

IN THE MATTER OF
THE APPLICATION OF
RICHARD W. DAVIS
FOR A VARIANCE ON PROPERTY
LOCATED ON THE SOUTH SIDE
RUXTON ROAD, 600' EAST OF
ELEANOR ROAD (NEAR OF 1813
RUXTON ROAD)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

- * BEFORE THE
- * COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 94-282-A

ORDER OF DISMISSAL

Upon consideration of the Appellant's Motion to Dismiss, it is
this 27th day of October, 1994, by the County Board of
Appeals of Baltimore County,

ORDERED that the Appellant's Motion to Dismiss is hereby
GRANTED; and the Petition for Variance is hereby DISMISSED WITH
PREJUDICE.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

C. William Clark, Acting Chairman

S. Diane Levero

Mary E. Bucheister, Jr.

- RE: PETITION FOR VARIANCE
- 8/8 Ruxton Road, 600' E of
- Eleanor Road
- (Near of 1813 Ruxton Road)
- 9th Election District
- 4th Councilmanic District
- Richard W. Davis
- Appellant

- * BEFORE THE COUNTY
- * BOARD OF APPEALS
- * OF BALTIMORE COUNTY
- * Case No. 94-282-A

NOTICE TO DISMISS

Richard W. Davis, Appellant, by his attorneys, Deborah C.
Dopkin and Rosolio, Silverman & Kots, P.A., hereby moves to dismiss
on appeal noted on Appellant's behalf by a Notice of Appeal filed
with this Board on April 12, 1994, appealing the Findings of Fact
and Conclusions of Law rendered by the Deputy Zoning Commissioner
of Baltimore County, dated March 14, 1994, denying his Petition for
Variance and the relief requested therein.

Deborah C. Dopkin

Rosolio, Silverman & Kots, P.A.
Suite 210, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 27th day of October,
1994, a copy of the foregoing Motion to Dismiss was mailed,
postage prepaid to: Newton A. Williams, Esquire, Nolan, Plunhoff &
Williams, Chartered, Suite 700, Court Towers, 210 West Pennsylvania
Avenue, Towson, Maryland 21204-5340, attorneys for Protestants.

Mr. and Mrs. Carl W. Schmidt; Peter J. Zimmerman, Esquire, People's
Counsel for Baltimore County, Court House, 400 Washington Avenue,
Towson, Maryland 21204; and to Carol S. DeMilio, Esquire, Deputy
People's Counsel for Baltimore County, Court House, 400 Washington
Avenue, Towson, Maryland 21204.

Deborah C. Dopkin

Deborah C. Dopkin

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

October 27, 1994

Deborah C. Dopkin, Esquire
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, MD 21204

RE: Case No. 94-282-A
Richard W. Davis

Dear Counsel:

Enclosed please find a copy of the final Order of Dismissal
issued this date by the County Board of Appeals of Baltimore County
in the subject matter.

Very truly yours,

Kathleen C. Weidenhamer
Administrative Assistant

encl

cc: Mr. Richard W. Davis
Newton A. Williams, Esquire
Mr. Carl W. Schmidt
Mr. Wallace Lanahan
Ms. Nancy Borst
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy W. Rotroo
W. Carl Richards /EADN
Docket Clerk /EADN
Arnold Jablon, Director /EADN

IN RE: PETITION FOR VARIANCE
5/9 Ruxton Road, 600' E of
Eleanor Road
(Near of 1813 Ruxton Road)
9th Election District
4th Councilmanic District
Richard W. Davis
Petitioner

- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 94-282-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a
Petition for Variance filed for the subject property located to the rear
of 1813 Ruxton Road in the Towson area of northern Baltimore County. The
Petition was filed by the owner of the property, Richard W. Davis. The
Petitioner seeks relief from Section 1802.3.C.1 of the Baltimore County
Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 20 feet in
lieu of the required 50 feet for a proposed dwelling, and to permit the
rear yard to be defined from the main body of the dwelling as opposed to
the rear of the disette extension, as more particularly described on the
plan submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition was Richard W. Davis, owner
of the property, and Timothy Sanders, Architect. Appearing as Protestants
in the matter were numerous residents of the surrounding community, includ-
ing Carl W. Schmidt and Wallace Lanahan, III, adjacent property owners.

Testimony and evidence presented revealed that the subject prop-
erty consists of 1.001 acres, more or less, zoned D.R. 1 and is presently
unimproved. The Petitioner is desirous of developing the property with a
two-story dwelling in accordance with Petitioner's Exhibit 1. However,
which is within a 100-year flood plain, the relief requested is necessary

in order to develop the site. Mr. Davis testified that he purchased the
property in 1985 from a Dr. Rosenheim, who at that time owned adjoining
land which was eventually sold to Baltimore County. Mr. Davis submitted a
six-page site plan of the property depicting the wetlands and flood plain
which traverses the land, and the proposed location for a two-story dwelling
on the site. As a result of the site constraints noted above, the only
buildable area on the site is located in the far northeastern corner of
the property. Furthermore, the Petitioner must locate the dwelling 20
feet from the adjoining property line in lieu of the 50 feet required,
pursuant to the B.C.Z.R.

Petitioner's Exhibit 1 shows that the proposed two-story brick
dwelling will be located approximately 10 feet from the limits of the
100-year flood plain boundary line. A comment submitted by the Department
of Public Works mandates that all dwellings must be located 20 feet from
the limits of any 100-year flood plain. Mr. Davis must therefore move
the proposed dwelling an additional 10 feet towards the Schmidt property
thereby necessitating a 10-foot variance and not the 20 feet requested.
In response to this issue, Mr. Davis stated that he would request an exemp-
tion from the Department of Environmental Protection and Resource Manage-
ment (DEPRM) to permit his development 10 feet from the flood plain bound-
ary in lieu of the 20 feet required.

Appearing and testifying in opposition to the Petitioner's request
were Carl Schmidt and Wallace Lanahan, III, adjacent property owners. In
addition, several residents of the Ruxton Road community appeared and
offered their opposition to this plan. Furthermore, a multitude of letters
stating opposition to the relief requested were received by this Deputy
Zoning Commissioner and have been made a part of the record.

The Protestants are generally opposed to any dwelling being con-
structed in the location proposed by Mr. Davis. These residents presented
a documented history of the flooding which has occurred in this area since
1972. Their testimony revealed that several homes in the area had to be
purchased by Baltimore County due to repeated flooding in the area and the
dangerous situation as a result of dwellings that were built in or near
the flood plain. Mr. Carl Schmidt offered into evidence as his Exhibit 2
a newspaper account of the flooding that occurred during Hurricane Agnes.
That article recounts the drowning of three children on Ruxton Road due to
the severe flooding that occurred during that storm. Mr. Schmidt and the
others who testified in opposition at the hearing are very much concerned
about the danger of permitting a dwelling to be constructed in such close
proximity to the flood plain. Furthermore, Messrs. Schmidt and Lanahan
are concerned over the close proximity of the proposed dwelling to their
respective homes. Mr. Schmidt offered as his Exhibit 6 an aerial photo-
graph of his property and Mr. Lanahan's property. Mr. Schmidt superim-
posed the location of the proposed dwelling to depict its close proximity
to his and Mr. Lanahan's homes. It is clear that the proposed dwelling
and garage will virtually be situated in Mr. Schmidt's back yard.

Subsequent to the hearing, Mr. Davis submitted five alternative
site plans for the proposed dwelling on which he described the hardship
associated with each plan. Inasmuch as these alternative plans were not
part of the advertised Petition for Variance, they cannot be considered by
this Deputy Zoning Commissioner. Each alternative plan needs a different
variance from that which has been requested and Mr. Davis would need to
request a variance based upon the alternative he would select. I cannot
arbitrarily make that decision for him.

All variance relief requested from the B.C.Z.R. is governed by
the standards set forth in Section 307 thereof. Within that Section, it
is provided that the Petitioner must adduce testimony and evidence that a
denial of the variance would result in practical difficulty or unreason-
able hardship for him. The standard for practical difficulty is defined
in Mclean v. Soley, 270 Md. 208 (1973). To prove practical difficulty
for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would
unreasonably prevent the use of the property for a
permitted purpose or render conformance unnecessarily
burdensome;
- 2) whether the grant would do substantial 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).

Moreover, Section 307 requires that a variance can only be grant-
ed if same is within the spirit and intent of the zoning regulations and
is not detrimental to the surrounding locale.

After careful consideration of the testimony and evidence offered
by Mr. Davis and the many Protestants who testified in opposition to the
relief requested, as well as the multitude of letters submitted by various
residents of the community who are opposed to the variance relief sought,
I find that the relief requested should be denied. The subject property
is severely restricted by the 100-year flood plain that traverses it,
leaving only a small area in the northeast corner of the property that is
actually buildable. However, variances are needed from both the northwest

ORDER RECEIVED FOR FILING

Date 10/27/94 By [Signature]

ORDER RECEIVED FOR FILING

Date 10/27/94 By [Signature]

ORDER RECEIVED FOR FILING

Date 10/27/94 By [Signature]

ORDER RECEIVED FOR FILING

Date 10/27/94 By [Signature]

Prepared by: *Jeffrey M. Loe*
Division Chief: *Carol L. Lewis*
PK/JLL:lw

RE: PETITION FOR VARIANCE
8/8 Burton Road, 600' E of
Ellenham Road
(rear of 1813 Burton Road)
9th Election District
4th Councilmanic District
Richard W. Davis
Appellant

* BEFORE THE COUNTY
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 94-282-A

NOTICE OF APPEAL

Please note an appeal from the Findings of Fact and Conclusions of Law rendered by the Deputy Zoning Commissioner of Baltimore County, dated March 14, 1994, to the County Board of Appeals, and forward all papers in connection therewith to the Board for hearing. The Appellant is the Petitioner, Richard W. Davis, whose address is 8114 Thornton Road, Towson, Maryland 21204.

Enclosed is the appeal fee of \$175.00, along with the sign fee of \$35.00.

