

IN RE: PETITION FOR ADMINISTRATIVE VARIANCE
SEC Evergreen Lane and Cedar Rd. * ZONING COMMISSIONER
1301 Evergreen Lane * OF BALTIMORE COUNTY
15th Election District * Case No. 94-129-A
5th Councilmanic District
Francis S. Barbagallo, Jr., et ux *
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as an administrative variance filed by Francis S. and Robin Barbagallo, for that property known as 1301 Evergreen Lane in the Evergreen Park subdivision of Baltimore County. The Petitioners herein request a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure (detached garage) on a corner lot on the side street side, in lieu of the 1/3 rear yard farthest removed from the side street, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners having filed a Petition for Residential Variance and the subject property having been posted, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of

Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

This property lies within close proximity to the Chesapeake Bay and is, therefore, subject to the Chesapeake Bay Critical Area legislation found within Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regula-

tions, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of October, 1993 that the Petition for a Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure (detached garage) on a corner lot on the side street side, in lieu of the 1/3 rear yard farthest removed from the side street, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
3. Petitioners shall comply with all requirements of the Department of Environmental Protection and Resource Management as set forth in their comments dated October 7, 1993, attached hereto and made a part thereof.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4346

October 26, 1993

Mr. and Mrs. Francis S. Barbagallo, Jr.
1301 Evergreen Lane
Baltimore, Maryland 21221

RE: Petition for Administrative Zoning Variance
Case No. 94-129-A
Property: 1301 Evergreen Lane

Dear Mr. and Mrs. Barbagallo:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 891-1991.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmn
enc.

ORDER RECEIVED FOR FILING
Date 10/27/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/27/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/27/93
By [Signature]

LES:mmn

-3-

-2-



Petition for Administrative Variance 94-129-A to the Zoning Commissioner of Baltimore County for the property located at 1301 Evergreen Lane which is presently zoned RA-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 400.1 (BCZR) To allow an accessory structure (detached garage) on a corner lot on the side street side in lieu of the 1/3 rear yard farthest removed from the side street.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

I want to put a garage up & my well and septic is on the other side of my yard on which I can't build on top of.

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.

Correct Purchaser-Lessee
(Type or Print Name)
Signature
Address
City State Zipcode
Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode
Phone No.

Legal Owner(s)
(Type or Print Name)
Signature
Address
City State Zipcode
Phone No.

1301 Evergreen Lane 21221
Baltimore MD 21221
661-1037 (B)
574-0364

A Public Hearing having been requested and/or held as required, it is ordered by the Zoning Commissioner of Baltimore County, this 27th day of October, 1993, that the subject matter of this petition be set for a public hearing, to be held on the 27th day of October, 1993, at 7:00 PM, in the Zoning Commission's public hearing room, 113 West Chesapeake Avenue, Towson, Maryland 21204, and that the property be posted.

Zoning Commissioner of Baltimore County

REMOVED BY [Signature] DATE 9-24-93
REMOVED POSTING DATE 10-10-93
ITEM #: 139

Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:
That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) were competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) do(es) presently reside at 1301 Evergreen Lane
Baltimore MD 21221

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address: (indicate hardship or practical difficulty)

I want to put a garage up and my well & septic is on the other side of my yard on which I can't build on top of.

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature of Affiant(s)
Signature of Affiant(s)
Signature of Affiant(s)

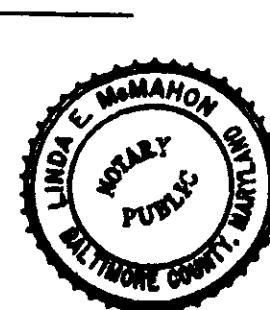
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 22nd day of September, 1993, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared FRANKS S. BARBAGALLO & ROBIN BARBAGALLO

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath to the contents of this affidavit, and that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

