/509

SUBDIVISION PLAT
FRASCKETTI PROPERTY
THOMPSON BLVD.
ELECTION DISTRICT 15
BALTIMORE COUNTY, MARYLAND

FINAL PLAT

APPROVED
DATE 3/14/83
Director of the Department of Public Works

APPROVED
3/14/83
Director of the Office of Planning & Zoning

APPROVED
3/14/83
Deputy State & County Health Officer

SURVEYOR'S CERTIFICATE
I, RUSSELL M. HERBERT, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO SUBDIVISIONS OF LAND KNOWN AS HOUSE BILL 189 CHAPTER 1016.

Russell M. Herbert
REGISTERED LAND SURVEYOR NO. 2690

OWNER'S CERTIFICATE
THE REQUIREMENTS OF SECTION 72B ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND AS FARAS THEY RELATE TO THE MAKING OF THIS PLAT HAVE BEEN COMPLIED WITH

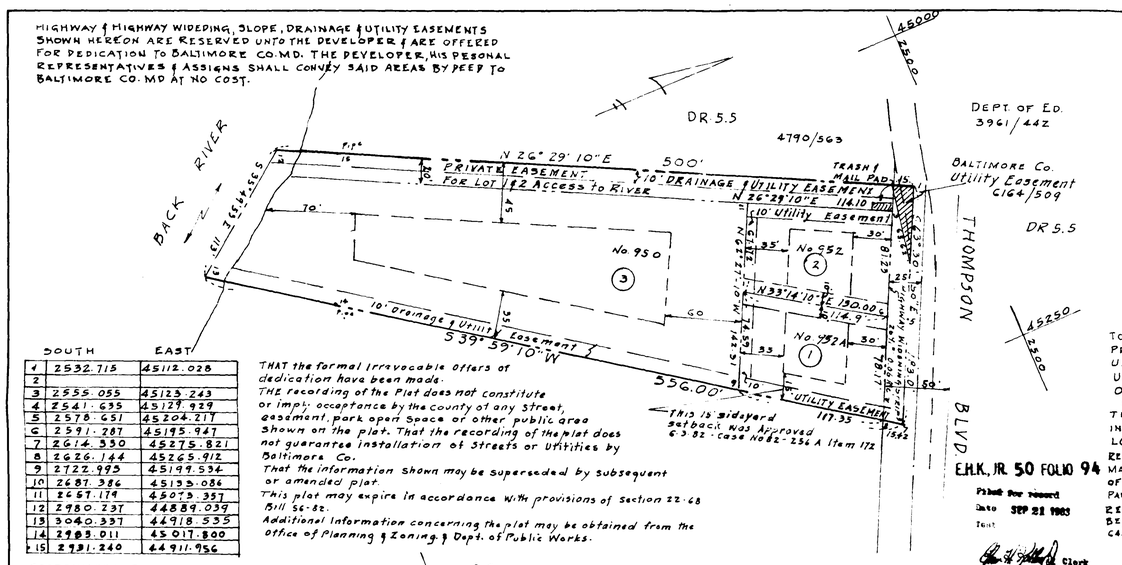
Salvatore Frascketti
OWNER

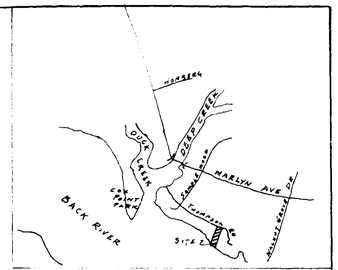
RUSSELL M. HERBERT
LAND SURVEYOR
1209 E. 36th STREET
BALTIMORE, MD. 21218
PHONE: 235-3608

SCALE: 1"=50' DATE: 1-11-83
REV 1-25-83

10-11

HIGHWAY & HIGHWAY WIDENING, SLOPE, DRAINAGE & UTILITY EASEMENTS SHOWN HEREON ARE RESERVED UNTO THE DEVELOPER & ARE OFFERED FOR DEDICATION TO BALTIMORE CO. MD. THE DEVELOPER, HIS PESONAL REPRESENTATIVES & ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE CO. MD AT NO COST.





	SOUTH	EAST
1	2532.715	45112.028
2		
3	2555.055	45123.243
4	2541.635	45129.929
5	2578.651	45204.217
6	2591.287	45195.947
7	2614.330	45275.821
8	2626.144	45265.912
9	2722.995	45199.534
10	2687.386	45133.086
11	2657.179	45073.357
12	2980.237	44889.039
13	3040.337	44918.535
14	2983.911	45017.800
15	2931.240	44911.956

COORDINATES SHOWN ARE REFERRED TO THE BALTIMORE COUNTY METROPOLITAN DISTRICT SYSTEM & ARE BASED ON COORDINATES X-8075 S1073.03
X-8076 S1184.03

THAT the formal irrevocable offers of dedication have been made.
THE recording of the Plat does not constitute or imply: occeptance by the county of any street, easement, park open space or other public area shown on the plat. That the recording of the plat does not guarantee installation of streets or utilities by Baltimore Co.
That the information shown may be superseded by subsequent or amended plat.
This plat may expire in accordance with provisions of Section 22-68 Bill 56-82.
Additional Information concerning the plat may be obtained from the Office of Planning & Zoning & Dept. of Public Works.

This is sideyard setback was Approved 6-3-82 - case No 82-234 A Item 172

E.H.K., JR. 50 FOLIO 94

Plat for record
Date SEP 21 1983
Test
Clerk

NOTES

TOTAL ACREAGE		1.35
PRESENT ZONING	DR.	5.5
UNITS ALLOWED 1.35x5.5		3.4
UNITS PROPOSED		3.0
OPEN SPACE REQ'D		0.081 Ac

WAIVER TO BE APPLIED FOR THE LOWEST FLOOR OF ANY BUILDING INCLUDING BASEMENT SHALL NOT BE LOWER THAN ELEVATION 10.4'
REFUSE COLLECTION, SNOW REMOVAL & ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF PANHANDLE & ROAD R/W LINE ONLY, & NOT TO PANHANDLE LOT DRIVEWAY.
REVISED LOT 1 & LOT 2 ENVELOPE SIDE DISTANCE. BETWEEN THEM. ALSO REAR LOT 1 DISTANCE FROM C4.28 TO T4.59.

XV-309

1ST AMENDED SUBDIVISION PLAT FRASCKETTI PROPERTY THOMPSON BLVD.

ELECTION DISTRICT 15
BALTIMORE COUNTY, MARYLAND

NOTE C.A.!!
9/19/83
T.N. 9/16/83

OWNER SAM FRASCKETTI, JR.
950 THOMPSON BLVD.
ESSEX, MARYLAND 21221
PHONE 574-1112
DEED 6164/509

APPROVED
DATE 9/19/83
DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS

APPROVED
9/19/83
DIRECTOR OF OFFICE OF PLANNING & ZONING

APPROVED:
DEPUTY STATE & COUNTY HEALTH OFFICER

SURVEYOR'S CERTIFICATE
I RUSSELL M. HERBERT A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT & THE PLAT THEREOF HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO SUBDIVISIONS OF LAND KNOWN AS HOUSE BILL 489 CHAPTER 1016.
SURVEYOR No. 2690

OWNERS CERTIFICATE
THE REQUIREMENTS OF SECTION 728 ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT HAVE BEEN COMPLIED WITH
TO
OWNER

RUSSELL M HERBERT
LAND SURVEYOR
1209 E 36TH STREET
BALTIMORE, MD.
PHONE: 235.9608

SCALE 1"=50' DATE 1-11-83 REV 8-15-83

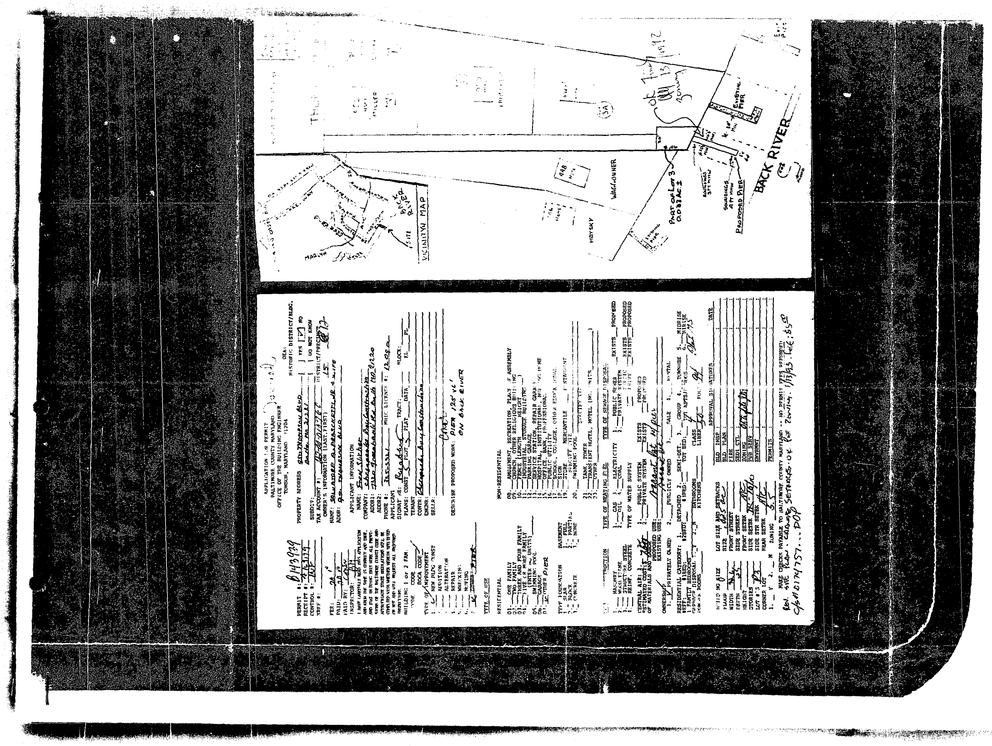

APPLICATION FOR PERMIT
BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
PROPERTY OWNER:
TAX ACCOUNT #:
PROPERTY ADDRESS:
PROPERTY DESCRIPTION:
ZONING:
LOT SIZE:
BUILDING:
PROPOSED USE:
PROPOSED CONSTRUCTION:
ESTIMATED COST:
DESCRIPTION OF PROPOSED WORK:
TYPE OF IMPROVEMENT:
FOR RESIDENTIAL:
FOR NON-RESIDENTIAL:
TYPE OF WATER SUPPLY:
TYPE OF SEWAGE DISPOSAL:
ZONING:
DATE:
APPROVED:
BACK RIVER

Photo No 10

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: ~~60'~~ Note #36
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted.
9. Proposed house site and direction shown thus:
10. S.W.M. ~~waiver granted~~ WAIVER GRANTED JAN 9, 1991
11. ~~Clearing~~ and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3' bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. Ther are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 9.4' - basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection at this development. At the time of conversion and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.033 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE SHOWN 10 FEET WIDE WITH THE USE OF EXISTING 50' PRIVATE EASEMENT FOR LOT 1 & 2 AS ITS ROAD TO RIVER
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
34. ZONING COMMISSIONER'S NOTE

    This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.
35. ACCESSORY STRUCTURE NOTE

    Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)
36. Building Setbacks

Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

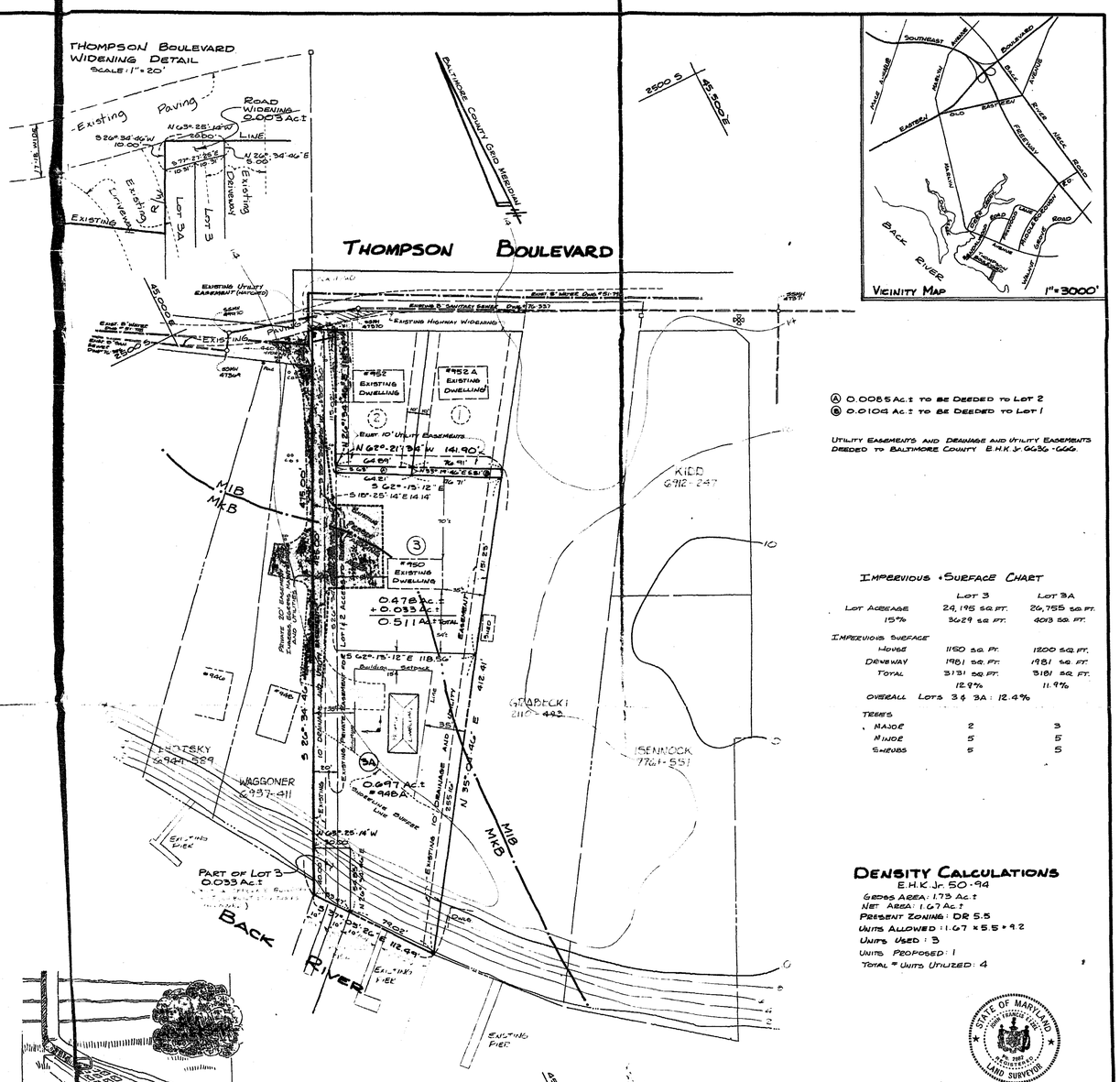
Height to Height Requirements (Distances between facing elevation):

0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

Building height - 50' Max.

SOILS INFORMATION

SOIL	HOMESITES w/BASEMENT	HOMESITES w/o BASEMENT	STREETS & PARKING
MkB	SLIGHT	SLIGHT	MODERATE: SLOPE
MlB	MODERATE: MODERATELY HIGH WATER TABLE	SLIGHT	MODERATE: SLOPE, MODERATELY HIGH WATER TABLE



Ⓐ 0.0085 Ac.± TO BE DEEDED TO LOT 2
Ⓑ 0.0106 Ac.± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6636-666.

IMPERVIOUS SURFACE CHART

	LOT 3	LOT 3A
LOT ACREAGE	24,195 SQ. FT.	26,755 SQ. FT.
15%	3629 SQ. FT.	4013 SQ. FT.
IMPERVIOUS SURFACE		
HOUSE	1150 SQ. FT.	1200 SQ. FT.
DRIVEWAY	1981 SQ. FT.	1981 SQ. FT.
TOTAL	3131 SQ. FT.	3181 SQ. FT.
	12.9%	11.9%

OVERALL LOTS 3 & 3A: 12.4%

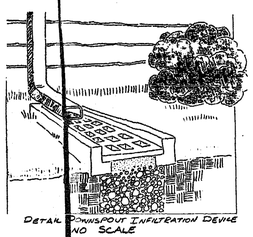
TREES		
MAJOR	2	3
MINOR	5	5
SHRUBS	5	5

DENSITY CALCULATIONS

E.H.K. Jr. 50-94

GROSS AREA: 1.73 Ac.±
NET AREA: 1.67 Ac.±
PRESENT ZONING: DR 5.5
UNITS ALLOWED: 1.67 x 5.5 = 9.2
UNITS USED: 3
UNITS PROPOSED: 1
TOTAL # UNITS UTILIZED: 4

STATE OF MARYLAND — JOHN FRANCIS REVOLL — No. 10828 — REGISTERED PROFESSIONAL LAND SURVEYOR



DETAIL DOWNSPOUT INFILTRATION DEVICE
NO SCALE

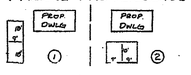
OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX NO.: 19-00-009183

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6764-505
TAX NO.: 19-00-009184

OWNER LOT 3 & DEVELOPER
SALVATORE A. FRASCKETTI, Jr. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6164-509
TAX NO.: 19-00-009185

PARKING PAD ALTERNATES



N.T.S. SCALE

FINAL DEVELOPMENT PLAN
RESUBDIVISION OF LOT 3
1ST AMENDED SUBDIVISION PLAT

FRASCKETTI PROPERTY

(SEE RECORD PLAT NO. E.H.K. Jr. 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED DR 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K. Jr. 50-94

PROTESTANTS EXHIBIT NO. 12

MICROFILMED

SCALE: 1" = 50'
JULY 26, 1991

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

OFFICE OF PLANNING AND ZONING
APPROVED BY:

DIRECTOR (OP) PLANNING — DATE
6/30/91
ZONING COMMISSIONER — DATE

PETITION OF: JEFFREY A WAGGONER AND TERRY WAGGONER

CIVIL ACTION # 94-CV-11048 /97/3

IN THE MATTER OF SALVATORE A. FRASCKETTI, JR.

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

Clerk's Office

Date: 2/3/95

CIRCUIT COURT FOR BALTIMORE COUNTY
NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

Assignment Date:
Case Name:
Case No.:

The above case has been assigned to an **EXPEDITED TRACK**. If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the voice/TDD M.D. Relay Service, 800-735-2258. Should you have any questions concerning your track assignment, please contact SANDRA SPARKS at (410) 887-XXX. **You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:**

SCHEDULING ORDER

1. Motions to Dismiss under Md. Rule 2-322(b) are due by ..... 15 days
2. Plaintiff's Expert Reports or Md. Rule 2-402(e)(1) Disclosures are due by XXX
3. Defendant's Expert Reports or Md. Rule 2 402(3)(1) Disclosures are due by XXX
4. Discovery must be completed by ..... 50 days
5. All Motions (excluding Motions in Limine) are due by ..... 60 days
6. The Settlement Conference (District Court Jury Trial Prayers Only) is ..... 75 days
7. The TRIAL DATE is ..... (Note: This is a firm trial date. No subsequent notice will be forwarded to counsel/parties concerning this date.)

Signature

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponements must be submitted in writing with a copy to all counsel/parties involved. All requests for postponements of cases filed after October 1, 1994 must be approved by the Administrative Judge.

Settlement Conference (Room 507): All counsel and their clients **MUST** attend the settlement conference **in person.** All insurance representatives **MUST** attend this conference **in person** as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Court Costs: All Court costs **MUST** be paid on the date of the settlement conference or trial.

cc: Counsel/Parties, File, Assignment, dcmc1, Rev. 12/21/94

TO: PUTUXENT PUBLISHING COMPANY
September 2, 1993 Issue - Jeffersonian

Please foward billing to:

Julius W. Lichter, Esq.
305 W. Chesapeake Avenue
Towson, Maryland 21204
410-321-0600

COPY

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: 94-85-A (Item 87)
950 Thompson Boulevard
SW/S Thompson Boulevard, SE of Sandlewood Road
15th Election District - 5th Councilmanic
Petitioner(s): Salvatore A. Frascketti, Jr. and Deborah A. Frascketti
HEARING: TUESDAY, OCTOBER 12, 1993 at 10:30 a.m. in Rm. 106, County Office Building.

Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 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: 94-85-A (Item 87)
950 Thompson Boulevard
SW/S Thompson Boulevard, SE of Sandlewood Road
15th Election District - 5th Councilmanic
Petitioner(s): Salvatore A. Frascketti, Jr. and Deborah A. Frascketti
HEARING: TUESDAY, OCTOBER 12, 1993 at 10:30 a.m. in Rm. 106, County Office Building.

Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property.

Arnold Jablon
Director

cc: Salvatore and Deborah Frascketti
Julius W. Lichter, Esq.
Jeffrey A. Waggoner

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

MICROFILMED

Printed with Soybean Ink on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 16, 1993

NOTICE OF REASSIGNMENT

Continued from 10/12/93, 10/22/93, 11/5/93, and 11/15/93
CASE NUMBER: 94-85-A (Item 87)
950 Thompson Boulevard
SW/S Thompson Boulevard, SE of Sandlewood Road
15th Election District - 5th Councilmanic
Petitioner(s): Salvatore A. Frascketti, Jr. and Deborah A. Frascketti

Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet inlieu of 10 feet and to amend the Final Development Plan of the Frascketti Property.

HEARING: TUESDAY, JANUARY 4, 1994 at 9:00 a.m. in Rm. 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

ARNOLD JABLON
DIRECTOR

cc: Julius W. Lichter, Esq.
Salvatore Frascketti, Jr.
Jeffrey Waggoner
Gordon Fronk, Esq.
Thomas Phelps

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

June 29, 1994

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-85-A
SALVATORE A. FRASCKETTI, JR., ET UX
SW/s Thompson Boulevard, SE of Sandlewood Road
(950 Thompson Boulevard)
15th Election District
5th Councilmanic District

VAR -To permit distance between piers of 17' in lieu of required 20'; distance between property line and pier of 4' in lieu of required 10'; also amend Final Development Plan.

5/27/94 -Z.C.'s Order in which Petition for Variance was GRANTED.

Reassigned to 8/10/94 @ 10:00 at request of petitioner

ASSIGNED FOR: TUESDAY, OCTOBER 11, 1994 at 10:00 a.m.

cc: Julius W. Lichter, Esquire — Counsel for Petitioners
Mr. and Mrs. Salvatore A. Frascketti — Petitioners
Mr. & Mrs. Jeffrey A. Waggoner — Appellants /Protestants
Gordon D. Fronk, Esquire — Counsel for Appellants /Protestants
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 15, 1994

NOTICE OF REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-85-A
SALVATORE A. FRASCKETTI, JR., ET UX
SW/s Thompson Boulevard, SE of Sandlewood Road
(950 Thompson Boulevard)
15th Election District
5th Councilmanic District

VAR -To permit distance between piers of 17' in lieu of required 20'; distance between property line and pier of 4' in lieu of required 10'; also amend Final Development Plan.

5/27/94 -Z.C.'s Order in which Petition for Variance was GRANTED.

which was scheduled for hearing on October 11, 1994 has been **REASSIGNED TO AN EARLIER DATE** at the request of Petitioners by letter filed 7/11/94; and has been

REASSIGNED FOR: WEDNESDAY, AUGUST 10, 1994 at 10:00 a.m.

cc: ~~Julius W. Lichter, Esquire~~ w/o appeal — Counsel for Petitioners
Mr. and Mrs. Salvatore A. Frascketti — Petitioners
Mr. & Mrs. Jeffrey A. Waggoner — Appellants /Protestants
Gordon D. Fronk, Esquire
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 11, 1994

NOTICE OF DELIBERATION

Having concluded this case on August 10, 1994, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

pp'd 8/30/94 - parties instructed no evidence below

SALVATORE A. FRASCKETTI, JR., ET UX
CASE NO. 94-85-A

DATE AND TIME : Thursday, September 1, 1994 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

To the next avail

cc: * Mr. and Mrs. Salvatore A. Frascketti - 5274 - 1112 - T/c to mrs F. — Petitioners
* Mr. & Mrs. Jeffrey A. Waggoner - T/c w/ Frank — Appellants /Protestants
Gordon D. Fronk, Esquire
* Ms. Linda D. Miller - over listed
* Ms. Donna L. Disney Vaura - L.m. - Tape
* People's Counsel for Baltimore County - not in case
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
James H. Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

Oct. 84 - 9/01 EC DC pp'd

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE #36
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-21-85
9. Proposed house site and direction shown thus:
10. S.W.M. WAIVER GRANTED JAN. 7, 1991
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archaeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8' CR-6 stone with a 3' bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. Ther are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 9.4' - basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE SHOWN 10 FEET WIDE WITH THE USE OF EXISTING 50' PRIVATE EASEMENT FOR LOT 1 & 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

34. ZONING COMMISSIONER'S NOTE

This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.