Deborah C. Dopkin
Deborah C. Dopkin
ROSOLIO, SILVERMAN & ROTZ, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 335-7100
Attorneys for Appellant



Attorney General for

RECEIVED
COUNTY BOARD OF APPEALS
94 APR 15 AM 8:59

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 14, 1994

Mr. Carl W. Schmidt
1813 Burton Road
Towson, Maryland 21204

RE: Petition for Variance
8/8 Burton Road, 600' E of Ellenham Road
(rear of 1813 Burton Road)
9th Election District
4th Councilmanic District
Richard W. Davis, Petitioner
Case No. 94-282-A

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this office on April 12, 1994 by Deborah C. Dopkin, Esquire, on behalf of Richard W. Davis. 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 Charlotte Hinton at 887-1391.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Director

AJ:om

cc: People's Counsel

APPEAL

Petition for Variance
8/8 Burton Road, 600' E of Ellenham Road
(rear of 1813 Burton Road)
9th Election District - 4th Councilmanic District
RICHARD W. DAVIS - PETITIONER
Case No. 94-282-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestants(s) Sign-in Sheet

Petitioner's Exhibits: 1 - Site plans to accompany variance

2 - Seven photographs

Protestant's Exhibits: 1 - Topographic map

2 - Newspaper article

3 - Letter from Robert R. O'Connor III, dated 02/06/94

4 - Photograph of septic and sewer area

4A - Topographic map

5 - Photograph of the Boaz house, which was taken down by Baltimore County.

6 - Aerial photograph showing the blacked out area the petitioner proposes to construct his house and garage.

7 - Photograph of the well as looking west

Five photographs submitted by protestants (not marked as exhibits)

Thirty-four letters from protestants

Deputy Zoning Commissioner's Order dated March 14, 1994 (denied)

Notice of Appeal received on April 12, 1994 from Deborah C. Dopkin, Esquire on behalf of Richard W. Davis

cc: Richard W. Davis, 8114 Thornton Road, Towson, Maryland 21204

Deborah C. Dopkin, Esquire, Suite 220, Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204

Carl W. Schmidt, 1813 Burton Road, Towson, Maryland 21204

Wallace Lanahan, III, 1817 Burton Road, Towson, Maryland 21204

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

Timothy A. Rotkroo, Deputy Zoning Commissioner

W. Carl Richards, Jr., Zoning Coordinator

Docket Clerk

Arnold Jablon, Director of ZAM

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

Hearing Room - Room 49
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204

July 7, 1994

NOTICE OF POSTPONEMENT & REASSESSMENT

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. 99-79.

CASE NO. 94-282-A

RICHARD W. DAVIS - Petitioner
8/8 Burton Road, 600' E of Ellenham Road (rear of 1813 Burton Road)
9th Election District
4th Councilmanic District

VAR - To permit rear yard setback of 20' in lieu of required 50' for proposed dwelling; to define rear yard from main body of dwelling as opposed to rear of dinette extension.

3/14/94 - D.S.C.'s Order in which Petition for Variance was DENIED.

which was scheduled for hearing on September 22, 1994 has been POSTPONED at the request of Protestants C. Schmidt due to prior out-of-state plans; and has been

REASSESSMENT FOR: THURSDAY, OCTOBER 20, 1994 at 10:00 a.m.

cc: Deborah C. Dopkin, Esquire Counsel for Appellant/Petitioner

Richard W. Davis Appellant/Petitioner

Carl W. Schmidt

Wallace Lanahan, III

Hansy Hurst

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Timothy A. Rotkroo

W. Carl Richards, Jr. /ZAM

Docket Clerk /ZAM

Arnold Jablon, Director /ZAM

Entered Appearance: 7/29/94
Newton A. Williams, Esquire
Counsel for M/M Carl Schmidt
(Protestants)

Kathleen C. Weidenhammer
Administrative Assistant

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

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

July 7, 1994

Deborah C. Dopkin, Esquire
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, MD 21204

Re: Case No. 94-282-A
Richard W. Davis - Petitioner

Dear Mr. Dopkin:

The Board has received a request for postponement from Mr. Carl Schmidt, protestant in the subject proceedings, on the grounds that he will be out of town on the scheduled hearing date. Enclosed for your information is a copy of Mr. Schmidt's July 5, 1994 letter, as well as a copy of his earlier correspondence of May 6, 1994.

The Board has reviewed this request and will grant the postponement and reschedule this matter for hearing.

Enclosed is a copy of the Notice of Postponement and Reassessment which reflects the new hearing date of Thursday, October 20, 1994 at 10:00 a.m.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Richard W. Davis
Carl W. Schmidt
Wallace Lanahan, III
Hansy Hurst
People's Counsel for Baltimore County

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

Hearing Room - Room 49
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204

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. 99-79.

CASE NO. 94-282-A

RICHARD W. DAVIS - Petitioner
8/8 Burton Road, 600' E of Ellenham Road (rear of 1813 Burton Road)
9th Election District
4th Councilmanic District

VAR - To permit rear yard setback of 20' in lieu of required 50' for proposed dwelling; to define rear yard from main body of dwelling as opposed to rear of dinette extension.

3/14/94 - D.S.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR:

THURSDAY, SEPTEMBER 22, 1994 at 10:00 a.m.

cc: Deborah C. Dopkin, Esquire Counsel for Appellant/Petitioner

Richard W. Davis Appellant/Petitioner

Carl W. Schmidt

Wallace Lanahan, III

Hansy Hurst

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Timothy A. Rotkroo

W. Carl Richards, Jr. /ZAM

Docket Clerk /ZAM

Arnold Jablon, Director /ZAM

Kathleen C. Weidenhammer
Administrative Assistant

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

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

January 26, 1995

Deborah C. Dopkin, Esquire
ROSOLIO, SILVERMAN & ROTZ, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, MD 21204-4513

RE: Case No. 94-282-A
RICHARD W. DAVIS
9th District

Dear Ms. Dopkin:

As no further appeals have been taken regarding the subject matter, we have closed the file and returned same to the Office of Zoning Administration and Development Management, along with any exhibits entered in this matter. The Zoning Office maintains the permanent file.

Anyone interested in either the file or the exhibits is advised to contact Owen Stephens in Zoning Administration at 887-3391 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

cc: Richard W. Davis
Newton A. Williams, Esquire
Carl W. Schmidt
Wallace Lanahan, III
Hansy Hurst
People's Counsel for Baltimore County



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 7, 1994

NOTICE OF POSTPONEMENT & 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. 94-282-A
RICHARD W. DAVIS - Petitioner
S/S Ruxton Road, 600' E of Ellenham Road (rear of 1813 Ruxton Road)
9th Election District
4th Councilmanic District

VAR - To permit rear yard setback of 20' in lieu of required 50' for proposed dwelling; to define rear yard from main body of dwelling as opposed to rear of dinette extension.

3/14/94 "D.C.C." Order in which Petition for which was scheduled for hearing on September 22, 1994 has been POSTPONED at the request of Protestant C. Schmidt due to prior out-of-state plans; and has been

REASSIGNED FOR: THURSDAY, OCTOBER 20, 1994 AT 10:00 A.M.

cc: Deborah C. Dopkin, Esquire Counsel for Appellant/Petitioner
Richard W. Davis
Carl W. Schmidt
Wallace Lenahan, III
Nancy Horst
People's Counsel for Baltimore County
Pat Reiler
Lawrence E. Schmidt
Timothy H. Rotrock
W. Carl Richards, Jr. /EADM
Docket Clerk /EADM
Arnold Jablon, Director /EADM
Entered Appearance 7/29/94:
Newton A. Williams, Esq.
Counsel for W/M Carl Schmidt
(Protestants)
Kathleen C. Weidenhammer
Administrative Assistant
(Protestants)

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

6/29/94 - Notice of Assignment for hearing scheduled for Thursday, September 22, 1994, at 10:00 a.m. sent to following:

Deborah C. Dopkin, Esquire
Richard W. Davis
Carl W. Schmidt
Wallace Lenahan, III
Nancy Horst
People's Counsel for Baltimore County
Pat Reiler
Lawrence E. Schmidt
Timothy H. Rotrock
W. Carl Richards, Jr. /EADM
Docket Clerk /EADM
Arnold Jablon, Director /EADM

7/05/94 - Visit and letter from Carl Schmidt, Protestant, regarding above-scheduled date. Per original letter indicating conflict dates in August, there was also indication by Mr. Schmidt re conflict in late September. Requests that hearing scheduled for 9/22/94 be reset to another date, preferably after 9/25/94, at which time all participants will be available.

7/07/94 - Notice of IV and Reassignment sent to parties requested postponement. granted by Board's case reset to Thursday, October 20, 1994 at 10:00 a.m. (Copy of Mr. Schmidt's 5/06 and 7/05/94 correspondence sent to Ms. Dopkin.)

7/29/94 - Entry of Appearance; Newton A. Williams, Esquire, on behalf of Mr. and Mrs. Carl Schmidt, Protestants. Copy of Notice of Assignment to N. Williams.

10/19/94 - Per conversation with Deputy P.C. and prior conversation with D. Dopkin, dismissal of appeal likely to be done re record 10/20/94, if dismissed.

10/20/94 - Motion for Dismissal filed by Counsel for Petitioner's Board granted Motion; appeal and petition to be dismissed by Order of the Board. (Dismissed on the record.) (C.B.M.)

PETITION FOR VARIANCE

BEFORE THE

BOARD OF APPEALS

OF BALTIMORE COUNTY

PETITIONER :

RICHARD W. DAVIS

CASE NO: 94-282-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Duellie
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY THAT on this 29 day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Richard W. Davis, R114 Thornton Rd., Towson, MD 21204

Peter Max Zimmerman
Peter Max Zimmerman

RICHARD W. DAVIS - Petitioner
S/S of Ruxton Road, 600' E of Ellenham Road
9th Election District
4th Councilmanic District
Variance - To Permit Rear Yard Setback of 20' in lieu of the required 50' for proposed dwelling; and to define rear yard from main body of dwelling as opposed to rear of dinette extension
Case No.: 94-282-A

BEFORE THE
COUNTY BOARD
OF APPEALS
OF BALTIMORE COUNTY

ENTRY OF APPEARANCE

Mr. Chairman and Members of the Board:

Please enter the appearance of Newton A. Williams, and Nolan, Plumhoff and Williams, Chartered, on behalf of the Protestants Mr. and Mrs. Carl W. Schmidt, residents of the adjoining property at 1813 Ruxton Road. It will be greatly appreciated if all pleadings, notices and other like materials relating to the file can be sent to this office, as well as to Mr. and Mrs. Schmidt.

Respectfully submitted,

Newton A. Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD
Suite 700, Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-7800

21 JUL 62 10 16
RECEIVED
JUL 29 1994

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July, 1994, a copy of the foregoing Entry of Appearance was mailed, postage prepaid, to Deborah C. Dopkin, Esquire, Rosolio, Silverman and Kotz, P.A., Suite 220, Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204; Peter J. Zimmerman, Esquire, People's Counsel for Baltimore County, Court House, 400 Washington Avenue, Towson, Maryland 21204; Carole S. DeMilio, Esquire, Deputy People's Counsel for Baltimore County, Court House, 400 Washington Avenue, Towson, Maryland 21204.

