

IN THE MATTER OF THE
THE APPLICATION OF
ROBERT JOHNSON -PETITIONER
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTH SIDE DAVIS AVENUE
329' SOUTHEAST OF ACME AVENUE
(10729 DAVIS AVENUE)
2ND ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

ZONING CASE NO. 95-⁵42-SPHA

* ON REMAND
* FROM THE
* CIRCUIT COURT FOR
* BALTIMORE COUNTY
* Civil Action
* No. 3-C-95-5779
*

* * * * *

OPINION ON REMAND BY VIRTUE OF ORDER
REMANDING CASE TO BOARD OF APPEALS
FOR DECISION ON ISSUE

This case returns to us on a remand from the Circuit Court for Baltimore County for determination of a particular issue. Before addressing the remand on the merits, the Board has two preliminary issues. Subsequent to the remand, Counsel for Mr. Johnson wrote a letter to the Board seeking to amend the application that was considered below. Insofar as the letter was submitted after the close of the evidence, the Board cannot consider it at this time in the case's present posture. The second preliminary issue pertains to the present composition of the Board. There are only two Board members left that sat on the initial case. As such, the Board cannot proceed to deliberate the remand without the agreement of counsel for the parties. Insofar as counsel for all parties agreed to proceed with the remaining two Board members, the Board believes it has authority to proceed in this limited context.

The property owner, Robert Johnson, owns three abutting parcels of land, one of which is improved with an existing house, and is described as Parcel 1. The remaining two parcels, Parcels 2 and 3, comprise less than one acre in toto. All three parcels

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Circuit Case No. 3-C-95-5779 /Robert Johnson
On Remand from the Circuit Court /Zoning #95-42-SPHA

were duly recorded by deed prior to March 30, 1955. Accordingly, were each parcel owned by a different individual, and undeveloped, each owner conceivably could attempt to develop his or her parcel without complying with the one-acre minimum, so as long he or she was in compliance with all other zoning and other regulations. This, however, is not such a case. One owner owns, and in fact bought, all three parcels at the same time and believed when he purchased them that they constituted a single lot. We agree that the bundling and selling of these three parcels at one time constituted the creation of a new lot, thus terminating any grandfathering provisions. The owner's action of now seeking to segregate Parcels 2 and 3 from Parcel 1 constitutes an attempt to create yet another lot. In either event, the Board is considering something different from a lot approved prior to March 30, 1955. Accordingly, Johnson cannot avail himself of the relief afforded under Section 304.1A of the Baltimore County Zoning Regulations (BCZR).

Were Johnson nonetheless able to proceed by virtue of Section 304.1A, however, the Board acknowledges that he does not satisfy Section 304.1C insofar as he owns adjoining land, namely, Parcel 1. As Section 304.1C makes clear on its face, Section 304 was designed to provide relief for the occasional property owner who finds himself or herself holding title to a single undeveloped, undersized lot without change from prior to March 30, 1955 to the present, and thus finds himself or herself unable to build a house.

Circuit Case No. 3-C-95-5779 /Robert Johnson
On Remand from the Circuit Court /Zoning #95-42-SPHA

Johnson has a house and, accordingly, has not been deprived of a reasonable use of his property.

In short, the Board views the attempt to segregate Parcels 2 and 3 from Parcel 1 as the creation of a new lot, thus rendering Section 304.1A inapplicable. Even were Petitioner eligible to proceed under Section 304.1A, however, he did not meet the criteria of Section 304.1C.

We believe this clarifies our position, and would still find as a fact that the Petition for Special Hearing seeking to develop Parcels 2 and 3 of the subject property should be denied, and will so order.

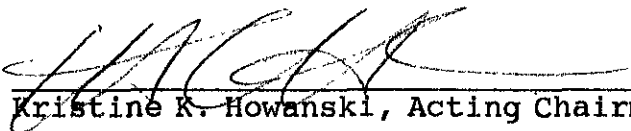
O R D E R

IT IS THEREFORE this 20th day of June, 1996, by the County Board of Appeals of Baltimore County

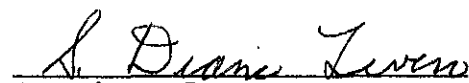
ORDERED that the Petition for Special Hearing seeking approval to develop parcels 2 and 3 of the subject property as a single undersized lot be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Kristine K. Howanski, Acting Chairman



S. Diane Levero



County Board of Appeals of Baltimore County

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

June 20, 1996

Kathleen S. Skullney, Esquire
WOODWARD, BUTLER & SKULLNEY, LLC
403 Allegheny Avenue
Towson, MD 21204

RE: REMAND /Case No. 95-42-SPHA
Robert Johnson
Civil Action No. 3-C-95-5779

Dear Ms. Skullney:

Enclosed please find a copy of the Board's Opinion on Remand issued this date in response to the March 11, 1996 Remand Order of the Circuit Court for Baltimore County.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kathleen C. Bianco".

Kathleen C. Bianco
Administrative Assistant

encl

cc: Cynthia K. Hitt, Esquire
Mr. Robert Johnson
Cynthia B. Bowden /McKee & Associates
Mr. & Mrs. Robert Bopst
Peter Max Zimmerman
/People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel
The Honorable John F. Fader, Jr.
Circuit Court for Baltimore County
Clerk of the Court /Case No. 3-C-95-5779
Lawrence E. Schmidt
Arnold Jablon, Director/PDM
Virginia W. Barnhart, County Attorney



3-19 46

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258

03/19/96

Case Number: 03-C-95-005779 AA
Date Filed: 06/29/95
Status: Open/Active
Previous Case ID:
Judge Assigned: To Be Assigned,

Johnson vs County Board Of Appeals Of Baltimore County

C A S E H I S T O R Y

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title) / Dispo	Entered
RES 001	Bopst, Martha Attorney: 0022015 Skullney, Kathleen Susan Skullney, Gray & Dernoga 217 Main Street Second Floor Laurel, MD 20707 (410)792-7205	08/08/95
RES 002	Goodmuth, Steve Attorney: 0022015 Skullney, Kathleen Susan Skullney, Gray & Dernoga 217 Main Street Second Floor Laurel, MD 20707 (410)792-7205	08/08/95
RES 003	Frizzell, Russell E Attorney: 0022015 Skullney, Kathleen Susan Skullney, Gray & Dernoga 217 Main Street Second Floor Laurel, MD 20707 (410)792-7205	08/08/95
RES 004	Lentz, Christopher Attorney: 0022015 Skullney, Kathleen Susan Skullney, Gray & Dernoga	08/08/95

Per *Candy*
True Copy Test
 SUZANNE MENSCH, Clerk
Richard
 Assistant Clerk

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217 Main Street
Second Floor
Laurel, MD 20707
(410)792-7205

Type Num Name(Last,First,Mid,Title) / Dispo Entered

RES 005 Bobst, Robert E 08/08/95

Attorney: 0022015 Skullney, Kathleen Susan
Skullney, Gray & Dernoga
217 Main Street
Second Floor
Laurel, MD 20707
(410)792-7205

RES 006 Anderson, Anna R 08/08/95

Attorney: 0022015 Skullney, Kathleen Susan
Skullney, Gray & Dernoga
217 Main Street
Second Floor
Laurel, MD 20707
(410)792-7205

RES 007 Lentz, Jamie C 08/08/95

Attorney: 0022015 Skullney, Kathleen Susan
Skullney, Gray & Dernoga
217 Main Street
Second Floor
Laurel, MD 20707
(410)792-7205

PLT 001 Johnson, Robert 06/29/95

Attorney: 0019061 Hitt, Cynthia
Siskind Grady Rosen Et Al
2 E. Fayette St
Baltimore, MD 21202
(301)539-6606

DEF 001 County Board Of Appeals Of Baltimore County 06/29/95

Attorney: 0005744 Demilio, Carole
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410)887-2188

0029075 Zimmerman, Peter M
Unverified Address
Suite 204
606 Baltimore Ave
Baltimore, MD 21204
(410)296-2424

ENCLOSURE

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Jdg	L Day	Of	RsIt	By	ResultDt	Jdg	T Notice	Rec
01/25/96	09:30A	001	yes	CIVI	TBA	01	/01					P 11/22/95	

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal	RSN
TBA To Be Assigned.	J	06/29/95		

DOCUMENT TRACKING

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID
001000	Petition for Judicial Review Jg #1 Petition of Robert Johnson for Judicial Review of the decision of the County Board of Appeals of Baltimore County in the Matter of Robert Johnson for special hearing and variance on property located on the South Side Davis Avenue (10729 Davis Avenue) 2nd Election District 1st Councilmanic District Case # 95-52-SPHA. Copy sent to agency	06/29/95	06/29/95		TBA	PLT001			JMG JMG
001001	Answer jc*3 Rec'd 7/17/95	07/24/95	07/24/95		TBA	DEF001		M 01/17/96	GC KM
001002	Answer LG #4 all respondents	08/08/95	08/08/95		TBA	RES001		M 01/17/96	LG KM
002000	Certificate Of Notice lg#2	07/19/95			TBA	000			LG LG
003000	Transcript of Record from Adm Agency *df (5) fd. (Filed 8/29/95).	08/30/95	08/30/95		TBA	000			DFD DFF
004000	Notice - Recpt of Record of Proceedings *df (6) fd. Copies Sent. (Filed 8/29/95).	08/30/95	08/30/95		TBA	000			DFD DFF
005000	Notice - Recpt of Record of Proceedings	08/30/95	08/30/95		TBA	PLT001	08/30/95	M 08/30/95	DFD DFF
006000	Notice - Recpt of Record of Proceedings	08/30/95	08/30/95		TBA	DEF001	08/30/95	M 08/30/95	DFD DFF
007000	Stipulation to Modify Time Requirements for Filing Memoranda.	09/29/95	09/28/95		TBA	000		09/29/95	DFD DFF
008000	Memorandum jg with exhibits	10/23/95	10/20/95		TBA	PLT001		10/23/95	JMG JMG

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User	ID
009000	Hearing Notice	11/22/95	11/22/95		TBA	000	11/22/95	M 11/22/95	JD	JD
010000	Memorandum	12/11/95	12/08/95		TBA	DEF001			CG	CG
010001	Answer Reply Memorandum	12/27/95	12/26/95		TBA	PLT001		M 01/16/96	JMG	PA
011000	Memorandum Martha Bopst, Steve Goodmuth, Anna Anderson, Russell E. Frizzell, Christopher Lentz and Jamie Lentz.	12/11/95	12/08/95		TBA	RES005		12/11/95	CG	CG
012000	Memorandum to Assignment	02/01/96	01/26/96		JFF	000			KP	KP
013000	Open Court Proceeding Hon. John F. Fader II. Hearing had. Order to be filed.	02/22/96			JFF	000			TG	TG
014000	Order of Court REMANDING above case to Board of Appeals for determination of the issue, fd.	03/11/96			JFF	000		G 03/11/96	PS	PS

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By:	DEF	001	County Board Of Appeals Of Ba					
	001	BOX 333	0 PLEADING EXHIBITS		C			

PETITION OF:
ROBERT JOHNSON

*
*
*

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CASE NO. 95 CV 5779

vs.

BOARD OF APPEALS

ORDER REMANDING CASE TO BOARD
OF APPEALS FOR DECISION ON ISSUE

Because this court cannot determine how the Board of Appeals resolved a principle issue in this case relating to the acreage of a lot that Robert Johnson (Johnson) seeks to develop, this case is remanded to the Board of Appeals this 8th day of March 1996. For determination of the issue

Johnson owns three (3) parcels of land in Baltimore County, which for sake of simplicity we describe as follows:

- Parcel 1. 1.038 acres
- Parcel 2. .819 acres
- Parcel 3. .119 acres

Parcel 3 is a narrow strip of land with frontage on Davis Avenue and lying to the south of Parcel 1 and 2. Johnson proposed to combine Parcel 1 and 2 for development. An opinion by the Board of Appeals dated May 31, 1995 denied approval to develop parcels 2 and 3 of the subject property as a single undersized lot. It is undisputed but that there is a minimum lot requirement of one (1) acre for the construction of a one family or semi-detached dwelling. While both parties agree that Section 304.1 B.C.Z.R. governs the issue of development when there is a request for a construction of a dwelling less than one (1) acre, they have a

Per A. *Candy*
SUZANNE MENSCH, Clerk
Assistant Clerk
Richard
True Copy Test

Pig

cc: HITT / SKOLNEY / ZIMMERMAN

FILED MAR 11 1996

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dispute at inception not resolved by the Board of Appeals. In pertinent part,

B.C.Z.R. reads:

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955; Bill No. 47, 1992.]

304.1--A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; and {B.C.Z.R., 1955; Bill No. 47, 1992.}

Both Parcel 2 and Parcel 3 were lots duly recorded by deed prior to March 30, 1955. That means that should Johnson attempt to develop Parcel 2 of 0.819 acres, it could do so without complying with the one (1) acre minimum, providing of course that all other zoning and other regulations are in compliance.

Johnson's Position is that Parcel 2 fits the exception, that a one (1) acre limitation does not control, and that the combining of Parcel 2 and Parcel 3 does not mean there is now a "new" lot submitted for development not subject to the March 30, 1955 exception as to minimum lot size.

Protestant's Position is that the combination of Parcel 2 and Parcel 3 for development means that a "new" lot -- something different from a lot approved prior to March 30, 1955.

Focus by the Board of Appeals began and ended with this issue of a one (1) acre minimum lot requirement. It is not readily apparent to this court whether resolution of this issue is a matter of law, of fact or of both. What the Board of Appeals decided was as follows:

From the testimony and evidence presented, the Board reaches the following conclusions. No legitimate reason exists for any further subdivision of this small parcel with evidence of well and sewerage system problems. Mr. Johnson merely is desirous of building a house

RECORDED

on a lot that is considerably less than the required one-acre area. The Board is of the opinion that to grant this request is only going to create more water and sewerage problems for the neighbors on all sides, and therefore will deny the variance, and will so order.

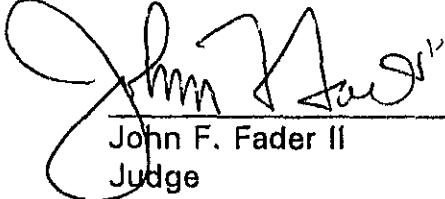
What this court needs to know is whether the Board of Appeals concludes the combination of Parcel 2 and Parcel three constitutes a "new" lot so as to make the grandfather provision of March 30, 1995 not applicable. If so, why so; if not, why not.

B.

Resolution of the issue must first be made by the Board of Appeals, for the reasons stated in *United Steelworkers v. Beth. Steel*, 298 Md. 665, 472 A.2d 62 (1984):

Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgement and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

Id. at 679.


John F. Fader II
Judge

JFF:am

cc: Cynthia K. Hitt, Esq.
Siskind, Grady, Rosen & Hoover
Two East Fayette Street
Baltimore, MD 21202

Kathleen S. Skullney, Esq.
217 Main Street
Second Floor
Laurel, MD 20707

Peter Zimmerman, Esq.
Carole S. DeMilio, Esq.
People's Counsel for Baltimore County
400 Washington Avenue
Towson, MD 21204

2, 29-75

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF ROBERT JOHNSON
10729 David Avenue
Woodstock, MD 21146

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

CIVIL
ACTION
No. 3-C-95-5779

IN THE CASE OF: IN THE MATTER OF THE
APPLICATION OF ROBERT JOHNSON
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE SOUTH SIDE
DAVIS AVENUE, 329' SOUTHEAST OF ACME
AVENUE (10729 DAVIS AVENUE)
2ND ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 95-52-SPHA

* * * * *

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

RECEIVED AND FILED

55 AUG 29 AM 11:20

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski and S. Diane Levero,
constituting the County Board of Appeals of Baltimore County, and
in answer to the Petition for Judicial Review directed against them
in this case, herewith return the record of proceedings had in the
above-entitled matter, consisting of the following certified copies
or original papers on file in the Office of Permits and Development
Management and the Board of Appeals of Baltimore County:

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

No. 95-52-SPHA

Petition for Special Hearing to approve the use of
undersized single family lot.

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August 25 Publication in newspapers.
August 26 Certificate of Posting of property.
September 7 ZAC Comments.
September 20 Hearing held on Petition by the Zoning
Commissioner.
December 6 Order of the Zoning Commissioner in which Petition
for Variance was DISMISSED AS MOOT; Petition for
Special Hearing was DENIED.
December 14 Notice of Appeal filed by Kathleen S. Skullney.
May 16, 1995 Hearing before the Board of Appeals.
May 31 Opinion and Order of the Board in which the
Petition for Special Hearing was DENIED.
June 29 Petition for Judicial Review filed in the Circuit
Court for Baltimore County by Cynthia K. Hitt,
Esquire, on behalf of Robert Johnson.
July 11 Copy of Petition for Judicial Review received by
the Board of Appeals from the Circuit Court for
Baltimore County.
July 11 Certificate of Notice sent to interested parties.
August 29, 1995 Transcript of testimony filed.

Petitioner's Exhibits No. 1 -Plat to accompany Petition for
Special Hearing (Variance with-
drawn)
2 -Color coded Plat (Ex. 1) w/
title
histo
ry
3A-Deed of 11-15-93
3B-Deed of 6-19-22
3C-Deed of 10-5-38
3D-Deed of 6-11-1887
3E-Deed of 5-27-1889
3F-Deed of 8-15-1892
4A-Letter of 3-3-94 from John Lewis
to Cynthia Bowden
4B-Letter of 2-22-94 from Cynthia

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Bowden to Jablon
5A-Letter of 8-2-94 from Donald Rascoe to James Grammer
5B-DRC Request from and attachments
6-McKee & Associates cover letter of 8-8-94 to attn. of Ervin McDaniel and attachments
7-McKee & Associates cover letter of 8-8-94 to Balto. County Zoning and attachments
8-Finds of Fact and Conclusions of Law w/ cover letter of 12-2-94 by Lawrence Schmidt
9-Perc Plan of Johnson Property

Protestant's Exhibits No. A1-A11 -Photographs
B -Direction of Photo
C -Current Tax Map
D1-D8 -Color coded title history
E -Md. DAT Tax Record of Johnson Property

August 29, 1995 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Respectfully submitted,



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

cc: Cynthia K. Hitt, Esquire
Robert Johnson
Kathleen S. Skullney, Esquire
People's Counsel for Baltimore County

RECEIVED

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF ROBERT JOHNSON
10729 David Avenue
Woodstock, MD 21146

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

CIVIL
ACTION
No. 3-C-95-5779

IN THE CASE OF: IN THE MATTER OF THE
APPLICATION OF ROBERT JOHNSON
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE SOUTH SIDE
DAVIS AVENUE, 329' SOUTHEAST OF ACME
AVENUE (10729 DAVIS AVENUE)
2ND ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 95-52-SPHA

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Kristine K. Howanski and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Cynthia K. Hitt, Esquire, SISKIND, GRADY, ROSEN & HOOVER, P.A., Jefferson Building, Two East Fayette Street, Baltimore, MD 21202, Counsel for Petitioner; Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163, Petitioner; Mr. & Mrs. Robert Bopst, 10721 Davis Avenue, Woodstock, MD 21163; Kathleen S. Skullney, Esquire, 10813 Davis Avenue, Woodstock, MD 21163, Counsel for Mr. & Mrs. Bopst; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED

95 JUL 11 PM 2:40

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Cynthia K. Hitt, Esquire, SISKIND, GRADY, ROSEN & HOOVER, P.A., Jefferson Building, Two East Fayette Street, Baltimore, MD 21202, Counsel for Petitioner; Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163, Petitioner; Mr. & Mrs. Robert Bopst, 10721 Davis Avenue, Woodstock, MD 21163; Kathleen S. Skullney, Esquire, 10813 Davis Avenue, Woodstock, MD 21163, Counsel for Mr. & Mrs. Bopst; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204, this 11th day of July, 1995.

Charlotte E. Radcliffe

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

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County Board of Appeals of Baltimore County

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

July 11, 1995

Kathleen S. Skullney, Esquire
10813 Davis Avenue
Granite, MD 21163

RE: Civil Action No. 3-C-95-5779
ROBERT JOHNSON

Dear Ms. Skullney:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on June 29, 1995, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-95-5779.

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Mr. & Mrs. Robert Bopst
People's Counsel for Baltimore County
Pat Keller /Planning
Lawrence E. Schmidt /PDM
Arnold Jablon /PDM
W. Carl Richards /PDM
Docket Clerk /PDM
Virginia W. Barnhart, County Attorney



SEARCHED



County Board of Appeals of Baltimore County

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

July 11, 1995

Cynthia K. Hitt, Esquire
SISKIND, GRADY, ROSEN & HOOVER, P.A.
Jefferson Building
Two East Fayette Street
Baltimore, MD 21202

RE: Civil Action No. 3-C-95-5779
ROBERT JOHNSON

Dear Ms. Hitt:

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

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

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

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

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Robert Johnson



02:37:11 AM '95

PETITION OF
ROBERT JOHNSON
10729 Davis Avenue
Woodstock, MD 21146

Petitioner

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204
Case No. 95-52-SPHA
IN THE MATTER OF THE
APPLICATION OF
ROBERT JOHNSON - PETITIONER
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTH SIDE DAVIS AVENUE
329' SOUTHEAST OF ACME AVENUE
(10729 DAVIS AVENUE)
2ND ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CIVIL CASE NO.

3-C 95-5779

* * * * *

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

Robert Johnson, Petitioner, pursuant to Maryland Rule 7-201, et seq., hereby requests judicial review of the Final Opinion and Order (the "Decision") of the County Board of Appeals of Baltimore County issued in the above-referenced case on May 31, 1995.

The Petitioner was a party to the proceeding to the County Board of Appeals of Baltimore County pursuant to which the Decision was issued.

The Decision by the County Board of Appeals of Baltimore County issued in its Final Opinion and Order on May 31, 1995,

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

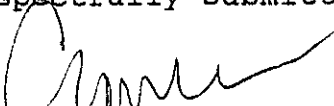
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denied the Petitioner's Petition for Special Hearing seeking approval to develop Parcels 2 and 3 of the subject property as a single undersized lot.

Petitioner requests such other and further relief as the nature of this cause may require.

