

IN RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
3013 Wells Road, 3013 ft. N
McComas Road
3013 Wells Road
15th Election District
7th Councilmanic District
Brian V. Bielawski, et al.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-534-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing and Zoning Variance for the property located at 3013 Wells Road in the Battle Park Subdivision of Baltimore County. Special Hearing relief is requested to approve a second dwelling on the subject lot as a nonconforming use. As to the Petition for Variance, relief is requested from Sections 1802.3.C.1 and 301 of the Baltimore County Zoning Regulations (BCZR) to permit a side yard setback of 2 ft., in lieu of the required 10 ft. and 7-1/2 ft., respectively, for a proposed deck and existing pool, and for a setback of 0 ft., in lieu of the required 7-1/2 ft. for a proposed carport. The subject property and relief requested are all more particularly shown on the plat to accompany the Petitions for Special Hearing and Variances marked as Petitioners' Exhibit No. 1.

Appearing at the public hearing held for this case were the property owners, Brian V. Bielawski and Vicki L. Bielawski, his wife. Also present was Marie Bielawski and Kip Humphrey, a home improvement contractor who has been retained to make certain improvements to the property. A review of the plat shows that the subject property is .217 acres in area (9,450 sq. ft.) and is zoned D.R.5.5. As noted above, the property is located in the Battle Park subdivision, a community of single family homes in the eastern end of Baltimore County near North Point Road. Presently, the property is improved with a two story framed dwelling. Also on the site is an existing

above ground pool and a two story block and framed structure to the extreme rear of the property. The lot is a narrow, yet deep, lot which is 45 ft. in width. The property fronts on Wells Road and extends to a depth of approximately 210 ft.

As to the special hearing relief, the Petitioners request the designation of a second dwelling on the property as a legal nonconforming use. In this respect, testimony and evidence was offered that a two story block and frame structure is located in the extreme rear of the lot. This structure is approximately 19-1/2 ft. wide and 28 ft. deep. It is a two story building, the first floor of which contains a 2 car garage. There are a set of exterior steps leading to the second story which contains a one bedroom apartment. The Petitioners testified that they have rented this apartment since their acquisition of the property in 1985. Previously, the property was owned by Mr. Bielawski's mother, Marie Bielawski, who was also present at the hearing. The senior Bielawski owned the property since 1953 and corroborated that the apartment has been used continuously since that time. Moreover, a written statement was submitted from James Chachulski. That statement indicates that Mr. Chachulski resided in the property during the 1940s and early 1950s and that the apartment was present during that time. Specifically, he stated that the structure was built in 1942 and has remained an apartment unit since its construction. Moreover, the apartment unit is described as containing one bedroom, a small kitchen area, a living room, a dining room area and a bathroom.

A nonconforming use is defined in Section 301 of the BCZR and governed by the provisions of Section 104 of the BCZR. A nonconforming designation can be used to grandfather an otherwise illegal use. Essentially, the Petitioner must adduce testimony and evidence that the use existed prior to

the adoption of the zoning regulations which presently prohibits such a use. Moreover, a nonconforming use must exist continuously and uninterruptedly since prior to the adoption of the prohibiting legislation. Moreover, the use cannot be altered or materially changed.

In Baltimore County, the first set of zoning regulations were adopted in 1945. Thus, the Petitioners must adduce testimony and evidence that the subject second dwelling has existed prior to that date. In this respect, the testimony was uncontradicted and persuasive. Sworn testimony offered by Marie Bielawski was that the dwelling has been in existence and utilized since her family's ownership of the property in 1953. Moreover, the written testimony offered from Mr. Chachulski was also persuasive. Based on these statements, I am persuaded that the Petitioner has met its burden and will, therefore, approve the nonconforming use.