Newton A. Williams
Newton A. Williams

Baltimore County Board of Appeals
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Attn: William T. Hackett
Chairman

1813 Ruxton Road
Ruxton, MD 21204
May 5, 1994

RE: Case 894-292-A

Dear Mr. Hackett:

The undersigned is writing on behalf of the protestants in the above case: Virginia Schmidt, my wife; Mr. & Mrs. Wallace Lenahan, III, and Mr. & Mrs. John Pacy, all contiguous neighbors to the petitioner.

It is our understanding the date for appeal would be set toward the end of July or early August. As the above witnesses and the undersigned will be away at varying times during the last week in July and most of August, we respectfully request that the case be assigned to be heard during the week of either September 5 or September 12. Even following those weeks the undersigned will be out of state during the period September 17-30. Thank you!

Sincerely,

Carl W. Schmidt
Carl W. Schmidt

CWS:jjs

RECEIVED
COUNTY BOARD OF APPEALS
JUL 29 1994
Baltimore County Board of Appeals
Chairman
Attn: William T. Hackett
Chairman

Dear Mr. Hackett:

Please refer to my letter of July 29 and my original request to reschedule the date of 9/14-9/15 as I will be out of state. As the original scheduling designated 9/12 as the hearing date, I would again request that my original date of rescheduling be taken into consideration. Thank you!

Sincerely,

Carl W. Schmidt
Carl W. Schmidt

7611C

Sun Financial Group
COUNTY BOARD OF APPEALS
October 4, 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204
Re: Case #94-282-A
Dear Sir:

It has come to my attention that there is a builder who has purchased a lot on Ruxton Road behind 1813, a substantial portion of which is in the flood plain. I am also aware that this builder has asked that there be a variance granted to the flood plain regulations, reducing the regulation from 50 feet to 20 feet for his proposed house to the rear lot line, and a change from 20 feet to 10 feet from the front of the house.

Having been in Ruxton for approximately 15 years and being adjacent to the flood plain myself, I have watched a number of homes destroyed over the years. I have also watched the county have to purchase and reclaim the land because of the fact the original owners were not aware they were in the flood plain as the area at that time was not designated flood plain. It seems unreasonable now to grant a variance to a speculative builder who has bought a piece of property which was clearly marked in advance as part of the flood plain so that he can build a house which ultimately, we the taxpayers, will have to buy and reclaim. If not next year, the year after, or the year following that, this particular home will become flooded and the owner will apply back to the state or county for relief.

MD JUL 12 9-100 16

Ms. S. James C. Bell • 1904 Indian Head Road • Baltimore, Maryland 21204
August 30, 1994

Dear Sir:
I urge you to deny the variance for case number 94-282-A. Over 70% of this lot is in the flood plain and the lot sold for about 25% of what a normal lot in that area would cost in that season. Please help us.

805 Ruxton Road, Baltimore, Maryland 21204
September 12, 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room # 49
400 Washington Ave.
Towson, MD 21204

Dear Sirs and Gentlemen:
Re: Case #94-282-A
I would like to register my objection to this exception to the zoning law. There is no justification for an exception of this kind not to follow a well contemplated and duly enacted zoning law. If this exception were granted it would create an unfortunate precedent.
Very truly yours,
James M. Parkland

To: County Board of Appeals of Baltimore Co.

At a life long resident of the Ruxton area, which over the years has experienced flooding and loss of lives because of flood plain building, I am opposed to a variance which would allow new flood plain construction. I simply do not wish to see

One to: County Board of Appeals of Baltimore Co.
94-282-A
Sincerely,
Don & Ann-Marie Supin
1813 Ruxton Rd
Baltimore, MD 21204

COLDWELL BANKER
COUNTY BOARD OF APPEALS
October 22, 1994

Commissioner Timothy Kotrocz
Deputy Zoning Commissioner
Old Courthouse, Room 49
400 Washington Ave. Towson, MD 21204
February 22, 1994
Re: Case #94-282-A (Ston 282)

My name is Elizabeth Bowers. I am a licensed real estate agent in the State of Maryland, working primarily in northern Baltimore City and Baltimore County. I am a Resident of the Ruxton area.

Several years ago, my colleagues at Coldwell Banker Residential Real Estate and I had occasion to give the Schmidt's an opinion of value on their home at 1813 Ruxton Rd. Mr. and Mrs. Schmidt asked me to review the proposed project on the property adjacent to theirs and comment on its impact on the value of their property.

After reviewing the plans and visiting the location of the proposed driveway, garage and the positioning of the house, it is my opinion that the proposed project will negatively affect the value of the Schmidt property.

The Schmidt's home is a stately residence sited beautifully on their acre lot. It is consistent with the other homes surrounding it, and in harmony with the neighborhood. If there were no flood plain or wetlands involved in Mr. Davis' lot, he would be able to situate the proposed house, garage and driveway in such a way as to make it into a corner of the property. This is not in keeping with the neighborhood, nor what I believe is the intent of the DBL zoning. Because the project will be crowded into the corner adjacent to the Schmidt property it will most surely impact it negatively from an aesthetic point of view and this will translate into a negative impact on the value of their property.

It is my understanding that setbacks and zoning regulations are in force to protect the integrity of a neighborhood. This situation is further complicated by the presence of wetlands and flood plain covering the majority of the lot. Properties like this are often difficult to sell and have a stigma attached to them. An example of this is the property at 430 Charles Street Avenue which was built extremely close to the creek as well as to the street. This new home sat vacant for almost six years, dropping in price from \$350,000

COLDWELL BANKER
COUNTY BOARD OF APPEALS
October 11, 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Re: Case #94-282-A
Dear Commissioner:

I am a licensed real estate agent in the State of Maryland, and have been actively selling homes in the northern corridor of Baltimore City and Baltimore County for the last (20) twenty years.

Several years ago I was asked by a fellow agent to give an opinion of value on Mr. and Mrs. Carl Schmidt's property at 1813 Ruxton Road. Recently I reviewed the plans for the proposed property adjacent to the Schmidt's.

It is unfortunate that the owner has to locate the proposed residence and garage in one corner of the property. And it is even affected by the close proximity of the new buildings to be adversely property. Ruxton has always enjoyed the reputation for encompassing regulations have done a great deal to keep the desirability and integrity of the community.

There is no question in my mind that to allow the proposed new dwellings to be built on above on the plans, would result in a reduction of the overall value of the Schmidt's residence.

I therefore feel that the variance should not be granted.

Very truly yours,
Susan Russell
Susan Russell
Realtor

An Independently Owned and Operated Member of Coldwell Banker Residential Affiliates, Inc.

County Board of Appeals of Baltimore County
Old Courthouse
Room 49
400 Washington Avenue
Towson, Maryland 21204
October 17, 1994

Dear Sir/Madam:
I am writing to request that you deny the two variances on case 94-282-A, the petitioner being, William Davis. My reasons are that given the history of this property and the site conditions associated with it, there is not enough area on this lot to build the proposed dwelling. In addition, it is very questionable if anything should be erected on this land due to its proximity to the 100 year flood plain and the history of disaster this property has had with past storms.

The neighbors, the Schmidt's, Pacy's and Lanahan's have offered Mr. Davis \$55,000 for the lot, the original purchase price paid by Mr. Davis, and would like to give most of the land to the County Parks Department, who own the adjoining property. This is very generous of our neighborhood and Baltimore County in particular.

Please address to the specific variances for the property as stated by law, refrain Mr. Davis from erecting this 3 bedroom dwelling he proposes, and protect an unknowing buyer from purchasing a home on a flood plain that could, and has in the past, resulted in tragedy.

Sincerely,
Nancy S. Birmingham
Nancy S. Birmingham
1804-A Circle Road
Ruxton, Maryland 21204

1926 Ruxton Rd.
Baltimore, Md. 21204
Re: Case #94-282-A
August 31, 1994

County Board of Appeals, Baltimore Co.
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

To Whom it may concern:
I am writing to ask you to deny variances to the lot at 1813 Ruxton Road that are being requested.

My husband and I have resided at 1926 Ruxton Rd. for twenty five years. During this period of time we have experienced several

Case 94-282-A
N. CLARK MORAN
September 18, 1994

Dear Sirs:
This is a letter in support of my neighbor on Ruxton Road to deny the zoning variance requested by Mr. Davis.

My husband and I lived on Ruxton at the time of the great flood caused by Hurricane Agnes. We do not need any repetition of this disaster.

Prime building sites on Ruxton are at a premium, so this can many other good opportunities to cram houses on small undesirable lots.

I urge you to deny the appeal at the meeting of the County Board of Appeals.

Very truly yours,
Maurice S. Moran
8011 Strawn Road
Baltimore, Md 21204
(410) 828-6945

JOHN D. HENDERICHSON II
1804-A Circle Road
Ruxton, Maryland 21204
15 Sept. 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Md. 21204

Gentlemen:

Re: Case #94-282-A
I have lived in Ruxton for over 23 years and I am well familiar with the problems encountered by property owners brought about by flooding of land in the area adjacent to Roland Ave.

As a taxpayer and a concerned local resident I urge you to deny variances from both the flood plain and rear lot set-back regulations now being requested on the proposed lot directly behind 1813 Ruxton Rd.

Very truly yours,
John D. Hendrichson II

CASE #94-282-A
1710 Circle Road
Bethesda, Maryland 21204
September 12, 1994

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Dear Sirs:

Please do not grant a variance from 10-20' when the current setback is 60' set back from the flood plain.

The water table and flooding conditions have been increasing yearly from our observation.

Our property, just south of the property in question, includes flood plain; we have lived here 31 years, and the property has increased in wetlands with the flood plain filling often in neighborhoods. We have seen 4 houses built in the flood plain on the outside of the stream, destroyed or taxpayers expense for relocation.

It would be irresponsible for the commission to allow a variance in such a flood plain which is often steeply and increasing in water density.

It is not a hardship or unusual condition for the owner as a reason to grant a variance. The hardship would be to homeowner and taxpayers as the location is not a wise plan to build a house in the future of the property in wet, wet, wet.