Respectfully submitted,



CYNTHIA K. HITT
Siskind, Grady, Rosen & Hoover, P.A.
2 E. Fayette Street
Baltimore, Maryland 21202
(410) 539-6606
Attorneys for the Petitioner

FILE COPY

IN THE MATTER OF THE * BEFORE THE
 THE APPLICATION OF * COUNTY BOARD OF APPEALS
ROBERT JOHNSON -PETITIONER *
 FOR A SPECIAL HEARING AND * OF
 VARIANCE ON PROPERTY LOCATED *
 ON THE SOUTH SIDE DAVIS AVENUE *
 329' SOUTHEAST OF ACME AVENUE * BALTIMORE COUNTY
 (10729 DAVIS AVENUE) *
 2ND ELECTION DISTRICT * CASE NO. 95-52-SPHA
 1ST COUNCILMANIC DISTRICT *
 * * * * *

O P I N I O N

This matter comes before this Board on appeal from a decision of the Zoning Commissioner in which the Petition for Special Hearing was granted. Prior to the hearing, the Petition for Variances was withdrawn.

The Property Owner, Robert Johnson, desires to build a house on an undersized lot that he owns. Mr. Johnson actually owns three abutting parcels. Parcel one is 1.038 acres in area and is improved with an existing house. Mr. Johnson resides on this property. The second parcel is to the rear of parcel one on Davis Avenue and contains approximately .819 acre. Parcel three is undeveloped and is a long, narrow strip which abuts the southern borders of parcels one and two, and is approximately .118 acre in area. The Petitioner proposes combining lots two and three for development. However, the portion of lot three that abuts parcel two is the very narrow edge of the triangle and contains very little usable area. Mr. Johnson purchased this site one and one-half years ago, and it has been in his family for many years. The original deed contained five parcels. Adjacent to parcel one, a lot was subdivided out along Acme Avenue. It was sold and developed. Adjacent to parcel two, a lot was subdivided out along

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Acme Avenue, sold and developed. All of these parcels in the town of Granite were created in 1887, 1889 and 1922.

Cynthia Bowden, who was employed by Mr. Johnson as a surveyor, testified at length as to the areas and the metes and bounds and description of the property.

Testifying in opposition to the petition was Steve Goodmuth, a cartographer with the Department of Natural Resources and a map maker who took photographs of the site, researched the tax records, did a title search entered as an exhibit, and evidenced his concerns as to the reported well problems and drainage problems in the neighborhood, and testified that a bad precedent would be established if the subject property was subdivided any further.

Testifying in opposition to the granting the Petition, and noting their personal well problems, sewerage problems, drainage problems and water problems were: Russell Frizzell, a 33-year resident and neighbor; Robert Bopst, who testified at length as to sewerage problems; Christopher Lentz, noting that his well almost failed and that his neighbor's did; Jamie Lentz, who testified that she feared the effect of a new well on her well; and Anna Anderson, who testified to the historical aspects of the area.

From the testimony and evidence presented, the Board reaches the following conclusions. No legitimate reason exists for any further subdivision of this small parcel with evidence of well and sewerage system problems. Mr. Johnson merely is desirous of building a house on a lot that is considerably less than the required one-acre area. The Board is of the opinion that to grant

this request is only going to create more water and sewerage problems for the neighbors on all sides, and therefore will deny the variance, and will so order.

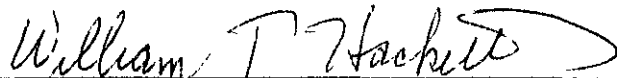
O R D E R

IT IS THEREFORE this 31st day of May, 1995 by the County Board of Appeals of Baltimore County


ORDERED that the Petition for Special Hearing seeking approval to develop parcels 2 and 3 of the subject property as a single undersized lot be and the same is hereby DENIED.

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

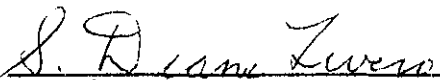
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



William T. Hackett, Acting Chairman



Kristine K. Hewanski



S. Diane Levero

[Handwritten mark]

IN RE: PETITIONS FOR SPECIAL HEARING & * BEFORE THE
 ZONING VARIANCE *
 S/S Davis Ave., 329 ft. SE of * ZONING COMMISSIONER
 Acme Avenue *
 10729 Davis Avenue * OF BALTIMORE COUNTY
 2nd Election District *
 1st Councilmanic District * Case No. 95-52-SPHA
 Robert Johnson *
 Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing and Variance for the property located at 10729 Davis Avenue in the Woodstock section of Baltimore County. The Petition is filed by Robert Johnson, property owner. As to the Petition for Special Hearing, the Petitioner owner requests a finding that development of parcels 2 and 3 of the subject property as a single undersized lot is permissible, pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR). As to the Petition for Variance, relief is requested from Section 1A04.3.B.1 of the BCZR to allow a single family dwelling on a property less than one acre. Also, variance relief is requested from Section 1A04.3.B.3 of the BCZR to permit a rear setback of 40 ft. in lieu of the required 50 ft., and a side yard setback of 20 ft. in lieu of the required 50 ft. All of the subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1A, the plat to accompany the Petitions for Special Hearing and Zoning Variance.

Appearing at the requisite public hearing was the property owner, Robert Johnson. Also present was Cynthia Bowden, a professional land surveyor from McKee and Assoc. Ms. Bowden prepared the site plan and testified on behalf of the Petitioner. Numerous residents of the subject locale appeared in opposition. They included Mr. and Mrs. Robert Bopst, L. Willie Kirkley, Christopher Lentz, Steven Goodmath, Russel Frizzell, Francis Fauth

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DATE

BY

12/16/95
M. Howard

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and Kahtleen Skullney. All of these Protestants reside nearby in the residential community of Woodstock and are neighbors of the subject property.

This case presents this Zoning Commissioner with yet another opportunity to address Section 304 of the BCZR; a provision which is frequently misapplied and misunderstood. A discussion of the impact of that section will follow, however, a brief recitation of the facts, which apparently are not at issue, is appropriate.

Mr. Johnson has been the owner of the subject property for approximately one year. He testified that he acquired same from his Aunt, a Mrs. Humphreys, and that the property has been in his family for over 100 years. His present holdings encompass three specifically identified parcels as shown on the site plan. Parcel No. 1 is 1.038 acres in area. It is presently improved with an existing house which fronts Davis Avenue. The rear yard contains three sheds. Mr. Johnson resides on this property. A second parcel is to the rear of parcel 1 from Davis Avenue. According to Ms. Bowden's testimony, it was surveyed as containing approximately .819 acres. Parcel 2 is undeveloped but is proposed for development for a single family residential dwelling. Parcel 3 is also presently undeveloped. It is a long narrow strip which runs along the southern borders of parcels 1 and 2 from Davis Avenue. This narrow strip of land is approximately .1118 acres in area. The Petitioner proposes combining lots 2 and 3 for development.

As shown on Petitioner's Exhibit Nos. 1A (the site plan) and 1B, (the title history summary), parcels 1 and 2 were originally parts of larger tracts. Specifically, parcel 1 originally included adjoining land to the north. However, some years ago, the property was subdivided and a northern section of parcel 1 was out conveyed. The northern piece is presently

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C. J. Spurd

RECORDED

owned by Gary T. Kirkley and is improved with a single family dwelling. Parcel 2 has a similar history. As is the case with parcel 1, an out conveyance was made many years ago and that lot is now under the ownership of Christopher C. Lentz. Mr. Lentz has also improved the property with a dwelling and resides thereon.

There was some conflict in testimony about the actual acreage of parcel 2. The Protestants' proffered that the deeds from the out conveyance of the Lentz property showed that the remainder of parcel 2 is approximately 6/10ths of 1 acre. This is slightly smaller than the testimony offered by Ms. Bowden as to the acreage computed by survey of .819 acres. In any event, it is agreed that parcels 2 and 3, when combined, would be less than 1 acre. Based on the accuracy of the survey, I find, as fact, that parcel 1 is indeed 1.038 acres and parcels 2 and 3, when combined, are .937 acres. Thus, the total Johnson holdings are 1.975 acres.

The property is zoned R.C.5. Pursuant to Section 1A04.3.B.1 of the BCZR, any lot in an R.C.5 zone must be 1 acre in area. It is also to be noted that that section of the BCZR regulates density in an R.C.5 zone and provides that the maximum gross residential density of a lot of record is .667 dwellings per acre.

As noted above, special hearing relief is requested pursuant to Section 304 of the BCZR. Section 304 governs use of undersized lots in Baltimore County. It is applicable to one family detached or semi-detached dwellings, which is proposed here. In essence, Section 304 is the County Council's attempt to establish uniform regulations for use of lots which are either of insufficient area or width. The Council, no doubt, recognized that there exists in Baltimore County a number of old lots which were created prior to the adoption of the first comprehensive set of zoning

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By: M. Bowden

regulations in 1955. Section 304 provides that if a lot of record existed prior to that date, it may be residentially developed in certain circumstances. In addition to having been in existence prior to 1955, the section requires that the owner of the lot not own sufficient adjoining land which, when combined with the undresized lot, would create a lot large or wide enough to satisfy the area and/or width requirements. Moreover, all other requirements of the height and area regulations of the BCZR must be complied with.

As I have stated in my evaluation of this section in other opinions, the mere request for an area variance would render the relief available through Section 304 inappropriate. That is, if the Petitioner requests a zoning variance from a setback regulation, for example, that Petitioner does not comply with Section 304.1.B which provides that all requirements of the height and area regulations are complied with. Clearly, a variance does not equate to satisfaction of a height and area requirement, rather, the grant of the variance relief is a lawful exception to the particular regulation.

I noted this conclusion at the public hearing to the Petitioner and his surveyor, Ms. Bowden. My remark solicited testimony from her to the effect that the variances requested (as to the rear and side yards) were not actually justifiable under law. Specifically, she testified that the variances were requested so that a house could be built with a garage and so as to provide an increased buffer for the septic system. However, most importantly, Ms. Bowden admitted that a house could be constructed to comply with the rear and side yard setbacks. It is clear, therefore, that the variance relief cannot be granted, in that the Petitioner has admittedly

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[Signature]

failed to satisfy the tests in Section 307 of the BCZR and those developed in the case law.

This being the case, it is, likewise, clear that relief is available under Section 304 of the regulations. If the proposed house is built without variances, the Petitioner satisfies all of the requirements of Section 304. That is, I find that the subject properties (combined lots 2 and 3) existed as lots of record prior to 1955. Moreover, without any variance relief granted, the Petitioner complies with all other requirements of the height and area regulations. Lastly, testimony was persuasive that the Petitioner does not own adjoining land which can be used to increase the area and/or width of lots 2 or 3, when combined. Thus, I find, as fact, that the Petitioner has satisfied the tests of Section 304.

A significant amount of testimony was offered by the Protestants about the effect of the application of Section 304. Specifically, the Protestants argued that relief should not be granted under Section 304 in this instance, because it would be contrary to the density requirements. I am appreciative of the density requirements in an R.C.5 zone, as noted above. However, in my view the application for relief under Section 304 is not an attempt to variance density. Sections 304 and 307 of the BCZR are entirely different sections intended to be applied by the County Council in different instances. Section 304 is strictly to be applied to residential development on older existing undersized lots. Variances, as provided in Section 307, are quite different. Although it is indeed true that Section 307 variances cannot be applied to density requirements, that is not what is attempted here. Rather, the Petitioner is proceeding under Section 304 which does allow the result requested.

12/6/90
M. Board

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Therefore, based on the testimony and evidence presented, I am persuaded to grant the Petition for Special Hearing. The Petitioner shall be permitted, in accordance with the provisions of Section 304, to construct a single family dwelling on lots 2 and 3. Let it also be noted that I am not troubled by the combination of parcels 2 and 3 for this purpose. This is the Petitioner's attempt to come as close as possible to the one acre lot minimum. The Protestants' argument, that the aggregation of parcels 2 and 3 is somehow contrary to the spirit of Section 304, is without merit. To the contrary, the combination of these two lots is within the spirit of Section 304.1.C. of the BCZR.

Therefore, having granted relief under the special hearing, the Petition for Variance must be denied. Let it first be noted that the request for variance relief as to the one acre lot minimum requirement is unnecessary and moot by the grant of the special hearing, pursuant to Section 304. However, as to the rear and side yard variances, they are denied based on the Petitioner's representative's own testimony as to the lack of practical difficulty and in view of my holding as to the Special Hearing.

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 in part and dismissed, in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6th day of December 1994, that, pursuant to the Petition for Special Hearing, approval to develop parcels 2 and 3 of the subject property as a single undersized lot, pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR), be and is hereby GRANTED; and,

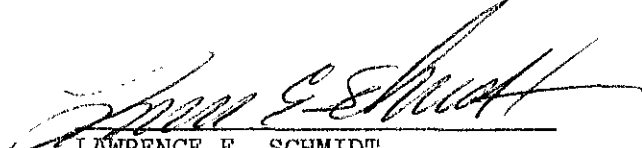
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2/26/94
M. Shook

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IT IS FURTHER ORDERED that a variance from Section 1A04.3.B.1 of the BCZR to allow a single family dwelling on a property less than one acre, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that a variance from Section 1A04.3.B.3 of the BCZR to permit a rear setback of 40 ft. in lieu of the required 50 ft., and a side yard setback of 20 ft. in lieu of the required 50 ft., be and is hereby DENIED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

FILED
12/6/98
M. Spont

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

December 2, 1994

Mr. Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

RE: Petitions for Special Hearing and Variance
Case No. 95-52-SPHA
Property: 10729 Davis Avenue

Dear Mr. Johnson:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Variance have been approved.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at the office of Zoning Administration and Development Management (ZADM), at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

cc: Ms. Cynthia B. Bowden, McKee & Assoc. Inc.
cc: Mr. and Mrs. Robert Bopst
cc: Mrs. Kathleen Skullney



8-31-74

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
PETITION FOR VARIANCE		
10729 Davis Avenue, S/S Davis Ave,	*	ZONING COMMISSIONER
329' SE of Acme Avenue, 2nd Election		
District, 1st Councilmanic	*	OF BALTIMORE COUNTY
Robert Johnson	*	CASE NO. 95-52-SPHA
Petitioner		
* * * * *		

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. Demilio
 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Cynthia B. Bowden, McKee & Associates, Inc., 257 E. Main Street, Westminster, MD 21157, representative for Petitioners.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

8-31-1994



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

95-52-SPHA

for the property located at

10729 Davis Avenue

which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve use of undersized single family lot (section 304.1). The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 ac) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay 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 restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

(Type or Print Name)

Robert Johnson
(Type or Print Name)

Signature

Signature

Address

(Type or Print Name)

City State Zipcode

Signature

Attorney for Petitioner

10729 Davis Avenue 461-8168
Address Phone No

(Type or Print Name)

Woodstock, Maryland 21163
City State Zipcode

Name, Address and phone number of representative to be contacted.

Signature

Cynthia B. Bowden
McKee & Associates, Inc.
Name

Address Phone No.

257 East Main Street, Westminster, MD
Address Phone No.

City State Zipcode

21157 **OFFICE USE ONLY** 840-8428

ESTIMATED LENGTH OF HEARING _____
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

34



100-100-100-100



Petition for Variance

to the Zoning Commissioner of Baltimore County

95-52-SPHA

for the property located at 10729 Davis Avenue

which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1A04.3B.1 to allow the construction of a single family dwelling on a property less than one acre in size. Section 1A04.3B.3 to permit a rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.

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

- 1) lot of record - Originally created in 1889 & 1922 (2 separate parcels), with an outsale in 1892.
- 2) setback variance to allow adequate building envelope to meet health department requirements for wells and septic system.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Robert Johnson

(Type or Print Name)

Signature

(Type or Print Name)

Signature

10729 Davis Avenue

Address

461-8168
Phone No.

Woodstock, Maryland 21163

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Cynthia B. Bowden

McKee & Associates, Inc.

Name

257 East Main Street, Westminster, MD

Address

21157

840-8428
Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

1 hr

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

CAM

DATE

10 Aug 94



Printed with Soybean Ink on Recycled Paper



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5A

SP44
95-52-~~1~~

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET

WESTMINSTER, MARYLAND 21157

Telephone: (410) 848 - 6468

(410) 840 - 8428

Facsimile: (410) 840 - 8429

Description of

ROBERT JOHNSON PROPERTY

10729 Davis Avenue

Woodstock, Maryland

2nd election district, Baltimore County

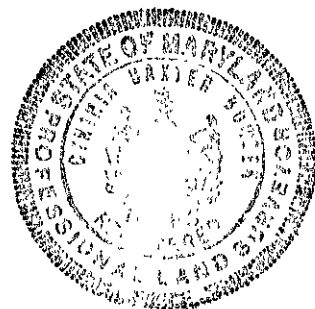
to accompany petitions for

VARIANCE AND SPECIAL HEARING

Beginning for the same in Davis Avenue, 329 feet, more or less, southeast of the centerline of Acme Avenue, thence running in Davis Avenue, as now surveyed, and referring the bearings of this description to the meridian established in the deeds,

- 1) South 33 degrees 26 minutes 58 seconds East 23.74 feet, thence leaving the road
- 2) South 65 degrees 05 minutes 00 seconds West 439.32 feet
- 3) North 35 degrees 00 minutes 00 seconds West 159.74 feet
- 4) North 54 degrees 27 minutes 57 seconds East 205.87 feet
- 5) South 35 degrees 00 minutes 00 seconds East 186.93 feet
- 6) North 62 degrees 00 minutes 00 seconds East 229.02 feet, to the beginning.

Containing 0.937 acres of land, more or less.



ENCLOSURE

54

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

95-52-SPHA

District 2nd Date of Posting 8/26/92

Posted for: Special Hearing & Variance

Petitioner: Robert Johnson

Location of property: 10729 Davis Ave, S/S

Location of Signs: Facing roadway, on property being zoned.

Remarks: _____

Posted by M. Stealy Date of return: 9/2/94
Signature

Number of Signs: 1



MICROFILMED

CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:

95-62-SPHA (Item 54)

10729 Davis Avenue

S/S Davis Avenue, 329'

SE of Acme Avenue

2nd Election District

1st Councilmanic

Petitioner(s):

Robert Johnson

HEARING: TUESDAY,

SEPTEMBER 20, 1994 at

2:00 P.m. in Rm. 118, Old

Courthouse.

Special Hearing: to approve the use of undersized single family lot. **Variance:** to allow the construction of a single family dwelling on a property less than one acre in size; and to permit a rear setback of 40 feet instead of the required 60 feet and a side setback of 20 feet instead of the required 50 feet.

LAWRENCE E. SCHMIDT,

Zoning Commissioner for

Baltimore County

NOTES: (1) Hearings are Hand-
icapped accessible; for special
accommodations Please Call
887-3353.

(2) For informa-
tion concerning the File and/or
Hearing, Please Call 887-3391.

8/270 August 25.

TOWSON, MD.,

8/26

, 19 94

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 8/25, 1994.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

Resubmission



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/neighbor property owners relative to property which is 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.: 54

Petitioner: Robert Johnson

Location: 10729 Davis Avenue, Woodstock, Maryland 21163

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Robert Johnson

ADDRESS: 10729 Davis Avenue
Woodstock, Maryland 21163

PHONE NUMBER: 461-8168

AJ:qgs

(Revised 04/09/93)



RECEIVED

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 70918

DATE 4/2/55 ACCOUNT 10000000

AMOUNT \$ 210.00

RECEIVED FROM: 10000000

FOR: 10000000

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 10/13/03 BY 60322/UC/STP/STP

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

(MICROFILMED)



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

receipt

95-52-SPHA

Account: R-001-6150

Number

54

CAM

Date

10 Aug 94

Robert Johnson
 10729 DAVIS AVE

010 - 50

030 - 50

(2) 080 - 70

170.00

MICROFILMED

03A03#0073NTCHRC

\$ 170.00

BA 0003#31PMOB-10-94

Please Make Checks Payable To: Baltimore County

Cashier Validation

PETITION OF: ROBERT JOHNSON

CIVIL ACTION # 3-C-95-5779

IN THE MATTER OF ROBERT JOHNSON

RECEIVED FROM THE COUNTY BOARD OF
APPEALS CERTIFIED DOCUMENTS, EXHIBITS
AND BOARD'S RECORD EXTRACT FILED IN
THE ABOVE-ENTITLED CASE.

PN
Clerk's Office

Date: 8/29/95

TO: PUTUXENT PUBLISHING COMPANY
August 25, 1994 Issue - Jeffersonian

Please forward billing to:

Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163
461-8168

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-52-SPHA (Item 54)
10729 Davis Avenue
S/S Davis Avenue, 329' SE of Acme Avenue
2nd Election District - 1st Councilmanic
Petitioner(s): Robert Johnson
HEARING: TUESDAY, SEPTEMBER 20, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of undersized single family lot.
Variance to allow the construction of a single family dwelling on a property less than one acre in size; and to permit a rear setback of 40 feet instead of the required 50 feet and a side setback of 20 feet instead of the required 50 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

RECEIVED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 19, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-52-SPHA (Item 54)

10729 Davis Avenue

S/S Davis Avenue, 329' SE of Acme Avenue

2nd Election District - 1st Councilmanic

Petitioner(s): Robert Johnson

HEARING: TUESDAY, SEPTEMBER 20, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of undersized single family lot.

Variance to allow the construction of a single family dwelling on a property less than one acre in size; and to permit a rear setback of 40 feet instead of the required 50 feet and a side setback of 20 feet instead of the required 50 feet.

A handwritten signature in cursive script that reads "Arnold Jablon".

Arnold Jablon
Director

cc: Robert Johnson
McKee & Associates, Inc.

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

MICROFILMED





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

January 31, 1995

NOTICE OF ASSIGNMENT

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

CASE NO. 95-52-SPHA

ROBERT JOHNSON - Petitioner
S/s Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District

SPH -Development of parcels 2 and 3 as single undersized lot; VAR -rear and side yard setbacks; lot size.

12/06/94 -Z.C.'s Order in which Petition for Special Hearing is GRANTED; Petition for Variance DISMISSED AS MOOT as to lot size; DENIED as to setbacks.

NOTE: Appealed as to Special Hearing grant only.