As to the zoning variances, it is to be noted that the property is presently improved with an above ground pool located immediately behind the two story framed dwelling. As shown on the site plan and the construction drawings, the Petitioners propose to construct a large deck which will connect the pool to the rear of the house. Moreover, a small spa area for a hot tub is shown. Due to these improvements, the requested variances from the side yard setbacks are necessary. Moreover, the Petitioner proposes constructing a carport to the side of the dwelling. Testimony was offered that this carport is necessary to provide a sheltered area for the Petitioners' automobiles. Presently, vehicles cannot be placed in the garage/apartment structure to the rear in that same is utilized for storage purposes. Apparently, the house is quite small and storage space is limited.

It is to be noted that the Petitions for Variance and Special Hearing were advertised and posted in accordance with the County Code. There were no Protestants who appeared, despite this notice. Moreover, correspondence was received from the immediate next door neighbors at 3015 Wells Avenue, namely, Constance and Kenneth Sellers. Their letter endorses the Petitions for Variance and Special Hearing and notes that the Petitioners construction, as proposed, will afford greater privacy between these residences. That is, as part of the plan, a fence is proposed around the deck/pool/spa area. Apparently, the neighbors believe this is appropriate in view of the close proximity of the houses.

Based upon the testimony and evidence presented, all of which was uncontradicted, I am persuaded to approve the Petition for Variance. I have some concern that construction, as shown, might overwhelm this rather narrow lot. However, it is to be observed that there is a vacant lot on the east side of the Petitioners' property where the carport will be constructed. As the Petitioners noted, this lot is presently used for parking for a nearby church and, thus, there will be no detriment by the construction of the carport near this property. On the other side of the house (west) the Petitioners have the endorsement of the immediate neighbors. As noted above, these neighbors believe that the Petitioners' construction will promote privacy between these two lots. Thus, for these reasons, I believe that the Petitioners have provided appropriate evidence that the surrounding locale will not be detrimentally affected and that relief can be granted within the spirit and intent of the BCZR.

As to the practical difficulty test, the narrowness of the lot provides a site constraint which justifies same. The width of the lot is of such minimal dimension that construction of the deck is impossible without

variance relief. Moreover, the carport cannot be located either to the front or rear of the property. Thus, I shall grant the variances requested and will so order.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 17th day of August 1994, that, pursuant to the Petition for Special Hearing, approval for a second dwelling on the subject lot as a nonconforming use be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 1802.3.C.1 and 301 of the Baltimore County Zoning Regulations (BCZR) to permit a side yard setback of 2 ft., in lieu of the required 10 ft. and 7-1/2 ft., respectively, for a proposed deck and existing pool; and for a setback of 0 ft., in lieu of the required 7-1/2 ft. for a proposed carport, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 16, 1994

(410) 887-4386

Mr. and Mrs. Brian V. Bielawski
3013 Wells Road
Baltimore, Maryland 21219

RE: Case No. 94-534-SPHA
Petitions for Special Hearing and Zoning Variances
Property: 3013 Wells Road

Dear Mr. and Mrs. Bielawski:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Variances have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 897-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

LES:smm
encl.

Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 3013 Wells Rd.
which is presently zoned DR.5.5

This Petition shall be filed with the Office of Zoning Administration & Development Enforcement. The undersigned, legal owner(s) of the property, hereby petition the Zoning Commissioner to determine whether or not the proposed use is a legal use under the Zoning Regulations of Baltimore County. A second dwelling on a lot as a nonconforming use; and variance from Section 1802.3.C.1 and 301.1A to permit a side yard setback of 2 ft. in lieu of the required 10 ft. and 7 1/2 ft. respectively for a proposed deck with a fence/wall enclosure; and for a setback of 0 ft. (aka a proposed carport) in lieu of the required 7 1/2 ft.

Property is to be protected and advertised as provided by Zoning Regulations. I, or we, agree to any expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and resolutions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Petitioner(s)

Name of Petitioner

Signature

Address

City

State

Zip

Phone No.

City

State

Zip

Brian V. Bielawski

Vicki L. Bielawski

3013 Wells Rd.

Baltimore, MD. 21219

(410) 477-3559

Phone No.

City

State

Zip

Phone No.