To: Baltimore County Board of Zoning Appeals

From: Henry Lederer

Re: Case #94-282, Zoning Variance along Ruxton Road

I am opposed to the construction of any homes near the flood plain along Ruxton Road. During the past 25 years I have witnessed flooding on Ruxton Road and into homes along the street. The homes which were continually flooded have been condemned and purchased. Over time silt and rubble has filled in Lake Roland causing flooding to be more of a problem, which is only getting worse. If you allow the variance I believe this would be a waste of my tax dollars today and in later years when the home will have to be condemned and purchased by governmental funds. Please do not cause a hardship to the people living around the proposed construction sight and hardship to the unsuspecting people who purchase the proposed home to be constructed. I ask that you do not grant the requested Zoning Variance.

Sincerely,

Henry Lederer
1001 Haverhill Club Road
Ruxton, Maryland 21204

October 12, 1994

1812 Ruxton Rd.
Ruxton, MD 21204

To: The County Board of Appeals of Baltimore County
Re: Case # 94-282-A

I write in support of the position of Carl and Virginia Schmidt. It is my understanding that variances are reserved for unusual conditions and hardship cases. This is not a situation which warrants a variance, and as neighbors we are concerned that if variances are granted on the whim of a builder that the buyer of the new property and others nearby will surely have difficulties.

Thank you for your consideration.

Sincerely,

Betty Ann Howard

2009 Ridgeway Court
Ruxton, Maryland 21204
September 21, 1994

Baltimore County Board of
Zoning Appeals
Old Court House, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Case #94-282-A

To Whom It May Concern:

I am writing this letter in opposition to the above referenced case. The builder is requesting variances from both floodplain and rear setback regulations in order to build a large spec home on Ruxton Road.

I have lived in this area since before the floods in the 70's which resulted in a number of homes in this same area being purchased by the County and demolished. I drive across Ruxton Road frequently and am always very cautious about this route after a prolonged rain. I know a number of neighbors along this street who live nervously through every heavy rain. Consequently, it makes no sense to bend existing regulations to allow a builder to erect an expensive home where there is such a high likelihood of future flooding and damage. This is especially true when it appears to severely disadvantage the neighboring property located at 1813 Ruxton Road.

Variances from regulations are frequently granted in cases where both the logic and the hardship demand that the regulations be modified. This case appears to have neither benefit. The County has worked hard to make this a safer area, and therefore it would not be in the public interest to bend the rules to create a new and unsafe condition, especially when it works to the disadvantage to the neighboring property owners.

Please use this letter as a vote against granting the requested variances.

Very truly yours,

Richard Uhlig
J. Richard Uhlig

90 OCT 12 PM 3:57
COUNTY BOARD OF APPEALS
RECEIVED

Mr. and Mrs. Sutherland C. Ellwood
1814 Ruxton Road
Ruxton, Maryland 21204
September 19, 1994

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

Re: Case #94-282-A

Dear Sir:

We are residents of Baltimore County and live adjacent to the flood plain area at 1814 Ruxton Road. Mr. Richard William Davis, a home builder, purchased the lot known as 1813 Ruxton Road at a fraction of the normal price for such a lot in this area. Mr. Davis, a provisions limiting the usefulness of this lot, and paid a very small amount for it on the chance that he would be able to circumvent the existing rules by petition. Set back rules and flood plain restrictions not only enable local residents to maintain established building and lot standards but also protect the county and its residents in regard to liability from flooding.

We strongly object to crowding this house into a corner of a lot which is over one-half in the flood plain. This violates the set back rules, affecting neighboring owners' property, as well as homeowners and taxpayers in Baltimore County.

We ask that Mr. Davis's petition to change the rules, so that he can benefit from his speculative investment, be denied.

Sincerely,

Sutherland C. Ellwood
Lyn B. Ellwood

90 OCT 12 PM 3:56
COUNTY BOARD OF APPEALS
RECEIVED

BRAXTON D. MITCHELL
1720 RUXTON ROAD
RUXTON, MARYLAND
21204

September 16, 1994

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

Case #94-282-A

Gentlemen:

I understand that two variances have been requested for this Ruxton Road property so that a house and garage may be constructed there. Inasmuch as more than fifty per-cent of the lot in question is in the flood plain it seems unwise to allow new construction so close to the flood line and within twenty feet of the adjoining property line.

Twenty or so years ago several houses along that part of Ruxton Road were flooded and subsequently were purchased through the Flood-Land Acquisition Program. I believe that granting the variances that are requested here would create a similar flood risk.

I do not believe it is reasonable or prudent to change the existing set-back regulations for this property and I urge that the request for these two variances be disapproved.

Sincerely Yours,

Braxton D. Mitchell

August 19, 1994

County Board of Appeals of Baltimore City
Old Court House, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Case #94-282-A

Gentlemen:

The home that my wife and I built in 1979 at 1817 Ruxton Road abuts the land on which Richard W. Davis would like to build a house. It is our understanding that he will need a major variance in order to proceed. For several reasons we would consider the granting of this variance irresponsible.

I have worked for the House Company, a real estate developer, for the past twenty-five years and take great pride in my employment. I consider House one of the more responsible developers, respectful of the land, environment and people.

As a taxpayer I am very concerned that perhaps Baltimore County did not learn its lesson back in 1980 when it had to condemn and then buy many homes in the flood plain. I know homeowners whose lives were devastated by that flood. It would be a terrible injustice to put another unsuspecting homeowner through that again just for the sake of the tax roll.

Certainly Mr. Davis cannot claim hardship. As a speculative builder, he knew the inherent risks involved in developing this site when he paid well below the market rate. With over 40% of this irregular lot in the flood plain, it would be naive for any of us to think that a house built there would not do further damage to the habitat.

In addition to the safety and environmental issues, we are also concerned with the protection of our property values and preserving the character of our neighborhood, not to mention the privacy we have all worked so hard to achieve. Near lot regulations were created with this very purpose in mind.

James E. & Mary M. Greenwood
1917 Ruxton Road, Ruxton, Maryland 21204
410-828-4122

August 10, 1994

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

Re: Case No. 94-282-A

To Whom It May Concern:

We continue to be opposed to this request for variance and fully support the Zoning Commissioner's DENIAL on March 14, 1994.

Enclosed is a copy of our letter of February 21, 1994, stating our support for denial and justification for same. Our feelings are as strong as ever. Reversing the Zoning Commissioner's findings would put the County in a position of high risk in contributing to loss of life and property. Certainly the quality of life for existing County citizens and sound judgment on the part of our government outweighs the profit motive of one individual who wants to vary existing law.

Your consideration of our support for denial of this request is most appreciated.

Respectfully,

Mary M. Greenwood
James E. Greenwood

Enclosure

90 AUG 16 PM 2:11
COUNTY BOARD OF APPEALS
RECEIVED

August 30, 1994

RECEIVED
COUNTY BOARD OF APPEALS
90 AUG 31 PM 3:23

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Reference Case Number 94-282-A

To Whom It May Concern:

I understand that Mr. William Davis recently purchased a parcel of land adjacent to 1813 Ruxton Road and has requested a change in the zoning regulations that would enable him to construct a speculative building on the purchased land.

I have been a resident of Ruxton since the early seventies and witnessed the destruction of several home sites on Ruxton Road adjoining this condemned all these sites and. It was my understanding, issued an ordinance citing the properties were in a flood plain and denied future use of these properties for occupancy.

I am writing now to strongly protest the request for change in current zoning. All of that would enable him to construct a speculative building on the purchased land.

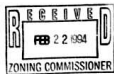
Sincerely,

L. Patrick Deering

1001 Haverhill Avenue
Ruxton, Maryland 21204

Box 204
Ridgewood MD 21139

February 21, 1994



VIA OVERNIGHT MAIL

Commissioner Kotroco
Deputy Zoning Commissioner of Baltimore
County
Office of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Variance Appeal 94-282-A: Rear yard setback
appeal at 1813 Circle Road

Dear Commissioner:

The Ruxton-Ridgewood-Lake Roland Improvement Association has for years felt that the lot in question is an inappropriate building site. It is located in and adjacent to the Roland Run flood plain and associated wetlands. New construction raises serious environmental and safety questions. Additionally, it should be noted that the County has already spent taxpayers' money to purchase and demolish endangered structures in the immediate area. Due to excessive siltation and other degradation of the stream bed from upstream flooding could exceed the limits of flooding during Tropical Storms Agnes and David. It seems foolhardy to risk a repetition of these circumstances.

For each of these reasons, the Community Association is opposed to the variance request in this case, which we believe has been requested to circumvent the very real concerns with building on this property.

Thank you for your consideration.

Sincerely,

Henry R. Abrams
President

James E. & Mary H. Greenwood
1917 Ruxton Road
Ruxton, Maryland 21204
February 21, 1994



Mr. Timothy Kotroco
Deputy Zoning Commissioner
Baltimore County Government
Old Court House, Room 113
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 94-282-A (Item 282)

Dear Mr. Kotroco:

This is to advise you that we are opposed to the above-referenced request for variances from both the flood plain and rear lot set-back regulations to this unimproved lot located behind the Carl W. and Virginia H. Schmidt residence at 1813 Ruxton Road.

The justification for this opposition has been well-documented to the County by Mr. & Mrs. Schmidt, and we fully support the opposition of the request for variances.

Having lived in this neighborhood for twenty-five years and observed the devastation to property and individuals on this flood plain, we cannot support any request for variances that will again contribute to personal and property loss for individuals and Baltimore County Government.

Respectfully,

James E. Greenwood

TILMAN E. ROSENBLATT
519 WYNGATE ROAD
TIMONIUM, MD 21093

February 22, 1994

Deputy Timothy Kotroco
Zoning Commissioner's Office
Old Court House, Room 113
400 Washington Avenue
Towson, MD 21204

Re: Case # 94-280-2A

Dear Mr. Timothy Kotroco:

At the request of the Carl Schmidt Family I am writing this letter concerning the flood plain area affected during Hurricane David (1979) and the subsequent flooding thereafter.

At that time we owned and resided at 1803 Ruxton Road, Ruxton, MD. The property had 3 acres and Roland Run ran through the property. The water level at the time of the flood reached at least 4 feet on the first floor. After the flood we were forced to move and our home was demolished. The site has remained in that state to this date.

This information is provided for your consideration with regard to the above noted matter.

My office number is (410) 750-0000 if you have any further questions.

Sincerely,

Tilman E. Rosenblatt

TH/cdh

MICHAEL P. DEUTSCHMAN, ESQ.