ASSIGNED FOR: TUESDAY, MAY 16, 1995 at 10:00 a.m.

cc: Kathleen Skullney, Esquire Appellant /Protestant
Mr. & Mrs. Robert Bopst /Protestants
Mr. Robert Johnson Petitioner
Cynthia B. Bowden /McKee & Associates
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

ENCLOSURE

Kathleen C. Weidenhammer
Administrative Assistant

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



RECEIVED

FEB 2 1995

ZADM



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

April 29, 1996

NOTICE OF ASSIGNMENT /On Remand from Circuit Court

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. 95-42-SPHA

ROBERT JOHNSON
10729 Davis Avenue, S/s Davis Avenue
2nd E; 2nd C

RE: Remand Order of the Circuit Court for
Baltimore County

3/11/96 -Remanded to CBA for resolution of
principal issue per the Court's Order (Judge
John J. Fader, II).

Scheduled for public deliberation and resolution of issues and final decision of the Board pursuant to Judge Fader's Remand Order; and has been

ASSIGNED FOR: WEDNESDAY, MAY 29, 1996 at 9:30 a.m.

cc: Kathleen Skullney, Esquire
Mr. & Mrs. Robert Bopst
Cynthia K. Hitt, Esquire
Robert Johnson
People's Counsel for Baltimore County
Pat Keller
Lawrence M. Schmidt
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEP. 07 1994

Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

RE: Item No. 54, Case No. 95-52-SPHA
Petitioner: Robert Johnson

Dear Mr. Johnson:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 10, 1994 and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- 1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.
- 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.

Very truly yours,

A handwritten signature in cursive script that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Zoning Coordinator

WCR:ggs



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Gwen Stephens, ZADM
DATE: August 26, 1994

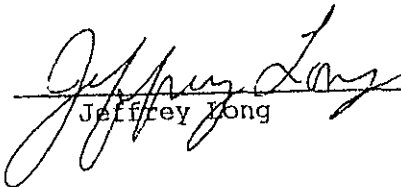
FROM: Jeffrey Long
Office of Planning & Zoning

SUBJECT: Zoning Advisory Comments

Please be advised that additional time is required to review the following
Petitions:

ITEM NOS. 41, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60,
and 61.

Please contact me if you have any questions or require additional information.


Jeffrey Long

JL:bjs

RECEIVED

AUG 29 1994

ZADM

STEPHENS.JL/PZONE/ZAC1

MICROFILMED

95-52

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: August 29, 1994
Zoning Administration and Development Management

FROM: *Pub* Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for August 29, 1994
Item No. 54

The Developers Engineering Section has reviewed the subject zoning item. Per Section 22-85 of Article IV of the County Code, the Development Regulations, Panhandle Driveways, Subsection (a), each lot of less than 3 acres shall include an in-fee strip of land providing access to the local street. The panhandle fee strip shall be a minimum of 20 feet in width to serve one lot. See Department of Public Works Standard Plate R-47, Panhandle Driveway - Rural Zone, for details.

The existing ground slopes at an 18% to 20% grade. Verify stream location along southwest property line.

RWB:sw

NOT RECORDED



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

8-19-94

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

Re: Baltimore County
Item No.: 54 (CAM)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for David Ramsey, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 29, 1994

95-52

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos.: 48, 49, 53, (54), 57, 58, 61, 62, 63, 64, 67, and 70.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

PK:JL:bjs

ZACITEMS.NC/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

95.52

August 30, 1994

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

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #54 - Johnson Property
10729 Davis Avenue
Zoning Advisory Committee Meeting of August 22, 1994

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

Environmental Impact Review

Development of the property must comply with Article X of the Baltimore County Code, "The Forest Conservation Act."

Ground Water Management

Soil percolation tests have been completed. Prior to conveyance, a well meeting the minimum Baltimore County standards must be drilled.

✓
JLP:MK:TE:sp

JOHNSON/DEPRM/TXTSBP

MICROFILMED

9/20
95-52-5P11A

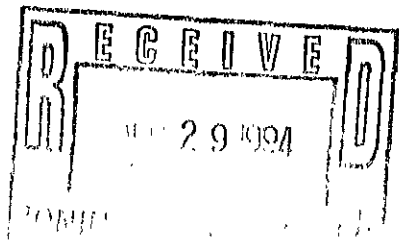
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 29, 1994

FROM: Pat Keller, Director
Office of Planning and Zoning



SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos.: 48, 49, 53, 54, 57, 58, 61, 62, 63, 64, 67, and 70.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

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

PK:JL:bjs

APPROVED

**INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM**

TO: Director, Office of Planning and Zoning
Attn: Ervin McDaniel
County Courts Bldg, Rm 406
401 Bosley Av
Towson, MD 21204

B _____
Permit Number

FROM: Arnold Jablon, Director, Zoning Administration and Development Management

RE: Undersized Lots

Pursuant to Section 304.2(Baltimore County Zoning Regulations) effective June 25, 1992; this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

Robert Johnson 10729 Davis Avenue, Woodstock, MD 21163 461-8168
Print Name of Applicant Address Telephone Number

Lot Address 10729 Davis Avenue **Election District** 2 **Council District** 1 **Square Feet** 40,839.7 sq.ft. 0.937 acre

Lot Location: N E S (W) side / corner of Davis Avenue, 329 feet from N E S (W) side of Acme Avenue
(street) (street)

Lead Owner Robert Johnson **Tax Account Number** 02-08800000

Address 10729 Davis Avenue **Telephone Number** 461-8168
Woodstock, Maryland 21163

CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning) **PROVIDED?**

	YES	NO
1. This Recommendation Form (3 copies)	<u>X</u>	_____
2. Permit Application	_____	<u>X</u>
3. Site Plan	<u>X</u>	_____
Property (3 copies)	_____	_____
Topo Map (available in Rm 204 C.O.B.) (2 copies) <small>(please label site clearly)</small>	<u>X</u>	_____
4. Building Elevation Drawings	<u>X</u>	_____
5. Photographs (please label all photos clearly)		
Adjoining Buildings	<u>X</u>	_____
Surrounding Neighborhood	<u>X</u>	_____

Residential Processing Fee Paid
Codes 030 & 080 (1985)

Accepted by: _____
 ZKM

Date: _____

*See item #
54
ZAC AGENDA*

TO BE FILLED IN BY THE OFFICE OF PLANNING AND ZONING ONLY!

RECOMMENDATIONS/COMMENTS:

Approval **Disapproval** **Approval conditioned on required modifications of the permit to conform with the following recommendations:**

Signed by: Francis Mowey
for the Director, Office of Planning & Zoning

Date: August 23, 1994

SCHEDULED DATES, CERTIFICATE OF FILING AND POSTING
FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

The application for your proposed Building Permit Application has been accepted
for filing by _____ on _____
Date (A)

A sign indicating the proposed Building must be posted on the property for
fifteen (15) days before a decision can be rendered. The cost of filing is
\$50.00 and posting \$35.00; total \$85.00.

In the absence of a request for public hearing during the 15-day posting period,
a decision can be expected within approximately four weeks. However, if a valid
demand is received by the closing date, then the decision shall only be rendered
after the required public special hearing.

*SUGGESTED POSTING DATE _____ D (15 Days Before C)

DATE POSTED _____

HEARING REQUESTED-YES _____ NO _____ -DATE _____

CLOSING DAY (LAST DAY FOR HEARING DEMAND) _____ C (B-3 Work Days)

TENTATIVE DECISION DATE _____ B (A + 30 Days)

*Usually within 15 days of filing

CERTIFICATE OF POSTING

District _____

Location of property: _____

Posted by: _____ Date of Posting: _____
Signature

Number of Signs: _____

CK/UNDER.LOT (TXTSOPH)

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

January 5, 1995

Mr. Robert Johnson
10729 Davis Avenue
Woodstock, MD 21163

RE: Petition for Special Hearing
S/S Davis Avenue, 329 Ft SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District
Robert Johnson-Petitioner
Case No. 95-52-SPHA

Dear Mr. Johnson:

Please be advised that an appeal of the above-referenced case was filed in this office on December 16, 1994 by Kathleen Skullney. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

A handwritten signature in cursive script that reads "Arnold Jablon".

ARNOLD JABLON
Director

AJ:jaw

Ms. Cynthia B. Bowden
Mr. and Mrs. Robert Bopst
People's Counsel

10/11/95

APPEAL

Petition for Special Hearing (only)
S/S Davis Avenue, 329 Ft. SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District - 1st Councilmanic District
Robert Johnson-PETITIONER
Case No. 95-52-SPHA

Petition(s) for Special Hearing (only)

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Protestant(s) Sign-In Sheets

Undersize Lot Recommendation Form

Copy of Plan Number 34011

Copy of Elevation Map

Ten Photographs (not marked as an exhibit)

Petitioner's Exhibits: 1A- Plat to Accompany Petitions for
Variance and Special Hearing
1B- Title History for Robert D. Johnson

Protestant's Exhibits: 1 - Petition from the Woodstock-Granite
Residence

Zoning Commissioner's Order dated December 6, 1994 (Granted)

Notice of Appeal received on January 4, 1994 from Kathleen S.
Skullney

c: Kathleen S. Skullney, Esquire, 10813 Davis Avenue, Granite, 21163
Ms. Cnythia B. Bowden, McKee & Associates, Inc., 257 East Main
Street, Westminster, MD 21157
Mr. and Mrs. Robert Bopst, 10721 Davis Avenue, Baltimore, MD 21163
Mr. Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM

REPROFILMED

ROBERT JOHNSON

95-52-SPHA

RE: Petitions for Special Hearing and Variance

	Petition for Special Hearing to approve the use of undersized single family lot.
September 20	Hearing held on Petition by the Zoning Commissioner.
December 6	Order of the Zoning Commissioner in which Petition for Variance was DISMISSED AS MOOT; Petition for Special Hearing was DENIED.
December 14	Notice of Appeal filed by Kathleen S. Skullney.
May 16, 1995	Hearing before the Board of Appeals.
May 31	Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.
June 29	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Cynthia K. Hitt, Esquire, on behalf of Robert Johnson.
July 11	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
July 11	Certificate of Notice sent to interested parties.
August 29, 1995	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
March 11, 1996	Order remanding case to Board of Appeals for clarification per Order issued by Circuit Court (John F. Fader, II, J.).
March 20	Letter from Cynthia Hitt, Esquire, regarding above remand order. /cy to K & M 4/22/96
April 15	Letter from P. Zimmerman in response to above letter from Ms. Hitt. /cy to K & M 4/22/96
April 25	Letter from K. Skullney, Esquire, concurring with People's Counsel, and responding to Ms. Hitt's letter.
April 29	Notice of Assignment /on remand from Circuit Court /scheduled for deliberation and resolution of issues raised; scheduled for Wednesday, May 29, 1996 at 9:30 a.m.

10/1/96

Page 2 /Robert Johnson 95-52-SPHA

May 29, 1996 Deliberation by Board consisting of two members (Howanski and Levero) by agreement of all parties of record. Clarified matter on remand; approval sought in Petition for Special Hearing DENIED. Copies of Minutes to be provided to counsel.

May 30 Copy of Minutes of Deliberation sent to counsel for parties of record; written Opinion on Remand to be issued; appellate period to run from date of that written, final Order.

ROBERT JOHNSON

95-52-SPHA

RE: Petitions for Special Hearing and Variance

Petition for Special Hearing to approve the use of undersized single family lot.

September 20 Hearing held on Petition by the Zoning Commissioner.

December 6 Order of the Zoning Commissioner in which Petition for Variance was DISMISSED AS MOOT; Petition for Special Hearing was DENIED.

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March 20 Letter from Cynthia Hitt, Esquire, regarding above remand order. /cy to K & M 4/22/96

April 15 Letter from P. Zimmerman in response to above letter from Ms. Hitt. /cy to K & M 4/22/96

April 25 Letter from K. Skullney, Esquire, concurring with People's Counsel, and responding to Ms. Hitt's letter.

B A L T I M O R E C O U N T Y , M A R Y L A N D

Inter-Office Correspondence

TO: K. Howanski
D. Levero

DATE: April 22, 1996

FROM: Kathi

SUBJECT: Robert Johnson /Remanded to the Board by Judge Fader
(2 members remaining of panel /B. Hackett was 3rd)

Attached for your information and review are the following listed documents relative to the subject remand.

By way of a brief background, this was the last case on which Bill Hackett sat as a member of the Board; the special hearing was denied by the Board (approval to develop parcels 2 and 3 as single undersized lot) on May 31, 1995; and an appeal taken to the Circuit Court by the Petitioner. This matter has now been remanded to the Board by Judge Fader by Order dated March 11, 1996.

- Attached are copies of:
- 1) The Board's 5/31/95 Opinion/Order
 - 2) Judge Fader's 3/11/96 Remand Order
 - 3) Letter from Cynthia Hitt, attorney for Mr. Johnson, regarding amendments to Petition as originally filed; and
 - 4) Response to above 3/20/96 letter from Peter Zimmerman relative to the Court's Remand and the grounds for same.

Also, by way of information, both of you are scheduled to sit on Wednesday, May 29, 1996 (industrial waste cases /Ms. Desserts) starting at 10:00 a.m.

Should you have any questions or require your notes, etc., in this matter, please let me know.

Attachments

MICROFILMED



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 15, 1996

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
10729 Davis Avenue, S/S Davis
Ave., 29' SE of Acme Ave., 2nd
Election Dist., 1st Councilmanic
ROBERT JOHNSON, Petitioner
Circuit Court Case No.
3-C-95-5779
CBA Case No. 95-52-SPHA

Dear Mr. Chairman:

The Petitioner in the above-captioned case sought relief under BCZR Section 304 (Undersized lot) to construct a second dwelling on premises located in the historic area of Granite in the western area of Baltimore County. The CBA denied the relief in a decision dated May 31, 1995.

Petitioner appealed to the Circuit Court. He had initially challenged the appeal to the County Board of Appeals noted by Kathleen Skullney, a duly licensed attorney who also resides in the neighborhood. Ms. Skullney participated in the Zoning Commissioner's hearing. Many other neighbors also participated in both the Zoning Commissioner's hearing and the hearing before the CBA. Our office participated in the CBA hearing.

The CBA denied the Petitioner's objection to standing. The Circuit Court likewise heard oral argument on this issue and affirmed the Board's position that a proper appeal was taken from the decision of the Zoning Commissioner to the CBA.

RECORDED
INDEXED

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
April 15, 1996
Page Two

The Protestants objected to the relief requested because the Petitioner failed to satisfy BCZR Sections 304.1A and 304.1C, which state as follows:

"Section 304 -- USE OF UNDERSIZED SINGLE-FAMILY LOTS
[B.C.Z.R., 1955; Bill No. 47, 1992.]

- 304.1 A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:
- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; {B.C.Z.R., 1955; Bill No. 47, 1992.}
 - B. All other requirements of the height and area regulations are complied with; and {B.C.Z.R., 1955.}
 - C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. [B.C.Z.R., 1955; Bill No. 47, 1992.]"

It is clear from the decision of the Circuit Court that the Court was troubled by the inadequacy of the findings in the written opinion of the CBA. There was no assertion by the Court that the decision was erroneous. Otherwise, the CBA decision would have been reversed. Rather, the Court stated it was not able to determine, under the standards of United Steelworkers v. Bethlehem Steel, 298 Md. 665 (1984), whether the Board made the proper findings of fact to determine if Section 304.1A was satisfied by the Petitioner. Having reached that conclusion, the Court determined it could proceed no further on the merits, including a determination whether Section 304.1C was satisfied.

The Petitioner now seeks to amend his Petition to delete Lot 3 from the relief requested, under a misguided belief that such action will "cure" any objection by the Circuit Court. In effect, the proposed dwelling will be located on an even smaller lot than the one acre minimum. This new proposal, set forth in Petitioner's counsel's letter to the Board dated March 20, 1996, is illegal and insufficient for the following reasons:

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
April 15, 1996
Page Three

1. The letter fails to address the application of Section 304.1C. In addition to Lots 2 and 3, the Petitioner owns adjoining Lot 1, on which a dwelling is constructed. This provision alone disqualifies Petitioner from seeking the requested relief.

2. The effective combination of two parcels (Lots 2 and 3) as a single lot on which a dwelling will be constructed is not a "semantics" issue under Section 304.1A. The purpose of this section is to limit relief to those rare instances where a pre-March 30, 1955 single undeveloped lot existed intact through changes in the applicable zoning regulations. Petitioner's attempt to convey both lots in a single deed or in separate deeds to the same buyer for the proposed construction, without combining the descriptions, is nothing more than a "semantics" sham to avoid compliance with Section 304.1A. There is nothing in the Circuit Court opinion to suggest that such a proposal is legitimate.

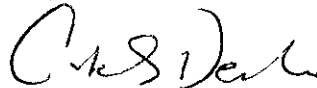
3. Petitioner also proposes, as an alternative, to "withdraw Parcel 3 from consideration altogether." Such an amendment is new relief and may not be considered by the Board in the manner proposed by Petitioner. (See People's Counsel v. Mangione, 85 Md.App. 738 (1991).)

We propose that the Circuit Court's Remand Order is nothing more than a request for further clarification of the application of Section 304.1 to the facts of the case to support the Board's denial of the Petition.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

CSD/caf

cc: Cynthia K. Hitt, Esquire

Kathleen S. Skullney, Esquire



County Board of Appeals of Baltimore County

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

April 25, 1996

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 95-52-SPHA
Robert Johnson -Petitioner

Dear Mr. Zimmerman:

I am in receipt of your April 16, 1996 letter with reference to the above matter.

Since two of the Board members who sat on the instant case continue on the Board, and inasmuch as I was not a member constituting the panel for that particular case, I have forwarded your letter to the two remaining Board members as though it were addressed to them. The two remaining Board members will resolve the remand issues outstanding in this case.

Very truly yours,


Robert O. Schuetz, Chairman
County Board of Appeals

cc: Cynthia K. Hitt, Esquire
Kathleen S. Skullney, Esquire



File safe



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 9, 1996

Kristine K. Howanski, Esquire
Ms. S. Diane Levero
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
10729 Davis Avenue, S/S Davis
Ave., 29' SE of Acme Ave., 2nd
Election Dist., 1st Councilmanic
ROBERT JOHNSON, Petitioner
Circuit Court Case No.
3-C-95-5779
CBA Case No. 95-52-SPHA

Dear Ms. Howanski and Ms. Levero:

We are in receipt of your notice setting in the above-captioned matter before the Board for May 29, 1996 at 9:30 a.m., pursuant to the Remand Order of Judge John Fader.

As you will recall, the third panel member of the County Board of Appeals who heard the case on the merits is no longer a member of the Board.

We believe Board of Appeals Rule 1C in Appendix G of BCZR (adopted by the County Council), and Article VI of the County Charter apply. This Rule requires a panel of three (3) members to conduct Board business. Only in the event of death or illness of a sitting Board Member may the remaining two (2) Board Members continue with the matter at hand, if counsel or parties of record agree (emphasis added).

Fortunately, the situation at hand does not involve illness or death. However, there is no authority which would permit the remaining two (2) Board Members to proceed on the Remand Order under the present circumstances.

Hand-delivered

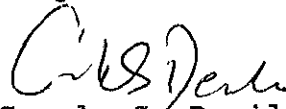
Kristine K. Howanski, Esquire
Ms. S. Diane Levero
Board of Appeals of Baltimore County
May 9, 1996
Page Two

If the Board permits, we will present additional oral
argument on May 29.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

CSD/caf

cc: Cynthia K. Hitt, Esquire

Kathleen S. Skullney, Esquire

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION
ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF: Robert Johnson -Petitioner
Case No. 95-42-SPHA
(Circuit Court Case No. 3-C-95-5779

DATE : May 29, 1996 @ 9:30 a.m.

BOARD /PANEL : Kristine K. Howanski (KKH)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Among those present at the deliberation were Cynthia K. Hitt, Esquire, on behalf of Robert Johnson; Kathleen Skullney, Esquire, on behalf of Mr. & Mrs. Robert Bopst; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

PURPOSE --for public deliberation and resolution of issues and final decision of the Board pursuant to Remand Order of the Circuit Court for Baltimore County (The Honorable John J. Fader II).

KKH: We are here to deliberate Case No. 95-42-SPHA, Robert Johnson. This is pursuant to the Remand Order of the Circuit Court for Baltimore County by Order dated March 11, 1996 of The Honorable John Fader.

After the case was closed, we did receive a letter by Ms. Hitt dated March 20, 1996, seeking to amend the application. The practice of the Board has been, and I think logically so it must be, that the case is closed. We are not at liberty to consider a different iteration at this time, and we must proceed with the case as it stood back before us at the original hearing.

We also are in receipt of a letter by People's Counsel dated May 9, 1996, alerting us to the jurisdictional limitations as set forth in the Board of Appeals Rule 1c in Appendix G of the BCZR, and that rule requires a panel of three members to conduct Board business. Only in the event of death or illness of a sitting member can we proceed with the matter at hand, providing counsel of record or parties agree. My thought on this is that whether the rule is applicable or not, it is clear that we cannot proceed in either event with only two Board members, absent the agreement of counsel for the parties of record. My understanding is that we do have agreement of

Deliberation /Robert Johnson /95-42-SPHA

counsel at this time, and I would invite them to tell me to the contrary right now so the record may reflect that, if that is not the case.

Not hearing any objection, I want the record, at least in our notes, to reflect that we are proceeding with two Board members, with the agreement of counsel and with the understanding that our deliberations today will be a nullity if the two Board members cannot come to an agreement on the matter.

I believe that dispenses with the preliminary issues, and I will now address what is truly the deliberation portion of the case. And when I do this, I will preface it, as I have been since I don't like speaking a long time on it, I just take traditional note of Larry Stahl's objection to public deliberation, and ask that it be set forth -- that my statement is that I adopt his objection to it - is enough to have it set forth in our deliberation today.

As I read Judge Fader's remand, the question is quite limited and does not actually close the case. It's more a matter of tying up a potential loose end. And that is, he was struck by the utter silence in our record of the operation or how we dealt with the grandfathering provisions of 304.1A, and the issue, while simple, does have its own consequences. And I will tell you, Diane, that when I looked at it, and my notes at least, was that had parcel 2 stood alone, I would have considered that a lot that was potentially eligible for consideration under 304.1A. But it did not come to us in that particular posture. It came to us with a desire to combine parcels 2 and 3, and my sense of it was that it took that parcel out of the old situation.

That is, they were trying to put the two together, creating a new lot, and have that lot considered on its own merits. So I would view the combination of parcel 2 and parcel 3 as a new lot for that reason.

On the other hand, and I guess what I need to say, since I am in this position now, is that either way, I think it still begs the question. That is, whether we just end the inquiry there -- cannot really end it -- or whether it is grandfathered in, it still needs to jump through the hoops of remaining zoning laws. And the issue here is whether or not it jumps through the hoops of 304.1C.