35. ACCESSORY STRUCTURE NOTE

Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)

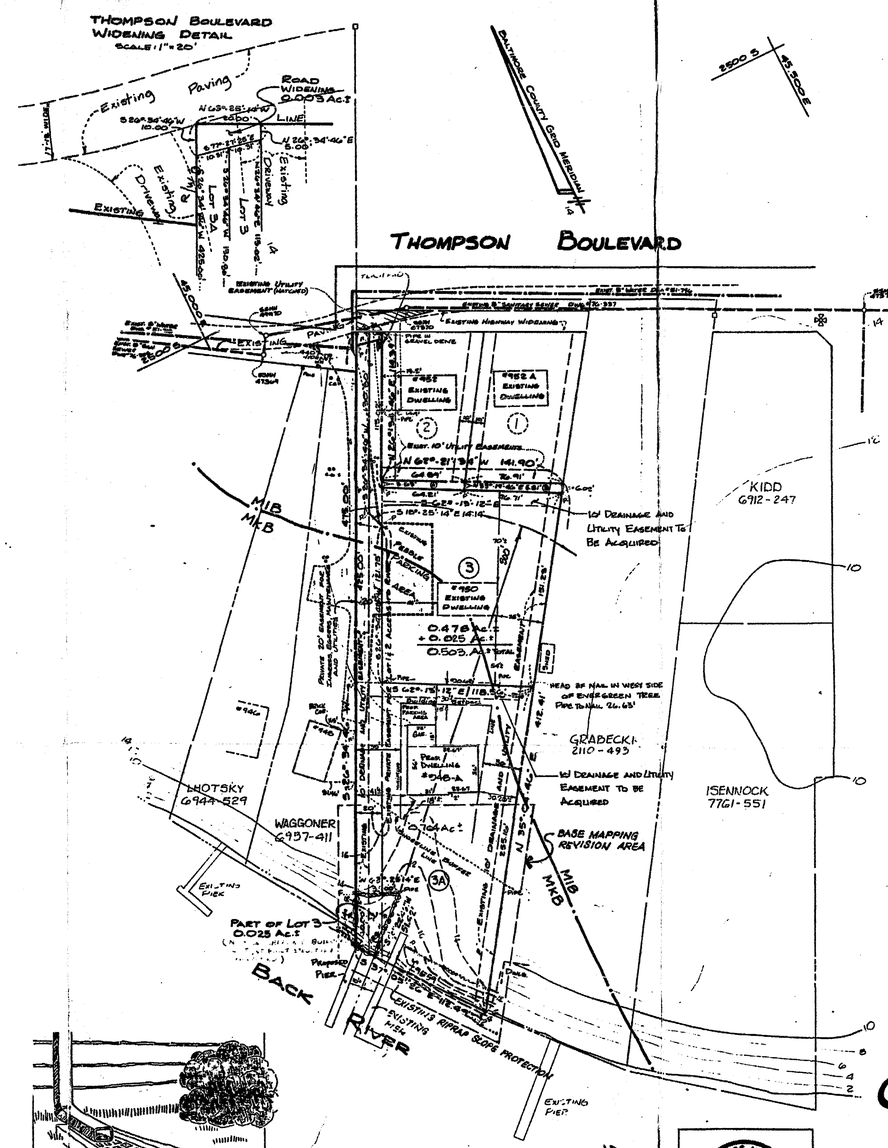
36. Building Setbacks

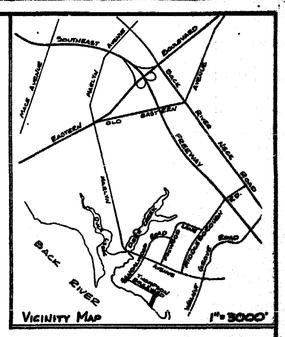
Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

Height to Height Requirements (Distances between facing elevation):

0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

Building height - 50' Max.





(A) 0.0085 AC.± TO BE DEEDED TO LOT 2
(B) 0.0104 AC.± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6636-666.

IMPERVIOUS SURFACE CHART

	LOT 3	LOT 3A
LOT ACREAGE	21,911 SQ.FT.	20,666 SQ.FT.
15%	3287 SQ.FT.	4000 SQ.FT.
IMPERVIOUS SURFACE		
HOUSE	1150 SQ.FT.	815.5 SQ.FT.
DRIVEWAY	1981 SQ.FT.	1981 SQ.FT.
TOTAL	3131 SQ.FT. 14.3%	2797 SQ.FT. 13.7%

OVERALL LOTS 3 & 3A: 14.3

TREES		
MAJOR	2	3
MINOR	4	6
SHRUBS	4	6

DISTURBED AREAS

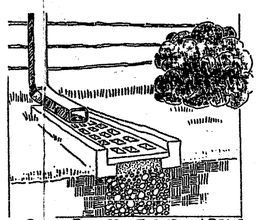
DWELLING	2400 ±
DRIVEWAY & PARKING	800 ±
LAWN	2000 ±
TOTAL	5,200 SQ.FT.

DENSITY CALCULATIONS

E.H.K. Jr. 50-94

GROSS AREA: 1.73 AC.±
NET AREA: 1.67 AC.±
PRESENT ZONING: DR 5.5
UNITS ALLOWED: 1.67 x 5.5 = 9.2
UNITS USED: 3
UNITS PROPOSED: 1
TOTAL # UNITS UTILIZED: 4

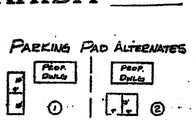
94-85-A



DETAIL DOWNSPOUT INFILTRATION DEVICE
NO SCALE

PETITIONER'S EXHIBIT No 1A

PARKING PAD ALTERNATES



NO SCALE

OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX No.: 19-00-009183

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6764-505
TAX No.: 19-00-009184

OWNER, LOT 3 & DEVELOPER
SALVATORE A. FRASCKETTI, Jr & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6164-509
TAX No.: 19-00-009185

STATE OF MARYLAND
DAVID TODD MARANDI
No. 18156
REGISTERED PROFESSIONAL ENGINEER

I ATTEST TO THE ACCURACY OF THE BASE MAPPING REVISION AS OUTLINED ON THE ABOVE PLAN.

DAVID T. MARANDI — 3-29-92
NAME — DATE

AMENDED FINAL DEVELOPMENT PLAN
RESUBDIVISION OF LOT 3
1ST AMENDED SUBDIVISION PLAT

FRASCKETTI PROPERTY

(SEE RECORD PLAT NO. SHEL 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: DR 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K. Jr 50-94

87

REVISED - AUGUST 16, 1993
REVISED - FEBRUARY 27, 1992
REVISED - SEPTEMBER 27, 1991

SCALE: 1" = 50'
JULY 20, 1991

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

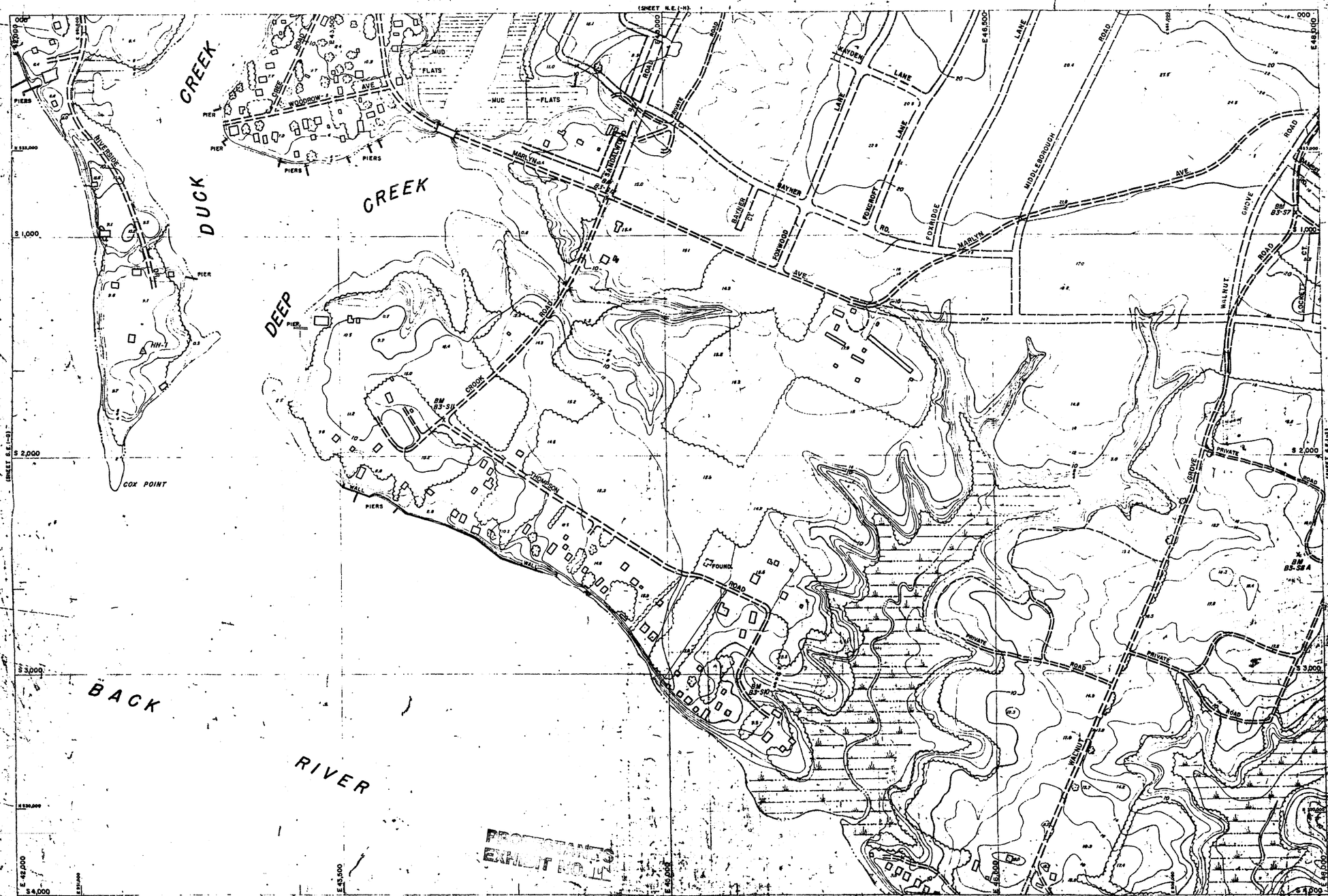
OFFICE OF PLANNING AND ZONING
APPROVED BY

DIRECTOR OF PLANNING — DATE

ZONING COMMISSIONER — DATE

SOIL INFORMATION

SOIL	HOMESITES w/BASEMENT	HOMESITES w/o BASEMENT	STREETS & PARKING
MKB	SLIGHT	SLIGHT	MODERATE: SLOPE
MLB	MODERATE: MODERATELY HIGH WATER TABLE	SLIGHT	MODERATE: SLOPE, MODERATELY HIGH WATER TABLE


DUCK CREEK
DEEP CREEK
BACK RIVER
COX POINT
WOODROW AVE
MUD FLATS
PIERS
PIER
RIVERSIDE
MARLYN
BAYNER
FOXRIDGE
FOXWOOD
EDGEWOOD
MIDDLEBOROUGH
WALNUT GROVE
PRIVATE ROAD
THOMPSON BROOK
WALL
POUND
BM 83-51
BM 83-50
BM 83-57
BM 83-58A
HH-1
LOCKETT CT
E 45,500
E 46,000
E 46,500
S 1,000
S 2,000
S 3,000
S 4,000
E 42,000
E 43,500
1-SW 1-SE
E-NW E-NE
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
REVISIONS
BY
DATE
SCALE
1" = 200'
DATE OF PHOTOGRAPHY
DEC. 1954
LOCATION
BACK RIVER NECK
SHEET
S.E.
1-H
Topography Compiled by Photogrammetric Methods
AERIALS AERIAL SURVEY CORP LANSING MICH.

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE #36
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-21-83
9. Proposed house site and direction shown thus:
10. S.W.M. ~~[illegible]~~ WAIVER GRANTED JAN 7, 1991
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3" bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. There are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = "3.4' - basement floor or first floor: will be at least 1 foot higher.
21. Proposed building shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 146; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 11' or 11'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE BOTH 10 FEET WIDE WITH THE USE OF EXISTING 20' PRIVATE EASEMENT FOR LOT 1 & 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

34. ZONING COMMISSIONER'S NOTE

This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.

35. ACCESSORY STRUCTURE NOTE

Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)

36. Building Setbacks

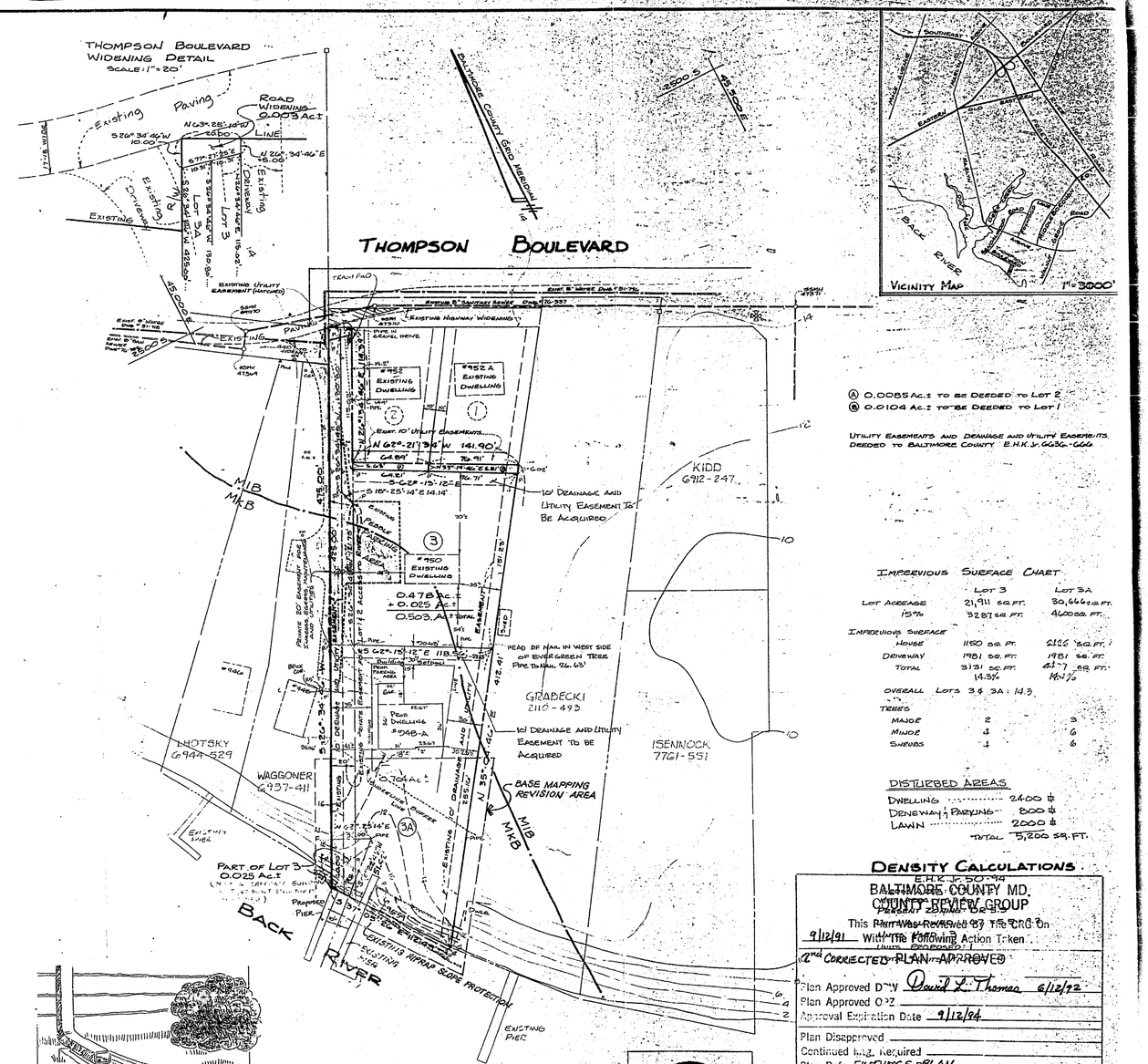
Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

Height to Height Requirements (Distances between facing elevation):

7-20'	-	10' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

Building height - 50' Max.

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
Approved [signature] DATE 6/3/92


THOMPSON BOULEVARD WIDENING DETAIL
SCALE: 1" = 20'
THOMPSON BOULEVARD
BALTIMORE COUNTY GRID MERIDIAN
VICINITY MAP 1" = 3000'
BACK RIVER
KIDD G.H.12-247
GRADECKI 2119-493
ISENNOCK 7761-551
LHOTSKY 6994-529
WAGGONER 6937-411
BASE MAPPING REVISION AREA
PART OF LOT 3 0.025 Ac.±
BACK RIVER
EXISTING PIER
EXISTING RIPRAP SLOPE PROTECTION
0.0085 Ac.± TO BE DEEDED TO LOT 2
0.0104 Ac.± TO BE DEEDED TO LOT 1
UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 66-36-666
10' DRAINAGE AND UTILITY EASEMENT TO BE ACQUIRED
10' DRAINAGE AND UTILITY EASEMENT TO BE ACQUIRED
HEAD OF NAIL IN WEST SIDE OF EVERGREEN TREE PIPE TO NAIL 26.63'
0.478 Ac.±
+ 0.025 Ac.±
0.503 Ac.± TOTAL
#952 EXISTING DWELLING
#952 A EXISTING DWELLING
#950 EXISTING DWELLING
#948-A PROP. DWELLING
N 62°-21'-38" W 141.90'
S 62°-15'-12" E 118.52'
N 55°-14'-46" E 68.08'
S 10°-25'-14" E 14.14'
N 55°-14'-46" E 112.41'
N 35°-04'-14" E 112.41'
S 62°-15'-12" E 112.5'
S 62°-15'-12" E 112.5'
N 62°-15'-16" E
EXISTING HIGHWAY WIDENING
EXISTING 8" SANITARY SEWER
PRIVATE 20' EASEMENT FOR INGRESS, EGRESS, PARKING & UTILITIES
EXISTING DRIVEWAY
EXISTING PAVING
EXISTING WALK
EXISTING DRIVEWAY
EXISTING PAVING
ROAD WIDENING 0.003 Ac.±
N 63°-25'-14" W
S 26°-34'-46" W 10.00'
N 26°-34'-46" E 45.00'
S 26°-34'-46" W 45

94-85-A -Salvatore A. Frasckettі, Jr.
CCt REVERSES CBA; DENIED VAR.
Christian M. Kahl - 6/30/95)

3169-95

PETITION OF JEFFREY A. WAGGONER AND TERRY WAGGONER	*	IN THE CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	BALTIMORE COUNTY
	*	CASE NO. 94CV11048
IN THE CASE OF: IN THE MATTER OF SALVATORE A. FRASCKETTI, JR. FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT CASE NO. 94-85-a	* * * * *	

* *

MEMORANDUM OPINION AND ORDER

This is a Protestants' appeal from a decision of the County Board of Appeals of Baltimore County ("CBA"), affirming the Zoning Commissioner's grant of area variances to the owners of waterfront property with respect to the placement of a pier extending into the waters of Back River. Protestants own an adjacent parcel which also fronts on the river. Argument was heard by the Court on June 8, 1995 from counsel for the Protestants only. Neither petitioners, who are presently not represented by counsel, nor any other parties, appeared for argument.

The CBA, by Opinion and Order dated November 4, 1994, granted variances from Sections 417.3.B and 417.4 of the Baltimore County Zoning Regulations (BCZR), as well as the Zoning Commissioner's Policy Manual diagram so as to allow a distance between piers of 17 feet, in lieu of the required 20 feet, and a distance between the property line and the subject pier of 4 feet (or less), in lieu of the required 10 feet, and

precluded use of the pier for commercial or rental purposes or use of either of the piers on Petitioners' property by persons other than the owners of the properties from which they extend. Protestants' principal complaint concerns the variance approving the construction of the new pier less than 10 feet from the common boundary line between their property and that of Petitioners, who erected the pier in the offending location before seeking these variances.

The factual history is well-documented in the pleadings and in the opinions of both the Zoning Commissioner and the CBA, and will not be set forth fully herein. In pertinent part, Petitioners acquired a parcel of land of approximately 1.67 acres in 1980, located between what is now Thompson Boulevard and the waters of Back River. The river frontage is 113 feet. The property was and is zoned D. R. 5.5, and was unimproved at the time Petitioners acquired it. Petitioners developed the property first by building a home in its approximate center, which they occupied. Later, they subdivided the property as a minor subdivision into Lots 1, 2 and 3, selling off Lots 1 and 2 fronting on the road and keeping for themselves Lot 3, the larger waterfront lot on which their home had been erected. The subdivision plat is in evidence as Protestants' Exhibit 3.

Petitioners remained in the home constructed on the original Lot 3 until November, 1993, when they moved into a new home which they had built between the first home and the river, on Lot 3A, created by a resubdivision of Lot 3. Before the resubdivision and construction of the new home, they had, in

1987, caused an L-shaped pier to be built along the waterfront of the property. The western edge of this pier is some 27 feet from the common boundary of the parties, to the west. To the east of the pier there is approximately an 80 foot expanse of shoreline to the easterly boundary of Petitioners' property. At the time of the erection of the L-shaped pier, Petitioners had no plans to erect any additional piers.

When the resubdivision of Lot 3 was undertaken in 1991, the Petitioners created a separate appendage to the new Lot 3, located along the waterfront on the west, for the purpose of establishing a fee simple base for the erection of a new pier to benefit the purchasers of new Lot 3, which was improved by Petitioners' original home. The revised Lot 3 reserved an easement for access to the waterfront parcel over the same easement area which had previously been created to allow the owners of Lots 1 and 2 access to (but apparently not use of) the waterfront. The minimum water frontage required to permit a new pier to be constructed would have been 26 feet, provided there were no other existing pier within 10 feet of the new line of division of Lot 3A and the waterfront portion of Lot 3. However, the Petitioners did not take into account the location of the L-shaped pier. The proposed waterfront parcel overlapped a portion of the width of that pier and caused it to straddle the proposed line of division between Lot 3A and new Lot 3's appendage.

On the Final Development Plan which the County required be filed for the now major subdivision of more than 3 lots

(Protestants' Exhibit 12), the L-shaped pier was drawn and identified as "Existing Pier," with setback notations of "10' Min" and arrows to each of the east property boundary and the newly proposed west property boundary in common with the proposed rectangular waterfront parcel. Additionally, the new pier was drawn on the Plan and identified as the "Proposed Pier," with setback notations of "10' Min" and arrows to each of the east and west property lines of the rectangular waterfront parcel. Neither pier was drawn or located to scale, so there appeared to be adequate frontage to provide for both piers according to the Plan.

A short time later, a Corrected Plan (Protestants' Exhibit 6) was approved by County agencies, providing for a revision to the shape of the waterfront parcel, so that the distance from the L-shaped pier to the newly proposed boundary line of the Lot 3 waterfront parcel was 10 feet, and the distance from the same boundary to the proposed new pier was 10 feet; however, the distance from the proposed new pier to the boundary line to the west was not depicted. Petitioners claim to have erected the new pier in accordance with the Final Development Plan (and the Second Corrected Plan, Protestants' Exhibit 7) which had been approved by the County and pursuant to a building permit, contending that they acted in reliance on approvals obtained from County agencies.

Before construction of the new pier began, Petitioners were warned by Protestants that the location of it was too close to the common boundary, but they constructed it nonetheless. After

the completion of it, advised again of its improper location, they sought and obtained the variances which are the subject of this case.

SCOPE OF REVIEW

The Scope of review by this Court of the actions of an administrative body such as the CBA is such that the Court may, through appeal or otherwise, correct any abuse of discretion by such an administrative agency or modify its actions when they are unsupported by facts, or are arbitrary, illegal, capricious or unreasonable. Heaps V Cobb, 185 Md. 372 (1945). However, the scope of judicial review of decisions by administrative agencies is narrow, recognizing that Board members have expertise in a particular area and ultimately should be free to exercise their discretion as such. Finney V Halle, 241 Md. 224 (1966). Thus a reviewing court will not substitute its judgment for that of an administrative board where the issue is freely debatable and the record contains substantial evidence supporting the administrative decision. Montgomery County V Woodward and Lothrop, Inc., 280 Md. 686 (1977).

Appellate courts have frequently observed that an order of an administrative agency must be upheld on judicial review if it is not based on an error of law, and if the agency's conclusions reasonably may be based upon the facts proven. Ad+ Soil, Inc. V County Commissioners, 307 Md. 307 (1986). However, the

agency's decision must be supported on the facts that were found by the agency and stated in the agency's opinion. When the agency's factual findings are inadequate, the necessary facts may not be supplied by the parties, and the Court will not glean the record in search of evidence to support the agency's conclusions. Ocean Hideaway Condo. V Boardwalk Plaza, 68 Md. App. 650 (1986). The agency's opinion must contain something more than conclusory statements or mere boilerplate resolutions. Turner V Hammond, 270 Md. 41 (1973); Pistorio V Zoning Board, 268 Md. 558 (1983).

Moreover, a reviewing court is under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law. People's Counsel for Baltimore County V Maryland Marine Manuf., Inc., 316 Md. 491 (1989), quoted with favor in United Parcel V People's Counsel, 93 Md. App. 59 (1992). When reviewing questions of law, the reviewing court may reach its own conclusions without deference to the opinion of the administrative body. Columbia Road Citizens' Assoc. V Montgomery County, 98 Md. App. 695 (1994).

APPLICABLE LAW

The State Zoning Enabling Act was enacted by Chapter 705 of the Acts of 1927. It has since been codified as Article 66B of the Annotated Code of Maryland (1957, 1988 Repl. Vol., 1994 Cum. Supp.) Although it was generally understood that local municipalities were not required to enact local zoning

regulations, if enacted, they normally had to conform to the provisions of Article 66B.

Baltimore County is a charter county and is exempt from many of the provisions in Article 66B. Code, Art. 66B, §7.03. Nevertheless, the language of Art. 66B relating to variances is virtually identical to the provisions of the Baltimore County ordinance.

The Article 66B provision that establishes variance authority in local zoning ordinances is Section 1.00(j). With respect to area variances, this section defines a variance as follows:

> [M]odification only of density, bulk or area requirements in the zoning ordinance...where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement...would result in either, as specified by the local governing body in a zoning ordinance, unnecessary hardship or practical difficulty. [Emphasis added.]

The Baltimore County Zoning Ordinance in Section 307.1, under "VARIANCES", provides in pertinent part that the zoning entities

> shall have...power to grant variance from ...area regulations,...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance...would result in practical difficulty or unreasonable hardship... [Emphasis added.]

The Court of Appeals in Easter V City of Baltimore, 195 Md. 395 (1950), stated that in order for a variance to be granted it

> must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood. [Emphasis added.]