City

State

Zip

EXAMPLE 3 - Zoning Description

3 copies
94-534-SPHA

These copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 3013 WELLS ROAD
Election District 15 Councilmanic District 7

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

ROAD, which is 40.0 FEET (street on which property fronts) (number of feet of right-of-way width)

wide at a distance of 505 FEET NORTH of the (number of feet) (north, south, east or west)

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

which is 40.3 FEET wide. *Being Lot # 67 (number of feet of right-of-way width)

Block # 7, Section # 50 in the subdivision of BATTLE PARK (name of subdivision) as recorded in Baltimore County Plat

Book # 7, Folio # 50 containing 34500 sq. ft. (square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state, "As recorded in Deed Liber #, Folio #, and include the measurements and directions (feet and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.10 31' 15" W. 87.3 ft., S.62 19' 00" W. 318 ft., and N.08 15' 26" W. 80 ft. to the place of beginning.

LES:smm

encl.

1

2

3

4

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 94-534-SPHA
Towson, Maryland

District: 157A Date of Posting: 7/14/94
Filed for: Special Hearing, 157A
Petitioner: Brian V. Bielewski
Location of property: 3013 Wells Rd. 4th
Location of Sign: Public Hearing, 157A
Remarks: None
Posted by: William Date of return: 7/14/94
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD. 7/15, 1994
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/14, 1994.

THE JEFFERSONIAN,
A. HENNING
BALTIMORE, MD. - TOWSON

NOTICE OF HEARING

The Planning Commission of Baltimore County, by authority of the Board of Commissioners, will hold a public hearing on the proposed rezoning of the property located at 3013 Wells Road, Baltimore County, Maryland, from its present zoning of R-1 to R-2. The hearing will be held on Thursday, August 2, 1994, at 2:00 p.m. in the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204. The hearing will be held in Room 118, 018 Courthouse, 400 Washington Avenue, Towson, Maryland 21204. The hearing will be held in Room 118, 018 Courthouse, 400 Washington Avenue, Towson, Maryland 21204. The hearing will be held in Room 118, 018 Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

NOTES: (1) HEARINGS ARE HELD AT THE COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE, TOWSON, MD. 21204. (2) FOR INFORMATION CONCERNING THE FEE AND/OR HEARING, PLEASE CALL 807-3353.

111 West Chesapeake Avenue
Towson, MD 21204

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 West Chesapeake Avenue in Towson, Maryland 21204.

Room 118, 018 Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 94-534-SPHA (Item 52)
3013 Wells Road
5215 Wells Avenue, 305 feet N of McKenna Road
1708 "Section District" - This Commission
Petitioner(s): Brian V. Bielewski and Vicki L. Bielewski
HEARING: THURSDAY, AUGUST 2, 1994 at 2:00 p.m. in Room 118, 018 Courthouse

Special hearing to approve a second dwelling on a lot as a non-conforming use. Variance to permit a side yard setback of 2 feet to line of the required 10 feet and 7-1/2 feet respectively for a proposed deck and existing pool with a fence/wall enclosure and for a setback of zero feet (for a proposed support) in line of the required 7-1/2 feet.

Arnold Jablon
Director

(cc) Brian V. and Vicki L. Bielewski

NOTES: (1) HEARING IS TO BE HELD AT 2:00 P.M. IN ROOM 118, 018 COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MD. 21204. (2) FOR INFORMATION CONCERNING THE FEE AND/OR HEARING, PLEASE CALL 807-3353. (3) FOR INFORMATION CONCERNING THE FEE AND/OR HEARING, PLEASE CALL 807-3353.



Date: 6/30/94

RES SPH CODE 030 \$50.00
RES VAR " 010 \$50.00
2 SIGNS CODE 030 \$170.00
\$170.00

COUNCILMAN Brian V. Bielewski
LOC 3013 Wells Rd.
Please Make Checks Payable To: Baltimore County

Cashier Validation

820708127010000 4170.00
PA 000450000-70-74

receipt
94-534-SPHA
Account #001-6150

Number
501
BY JLL AND ?