9/22/93



Linda E. McMahon
My Commission Expires: 12/31/1998

#139

Zoning Description 94-129-A

1301 Evergreen Lane

Elect. Dist 15th Co. Dist 5th

Beginning at a point on the SE corner of Evergreen Lane & Cedar Ave. Being lot nos. 118-121 in the subdivision of Evergreen Park as recorded in Balto. Co. Plat Book #7 folio 174 containing 40,200 sq. ft.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 15th Date of Posting 10/27/93
Posted for: Veronica
Petitioner: Robin & Francis Barbagallo
Location of property: 1301 Evergreen Lane, 15th Election District, RA-5
Location of Sign: 1301 Evergreen Lane, RA-5
Remarks:
Posted by: [Signature] Date of return: 10/27/93
Number of Signs: 1

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

receipt

9-24-93 94-129-A
OWNERS: FRANKS Barbagallo
516' 1301 Evergreen Ln. (21221)
010 --- Rec. Variance (adn) --- \$50.00
070 --- Sign + Posting --- 35.00
Total - \$85.00

CRITICAL

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

October 15, 1993

Mr. and Mrs. Francis S. Barbagallo, Jr.
1301 Evergreen Lane
Baltimore, Maryland 21221

RE: Case No. 94-129-A, Item No. 139
Petitioner: Francis S. Barbagallo, Jr., et ux
Petition for Administrative Variance

Dear Mr. and Mrs. Barbagallo:

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 September 24, 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.



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Re: **BALTIMORE CO.**
Item No.: **#139 (JJS)**

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

Dear Ms. Minton:

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 project.

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,

for **Bob Small**
John Contestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2256 Statewide Toll Free
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

October 7, 1993

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

FROM: J. Lawrence Pilon
Development Coordinator, DEPRM

SUBJECT: Zoning Item #139 - Barbagallo Property
1301 Evergreen Lane
Zoning Advisory Committee Meeting of October 4, 1993

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

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

JLP:DL:sp

BARBAGA/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: October 4, 1993

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

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 petitions:
Item Nos. 130, 131, 134, 135, 136, 137, 139, 140 and 141.

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 410-340-1400.

Prepared by:

Division Chief:

PK/JL:lw

ZAC, 133/VZONE/ZAC1

Baltimore County Government
Department of Permits and Licenses



111 West Chesapeake Avenue
Towson, MD 21204

October 8, 1993

(410) 887-3610

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

Zoning Agenda: Meeting of October 4, 1993

Joseph Michael Neukam and Audrey E. Neukam
#2001 Codd Avenue
130 (RT)

Paul Goodman
#1002 Reisterstown Road
+131 (RT)

Colonial Village Company
#7002 Reisterstown Road - Colonial Village Shopping Ctr.
+132 (JRA)

Iron City Sash and Door
#2202 Halethorpe Farm Road
+133 (JLL)

David Wayne Johnson and Tera Lee Johnson
#11 Horse Chestnut Court
+8 134 (RT)

Edmund J. Cardoni and Teena L. Cardoni
#232 Antietam Road
+135 (JCM)

Charles D. Lowe and Sharon A. Lowe
#1900 Dineen Drive
136 (JLL)

Elizabeth Hendrickson, Personal Representative for the Estate of
Rita S. Holland
#13224 Fork Road
137 (JJS)

The Pines at Deep Run Limited Partnership
#5,6,7, & 8 Deep Run Court
+ 138 (MJR)

Robin Barbagallo and Francis S. Barbagallo, Jr.
1301 Evergreen Lane

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

OCTOBER 4, 1993

NOTICE OF CASE NUMBER ASSIGNMENT

TO: Robin Barbagallo and Francis Barbagallo, Jr.
1301 Evergreen Lane
Baltimore, Maryland 21221

RE: CASE NUMBER: 94-129-A (Item 139)
1301 Evergreen Lane
880 Evergreen Lane and Cedar Road
15th Election District - 5th Councilmanic