In North V St. Mary's County, 99 Md. App. 502 (1994), the Court of Special Appeals pointed out that the property for which a variance is sought must have

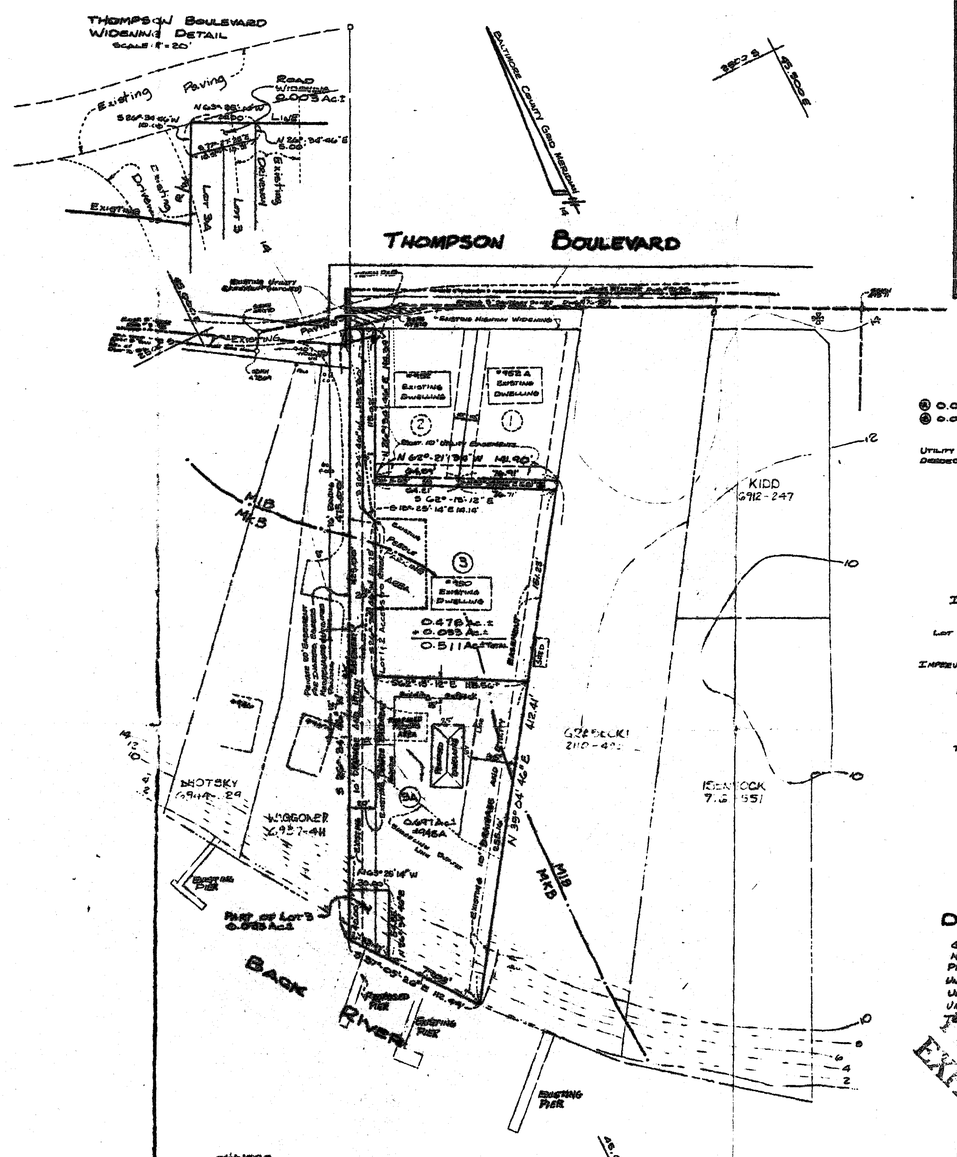
> ...an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

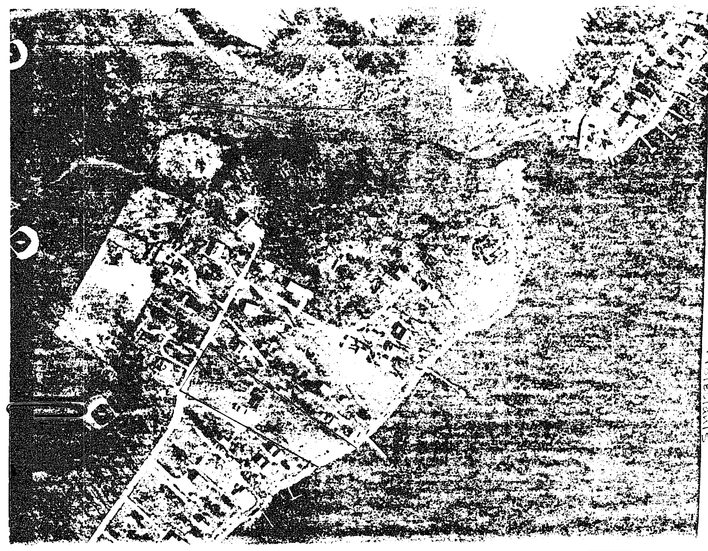
In the instant case, the only reference by zoning authorities to any such characteristic of Petitioners' property was mention of its elevation being somewhat lower in the center, near the waterfront. However, this differing topography was apparently the result of actions taken by the property owner to regrade it and improve sight lines to the river from the residence. (R., p. 26) Indeed, topographic maps in evidence show no significant differences in the respective configurations of the several properties in the vicinity of the subject property prior to the grading work they themselves caused to be performed. (See, for example, the 1954 topographic map in evidence as Protestants' Exhibit 14.)

The CBA's opinion is devoid of any reasoning as to how or why special circumstances existed in this case, and the Board made no factual findings that would support that conclusion. Moreover, Petitioners failed to meet their burden of proof with regard to the practical difficulties requirement. An applicant seeking a variance from area restrictions in Baltimore County must show that "strict compliance ... would result in practical

NOTES

1. Watershed 21; subwatershed 38; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: 50' Front 35'.
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-2-90
9. Proposed house site and direction shown thus:
10. S.H.A. WAIVER GRANTED JAN. 9, 1991.
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3" bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. There are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 2.4' - Basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (roads pads) have been met, a representative of the Bureau will meet with the developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 251 Forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.033 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 20% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. EASEMENTS ARE BOTH 10' WIDE WITH THE USE OF THE EXISTING 20' PRIVATE EASEMENT FOR LOT 1, LOT 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, areas of shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.


THOMPSON BOULEVARD WIDENING DETAIL
SCALE: 1" = 20'
Existing Paving
Road Widening 0.005 Ac.±
Lot 3A
Lot 3
Existing Driveway
THOMPSON BOULEVARD
BALTIMORE COUNTY GRID NORTH
S 39°-04'-42"E
N 39°-04'-42"E
KIDD
GRESKICK
KENNCOCK
BROTSKY
HUGGONER
MHB
BACK RIVER
EXISTING PIER
45.00'
S290°S
Existing Dwelling
Proposed Dwelling
Proposed Pier
Proposed Dwelling
Existing Dwelling
Existing Dwelling
Existing



PHOTOGRAPHY
JANUARY
1986

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE "36"
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-21-88
9. Proposed house site and direction shown thus:
10. S.W.M. ~~[illegible]~~ WAIVER GRANTED JAN. 7, 1991
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3" bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. Ther are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 9.4' - basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE BOTH 10 FEET WIDE WITH THE USE OF EXISTING 20' PRIVATE EASEMENT FOR LOT 1 & 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

34. ZONING COMMISSIONER'S NOTE

This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.

35. ACCESSORY STRUCTURE NOTE

Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with Sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)

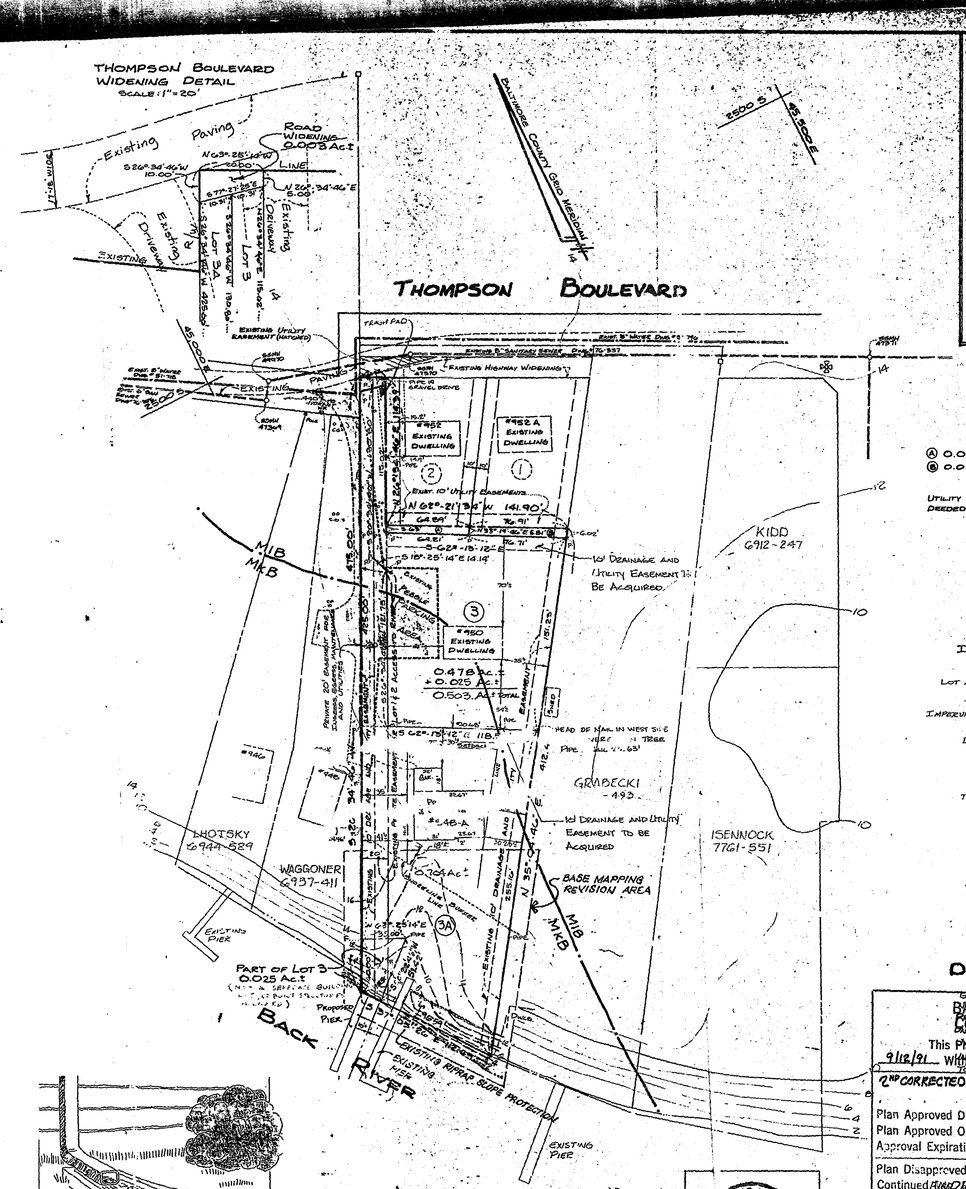
36. Building Setbacks

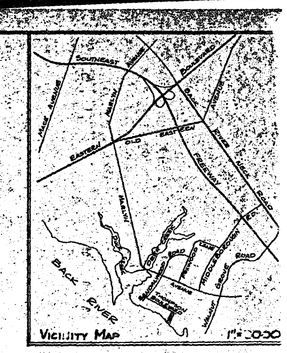
Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

Height to Height Requirements (Distances between facing elevation):

0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

Building height - 50' Max.





Ⓐ 0.0085 Ac± TO BE DEEDED TO LOT 2
Ⓑ 0.0104 Ac± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6836-666.

IMPERVIOUS SURFACE CHART

	LOT 3	LOT 3A
LOT ACREAGE	21,911 SQ. FT.	30,666 SQ. FT.
15%	3287 SQ. FT.	4600 SQ. FT.
IMPERVIOUS SURFACE		
HOUSE	1150 SQ. FT.	6125 SQ. FT.
DRIVEWAY	1981 SQ. FT.	1981 SQ. FT.
TOTAL	3131 SQ. FT. 14.3%	8107 SQ. FT. 26.4%
OVERALL LOTS 3 & 3A: 18.3		
TREES		
MAJOR	2	3
MINOR	4	6
SHRUBS	4	6

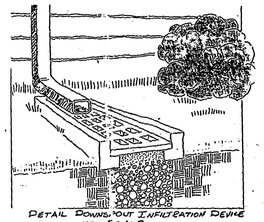
DISTURBED AREAS

DWELLING	2400 #
DRIVEWAY & PARKING	800 #
LAWN	2000 #
TOTAL	5,200 SQ. FT.

DENSITY CALCULATIONS

E.H.K. Jr. 50-94

GROSS ACRE: 1.75 Ac±
LESS ROAD WIDENING: 0.093 Ac±
NET ACREAGE: 1.657 Ac±
TOTAL ALLOWABLE UNITS: 4



DETAIL DOWNSPOUT INFILTRATION DEVICE
NO SCALE

PARKING PAD ALTERNATES

OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX NO.: 19-00-009185

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6764-505
TAX NO.: 19-00-009184

OWNER, LOT 3 & DEVELOPER
SALVATORE A. FRASCHETTI, Jr. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6764-509
TAX NO.: 19-00-009185

SOILS INFORMATION

SOIL	HOMESITES W/BASEMENT	HOMESITES W/o BASEMENT	STREETS & PARKING
MKB	SLIGHT	SLIGHT	MODERATE: SLOPE
MLB	MODERATE: MODERATELY HIGH WATER TABLE	SLIGHT	MODERATE: SLOPE, MODERATELY HIGH WATER TABLE

I ATTEST TO THE ACCURACY OF THE BASE MAPPING REVISION AS OUTLINED ON THE ABOVE PLAN.

DAVID T. MARIONI — 5-20-92
NAME — DATE

REVISED - FEBRUARY 27, 1992
REVISED - SEPTEMBER 27, 1991
JULY 26, 1991
SCALE: 1" = 50'

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

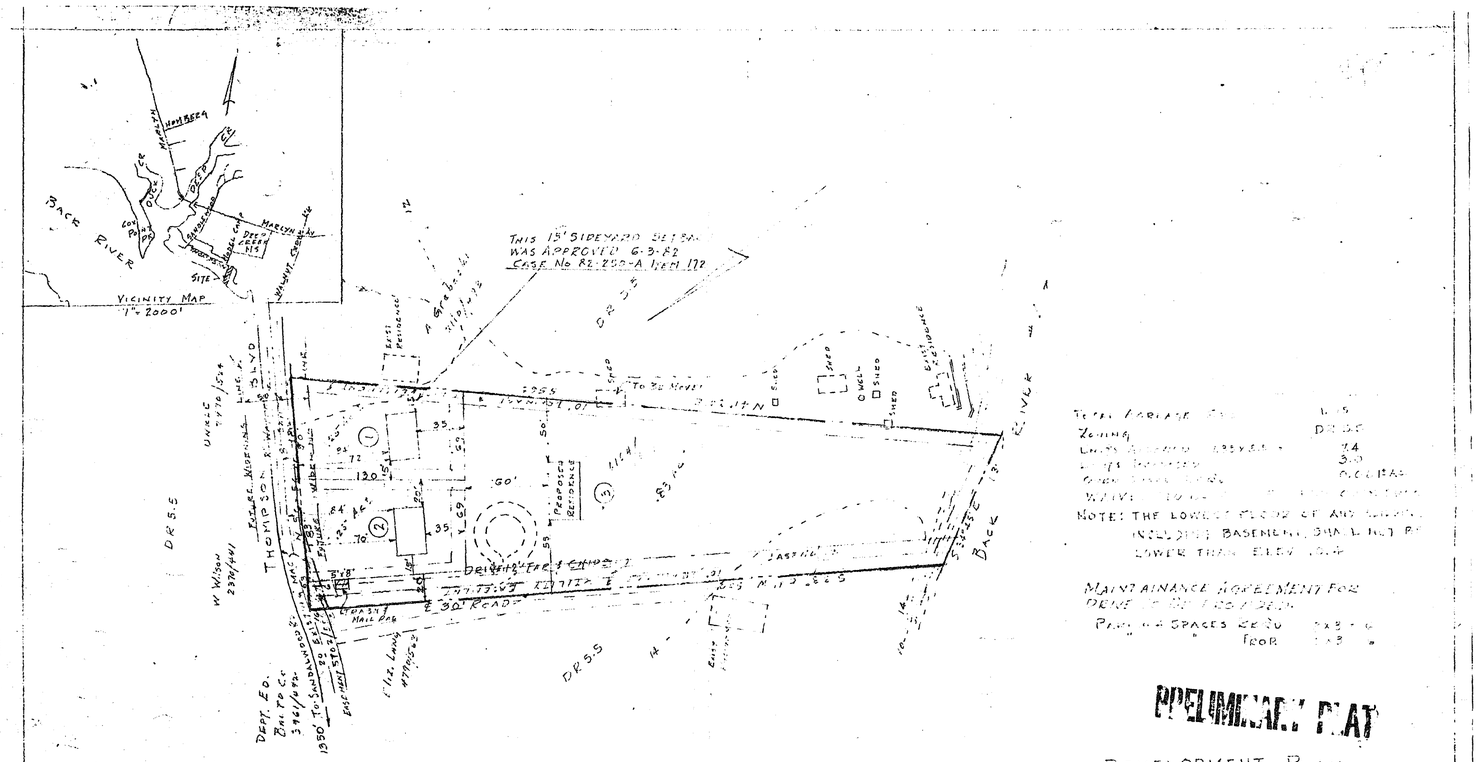
BALTIMORE COUNTY, MD.
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 9/12/91 With The Following Action Taken
2ND CORRECTED PLAN APPROVED
Plan Approved DPW David L. Thomas 6/12/92
Plan Approved OPZ
Approval Expiration Date 9/12/94
Plan Disapproved
Continued ~~FINAL PROGRESS PLAN~~
Plan ~~Referred to Plan~~ Bd LOT 3A &
~~FINAL DEVELOPMENT PLAN~~

RESUBDIVISION OF LOT 3
1ST AMENDED SUBDIVISION PLAT
FRASCKETTI PROPERTY
(SEE RECORD PLAT NO. E.H.K.J. 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: D.R. 5.5

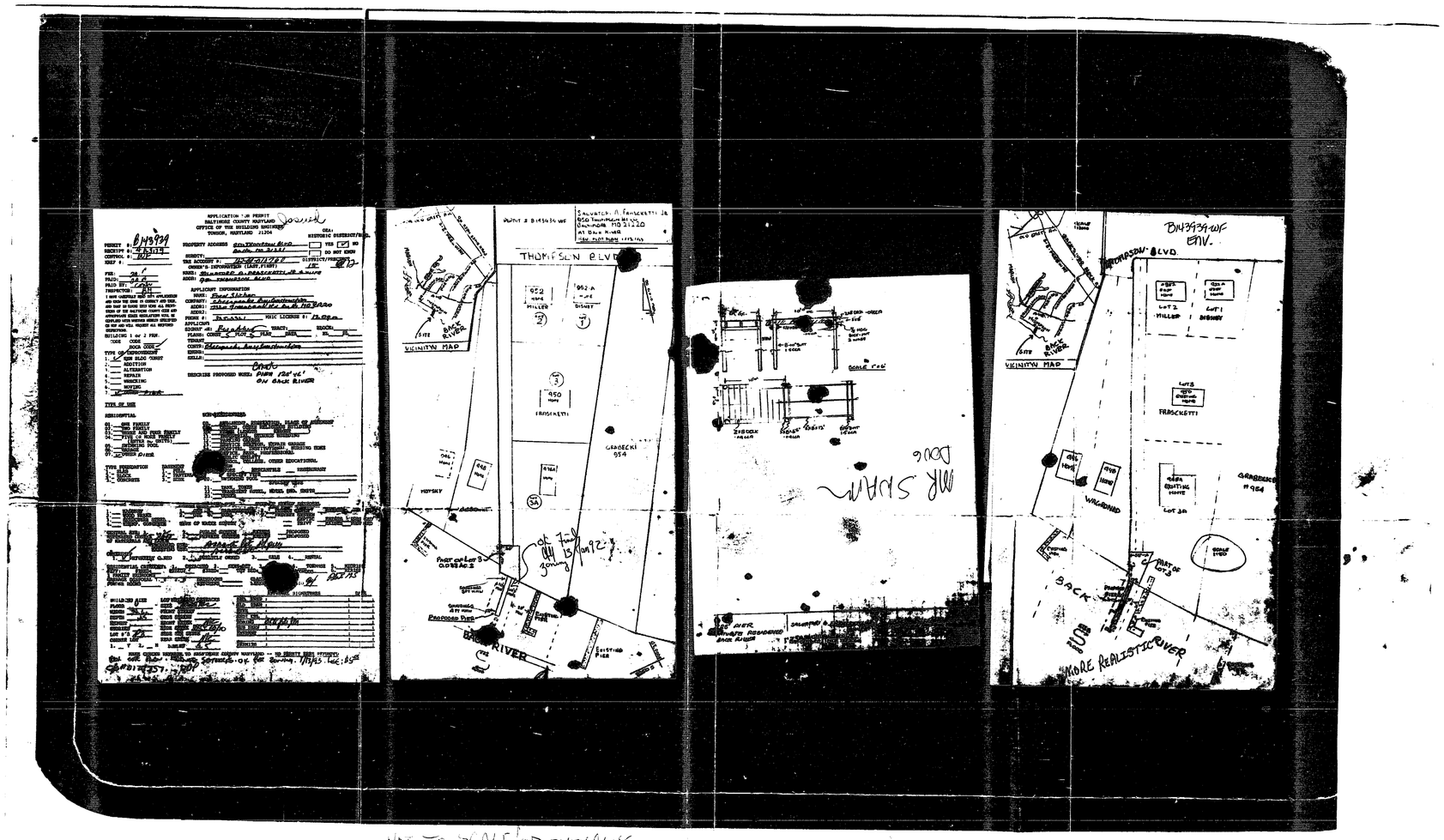
THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A) AND TO CORRECT ERRORS ON PLAT E.H.K.Jr. 50-94

Part of Sub #9

OFFICE OF PLANNING AND ZONING
APPROVED BY:
DIRECTOR OF PLANNING — DATE
ZONING COMMISSIONER — DATE


VICINITY MAP
1" = 2000'
BACK RIVER
SITE
THIS 15' SIDEYARD SETBA
WAS APPROVED 6-3-82
CASE No 82-250-A ITEM 172
THOMPSON BLVD.
E 30' ROAD
DR 5.5
DEPT. ED.
PROPOSED RESIDENCE
SHED
WELL
EXIST. RESIDENCE
NOTE: THE LOWEST FLOOR OF ANY
INCLUDING BASEMENT, SHALL NOT BE
LOWER THAN
MAINTAINANCE AGREEMENT FOR
PRELIMINARY PLAT
DEVELOPMENT PLAN
XV-309
Rev. 9-15-82
Rev. 6-10-82
Rev. 2-10-82
Rev. 12-6-81
OWNER SAM FRASCHETTI
8131 MURRAY RD ROAD
DUNDALK MD 21222
PH 282-1666
SURVEYOR CERTIFICATE
I, Russell M. Herbert, a registered Land Surveyor of the State of Maryland do hereby certify that the land shown hereon has been laid out & plat thereof has been prepared in accordance with provisions of the law relating to Subdivisions of land known as House Bill 499 Chapter 608.
Surveyor 2670
OWNER'S CERTIFICATE
THE REQUIREMENTS OF SECTION 728 ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND AS FAR AS THEY RELATE TO THE MARKING OF THIS PLAT HAVE BEEN COMPLIED WITH.
OWNER
PLAN OF
FRASCHETTI PROPERTY
THOMPSON BLVD.
DISTRICT 15
BALTIMORE CO., MD.
STATE OF MARYLAND
RUSSELL M. HERBERT
REGISTERED
LAND SURVEYOR
RUSSELL M. HERBERT
LAND SURVEYOR
1209 E 36TH STREET
BALTIMORE MD 21218
SCALE 1"=50FT OCT 1981
PH-235-9608

Cont. Exh #2



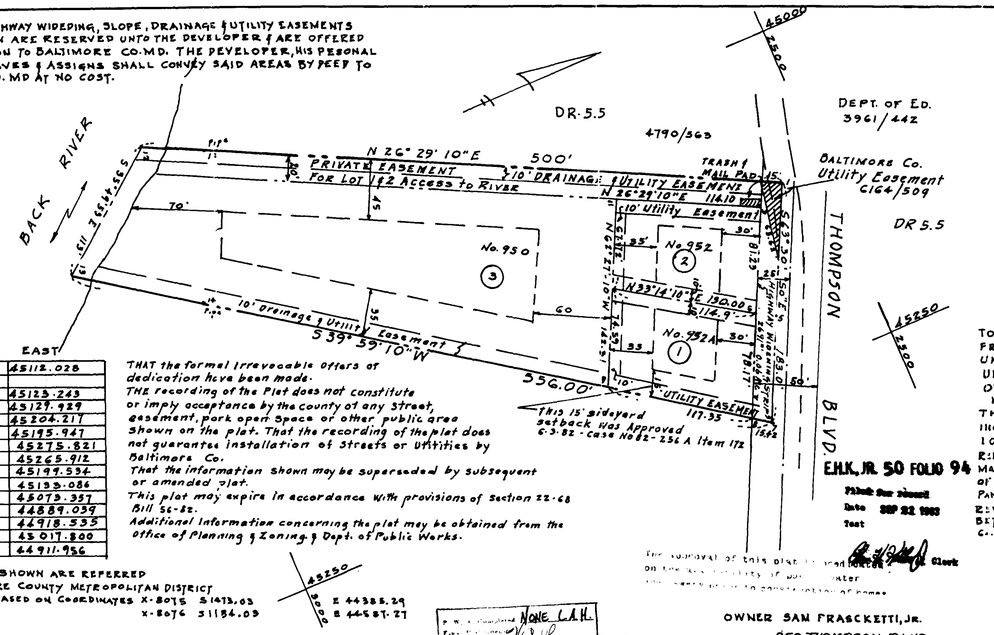
NOT TO SCALE OR EVEN CLOSE

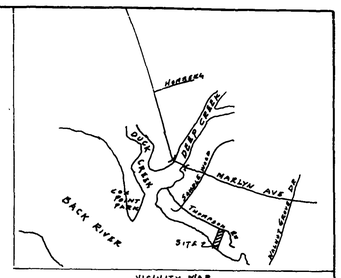
HAS BEEN CHECKED BY COUNTY FOR PER:

952 AND 952 A HAVE EASEMENT THAT LAYS IN SUBDIVISION

SOMEHOW EXISTING PIER IS MOVED OVER TO OTHER SIDE OF OWNERS PROPERTY. COPY OF BN3939WF ENV. PERMIT + SURVE ARE TO BE SCALE

HIGHWAY & HIGHWAY WIDEDING, SLOPE, DRAINAGE & UTILITY EASEMENTS SHOWN HEREON ARE RESERVED UNTO THE DEVELOPER & ARE OFFERED FOR DEDICATION TO BALTIMORE CO. MD. THE DEVELOPER, HIS PESONAL REPRESENTATIVES & ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE CO. MD AT NO COST.