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to rezoning actions which are the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be assessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 531

Petitioner: Brian V. Bielewski

Location: 3013 Wells Ave

PLACE FORWARD ADVERTISING BILL TO:

NAME: Vicki Bielewski

ADDRESS: 3013 Wells Ave

Box 101 21214

PHONE NUMBER: 410-735-009

AJ:ggg

(Revised 04/09/93)

TO: FUTURE PUBLICATION COMPANY
July 14, 1994 Issue - Jeffersonian

Please forward billing to:
Vicki Bielewski
3013 Wells Avenue
Baltimore, Maryland 21204
410-735-009

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 West Chesapeake Avenue in Towson, Maryland 21204.

Room 118, 018 Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-534-SPHA (Item 52)
3013 Wells Road
5215 Wells Avenue, 305 feet N of McKenna Road
1708 "Section District" - This Commission
Petitioner(s): Brian V. Bielewski and Vicki L. Bielewski
HEARING: THURSDAY, AUGUST 2, 1994 at 2:00 p.m. in Room 118, 018 Courthouse

Special hearing to approve a second dwelling on a lot as a non-conforming use. Variance to permit a side yard setback of 2 feet to line of the required 10 feet and 7-1/2 feet respectively for a proposed deck and existing pool with a fence/wall enclosure and for a setback of zero feet (for a proposed support) in line of the required 7-1/2 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HELD AT THE COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE, TOWSON, MD. 21204. (2) FOR INFORMATION CONCERNING THE FEE AND/OR HEARING, PLEASE CALL 807-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 22, 1994

Mr. and Mrs. Brian V. Bielewski
3013 Wells Road
Baltimore, Maryland 21219

RE: Case No. 94-534-SPHA, Item No. 52
Petitions for Special Hearing and Variance
Petitioner: Brian V. Bielewski, et al.

Dear Mr. and Mrs. Bielewski:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 30, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

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 rezoning 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.

Zoning Plans Advisory Committee Comments
Mr. and Mrs. Brian V. Bielewski
Date: July 22, 1994
Page 2

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

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

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 807-3393 or the commenting agency.

Sincerely,
W. Carl Richards, Jr.
Zoning Supervisor

WCR:cm

Baltimore County Government
Zoning Department



700 East Pappas Road Suite 901
Towson, MD 21206-5500

(410) 887-4500

DATE: 07/12/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
Phone: 807-1105

RE: Property Owner SEE BELOW

LOCATION: SEE BELOW

Item No. SEE BELOW Zoning agenda

Comments:

Pursuant to your request, the referenced property has been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.
6. The Fire Marshal's Office has no comments at this time.
14 REFERENCES TO THE FOLLOWING ITEM NUMBERS: 516, 524, 535, 516, 518, 519, 520, 521, 522, 523 AND 41.

RECEIVED
JUL 13 1994
ZADM

REVIEWER: LT. ROBERT P. SHAW/ADP
Fire Marshal's Office, PHONE: 807-4081, RS-1102P

cc: File

Printed with TOWSON-100
and Maryland State

BEFORE THE
ZONING COMMISSIONER
FOR BALTIMORE COUNTY
CASE NO.: 94-534-SFHA

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.

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 987-2188

I HEREBY CERTIFY that on this 20th day of July, 1994, a copy of the foregoing Entry of Appearance was mailed to Brian V. Bielawski and Vicky L. Bielawski, 3013 Wells Road, Baltimore, MD 21219, Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



ZADM

H.O.
Practical difficulty and hardship
to be determined at hearing

The matter was overruled. Preliminary of another
 (P. J. Kinn) where
 papers were advised sufficient to have 574 and
 vouchers together and on one from. I don't
 argue with the method particularly but since the
 office advised that I will accept as
 sufficient

A. Lewis
6/30/94

THIS IS TO VERIFY THAT I
JAMES R. CHACHUSKI, BORN NOVEMBER 21, 1922
RESIDED AT 3013 WELLS AVENUE IN THE
REAR OF HOUSE IN THE APARTMENT ON TOP
THE GARAGE BUILT BY MY GRANDFATHER &
FAMILY FOR MY MOTHER & FATHER,
MACTHA M. (BANKIEWICZ) CHACHUSKI, AND
JAMES L. CHACHUSKI UNTIL SOLD IN 1953.