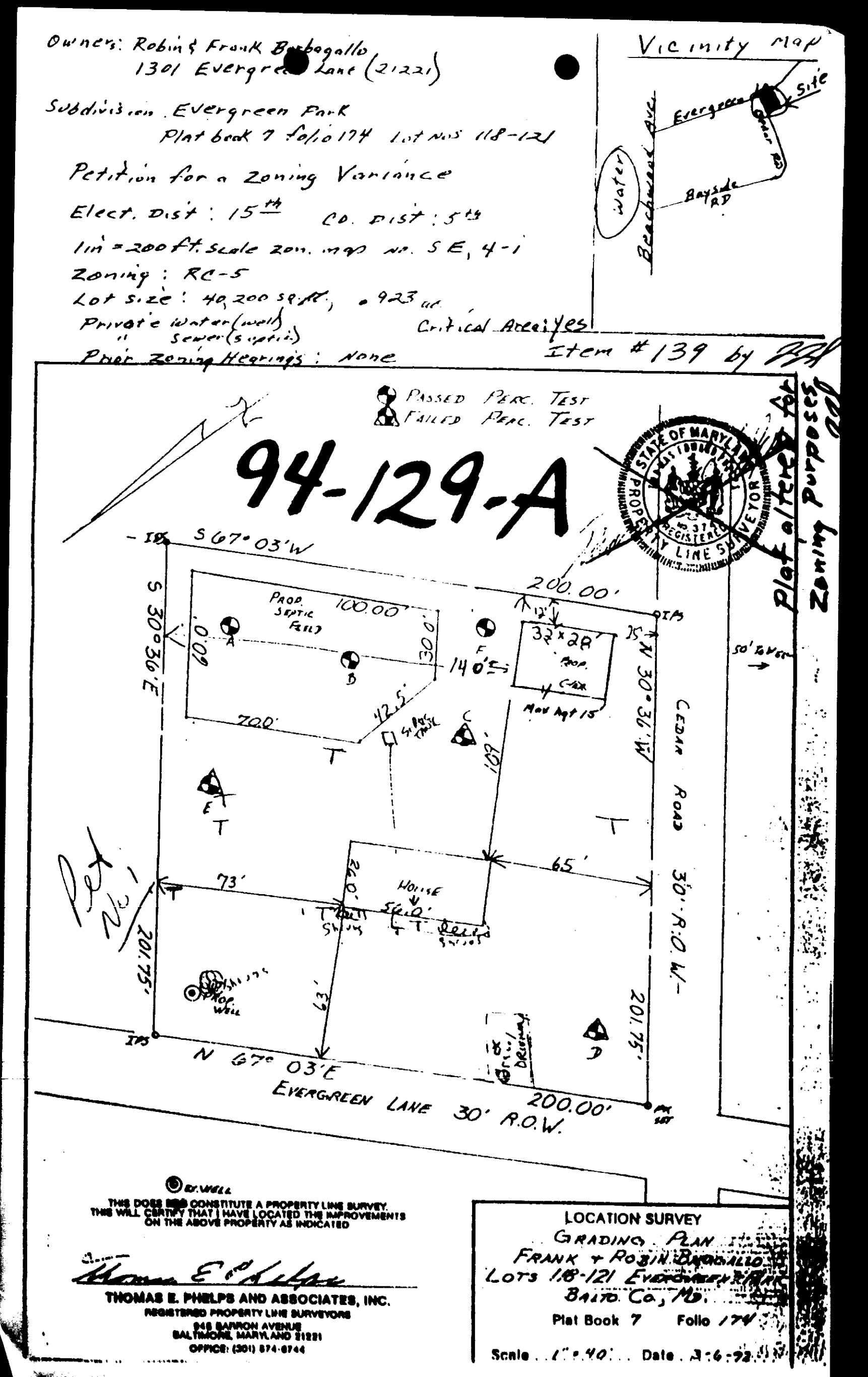
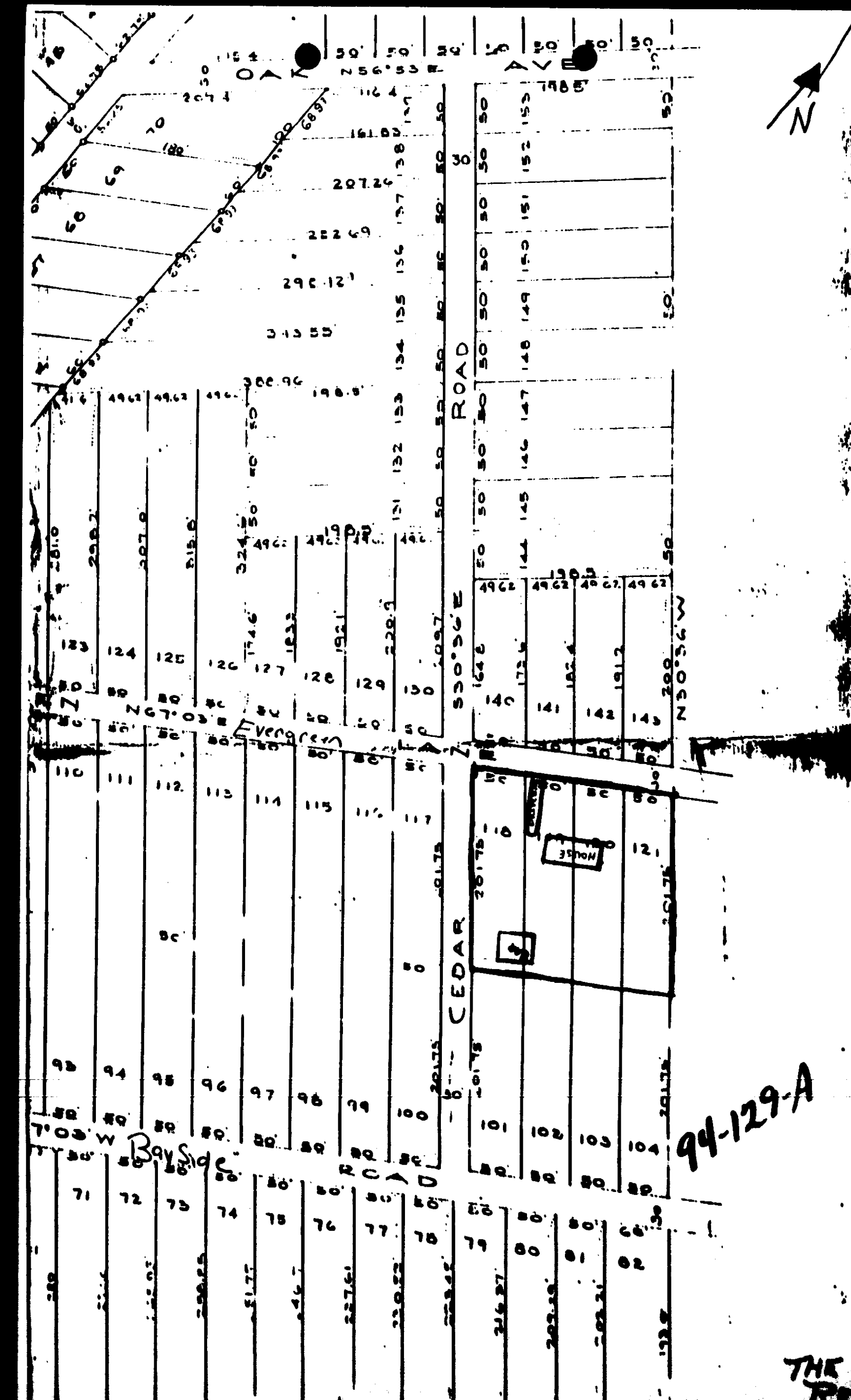
Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Contact made with this office regarding the status of this case should reference the case number and be directed to 887-3353. This notice also serves as a refresher regarding the administrative process.