Section 304.1C is the requirement when they go ahead and permit one family dwelling, detached or semi-detached, to be erected on a lot of less than one acre -- that the owner of

Deliberation /Robert Johnson /95-42-SPHA

the lot does not own adjacent adjoining lot to conform to the width and area requirements contained in these regulations. My reading of this statute, coupled actually with, I believe, the landowners' understanding of what they purchased at the time, was that this was to -- and the logic behind it -- this was to enable an unfortunate landowner who had purchased a single undersized lot and now there are new requirements and as a technical matter, they would not be allowed to develop that one lot they purchased. This was intended to aid that person not being able to put a home on that lot. Here, we have somebody who in fact has three parcels, and already has a home on the first parcel. So, I do not view this Petitioner as somebody who would be able to avail themselves of this relief.

And so for those reasons, I would clarify that I would view the combining of the two parcels as the creation of a new lot, but that I would go on further to argue that 304.1C would knock this particular Petitioner out of the box because of the adjoining land issue. And I do so, again, because I believe that the purpose of the section was to help that person with an undeveloped parcel that may find themselves unable to build a home on that lot.

I would then clarify our position in that fashion, and come up with the same result that we came up with.

SDL: Well, Parcels 2 and 3 were lots duly recorded by deed before 1955. The main question in my mind was because they were conveyed along with Parcel 1 in the original deed -- did that constitute creation of a new lot; and thus cannot be grandfathered to allow a house on less than one acre. People's Counsel argue that subsequent to 1955 there has been rearrangement of the lot line - does not comply with Section A. Because the deed conveys these parcels together, they are treated as one piece of property, and a new lot has been created. The previous deeds have been substituted and ability to build does not apply.

Further, whether or not Petitioner has met 304.1A, he certainly did not meet 304.1C; he is the owner of Parcels 2 and 3 and owns sufficient land to conform to one acre minimum in R.C. 5. Parcel 1 is comprised of 1.03 acres; already has a house. Petitioner has not met 304.1 and cannot build. Petitioner has a total of 1.975 acres of contiguous land; he has a reasonable use of his property, which is the intent of 304.1.

Other than that, for that reason, I would deny the petition.

Deliberation /Robert Johnson /95-42-SPHA

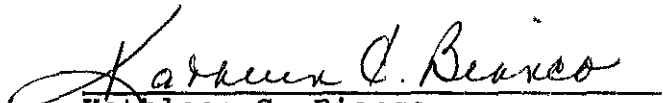
I just would mention that I agree with you that Cynthia Hitt's (counsel for petitioners) letter of March 20th tries to amend this petition, and in my opinion, we are reviewing a matter on remand, and cannot consider amendments. I will add that the proposed amendments would not change my position to deny the petition because it still would not comply.

KKH: We appear to be unanimous because we do agree that act of seeking two and three as a lot -- it was the creation of a new lot. This took it out of the grandfathering provisions. Also, we are in agreement that either way, we are not satisfied that 304.1C has been satisfied. So even if it had gotten far enough -- it would still have a problem. We are in accord. We will go ahead and issue this clarification.

That closes this deliberation.

* * * * *

Respectfully submitted,


Kathleen C. Bianco
Administrative Assistant

10-11-95 10:00 AM



County Board of Appeals of Baltimore County

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

May 30, 1996

Kathleen S. Skullney, Esquire
WOODWARD, BUTLER & SKULLNEY, LLC
403 Allegheny Avenue
Towson, MD 21204

Cynthia K. Hitt, Esquire
SISKIND, GRADY, ROSEN & HOOVER, P.A.
Jefferson Building
Two East Fayette Street
Baltimore, MD 21202

Peter Max Zimmerman, People's Counsel
for Baltimore County
Carole S. Demilio, Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: REMAND /Case No. 95-42-SPHA
Robert Johnson /Deliberation
Civil Action No. 3-C-95-5779

Dear Counsel:

As indicated by the Board on May 29, 1996, at the deliberation of the subject matter on remand from the Circuit Court, enclosed please find a copy of the Minutes of Deliberation for your information and file.

The Board's Opinion on Remand, which will constitute the Board's final Order in this matter, will be issued within the next couple of weeks, and a copy sent to all parties of record upon issuance.

Very truly yours,


Kathleen C. Bianco
Administrative Assistant

encl

cc: Virginia W. Barnhart, County Attorney w/enclosure



LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202

A. HERMAN SISKIND (1888-1984)
FRANCIS B. BURCH (1918-1987)

ARVIN E. ROSEN
DENNIS J. HOOVER
BRUCE D. BROWN
BRADFORD I. WEBB (FL, MD)
BARRY F. LEVIN (DC, MD)

ANDREW L. HARTMAN (PA, MD)
CYNTHIA K. HITT
DANIEL E. SYKES
CINDY R. DIAMOND
ANNE L. JOHNSON

TELEPHONE
(410) 539-8808, BALTIMORE, MD
(202) 887-0843, WASHINGTON, D.C.
TELEFAX NO. (410) 332-0289

OF COUNSEL
J. HAROLD GRADY
DANIEL H. BORINSKY (VA)

May 2, 1995

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

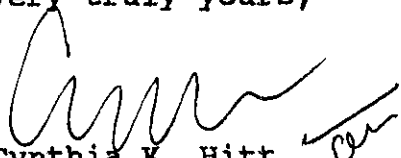
Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

Dear Sir/Madam:

Please enter the appearance of Siskind, Grady, Rosen & Hoover, P.A. and Cynthia K. Hitt, on behalf of the Petitioner, Robert Johnson in the above-referenced matter.

Should you have any questions, please do not hesitate to contact this office.

Very truly yours,


Cynthia K. Hitt

CKH:kc
1525.01
cc: Robert Johnson

95 MAY -3 PM 11:20

MICROFILMED

HKM

LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202

A. HERMAN SISKIND (1888-1984)
FRANCIS B. BURCH (1918-1987)

ARVIN E. ROSEN
DENNIS J. HOOVER
MILLARD S. RUBENSTEIN
BRUCE D. BROWN
BARRY F. LEVIN (DC, MD)
THOMAS D. RENDA (VA, DC, MD)

TELEPHONE
(410) 538-8606, BALTIMORE, MD
(202) 887-0843, WASHINGTON, D.C.
TELEFAX NO. (410) 332-0269

COUNSEL TO THE FIRM
WILLIAM L. SISKIND

CYNTHIA K. HITT
DANIEL E. SYKES
CINDY R. DIAMOND
ANNE L. JOHNSON

OF COUNSEL
J. HAROLD GRADY
ELIOT M. WAGONHEIM
DANIEL H. BORINSKY (VA)
BRIAN J. FRANK, P.A.

March 20, 1996

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

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Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

Dear Board Members:

This letter is written on behalf of my client, Mr. Robert Johnson. We are in receipt of the Circuit Court's Order remanding the case to the Board of Appeals for a decision on issue.

As the Board is aware, Mr. Johnson is seeking approval "to develop" Parcels 2 and 3 of Mr. Johnson's property pursuant to Section 304 of the Baltimore County Zoning Regulation.

A copy of the Deed to Mr. Johnson is a part of the record and a copy of the Deed is enclosed herewith. Exhibit A to the Deed describes three (3) fee simple lots of land, which have been commonly referred to in this case as Parcel 1, Parcel 2 and Parcel 3.

Mr. Johnson, does not intend, by his application to submit a plat of resubdivision, or to off convey this property with the legal description other than that description relating to the second parcel and the strip of land found in Exhibit A to his Deed. Therefore, the combination of Parcels 2 and 3 is not the "creation" of a new lot, but is merely the combination of two (2) existing parcels for purposes of seeking approval to develop an undersized lot, Parcel 2, under Section 304 of the BCZR. Indeed, as the testimony in this case indicated, Parcel 3 would add absolutely nothing to the development of this parcel other than land fronting the public roadway. In other words, Parcel 3 is not required to

[Handwritten signature]

This Deed

MADE THIS 15th day of November in the year One Thousand Nine Hundred and Ninety Three by and between **GEORGE A. HUMPHREY**, by his attorney-in-fact, Margaret L. Hedding; **ROBERT D. HUMPHREY**, **JUNE M. PAGE**, by her attorney-in-fact, Margaret L. Hedding; and **MARGARET L. HEDDING**, parties of the first part, and **ROBERT D. JOHNSON** party of the second part.

Witnesseth, That in consideration of the sum of Sixty Five Thousand Dollars (\$65,000.00), the receipt of which is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, as sole owner, his personal representatives, heirs and assigns, in fee simple, all those parcels of ground situate in Baltimore County, Maryland and described as follows, that is to say:

See "Exhibit A" attached hereto and made a part hereof.

The improvements thereon being known as 10729 Davis Avenue, Woodstock, Maryland 21163.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

E. E. Tillman, Jr.
Edwin E. Tillman, Jr., Esquire

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

AT 12-7-9

BY THE EXECUTION OF THIS DEED, THE PARTIES OF THE FIRST PART HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE ACTUAL CONSIDERATION PAID OR TO BE PAID, INCLUDING THE AMOUNT OF ANY MORTGAGE OR DEED OF TRUST OUTSTANDING IS AS HEREINBEFORE SET FORTH.

THE WITHIN GRANTEE(S) DO HEREBY CERTIFY UNDER THE PENALTY(IES) OF PERJURY THAT THE LAND CONVEYED HEREIN IS RESIDENTIALLY IMPROVED OWNER-OCCUPIED REAL PROPERTY AND THAT THE RESIDENCE WILL BE OCCUPIED BY US AS EVIDENCED BY THE SIGNATURE(S) BELOW.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lots of ground and premises to the said party of the second part as sole owner, his personal representatives, heirs and assigns, in fee simple.

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

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

Test:

Anita W. Gallo

George A. Humphrey by Margaret L. Hedding attorney in fact
GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding

Anita W. Gallo

Robert D. Humphrey
ROBERT D. HUMPHREY

Anita W. Gallo

June M. Page by Margaret L. Hedding attorney in fact
JUNE M. PAGE, by her attorney-in-fact, Margaret L. Hedding

Anita W. Gallo

Margaret L. Hedding
MARGARET L. HEDDING
Robert D. Johnson
ROBERT D. JOHNSON

AFTER RECORDING RETURN TO:
Robert A. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE *AT* DATE *12-7-9*

EXHIBIT 'A'

BEING three fee simple lots of land situate on Davis Avenue, Woodstock, Maryland, in the Second Election District of Baltimore County and being more fully described as follows:

The first thereof being described as:

BEGINNING for the same at the center of an avenue, and intersecting with beginning of the second line of a Lot of ground marked No. 4 on a Plat of Land laid off in 14 lots for the said tenant Nelson and running thence south binding on a public road thirty-five (35) degrees, east nineteen and one-fourth ($19\frac{1}{4}$) perches to a point intersecting with the Land of Mary Clark thence binding on said Mary Clark's land south sixty-two (62) degrees west twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches intersecting with Lot No. 5 marked on the aforesaid plat, thence binding on said Lot No. 5, North thirty-five (35) degrees, west seventeen and one twenty-fifth ($17\frac{1}{25}$) perches to the center of said Avenue, and intersecting with Lots No. 5 and No. 6, respectively thence binding on said Avenue North 5 degrees, east twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches to the place of beginning. Containing one acre and sixty-five (65) square perches of land, more or less, the same piece or parcel of land marked on the aforesaid plat No. 4

The second thereof being described as:

BEGINNING for the same at a point on an Avenue twenty (20) feet wide and distant twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches along the center of said Avenue from the public road, and also being at the intersection of the third (3rd) and fourth (4th) lines of Lot No. 4, as laid down on a plat of the said Tenant Nelson's land surveyed by John A. Denton in March 1887; and running thence south thirty five (35) degrees east seventeen and one twenty-fifth ($17\frac{1}{25}$) perches to a stone planted: thence south sixty-two (62) degrees west, twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches to the end of the first line of Lot No. 12 as designated on said Plat thence reversing said first line of said Lot No. 12, North thirty five (35) degrees west sixteen and one twenty-fifth ($16\frac{1}{25}$) perches to the center of said twenty (20) foot Avenue; thence along the center of said Avenue north fifty seven (57) degrees east twelve and sixteen twenty fifths ($12\frac{16}{25}$) perches to the place of beginning, laid out for and said to contain one (1) acre, and thirty-eight (38) square perches of land, more or less. Said Nelson reserving the right of way over and through said twenty (20) foot avenue aforesaid.

AND ALSO a strip of land described as follows:

BEGINNING for the same at a stone on the easternmost side of the New Cut Road marking the end of the third line of that tract of land which is described in a Deed from William W. Wade and Delia A. Wade, his wife, to Andrew J. Cashell dated March 30, 1909, and recorded under date of April 6, 1909 in Liber W.P. C. No. 341, folio 292, on of the Land Records of Baltimore County, and running thence the following three courses as now surveyed, namely south sixty-six (66) degrees, thirty (30) minutes west four hundred and fifty-three (453) feet along the fourth line of the above mentioned tract leaving then the said line and running for the purpose of the present partition North sixty-nine (69) degrees and thirty five (35) minutes east four hundred and fifty six (456) feet to the easternmost edge of the New Cut Road running thence along the edge of the said road and coinciding with the third line of the aforementioned tract North twenty nine (29) degrees and thirty (30) minutes twenty two and eight tenths ($22\frac{8}{10}$) feet to the beginning. Continuing in all five thousand two hundred and seventy square feet or nineteen and four tenths ($19\frac{4}{10}$) perches of land more or less; reserving however and excepting a strip of land containing three hundred and fifty five (355) square feet or one and three tenths ($1\frac{3}{10}$) perches this strip being parallel and adjacent to the third line of present survey and being one (1) perch or sixteen and five tenths ($16\frac{5}{10}$) feet in width as measured perpendicularly to the said third line, to wit the easternmost edge of the New Cut Road, according to the terms and intentions of a deed executed by Marion

(Exhibit A continued)

C. Hamilton and wife to George Hamilton bearing date September 11, 1950, and recorded among the Land Records of Baltimore County (now city) in Liber A.W.S. No. 441, folio 420, etc.

~~Page (I.D. 14-02-08-860000)~~

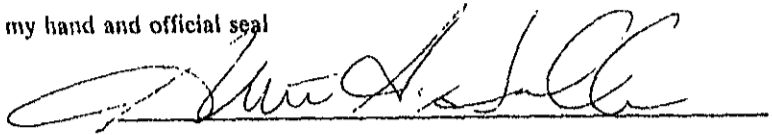
The improvements thereon being known as 10729 Davis Avenue, Woodstock, Maryland 21163.

BEING the same property acquired by Robert D. Johnson and Emma M. Johnson, husband and wife in the two following deeds, dated June 19, 1922 and recorded among the Land Records of Baltimore County, Maryland in Liber W.P.C. 556, folio 341 from John T.L. Barton and Fannie E. Barton, husband and wife and the second dated June 12, 1935 and recorded among the said Land Records in Liber C.W.B., Jr. No. 958, folio 201 from Christina Peach, unmarried. Saving and excepting property conveyed in a Deed dated October 5, 1938 and recorded among the Land Records of Baltimore County, Maryland in Liber C.W.B.Jr. No. 1041, folio 501 from Robert D. Johnson and Emma M. Johnson, husband and wife to Frederick V. Johnson and Ruth A. Johnson, husband and wife. Emma M. Johnson predeceased Robert D. Johnson who died August 13, 1943 and by his Last Will and Testament devised the said property to May Humphrey for life, and upon her death to her then surviving children, George A. Humphrey, Robert D. Humphrey, June M. Page and Margaret L. Hedding, the Grantors herein.

STATE OF MARYLAND, COUNTY OF Howard, to wit:

I Hereby Certify, That on this 15th day of November in the year One Thousand Nine Hundred and Ninety Three, before me, the subscriber, a Notary Public of the State of Maryland, County of Howard personally appeared GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding; ROBERT D. HUMPHREY; JUNE M. PAGE, by her attorney-in-fact Margaret L. Hedding; AND MARGARET L. HEDDING, Grantors and ROBERT D. JOHNSON, Grantee known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal



My Commission Expires: 10/1 1994

File Number EC2778



1 Q. You indicated that you felt that you had some
2 sort of approval on this proposal?

3 A. We are under the impression we have a verbal
4 approval of this plan.

5 Q. But you don't have any written approval of that?

6 A. That letter is not in our hand.

7 Q. And you do not have a witness here to say that's
8 been approved?

9 A. No, not at this time.

10 Q. So you really have no indication this is an
11 accepted plan?

12 A. Strictly speaking, yes.

13 Q. When you look at the area designated for the
14 drainage field on parcel two being proposed, is there
15 adequate area to move that drainage field, should it fail?

16 A. Yes.

17 Q. Where would that be?

18 A. Okay. The area that is shown actually has three
19 septic systems in the area. And the health department
20 requires that we provide enough area for one system and
21 two replacements.

MICROFILMED

1 And, in fact, what we have done is, based upon
2 the perc test times and the requirements for a four
3 bedroom house, we have designed, or Mr. Ward of our office
4 has designed, an appropriate system showing that system
5 location, two replacements and then the area around it.

6 Q. This property slopes through where the septic
7 field is shown, does it not?

8 A. That is correct.

9 Q. And there is -- can you tell me in Exhibit No. 9,
10 you have indicated the intermittent stream that actually
11 comes down to the bottom of that property and through the
12 corner of that property?

13 A. We are not aware of any intermittent stream on
14 this property.

15 Q. You would also agree that the grafting of parcel
16 number three really adds no area to parcel number two in
17 terms of adding to its septic field, or adding on to the
18 buffers that may be required?

19 A. That is correct.

20 Q. So, in a sense, parcel three is simply grafted on
21 there to pump up the overall area of parcel two?

1 A. The purpose of attaching parcel three to parcel
2 two was two-fold. One, to provide access and, two, to try
3 and get the area as close to one acre as possible at the
4 direction of the zoning office.

5 Q. But, in fact, parcel number three is not going to
6 be used for access, is it?

7 A. No.

8 Q. So it's actually just sitting there, drafted on?

9 A. That's true.

10 Q. And it is not really historically part of the
11 Johnson property tract as it existed years ago? That
12 actually came from an entirely different tract?

13 A. The history could be of a different tract, but
14 because it was owned by the same owner as one and two, it
15 becomes, you know, a property -- three parcels together.

16 Q. Can you explain why the other two buildings that
17 exist behind the house are not displayed on this map?

18 A. I have no reason why they were not shown. They
19 could have been smaller buildings, and we just didn't show
20 them.

21 Q. Are you aware of the middle building of the three

1 buildings that you have listed as exhibiting a shed? Are
2 you aware that's a two-stall barn?

3 A. I have never been in any of these buildings.

4 Q. So these are really more than just sheds?

5 A. We labeled them as sheds because that's what
6 they appeared to us.

7 Q. You have also indicated that Mr. Johnson is, of
8 necessity, going to move his existing septic, but you have
9 not indicated here where it's going to be?

10 A. It would be moved onto lot one behind -- in the
11 area behind his house and between the existing drain
12 field.

13 Q. That area now has been recently excavated and
14 there's been some filling back there. Would that
15 interfere with the placement of that tank in the field
16 back there?

17 A. Not at all,

18 MS. SKULLNEY: Thank you. I have no further
19 questions.

20 FURTHER CROSS EXAMINATION

21 BY MS. DEMILIO:

WOODWARD, BUTLER & SKULLNEY, P.L.L.C.
ATTORNEYS AT LAW
408 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204

PHONE (410) 321-4770
FAX (410) 321-4773

C. VICTORIA WOODWARD*
ELISE A. BUTLER
KATHLEEN S. SKULLNEY

*ALSO LICENSED IN GEORGIA

April 25, 1996

Mr. Robert O. Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Petition for Variance
10729 Davis Avenue, S/S Davis Ave.,
2nd Election Distr.,
1st Councilmanic Distr.,
Robert Johnson, Petitioner
Circuit Court Case No. 3-C-95-5779
CBA Case No. 95-52-SPHA

Dear Mr. Chairman,

The Board's decision denying the Petition in the above referenced case was appealed by the Petitioner to the Circuit Court for Baltimore County. After oral argument, Judge Fader ordered a remand of the Board's decision "[B]ecause this court cannot determine how the Board of Appeals resolved the principle issue in this case relating to the acreage of (Petitioner's) lot..." The Court further states that "[i]t is not readily apparent to this court whether resolution of this issue is a matter of law, of fact or both." Clearly, the Court's Order for remand is not asking the Board to reconsider its opinion or render a new decision. What the Court plainly seeks, rather, is an understanding of the basis and scope of the Board's existing determination.

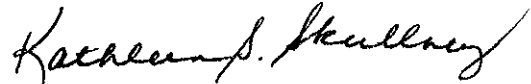
Therefore, Protestants concur with People's Counsel, as set forth in its letter dated April 15, 1996, that any amendment of the original petition for "clarification" as proposed by Petitioner is procedurally improper at this time. The Board does not require clarification of the petition or the Petitioner's case to satisfy the Court. The need for clarification lies squarely between the Court and the Board.

ENCLOSURE

Protestants further concur with the conclusion of People's Counsel that BCZR Sections 304.1A and C preclude the granting of the above petition in any event.

Protestants respectfully request that the Board of Appeals respond to the Order of the Circuit Court by simply clarifying the basis of its decision.

Sincerely,



Kathleen S. Skullney
Attorney for Protestants

cc: Cynthia K. Hitt, Esquire
Carole S. Demilio, Esquire

Kathleen S. Skullney
Attorney at Law
10813 Davis Avenue
Granite, MD 21163

January 4, 1995

Arnold Jablon, Director
Zoning Administration and
Development Management Office
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: PETITIONS FOR SPECIAL HEARING AND ZONING VAIANCE
10729 Davis Avenue
South side Davis Avenue, 329 ft. SE of Acme Avenue
2nd Election District
1st Councilmanic District
ROBERT JOHNSON, Petitioner
Case No. 95-52-SPHA

Dear Mr. Jablon:

Please enter an appeal of the order of the Baltimore County Zoning Commissioner granting the Petition for Special Hearing dated December 6, 1994 in the above referenced case to the Baltimore County Board of Appeals.

Having entered the appeal, please forward to this office copies of any pertitnent, necessary, and appropriate papers.