VICINITY MAP
1" = 2000'

	SOUTH	EAST
1	2532.715	45112.028
2		
3	2555.055	45123.243
4	2541.635	45129.929
5	2578.651	45204.217
6	2591.287	45195.947
7	2614.330	45275.821
8	2626.144	45265.912
9	2722.993	45199.534
10	2687.386	45133.086
11	2667.179	45073.357
12	2780.237	44889.039
13	3040.337	44918.535
14	2983.011	45017.800
15	2931.240	44911.956

THAT the formal irrevocable offers of dedication have been made.
THE recording of the Plat does not constitute or imply acceptance by the county of any street, easement, park open space or other public area shown on the plat. That the recording of the plat does not guarantee installation of streets or utilities by Baltimore Co.
That the information shown may be superseded by subsequent or amended plat.
This plat may expire in accordance with provisions of Section 22-68 Bill 56-82.
Additional information concerning the plat may be obtained from the office of Planning & Zoning & Dept. of Public Works.

COORDINATES SHOWN ARE REFERRED TO THE BALTIMORE COUNTY METROPOLITAN DISTRICT SYSTEM & ARE BASED ON COORDINATES X-8075 Y 1473.03
X-8076 Y 1184.03
E 44385.29
E 44587.27

NOTES

TOTAL ACREAGE	1.35
PRESENT ZONING	DR. 5.5
UNITS ALLOWED 1.35x5.5	3.4
UNITS PROPOSED	3.0
OPEN SPACE REQ'D	0.081 Ac

WAIVER TO BE APPLIED FOR THE LOWEST FLOOR OF ANY BUILDING INCLUDING BASEMENT SHALL NOT BE LOWER THAN ELEVATION 10.4'
REFUSE COLLECTION, SNOW REMOVAL & ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF PANHANDLE & ROAD R/W LINE ONLY, & NOT TO PANHANDLE LOT DRIVEWAY.
REVISED LOT 1 & LOT 2 ENVELOPE SIDE DISTANCE. BETWEEN THEM. ALSO REAR LOT 1 DISTANCE FROM C.L. 28 TO 74.59.

E.H.K., JR. SO FOLIO 94
Plat Sur Issued
Date SEP 22 1983
Test

For approval of this plat, roads and location on the road system of Baltimore County, and water and sewer plans as required by Section 22-20 of the Baltimore County Code.
Clerk

1ST AMENDED
SUBDIVISION PLAT
FRASCKETTI PROPERTY
THOMPSON BLVD.
ELECTION DISTRICT 15
BALTIMORE COUNTY, MARYLAND

Prot Ele #3

OWNER SAM FRASCKETTI, JR.
950 THOMPSON BLVD.
ESSEX, MARYLAND 21221
PHONE 574-1112
DEED C164/509

P.W. - Construction NONE L.A.H.
Fire Protection
Planning
Recreation
Sewer Sys.
Water Sys. T.N. 9/16/83
9/17/83

APPROVED
A
DATE 9/16/83
DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS

APPROVED
9/19/83
DIRECTOR OF OFFICE OF PLANNING & ZONING

APPROVED:
9/16/83
DEPUTY STATE & COUNTY HEALTH OFFICER

SURVEYOR'S CERTIFICATE
I RUSSELL M. HERBERT A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT & THE PLAT THEREOF HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO SUBDIVISIONS OF LAND KNOWN AS HOUSE BILL 489 CHAPTER 1016.
SURVEYOR No. 2690

OWNERS CERTIFICATE
THE REQUIREMENTS OF SECTION 728 ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT HAVE BEEN COMPLIED WITH.
OWNER

STATE OF MARYLAND
RUSSELL M. HERBERT
No. 2690
REGISTERED LAND SURVEYOR

RUSSELL M HERBERT
LAND SURVEYOR
1209 E 36TH STREET
BALTIMORE, MD.
PHONE: 235.9608

SCALE 1" = 50'
DATE 1-11-83
REV 8-15-83

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 30, 1994

NOTICE OF POSTPONEMENT

RE: SALVATORE A. FRASCKETTI, JR., ET UX
CASE NO. 94-85-A

which was scheduled for public deliberation on Thursday, September 1, 1994 has been **POSTPONED** by the Board, to be reset to another date as soon as possible. All parties listed will be notified when that date has been assigned. Should you have any questions, please call 887-3180.

cc: Mr. and Mrs. Salvatore A. Frascketti — Petitioners

Mr. & Mrs. Jeffrey A. Waggoner
Gordon D. Fronk, Esquire — Appellants /Protestants

Ms. Linda D. Miller
Ms. Donna L. Disney Vaura

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
James H. Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 2, 1994

SECOND NOTICE OF DELIBERATION

Having concluded this case on August 10, 1994, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

SALVATORE A. FRASCKETTI, JR., ET UX
CASE NO. 94-85-A

DATE AND TIME : Wednesday, September 14, 1994 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Mr. and Mrs. Salvatore A. Frascketti — Petitioners

Mr. & Mrs. Jeffrey A. Waggoner
Gordon D. Fronk, Esquire — Appellants /Protestants

Ms. Linda D. Miller
Ms. Donna L. Disney Vaura

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
James H. Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink on Recycled Paper

CASE NO. 94-85-A

Salvatore A. Frascketti, Jr., et ux

SW/S Thompson Boulevard, SE of Sandlewood Road
(950 Thompson Blvd.)

15th District — Appealed: 6/13/94

Baltimore County Government
Office of Zoning Administration
and Development Management

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

October 4, 1993

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-85-A, Item No. 87
Petitioner: Salvatore A. Frascketti, et ux
Petition for Variance

Dear Mr. Lichter:

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 August 20, 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.

MICROFILMED

Zoning Plans Advisory Committee Comments
Julius W. Lichter
Date: October 4, 1993
Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.

3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator

WCR:cmm

Zoning Plans Advisory Committee Comments
Julius W. Lichter
Date: October 4, 1993
Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.

3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Zoning Coordinator

WCR:cmm

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

8-26-93

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

Re: Baltimore County
Item No.: 87 (WCR)

Dear Ms. Kehring:

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

MICROFILMED

My telephone number is _____

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 30, 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 Nos. 62, 71, 72, 73, 74, 76, 77, 78, 81, 82, 84, 86, 87 and 88.

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 W. Long

Division Chief: Carl L. Kerns

PK/JL:lw

ZAC.62/PZONE/ZAC1

NOTES

1. Watershed 21; subwershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE 32.
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-21-88
9. Proposed house site and direction shown thus:
10. S.W.M. WAIVER GRANTED JAN. 9, 1991.
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the pannandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3" bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. There are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 5.4' - basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 100' or more from shoreline buffer.
22. Acceptance of this plan in no way finds Baltimore County into refuse collection of this development. At the time of construction and after all requirements (trash pad) have been met, a representative of the Bureau will meet with the building owner or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.033 ac+/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE BOTH 10' WIDE WITH THE USE OF THE EXISTING 20' PRIVATE EASEMENT FOR LOT 1 & LOT 2 ACCESS TO RIVER.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, areas of shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
34. Building Setbacks

Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

Height to Height Requirements (Distances between facing elevation):

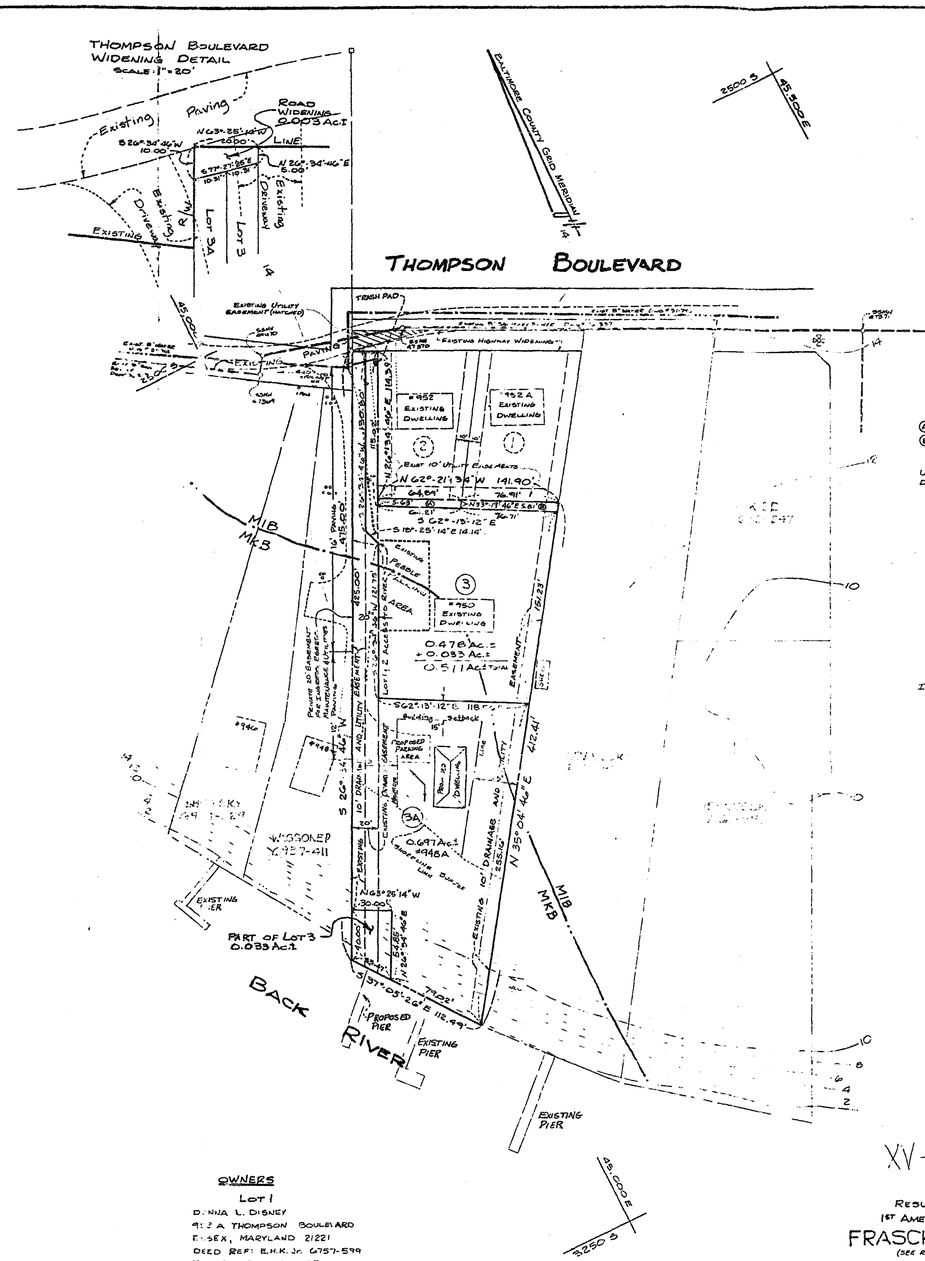
0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

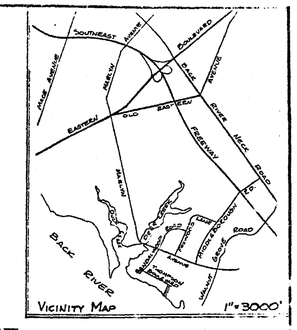
Building height - 50' Max.

SOILS INFORMATION

SOIL	HOMESITES w/BASEMENT	HOMESITES w/o BASEMENT	STREETS & PARKING
MkB	SLIGHT	SLIGHT	MODERATE: SLOPE
MlB	MODERATE: MODERATELY HIGH WATER TABLE	SLIGHT	MODERATE: SLOPE, MODERATELY HIGH WATER TABLE

APPROVED FOR BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT





Ⓐ 0.0085 Ac.± TO BE DEEDED TO LOT 2
Ⓑ 0.0104 Ac.± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6656-166

IMPERVIOUS SURFACE CHART

	LOT 3	LOT 3A
LOT ACREAGE	24,115 SQ.FT.	26,755 SQ.FT.
15%	3629 SQ.FT.	4013 SQ.FT.
IMPERVIOUS SURFACE		
HOUSE	1150 SQ.FT.	[illegible]
DRIVEWAY	1981 SQ.FT.	[illegible]
TOTAL	3131 SQ.FT.	3151 SQ.FT.
	12.97%	11.77%

OVERALL LOTS 3 & 3A: 12.[illegible]%

TREES		
MAJOR	2	3
MINOR	5	5
SHRUBS	5	5

DENSITY CALCULATIONS

E.H.K. Jr. 50-94
GROSS AREA: 1.73 Ac.±
NET AREA: 1.60 Ac.±
PRESENT ZONING: DR 5.5
UNITS ALLOWED: [illegible] PER CRG89-2
UNITS USED: 3
UNITS RECEIVED: [illegible]
TOTAL NO. UNITS USED: [illegible]

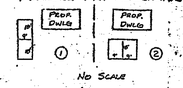
OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX No.: 19-00-009183

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6764-505
TAX No.: 19-00-009184

OWNER LOT 3 & DEVELOPER
SALVATORE A. FRASCKETTI, Jr. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6164-509
TAX No.: 19-00-009185

PARKING PAD ALTERNATES



NO SCALE

DATE	REVISION
1-24-91	FIRST SUBMITTAL COMMENTS ADDRESSED
5-14-91	REVISED AS PER CRITICAL FINDINGS PLAN
6-11-91	ADDITIONAL ROAD WIDENING SHOWN, PANHANDLES REVISED
8-28-91	REVISED AS PER F.D.P.
9-10-91	ADDED PANNE WIDTH NOTES ADDRESSED COMMENTS

XV-309

RESUBDIVISION OF LOT 3
1ST AMENDED SUBDIVISION PLAT
FRASCKETTI PROPERTY
(SEE RECORD PLAT NO. EHKJr 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: D.R. 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K.Jr. 50-94

STATE OF MARYLAND

SCALE: 1"=50'
NOVEMBER 30, 1990

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

BALTIMORE COUNTY, MD.
COUNTY REVIEW GROUP
This Plan Was Reviewed By Th. CRG89-2 With The Following Action Taken:
PLAN APPROVED
Plan Approved DPW
Plan Approved OPZ
Approval Expiration Date
Plan Disapproved
Continued Mtg. Required
Plan Referred To Plan. Bd.

NOTES

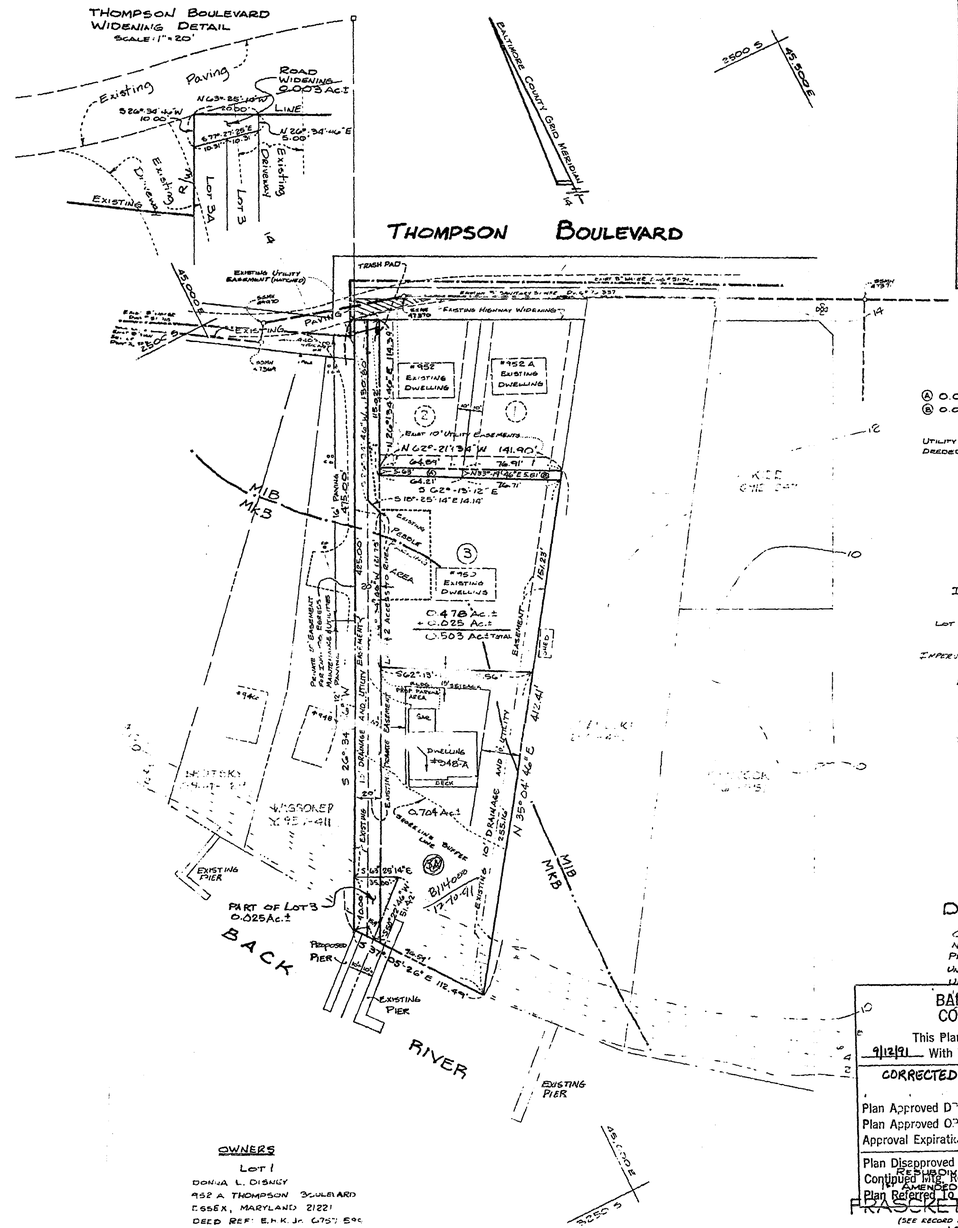
1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: *SEE NOTE 32.*
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. *9-21-88*
9. Proposed house site and direction shown thus:
10. S.H.W. WAIVER GRANTED JAN. 9, 1991.
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots, refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3" bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. There are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Total finished elevation of [illegible] basement floor or first floor will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County into refuse collection of this property until the terms of Section [illegible] and all requirements [illegible] have been met, and the representative of the Bureau will meet with the [illegible] is representative to discuss details of refuse collection.
23. Each lot will be brought to 15± feet cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28± slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dry Well) are to be used to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE BOTH 10' WIDE WITH THE USE OF THE EXISTING 20' PRIVATE EASEMENT FOR LOT 1 & LOT 2 ACCESS TO RIVER
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, streams or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
34. Building Setbacks
    - Window to Window - 40'
    - Window to Tract Boundary - 35'
    - Window to Property Line - 15'
    - Building to Tract Boundary - 30'

    Height to Height Requirements (Distances between facing elevation):
    - 0-20' - 16' Separation
    - 20-25' - 25' Separation
    - 25-30' - 30' Separation
    - 30-40' - 40' Separation
    - 40-50 - 60' Separation

    Building height - 50' Max.

SOILS INFORMATION

Soil	Homesites w/Basement	Homesites w/o Basement	Streets & Parking
MkB	Slight	Slight	Moderate: Slope
MlB	Moderate: Moderately High Water Table	Slight	Moderate: Slope, Moderately High Water Table



Ⓐ 0.0085 Ac.± TO BE DEEDED TO LOT 2
Ⓑ 0.0104 Ac.± TO BE DEEDED TO LOT 1

UTILITY EASEMENTS AND DRAINAGE AND UTILITY EASEMENTS DEEDED TO BALTIMORE COUNTY E.H.K. Jr. 6636-666

IMPERVIOUS SURFACE CHART

	Lot 3	Lot 3A
Lot Acreage	21,911 sq. ft.	30,666 sq. ft.
15%	3287.65 ft.	4600 sq. ft.
Impervious Surface		
House	1150 sq. ft.	1200 sq. ft.
Driveway	1981 sq. ft.	1981 sq. ft.
Total	3131 sq. ft. 14.3%	3181 sq. ft. 10.3%

OVERALL LOTS 3 & 3A: 12.3%

Trees		
Major	2	3
Minor	5	5
Shrubs	5	5

DENSITY CALCULATIONS

E.H.K. Jr. 50-94

GROSS AREA: 1.73 Ac.±
NET AREA: 1.67 Ac.±
PRESENT ZONING: DR 5.5
UNITS ALLOWED: 1.67 x 5.5 = 9.2
UNITS USED: 3

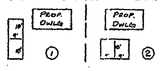
OWNERS

LOT 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-596
TAX No.: 19-00-009185

LOT 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6764-505
TAX. No.: 19-00-009184

OWNER LOT 3 & DEVELOPER
SALVATORE A. FRASCHETTI, JR. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6164-539
TAX No.: 19-00-009185

PARKING PAD ALTERNATES



No Scale

APPROVED FOR BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

DATE	REVISION
1-24-91	FIRST SUBMITTAL COMMENTS [illegible]
5-14-91	REVISED AS PER CRITICAL FINDINGS PLAN
6-11-91	ADDITIONAL ROAD WIDENING SHOWN, PANHANDLES REVISED
8-28-91	REVISED AS PER F.D.P.
9-10-91	ADDED PARKING WITH NOTES ADDRESSED COMMENTS
9-25-91	REVISED PARK OF LOT 3 & IMPERVIOUS SURFACE CHART

BALTIMORE COUNTY MD.
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 9/12/91 With The Following Action Taken
CORRECTED PLAN APPROVED
Plan Approved DPW David L. Thomas
Plan Approved OPZ [illegible]
Approval Expiration Date 9/12/94
Plan Disapproved
Continued Mtg. Required
Plan Referred To Plan. Bd.

RESUBDIVISION OF LOT 3
1st AMENDED SUBDIVISION PLAT
~~FRASCHETTI PROPERTY~~
(SEE RECORD PLAT NO. E.H.K. 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: DR 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K. Jr. 50-94

STATE OF MARYLAND — PROPERTY LINE SURVEYOR — [illegible]

SCALE: 1" = 50'
NOVEMBER 30, 1990

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

Print Eck #6

NOTES

1. Watershed 21; subsewershed 39; census tract 4511; councilmanic district 5.
2. ADT'S 4 x 12.4 = 49.6
3. Principal building setbacks: SEE NOTE "36"
4. Lots 1, 2 & 3 are improved by single family dwellings, lot 3A is for sale for a single family dwelling.
5. Entire site is grass.
6. Public water and sewer is available for this site.
7. Maintenance agreements for panhandle driveways are to be recorded in the deeds of the lots having rights to their use.
8. A waiver of open space granted. 9-21-88
9. Proposed house site and direction shown thus:
10. S.W.M. ~~to be addressed~~. WAIVER GRANTED JAN. 7, 1991
11. Clearing and grading of lots to be limited to that necessary for the construction of houses and driveways only.
12. There are no historic buildings, archeological sites, endangered species habitat or hazardous materials on site.
13. The panhandle driveway shall be built in accordance with standards established by the Director of Public Works. The panhandle shall be paved within one year of the issuance of the first occupancy permit and prior to the issuance of the occupancy permit of the last lot to be served, whichever comes first. In D.R. zones, utilities shall be provided to all lots to be served by the panhandle prior to the paving of the panhandle driveway.
14. Panhandle lots subject to declaration and maintenance agreements to be recorded among the Land Records of Baltimore County at the time of deed recordation. For panhandle lots; refuse collection, snow removal and road maintenance will be provided to the junction of the panhandle and street R/W line only and not onto the panhandle lot driveway. (Refuse to be collected by Baltimore County). The proposed paving sections shall be 8" CR-6 stone with a 3' bituminous concrete surface on all panhandle roads. Widths are shown hereon.
15. Proposed parking area to be 8" pebbles or certified slag over filter cloth (see detail).
16. No further subdivision of the parcel of land shown hereon will be permitted unless approved by the Baltimore County Planning and Zoning Commission.
17. Where applicable, utilities shall be installed in accordance with current regulations or as amended by the Public Service Commission of Maryland regarding underground utilities.
18. Ther are no wells, septic systems or underground fuel storage tanks on this site.
19. A Critical Findings Plan has been submitted.
20. Tidal floodplain elevation = 9.4' - basement floor or first floor' will be at least 1 foot higher.
21. Proposed dwelling shall be 10' or more from shoreline buffer.
22. Acceptance of this plan in no way binds Baltimore County Into refuse collection of this development. At the time of construction and after all requirements (trash pads) have been met, a representative of the Bureau will meet with the Developer or his representative to discuss details of refuse collection.
23. Each lot will be brought to 15% forest cover.
24. Tax map 97; block 22; parcel 346; lot 3.
25. Linear water frontage = 112.5'+/-.
26. Existing and proposed dwelling sites at elevation of 13' to 14'+/-.
27. 0.025 Acre +/- part of lot 3 is for proposed pier.
28. Area within 50' of shoreline is 28% slope +/-.
29. This property is located in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area.
30. Downspout infiltration devices (Dutch drains) are to be utilized to preserve water quality (see detail).
31. Trees and shrubs are to be planted in the shoreline buffer area.
32. PANHANDLES ARE BOTH 10 FEET WIDE WITH THE USE OF EXISTING 20' PRIVATE EASEMENT FOR LOT 1 & 2 ACCESS TO STREET.
33. There shall be no clearing, grading, construction or disturbance of vegetation in the wetlands, stream or shoreline buffers except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

34. ZONING COMMISSIONER'S NOTE

This development plan is approved by the Zoning Commissioner based on his interpretation of the Zoning Regulations, that it complies with present policy, density, and bulk controls as they are delineated in the Regulations. Any part or parcel of this tract that has been utilized for density to support dwellings shown thereon shall not be further divided, subdivided, or developed for additional dwellings or any purpose other than that indicated presently on said plan. Utilization will have occurred when a dwelling is constructed and transferred for the purpose of occupancy.

35. ACCESSORY STRUCTURE NOTE

Envelopes shown hereon are for the location of all principal buildings only. Accessory structures, fences, and projections into yards may be constructed outside the envelope, but must comply with sections 400 and 301 of the Baltimore County Zoning Regulations. (Subject to covenants and applicable building permits.)