1813 RUXTON ROAD
BALTIMORE, MARYLAND 21204
410 580-1400

February 4, 1994

Timothy Kotroco
Deputy Zoning Commissioner
Room 113
400 Washington Avenue
Towson, MD 21204

Re: Case Number 94-282-A
Item 282

Dear Mr. Kotroco:

As a neighbor familiar with this issue and the repeated flooding in the area, I strongly object to the granting of the requested variances.

I should note that I am a real estate developer and so, for me, the issue is not anti-development. The issue I see is that the builder bought a lot with full knowledge of the problems. Now he wants variances to build a house that will be a disaster area. To deny the variance does him no harm since he knew what he was buying.

I am a witness to the constant flooding, dampness, etc. that we are enduring in our area of Ruxton Road. If the subject property is to be developed, then recognize the realities and continue to limit, not expand the building area.

Sincerely,

Michael P. Deutschman, Esq.

cc: Carl Schmidt

Mr. Timothy Kotroco
Commissioner, Off. Zoning & Development
Old Court House, Room 113
400 Washington Avenue
Towson, Maryland 21204

Mr. & Mrs. Henry E. Hooper
1732 Ruxton Road
Ruxton, Maryland 21204

February 5, 1994

Subject: Case Number 94-282-A (Item 282)

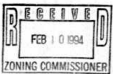
Dear Mr. Kotroco:

As residents who live near the flood plain of the proposed building site of 1813 Ruxton Road, we must raise our hands to be counted among those opposed to the variances sought in this case. Our house is at a higher elevation (by approximately 10 feet) than the property being sought for the house in this case. A substantial wall was constructed around our home in 1981 that raises the elevation to 2.45' above sea level. The wall has been a necessary form of abatement to both prevent loss to our property and safety for our family.

The majority of the property for this address is clearly within the 100-year flood plain, which has flooded a half a dozen times in the last 15 years. All of the houses with a similar elevation were inundated during two major storms in the last decade, Hurricanes Agnes and David, and were bought by the county and condemned. No houses along the entire stream bed should be allowed this close to the flood plain. The property in this case would not sustain a dwelling that is intended for habitation, much less one with a basement and a garage. The notion of a speculation builder constructing a dwelling, selling it to an unsuspecting buyer, and having the home County blessed by means of these variances, is frightening and incomprehensible. We urge you, please, to do whatever you can to prevent the proposed construction.

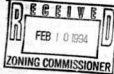
Sincerely yours,

Henry E. Hooper
Tracy E. Hooper



cc: Mr. & Mrs. Carl W. Schmidt

February 7, 1994



Mr. Timothy Kotroco
Deputy Zoning Commissioner
Old Court House, Room 113
400 Washington Avenue
Towson, Maryland 21204

Re: Case 94-282-A (Item 282)

Dear Mr. Kotroco:

The home that my wife and I built in 1979 (1817 Ruxton Road), abuts the land on which R. Williams Davis would like to build a house. It is our understanding that he will need two major variances in order to proceed. For several reasons we would consider the granting of these variances, at the very least, irresponsible.

I have worked for The House Company, a real estate developer, for the past twenty-five years and take great pride in my employment. I consider House one of the more responsible developers, respectful of the land, the environment and the people.

As a taxpayer I am very concerned that perhaps Baltimore County did not learn its lesson back in 1980 when it had to condemn and then buy many houses in the flood plain. I know homeowners whose lives were devastated by that flood. It would be a terrible injustice to put another unsuspecting homeowner through that again just for the sake of the tax roll.

Certainly Mr. Davis cannot claim hardship. As a speculative builder, he knew the inherent risks involved in developing this site when he paid well below the market rate.

With about 50% of this irregular lot in the flood plain, it would be naive for any of us to think that a house built there wouldn't do further damage to the habitat.

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 30 PM 12:49

LOUISE M. HILDRETH
912 ROLANDVILLE ROAD
BALTIMORE MD 21204

29 August 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Baltimore MD 21204

Re: Case #: 94-282-A

To whom it may concern:

The purpose of this letter is to register my opposition to granting a variance to permit a rear yard setback of 20 feet in lieu of the required 50 feet and allow a rear yard to be defined from the main body of the dwelling as opposed to the rear of the dinette extension on the lot known as 1813 RUXTON ROAD. The owner of the lot knew when he bought it that the restrictions on this land existed and he should be required to adjust his project to the designations which came with the property. If he cannot do that he should sell the property to the area residents at a price close to the amount he paid for it and cut his losses. If the County grants the variance, it goes against its own philosophy of responsible land use policy.

I URGE YOU TO FOLLOW SOUND LAND USE POLICY AND DENY THIS VARIANCE.

Sincerely,

Louise M. Hildreth

William A. Fisher, III
1708 Circle Road
Ruxton, Maryland 21204

August 16, 1994

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Reference Case Number: 94-282-A

Dear Members of the Board:

I have recently been made aware of the renewed efforts by Mr. Richard W. Davis to construct a house on a lot known behind 1813 Ruxton Road. In order to accomplish this, Mr. Davis is seeking a judgment by the Deputy Zoning Commissioner, Mr. Timothy Kotroco, which denied appeals for two zoning variances - the first from the flood plain regulations of the Department of Public Works and the second from the rear lot set-back regulations. As I reside at 1708 Circle Road, which is approximately three lots "down the stream" from the proposed building site, I am vitally interested in opposing these zoning variance requests.

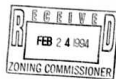
My property is located on the front by Roland Run, which feeds into Lake Roland. While I am aware that the proposed building site is technically in the 100-year flood plain, recent flooding history in this area would suggest that flooding occurs in the Roland Run plain with significantly greater frequency. In December, 1993, alone, the properties which bordered Roland Run from 1813 Ruxton Road to 1708 Circle Road were twice subject to flooding. In one such flood, the depth exceeded five or six feet and I have captured this on video tape for your review, if you should be interested in so doing. More recently, during this summer, we have again experienced significant flooding. Our properties are subject to flooding periodically through the year because of the significant development which has occurred in the previous floods and North along Roland Run. The construction of a new house on the proposed lot will only contribute further to flooding of Roland Run, which requires removal by the Department of Public Works with each occurrence.

More serious is the potential contribution that this proposed construction project will make to the environmental degradation of the Lake Roland watershed. Prior development upstream along the siting of 1813 Roland led to a major erosion and siltation in Roland Run along our property line and to the environmental impact of this construction effort which will contribute to the further spoiling of the wetlands in the Lake Roland area. In the spirit of trying to protect the Lake Roland watershed from further environmental degradation, I am usually opposed to any zoning variances for the proposed construction project.

Respectfully yours,

William A. Fisher, III

90 15 MD 61 941 900
STANDARD



RE: Case 894-282-A

Commissioner Kottroff:

My name is Carl Schmidt. I reside at 1813 Ruxton Road adjacent to the proposed building lot which I would like to point out is not 1813 Ruxton Road but is in back thereof. I speak on behalf of my wife, Virginia, the owner of 1813 Ruxton Rd., in opposition to this variance and as well as to speak to the history of this particular lot and the obvious discrepancy of the 100 year flood plain boundary. At the outset I want to emphasize that although this hearing is on a back-lot variance, the request for variance comes about only due to the location of the flood plain and thus we must also focus on that issue.

During the flooding from Hurricane Agnes in 1972, the Sheltons who owned the parcel in question, were told by the Baltimore County Fire Dept. to leave their home located at elev. 237 shown here (point) on the flood plain map of Balto. County. Mrs. Shelton tried 3 exit routes - all blocked and went west on Ruxton Rd. She did not see the water coming down the Jones Falls and lost three children who were swept away in her car as she went for help. I give you an article from The Sun newspaper on that incident. The people who are here today wish to avert such a tragedy from ever occurring again.

On the eve of Hurricane David in the Fall of 1979, Dr. Neil Rosenzweig, the then owner of the Shelton's property came to my door and said he had subdivided an acre from his property, (a grandfathered acre at that I may add) and I should buy it for \$45,000 a low amount since most of it was in the flood plain. Frankly, I did not have the money then. I wish I had as it would have averted this hearing. The next morning all three homes surrounding the parcel we speak of today were flooded out with the water mark on their houses at the 4' mark. I have spoken to the then owner of one of those houses, Mr. Rosenblatt, who will give the evidence that the water level, indeed, was that high such that the flood created just below his first floor window sills. Water, since it seeks its own height, rose to the 241' level to which I have attested. There are other neighbors who would be able to verify that level. The present 100 year flood plain as indicated by Balto. County is at the 238.96 or 239 foot level - clearly 2' beneath the actual water level which occurred. Baltimore County has never seen fit to change that level. Due to siting of Roland Run and other developments upstate, I frankly am concerned for our own house if we have another flood. My house is at the 241-244' level. *Show 1A & 1B*

5. The protection of the public for its safety and welfare must come first in the eyes of the county before attempting to add to its tax base Section 307.1 of the Code clearly states that variances will be given "only in such manner as to grant relief without substantial injury to public health, safety, and general welfare." Granting this variance would put future owners of this property at risk from floodwaters. It will damage the area and add to downstream runoff. When the lot next to me was built, I had \$3,000 damages from run-off alone. It should be pointed out that the present regulations of Environmental Protection and Resource Management Section 14-341 require a 25 foot set-back from the flood plain and an additional 35' structure set-back to that or a total of 60 feet. This has been implemented obviously to protect the citizenry from injury and the County from future buy-back costs. The County grandfathered lots prior to January '81, however, this files in the face of the prior State law which I am told has precedent. *Show 1A & 1B*

Finally, Mr. Commissioner, the neighbors have agreed that they are sufficiently exercised to offer Mr. Davis his original purchase price for this lot and then would agree to work out an arrangement with the county so that the property would then be granted to the Parks Dept. to join with the other lots in this area in the Roland Run watershed. Thus this controversial area would cease to be and proper environmental concern would be exercised. Again, I wish to emphasize that this is not vendetta against Mr. Davis personally. The issue of this property has been raised long before and now should finally be put to rest.

We ask for your denial of the petitioner's request.