Enclosed is appellants' check in the amount of \$210.00 representing the filing fee of \$175.00 and the sign fee of \$35.00.

Very truly yours,

Kathleen S. Skullney
Kathleen S. Skullney

cc: Robert Johnson
Cynthia B. Bowden

RECEIVED
JAN 4 1995
ZADM

McKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET
TELEPHONE: (410) 848 - 6468
(410) 840 - 8428

WESTMINSTER, MARYLAND 21157
FACSIMILE: (410) 840 - 8429

DATE: August 8, 1994

TO: Baltimore County Office of Planning and Zoning RE: Robert Johnson

ATTENTION: Ervin McDaniel

Gentlemen:

- We are submitting Herewith Under separate cover
- We are forwarding
- We are returning

No.	Description
1	form for undersized lots
2	topo map
3	site plan
2	house plan
	photographs

- For processing For your use
- For your review Please call when ready
- In accordance with your request Please return to this office

Remarks: _____

For further information, please contact the writer at this office.

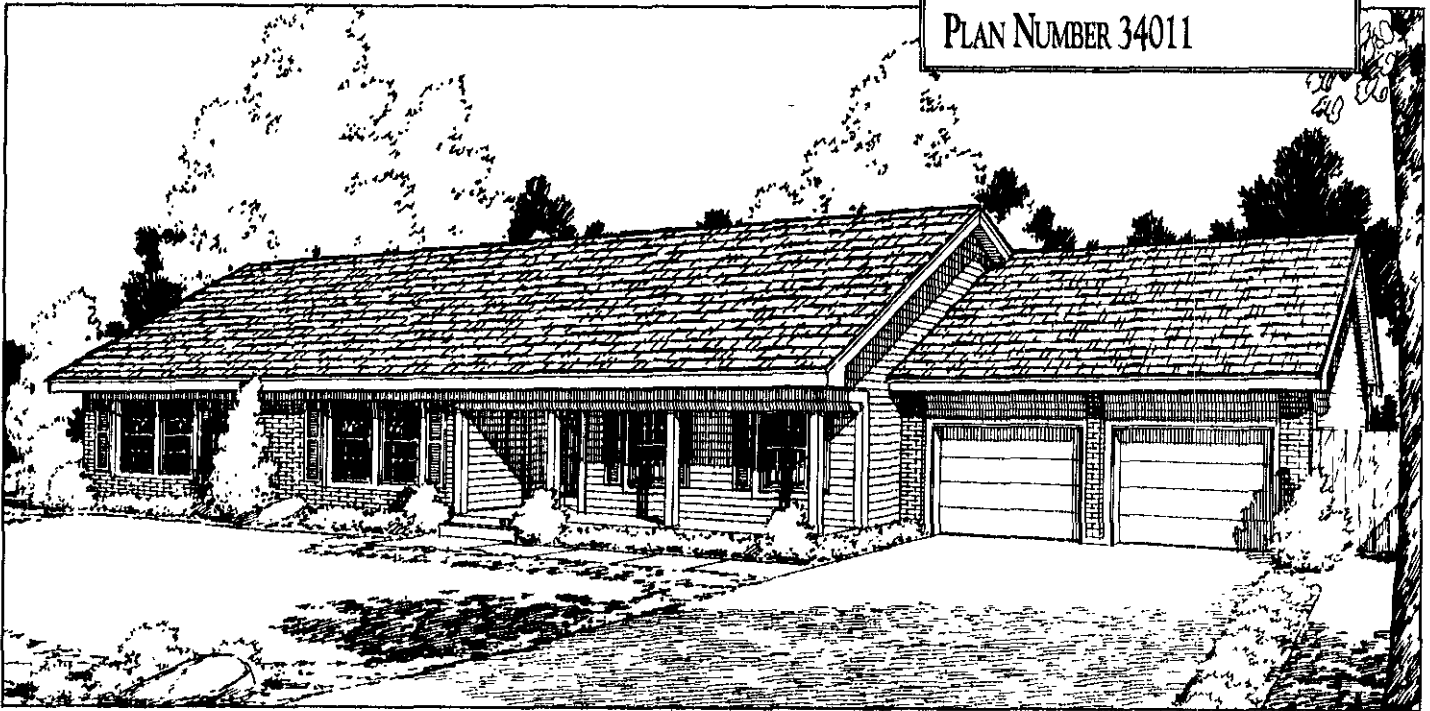
Very truly yours,
McKee & Associates Inc.

Enclosures
CC: Robert Johnson

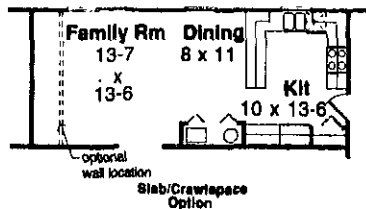
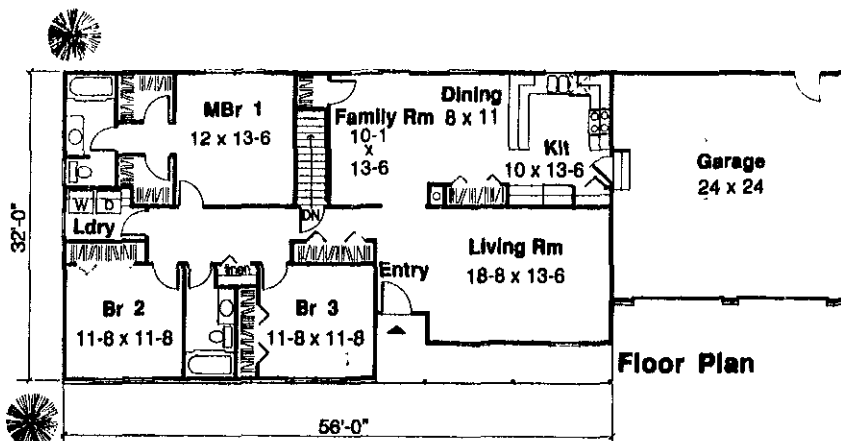
Cynthia B. Bowden
Cynthia B. Bowden, L.S.
Associate

MICROFILMED

PLAN NUMBER 34011



Windows Add Warmth



Abundant windows bathe the interior with natural light and allow fresh air to circulate in this beautiful one-story home.

The formal living room is in the front of the house, with the informal spaces of the kitchen, dining area, and family room all open to each other at the rear. The kitchen is equipped with a peninsula counter and has access to an optional garage.

The master suite features two huge walk-in closets and a private bath. Between the second and third bedroom is the second bathroom and a linen closet. More than enough closet space keeps clutter under control, and the laundry room is located conveniently near all three bedrooms.

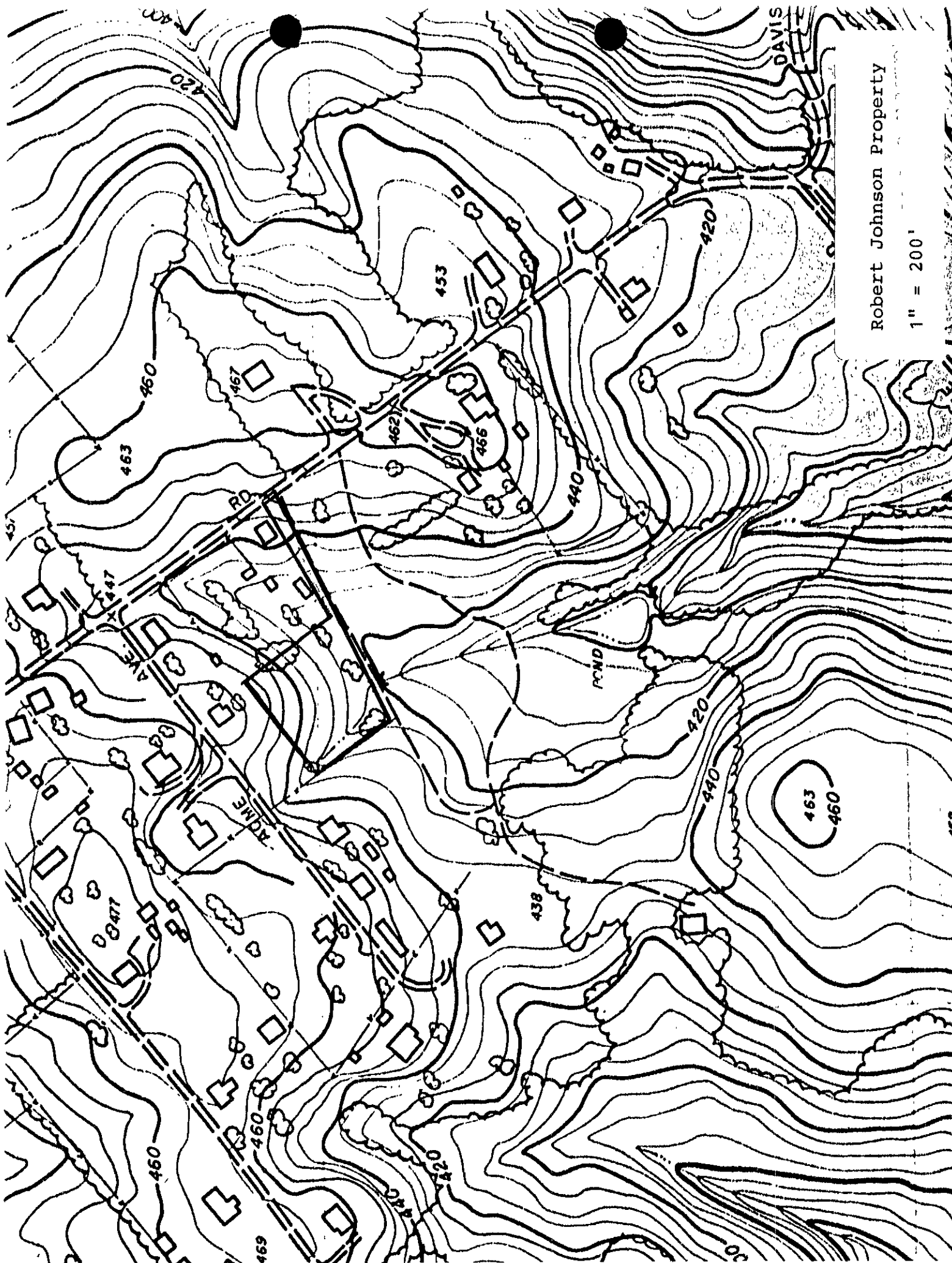
Please indicate slab, crawlspace, or basement when ordering.

For price information and to order the plan, see page 113.

Plan Number 34011

Baths:	2
Bedrooms:	3
Total Living Area:	1,672 sq. ft.
Garage (optional)	566
Exterior Wall Framing:	2x4/2x6
Foundation Options:	Basement, crawlspace, slab
BLUEPRINT PRICE CODE:	B

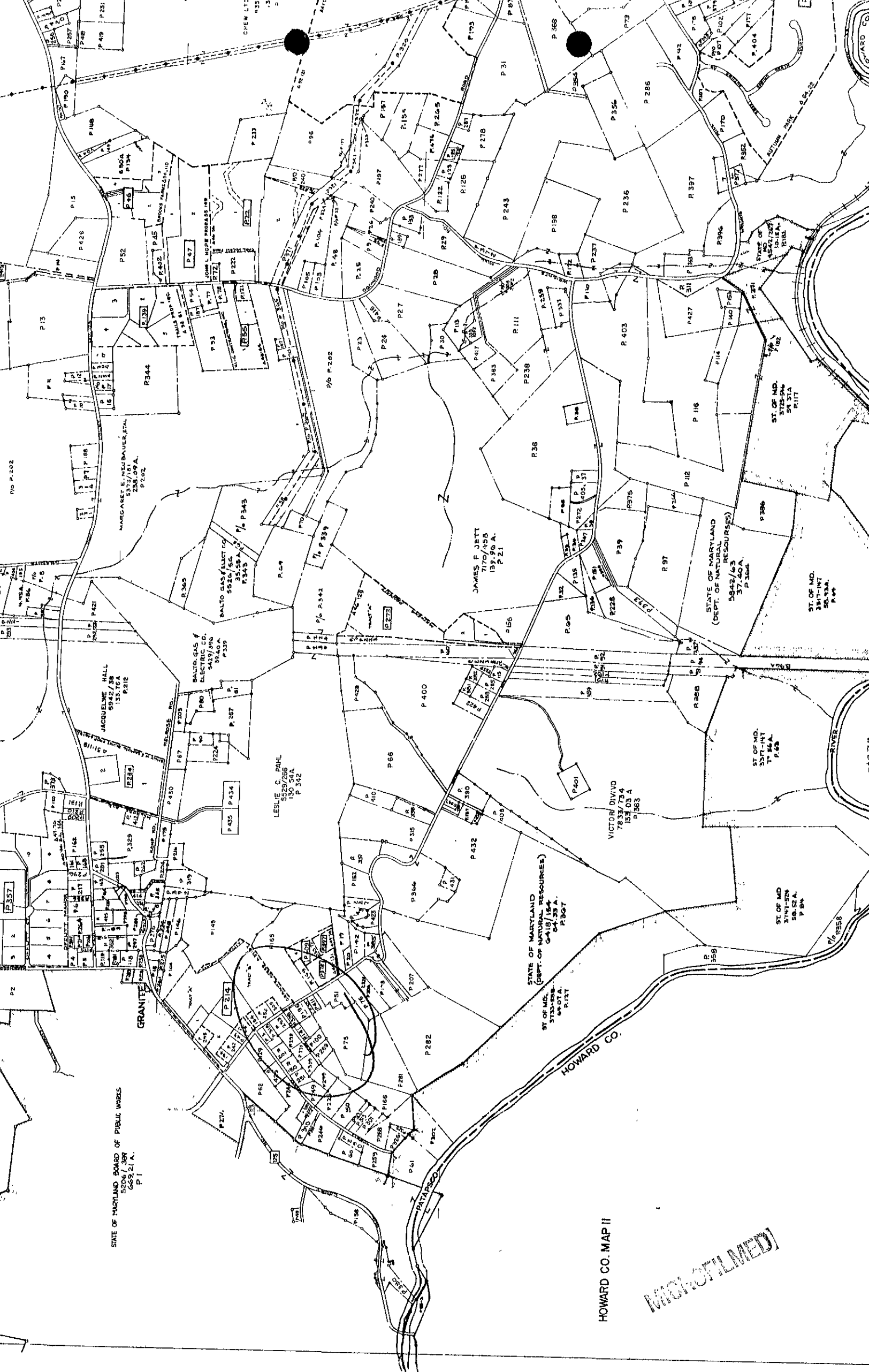




Robert Johnson Property

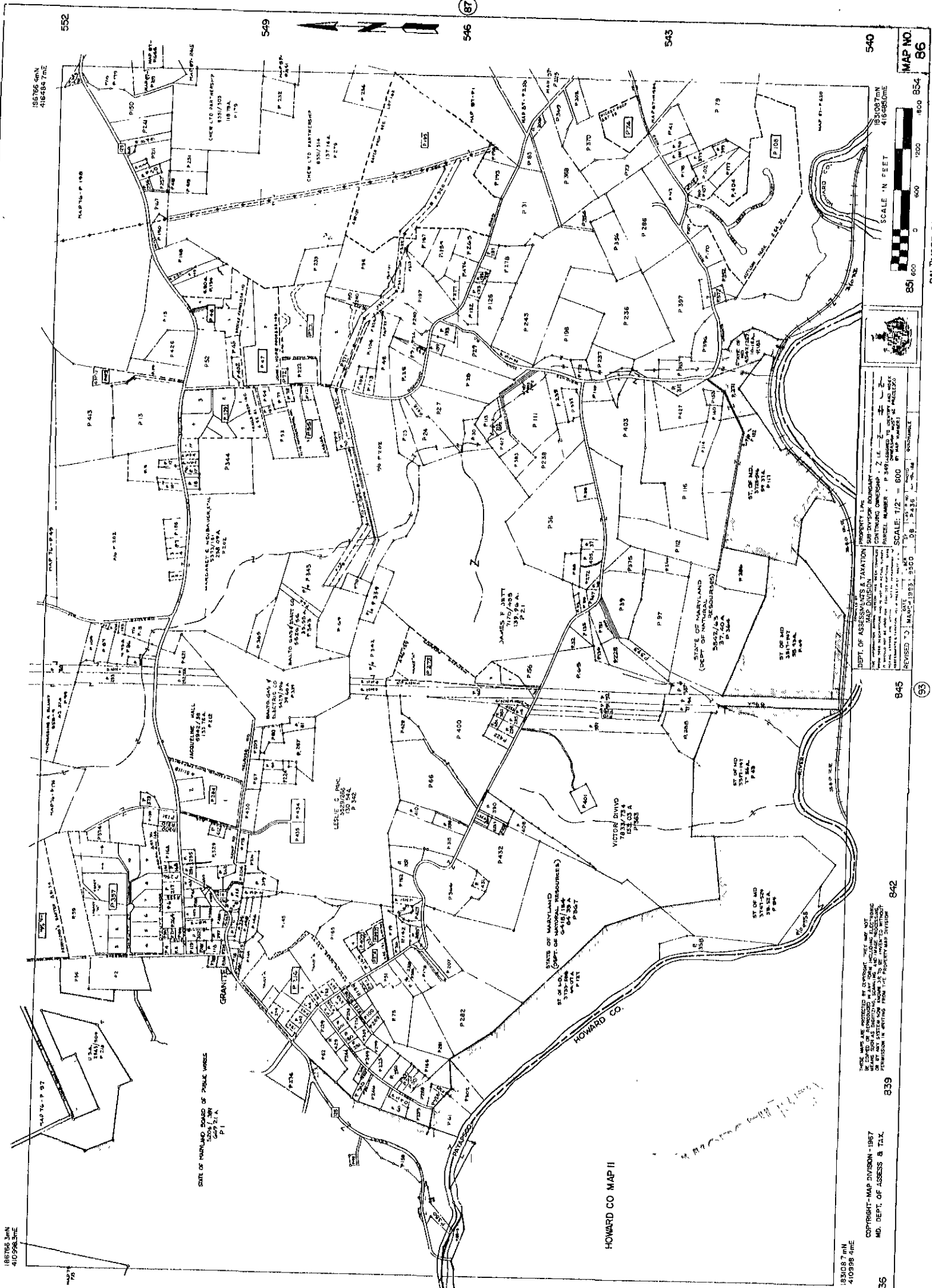
1" = 200'

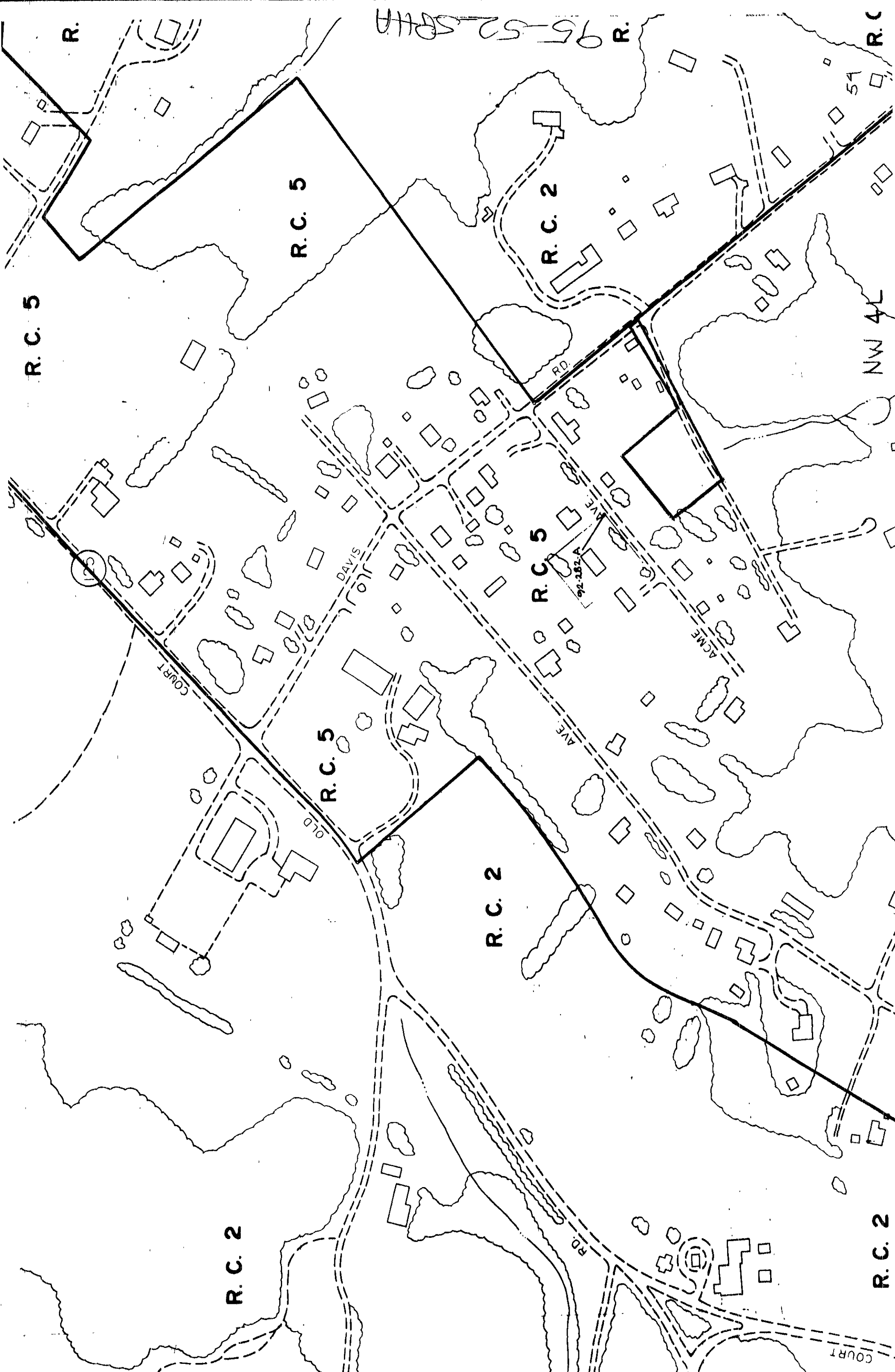
STATE OF MARYLAND BOARD OF PUBLIC WORKS
5206 / 389
669 21 A.
P 1



HOWARD CO. MAP II

MICROFILMED





R.