36. Building Setbacks

Window to Window	-	40'
Window to Tract Boundary	-	35'
Window to Property Line	-	15'
Building to Tract Boundary	-	30'

Height to Height Requirements (Distances between facing elevation):

0-20'	-	16' Separation
20-25'	-	25' Separation
25-30'	-	30' Separation
30-40'	-	40' Separation
40-50	-	60' Separation

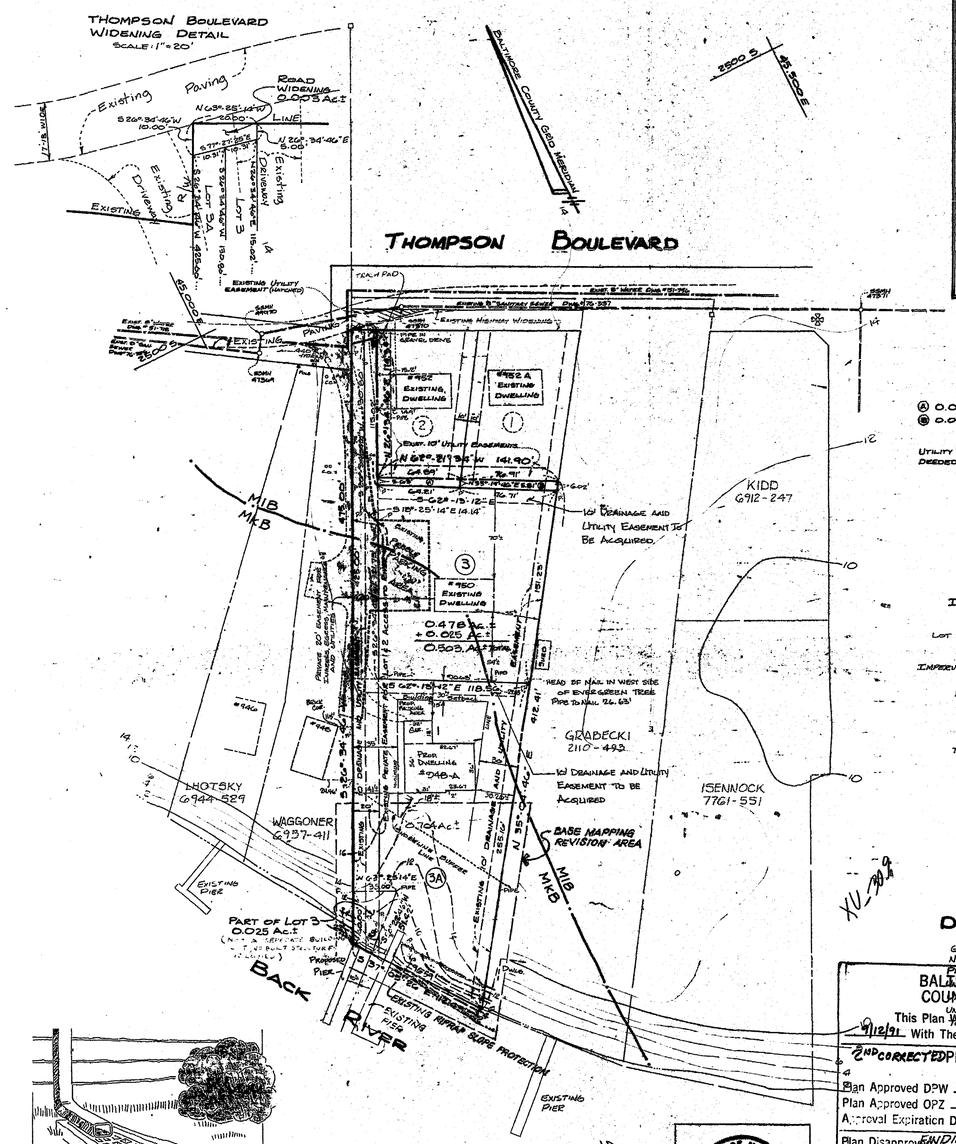
Building height - 50' Max.

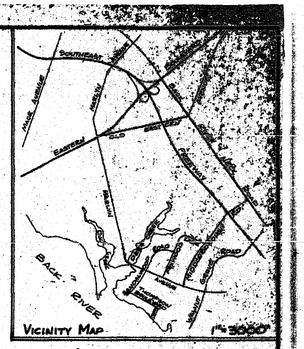
948 A =

13-00-009185
22-00-010758

950 =

22-00-010760
22-00-010759





Ⓐ 0.0085 Ac.± to be Deeded to Lot 2
Ⓑ 0.0104 Ac.± to be Deeded to Lot 1

Utility Easements and Drainage and Utility Easements Deeded to Baltimore County E.H.K. Jr. 6036-660.

Impervious Surface Chart

	Lot 3	Lot 3A
Lot Acreage	21,911 sq. ft.	30,666 sq. ft.
15%	3287 sq. ft.	4600 sq. ft.
Impervious Surface		
House	1152 sq. ft.	2226 sq. ft.
Driveway	1961 sq. ft.	1981 sq. ft.
Total	3113 sq. ft. 14.5%	4207 sq. ft. 13.7%
Overall Lots 3 & 3A: 14.3		
Trees		
Major	2	3
Minor	4	6
Shrubs	4	6

Disturbed Areas

Dwelling	2400 sq. ft.
Driveway & Parking	800 sq. ft.
Lawn	2000 sq. ft.
Total	5,200 sq. ft.

Density Calculations

E.H.K. Jr. 50-94
Gross Area: 1.73 Ac.±
Net Area: 1.67 Ac.±
Present Zoning: DR 5.5
Units Permitted: 9.2
Units Proposed: 7

BALTIMORE COUNTY MD
COUNTY REVIEW GROUP
This Plan Was Reviewed By The CRG On 9/12/91 With The Following Action Taken
2ND CORRECTED PLAN APPROVED
Plan Approved DPW David L. Thomas 6/12/92
Plan Approved OPZ
Approval Expiration Date 9/12/94
Plan Disapproved
Continued And Required
Plan Returned To Plan. Bd.

FINDINGS PLAN, PART PLAN - LOT 3A & FINAL DEVELOPMENT PLAN RESUBDIVISION OF LOT 3

1ST AMENDED SUBDIVISION PLAT

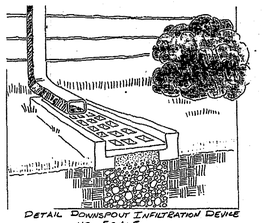
FRASCKETTI PROPERTY

(SEE RECORD PLAT NO. E.H.K.J. 50-94)
LOCATED IN
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
ZONED: D.R. 5.5

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE LOT 3 INTO 2 LOTS (LOT 3 & LOT 3A), AND TO CORRECT ERRORS ON PLAT E.H.K.Jr. 50-94

XV-309

Plat No



DETAIL DOWNSPOUT INFILTRATION DEVICE
NO SCALE

Owners

Lot 1
DONNA L. DISNEY
952 A THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr. 6757-599
TAX No.: 19-00-009183

Lot 2
LINDA D. MILLER
952 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6764-505
TAX No.: 19-00-009184

Owner, Lot 3 & Developer
SALVATORE A. FRASCKETTI, Jr. & WIFE
950 THOMPSON BOULEVARD
ESSEX, MARYLAND 21221
DEED REF: E.H.K. Jr 6164-509
TAX No.: 19-00-009185

97/22/346
B14000 948 A NR

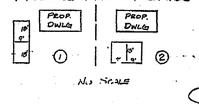
I ATTEST TO THE ACCURACY OF THE BASE MAPPING REVISION AS OUTLINED ON THE ABOVE PLAN.
DAVID T. HARLOW 3-20-92
NAME DATE

STATE OF MARYLAND — DAVID THOMAS THOMAS — No. 18166 — REGISTERED PROFESSIONAL ENGINEER

Soils Information

Soil	Homesites w/Basement	Homesites w/o Basement	Streets & Parking
MkB	Slight	Slight	Moderate: Slope
MlB	Moderate: Moderately high water table	Slight	Moderate: Slope, Moderately High Water Table

Parking Pad Alternates

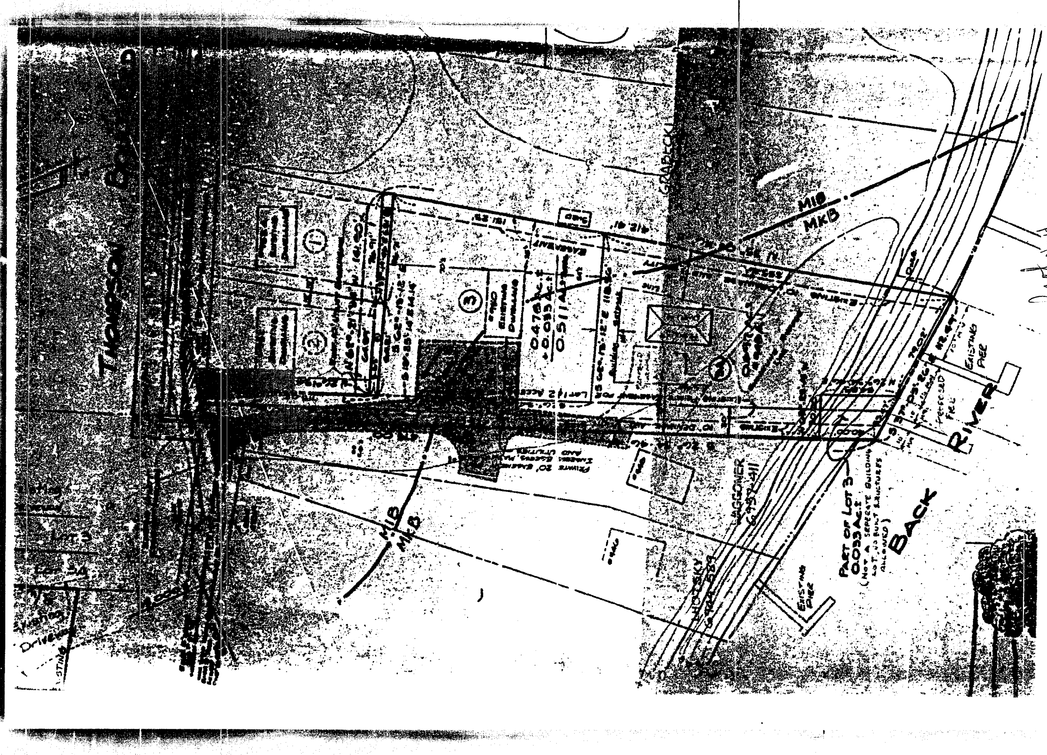


NO SCALE

REVISED - FEBRUARY 27, 1992
REVISED - SEPTEMBER 27, 1991
JULY 26, 1991
SCALE: 1" = 50'

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

OFFICE OF PLANNING AND ZONING
APPROVED BY
DIRECTOR OF PLANNING — DATE
ZONING COMMISSIONER — DATE


Thomson Boat Co.
MLB
MKB
MLB
MKB
GOODRICH
0.476 Ac.
±0.095 Ac.
0.511 Ac.
RIVER
BACK
Part of Lot 3
0.095 Ac.
Electric Pole
Electric Pole

Part Map

difficulty or unreasonable hardship ...". Courts have interpreted the "practical difficulty or unreasonable hardship" language to be disjunctive, and a showing of practical difficulty alone will be sufficient. Red Roof Inns V People's Counsel, 96 Md. App. 219 (1993). Although the "practical difficulty" requirement may be satisfied by a lower standard of proof than "unreasonable hardship", Red Roof Inns, supra, there is not substantial evidence in the record to support even that conclusion.

Section 307.1 of the Baltimore County Ordinance further provides:

> ... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said ... area ... regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare .... Any order ... granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance ....

In the instant case, discord, rather than "strict harmony" is the result of the variance, and the Board's opinion is unsupported by findings of fact or reasons for making the variance, or any explanation of how the relief granted does no injury to public health, safety and general welfare.

A lesson to be learned from a thorough review of the decisions of our appellate courts is this: Variances, even seemingly minor area variances, are rarely appropriate or justified. Recently, the Court of Special Appeals observed as follows:

> ... in our review of the reported Maryland cases since the creation of the state zoning enabling act ... , we have found only five reported Maryland

> cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed. [Cases cited.] ... All of these cases were decided over a twelve-year period and the last of them was decided more than twenty-one years ago. Three of them ... appear to be somewhat at odds with accepted Maryland law .... Cromwell V Ward, 102 Md. App. 691 (1995).

The Cromwell case is especially enlightening to this Court in reviewing the case sub judice. In reversing the judgment of another member of this bench, the appellate court addressed factual circumstances markedly similar to this case, which, like Cromwell, also involves the completion of structural improvements in violation of an ordinance and a subsequent request for an after-the-fact variance. The Court (Cathell, J.) said

> The treatise writers also are in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of that property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty. ...
>
> We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been - a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. ...
>
> Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

In addressing the granting of the building permit in the

Cromwell case, the Court observed:

> Accordingly, it appears clear that the mistake of a county official cannot be the "practical difficulty" unique to the subject property required in order to authorize the grant of the variance sought and obtained by Ward.

Finally, the Court observed that:

> It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper ...

The Court is not unmindful of the fact that the Cromwell case was not decided until January of this year, and that the CBA did not have the benefit of its guidance when reviewing the award of these variances, but a number of earlier appellate cases which should have been considered by the CBA were improvidently disregarded. However, what was at least discernible before Cromwell is now viewable with crystalline clarity: The variances granted by the Zoning Commissioner and affirmed by the CBA in this case were improperly and unlawfully awarded.

Moreover, the traditional criteria customarily relied upon by zoning officials in Baltimore County to justify the granting of area variances must be thoroughly and thoughtfully reevaluated in the light of the decisions discussed above.

As painful as the application of this ruling is to the Petitioners in this case, the offending structure unlawfully erected by them must be removed forthwith, absent appeal to the

higher courts of this State. Unless a timely appeal is lodged, the new pier constructed by Petitioners must be dismantled and removed, with the least possible environmental damage, within 90 days of the date of this ruling, and it is by this Court, SO ORDERED.

/S/
Christian M. Kahl

June 30, 1995
Date

CMK:emh

cc: Jeffrey and Terry Waggoner
Gordon D. Fronk, Esquire
People's Counsel of Baltimore County
Lawrence Schmidt, Zoning Commissioner
William T. Hackett, Chairman, CBA
Arnold Jablon, Director, ZADM
James H. Thompson, Zoning Enforcement
P. David Fields, Director of Planning and Zoning

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATEGORY JUDICIAL REVIEW 97/332/94cv11048

CIVIL ASSIGNMENT

PETITION OF JEFFREY A. WAGGONER AND TERRY WAGGONER

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE CASE OF SALVATORE A. FRASCKETTI, JR. ET UX FOR VARIANCE ON PROPERTY LOCATED ON THE S[illegible] SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD (950 THOMPSON BOULEVARD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

ATTORNEYS

GORDON D. FRONK
Suite 700 Court Towers
210 W. Pennsylvania Ave.
Towson, 21204/823-7966

Charlotte E. Radcliffe
County Board of Appeals of Balt. Co.
Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD (04) (410) 887-3180

COSTS

LG (1) Dec.2,1994 Petitioner Jeffrey A. waggoner and Terry Waggoner Petition for Judicial Review, fd.

mar (2) Dec 12, 1994 Certificate of Notice, fd. (Rec'd 12/9/94)

*df (3) Feb. 7, 1995 - Transcript of Record fd. (Filed 2/3/95). Bex263 and Bex273

*df (4) Feb. 7, 1995 - Notice of Filing of Record fd. Copies Sent. (Filed 2/3/95).

as (5) March 7, 1995 Ex Parte Motion of Jeffrey A. Waggoner and Terry Waggoner with Order of Court EXTENDING the time for the filing of the petitioner's memorandum until March 10, 1995, etc., fd. (BKH)

[illegible] (6) MAR 07 1995 [illegible] fd. (BKH)

CG (7) Mar 10, 1995 Jeffrey A. Wagner & Terry Waggoner's memorandum of petitioners, fd.

Docket 97 Page 332 Case 94 CV- [redacted] 11048

PETITION OF JEFFREY A. WAGGONER AND TERRY WAGGONER 948 Thompson Boulevard Baltimore MD 21220	*	IN THE
	*	CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Room 49 Old Courthouse 400 Washington Avenue Towson MD 21204	*	BALTIMORE COUNTY
IN THE CASE OF: IN THE MATTER OF SALVATORE A. FRASCKETTI, JR. FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD (950 THOMPSON BOULEVARD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT CASE NO. 94-85-a	*	CIVIL ACTION NO. 94CV11048 97/332

* * * * * * * * * * * * *

MEMORANDUM OF PETITIONERS

JEFFREY A. WAGGONER and TERRY WAGGONER, his wife (the "Protestants"), by Gordon D. Fronk and Gordon D. Fronk, P.A., submit this Memorandum in support of the Petition for Judicial Review, pursuant to Maryland Rule 7-207.

STATEMENT OF THE CASE

This is a petition to review the Opinion and Order of The County Board of Appeals of Baltimore County, dated November 4, 1994, granting a variance from Sections 417.3.B. and 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), as well as the Zoning Commissioner's Policy Manual diagram so as to allow a distance between piers of 17 feet, in lieu of the required 20 feet, and a distance between property line and the subject pier of 4 feet, in lieu of the required 10 feet; and, precluding the piers from being used for commercial purposes or from being available for rent

or hire; and, limiting the use of the piers to the owners of the respective lots on which the piers have been constructed.

In August, 1993, Salvatore A. Frascketti and Deborah A. Frascketti, his wife (Petitioners), filed with the Zoning Commissioner's Office, a Petition for Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property. Petitioners sought a variance to allow the distance between two piers (hereinafter referred to as the "L pier" and the "new pier") to be 17' in lieu of 20' and between the new pier and the boundary line to be 4' in lieu of 10', and to a mend the Final Development Plan in conformity with the requested variances. Their application states the reasons for hardship or practical difficulty are "to maintain an existing wood [new] pier, which was erected in accordance with an Amended Final Development Plan approved by the Department of Public Works on June 12, 1992, and pursuant to a building permit B143939, which was issued utilizing a site plan that was not as shown on the Amended Final Development Plan."

Protestants opposed the granting of the variance on the grounds that it was made known to the Petitioners by both the County and the Protestants that there was not sufficient frontage within which to construct the new pier and therefore any hardship or practical difficulty had been self-created by Petitioners and should not be found to be the basis for granting a variance..

Zoning Commissioner Lawrence E. Schmidt, by his Findings of Fact and Conclusions of Law, dated May 27, 1994, ordered that the variance be granted, provided the piers are not used for commercial purposes or available for rent or hire, and limited the use of the "L" shaped pier to the owners of Lots 3 and 3A, and the use of the straight "new" pier to the owner of Lot 3. At the Zoning Commissioner level, the Petitioners were represented by Julius W. Lichter, Esquire, and the Protestants were represented at the first day of the hearing by Douglas L. Burgess, Esquire, and at the second day of the hearing by Gordon D. Fronk, Esquire, who had replaced Mr. Burgess, who

had been required to withdraw his appearance because of a conflict of interests within the law firm in which he is a partner.

At the *de novo* Board of Appeals hearing, held on August 10, 1994, the Petitioners were not represented by counsel; the Protestants were represented by Mr. Fronk. Petitioner Salvatore A. Frascketti took the stand and stated that he had nothing to say, but would rely on the Zoning Commissioner's Findings of Fact and Conclusions of Law. *(Board Record, Page 5)*. Through cross-examination of Mr. Frascketti, Mr. Fronk elicited the background of the case and introduced the several exhibits. Thomas Phelps, a civil engineer and land surveyor, was the only other witness, who was called to testify on behalf of the Protestants.

By Order, dated November 4, 1994, the County Board of Appeals of Baltimore County (the "Board") upheld the Zoning Commissioner and granted the variance with the identical conditions regarding purpose and uses.

On December 2, 1994, Protestants filed timely a Petition for Judicial Review of the Order of the Board.

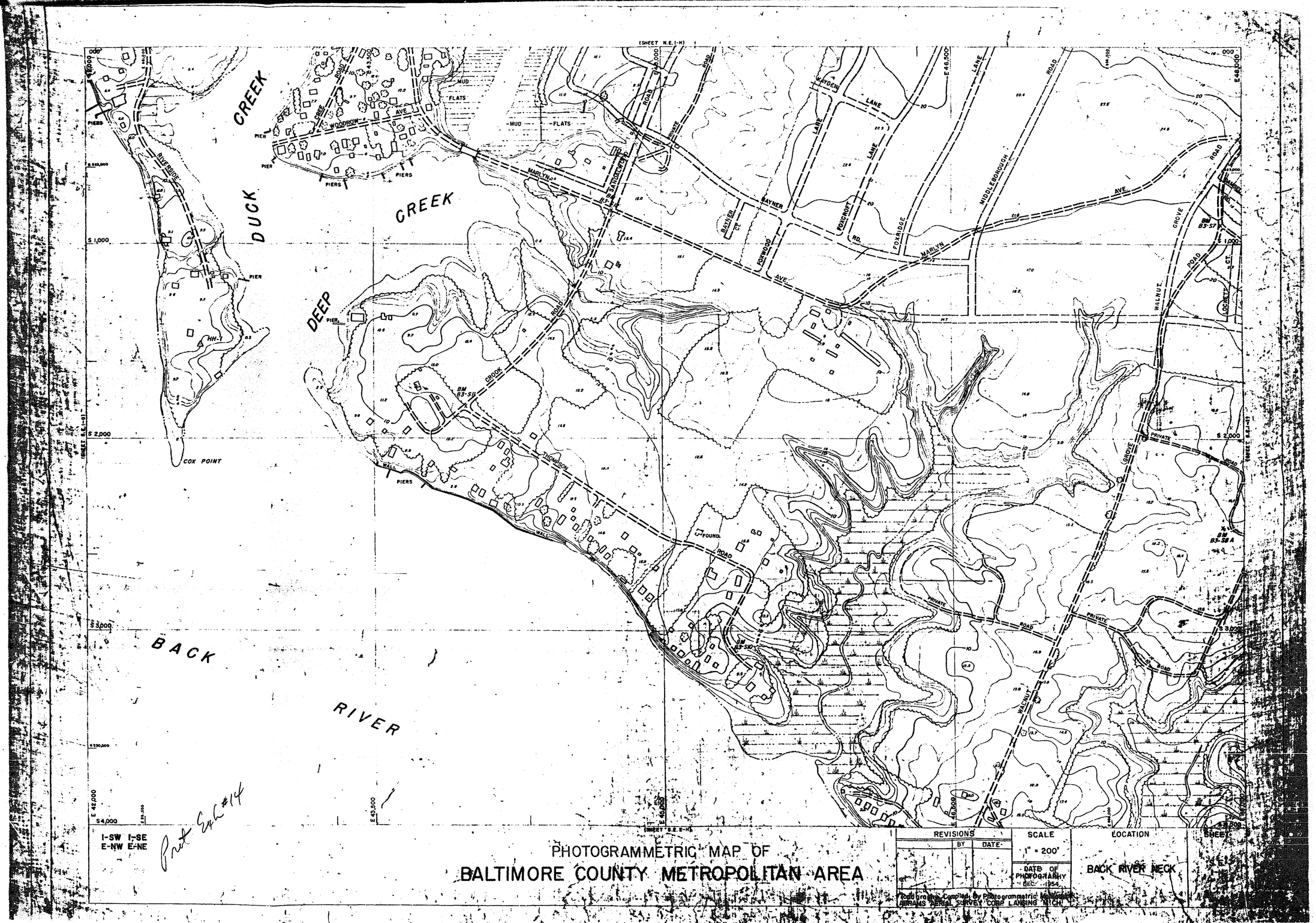
STATEMENT OF THE ISSUES

1. DID THE BOARD OF APPEALS PROPERLY APPLY THE STANDARDS IMPOSED BY BALTIMORE COUNTY ZONING ORDINANCE IN GRANTING THE VARIANCES?

2. DID THE BOARD HAVE THE RIGHT TO IMPOSE LIMITATIONS ON THE USE OF THE NEW PIER, IN LIGHT OF THE ACCESS EASEMENTS GRANTED TO OWNERS OF CONTIGUOUS LOTS?

STATEMENT OF FACTS

The Petitioners acquired a parcel of land (the "Parcel") by deed, dated May 12, 1980 *(Exhibit 1)*, from which they caused the same to be subdivided into Lots 1, 2 and 3 by recording a



PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

plat, entitled "1st Amended Subdivision Plat Frascketti Property Thompson Boulevard" dated 1-11-83, Rev. 8-15-83 and recorded September 21, 1983, at Plat Book E.H.K., Jr. 50, folio 94 *(Exhibit 3)*. The subdivision plat (a) created Lot 3, comprising 1.2+/- acres, fronting for 113'+/- on Back River, with a panhandle to Thompson Boulevard, and (b) granted to the owners of each of Lots 1 and 2 a 20-foot easement for ingress and egress to and from Back River, along the west boundary of the original Parcel, which easement continues to be in effect today. The Petitioners lived in the house constructed on the original Lot 3 at all relevant times, until November, 1993, when they moved into the house, which they subsequently had caused to be constructed on Lot 3A. In April, 1987, the Petitioners applied for, obtained approval of and caused to be constructed an L-shaped pier on Lot 3. The western edge of the L pier was constructed at a point, which is 27.2 feet from the west property line of the original Parcel, being the common boundary line with the Protestants' property. No consideration had been given to leaving room to construct a new pier between the L pier and the west boundary line of Lot 3 *(Record Page 30)*.

In 1991, while living in the house on the original Lot 3, the Petitioners applied to Baltimore County to re-subdivide the original Lot 3 into two lots, one to be known as Lot 3A, intended to have approximately 82' of frontage on Back River, comprising 0.704 acres, including a panhandle varying in width between 20' and 10' for ingress and egress access to Thompson Boulevard. The Petitioners retained the engineering firm of Gerhold, Cross & Etzel, who prepared and submitted to Baltimore County a Resubdivision of Lot 3, 1st Amended Subdivision Plat Frascketti Property, dated July 26, 1991, which, among other things, depicted the 0.033-acre rectangular waterfront parcel. *(Exhibit 5.)* The revised Lot 3 was reduced to approximately 0.478 acres, including a panhandle 10' wide to Thompson Boulevard, and was designed to include a separate 0.033-acre rectangular parcel of land fronting on Back River 30' wide and varying in depth of 40' on the west and 54.85' on the east. The Petitioner testified that the purpose for the waterfront parcel was to improve the desirability of the

revised Lot 3, so that it would have adequate water frontage to construct a new pier. *(Record Page 35)* The revised Lot 3 reserved an easement for access to the waterfront parcel over a portion of the same easement area granted to the owners of Lots 1 and 2. The minimum water frontage required to permit a pier to be constructed would have been 26', provided there was no other existing pier within 10' of the new line of division of Lot 3A and the waterfront parcel; therefore, the 30' width would have seemed adequate. However, the Petitioners did not take into account the exact location of the L pier. In fact, the proposed 0.033+/- acre rectangular waterfront parcel overlapped one-half of the width of the L pier and caused it to straddle the proposed property line of division between Lots 3 and 3A.