To add credence to the inconsistency of the 100 year flood plain, I submit letters of testimony at a hearing in Annapolis in 1981 on HB 1186 from the counsel for the Ruxton, Ridgeway, Lake Roland Area Improvement Association and at their request my testimony as a member who lived by Roland Run during these Hurricanes. These letters contested the accuracy of the 100 year flood plain which is still located exactly as then. With your permission I would like to read critical portions of that testimony. Counsel's letter of 3/6/81 states, "Baltimore County has addressed this problem (a study of the Roland Run watershed) by hiring a consultant to perform hydrologic and hydraulic analyses and (by these) define the 100 year flood plain. My client (the association) and several neighboring community associations hired a consultant to review the report of the County consultant. Our (the associations') consultant concluded:

"Due to the inconsistencies, errors, lack of data, and lack of verification and calibration of the TR-20 and EOC-2 models, the results of the Roland Run study are of questionable validity." Part of my testimony was to portray where the flood levels reached, and I submit to you a diagram, similar to that used then, which shows the actual rise of water during the last three major floods is at the 241 foot level...."

I also submit the resultant passed bill which was enacted into law and I quote, "Due to variances in floodplain measurements, no new residential permit for construction in the Jones Falls flood plain within 25 feet adjacent to the floodplain may be approved or issued until the flood management plan for the Jones Falls is prepared, approved, and implemented under subtitle 5A of this Title."

As a result the flood management plan eventually emerging did not take into consequence the will of the legislature as respects the location of the floodplain and even today, though entreated to do so, the Dept. of Public Works, refuses to acknowledge any change. I submit a picture of the rise of water during the heavy rains of December, 1979, as shown by the line of leaves left on the Deutchman property at 1614 Ruxton Road and measured 18 feet from Ruxton Road (closed off at that time due to flooding) and if applied to the 100 year flood plain map, measures at the 239 foot level meaning the 100 year flood plain was reached in a hard rainstorm.

I also submit a picture of the Boat House which was taken down by the County. This picture was taken directly in line with the proposed location of Davis' house. The elevations are remarkably similar.

As you can see, my interest in this property long preceded the acquisition by Mr. Davis. Let me assure you that I would have no argument with Mr. Davis' purchase if the full set-backs were adhered to and true respect for the inconsistencies of the flood plain were considered.

On this picture I have blocked out the area Mr. Davis proposes to build his house and garage. You will notice the closeness and small area conformity to that of the two adjacent properties which have proper DI set-backs.

Later, after the county, with tax payers money, had purchased the three homes to which I previously referred, a developer, a Mr. Oter Strype, decided to move one of those houses to this lot. As accounts in The Sun, he purchased this particular home for \$510 after the county had just paid the departed owners \$196,000. Whether he ever would have obtained a permit, I don't know as the Mr. Strype and his Surveyor who told me if I dumped a truck load of dirt - just about where Mr. Davis wants to build, the Surveyor could certify to a higher height and in return would face the house so the side faced us rather than the rear. I ushered them, at that juncture, from my house. That did, however, significantly underscore the problem with this lot as seen from another surveyor.

For some number of years thereafter, this lot remained with Dr. Rosenzweig as he could not sell it due to the flood plain and lack of proper set-back requirements.

Finally on 8/27/80, Dr. Rosenzweig found a purchaser and that was Mr. Davis who purchased this lot for \$55,000. Now keep in mind an acre lot in Ruxton without a flood plain occupying 60% of it would probably be worth \$150,000-\$200,000 based on information I have obtained from realtors familiar with the area.

I am told that Mr. Davis lives with his father on Thornton Road and have been told that he bought a small house from a banker for \$75,000 at 95 Ruxton Court. He worked himself to complete the dwelling on weekends and then rented to approximately 4 different families before he sold this for \$450,000. Producing a very handsome profit. It would appear that like Mr. Strype, Mr. Davis again would like to make a handsome profit on this extremely marginal lot.

Mr. Davis has stated to me and other neighbors that he intends to live in the house he hopes to build on this lot. Facts belie this statement. He had a perfectly fine house in Ruxton on Ruxton's bordering the flood plain? Keep in mind he has lived with his father even when Ruxton Court was available. Let me suggest that, land in Ruxton cheaply, build a house, not to live in, but to sell to some unsuspecting family who eventually might have repetition many others, that despite his father's stated intentions that he wishes to live alone in a house of over 3,600 sq ft., that he is, not rescuing him from his speculation and risk by granting him high variances.

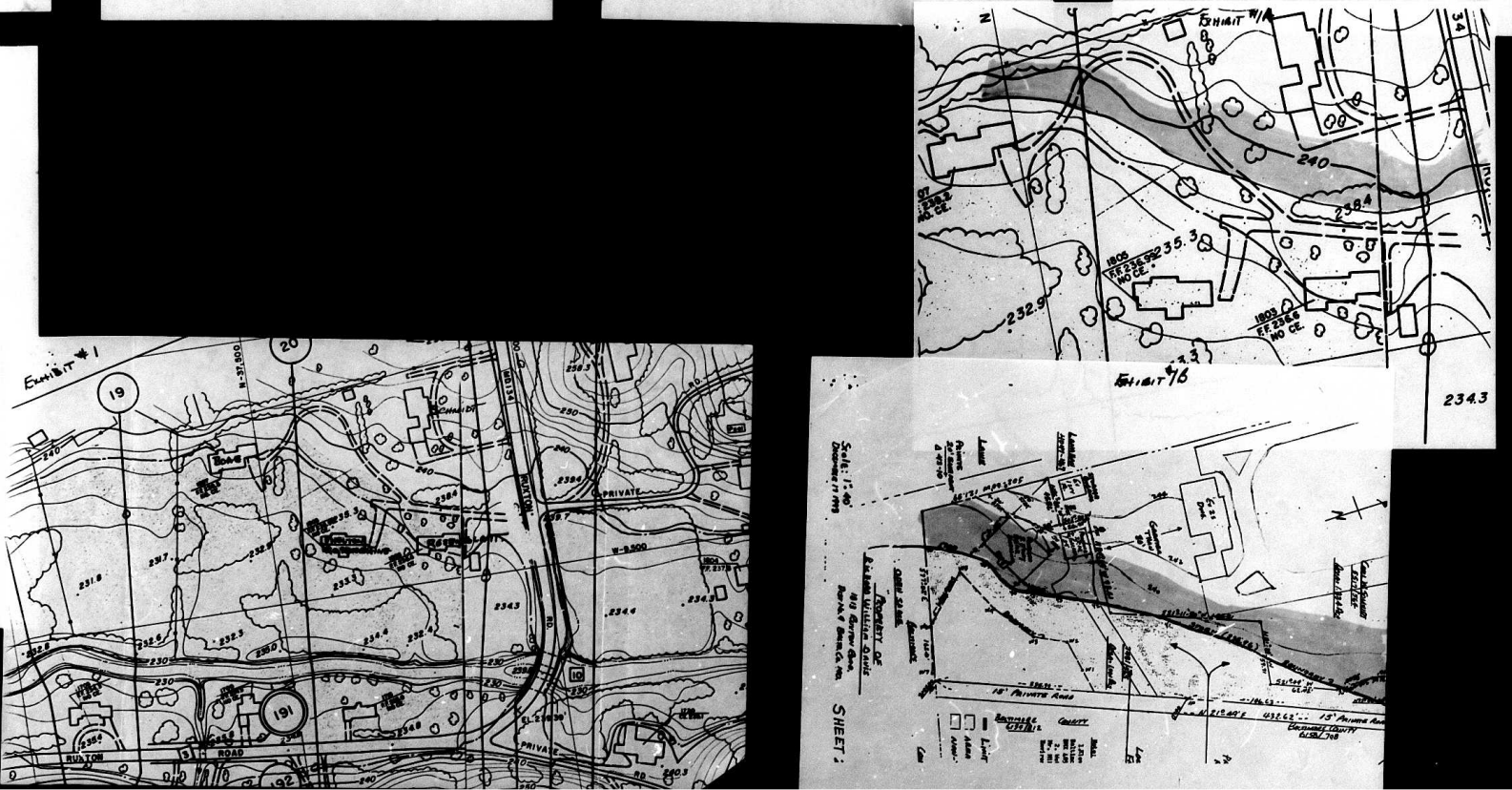
As to the issues of hardship and practical difficulty, I would comment as follows:

1. Mr. Davis has other options with this property. Has he explored all DR uses? Has he explored whether he can recoup his purchase price from the neighbors?

2. As far as the difficulties or hardship with respect to this property, there are many flood plain properties in the vicinity which have the same problem. Mr. Davis bought an unbuildable lot and he knew it. To put this situation into better perspective, that part of the lot outside of the questionable flood plain on which Mr. Davis intends to build is approximately 12,731 sq ft. that means he is squeezing in a house on 28.6% of an acre and trying to change the DMI set-backs to less than a 1/3 of an acre.

3. Mr. Davis' hardship is self-inflicted. He is not an innocent party who inherited or owned this property. The lot's prior history was well known and he ignored that. He took the chance to turn a speculative venture into a large profit. A \$55,000 investment could have reaped him a low risk versus high it gain. It would be a windfall to take a \$55,000 lot and turn it into a \$200,000 lot to the detriment of his neighbors, the county, and the innocent next buyer.

4. A grant of this variance would be a substantial injustice to other property owners in this district. The basic tenets of set-backs is to first, provide for safety and secondly, to protect the neighbors. Such a variance would lower neighbors' values. The value of my home would diminish as will be testified to later by a hardship inflicted on us after we have nurtured this property for 19 years.



[illegible]

March 1, 1994

Timothy Kotroco, Deputy Zoning Commissioner
Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Dear Mr. Kotroco,
Thank you for conducting a fair hearing in which I was able to state my case for a Zoning Variance Case Number: 94-282-A (Item 282). The following are some additional comments and options I wish you would consider before rendering a decision.
I enclosed are five additional options showing different placements of the house and garage. Each one has a special set of setbacks and I do prefer the original submission.
Option 1: turns the house facing east with the garage separate. All setbacks for the front, rear and side-yards are required in the floodplain to access the garage. Some minor encroachment of the floodplain setback for the house does occur.
Option 2: turns the house facing east with a full 58 foot rear yard setback. Front and side setbacks conform with current zoning. Greater encroachment of the floodplain setback does occur than in Option 1. Also additional pavement is required in the floodplain to access the garage.
Option 3: turns the house in the same general direction, however every attempt was made to minimize the impact that the structure and the pavement would have on the flood plain.
Option 4: turns the house facing south with setbacks in compliance with DR 1 zoning. The garage is located in the rear yard with approximately the same amount of paving. Under this option the house does encroach substantially upon the floodplain setback and some of house is in the floodplain.
Option 5: this option is in response to the recent written comment made by Pat Haller, Deputy Director, Office of Planning and Zoning. I can attach the garage to the house; however during previous reviews with Baltimore Co. staff I was told that the garage must be separate because of the small development envelope.