95-52-96 R.

R.C.

R.C. 5

R.C. 5

R.C. 2

NW 4L

COURT

DAVIS

R.C. 5

R.C. 5

92-282-A

ACME

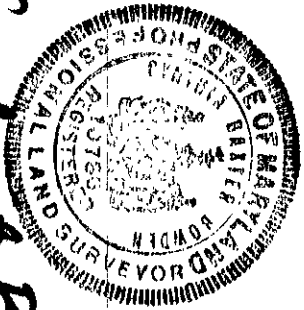
R.C. 2

R.C. 2

R.C. 2

COURT

Anna R. Anderson
 3853/190, 4245/360
 0201540140, 41

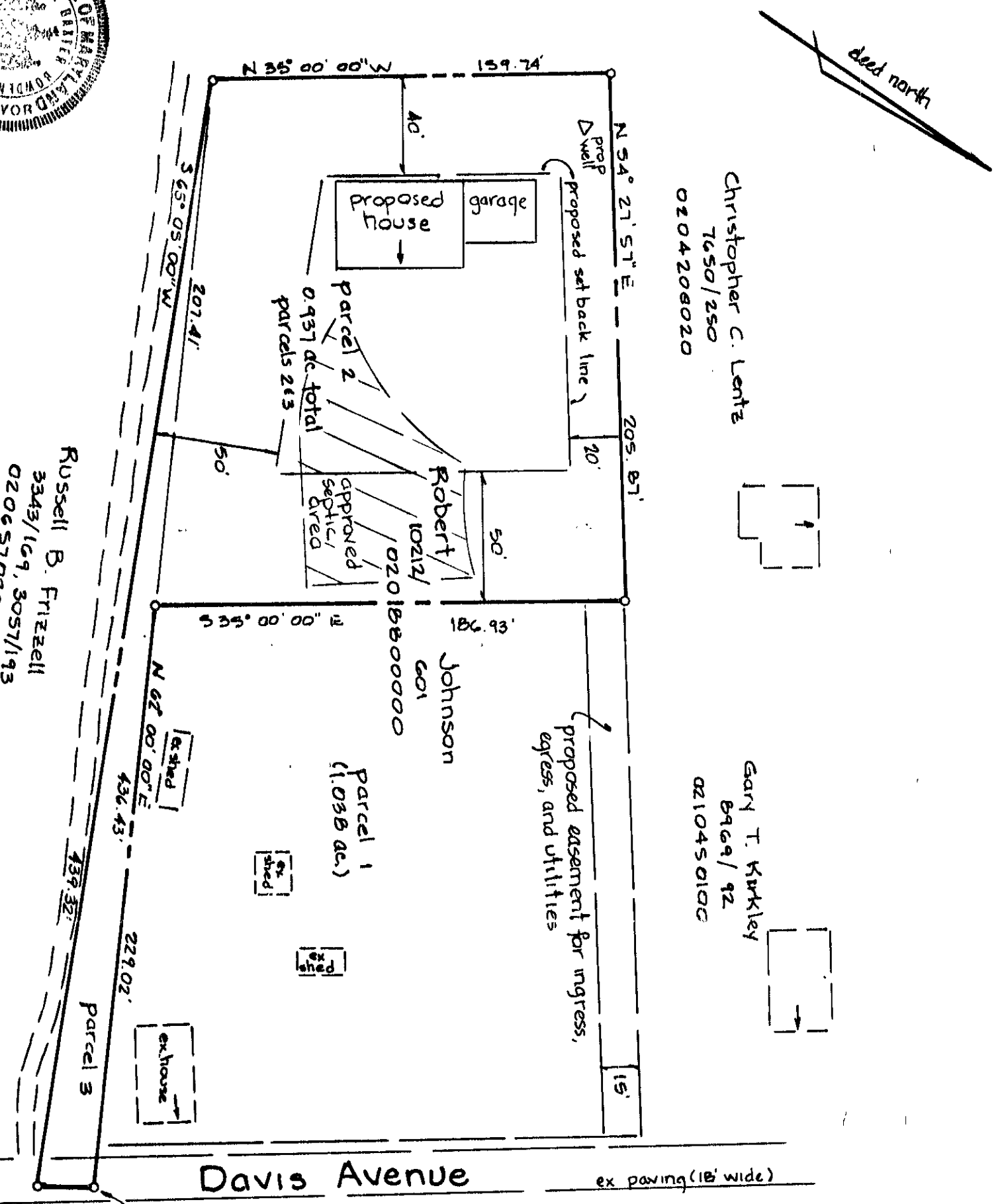


Cynthia B. Bowler

McKEE & ASSOCIATES, INC.
 257 EAST MAIN STREET
 WESTMINSTER, MARYLAND 21157
 (410)840-8428

95-52-SPHA

Russell B. Frizzell
 3343/169, 3057/193
 0206570292, 91



Christopher C. Lentz
 T650/250
 0204208020

Gary T. Kirkley
 B969/92
 0210450100

Davis Avenue

ex paving (18' wide)

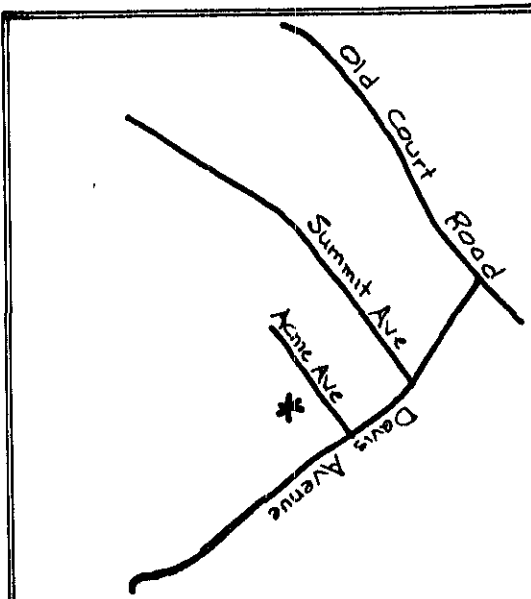
P.O.B. 329 SE of
 E of Acme Avenue

NOTES:

1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
2. Petition for special hearing to approve use of undersized single family lot under section 304.1.
3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).
4. Zoning map MW 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #08014H granting a waiver of the 20 foot minimum panhandle width for a single lot.

Vicinity Map

1"=1000'



PLAT TO ACCOMPANY PETITIONS FOR
 VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
 10729 Davis Avenue
 Woodstock, Maryland 21163
 August 10, 1994 1" = 50'

CIRCUIT COURT FOR BALTIMORE COUNTY
 Suzanne Mensh
 Clerk of the Circuit Court
 County Courts Building
 401 Bosley Avenue
 P.O. Box 6754
 Towson, MD 21285-6754
 (410)-887-2601, TTY for Deaf: (800)-735-2258
 Maryland Toll Free Number (800) 938-5802

05/08/01

Case Number: 03-C-95-005779 AA
 Date Filed: 06/29/1995
 Status: Closed/Active
 Judge Assigned: To Be Assigned,

Johnson vs County Board Of Appeals Of Baltimore County

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
-----	-----
	C9505779

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
-----	-----	-----	-----	-----
RES 001	Bopst, Martha		CT DO 03/19/96	08/08/95
	Attorney: 0022015 Skullney, Kathleen S		10/31/95	
	10813 Davis Avenue			
	Granite, MD 21163			
	(410)465-9116			
RES 002	Goodmuth, Steve		CT DO 03/19/96	08/08/95
	Attorney: 0022015 Skullney, Kathleen S		10/31/95	
	10813 Davis Avenue			
	Granite, MD 21163			
	(410)465-9116			
RES 003	Frizzell, Russell E		CT DO 03/19/96	08/08/95
	Attorney: 0022015 Skullney, Kathleen S		10/31/95	
	10813 Davis Avenue			
	Granite, MD 21163			
	(410)465-9116			

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
RES 004	Lentz, Christopher Attorney: 0022015 Skullney, Kathleen S 10813 Davis Avenue Granite, MD 21163 (410)465-9116		CT DO 03/19/96 10/31/95	08/08/95
RES 005	Bobst, Robert E Attorney: 0022015 Skullney, Kathleen S 10813 Davis Avenue Granite, MD 21163 (410)465-9116		CT DO 03/19/96 10/31/95	08/08/95
RES 006	Anderson, Anna R Attorney: 0022015 Skullney, Kathleen S 10813 Davis Avenue Granite, MD 21163 (410)465-9116		CT DO 03/19/96 10/31/95	08/08/95
RES 007	Lentz, Jamie C Attorney: 0022015 Skullney, Kathleen S 10813 Davis Avenue Granite, MD 21163 (410)465-9116		CT DO 03/19/96 10/31/95	08/08/95
PLT 001	Johnson, Robert Mail: 10729 Davis Avenue Woodstock, MD 21146 Attorney: 0019061 Kent, Cynthia Hitt Law Office Of Cynthia Hitt Kent, L.L.C. 3600 Crondall Lane Suite 105 Owings Mills, MD 21117-5401 (410)363-9600	06/29/95	CT DO 03/19/96 06/29/95	06/29/95
DEF 001	County Board Of Appeals Of Baltimore County Mail: 400 Washington Avenue Old Courthouse Rm 49 Towson, MD 21204 Attorney: 0005744 Demilio, Carole 206 Washington Avenue Towson, MD 21204 (410)825-6963 0029075 Zimmerman, Peter M People's Counsel For Baltimore County Room 47 Courthouse 400 Washington Ave Towson, MD 21204	06/29/95	CT DO 03/19/96 07/24/95 03/11/96	06/29/95

(410)887-2188

CALENDAR EVENTS

Date	Time	Dur	Cer	Evnt	Lvl	Atty	Jdg	Day	Of	Rslt	By	ResultDt	Jdg	T	Notice	Rec	User	ID
01/25/96	09:30A	01H	yes	CIVI			TBA	01	/01	CON	C	03/19/96		P	11/22/95		JD	PH

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign	Date	Removal	RSN
TBA To Be Assigned,	J		06/29/95		

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review jg #1 Petition of Robert Johnson for Judicial Review of the decision of the County Board of Appeals of Baltimore County in the Matter of Robert Johnson for special hearing and variance on property located on the South Side Davis Avenue (10729 Davis Avenue) 2nd Election District 1st Councilmanic District Case # 95-52-SPHA. Copy sent to agency.	06/29/95	06/29/95	PLT001	TBA		03/19/96	JMG PH
0001001	Answer jc*3 Rec'd 7/17/95	07/24/95	07/24/95	DEF001	TBA		03/19/96	GC PH
0001002	Answer LG #4 all respondents	08/08/95	08/08/95	RES001	TBA		03/19/96	LG PH
0002000	Certificate Of Notice lg#2	07/19/95	07/19/95	000	TBA		03/19/96	LG PH
0003000	Transcript of Record from Adm Agency *df (5) fd. (Filed 8/29/95).	08/30/95	08/30/95	000	TBA		03/19/96	DFP PH
0004000	Notice - Recpt of Record of Proceedings *df (6) fd. Copies Sent. (Filed 8/29/95).	08/30/95	08/30/95	000	TBA		03/19/96	DFP PH
0005000	Notice - Recpt of Record of Proceedings	08/30/95	08/30/95	PLT001	TBA		08/30/95	DFP DFP
0006000	Notice - Recpt of Record of Proceedings	08/30/95	08/30/95	DEF001	TBA		08/30/95	DFP DFP
0007000	Stipulation to Modify Time Requirements	09/28/95	09/29/95	000	TBA		09/29/95	DFP DFP

for Filing Memoranda.

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0008000	Memorandum jg with exhibits	10/20/95	10/23/95	PLT001	TBA	10/23/95	JMG JMG
0009000	Hearing Notice	11/22/95	11/22/95	000	TBA	11/22/95	JD JD
0010000	Memorandum	12/08/95	12/11/95	DEF001	TBA	03/19/96	CG PH
0010001	Answer Reply Memorandum	12/26/95	12/27/95	PLT001	TBA	03/19/96	JMG PH
0011000	Memorandum Martha Bopst, Steve Goodmuth, Anna Anderson, Russell E Frizzell, Christopher Lentz and Jamie Lentz.	12/08/95	12/11/95	RES005	TBA	12/11/95	CG CG
0012000	Memorandum to Assignment	01/26/96	02/01/96	000	JFF	03/19/96	KP PH
0013000	Open Court Proceeding Hon. John F. Fader II. Hearing had. Order to be filed	02/22/96	03/11/96	000	JFF	03/19/96	TG PH
0014000	Order of Court REMANDING above case to Board of Appeals for determination of the issue, fd.	03/11/96	03/11/96	000	JFF Granted	03/11/96	PS PS
0015000	DOCKET ENTRIES AND ORDER SENT TO BOA cb	03/19/96	03/19/96	000	TBA	03/19/96	PH PH

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By

Offered By: DEF 001 County Board Of Appeals Of Ba								
001	BOX	333	O	RETURNED				C



County Board of Appeals of Baltimore County

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

May 31, 1995

Kathleen S. Skullney, Esquire
10813 Davis Avenue
Granite, MD 21163

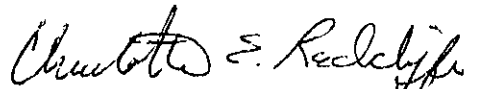
RE: Case No. 95-52-SPHA
Robert Johnson

Dear Ms. Skullney:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Mr. & Mrs. Robert Bopst
Cynthia K. Hitt, Esquire
Mr. Robert Johnson
Cynthia B. Bowden /McKee & Associates
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
~~Arnold Jablon, Director /ZADM~~
Virginia W. Barnhart, County Attorney





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

January 31, 1995

NOTICE OF ASSIGNMENT

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

CASE NO. 95-52-SPHA

ROBERT JOHNSON - Petitioner
S/s Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District

SPH -Development of parcels 2 and 3 as single undersized lot; VAR -rear and side yard setbacks; lot size.

12/06/94 -Z.C.'s Order in which Petition for Special Hearing is GRANTED; Petition for Variance DISMISSED AS MOOT as to lot size; DENIED as to setbacks.

NOTE: Appealed as to Special Hearing grant only.

ASSIGNED FOR: TUESDAY, MAY 16, 1995 at 10:00 a.m.

cc: Kathleen Skullney, Esquire Appellant /Protestant
Mr. & Mrs. Robert Bopst /Protestants
Mr. Robert Johnson Petitioner
Cynthia B. Bowden /McKee & Associates
Siskind, Grady, Rosen & Hoover, P.A. Counsel for Petitioner
and Cynthia K. Hitt, Esquire
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

ENTERED APPEARANCE 5/3/95

Kathleen C. Weidenhammer
Administrative Assistant

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

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

January 5, 1995

Mr. Robert Johnson
10729 Davis Avenue
Woodstock, MD 21163

RE: Petition for Special Hearing
S/S Davis Avenue, 329 Ft SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District
Robert Johnson-Petitioner
Case No. 95-52-SPHA

Dear Mr. Johnson:

Please be advised that an appeal of ^(SPH portion) the above-referenced case was filed in this office on December 16, 1994 by Kathleen Skullney. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

A handwritten signature in cursive script that reads "Arnold Jablon".

ARNOLD JABLON
Director

~~AJ~~

Ms. Cynthia B. Bowden
Mr. and Mrs. Robert Bopst
People's Counsel

95 JAN 5 1995

Kathleen S. Skullney
Attorney at Law
10813 Davis Avenue
Granite, MD 21163

January 4, 1995

Arnold Jablon, Director
Zoning Administration and
Development Management Office
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: PETITIONS FOR SPECIAL HEARING AND ZONING VAIANCE
10729 Davis Avenue
South side Davis Avenue, 329 ft. SE of Acme Avenue
2nd Election District
1st Councilmanic District
ROBERT JOHNSON, Petitioner
Case No. 95-52-SPHA

Dear Mr. Jablon:

Please enter an appeal of the order of the Baltimore County Zoning Commissioner granting the Petition for Special Hearing dated December 6, 1994 in the above referenced case to the Baltimore County Board of Appeals.

Having entered the appeal, please forward to this office copies of any pertitnent, necessary, and appropriate papers.

Enclosed is appellants' check in the amount of \$210.00 representing the filing fee of \$175.00 and the sign fee of \$35.00.

Very truly yours,

Kathleen S. Skullney
Kathleen S. Skullney

cc: Robert Johnson
Cynthia B. Bowden

RECEIVED
JAN 4 1995
ZADM

LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202

A. HERMAN SISKIND (1889-1984)
FRANCIS B. BURCH (1918-1987)

ARVIN E. ROSEN
DENNIS J. HOOVER
BRUCE D. BROWN
BRADFORD I. WEBB (FL, MD)
BARRY F. LEVIN (DC, MD)

ANDREW L. HARTMAN (PA, MD)
CYNTHIA K. HITT
DANIEL E. BYKE
CINDY R. DIAMOND
ANNE L. JOHNSON

TELEPHONE
(410) 538-8808, BALTIMORE, MD
(202) 867-0843, WASHINGTON, D.C.
TELEFAX NO. (410) 332-0289

OF COUNSEL
J. HAROLD GRADY
DANIEL H. BORINSKY (VA)

May 2, 1995

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

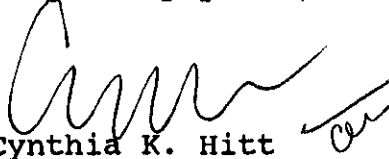
Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

Dear Sir/Madam:

Please enter the appearance of Siskind, Grady, Rosen & Hoover, P.A. and Cynthia K. Hitt, on behalf of the Petitioner, Robert Johnson in the above-referenced matter.

Should you have any questions, please do not hesitate to contact this office.

Very truly yours,


Cynthia K. Hitt

CKH:kc
1525.01
cc: Robert Johnson

95 MAY -3 11:20

LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202

TELEPHONE
(410) 539-8608, BALTIMORE, MD
(202) 887-0843, WASHINGTON, D.C.
TELEFAX NO. (410) 332-0288

A. HERMAN SISKIND (1889-1964)
FRANCIS B. BURCH (1918-1987)

ARVIN E. ROSEN
DENNIS J. HOOVER
MILLARD S. RUBENSTEIN
BRUCE D. BROWN
BARRY F. LEVIN (DC, MD)
THOMAS D. RENDA (VA, DC, MD)

ANDREW L. HARTMAN (PA, MD)
CYNTHIA K. HITT
DANIEL E. SYKES
CINDY R. DIAMOND
ANNE L. JOHNSON

OF COUNSEL
J. HAROLD GRADY
DANIEL H. BORINSKY (VA)
BRIAN J. FRANK, P.A.

June 26, 1995

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

Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

95 JUN 27 11:56

Dear Board Members:

This letter is written on behalf of my client, Mr. Robert Johnson. We are in receipt of the Final Opinion and Order dated the 31st day of May, 1995, in which the County Board of Appeals of Baltimore County (the "Board") denied Mr. Johnson's Petition for a Special Hearing seeking approval to develop Parcels 2 and 3 of Mr. Johnson's property as a single, undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations ("BCZR").

As stated at the hearing on May 16, 1995, all issues with respect to water and sewer are handled by the Department of Environmental Protection and Resource Management ("DEPRM"). As Ms. Cynthia Bowden testified at the hearing, verbal approval had been issued by DEPRM for well and septic on this lot.

As it was not available as of the date of the hearing, enclosed please find formal written approval by DEPRM with respect to water and sewer on this lot. The DEPRM letter sets forth several conditions with respect to water and sewer that Mr. Johnson will have to meet prior to obtaining building permit. The conditions relating to water and sewer are not zoning issues.

Since the conditions required in Section 304 of the BCZR are zoning conditions only, i.e. setback requirements, area requirements, and height requirements, we respectfully request that

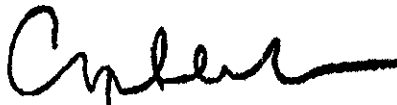
County Board of Appeals
for Baltimore County
June 26, 1995
Page 2

the Board reconsider its May 31, 1995 decision in light of the letter issued by DEPRM.

As the Board knows, a Petition for Judicial Review from the Board's Decision must be made in accordance with Rule 7-201 through 7-210 of the Maryland Rules of Procedure. Such a Petition must be filed within thirty (30) days of the date of the Order. Therefore, the Petition will be filed on June 29, 1995. We respectfully request that the Board consider this request for reconsideration on an emergency basis, and render a ruling by June 28, 1995. If no ruling is rendered by the Board by June 28, 1995, a Petition for Judicial Review will be filed. Once the Petition is filed, the Board will be divested of further jurisdiction. Since we are still within the thirty (30) days following the Board's Final Opinion and Order, this request to reconsider the Final Opinion and Order at this time is still appropriate.

Should you have any questions regarding this request, please do not hesitate to contact this office.

Very truly yours,



Cynthia K. Hitt

CKH:kc
1525.01
Enclosure

cc: Kathleen S. Skullney, Esquire
People's Counsel for Baltimore County
Mr. Robert Johnson

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

(410) 887-3733

June 15, 1995

Mr. Guy C. Ward, R.S.
McKee & Associates
5 Shawan Road
Hunt Valley, Maryland 21030

Re: 10729 Davis Avenue, Johnson Property, D-2

Dear Mr. Ward:

A representative of this office, Ms. Clare M. Brunner, R.S. conducted soil evaluations on June 6, 1994 regarding the above-referenced lot(s). The results are as follows:

<u>TEST PIT</u>	<u>DRAWDOWN</u>	<u>DEPTH</u>	<u>SOIL DESCRIPTION</u>
2A			Clay 0-5' BGN 5-10' water
2B			Clay 0-5' BGN 5-11' water
2C	2 min.	2 ft.	Clay 0-1' BGN 1-11' water
2D			Clay 0-6' BGN 6-14' damp at 14'

BGN - Baltimore Gneiss

Based on the evaluations and the revised plan dated, May 3, 1995, APPROVAL will be granted for the installation of a private sewage disposal system. Soil Percolation tests will be valid for a period of five (5) years from the date of tests, approval letter or record plat, whichever is most recent. At the expiration of this period of time, the results will become void without notice to that effect having been given by the Approving Authority.

It should be noted, there is an area designated on the site plan for the sewage disposal system and expansion thereof. Under no circumstances shall any permanent structures above or below ground, be permitted within this area. Also, no underground electric lines, water pipes, gas lines, etc., shall be permitted in the disposal system area.