Because the Baltimore County Code, Section 26-169, *et seq.*, requires that any subdivision of more than three lots be regarded as a "major subdivision," the Office of Planning and Zoning required that a Final Development Plan be filed. The aforesaid "1st Amended Subdivision Plat" was revised by inserting the words "Final Development Plan" and the L pier was drawn and identified as "Existing Pier," with setback notations of "10' Min" and arrows to each of the east property boundary and the newly proposed west property boundary in common with the proposed rectangular waterfront parcel. Additionally, the new pier was drawn on the Plan and identified as the "Proposed Pier," with setback notations of "10' Min" and arrows to each of the east and west property lines of the rectangular waterfront parcel. Neither pier had been drawn or located to scale, so there appeared to be adequate frontage to provide for both piers.

On September 25, 1991, a Corrected Plan was signed by the County agencies and provided for a revision to the shape of the rectangular waterfront parcel, so that the distance from the L pier to the newly proposed boundary line of the Lot 3 waterfront parcel was 10'; and, the distance from the same boundary to the proposed new pier was 10'; however, distance from the proposed new pier to the boundary line to the west is not depicted.

Petitioners claim to have erected the new pier in accordance with an Amended Final Development Plan, which had been approved by the County and pursuant to a building permit, which was issued by the County. *(Exhibit 10.)* The Petitioners contend that they acted in reliance on approvals obtained from County agencies.

ARGUMENT

The Protestants rebut the suggestion that the Petitioners were justified in relying on County agencies for several reasons:

The County agencies must rely on representations made on the plats and plans, as certified by the Petitioners' engineer. The County agencies had reason to believe that the proposed new pier would not have been constructed with the minimum setback requirements because of the representations made on the plans and plats.

Initially, the Petitioners filed for a building permit and submitted a plot plan (not drawn to scale), which depicted the 0.033-acre rectangular waterfront parcel and showed the proposed (new) pier, with 10' minimum setbacks on either side. In responding to the application for building permit, Catherine A. Milton, by letter, dated October 19, 1992 *(Exhibit 11)*, advised the Petitioners that the building permit was denied because (a) the pier was not 10' from the property line, and (b) the existing L pier location had changed from the location shown on the approved Final Development Plan.

Subsequently, the plot plan was revised on 1/12/93 to depict the triangular waterfront parcel and show the proposed (new) pier, with the minimum setbacks on either side. A building permit was issued, when the application was supported by exhibits purporting to comply with the Code. However, careful scrutiny would have revealed that the frontage of the revised triangular waterfront parcel was only 15.9' to the southwest corner of said parcel, which was not nearly enough frontage within which to construct the pier. The requirement for satisfying the minimum setbacks was

obfuscated by depicting the shoreline as receding to the southeast corner of the Protestants' property and by adding dash lines extending into Back River, purportedly to show that the setback requirements were being satisfied.

The Protestants advised the Petitioners that there was insufficient room to construct the pier at the time the location was being staked out by the contractor and at several times subsequent thereto, during various phases of construction of the pier. Additionally, Protestants contacted the Office of Planning and Zoning, Enforcement Division, and the County Executive to advise of their objection to the proposed new pier. The Petitioners proceeded with construction of the new pier, even though it was quite evident from the dimensions determined by their engineers that there was insufficient distance within which to construct the pier in conformity with the Code.

The Board Opinion *(Page 2)* states that "Fred Sweicker, the pile-driving contractor, got the permit for the pier...after complying with Baltimore County's written regulation." However, the Board Opinion fails to take into consideration that the contractor depicted ten foot (10') side setbacks between property lines, then proceeded to construct the pier, in violation of the distances he provided on the application. Baltimore County could not have known that he was going to ignore the setback requirements, even when he had been forewarned by the Protestants and Mrs. Milton.

The Board Opinion *(Page 2)* states that "...the pile-driving contractor...done (sic) the very best he could do with the situation as presented to him." On the contrary, a prudent man would have obtained an engineering stake-out to confirm that the proposed location of the pier was in conformity with zoning regulations and the permit he had been granted.

Petitioner Fransketti admitted *(Record Page 8)* that Mr. Waggoner advised the Petitioners and the pile driver, prior to the pier being constructed, that the proposed location was too close to the property line and in violation of the setback restrictions and that the Petitioners did not use the services of an engineer to survey the site for the purpose of locating the new pier. Had they done

so, the Petitioners, the engineer and the pile driver would have recognized the need to apply for a variance prior to construction of the pier, rather than constructing the pier and then seeking a variance, after being cited by Zoning Enforcement for a violation.

The Board Opinion *(Page 3)* states that the evidence provides that "this pier is in the best location for its existence because of the contours of the shore line." In fact, the testimony *(Record Page 26)* confirms that, after they acquired the property, the Petitioners altered the slope to the shoreline during the construction of the house built on Lot 3, in order to provide a better sight line from the house to the water's edge. After having built the house and graded the property to suit their purposes, the Petitioners built the first L-shaped pier in the spring of 1987. The pier could have been located any place along the waterfront; however, the Petitioners were not contemplating the resubdivision of Lot 3 and the desirability to construct a second pier; therefore, the Petitioners chose to locate the first pier within 26 feet of the property line to the Protestants. In summary, the Petitioners made three affirmative elections: (a) to grade and change the topography, (b) to install the first L-shaped pier at a location, which was too close to the contiguous property line, to permit the construction of a second pier between the original pier and the Protestants' property line, and (c) to nonetheless construct the second pier between the L-shaped pier and the Protestants' property, when, in fact, there was ample waterfront to construct the second pier on the other side of the original L-shaped pier. If a hardship has been created, it was at the hand of the Petitioners and cannot be found as the basis for the granting of a variance at this time.

The Board Opinion *(Page 4)* states that "the piers and their layout were approved by the Department of Environmental Protection and Resource Management (DEPRM). The building permit *(Exhibit No. 10)* is drawn to provide for a ten-foot setback on either side of the pier. The County had approved the proper construction and location of the pier, but not an improper location, as had occurred.

On January 22, 1993, Mr. Waggoner reported his concern to the County Executive and filed a complaint with Zoning Enforcement. He was told that nothing could be done, until the pier was built. When the pier was built, Mr. Waggoner was required to retain the engineer, Thomas Phelps, to locate the pier and submit to Zoning Enforcement an accurate drawing of the location of the pier. As a result, on May 4, 1993, Zoning Enforcement signed a notice, charging the Petitioners with construction of the pier that did not conform to the Final Development Plan. If the Petitioners had exercised the prudent caution of having the pier located by a surveyor, all of the considerable expense, which each of the parties has been caused to incur, would have been prevented. The new pier very readily could have been constructed on the other side of the original L-shaped pier. Alternatively, the owners of Lots 3 and 3A could have shared the original L-shaped pier.

The Board Opinion *(Page 5)* states that the Board will "restrict the relief granted herein to allow only the owners of the subject lot, *i.e.*, Lots 1, 2, 3 and 3A) to use the piers," while the Order states that "the straight (new) pier shall be used only by the owners of Lot 3." Such relief effectively precludes the owners of Lots 1 and 2 from access to the piers and the shoreline, which was granted to them in the original subdivision and continues and is intended to continue through the present. The location of the new pier and the riprap on either side thereof precludes the owners of Lots 1 and 2 from having access to the river.

The Board purportedly based its conclusions on the standards set forth in the case of Anderson v. Board of Appeals, 22 Md. App. 28. The Board must find that the granting of the variance is in strict harmony with the spirit and intent of the zoning regulations. We submit that, in the instant case, the Petitioners sought and obtained approval from Baltimore County to construct the new pier, with ten-foot setbacks to each property line. In fact, the Petitioners had the pier constructed within seven feet of one property line and three or four of the other property line. It cannot be within the spirit and intent of the zoning regulations to permit the intentional and flagrant

violation of the Code and afterwards seek a variance and rely on hardship or practical difficulty as the basis for such petition.

AUTHORITY

In *Cromwell v. Ward*, ___ Md. App. ___ (1994) [No. 617, 1994 Term, filed January 4, 1995], the Court of Special Appeals, in reversing the judgment of the Circuit Court for Baltimore County (Daniels, J., Presiding) addressed factual circumstances substantially similar to the subject case and went to great length to cite treatises, previous Maryland cases and decisions from other jurisdictions to point out that the first step in the determination of the appropriateness of an area variance is a demonstration that the property is so inherently unique that the ordinance's impact thereon would be disproportionate, when compared to the other lands in the district. The following excerpts from that opinion are provided as support for the arguments contained herein. The Court cited *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547 (1965), which also involved the completion of structural improvements in violation of an ordinance and a subsequent request for an after-the-fact variance. In *Salisbury*, the Court first quoted from 2 Rathkopf, *The Law of Zoning and Planning*, §48-1, and then noted:

> Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions...hardship arises.... The restrictions of the ordinance, taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of the hardship...[T]he hardship, arising as a result of the act of the owner...will be regarded as having been self-created, barring relief....
>
> The instant case fits squarely within the above general...[I]f the appellees had used proper diligence...and then made accurate measurements...[the resultant hardship could have been avoided]. The hardship...was entirely self-created....

Id. at 554-55 *(emphasis added)*.

Further citing the *Cromwell* Opinion, the Court of Special Appeals observed the following:

> One indication of the general rule that variances are rarely appropriate is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we have found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed. *(Id. at 22)*.
>
> The treatise writers also are in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of that property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty. *(Id. at 32.)*
>
> We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been - a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. *(Id. at 34-35.)*
>
> Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted. *(Id. at 36.)*

In addressing the granting of the building permit in the *Ward* case, the Court observed:

> Accordingly, it appears clear that the mistake of a county official cannot be the "practical difficulty" unique to the subject property required in order to authorize the grant of the variance sought and obtained by Ward. *(Id. at 39.)*

Finally, the Court observed that:

> It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper.... *(Id. at 40-41.)*

SUMMARY

For all the reasons set out in this Memorandum, and for such additional reasons as shall be brought out in the course of argument, the Protestants urge this Court to reverse the Opinion and Order of the County Board of Appeals of Baltimore County, dated November 4, 1994.

Respectfully submitted,

GORDON D. FRONK
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson MD 21204-5340
(410) 823-7966
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Memorandum has been mailed to Salvatore A. Frascketti, 950 Thompson Boulevard, Baltimore, Maryland 21221; Peter Max Zimmermann, People's Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204, and to William T. Hackett, Harry E. Buchheister, Jr., Judson H. Lipowitz, constituting the County Board of Appeals of Baltimore County, Room 49, Old Court House, 400 Washingt... Avenue, Towson, Maryland 21204, this 10th day of March, 1995.

GORDON D. FRONK
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson MD 21204-5340
(410) 823-7966
Attorney for Protestants

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF JEFFREY A. WAGGONER *
AND TERRY WAGGONER *
948 Thompson Boulevard
Baltimore, Maryland 21220 *

FOR JUDICIAL REVIEW OF THE *
DECISION OF THE COUNTY BOARD OF Civil Action
APPEALS OF BALTIMORE COUNTY * No. 94CV11048
Room 49, Old Courthouse 97/332
400 Washington Avenue *
Towson, Maryland 21204

IN THE CASE OF: IN THE MATTER *
OF SALVATORE A. FRASCKETTI, JR. *
FOR A VARIANCE ON PROPERTY LOCATED
ON THE SOUTHWEST SIDE OF THOMPSON *
BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD
(950 THOMPSON BOULEVARD) *
15TH ELECTION DISTRICT
5TH COUNSELMANIC DISTRICT *
CASE NO. 94-85-A
* * * * * * * * * * * *

ORDER OF COURT

Upon consideration of the Ex Parte Motion to Extend Time for Filing Memorandum, it appearing to the Court that no person is prejudiced by granting the Motion and for good cause shown, it is this 3rd day of March, 1995,

ORDERED, that the Motion is GRANTED and that the time for filing Petitioner's Memorandum is extended to March 10, 1995.

JUDGE

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF JEFFREY A. WAGGONER AND *
TERRY WAGGONER *
948 Thompson Boulevard
Baltimore, MD 21220 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 94-CV-11048
Room 49, Old Courthouse, 400 Washing- /97/332
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
SALVATORE A. FRASCKETTI, JR.
FOR A VARIANCE ON PROPERTY LOCATED *
ON THE SOUTHWEST SIDE OF THOMPSON
BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD *
(950 THOMPSON BOULEVARD)
15TH ELECTION DISTRICT *
5TH COUNCILMANIC DISTRICT
CASE NO. 94-85-A *
* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Harry E. Buchheister, Jr., and Judson H. Lipowitz, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of Zoning Administration and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 94-85-A

August 20, 1993	Petition for Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property

	filed by Julius W. Lichter, Esquire, on behalf of Salvatore A. and Deborah A. Frascketti.
September 2	Publication in newspapers.
September 22	Certificate of Posting of property.
October 12	Hearing held on Petition by the Zoning Commissioner.
May 27, 1994	Order of the Zoning Commissioner in which Petition for Variance was GRANTED.
June 13	Notice of Appeal filed by J. A. Waggoner, Protestant.
June 30	Entry of Appearance filed by Gordon D. Fronk, Esquire to represent Jeffrey A. and Theresa L. Waggoner, Protestants.
August 10	Hearing before the Board of Appeals.
September 14	Deliberation by the Board of Appeals.
September 20	Motion for Consideration (of deliberation comments) filed by Gordon D. Fronk, Esquire on behalf of Protestants.
September 28	Motion for Consideration DENIED.
November 4	Opinion and Order of the Board in which the Petition for Variance was GRANTED.
December 2	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Gordon D. Fronk, Esquire, on behalf of Jeffrey A. and Terry Waggoner.
December 5	Motion for Reconsideration filed in the County Board of Appeals by Gordon Fronk, Esquire, on behalf of Protestants.
December 7	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
December 9	Certificate of Notice sent to interested parties.
February 3, 1995	Transcript of testimony filed.
Protestant's Exhibit No.	1 -Deed of Frascketti Property 5/12/80

	2 -Preliminary Dev. Plan for Lots 1, 2 & 3
	3 -Revised Plat by Surveyor (Herbert) 1/11/83
	4 -Permit for Pier #1 in April 1987
	5 -Revised Plat of Lot #3 9/10/91
	6 -Corrected Plan of Lot #3 size 9/25/91
	7 -Plat of Dimensions of Piers to accompany Petition
	8 -Deed Creating Lot 3A 10/28/91
	9 -Findings Plan for Plat Plan Lot3
	10 -Photocopy of Revised Pier Permit
	11 -Letter from C. Milton denying Pier #2 10/19/92
	12A-Photo of new Pier, rif-raf & house
	B-Photo of new Pier showing old pier, new house
	C-Photo of Property showing shed
	D-View of Back River showing Piers.
	13 -T. Phelps survey plat 4/22/93
	14 -B.C. Topographical Map (1952)
	15 -B.C. Photographic Map, Frascketti property in yellow with 8x11 blow up attached
	16A-Drawing -colored boundary
	B-Drawing -colored
	C-Drawing -colored
February 3, 1995	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Salvatore A. Frascketti, Jr., et ux
Gordon D. Fronk, Esquire
Mr. & Mrs. Jeffrey A. Waggoner
People's Counsel for Baltimore County

CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF JEFFREY A. WAGGONER, ET AL

Civil Action No. 94CV11048 97/332
Agency Case No.

VS.

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on February 3, 1995

Clerk

Date mailed: February 7, 1995

Copy to: GORDON D. FRONK
CHARLOTTE E. RADCLIFFE

FEB 3 1995

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF JEFFREY A. WAGGONER AND *
TERRY WAGGONER *
948 Thompson Boulevard
Baltimore, MD 21220 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 94-CV-11048
Room 49, Old Courthouse, 400 Washing- /97/332
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
SALVATORE A. FRASCKETTI, JR.
FOR A VARIANCE ON PROPERTY LOCATED *
ON THE SOUTHWEST SIDE OF THOMPSON
BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD *
(950 THOMPSON BOULEVARD)
15TH ELECTION DISTRICT *
5TH COUNCILMANIC DISTRICT
CASE NO. 94-85-A *
* * * * * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr., Judson H. Lipowitz, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Gordon D. Fronk, Esquire, Suite 700, Court Towers, 210 W. Pennsylvania Avenue, Towson, MD 21204-5340, counsel for Petitioners; Jeffrey A. Waggoner and Terry Waggoner, 948 Thompson Boulevard, Baltimore, MD 21221, Petitioners; Salvatore A. Frascketti, 950 Thompson Boulevard, Baltimore, MD 21221; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Gordon D. Fronk, Esquire, Suite 700, Court Towers, 210 W. Pennsylvania Avenue, Towson, MD 21204-5340, counsel for Petitioners; Jeffrey A. Waggoner and Terry Waggoner, 948 Thompson Boulevard, Baltimore, MD 21221, Petitioners; Salvatore A. Frascketti, 950 Thompson Boulevard, Baltimore, MD 21221 ; Peter Max Zimmerman PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, MD 21204, this 9th day of December, 1994.

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 9, 1994

Salvatore A.Frascketti
950 Thompson Boulevard
Baltimore, MD 21221

RE: Civil Action No. 94-CV-11048
SALVATORE A. FRASCKETTI, JR.

Dear Mr. Frascketti:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on December 2, 1994, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 97/332/94-CV-11048

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,
/s/
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Linda D. Miller
Donna L. Disney Vaura
Pat Keller /Planning
Lawrence E. Schmidt /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM
James Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 9, 1994

Gordon D. Fronk, Esquire
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-5340

RE: Civil Action No. 94-CV-11048
SALVATORE A. FRASCKETTI, JR.

Dear Mr. Fronk:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,
Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Jeffrey A. Waggoner and Terry Waggoner

Printed with Soybean Ink on Recycled Paper

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	BEFORE THE
PETITION OF JEFFREY A. WAGGONER AND TERRY WAGGONER 948 Thompson Boulevard Baltimore MD 21220	*	COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
IN THE CASE OF SALVATORE A. FRASCKETTI, JR., ET UX, FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLEWOOD ROAD (950 THOMPSON BOULEVARD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	CASE NO. 94-85-A

* * * * * * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

TO THE HONORABLE JUDGES OF SAID COURT:

JEFFREY A. WAGGONER and TERRY WAGGONER, Petitioners, by Gordon D. Fronk, their attorney, hereby petitions for judicial review of the Order of the County Board of Appeals of Baltimore County, dated November 4, 1994, in the matter of Salvatore A. Frascketti, Jr., *et ux*, Case No. 94-85-A.

94 DEC -7

Gordon D. Fronk
GORDON D. FRONK
Suite 700 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204-5340
(410) 823-7966

Attorney for Petitioners

RECEIVED AND FILED
94 DEC -2

Copy Sent to Agency

IN THE MATTER OF THE APPLICATION OF SALVATORE A. FRASCKETTI, JR., ET UX FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF THOMPSON BOULEVARD, SOUTHEAST OF SANDLE-WOOD ROAD (950 THOMPSON BOULEVARD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO: 94-85-A

* * * * * * * * * * * * * * * * *

O P I N I O N

This case comes before the Board on appeal from a decision of the Zoning Commissioner in which the Petition for Variance was granted and the Final Development Plan amended to conform with the present development.

This relatively small parcel (1.67 acres) has quite a history and numerous exhibits were entered on the record to document this. Mr. Frascketti purchased an undeveloped parcel of 1.67 acres in 1980. This parcel was zoned D.R.5.5 and would permit the development of 9.2 homes. In 1982, Mr. Frascketti built his home in the center of the parcel. In 1984, he subdivided a portion of the parcel to produce two very small lots facing on Thompson Boulevard and designated them on the plan as Lot Nos. 1 and 2. At the same time, he created a 20-foot easement on the westside of the parcel to provide access to the waterfront on Back River for these two lots. The balance of the property was then designated on the Plat as Lot No. 3 containing the zoned residence. In 1985, he erected a T-shaped pier in the center of the water frontage of Lot No. 3. In 1991, Mr. Frascketti decided he would like to live closer to the water so he subdivided Lot No. 3 into two lots designated as Lot Nos. 3 and 3A. In 1993, he built a home on Lot No. 3A. In order to provide access to the waterfront for Lot No.

3 and thereby increase the value, Mr. Frascketti decided to erect a second pier. Lot No 3A was then subdivided to create a tiny .025-acre parcel that would permit the second pier to be erected. Fred Sweicker the pile-driving contractor got the permit for the pier after being denied his original request for a permit and complying with Baltimore County's written regulation. The neighbor, Mr. Waggoner, protested the erection of this pier before it was even built and still protests it today. He notes how close this pier is to his property line and how close to the other pier and vehemently objects to its existence. He specifically notes that this second pier is visible from his rear yard and claims it to be a detriment to his property. The Board will note that Mr. Waggoner has ample frontage on the Back River to erect a pier of his own should he so desire. The Board will also note that the pier does not comply with the setback requirements and therefore is in need for the variances requesting the pier. The pier is in question until the decision to grant the variance is ordered by this Board. The Board does not find the pile-driving contractor to be at fault as he has received the permit and done the very best he could do with the situation as presented to him. The Board is of the opinion that it would be an extreme hardship to require that this pier be removed. The Board notes that a variance for the pier when granted will be for the use of the property owners only and not for general use. The use is to be restricted to people from Lot No. 3 and from Lot Nos. 1 and 2 in order for them to reach the

waterfront. The Board will note that testimony indicated that 190 tons of rock had been placed on the property to protect the eroded shore line. The Board will also note from the evidence received that this pier is in the best location for its existence because of the contours of the shore line.

As has been often stated, a variance from the height and area regulations of Baltimore County can be granted only if same is in accordance with the standards enunciated in Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.). Therein, a 3 prong test is offered which the Petitioner must meet in order for variance relief to be granted. First, the Petitioner must show that they and their property will suffer a practical difficulty if the variance relief has been denied. Practical difficulty has been defined by the appellate courts of this State. Specifically, in McLean v. Soley, 270 Md. 208 (1973), the court identified the practical difficulty test as:

> 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 injustice 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, 22 Md.

App. 28 (1974).

In addition to a showing of practical difficulty, the Petitioner must also demonstrate that a grant of the variance will be within the spirit and intent of the B.C.Z.R.

Lastly, the relief can only be granted if the proposed use and construction will not be detrimental to the health, safety and general welfare of the surrounding locale. The Board finds, as fact, that the Petitioner has satisfied its burden under law.

As to practical difficulty, the topography of the land is a significant consideration. Towards the east side of the property, the shore line rises dramatically. It is lower in the middle and slightly higher on the west side. These site constraints justify a finding of practical difficulty in this case. We believe that strict adherence to the required setback distances would be unnecessarily burdensome. For this reason, we believe that the Petitioners have satisfied their burden.

Likewise, the Board believes that the relief which will be granted satisfies the spirit and intent of the regulations. In this respect, the piers and their layout were approved by the Department of Environmental Protection and Resource Management (DEPRM). Admittedly, the process under which the piers were built was improper. The requested variances should have been obtained first. However, we believe the end result is consistent with the purposes of the B.C.Z.R. and the location of the piers is sensitive to environmental concerns.

Lastly, the Board does not believe that a grant of the variance would be detrimental to the health and welfare of the locale. To the contrary, a required removal of the pier would be harmful to the environment. In this respect, significant degradation of the shore line would be suffered if the piers were removed and/or relocated. Moreover, although there is some impact, by the location of the pier, on the Waggoner property, we do not find same to be so detrimental so as to justify a denial of the variance. The Waggoners do have useable shore front from which to construct their own pier if they so desire and we do not believe that the size and scale of the pier is so overwhelming so as to adversely affect their view. Therefore, the Board is persuaded that the subject variance should be granted.

Nonetheless, the Board appreciates their concerns about overuse of the piers. Thus, we shall restrict the relief granted herein to allow only the owners of the subject lots (i.e. lots 1, 2, 3 and 3A) to use the piers. That is, there shall be no additional storage of boats for rent or hire at the piers and their use is restricted to the property owners and their short term guests.

O R D E R

IT IS THEREFORE, this 4th day of November, 1994, by the County Board of Appeals of Baltimore County,

ORDERED that a variance from Sections 417.3.B. and 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), as well as the

Case No. 94-85-A, Salvatore A. Frascketti, Jr.

Zoning Commissioner's Policy Manual diagram so as to allow a distance between piers of 17 feet, in lieu of the required 20 feet, and a distance between property line and the subject pier of 4 feet, in lieu of the required 10 feet., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that approval to amend the Final Development Plan of the Frascketti property be and is hereby GRANTED, subject, however, to the following restrictions:

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 return, and be responsible for returning, said property to its original condition.

2. The piers shall not be used for commercial purposes, or be available for rent or hire. The L-shaped pier as shown on the plan shall be used only by the owners of lot 3 and 3A and the straight (new) pier shall be used only by the owners of lot 3.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

Judson H. Lipowitz

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 4, 1994

Gordon D. Fronk, Esquire
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-5340

RE: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux

Dear Mr. Fronk:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Mr. & Mrs. Jeffrey A. Waggoner
Mr. and Mrs. Salvatore A. Frascketti
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
James H. Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

Printed with Soybean Ink on Recycled Paper

IN RE: PETITION FOR ZONING VARIANCE SW/S Thompson Blvd., SE of Sandlewood Road 950 Thompson Boulevard 15th Election District 5th Councilmanic District Salvatore A. Frascketti, Jr., et ux, Petitioners	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 94-85-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 950 Thompson Boulevard, adjacent to Back River in the eastern portion of Baltimore County. Variance relief is requested from Sections 417.3.B. and 417.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), as well as the Zoning Commissioner's Policy Manual diagram (Section 417.3) so as to allow a distance between piers of 17 ft. in lieu of the required 20 ft., and a distance between the property line and a pier of 4 ft. in lieu of the required 10 ft. Approval is also sought within the Petition to amend the Final Development Plan of the Frascketti property. All of the relief requested is more particularly shown on the numerous exhibits which were submitted at the public hearing held for this case. These include the Amended Final Development Plan (Petitioners' Exhibit No. 1A), the approved C.R.G. plan (Protestants' Exhibit No. 7) and numerous photographs and schematic renderings which were submitted at the hearing.