- 1) Your property will be posted on or before October 10, 1993. The closing date (October 25, 1993) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.
- 2) In cases requiring public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).
- 3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$60.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

Bel Jan

Arnold Jablon
Director



94-129-A



VIEW FROM REAR LOT

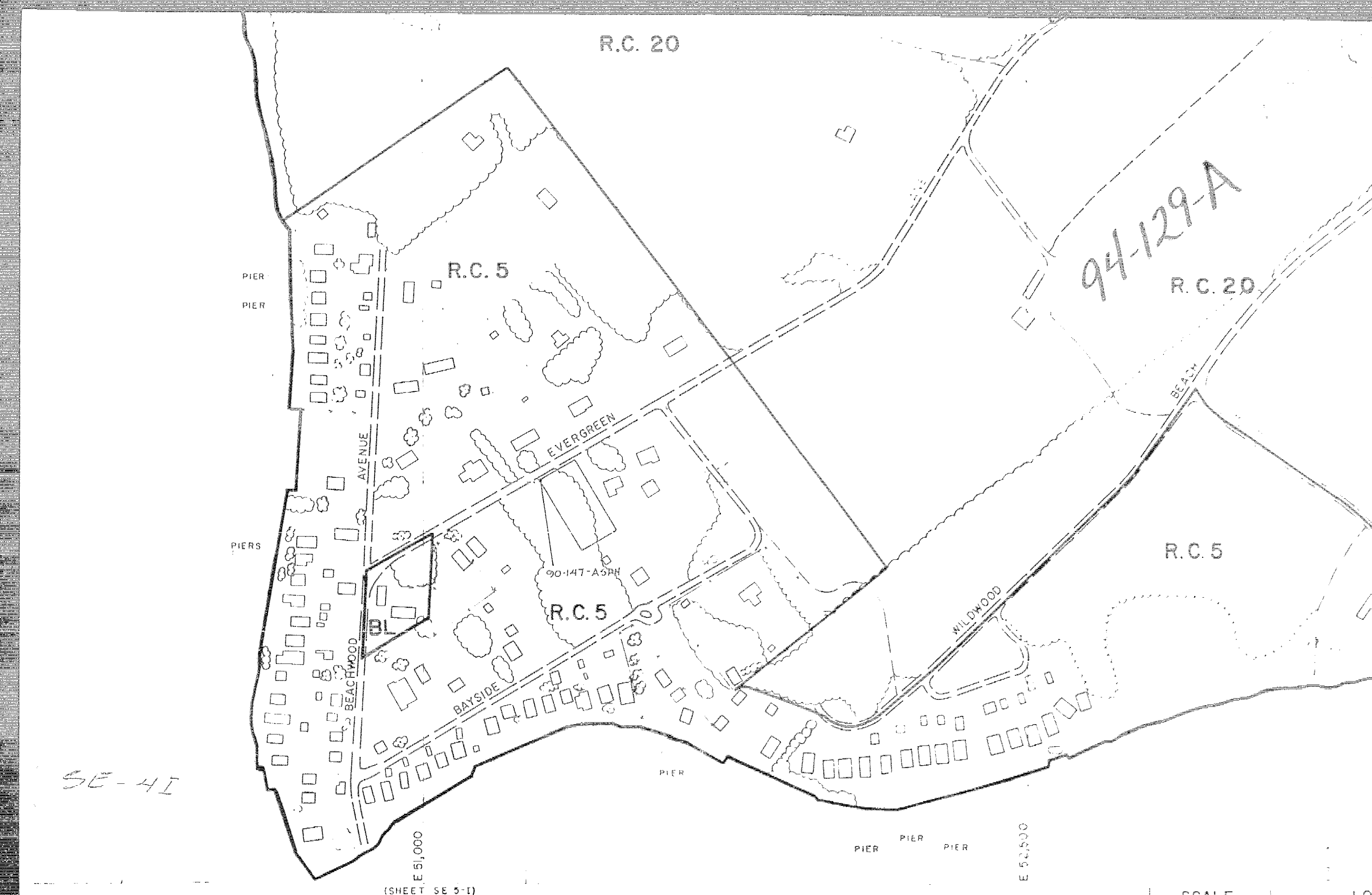


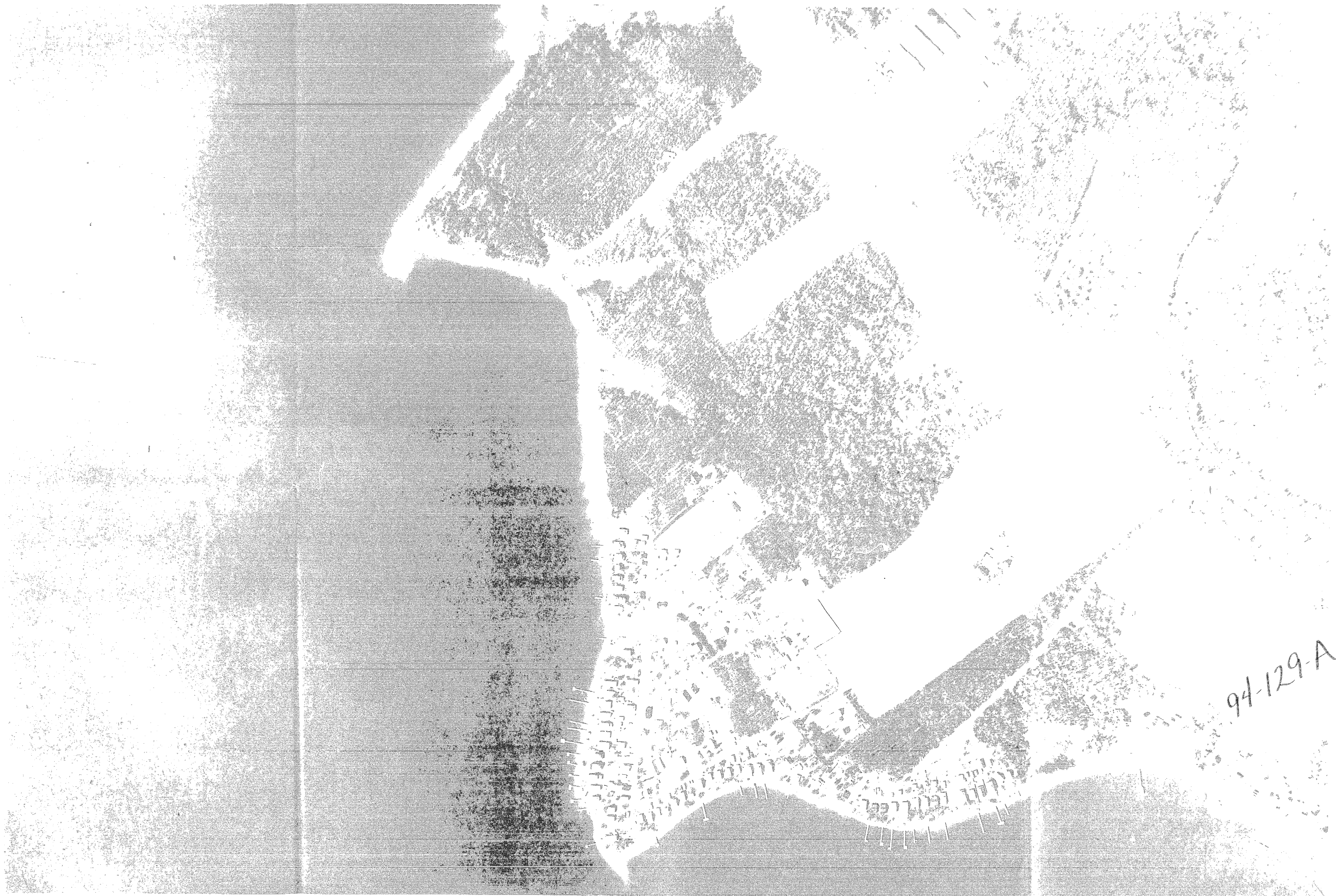
VIEW LOOKING TOWARDS CEDAR AVE

94-129-A



VIEW FROM CEDAR LANE LOOKING EAST





94-129-A

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W. V. 25401

SCALE	LOCATION	SHEET
1" = 200'	BACK RIVER NECK	12
DATE OF PHOTOGRAPHY JANUARY 1986		41