The following are comments which concern persons developing property:

Where water wells are to be used as a source of water supply, Article XI, Section 13-118(g), of the Baltimore County Code requires that a well meeting the minimum recovery rate of one gallon per minute be drilled prior to issuance of a building permit.



Mr. Guy C. Ward
June 15, 1995
Page 2

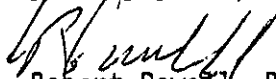
Water well yield test reports shall be valid for a period of three years from the date of the yield test. At the expiration of that period of time, a retest must be performed and a report submitted to the Baltimore County Department of Environmental Protection and Resource Management prior to issuance of a building permit.

In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. Questions regarding the subdivision process should be directed to J. Lawrence Pilson, Supervisor, Development Coordination, Bureau of Engineering Services at (410) 887-3980.

When two or more new lots are proposed, a Water Appropriation Permit application must be submitted for review. The Water Appropriation Permit must then be issued by the Water Resources Administration before final approval of the subdivision.

If you have any questions regarding this matter, please contact Ms. Brunner at 887-2762 between 8:30 - 9:30 a.m.

Very truly yours,


J. Robert Powell, R.S.
Program Supervisor
GROUND WATER MANAGEMENT

JRP:pj

DAVIS/DEPRM/TXTSDS/APPLTR

May 15, 1995

County Board of Appeals of
Baltimore County, Maryland

RE: Case number 95-52-SPHA

To Whom it May Concern:

I am a resident of Granite who being educated as a geologist and currently employed as a geologist dealing with groundwater contamination by chemical leaks and spills by the State of Maryland was asked to review the proposed lot subdivision of the Johnson property located off Davis Ave, in Granite Maryland, in light of the additional well and septic field on the existing wells on the neighboring properties.

Based on a site visit on May 13, 1995 it appears that the proposed septic area for the lot is located appropriately and does not appear to present a threat to nearby wells. This opinion is based on a review of a plot plan for the proposed lot and observation of several recently excavated areas which appear to be perk test locations.

The citizens located near the proposed lot have expressed a concern about adding an new well in the area. Several of the houses located in the immediate vicinity of the proposed lot are situated on undersized lots which were created in the late 1800's or prior to the new standards for lot size developed to prevent the contamination of drinking water supplies from septic contamination.

Since public water is not available nor likely to become available, homes in Granite are supplied by wells drilled into the fractures found in the underlying bedrock. The older lots are served by shallower wells commonly less than 100 feet deep while new wells installed in the area are commonly deeper, often greater than 250 feet. There is a concern that the new well will intercept and drain water from the upper fractures causing older wells to become dry. Since the original lots in the vicinity of the proposed lot are significantly smaller than the lot size required today it will be difficult to replace the older wells due to current septic setback requirements and the logistics of bringing a drill rig onto the property. The cost of a replacement well can be several thousand dollars and could present a financial hardship for the residents if required. While at this time it is impossible to predict whether a new well added on proposed lot will cause the existing wells to be affected it is certainly a legitimate concern by the neighboring landowners.

Since the location of currently existing domestic wells and septic drainfields are not marked on the plot plan available for review noted as Petitioner's Exhibit 1, one is unable to determine if the proposed well location marked on the plot plan will comply with the current Baltimore County setback requirements. It would be prudent for Baltimore County prior to finalizing its decision on the zoning issue to review the proposed lot with regards to the required setbacks for drinking water wells and existing or proposed septic systems and other requirements such as building and property line setbacks to determine if as configured the lot can be granted a building permit. It would be an undue hardship on the property owner to go through the zoning process only to find the proposed lot lacks the available space to locate a well and septic area that is in compliance with Baltimore County regulations.

If you have any questions about these comments please feel free to contact me at (410) 461-9110

Sincerely,

A handwritten signature in black ink that reads "Barbara H. Brown". The signature is written in a cursive, flowing style.

Barbara H. Brown

May 16, 1995

To: Planning Board

From: L. Willie Kirkley
10737 Davis Avenue
Granite, Maryland 21163

Re: Case No. 95-52-SPHA

I am writing to inform you of my concerns about building a house on the undersized lot behind 10729 Davis Avenue. I cannot be present at the hearing today because I have a severely disabled daughter who is ill, and I am unable to leave her.

I have lived next door to the Johnson property for seventeen years, on $\frac{1}{2}$ acre in a house built around 1940. I am most concerned about the effect of digging another well on the water supply for the surrounding wells. This is because my well went dry right after Mr. Johnson dug a new well next door.

During the last week of November or the first week of December in 1993, Mr. Johnson's new well was tested. I watched it being drilled, then watched water being pumped out for twenty four hours. The next morning, I had no water flowing into my house. My husband started his shower, but as soon as the hot water tank was empty, there was no more water. The well was pumping mostly mud.

We were without water for five days. We had to shower at the neighbors, and the situation was particularly difficult because of my daughter's special needs. My husband had to take two days off work to get a new well dug. We had to buy a new pump, new parts, and new filters for appliances with mud in them. We had to get a well twice as deep as our old one - 113 feet.

We had no problems with our well until Mr. Johnson drilled his. We had plenty of volume, and even had no problems when the water was accidentally left on outside for three days in 1986. I believe very strongly that this area cannot handle any close housing.

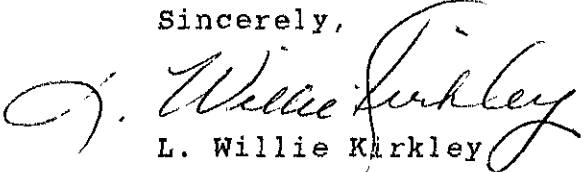
I am also concerned about the effect of septic failure. Any of the septic systems along the front part of Acme Avenue that fail will run downhill to the area behind Mr. Johnson's existing house. We had to lower our own septic field 18 feet to get it to drain properly and remain on our property.

We never worried about our water supply or septic problems before. We always believed that the RC zoning would not allow any more crowding of houses than was already here.

I would also like to add that I don't have any objections to Mr. Johnson fixing up his house to live there, even if he needs variances to do so. Other neighbors have asked for variances once in a while to improve their houses. But Mr. Johnson told me himself that he only lives in a house until he can make some money, then he moves. He told me he has moved at least five times since living in Granite, each time to make more money. He will simply walk away from whatever problems his building creates, leaving the rest of us to deal with them.

Allowing Mr. Johnson to build another house behind the house already there will certainly make more money for him, but will very likely create expensive hardships for the neighbors around him, like the one I have already experienced. This is what zoning is supposed to prevent.

Sincerely,


L. Willie Kirkley

May 16, 1995

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

Re: 95-52-SPHA

Dear Board Members,

I am writing to you because I am unable to testify today in person at the hearing regarding building another house on the Johnson property at 10729 Davis Avenue in Granite, Maryland. I am taking care of my gravely ill wife, and cannot attend.

I am 81 years old and have lived on and own the adjoining property to this property for 35 years. I have the following concerns about building another house on the Johnson property:

1) My property lies at the bottom of the slope on the Johnson property. Any problems with the property above me will run down the hill to my property. The area where Mr. Johnson wants to build a house is less than an acre. There is not enough room for the septic system to fail. Everything will run down the hill, because there is no place for it to go. There were no drainage problems in the 1800's when these lots were drawn because there was very little water used. There were no toilets, no baths or showers, no washers and no septic needs. $\frac{1}{2}$ acre or more was plenty.

2) When the old folks lived in the existing house, water from their drain ran down and over to my property. I didn't complain because they said it was only their wash water, and I knew they didn't have the means to change it. I didn't want to upset them.

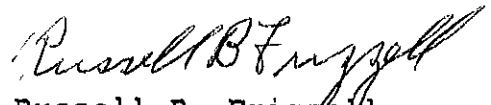
3) When I questioned Mr. Johnson about where his drain field is now, he never really answered me. The cement cap for the old dry well sits right next to my driveway. He didn't tell me whether he is using it or not, so I don't know for sure how his septic system is operating now.

4) In my conversations with Mr. Johnson, he told me that Robert Humphrey didn't want to sell the property to him. But Mr. Johnson convinced him that he wanted it only because it was "the old home place". He never said he wanted to build another house on it. Later, when Mr. Johnson said he guessed that people around here would complain because they didn't want to see a "local boy make good," I asked him what he meant. He said they would resent it because he wanted build another house.

5) There was always a question of whether there was really one parcel or two. Old Mr. Humphrey said there was one, but Mrs. Humphrey said there were two, only the back one didn't belong to them. It seems that the county just lost it. No taxes were ever paid on it, and the county finally just turned it back to the estate. I didn't know there were two parcels because the property was never used that way. I used to cut the grass back there once in a while for the Humphreys.

I believe that it would be a serious mistake to build a house in this small area, and that the property should just belong to the old house, as it has always seemed to.

Sincerely,



Russell B. Frizzle
10727 Davis Avenue
Granite, Maryland 21163

May 16, 1995

We, Frank and Stephanie Gauth
of 10813 Acme Avenue are opposed
to the variance requested by Mr.
Robert Johnson for the following
reasons:

1) the installation of an additional
septic system in such close proximity
to our property poses a serious
concern that it will adversely affect
our well system by contaminating
groundwater.

2) an additional well would
overstress the already existing
amount of groundwater available
for the area.

We strongly request that
Mr. Robert Johnson's proposed
variance be denied.

Sincerely,
Francis J. Gauth and
Stephanie Gauth

1/31/95 -Notice of Assignment for hearing scheduled for Tuesday,
May 16, 1995 at 10:00 a.m. sent to following:

Kathleen Skullney, Esquire
Mr. & Mrs. Robert Bopst
Mr. Robert Johnson
Cynthia B. Bowden /McKee & Associates
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

5/16/95 -Hearing concluded before Board. Order to be issued.

5/31/95 -Opinion/Order issued by the Board; Petition for Special Hearing
DENIED. (H.K.M.)

6/27/95 - Letter from Cynthia K. Hitt, Esquire, on behalf of Robert Johnson --
requesting reconsideration of Board's Order/Opinion; further requesting
that ruling on same be rendered on June 28, 1995; also indicated that
unless ruling by Board was issued on June 28th, Petition for Judicial
Review would be filed in Circuit Court on 6/29/95.

Holding pending response from PC to above request for reconsideration.

DATE: 5/16/95

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 95-52-SPHA

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	Jamie Lentz (410)461-3262 10805 Acme Ave Woodstock MD 21163	
✓	Christopher Lentz (410)461-3262 10805 Acme Ave Woodstock MD 21163	
✓	MARTINA BOPST WOODSTOCK 10721 DAVIS AVE 21163	
✓	ROBERT BOPST WOODSTOCK 10721 DAVIS AVE 21163	
✓	Russell Fungell 410 461 5503 10727 DAVIS AVE WOODSTOCK	
✓	Anna Rose Anderson 410-461-5295 10811 Acme Ave 21163	
✓	Steven Goodmuth 750-2578 10803 DAVIS AVE 21163	

We the residents of Woodstock-Granite, Maryland, oppose the requested variance by Mr. Robert Johnson for the following reasons:

- 1) the lot is to be improved for no other reason than profit. There is no hardship involved.
- 2) the one acre limit required by law serves the purpose of limiting stress by overcrowding placed on a community.

We feel that by changing the law to accommodate more development deprives the citizens of Granite of their rights in the following ways:

- 1) increases the population of our neighbor/ground ratio far beyond established limits.
- 2) stresses the water table of surrounding properties.
- 3) adds more septic systems than the law allows.
- 4) permits the new dwelling to be placed closer to residents or existing roads than the law permits.
- 5) necessitates the construction of a right-of-way where none exists. This poses further questions and concerns.
 - a) noise and inconvenience of ongoing construction.
 - b) inconsistency of a new contemporary dwelling placed within too close proximity of older homes.
 - c) questionable building practices of Mr. Johnson, as already encountered by our community, i.e. several instances of illegal burning of toxic materials with total disregard for the health and safety of our neighbors and community.

Because of the above reasons we oppose the variance:
(Print clearly)

Initials	Name	Address	Phone
F.J.F.	Francis J. Faugh	10813 ACME AVE. Woodstock MD	461-5509
SPF	Stephanie P. Faugh	10813 Acme Ave. Woodstock, MD.	461-5509
ABA	Anna B Anderson	10811 Acme Ave. Woodstock, Md. 21163	461-5295
YMJ	Thomas M. Jackson	10812 Acme Ave. Woodstock, Md. 21163	461-1841
CEJ	Carol E. Jackson	10812 Acme Ave woodstock, md 21163	461-1841
LMR	Aukie M. Randolph	10811 acme ave. Woodstock MD 21163	461-5295
SLG	Steven C. Goodmuth	10803 DAVIS AVE Woodstock MD 21163	750-2578
K.K.	Karen Koelbel	10803 Davis Ave Woodstock MD 21163	750-2578
PJM	Patricia Wilkerson Matlock	10817 Acme Ave Woodstock MD 21163	465-8901
AMM	Ashley Marie	10817 Acme Ave Woodstock/Granite 21163	465-8901
CLZ	Jamie C. Lentz	10805 Acme Ave Woodstock MD 21163	461-3262
CAL	Cheryl Lentz	10805 Acme Ave Woodstock MD 21163	461-3262
WLL	W. Willie Lushley	10737 DAVIS Ave " " 21163	461-5114
ABB	Abraham B. Borchers	10737 Davis Ave Woodstock 21163	461-5114
CAG	Cheryl Gore	10814 Acme Ave Woodstock 21163	465-8673

7-01-1988 EXHIBIT NO. 1

INITIALS	NAME	ADDRESS	PHONE #
SS	Samha Steeley	10707 DAVIS AVE Woodstock ²¹¹⁶³ MD	461-5875
GTK	Sally Kilday	10737 DAVIS AVE Woodstock ²¹¹⁶³	461-5714
CCG	Christopher Gome	10814 Acme ave Granite	465-8693
DA	Dianna Anderson	10725 Davis Ave. Woodstock ²¹¹⁶³	461-5501
DRA.	DAVID ANDERSON	10725 Davis AVE Woodstock ²¹¹⁶³	461-5501
MLSEC	Maurien O'CARROLL	10717 Davis Ave Woodstock ²¹¹⁶³	465-0536
KSC	Kevin Staveley-O'Carroll	10717 Davis Ave Woodstock ²¹¹⁶³	465-0536
MA	MARTHA BOPST	10727 DAVIS AVE	461-9631
PRF	Russell B Figgell	10727 Davis ave	461-8671
REF	Russell E Figgell	10727 DAVIS AVE	461-5503
RE. BOPST	Robert E BOPST	10721 DAVIS AVE	461-9631
CAF	Carole A Figgell	10727 Davis ave	461-5503
RMB	Rose Mary Bryant	10822 Davis Ave.	461-5653
KJA	Ken Cackman	10727 Davis Ave	461-0915
B.S.	Barry Steeley	10707 Davis Ave. Woodstock ²¹¹⁶³ MD.	461-5875
KJ	Kathleen Kullany	10813 Davis Ave, 21163	465-9116

Title History for Robert D. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

current deed
10212/601 11/15/93
George A. Humphrey, et al
to Robert D. Johnson (three parcels)

same as:
556/341 06/19/22
John T.L. Barton and Fannie E. Barton
to Robert D. Johnson and Emma M. Johnson (third parcel)

and
958/201 06/12/35
Christina Peach
to Robert D. Johnson and Emma M. Johnson
(first and second parcels)

saving & excepting:
~~1041/501~~ 10/05/38
Robert D. Johnson and Emma M. Johnson
to Frederick V. Johnson and Ruth A. Johnson

556/341 part of 355/161 12/27/09
Andrew J. Cashell and wife
to John T. Barton and Fannie E. Barton

958/201 same as 958/200 06/12/35
Robert D. Johnson and Emma M. Johnson
to Christina Peach
(first and second parcels)

same as:
264/196 09/02/02
William J. Peach, atty.
to Robert D. Johnson
(first and second parcels)

same as:
162/374 06/11/1887
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(first parcel)

and
178/262 05/27/1889
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(second parcel)

saving & excepting 193/407 08/15/1892
Robert K. Mason and Rebecca Mason
to Louisa Everett

PETITIONER'S
EXHIBIT 13

APPEAL

Petition for Special Hearing (only)
S/S Davis Avenue, 329 Ft. SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District - 1st Councilmanic District
Robert Johnson-PETITIONER
Case No. 95-52-SPHA

- ✓ Petition(s) for Special Hearing (only)
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Entry of Appearance of People's Counsel
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Protestant(s) Sign-In Sheets
- ✓ Undersize Lot Recommendation Form
- ✓ Copy of Plan Number 34011
- ✓ Copy of Elevation Map
- ✓ Ten Photographs (not marked as an exhibit)

Petitioner's Exhibits: ✓ 1A- Plat to Accompany Petitions for
Variance and Special Hearing
✓ 1B- Title History for Robert D. Johnson

Protestant's Exhibits: ✓ 1 - Petition from the Woodstock-Granite
Residence

✓ Zoning Commissioner's Order dated December 6, 1994 (Granted) ^{SPH}
VAR: DISMISSED; VAR DENIED

Notice of Appeal received on January 4, 1995 from Kathleen S.
Skullney

c: * Kathleen S. Skullney, Esquire, 10813 Davis Avenue, Granite, 21163
Ms. Cnythia B. Bowden, McKee & Associates, Inc., 257 East Main
Street, Westminster, MD 21157
Mr. and Mrs. Robert Bopst, 10721 Davis Avenue, Baltimore, MD 21163
Mr. Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM

SISKIND GRADY ROSEN & HOOVER P.A.
and Cynthia K. Hitt, Esquire
Jefferson Building
Two East Fayette Street
Baltimore, MD 21202

(COUNSEL FOR ROBERT JOHNSON)

✓E

Title History for Robert D. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

current deed

10212/601 11/15/93
George A. Humphrey, et al
to Robert D. Johnson (three parcels)

Petitioner's Ex. 3A

same as:

556/341 06/19/22
John T.L. Barton and Fannie E. Barton
to Robert D. Johnson and Emma M. Johnson (third parcel)

Petitioner's Ex. 3B

and

958/201 06/12/35
Christina Peach
to Robert D. Johnson and Emma M. Johnson
(first and second parcels)

saving & excepting:

1041/501 10/05/38
Robert D. Johnson and Emma M. Johnson
to Frederick V. Johnson and Ruth A. Johnson

Petitioner's Ex. 3C

556/341 part of 355/161 12/27/09
Andrew J. Cashell and wife
to John T. Barton and Fannie E. Barton

958/201 same as 958/200 06/12/35
Robert D. Johnson and Emma M. Johnson
to Christina Peach
(first and second parcels)

same as:

264/196 09/02/02
William J. Peach, atty.
to Robert D. Johnson
(first and second parcels)

same as:

162/374 06/11/1887
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(first parcel)

Petitioner's Ex. 3D

and

178/262 05/27/1889
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(second parcel)

Petitioner's Ex. 3E

saving & excepting 193/407 08/15/1892
Robert K. Mason and Rebecca Mason
to Louisa Everett

Petitioner's Ex. 3F

This Deed

MADE THIS 15th day of November in the year One Thousand Nine Hundred and Ninety Three by and between **GEORGE A. HUMPHREY**, by his attorney-in-fact, **Margaret L. Hedding**; **ROBERT D. HUMPHREY**, **JUNE M. PAGE**, by her attorney-in-fact, **Margaret L. Hedding**; and **MARGARET L. HEDDING**, parties of the first part, and **ROBERT D. JOHNSON** party of the second part.

Witnesseth, That in consideration of the sum of **Sixty Five Thousand Dollars (\$65,000.00)**, the receipt of which is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, as sole owner, his personal representatives, heirs and assigns, in fee simple, all those parcels of ground situate in Baltimore County, Maryland and described as follows, that is to say:

See "Exhibit A" attached hereto and made a part hereof.

The improvements thereon being known as 10729 Davis Avenue, Woodstock, Maryland 21163.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

E. E. Tillman, Jr.
Edwin E. Tillman, Jr., Esquire

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

AT 12-7-9

BY THE EXECUTION OF THIS DEED, THE PARTIES OF THE FIRST PART HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE ACTUAL CONSIDERATION PAID OR TO BE PAID, INCLUDING THE AMOUNT OF ANY MORTGAGE OR DEED OF TRUST OUTSTANDING IS AS HEREINBEFORE SET FORTH.

THE WITHIN GRANTEE(S) DO HEREBY CERTIFY UNDER THE PENALTY(IES) OF PERJURY THAT THE LAND CONVEYED HEREIN IS RESIDENTIALLY IMPROVED OWNER-OCCUPIED REAL PROPERTY AND THAT THE RESIDENCE WILL BE OCCUPIED BY US AS EVIDENCED BY THE SIGNATURE(S) BELOW.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lots of ground and premises to the said party of the second part as sole owner, his personal representatives, heirs and assigns, in fee simple.

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

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

Test:

Anita W. Gallo

George A. Humphrey by Margaret L. Hedding attorney in fact
GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding

Anita W. Gallo

Robert D. Humphrey
ROBERT D. HUMPHREY

June M. Page

June M. Page by Margaret L. Hedding attorney in fact
JUNE M. PAGE, by her attorney-in-fact, Margaret L. Hedding

Margaret L. Hedding

MARGARET L. HEDDING

AFTER RECORDING RETURN TO:
Robert A. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

Robert D. Johnson
ROBERT D. JOHNSON

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE *AT* DATE *12-7-9*

EXHIBIT 'A'

BEING three fee simple lots of land situate on Davis Avenue, Woodstock, Maryland, in the Second Election District of Baltimore County and being more fully described as follows:

The first thereof being described as:

BEGINNING for the same at the center of an avenue, and intersecting with beginning of the second line of a Lot of ground marked No. 4 on a Plat of Land laid off in 14 lots for the said tenant Nelson and running thence south binding on a public road thirty-five (35) degrees, east nineteen and one-fourth ($19\frac{1}{4}$) perches to a point intersecting with the Land of Mary Clark thence binding on said Mary Clark's land south sixty-two (62) degrees west twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches intersecting with Lot No. 5 marked on the aforesaid plat, thence binding on said Lot No. 5, North thirty-five (35) degrees, west seventeen and one twenty-fifth ($17\frac{1}{25}$) perches to the center of said Avenue, and intersecting with Lots No. 5 and No. 6, respectively thence binding on said Avenue North 5 degrees, east twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches to the place of beginning. Containing one acre and sixty-five (65) square perches of land, more or less, the same piece or parcel of land marked on the aforesaid plat No. 4

The second thereof being described as:

BEGINNING for the same at a point on an Avenue twenty (20) feet wide and distant twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches along the center of said Avenue from the public road, and also being at the intersection of the third (3rd) and fourth (4th) lines of Lot No. 4, as laid down on a plat of the said Tenant Nelson's land surveyed by John A. Denton in March 1887; and running thence south thirty five (35) degrees east seventeen and one twenty-fifth ($17\frac{1}{25}$) perches to a stone planted: thence south sixty-two (62) degrees west, twelve and sixteen twenty-fifths ($12\frac{16}{25}$) perches to the end of the first line of Lot No. 12 as designated on said Plat thence reversing said first line of said Lot No. 12, North thirty five (35) degrees west sixteen and one twenty-fifth ($16\frac{1}{25}$) perches to the center of said twenty (20) foot Avenue; thence along the center of said Avenue north fifty seven (57) degrees east twelve and sixteen twenty fifths ($12\frac{16}{25}$) perches to the place of beginning, laid out for and said to contain one (1) acre, and thirty-eight (38) square perches of land, more or less. Said Nelson reserving the right of way over and through said twenty (20) foot avenue aforesaid.