The procedural history of this case and the hearing process was strained. Several dates were postponed at the request of the parties. Some of these postponements were requested in an effort to provide the parties with an opportunity to resolve questions relating to their common property lines. Obviously, as Zoning Commissioner, I do not have the authority to resolve questions of title. Moreover, the Protestants were

ORDER RECEIVED FOR FILING
Date
By

originally represented by Douglas Burgess, Esquire of Nolan, Plumhoff and Williams. However, Mr. Burgess and his firm subsequently withdrew from the case and the Protestants were then represented by Gordon Fronk, Esquire. The Petitioners were represented by Julius W. Lichter, Esquire.

A significant volume of testimony and evidence was received in this case. A transcript of the tape recording made of the hearing will reflect all of the testimony offered. The exhibits presented were numerous. Overall, the record discloses a somewhat complex history of the development of this subject site. In essence, a summary of the relevant testimony is as follows:

Testimony was received from Salvatore A. Frascketti, co-owner of the subject property and co-Petitioner with Deborah A. Frascketti, his wife. As noted above, the subject property is known as 950 Thompson Boulevard and is located in the eastern end of Baltimore County on Back River. Vehicular access to the site is from Thompson Boulevard by way of Sandlewood Road. Eastern Boulevard and the Southeast Freeway are nearby. Mr. Frascketti testified that he acquired the entire tract in 1980. At that time, the property was unimproved. The total area of the subject site is approximately 1.67 acres +/-. The property is zoned D.R.5.5. Under the applicable density regulations, 9.2 dwelling units would be allowed. Mr. Frascketti indicated that after his purchase of the site, he and his wife built a single family dwelling on the property in 1982. This dwelling is known as 950 Thompson Boulevard and sits squarely in the center of the property, equal distance from Thompson Boulevard to the north and Back River to the south.

Subsequently, Mr. Frascketti subdivided the property. Two additional lots were created. Lot No. 1 is .0104 acres and is known as 952A Thompson

ORDER RECEIVED FOR FILING
Date
By

MICROFILMED

Boulevard. A second parcel, known as lot No. 2, is .0085 acres and is known as 952 Thompson Boulevard. Lot No. 1 was ultimately sold to Donna L. Disney Vaura and was improved with a single family dwelling. Lot No. 2 (952 Thompson Boulevard) was conveyed to Linda D. Miller. These lots were transferred shortly after Mr. and Mrs. Frascketti acquired the site and appeared on the 1st Amended Subdivision Plan for the Frascketti property recorded in 1983. It is also of note that neither the Disney nor Miller properties have the right to use or access the piers which extend from the property at its southern end into Back River. However, an easement was created on the west side of the property so as to provide the owners of lots 1 and 2 with access to the water.

As noted above, Mr. and Mrs. Frascketti built the dwelling known as 950 Thompson Boulevard in 1983. Due to the conveyance of lots 1 and 2 to Disney and Miller, as noted above, the balance of the property was designated as lot 3. Subsequently, Mr. Frascketti erected a pier so as to provide access into the deeper water in Back River. This pier, which is "L" shaped, was erected in 1985.

Mr. Frascketti further testified that he and his wife eventually decided that they wanted to live closer to the water. Thus, lot 3 was subdivided in 1991 so as to create 2 lots designated as lots 3 and 3A. Mr. and Mrs. Frascketti constructed a new dwelling on lot 3A which bears the address 948A Thompson Boulevard. In fact, they moved into that house in November of 1993 after the filing of the subject Petition, but prior to the closing of testimony.

In order to provide access to the water from lot 3 (the old dwelling), the Frasckettis decided to construct another pier. Thus, as shown on the site plan, they subdivided the property so as to create a small

ORDER RECEIVED FOR FILING
Date
By

parcel immediately adjacent to Back River. This small parcel is .025 acres in size and is shown on the site plan as part of lot 3, the balance of which occupies the middle of the property between the river and Thompson Boulevard. Moreover, a second pier was built into Back River from that property. Therefore, at the present time, the original tract contains two piers, the older "L" shaped structure which serves the Frasckettis' new residence on lot 3A, and a newer pier which leads into the water from the small portion of lot 3 which was created at the water's edge. Both the owner of lot 3A and lot 3 will have enjoyment of the water by use of these piers and, as noted above, the owners of lots 1 and 2 will have access to water frontage, although not use of the piers, per se.

Also testifying on behalf of the Petition was David C. Moriconi, a professional engineer. Mr. Moriconi was retained by Mr. Frascketti to conclude work which had been started for the Petitioners by the firm of Gerhold, Cross and Etzel, Land Surveyors. Testimony was developed through Mr. Moriconi that the Frasckettis had originally retained that firm to accomplish the subdivisions as described above. However, the process was torturously slow and Mr. Moriconi was eventually retained to conclude the subdivision process. He described in great detail the subdivision process which has been characterized above. He also described the C.R.G. plan (Protestants' Exhibit No. 7) and compared same with Petitioners' Exhibit No. 1A, the amended Final Development Plan.

Mr. Moriconi testified that he resurveyed the shore line and checked the previous work that had been done. He noted that environmental regulations mandated that the proposed dwelling which was eventually built on lot 3A be located a minimum of 110 ft. from the shore line. Thus, he recalculated the distance required for this buffer. He testified that the

ORDER RECEIVED FOR FILING
Date
By

house was properly sited in conformance with that regulation. He also discussed in great detail the location of the new pier which serves lot No. 3. He described the process which he followed to obtain an accurate siting of the pier. Particularly, he determined the Frascketti property line on its southern side (waterfront) and extended a line from same at an angle of 90 degrees into the water. The same method of calculation was made from the neighboring property owned by Mr. and Mrs. Waggoner. Having computed these base angles, Mr. Moriconi then determined the divisional property line pursuant to the Zoning Commissioner's Policy Manual (appendix J). Based upon his work, Mr. Moriconi determined that the new pier is 4 ft. from the divisional property line and that the piers are 17 ft. apart. Moreover, Mr. Moriconi concluded that the width of the original tract is 112.49 ft. at the water line. The Petition for Variances are based upon these calculations as determined by Mr. Moriconi.

That engineer also testified extensively about the practical considerations which must be considered in locating these piers. Specifically, he commented upon the topography of the property at the shoreline. He noted that the property slopes significantly upwards towards the eastern property line. It is highest on the east side with a slight valley in the middle and a slight rise again as the property extends towards the west and the Waggoner property. In Mr. Moriconi's opinion, he believes that the piers should remain where they are. Relocation of the piers would disturb the shoreline and result in potential damage to the environment and aquatic life. Moreover, the topography of the site, as described above, would make relocation of the pier towards the east difficult. For these reasons, Mr. Moriconi believes that a denial of the variances would cause the Petitioners the legal equivalent of practical difficulty.

ORDER RECEIVED FOR FILING
Date
By

Also testifying in support of the Petition was Fred Slichter, the piledriver who built the second pier. The construction drawings which Mr. Slichter created and followed in building the pier were received into evidence as Protestants' Exhibits 2 through 6. Mr. Slichter described his original proposal which is shown on Protestants' Exhibit No. 2. When he attempted to get a permit, same would not be issued because of certain concerns from the Office of Zoning Administration and Development Management (ZADM). Thereafter, he obtained a copy of the Final Development Plan and revised his plan as shown on Protestants' Exhibits No. 5 and 6.

It was obvious, based on this witness's testimony, that he made good faith efforts to construct the pier in compliance with all appropriate regulations. Although not a surveyor, he attempted to locate the pier so as to provide sufficient setback distances based upon the site plans and documents given to him and his field investigation.

In addition to the testimony offered by the Petitioners as outlined above, evidence and testimony was also received from the Protestants. The variance relief sought is protested by the adjacent property owners, Mr. and Mrs. Waggoner. On their behalf, testimony was received from Thomas Phelps, a surveyor. Mr. Phelps' survey was offered (Protestants' Exhibit No. 13). The relevant distances shown therein were similar to that reached in Mr. Moriconi's work but did not precisely match. Specifically, Mr. Phelps believes that the newer pier is but 3 ft. from the property line, as opposed to Mr. Moriconi's determination that it is 4 ft. from the property line, and he believes that there is an 18 ft. distance between the piers, as opposed to the 17 ft. length described by Mr. Moriconi.

Also testifying was Jeffrey Waggoner, the aforementioned neighbor at 948 Thompson Boulevard. Mr. Waggoner described the efforts which he made

ORDER RECEIVED FOR FILING
Date
By

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

October 5, 1993

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-85-A, Item No.87
950 Thompson Boulevard

Dear Mr. Lichter:

Enclosed are copies of comments received from the Department of Environment Protection and Resource Management on October 4, 1993 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

/S/
Charlotte Minton

Enclosure

Printed with Soybean Ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

September 29, 1993

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

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #87 - Frascketti Property
950 Thompson Blvd.
Zoning Advisory Committee Meeting of August 30, 1993

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

The approved Findings Plan for the minor subdivision of this property required that trees and shrubs be planted in the shoreline buffer (Note 31).

A site visit revealed that this has not been done and therefore, should be a condition of any variance approval.

JLP:sp

FRASCK/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Robert E. Covahey, Chief
Bureau of Public Services

DATE: June 4, 1992

FROM: Mr. J. James Dieter, Director

SUBJECT: Amended Chesapeake Bay Critical Area Findings
Minor Subdivision - Frascketti Property

SITE LOCATION

The subject property is located at 950 Thompson Boulevard off Back River. The site is within the Chesapeake Bay Critical Area, and is classified as a Limited Development Area (LDA).

APPLICANTS Mr. and Mrs. Salvatore A. Frascketti, Jr.

APPLICANT PROPOSAL

The applicant proposes to amend the acreage for a previously approved minor subdivision. The applicant proposes to subdivide an existing 1.20 acre parcel of land into 2 parcels that are 0.50 and 0.70 acres in size respectively.

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 Chesapeake Bay 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>.

MICROFILMED

REGULATIONS AND FINDINGS

1. Regulation: "Dredging, filling, or construction other than approved bulkheading shall not be permitted in any non-tidal and tidal wetlands unless the proposed development consists of utility, bridge, or street development in a non-tidal wetland and unless the Director of Environmental Protection and Resource Management finds this proposed development not detrimental to the County's Wetland Management Programs" <Baltimore County Code, Section 26-447>.

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

2a. 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. 26-449(a)>.

2b. Regulation: "The natural vegetation occurring in the buffer shall remain undisturbed. Except as provided in Section 26-450, vegetation shall be planted in the buffer where necessary to protect, stablilize, or enhance the shoreline" <Baltimore County Code, Section 26-449(d)>.

2c. Regulation: "Development activities, including redevelopment activities and including structures, roads, parking areas, and other impervious surface, mining and related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities, as approved in accordance with Sections 417 in the Baltimore County Zoning Regulations and 26-454 in the Baltimore County Code" <Baltimore County Code, Section 26-449(e)>.

Finding: This property is located adjacent to the tidal waters of Back River. A 100 foot buffer shall be established landward from the mean high water line of Back River. No clearing, grading, or construction shall occur in the 100 foot shoreline buffer. Approximately 25 feet of the shoreline adjacent to Back River is a steep slope area that is currently rip-rapped. The applicant shall plant trees and shrubs in the remaining area of the 100 foot buffer in conjunction with the afforestation requirements of this site.

3. 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 amount of impervious areas shall not exceed 3287 and 4600 square feet for the proposed lots numbered 3 and 3A respectively. This includes all building structures, paved and crusher run driveways and parking pads, or any other impervious surfaces.

4. Regulation: "Infiltration of storm water shall be maximized throughout the site, rather than directing the flow to single discharge points" <Baltimore County Code, Sec. 26-453(h)2>.

Finding: Storm water runoff shall be directed from impervious surfaces associated with this plan to pervious areas to encourage maximum infiltration. Rooftop runoff shall be directed through down-spouts and into drywells to encourage maximum infiltration (see attached information).

5. 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: Lot 3 currently contains at least 15% developed woodland. The following plant material shall be selected from the enclosed list and planted in the 100 foot buffer on Lot 3A, in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 12 items - ball and burlap or 2 gallon container size

Tree list: 3 items - ball and burlap 1-1.5 inch caliper

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.

6. Regulation: "For development in the Critical Area, restrictions on the use of said property as required for compliance with the County's Chesapeake Bay Critical Area Program shall be separately listed on the Findings Plan, which shall be recorded among the land records of Baltimore County; a general note referencing the restrictions on the Findings Plan shall be provided on the record plat" <Baltimore County Code, Section 26-214 (a)>.

Finding: The applicant shall record the Findings and the Findings Plan for this property in the land records of Baltimore County at or before the time of the recording of the record plat.

Conclusion

It is the finding of this Department that this project, with the implementation of the Regulations and Findings listed above, will be in compliance with the Maryland State Criteria and the Baltimore County Code for the Chesapeake Bay Critical Area and therefore is approved.

Please contact Ms. Patricia M. Farr at 887-2904 if you require additional information.

J. James Dieter, Director

JJD:SRO:ju
Attachment

cc: Mr. and Mrs. Salvatore A. Frascketti, Jr.
Mr. Washington Bowie

FRASCHTI/TXTSRO

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 14, 1994

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Variance
SW/S Thompson Blvd, SE of Sandlewood Rd
(950 Thompson Blvd)
15th Election District
5th Councilmanic District
Salvatore A. Frascketti, Jr, et ux-Petitioner
Case No. 94-85-A

Dear Mr. Lichter:

Please be advised that an appeal of the above-referenced case was filed in this office on June 13, 1994 by Jeffrey A. Waggoner and Theresa L. Waggoner. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

ARNOLD JABLON
Director

AJ:jaw

c: Mr. and Mrs. Salvatore A. Frascketti
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
Gordon D. Fronk, Esquire
People's Counsel

MICROFILMED

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 21, 1995

Mr. Salvatore A. Frascketti, Jr.
1809 Campbell Road
Forrest Hill, MD 21050

Re: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux

Dear Mr. Frascketti:

In response to your telephone call this morning, enclosed are the documents which you have requested from the subject file.

As we discussed earlier, a Petition for Judicial Review was filed by Mr. and Mrs. Waggoner, through their attorney, Gordon D. Fronk, on December 2, 1994. With regard to this Petition, enclosed are the following documents:

1. Letter dated December 7, 1994, from Chairman Hackett to Gordon D. Fronk, Esquire, in response to the Motion for Reconsideration filed by Mr. Fronk, which references his Petition filed in the Circuit Court. (Both parties copied.)

2. Certificate of Notice filed by the Board in the Circuit Court for Baltimore County on December 9, 1994. (All parties copied.)

3. Record Extract filed in Circuit Court on February 3, 1995 by the Board along with the record in this case. (All parties copied.)

4. Notice that Record of Proceedings was filed on February 3, 1995, issued by the Circuit Court for Baltimore County.

5. Notice of Civil Track Assignment and Scheduling Order issued by the Circuit Court for Baltimore County.

6. Memorandum of Petitioners filed by Mr. Fronk on behalf of Mr. & Mrs. Waggoner in Circuit Court in March 1995 (copies to parties).

Should you have any additional questions, please call me 887-3180.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Gordon D. Fronk, Esquire
People's Counsel for Baltimore County

Printed with Soybean Ink on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

94-85-A

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 27, 1993

Julius W. Lichter, Esquire
Levin and Gann
305 West Chesapeake Avenue
Towson, MD 21204

RE: Preliminary Petition Review (Item #87)
Legal Owner: Deborah A. & Salvatore A. Frascketti, Jr.
950 Thompson Boulevard
15th Election District

Dear Mr. Lichter:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The petition was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

John L. Lewis
Planner II

JLL:scj

cc: Zoning Commissioner

Enclosure: Receipt

Printed on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 27, 1994

Gordon D. Fronk, Esquire
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-5340

RE: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux - Petitioners

Dear Mr. Fronk:

The Board is in receipt of your letter dated September 20, 1994 requesting that the Board reconsider its determination to grant the Petition for Variance in the above-captioned matter.

The Board points out to you that a written Opinion and Order is forthcoming which the Board is obligated to do pursuant to provisions of the Baltimore County Charter. This was announced at the time of the public deliberation hearing. Any motion for reconsideration or appeal should be from the Board's final written Opinion and Order.

Therefore, your letter of September 20, 1994 being treated as a Motion for Reconsideration is denied.

Very truly yours,

William T. Hackett, Chairman
County Board of Appeals

cc: Mr. and Mrs. Jeffrey A. Waggoner
Mr. and Mrs. Salvatore A. Frascketti, Jr.

Printed with Soybean Ink on Recycled Paper

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

October 14, 1993

(410) 887-4386

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

Douglas Burgess, Esquire
210 W. Pennsylvania Avenue
Suite 700
Towson, Maryland 21204

RE: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux, Petitioners
Petition for Zoning Variance

Gentlemen:

This is to follow up the public hearing held for the above captioned case on Tuesday, October 12, 1993. As a result of your joint request, this matter has been continued to Friday, Octobrer 22, 1993 at 9:00 A.M. in Room 106 of the County Office Building.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

MICROFILMED

APPEAL

Petition for Variance
SW/S Thompson Blvd, SE of Sunflower Road
(950 Thompson Blvd)
15th Election District — 4th Councilmanic District
Salvatore A. Frascketti, Jr., et ux PETITIONER
Case No. 94-85-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-in Sheets

Petitioner's Exhibits:
1 Amended Final Development Plan Frascketti Property
2 Twelve Photographs
3 Plat to Accompany Petition for Variance
4 Three Photographs
5 Final Development Plan Frascketti Property
6 1st Amended Subdivision Plat Frascketti Property
7 Copy of Building Permit No. B114000
8 Copy of Deed, Liber 6164, Page 509
9 Copy of Deed, Liber 8930, Page 124

Protestant's Exhibits:
1 Plat Plan of Frascketti Property
2 Permit Plan, B141939-WF
3 Letter to Mr. Salvatore A. Frascketti, Jr. from Catherine A. Milton dated 10/19/92
4 Plan of Thompson Blvd
5 Rev. Plat Plan dated 1/12/91 Frascketti
6 Marked up Rev. Plat Plan dated 1/12/91
7 1st Amended Subdivision Plat Frascketti Property
8 Final Plat-Subdivision Plat Frascketti
9 Final Plat-1st Amended Subdivision Plat Frascketti Property
10 Declaration of Nancy L. Spirko
10 Photocopies of Permit Application B141939
11 Three Photographs
12 Final Development Plan Frascketti Property
13 Location Survey for 946 & 948 Thompson Blvd
14 Photogrammetric Map of Baltimore County Metropolitan Area

Three Photographs marked ZC 1A 1C

Letter to Julius W. Lichter from John L. Lewis dated August 27, 1993

Letter to Lawrence E. Schmidt from Gordon D. Fronk dated March 1, 1994

Letter to Lawrence E. Schmidt from Julius Litcher dated March 16, 1994

Zoning Commissioner's Order dated May 27, 1994 (Granted)

Notice of Appeal received on June 13, 1994 from Jeffrey A. Waggoner and Theresa L. Waggoner

cc: Mr. & Mrs. Jeffrey A. Waggoner, 948 Thompson Blvd, Baltimore, MD 21221
Mr. and Mrs. Salvatore A. Frascketti, 950 Thompson Blvd, Baltimore, MD 21221
Ms. Linda D. Miller, 952 Thompson Blvd, Baltimore, MD 21221
Ms. Donna L. Disney Vaura, 952A Thompson Blvd, Baltimore, MD 21221
Julius W. Lichter, Esquire, 305 W. Chesapeake Avenue, Towson, MD 21204
Gordon D. Fronk, Esquire, Suite 700 Court Towers, 210 West Pennsylvania Avenue, Towson, MD 21204-5340
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

November 10, 1993

(410) 887-4386

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

Douglas Burgess, Esquire
210 W. Pennsylvania Avenue
Suite 700
Towson, Maryland 21204

RE: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux, Petitioners
Petition for Zoning Variance

Gentlemen:

This is to follow up the public hearing held for the above captioned case on Friday, November 5, 1993. It is agreed upon by all parties that this matter has been continued to Monday November 15, 1993 at 1:00 P.M. in Room 118 of the Court House.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
cc: David T. Moriconi, P.E.
Thomas Shannahan
Bryan J. Zubick

Printed with Soybean Ink

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 7, 1994

Gordon D. Fronk, Esquire
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-5340

Re: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux

Dear Mr. Fronk:

The Board is in receipt of your letter dated December 5, 1994 wherein you have requested that the Board reconsider its decision issued November 4, 1994 in the subject case.

Inasmuch as you have filed a Petition for Judicial Review in the Circuit Court for Baltimore County (94-CV-11048), this Board no longer has jurisdiction in this matter.

Very truly yours,

William T. Hackett, Chairman
County Board of Appeals

cc: Mr. & Mrs. Jeffrey A. Waggoner
Mr. & Mrs. Salvatore A. Frascketti, Jr.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

94-85

December 9, 1994

Salvatore A.Frascketti
950 Thompson Boulevard
Baltimore, MD 21221

RE: Civil Action No. 94-CV-11048
SALVATORE A. FRASCKETTI, JR.

Dear Mr. Frascketti:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on December 2, 1994, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 97/332/94-CV-11048

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Linda D. Miller
Donna L. Disney Vaura
Pat Keller /Planning
Lawrence E. Schmidt /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM
James Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

RECEIVED
DEC 12 1994
ZADM

Printed with Soybean Ink on Recycled Paper

MICROFILMED

96 JUN 11 PM 2:35

APPEAL

Petition for Variance
SW/S Thompson Blvd, SE of Sandlewood Road
(950 Thompson Blvd)
15th Election District - 5th Councilmanic District
Salvatore A. Frascketti, Jr., et ux-PETITIONER
Case No. 94-85 A

✓Petition(s) for Variance
✓Description of Property
✓Certificate of Posting
✓Certificate of Publication
✓Zoning Plans Advisory Committee Comments
✓Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: ✓1A - Amended Final Development Plan Frascketti Property 1B - DRAWING
✓2 - Twelve Photographs (A-L)
✓3 - Plat to Accompany Petition for Variance
✓4 - Three Photographs
✓5 - Final Development Plan Frascketti Property
✓6 - 1st Amended Subdivision Plat Frascketti Property
✓7 - Copy of Building Permit No. B114000
✓8 - Copy of Deed, Liber 6164, Page 509
9 - Copy of Deed, Liber 8990, Page 124

Protestant's Exhibits: ✓1 - Plot Plan of Frascketti Property
✓2 - Permit Plan, B143939-NW
✓3 - Letter to Mr. Salvatore A. Frascketti, Jr. from Catherine A. Milton dated 10/19/92
✓4 - Plan of Thompson Blvd
✓5 - Rev. Plot Plan dated 1/12/93 Frascketti
✓6 - Marked up Rev. Plot Plan dated 1/12/93
✓7 - 1st Amended Subdivision Plat Frascketti Property
✓8 - Final Plat-Subdivision Plat Frascketti
✓9 - Final Plat-1st Amended Subdivision Plat Frascketti Property
✓10 - Declaration of Nancy L. Spirko
✓11 - Photocopies of Permit Application B143939
✓12 - Three Photographs
✓13 - Final Development Plan Frascketti Property
✓14 - Location Survey for 946 & 948 Thompson Blvd
✓15 - Photogrammetric Map of Baltimore County Metropolitan Area

✓Three Photographs marked ZC 1A-1C

✓Letter to Julius W. Lichter from John L. Lewis dated August 27, 1993

✓Letter to Lawrence E. Schmidt from Gordon D. Fronk dated March 1, 1994 /E

✓Letter to Lawrence E. Schmidt from Julius Litcher dated March 16, 1994

✓Zoning Commissioner's Order dated May 27, 1994 (Granted)

✓Notice of Appeal received on June 13, 1994 from Jeffrey A. Waggoner and Theresa L. Waggoner

cc: Mr. & Mrs. Jeffrey A. Waggoner, 948 Thompson Blvd, Baltimore, MD 21221
Mr. and Mrs. Salvatore A. Frascketti, 950 Thompson Blvd, Baltimore, MD 21221
Ms. Linda D. Miller, 952 Thompson Blvd, Baltimore, MD 21221
Ms. Donna L. Disney Vaura, 952A Thompson Blvd, Baltimore, MD 21221
~~Julius W. Lichter~~, Esquire, ~~405 W. Chesapeake Avenue, Towson~~, MD ~~21204~~
Gordon D. Fronk, Esquire, Suite 700 Court Towers, 210 West Pennsylvania Avenue, Towson, MD 21204-5340
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

W/D appearance 5/20/94
Counsel for Protestants - Waggoner 6/16/94

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

James Thompson /Zoning Enforcement
Craig McGraw /Zoning Enforcement

U.S. Department of Justice

United States Attorney
District of Maryland

Lynne A. Battaglia
United States Attorney

Kaye A. Allison
Assistant United States Attorney

820 United States Courthouse
101 West Lombard Street
Baltimore, MD 21201-2692

410 962 9929

October 6, 1993

Douglas L. Burgess
Nolan, Plumhoff & Williams
210 W. Pennsylvania Avenue
Towson, MD 21204

Re: Subpoena Served on Sandra Mues in Case No. 94-85-A (Item 87) Before the Zoning Commissioner for Baltimore County, Maryland

Dear Mr. Burgess:

Yesterday Sandra Mues of the United States Army Corps of Engineers ("Corps"), Baltimore District, received a subpoena issued at your request for testimony before the Zoning Commissioner of Baltimore County.

Federal regulations prohibit Ms. Mues' from testifying unless you comply with the requirements of those regulations. Specifically, you must set forth, in writing, and with specificity, the content of the testimony you seek from the employee and the relevance of her testimony at your judicial proceeding. 32 C.F.R. § 516.35(d). You must make a similar statement with respect to any Corps' documents which you have subpoenaed. Your statement will be reviewed by the appropriate approval authorities within the Department of Defense. They have the authority to permit Ms. Mues to testify and to produce documents. Without such approval Ms. Mues is prohibited by law from either testifying or producing any documents.

If you decide to comply with the regulations, you may send your written statement to Mr. Douglas Knowles of the Corps at (410) 962-0779. However, it is very unlikely that the Corps will receive and process your request before the hearing date of October 12, 1993. (The persons authorized to make the decision regarding Ms. Mues' testimony and production of documents are located in Washington, D.C.) Therefore, I suggest you make other arrangements for the hearing on the 12th.