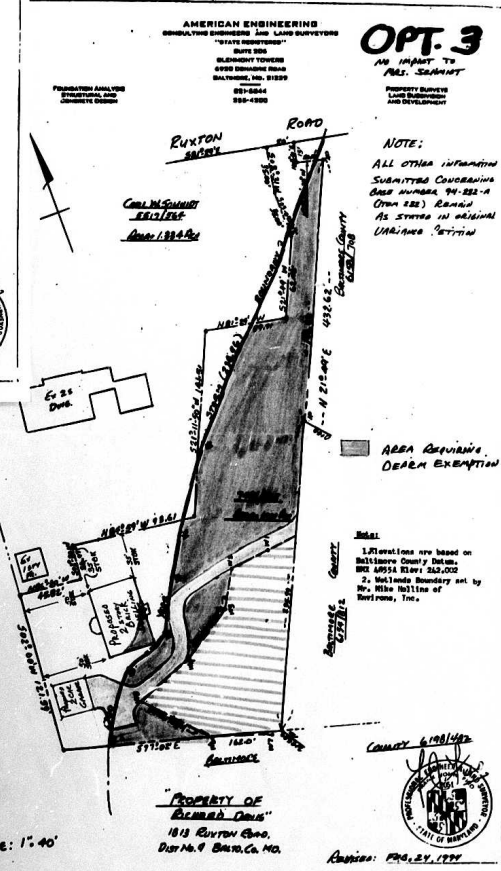
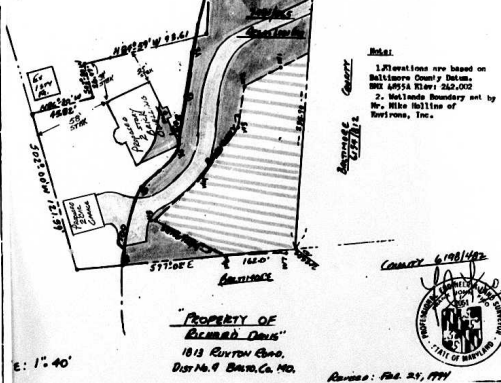
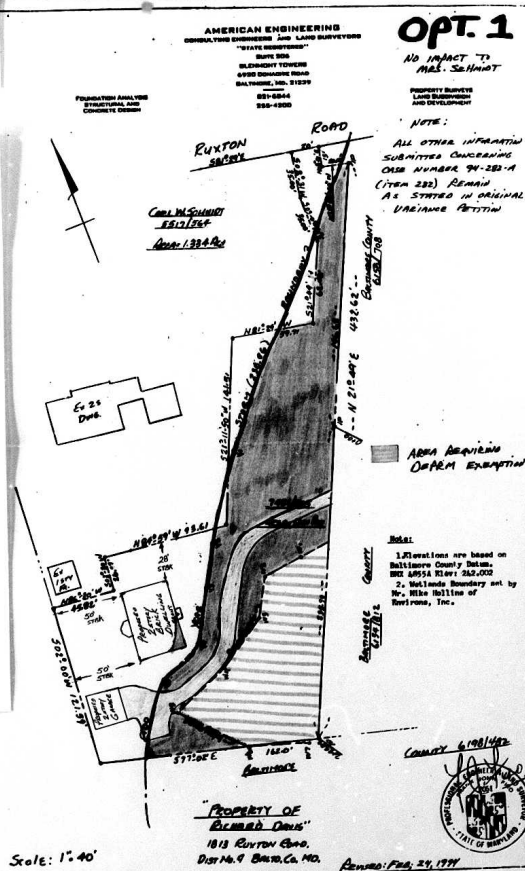
These five additional options are submitted for your consideration. I am flexible as to the position of the house and the garage. The only impact on adjacent properties from my proposals is on Baltimore County property and Mrs. Schmidt. Mr. Carl W. Schmidt sold his interest to his wife last year for one dollar. There has never been an impact on the Lanahans property nor the Pacy's.

The original proposal is the best of both worlds. I compromised on house size, minimized environmental disruption, added to the taxbase, protected non-tidal wetlands, avoided Army Corp involvement and complied with Growth Management and the Clean Air Act. Mrs. Schmidt property is impacted only behind an abandoned garage, this wife last year for one dollar. Total impact area is 618 sq. ft., this is only 1% of her land.

What is my hardship? I have all this land, over 44,000 sq. ft. and I can only use 1,869 sq. ft. of it for a dwelling. That is only 4% of my total land. I am requesting that the original Variance be granted so I may begin construction in March.

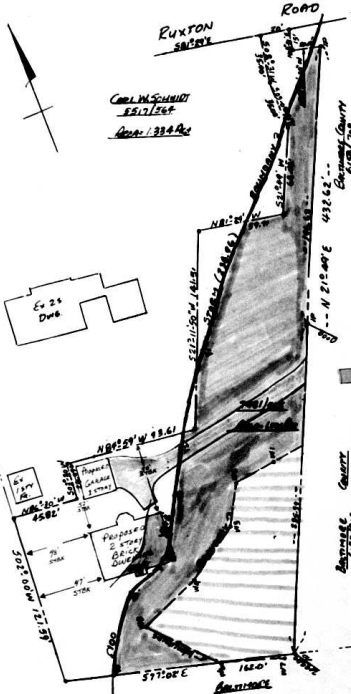
Thank You,

Sincerely,
Richard W. Davis
Richard William Davis
8114 Thornton Road
Towson, MD 21204



OPT. 4
NO IMPACT
TO MRS. SCHMIDT

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT



AREA REQUIRING
OPEN EXEMPTION

Notes:

1. Elevations are based on Baltimore County Datum.
2. Wetlands Boundary set by Mr. Mike Hollins of Hollins, Inc.

CONVEYANCE
BY
DEED

COUNTY 6/19/1993



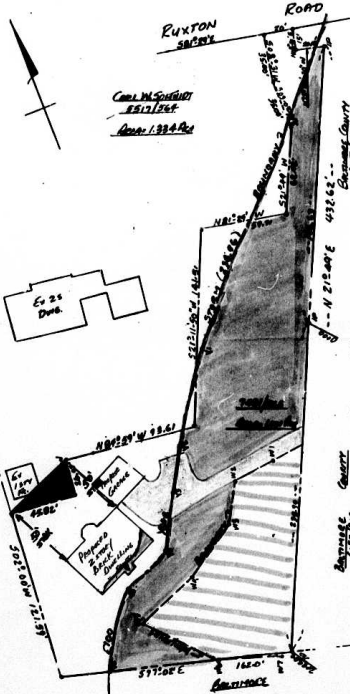
"PROPERTY OF
RICHARD DAVIS"
1813 RUXTON CRO.
DIST. NO. 9 BALTO. CO. MD.

REVISION: FEB. 24, 1994

Scale: 1" = 40'

OPT. 5
MODIFIED GARAGE
LOCATION

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT



AREA REQUIRING
OPEN EXEMPTION

AREA OF MRS.
SCHMIDT PROPERTY
IMPACT BY EXEMPTION

Notes:

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CONVEYANCE
BY
DEED

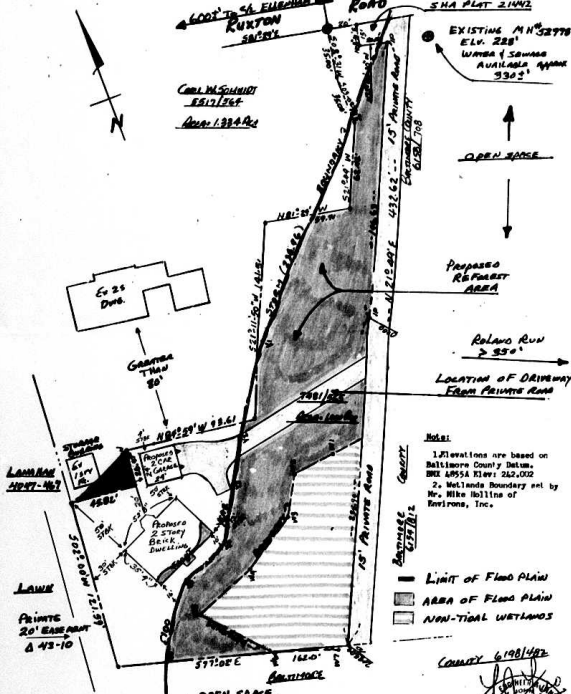
COUNTY 6/19/1993



"PROPERTY OF
RICHARD DAVIS"
1813 RUXTON CRO.
DIST. NO. 9 BALTO. CO. MD.

REVISION: FEB. 24, 1994

Scale: 1" = 40'



EXISTING 3" GAS LINE
NORTH SIDE OF RUXTON RD

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

DRAWING EASEMENT
SHA PLAT 21442

EXISTING M.H. 52778
ELEV. 288'
WATER & SEWAGE
AVAILABLE APPROX
930.5'

OPEN SPACE

PROPOSED
REFOREST
AREA

ROLAND RUN
2 330'

LOCATION OF DRIVEWAY
FROM PRIVATE ROAD

Notes:

1. Elevations are based on Baltimore County Datum.
2. Wetlands Boundary set by Mr. Mike Hollins of Hollins, Inc.

CONVEYANCE
BY
DEED

COUNTY 6/19/1993

Legend:

— LIMIT OF FLOOD PLAIN

AREA OF FLOOD PLAIN

NON-TIDAL WETLANDS

COUNTY 6/19/1993

"PROPERTY OF
RICHARD WILLIAM DAVIS"
1813 RUXTON CRO.
DIST. NO. 9 BALTO. CO. MD.

REVISION: FEB. 24, 1994

Scale: 1" = 40'

DECEMBER 19, 1993

Sheet 2

Seal of the State of Maryland, Department of the General Land Office.