THE BUILDING APARTMENT ON TOP THE GARAGE AT 3013 WELLS AVENUE WAS BUILT IN 1942.

James R. Churchill
2336 SEACLES ROAD
BALTIMORE, MD. 21221
PHONE 288-2363

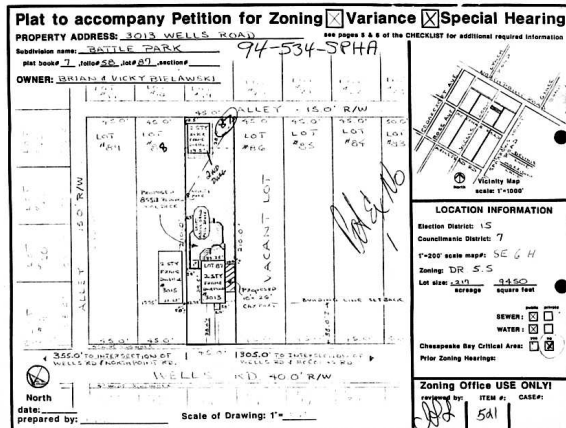
GRANDFATHER: FRANCIS (FRANK) BANLEWICZ
GRANDMOTHER: SOPHIE BANLEWICZ

Ref No 4

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Brian & Vicki Bielawski	394 Willis Ave, 21219
X MARIE BIELAWSKI	1102 BOSTON AVE 21222
KID Humphrey	2710 Southwestern Ave 21217

Home Contract

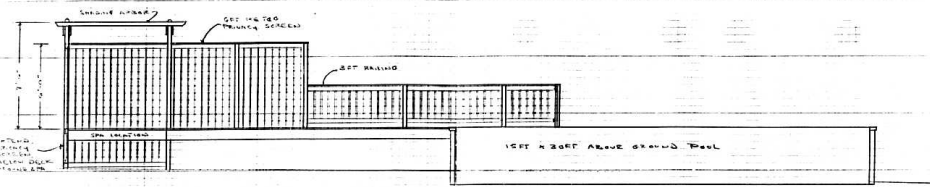
 Printed with SoyInk® on Recycled Paper

The, Kenneth Sellers and Constance Sellers
of 3015 Wells Ave. have seen the plans
for the proposed deck at 3013 Shell Ave.
and was made aware of the privacy
fence that would be between the
two properties and have no objections.

6-16-94 Constance Sellars
Theresa E. Sellars

Red No 2

521

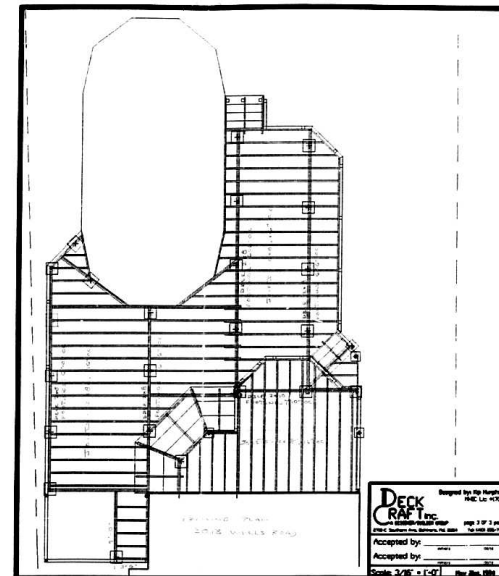


1st floor
No 3

94-534-SPHA

521

94-534-SPHA



521

94-534-SPHA