MICROFILMED

I regret any inconvenience this may cause you or the Zoning Commissioner of Baltimore County. However, the United States has no choice, under the law, but to insist on full compliance with federal regulations.

Very truly yours,

Lynne A. Battaglia
United States Attorney

By: Kaye A. Allison
Assistant United States Attorney

cc: Zoning Commissioner for Baltimore County
Douglas Knowles, Esq.
Sandra Mues, CE

IN RE: PETITION FOR
950 Thompson Boulevard,
SW/S Thompson Boulevard, SE of Sandalwood Road, 15th Election District - 5th Councilmanic

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-85-A (Item 87)

* * * * * * * * * * * *

SUBPOENA

TO: Mrs. Sandy Mews
U.S. Army Corp. of Engineers
Baltimore District
P.O. Box 1715
Baltimore, MD 21203

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 106 of the County Office Building, 111 W. Chesapeake Ave., Towson, MD 21204, OR Room 118, Old Courthouse, 400 Washington Ave., Towson, MD 21204. Call 887-3353 for location.
and to bring all of your files regardin the Frascketti property, 950 Thompson Boulevard, Baltimore, Maryland 21220.
on the 12th day of October 1993, at 10:30 a.m., regarding the above captioned case, for the purpose of testifying at the request of Douglas L. Burgess, attorney for Jeffrey Waggoner.

Douglas L. Burgess
Nolan, Plumhoff & Williams
210 W. Pennsylvania Avenue
Towson, Maryland 21204
410-823-7800

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued:

IN RE: 950 Thompson Boulevard 15th Election District	BEFORE THE
Salvatore A. Frascketti, et ux	ZONING COMMISSIONER
Petitioner and Legal Owner	OF BALTIMORE COUNTY
	CASE NO.: 94-85-A
	ITEM NO.: 87

REQUEST FOR SUBPOENA DUCES TECUM

Please issue a subpoena duces tecum for the following named witness and command him to appear at the hearing on the above-referenced matter scheduled before the Zoning Commissioner for Baltimore County on **Friday, October 22, 1993 at 9:00 a.m.**, in Room 106 of the Old Courthouse, Towson, Maryland, 21204:

Linda D. Miller
952 Thompson Boulevard
Baltimore, Maryland 21221

The witness should also be directed to bring with him to the Hearing any and all documents, plans, files and records in his custody, possession or control concerning the previous zoning hearings on the subject property, as well as copies of policies, directives, previous zoning decisions and any other information in his possession or control regarding the determination of height of structures for compliance with the Baltimore County Zoning Regulations.

Mr. Sheriff/Private Process Server:
Please process this Subpoena Duces Tecum in accordance with Zoning Commissioner's Rule IV.C.

Zoning Commissioner/Deputy Zoning Commissioner

This subpoena request is made by the undersigned attorney on behalf of Salvatore A. Frascketti, legal owner of the subject property.

Julius W. Lichter
LEVIN & GANN, P.A.
405 West Chesapeake Avenue
Suite 113
Towson, MD 21204
(410) 321-0600

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Salvatore A. Frascketti, Jr., et ux
Case No. 94-85-A

DATE : September 14, 1994

BOARD /PANEL : William T. Hackett (WTH)
Judson H. Lipowitz (JHL)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present at the deliberation included Mr. and Mrs. Salvatore Frascketti, Petitioners; and Gordon D. Fronk, Esquire, on behalf of Protestants, Mr. & Mrs. Jeffrey Waggoner.

PURPOSE --to deliberate issues and matter of petition for variance presented to the Board; testimony and evidence taken at hearing on August 10, 1994. Written Opinion and Order to be issued by the Board.

Opening comments by Chairman Hackett as to matter before Board, including case number and case name; deliberated pursuant to law; no one can participate in this decision with the exception of Board members.

HEB: Finds this a very difficult case; certain considerations he had to make. Would rather have had input from fellow Board members, but in public deliberations, thoughts are made known in the public meeting. Briefly reviewed background; Mr. Frascketti created easement to give access to the waterfront; his understanding that Petitioner took 15 ft. of his property for easement; reviewed construction of homes on property; topography of Petitioner's property; believes that 90 tons of rock was located along the waterfront to prevent erosion; rather serious thing, along any waterfront. Mr. Frascketti had professional engineer and experienced pile driver/contractor; had approval of Baltimore County to construct pier in the area 4 ft or 3 ft from the property line of the neighbor. But it's at least within the easement area; 17 ft. from original pier; should be 20 ft. Asking for these variances from where second pier was built and also setback from line; reviewed Waggoner property; 130 ft. waterfront. The construction of the second pier does not seem to be detrimental to the health, safety and general welfare of the surrounding neighbors; does not agree with Waggoner's that the pier as erected is distracting, disruptive, interferes with their view of the water; inclined to grant the requested variances.

Would grant Petition for Variance.

Deliberation /Salvatore Frascketti, Jr., et ux 94-85-A

WTH: Is of opinion from studying testimony and evidence given that the variances should be granted; several reasons for that -- in order for a variance to be granted, there must be hardship. Briefly reviewed history of property and construction thereon; Petitioner has done nothing that the County did not know he was doing, per review of notes, evidence, etc. Has building permit and pier permits; both for L-shaped pier and new pier. Pier permit is not quite valid yet until decision is made today. However, the pile driver does the best he can do with what he is given; WTH does not see pier as detriment to anyone; hardship to require that it be moved. Variance should be granted; for use of property owners, not for general use. To be for people from lot 3 and the two back lots to reach the water, etc. To make him have pile driver come back and move pier would be extreme hardship; in addition, if it is moved, will do environmental damage. Notes that 190 ton of rock had been placed on property to protect shoreline; in light of all those considerations, even though Mr. Waggoner thinks that the pier is detrimental, does not find that to be true. Would grant variance 17 ft. and 3 or 4 ft., whichever it would happen to be from the Waggoners' property line.

Petition for Variance should be granted.

JHL: This is a very tough case; difficult to decide. These deliberations do not allow Board the opportunity to obtain advance input from colleagues; now with input from colleagues; however, now has that input. There are zoning laws to be used as guides; must, in a variance case, find that relief requested is within spirit and intent of zoning laws; must be taken into consideration; does not believe that spirit and intent of zoning laws would be to deny the relief requested; inclined to grant the relief requested for reasons stated by colleagues. Also, Board must give written opinion and order, which will state findings of fact and conclusions of law; certain that that opinion will accurately state legal standard and evidence in case which will support the decision to grant the variances.

Would grant Petition for Variance.

Closing statement by Chairman Hackett: Written Opinion to be issued; appeal will run from date of that Opinion and Order and not today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant

CHRONOLOGY OF SIGNIFICANT EVENTS

May 12, 1980	Petitioners, Salvatore A. Frascketti, Jr. and Deborah A. Frascketti took title to a 1.67-acre unimproved parcel accessed by Thompson Boulevard and fronting for 113 feet on Back River.
October 1981 through September 21, 1983	Petitioners caused the property to be subdivided into Lots 1 and 2, fronting on Thompson Boulevard, and Lot 3, fronting on Back River, with a 20-foot panhandle access to Thompson Boulevard. Lots 1 and 2 were granted a 20-foot private easement across Lot 3 for access to Back River.
Post-1983	Lots 1 and 2 were sold to third parties and houses built and occupied on each lot. Petitioners built their first residence on Lot 3 well set back from Back River.
April 4, 1987	Petitioners applied for the L-shaped pier permit from Baltimore County and the Corps of Engineers and caused the same to be constructed from Lot 3.
November 30, 1990	Petitioners initiated the process to re-subdivide Lot 3 into Lot 3 and Lot 3A. Initially, a 0.033-acre rectangular out-parcel, fronting on Back River, was depicted as being a part of the new Lot 3 and accessed by the 20-foot private easement shared with Lots 1 and 2 across Lot 3A.
September 25, 1991	The re-subdivision plan was amended to reduce the size of the out-parcel to 0.025-acre and the configuration was changed to a triangular-shape, leaving 15.9 feet fronting on Back River. **NOTE:** The original rectangular-shaped out-parcel overlapped one-half of the L-Pier; the revised out-parcel shifted the one property line to a point 10 feet removed from the L-Pier. **ALSO NOTE:** A minimum frontage of 26 feet fronting on Back River would have been required to permit the construction of a pier on the out-parcel.
August 11, 1992	Building permit was issued to Petitioners for a house to be constructed on Lot 3A. Application for Permit to Construct Pier was submitted to Baltimore County, but not to the Corps of Engineers.
October 19, 1992	Catherine A. Milton wrote letter to Petitioners denying pier permit for lack of 10-foot setback.
January 13, 1993	Pier Permit issued by Baltimore County, based on revised plan, on which setback to Protestants' property was garbled, but appeared to be 10 feet. No permit was secured from the Corps of Engineers. Despite Protestants' objections that the pier was too close to his property, Petitioners proceeded to construct the Pier.

6/29/94 -Notice of Assignment for hearing scheduled for Tuesday, October 11, 1994, at 10:00 a.m. sent to following:

Julius W. Lichter, Esquire
Mr. and Mrs. Salvatore A. Frascketti
Mr. & Mrs. Jeffrey A. Waggoner
Gordon D. Fronk, Esquire
Ms. Linda D. Miller
Ms. Donna L. Disney Vaura
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

6/30/94 -Letter from Gordon D. Fronk, ESquire -entering appearance as Counsel for Appellants /Mr. & Mrs. Jeffrey A. Waggoner

7/11/94 -Letter from Mr. & Mrs. Frascketti --requesting consideration of earlier hearing date; financial burden of carrying subject property (prior house) and house payments on present home, resulting in two house payments.

7/15/94 -Notice of REASSIGNMENT sent to parties; matter reassigned to earlier date; case reset to Wednesday, August 10, 1994 at 10:00 a.m.

8/09/94 -Letter hand-delivered from J. Lichter, Esquire -withdrawing appearance as Counsel for Petitioners; Petitioners to appear in proper person.

8/10/94 -Case concluded before Board; to be scheduled for public deliberation.

8/11/94 -Notice of Deliberation sent to parties; scheduled for Thursday, September 1, 1994 at 9:00 a.m.; copies to appropriate Board members. HLB

8/30/94 -T/C from J. Lipowitz /due to death in family,*unable to be here in a.m. on Thursday, September 1, 1994. Notified G. Fronk and Mrs. Frascketti by telephone; left message on ans. machine for Ms. Disney Vaura; unlisted number for Ms. Miller /unable to locate. *funeral scheduled for a.m. 9/01/94

-Sent Notice of Postponement to all parties; to be reset as soon as possible (first date this panel can be assembled); will send notice to parties at that time. Mrs. Frascketti asked that early date be assigned pursuant to her earlier letter (see 7/11/94 comment above); her situation is the same.

9/02/94 -Second Notice of Deliberation sent to parties; deliberation scheduled for Wednesday, September 14, 1994 at 9:00 a.m. (H.L.B.)

9/14/94 -Deliberation concluded; variance request GRANTED; written Opinion and Order to be issued; appellate period to run from date of written Order. (H.L.B.)

9/20/94 -Letter from G. Fronk /requesting consideration of Board's deliberation comments.

9/28/94 -Response to Mr. Fronk's letter from Chairman Hackett /letter of September 20 being treated as Motion for Consideration is DENIED.

11/04/94 -Final Opinion and Order issued by the Board.

12/05/94 -Motion for Reconsideration filed by Counsel for Protestants at 4:[illegible] p.m. this date (appellate period on Board's 11/04/94 Order runs through this date). Advised by counsel that an appeal has also been filed in Circuit Court (will verify this with Circuit Court).

12/07/94 -Letter from WTH to Mr. Fronk; inasmuch as Petition for Judicial Review was filed by him on December 2, 1994 in the Circuit Court, the Board no longer has jurisdiction in this matter.

SALVATORE A FRASCKETTI, JR., ET UX 94-85-A

SW/S Thompson Blvd., SE of Sandlewood Road
(950 Thompson Blvd) 15th Election District

RE: Variance

August 20, 1993	Petition for Variance to allow a distance between piers of 17 feet in lieu of 20 feet and a distance from boundary line of 4 feet in lieu of 10 feet and to amend the Final Development Plan of the Frascketti Property filed by Julius W. Lichter, Esquire, on behalf of Salvatore A. and Deborah A. Frascketti.
October 12	Hearing held on Petition by the Zoning Commissioner.
May 27, 1994	Order of the Z.C. in which Petition for Variance was GRANTED.
June 13	Notice of Appeal filed by Waggoner, Protstnt.
June 30	Entry of Appearance filed by Gordon D. Fronk, Esquire to represent the Waggoners.
August 10	Hearing before the Board of Appeals.
September 14	Deliberation by the Board of Appeals.
September 20	Motion for Consideration (of deliberation comments) filed Fronk on behalf of Prot.
September 28	Motion for Consideration DENIED.
November 4	Opinion and Order of the Board in which the Petition for Variance was GRANTED.
December 2	Petition for Judicial Review filed in the CCt by Fronk, on behalf of Protestants.
December 5	Motion for Reconsideration filed in the County Board of Appeals by Fronk, on behalf of Prot.
December 7	Copy of Petition for Judicial Review received by the C.B.of A. from the CCt.
December 9	Certificate of Notice sent to interested parties.
February 3, 1995 ✓	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
June 30 ✓E	Order of the CCt wherein decision of CBA was REVERSED; VAR for pier DENIED - to be dismantled and removed within 90 days of date of ruling. (Hon. Christian M. Kahl)

SALVATORE A. FRASCKETTI, JR., ET UX 94-85-A

SW/s Thompson Blvd., SE of Sandlewood Road
(950 Thompson Boulevard) 15th Election District

Page

8/21/95 -T/C from S. Frascketti, Jr. - has just received a copy of the Circuit Court's decision in this matter; indicated that he was unaware of the fact that an appeal had been taken to the CCt by the Waggoners; that he therefore did not attend the hearing in Circuit Court; property has been sold with no knowledge, per Mr. Frascketti, that any further appeal had been taken.

- Reviewed file (Board's copy); at request of Mr. Frascketti, forwarded to him the following documents: (1) Letter 12/07 from WTH to Fronk re Fronk's Motion for Reconsideration (Board lacked jurisdiction; Mr. Fronk had filed Petition for Jud. Review in CCt for Waggoners; copies to all parties. (2) Certificate of Notice; Frascketti copied; (3) Extract; Frascketti copied; (4) Notice from CCt that record had been filed (no indication that Frascketti received copy from CCt); (5) Notice of Assignment and Scheduling Order from CCt (with no indication that copy had been sent to Mr. Frascketti by CCt); and (6) Memo of Petitioners (Waggoners) filed in CCt; Mr. Frascketti copied on this document.

Copy of cover letter from kcw to Mr. Frascketti also sent to PC and Fronk/FYI.

NOTE: Mr. Frascketti indicated that he has moved from the Thompson Boulevard address to: 1809 Campbell Road, Forrest Hill, MD 21050. Advised him that all copies from the Board had been sent to his Thompson Blvd address, as indicated in file; and, further, that to date we had received nothing back from the post office as undeliverable.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Gwen Stephens DATE: August 25, 1993
Development Management

FROM: James H. Thompspn
Zoning Enforcement Coordinator

RE: Item No. 87
950 Thompson Boulevard
Frascketti - Petitioner

When the referenced petition is scheduled for a public hearing please notify:

Jeffrey A. Waggoner
948 Thompson Boulevard
Baltimore, Maryland 21221

Presently, the enforcement division does have an active case, number 93-303, Thompson Boulevard. Part of Lot No. 3.

Furthermore, on August 25, 1993 this case file was continued for a period of 90 days in district court pending outcome of the public hearing.

JHT/hek

c: James M. McKinney, Executive Assistant
Jeffrey A. Waggoner

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: July 15, 1994

TO: William T. Hackett, Chairman
Board of Appeals

FROM: James H. Thompson
Zoning Enforcement Supervisor

RE: Case No. 94-85A
Salvatore A. Frascketti, et ux
950 Thompson Boulevard
15th Election District

On June 14, 1994, the referenced case had an appeal filed by the original complainant Jeffrey Waggoner.

Presently, the enforcement section has an active district court case, Case No. SP01303-93. This matter was placed on the stet docket on December 23, 1993, by our section pending the decision of Zoning Commissioner Lawrence E. Schmidt.

I am requesting that when a decision is made by the board, that a copy of that ruling be sent to us.

JHT/hek

c: Inspector Craig McGraw

94 JUL 15 PM 2:38

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** March 5, 1999
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: 94-85-A
Salvatore A. Frascketti, Jr.

Since no further appeals have been taken in the above captioned case, we are hereby closing our file and returning same to you herewith.

The original file and exhibits were returned to your office by John Almond, Records Manager /CCt on September 11, 1998.

Attachment (CBA Case File No. 94-85-A)

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

KATHRYN T. MAY

December 7, 1993

RECEIVED

The Honorable Lawrence Schmidt
Baltimore County Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

RE: Rescheduling of Case No. 94-85-A
Salvatore A. Frascketti, et ux, Petitioners

Dear Commissioner Schmidt:

As you may recall, the above referenced case was set for hearing on November 15, 1993 but postponed to allow the protestants to obtain new counsel. I have spoken with Gordon Fronk, Esquire who will be representing the protestants in place of Doug Burgess, Esquire. Mr. Fronk informed me today that you may go ahead and reset the hearing.

Please call Julius W. Lichter if you have any questions regarding his schedule.

Sincerely,

Kathryn T. May

c.c. Gordon Fronk, Esquire
2324 W. Joppa Road, Suite 120
Lutherville, Maryland 21093

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

JULIUS W. LICHTER

February 7, 1994

RECEIVED
FEB

Mr. Lawrence E. Schmidt
Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 94-85-A, Item No. 87
Petitioner: Salvatore A. Frascketti, et ux
Petition for Variance

Dear Mr. Schmidt:

I am writing this letter at the request of my client to determine when a decision might be received in this case. I know that you are seriously considering the issues involved. Please advise as to when a decision might be forthcoming.

Sincerely,

Julius W. Lichter

JWL:lsp

cc: Mr. and Mrs. Salvatore A. Frascketti
Gordon D. Fronk, Esquire

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

JULIUS W. LICHTER

March 16, 1994

HAND DELIVERED

RECEIVED
MAR
ZONING COMMISSIONER

Lawrence E. Schmidt
Zoning Commissioner for
Baltimore County
Court House
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 94-85-A
Item No. 87
Petitioner: Salvatore A. Frascketti, Jr. and
Deborah A. Frascketti
Petition for Variance

Dear Commissioner Schmidt:

As you are aware and as I have advised Mr. Fronk, I feel that it was most inappropriate for Mr. Fronk to write to you by his letter of March 1, 1994. At no time did you request nor was there an agreement of the parties that Post Hearing Memoranda would be submitted. However, now that his letter has been delivered to you, I will respond on behalf of my clients, Mr. and Mrs. Frascketti.

The evidence presented during the hearings, which Mr. Fronk for the most part did not attend, should be the basis of the Commissioner's decision and not Mr. Fronk's attempt to bring perspective two months after the hearing closed.

The testimony revealed that my clients, at all times, sought to comply with all regulations and requirements up to and including the time of the installation of the pier. The testimony revealed that they retained the services of recognized engineering firms to prepare plans to enable them to further subdivide their property and obtain the necessary permits for installing the pier in question. These plans at various stages were reviewed and approved by the required government agencies including the Department of Public Works, Department of Environmental Protection and Resource Management and the Office of Planning and Zoning.

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

JULIUS W. LICHTER

August 9, 1994

HAND DELIVERED

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 94-85-A
Salvatore A. Frascketti, Jr., et ux

Gentlemen:

At the request of Deborah A. and Salvatore A. Frescketti, Jr., I am hereby withdrawing my appearance as their counsel in the above captioned case. They have advised me tht they will be appearing in proper person before the Board at the hearing scheduled for Wednesday, August 10, 1994 at 10:00 a.m.

Sincerely,

Julius W. Lichter

JWL:lsp

cc: Mr. and Mrs. Salvatore A. Frescketti, Jr.

cc: via fax 410-296-2765 to Gordon D. Fronk, Esquire

LAW OFFICE
GORDON D. FRONK P.A.
SUITE 700 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
410-823-7966

March 1, 1994

RECEIVED
MAR
ZONING COMMISSIONER

Lawrence E. Schmidt
Zoning Commissioner
Suite 113, Court House
400 Washington Avenue
Towson MD 21204

Re: Case No. 94-85-A, Item No. 87
Petitioner: Salvatore A. Frascketti, *et ux*
Petition for Variance

Dear Mr. Commissioner:

Recently, I reviewed the file in your office and confirmed my suspicion that the exhibits tend to create more confusion than clarity. I have elected to write this synopsis to attempt to bring perspective to the facts, which I believe are pertinent.

Petitioners are seeking a variance to allow the distance between two piers (hereinafter referred to as the "old pier" and the "new pier") to be 17' in lieu of 20' and between the new pier and the boundary line to be 4' in lieu of 10', and to amend the Final Development Plan in conformity with the requested variances. Petitioners have incurred considerable expense to retain engineers to properly subdivide their property and to comply with all zoning regulations, requirements and procedures. Furthermore, they have had the new pier constructed at considerable expense. Their application states the reasons for hardship or practical difficulty are "to maintain an existing wood [new] pier, which was erected in accordance with an Amended Final Development Plan approved by the Department of Public Works on June 12, 1992, and pursuant to a building permit B143939, which was issued utilizing a site plan that was not as shown on the Amended Final Development Plan."

Protestants oppose the granting of the variance on the grounds that it was made known to the Petitioners by both the County and the Protestants that there was not sufficient frontage within which to construct the new pier and therefore any hardship or practical difficulty has been self-created by Petitioners and cannot now be found to be the basis for granting a variance. A very brief synopsis of the facts would conclude that, in 1987, the

---

Petitioners constructed the old pier on the original Lot 3 (now Lot 3A) at a point which is only 27.2' from the west boundary line in common with the Protestants property; at a minimum, it would have required 36' of frontage to have constructed a 6'-wide pier and allow the 10' setbacks from each pier to each respective property line.

The Petitioners acquired a parcel of land (the "Parcel") by deed, dated May 12, 1980, from which they caused the same to be subdivided into Lots 1, 2 and 3 by recording a plat, entitled "1st Amended Subdivision Plat Frascketti Property Thompson Boulevard," dated 1-11-83, Rev. 8-15-83 and recorded September 21, 1983, at Plat Book E.H.K., Jr. 50, folio 94. The subdivision plat (a) created Lot 3, comprising 1.2+/- acres, fronting for 113'+/- on Back River, with a panhandle to Thompson Boulevard, and (b) granted to the owners of each of Lots 1 and 2 a 20-foot easement for ingress and egress to and from Back River, along the west boundary of the original Parcel, which easement continues to be in effect today. The Petitioners lived in the house constructed on the original Lot 3 at all relevant times, until November, 1993, when they moved into the house, which they subsequently had caused to be constructed on Lot 3A. In April, 1987, the Petitioners applied for, obtained approval of and caused to be constructed an L-shaped pier (old pier) on Lot 3. The western edge of the old pier was constructed at a point, which is 27.2 feet from the west property line of the original Parcel, being the boundary line of the Protestants property. Apparently, adequate consideration had not been given to leaving room to construct a new pier between the old pier and the west boundary line of Lot 3.

In 1991, while living in the house on the original Lot 3, the Petitioners applied to Baltimore County to re-subdivide the original Lot 3 into two lots, one to be known as Lot 3A, intended to have approximately 82' of frontage on Back River, comprising 0.704 acres, including a panhandle varying in width between 20' and 10' for ingress and egress access to Thompson Boulevard. The revised Lot 3 was reduced to approximately 0.478 acres, including a panhandle 10' wide to Thompson Boulevard, and was designed to have a separate 0.033-acre rectangular parcel of land fronting on Back River 30' wide and varying depth of 40' on the west and 54.85' on the east. The apparent purpose for the waterfront parcel was to improve the desirability of the revised Lot 3, so that it would have adequate water frontage to construct a new pier. The revised Lot 3 reserved an easement for access to the waterfront parcel over a portion of the same easement area granted to the owners of Lots 1 and 2. The minimum water frontage required to permit a pier to be constructed would have been 26', provided there was no other

---

existing pier within 10' of the new line of division of Lot 3A and the waterfront parcel; therefore, the 30' width would have seemed adequate. However, the planning did not take into account the exact location of the old pier. In fact, the proposed 0.033+/- acre rectangular waterfront parcel overlapped one-half of the width of the old pier.

The Petitioners retained the engineering firm of Gerhold,Cross & Etzel, who prepared and submitted to Baltimore County a Resubdivision of Lot 3, 1st Amended Subdivision Plat Frascketti Property, dated July 26, 1991, which, among other things, depicted the 0.033-acre rectangular waterfront parcel.

The Baltimore County Code, Section 26-169, *et seq.*, requires that any subdivision of more than three lots be regarded as a "major subdivision." Accordingly, the Office of Planning and Zoning file reflects the comments of Mitch Kellum to the effect that a Final Development Plan must be filed. The aforesaid "1st Amended Subdivision Plat" was revised by inserting the words "Final Development Plan" and the old pier was drawn and identified as "Existing Pier," with setback notations of "10' Min" and arrows to each of the east property boundary and the newly proposed west property boundary in common with the rectangular waterfront parcel. Additionally, the new pier was drawn on the Plan and identified as the "Proposed Pier," with setback notations of "10' Min" and arrows to each of the east and west property lines of the rectangular waterfront parcel. Neither pier had been drawn or located to scale, so there appeared to be adequate frontage to provide for both piers.

The evidence presented at the hearing on the petition included several exhibits, none of which seemed to be fully executed by all parties, engineers and County officials required to give effect to the requirements of Code Section 26-169, *et seq.*, to include a recorded plat and an approved Final Development Plan. Petitioner is seeking to amend the Amended Final Development Plan, signed in the CRG block by David L. Thomas, on June 12, 1992, but not signed by a representative of the Office of Planning and Zoning, which is the agency which required compliance with the Code, in the first instance. At some time during the revision process, the Plan was revised to show the exact location of the old pier and the intended location of the new pier. It would have been impossible to have depicted the new pier on the Plan and have shown the 10' minimum setbacks on either side of said proposed new pier, which may be the reason that no fully approved plan was available to be submitted into evidence.