PROPERTY ADDRESS: 1813 KATON RD see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name _____
 plat book _____ township _____ range _____
 OWNER: ROBERTA RAY CRISTAL AND

LOCATION INFORMATION

Section 6, area: 9
 Councilman's District: 2
 T-200 scale map: NW 10-B
 Zoning: DR-1
 Lot area: 1.0011 3360
 acreage: square feet

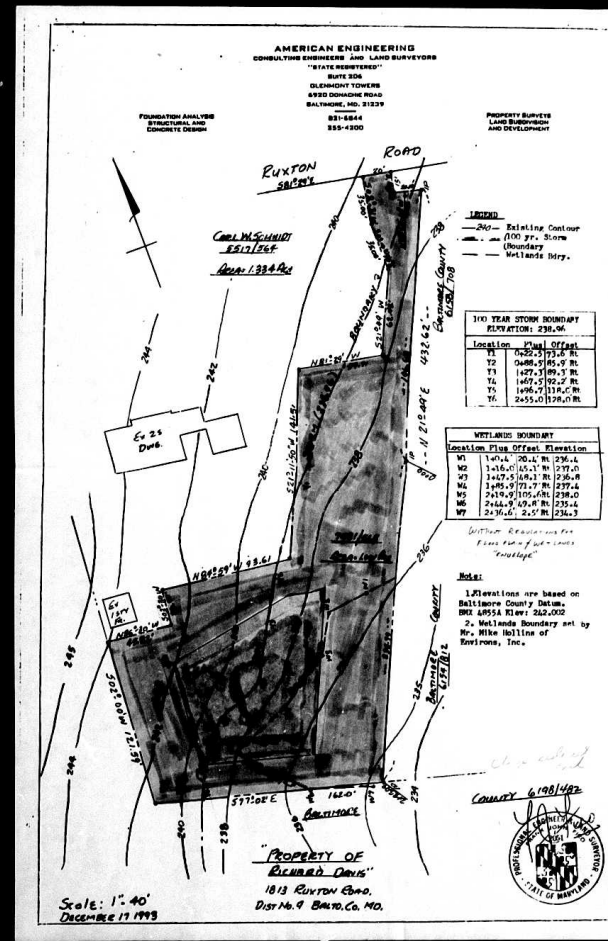
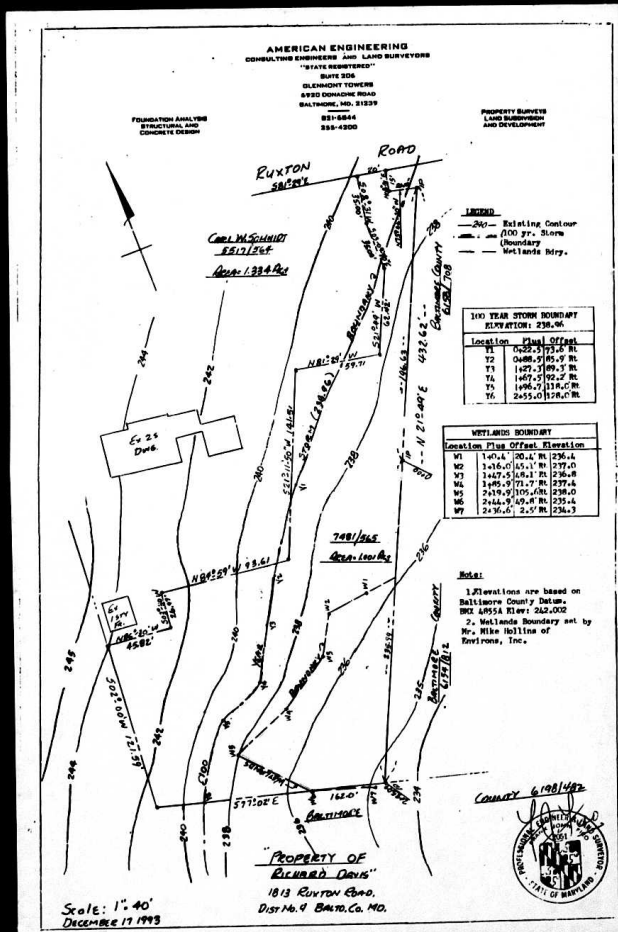
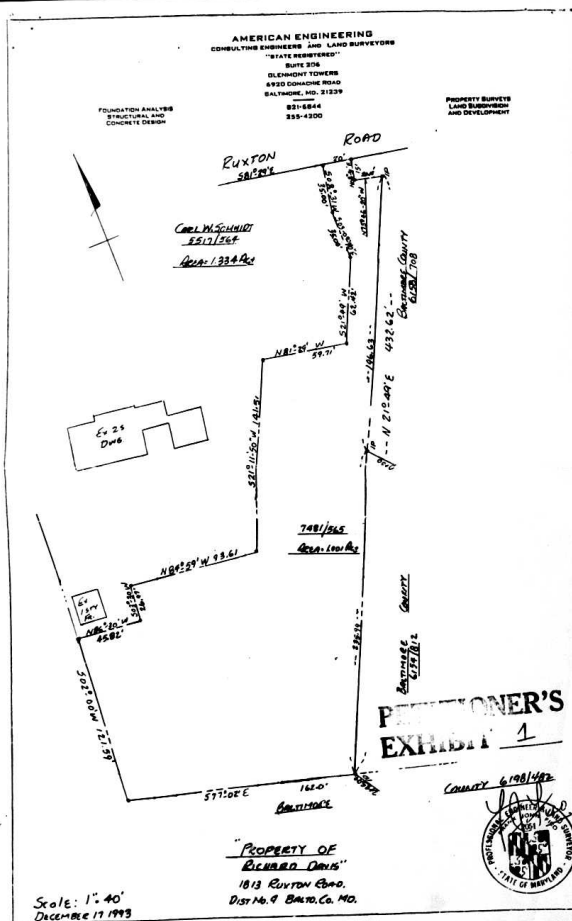
SEWER: ☒ ☐
WATER: ☒ ☐
 Chesapeake Bay Critical Area: ☒ ☐
 Prior Zoning Hearing: _____
NOTE

Zoning Officer USE ONLY!
 reviewed by: _____ item: _____
 prepared by: RLW date: 1/28/01 CASE# _____

94-282-A

SEE ATTACHMENT

North
date: 12-11-99
prepared by: RAJ
Scale of Drawing: 1" = 10'
5407 1



FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

EXISTING 3" GAS LINE
NORTH SIDE OF RUTTON RD.

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

DRAINAGE EASEMENT
5' WIDE PLANT 2" DIA.

EXISTING 11" 52978
ELEV. 228'
WATER & SEWAGE
AVAILABLE APPROX
330'

OPEN SPACE

PROPOSED
REFUGEE
AREA

ROLAND RUN
2 350'

LOCATION OF DRIVEWAY
FROM PARKING ROAD

Notes:
1. Elevations are based on
Baltimore County Datum.
DME ARS5A Elev: 242.002
2. Wetlands Boundary set by
Mr. Mike Hollins of
Environics, Inc.

— LIMIT OF FLOOD PLAIN
— AREA OF FLOOD PLAIN
— NON-TIDAL WETLANDS

COUNTY 6/198/482

PROPERTY OF
RICHARD WILLIAM DAVIS
1813 RUTTON ROAD,
DIST NO. 9 BALTO. CO. MD.

SHEET 2

Scale: 1"=40'
DECEMBER 17 1993

FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

PROPERTY SURVEY
LAND SUBDIVISION
AND DEVELOPMENT

FOUNDATION ANALYSIS
STRUCTURAL AND
CONCRETE DESIGN

EXISTING 3" GAS LINE
NORTH SIDE OF RUTTON RD.

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LAND SUBDIVISION
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COUNTY 6/198/482

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RICHARD WILLIAM DAVIS
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DIST NO. 9 BALTO. CO. MD.

SHEET 2

Scale: 1"=40'
DECEMBER 17 1993

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STRUCTURAL AND
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PROPERTY SURVEY
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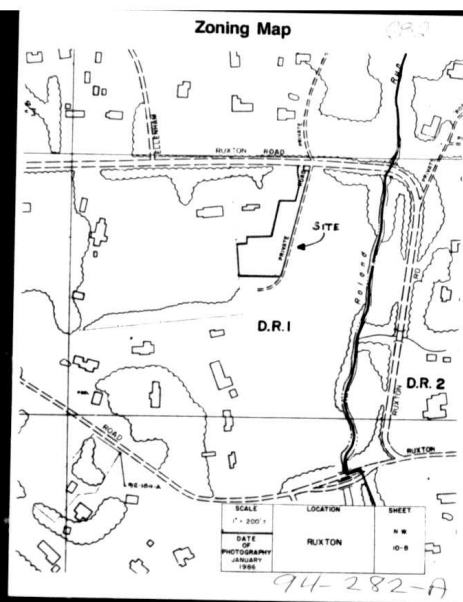
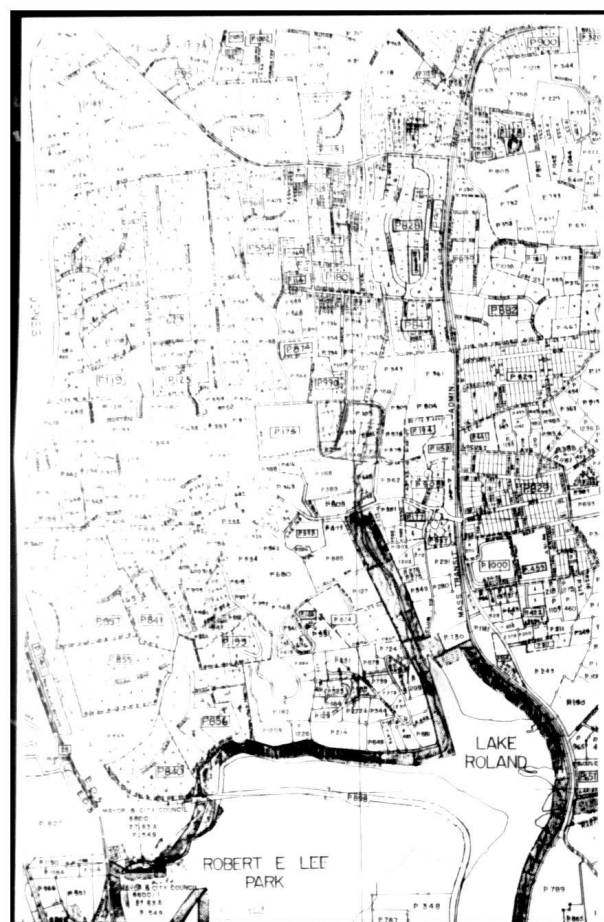
— LIMIT OF FLOOD PLAIN
— AREA OF FLOOD PLAIN
— NON-TIDAL WETLANDS

COUNTY 6/198/482

PROPERTY OF
RICHARD WILLIAM DAVIS
1813 RUTTON ROAD,
DIST NO. 9 BALTO. CO. MD.

SHEET 2

Scale: 1"=40'
DECEMBER 17 1993



Photographs
submitted by
the Rolands
11 of 94-282-A



Petitioner's
Exhibit A-C
94-282-A