AND ALSO a strip of land described as follows:

BEGINNING for the same at a stone on the easternmost side of the New Cut Road marking the end of the third line of that tract of land which is described in a Deed from William W. Wade and Delia A. Wade, his wife, to Andrew J. Cashell dated March 30, 1909, and recorded under date of April 6, 1909 in Liber W.P. C. No. 341, folio 292, on of the Land Records of Baltimore County, and running thence the following three courses as now surveyed, namely south sixty-six (66) degrees, thirty (30) minutes west four hundred and fifty-three (453) feet along the fourth line of the above mentioned tract leaving then the said line and running for the purpose of the present partition North sixty-nine (69) degrees and thirty five (35) minutes east four hundred and fifty six (456) feet to the easternmost edge of the New Cut Road running thence along the edge of the said road and coinciding with the third line of the aforementioned tract North twenty nine (29) degrees and thirty (30) minutes twenty two and eight tenths (22.8) feet to the beginning. Continuing in all five thousand two hundred and seventy square feet or nineteen and four tenths (19.4) perches of land more or less; reserving however and excepting a strip of land containing three hundred and fifty five (355) square feet or one and three tenths (1.3) perches this strip being parallel and adjacent to the third line of present survey and being one (1) perch or sixteen and five tenths (16.5) feet in width as measured perpendicularly to the said third line, to wit the easternmost edge of the New Cut Road, according to the terms and intentions of a deed executed by Marion

(Exhibit A continued)

C. Hamilton and wife to George Hamilton bearing date September 11, 1950, and recorded among the Land Records of Baltimore County (now city) in Liber A.W.S. No. 441, folio 420, etc.

~~Parcel T.D.#02-08-860000~~

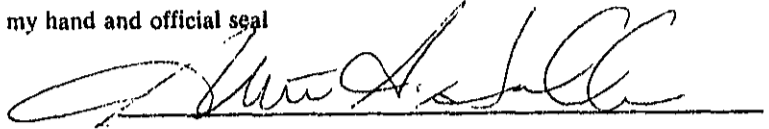
The improvements thereon being known as 10729 Davis Avenue, Woodstock, Maryland 21163.

BEING the same property acquired by Robert D. Johnson and Emma M. Johnson, husband and wife in the two following deeds, dated June 19, 1922 and recorded among the Land Records of Baltimore County, Maryland in Liber W.P.C. 556, folio 341 from John T.L. Barton and Fannie E. Barton, husband and wife and the second dated June 12, 1935 and recorded among the said Land Records in Liber C.W.B., Jr. No. 958, folio 201 from Christina Peach, unmarried. Saving and excepting property conveyed in a Deed dated October 5, 1938 and recorded among the Land Records of Baltimore County, Maryland in Liber C.W.B.Jr. No. 1041, folio 501 from Robert D. Johnson and Emma M. Johnson, husband and wife to Frederick V. Johnson and Ruth A. Johnson, husband and wife. Emma M. Johnson predeceased Robert D. Johnson who died August 13, 1943 and by his Last Will and Testament devised the said property to May Humphrey for life, and upon her death to her then surviving children, George A. Humphrey, Robert D. Humphrey, June M. Page and Margaret L. Hedding, the Grantors herein.

STATE OF MARYLAND, COUNTY OF Howard, to wit:

I Hereby Certify, That on this 15th day of November in the year One Thousand Nine Hundred and Ninety Three, before me, the subscriber, a Notary Public of the State of Maryland, County of Howard personally appeared GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding; ROBERT D. HUMPHREY; JUNE M. PAGE, by her attorney-in-fact Margaret L. Hedding; AND MARGARET L. HEDDING, Grantors and ROBERT D. JOHNSON, Grantee known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal



My Commission Expires: 10/1, 1994

File Number EC2778



3rd parcel

Petitioner's Ex. 3B
554/341



THIS DEED made this 19th day of June, in the year
Nineteen hundred and twenty two, by John T. L. Barton and
Fannie E. Barton, his wife, of Baltimore County, in the State
of Maryland, parties of the first part, Grantors, and Robert
Johnson and Emma M. Johnson, his wife, of said County and
State, of the second part, Grantees:

WITNESSETH, that in consideration of the sum of *One*
hundred \$100⁰⁰/₁₀₀ Dollars, paid by the parties of
the second part to the parties of the first part, the receipt
of which is hereby acknowledged, the said John T. L. Barton
and Fannie E. Barton, his wife, parties of the first part,
do grant and convey unto Robert D. Johnson and Emma M. Johnson
his wife, parties of the second part, as tenants by the en-
tireties, their heirs and assigns, in fee simple, all that
tract of land situate, lying and being in Baltimore County,
and described as follows, to wit:

BEGINNING for the same at a stone on the easternmost
side of the New Cut Road marking the end of the third line of
that tract of land which is described in a Deed from William
W. Wade and Delia O. Wade, his wife, to Andrew J. Cashell,
dated March 30, 1909, and recorded under date of April 6, 1909
in Liber W. P. C. No. 341 folio 292, one of the Land Records
of Baltimore County, and running thence the following three
courses as now surveyed, namely South sixty six degrees,
thirty minutes West four hundred and fifty three feet along the
fourth line of the abovementioned tract leaving then the said
line and running for the purpose of the present partition North
sixty nine degrees and thirty five minutes East four hundred
and fifty six feet to the easternmost edge of the New Cut Road

running thence along the said edge of the said road and coinciding with the third line of the aforementioned tract North twenty nine degrees and thirty minutes twenty two and eight tenths feet to the beginning. Containing in all five thousand two hundred and seventy square feet or nineteen and four tenths perches of land more or less; Reserving however and excepting a strip of land containing three hundred and fifty five square feet or one and three tenths perches this strip being parallel and adjacent to the third line of present survey and being one perch or sixteen and five tenths feet in width as measured perpendicularly to the said third line, to wit the easternmost edge of the New Cut Road, according to the terms and intention of a deed executed by Marion C. Hamilton and wife to George Hamilton bearing date September 11th, 1860, and recorded among the Land Records of Baltimore County (now City) in Liber A. W. B. No. 441 folio 420 etc.

BEING part of the land conveyed by deed dated 27th day of December 1909 by Andrew J. Cashell and wife to John T. L. Barton and Fannie E. Barton, his wife, and recorded among the Land Records of Baltimore County in Liber W. P. C. No. 355, folio 161.

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

TO HAVE AND TO HOLD the said tract of land and premises above described or mentioned and hereby intended to be conveyed

1200
0/1/2

together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Robert ^A, Johnson and Emma ^M Johnson, his wife, as tenants by the entireties, their heirs and assigns, in fee simple.

AND the said John T. L. Barton and Fannie E. Barton, his wife, covenant that they will warrant specially the property hereby granted and that they will execute such further assurances thereof as may be requisite.

WITNESS the hands and seals of the said grantors.

Rest:

John T. L. Barton (SEAL)

P. A. Feuney

Fannie E. Barton (SEAL)

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this ^{19th} day of June, in the year nineteen hundred and twenty two, before me, the subscriber, a ^{Justice of the Peace} ~~Notary Public~~ of the State of Maryland, in and for the County aforesaid, personally appeared John T. L. Barton and Fannie E. Barton, his wife, the Grantors named in the foregoing Deed, and severally acknowledged the same to be their respective act.

~~WITNESS my hand and seal this day and year aforesaid.~~

P. A. Feuney Justice of the Peace
~~Notary Public.~~

104/304

Liber CMBJF #1041

the President of the within body corporate mortgagee and made oath in due form of law that the consideration of said mortgage is true and bona fide as therein set forth and also made oath that he is the agent of the Mortgagee and is duly authorized to make this affidavit In Testimony whereof I have hereunto set my hand and affixed my official seal the day and year aforesaid

(Notarial Seal)

Lillian K Horner
Notary Public

Recorded Nov 18 1938 at 11:15 A M and Examined per C Willing Browne Jr Clerk

Per value received the American National Building and Loan Association a body corporate hereby releases the within mortgage and mortgage indebtedness As witness the act of the said body corporate by the hand of Urban J B Link its Vice President attested by its Secretary together with its corporate seal hereunto affixed this 5th day of February 1947

Attest (Corporate Seal)
Hartley C Weer
Secretary

AMERICAN NATIONAL BUILDING AND LOAN ASS'N

By Urban J B Link
Vice President

Recorded Feb 7th 1947 at 11.30 AM & exd per John W Bishop Clerk

110236
Robert D Johnson and wife
Deed to
Frederick U Johnson and wife

This Deed Made this 5th day of October in the year one thousand nine hundred and thirty-eight by and between Robert D Johnson and Ema M Johnson his wife of Baltimore County in the State of Maryland of the first part and Frederick U Johnson and Ruth A Johnson his wife

of said County and State of the second part

witnesseth that in consideration of the sum of Five Dollars and other good and valuable considerations receipt of which is hereby acknowledged the said Robert D Johnson and Ema M Johnson his wife do grant and convey unto the said Frederick U Johnson and Ruth A Johnson his wife as tenants by the entireties their assigns the survivor of them and the heirs and assigns of the survivor in fee simple all lot of ground situate lying and being in Baltimore County State of Maryland aforesaid and described as follows that is to say

Beginning for the same at the intersection of the centre line of a 20 foot avenue and the westernmost side of a public road now known as Davis Avenue said point of beginning being also the point of beginning of the first piece of land described in a deed of conveyance from Tenant Nelson to Robert B Mason dated June 11 1837 and recorded in the Land Records of Baltimore County in Liber No 162 folio 374. thence running and binding on the westernmost side of Davis Avenue and along the first line of the above deed southeasterly 104 feet thence leaving said Davis Avenue and running parallel to the 20 foot avenue southwesterly 209 feet to a stone heretofore planted at the end of the first or south 35. degrees east 104 foot line of a deed from Robert B Mason to Louisa Everett and recorded in the land

104x709 = .5ac

records of Baltimore County in Liber No 193 folio 407 thence running reversely on said line and binding on the land described in the last mentioned deed northwesterly and also parallel to Davis Avenue for a distance of 104 feet to intersect the centre line of the 20 foot avenue at the intersection of the third and fourth lines in the deed from Terent Nelson to Robert B Mason thence running northeasterly along the centre line of said avenue and also binding on the Fourth or North 57 degrees East 18-16/25 perches line of the deed last mentioned to the point of beginning Containing one-half acre of land more or less

Being a part of the first lot of ground conveyed by Robert B Mason to Robert D Johnson on September 2 1902 and recorded in the Land Records of Baltimore County in Liber N B M No 284 folio 198 &c also a part of the first lot of ground conveyed by Christina Feach to Robert D Johnson and wife on July 3 1935 and recorded in the Land Records of Baltimore County in Liber C W B Jr No 958 folio 200 &c

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

To Have and To Hold the said lot of ground and premises above described and mentioned and hereby intended to be conveyed together with the rights privileges appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Frederick U Johnson and Ruth A Johnson his wife as tenants by the entireties their assigns the survivor of them and the heirs and assigns of the survivor in fee simple

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

Witness the hands and seals of said grantors

Test:

Charles J Abram

his
Robert D Johnson (Seal)
mark
Emma M Johnson (Seal)

State of Maryland Baltimore County to wit:

I Hereby Certify That on this 5th day of October in the year one thousand nine hundred and thirty-eight before me the subscriber a Notary Public of the State of Maryland in and for Baltimore County aforesaid personally appeared Robert D Johnson and Emma M Johnson his wife the above named grantors and they acknowledged the foregoing Deed to be their act as witness my hand and Notarial Seal

(Notarial Seal)

Charles J Abram

Notary Public

Recorded Oct 6 1938 at 9:50 A.M. and Examined per C William Brown Jr Clerk

110237

John J Greenwalt Jr and wife
Deed to
John W Greenwalt and wife

This Deed made this 5th day of October 1938
by John J Greenwalt Jr and Lillie Greenwalt his wife
of the first part Grantor and John W Greenwalt and
Ella C Greenwalt his wife of the second part Grantee
all of Baltimore County State of Maryland

Witnesseth that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations the receipt whereof is hereby acknowledged the said John J Greenwalt Jr and Lillie Greenwalt his wife do hereby grant and convey unto the said John W Greenwalt and Ella C Greenwalt his wife as tenants by the entireties their assigns the survivor the

FILED IN DECEMBER 9 1938

First parcel

374

...thing whatsoever, to remember the property hereby conveyed, that they will warrant the said property specially to the said James Powers his heirs and assigns, and that they will execute such further assurance as may be requisite,

witness the hand and seal of the said grantors,

Just
Joshua Cain

Ann L. France
William ^{his} France
mort

(Seal)
(Seal)

State of Maryland,

Baltimore County, SS

I hereby certify, that on this 23rd day of July, in the year one thousand eight hundred and eighty seven before the underscriber, a Justice of the Peace of the state of Maryland, in and for Baltimore County, aforesaid, personally appeared Ann L. France and William France her husband the grantors in the foregoing Deed, and they did each acknowledge the same to be their act.

Joshua Cain J. P.
Justice of the Peace

Recorded Aug 8th 1887 at 11 AM + 60

Per John W. Shanklin Clerk

3973
Held for written order of grantee April 22 1889 (see letters)

Deed to Robert R. Mason
This Deed, made this eleventh day of June in the year one thousand eight hundred and eighty seven by Tenant Nelson, and Susannah M. Nelson, his wife of Baltimore County and state of Maryland, of the first part, unto Robert R. Mason, also of said County and state of the second part, witnesseth, that in consideration of one hundred and ten dollars, the said Tenant Nelson, and Susannah M. Nelson his wife do grant unto the said Robert R. Mason of the said County, his heirs and assigns in fee simple, all that lot piece or parcel of ground situate, lying and being in Baltimore County aforesaid and described as follows, to wit: Beginning for the same at the center of an avenue, and intersecting with beginning of the second line of a lot of ground purchased by Muroli and marked no 4 on a plat of Land laid off in 14 lots, for the said Tenant Nelson, by John Denton and running thence south binding on a public road 35 degrees, east 19 1/4 perches to a point intersecting with the Lands of Mary Clark thence binding on said Mary Clark's land south 62 degrees west 12 1/2 perches intersecting with Lot no 5 marked on the aforesaid plat, thence binding on said Lot no 5 north 35

377.625

12 16/25
208.105

160 00 P = 1 ac

288.75

1.41 ac

degrees, west 17 1/2 perches to the center of said Avenue, and intersecting with Lots no 5 and no 6 respectively then be divided on said Avenue north 5 1/2 degrees, east 12 1/2 perches to the place of beginning - containing one acre and 66 square perches of land more or less the same piece or parcel of land marked on the aforesaid plat no 4 Being a part of the whole tract of land that was conveyed to the said Tenant Nelson, by William S. Beck and others by deed bearing date August 27th A.D. 1812 and recorded in Liber L. H. A. no 77 - folio 312 and one of the Land records of Baltimore County, The said Tenant Nelson reserves for himself his heirs and assigns, the right of way over and through all avenues now laid off in the aforesaid plat,

Together, with the buildings and improvements thereupon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or in anywise appertaining, To Have and to Hold the said piece or parcel of ground and premises above described or mentioned and hereby intended to be conveyed; together with the rights, privileges appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Robert R. Mason - his heirs and assigns in fee simple And the said Tenant Nelson, and Susannah M. Nelson his wife covenant that they will warrant specially the property hereby granted, and that they will execute such further assurances of said Land as may be requisite

Witness, the hands and seals of the parties of the first part

Test Andrew Dorsey	}	Tenant Nelson Susannah M. Nelson	Seal Seal
-----------------------	---	-------------------------------------	--------------

State of Maryland

Baltimore County to wit

I hereby certify, that on this Eleventh day of June in the year one thousand eight hundred and eighty seven before me, the subscriber, a Justice of the Peace of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Tenant Nelson, and Susannah M. Nelson his wife and acknowledged the foregoing deed to be their act.

Andrew Dorsey J. P.

Per John W. Shaubert Clerk

Deed to Robert R. Mason and Susannah M. Nelson, his wife of Baltimore County and the State of Maryland, of the first part, and Robert R. Mason of the County and State aforesaid, of the second part. Now this Deed witnesseth, that for and in consideration of the sum of seventy-five (\$75.00) Dollars, current money in hand paid, the receipt whereof is hereby acknowledged, the said Tenant Nelson, and Susannah M. Nelson his wife do grant unto the said Robert R. Mason of the County and State aforesaid, his heirs and assigns in fee simple, all that lot, piece or parcel of ground situate, lying and being in Baltimore County and State aforesaid and described as follows, to wit: Beginning for the same at a point in an Avenue twenty (20) feet wide and distant twelve and sixteen twenty-fifths (12 1/25) perches along the centre of said Avenue from the public road, and also being at the intersection of the third (3) and fourth (4) lines of Lot No. 4, as laid down in a plat of the said Tenant Nelson's land, surveyed by John A. Denton in March 1887; and running thence south thirty-five (35) degrees east, seventy and one twenty-fifth (70 1/25) perches to a stone planted; thence south sixty-two (62) degrees west, twelve and sixteen twenty-fifths (12 1/25) perches to the end of the first line of Lot No. 12 as designated on said plat thence reversing said first line of said Lot No. 12, north thirty-five (35) degrees west, sixteen and one twenty-fifth (16 1/25) perches to the centre of said twenty-foot Avenue, thence along the centre of said Avenue north fifty-seven (57) degrees east twelve and sixteen twenty-fifths (12 1/25) perches to the place of beginning, laid out for and said to contain one (1) acre, and thirty-eight (38) square perches of land, more or less, said Nelson reserving the right of way over and through said twenty-foot Avenue aforesaid, it being a part of a tract

8086
Baltimore Co. 2124
May 22-1880.

208.56

201.16

208.56

208.56

12A.02

of land which by deed dated August the 27th A.D. 1872, was conveyed by William S. Keck and others, Trustees, to the said Tenant Nelson, which said deed is now of record among the land records of Baltimore County in Liber S. W. C. No 77. folio 312. Together with the buildings and improvements thereon erected made or being, and all and every, the rights, alleys, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining. To have and to hold the aforesaid piece or parcel of ground and premises above described or mentioned and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or in anywise appertaining unto and to the proper use and benefit of the said Robert H. Mason his heirs and assigns forever in fee simple. And the said Tenant Nelson and Susannah M. Nelson, his wife, covenant that they will warrant specially the property hereby granted, and that they will execute such other and further assurances of said land as may be requisite.

Witness, the hands and seals of said grantors,
 Tenant Nelson *(seal)*
 Susanna M. Nelson *(seal)*
 State of Maryland.

Baltimore County, to wit.
 I hereby certify that on this twenty seventh day of May in the year one thousand eight hundred and eighty nine before me, the subscriber a Justice of the Peace of the state of Maryland, in and for Baltimore County aforesaid, personally appeared Tenant Nelson and Susannah M. Nelson his wife, and each acknowledged the foregoing deed to be their respective act.

James H. Effert
 Justice of the Peace
 Recorded January 25th 1890 at 12:45 P.M. & Co.
 Per John W. Shaudler, Clerk

Robert D. Smith
 Trustee
 Lease to
 Caleb L. Rigdon
 This lease, made this fourteenth day of January, in the year one thousand eight hundred and ninety, between Robert D. Smith, of Baltimore City

12-11-1889
 12-11-1889
 12-11-1889

193/407

advantages thereto belonging or in anywise appertaining, To Have and to hold the land and premises above described and hereby mentioned to be granted and conveyed, with the rights and appurtenances aforesaid unto the said P. Frederick Nash, his heirs and assigns, to his or their proper use and benefit forever in fee, and the said Tenant Nelson and Susannah M. Nelson his wife covenant that they have not done or suffered to be done, any det. matter or thing whatsoever to encumber the property hereby granted, that they will warrant the said property specially to the said P. Frederick Nash, his heirs and assigns and that they will execute such further assurance as may be requisite.

Witness the hands and seals of said Grantors
Test. James W. Offutt } Tenant Nelson read
Susannah M. Nelson read
State of Maryland, Baltimore County to Wit.

I hereby certify that on the sixteenth day of May in the year one thousand eight hundred and ninety two, before the subscriber a Justice of the Peace of the State of Maryland, in and of or the County aforesaid personally appeared Tenant Nelson and Susannah M. Nelson his wife the Grantors in the foregoing deed and each acknowledged the same to be their respective act.

James W. Offutt
Justice of Peace

Recorded Aug 30th 1892 at 4 P. M. and examined
for Lewis M. Bacon Clerk

1328

Robert K. Mason } This Deed, made the 15th day of Aug in the
wif. year one thousand eight hundred and ninety two
Deed to } by Robert K. Mason and Rebecca Mason his wife
Louisa Everett } of the County of Baltimore in the State of Maryland
Witnesseth, that in consideration of the sum of
Five dollars the receipt whereof is hereby acknowledged the said Robert
K. Mason and Rebecca Mason his wife do grant unto Louisa Everett
wife of Walter E. Everett of said County her heirs and assigns in
fee simple all that lot piece or parcel of land and premises situate
lying and being in Baltimore County State of aforesaid and described
as follows to Wit Beginning for the same at a point in an
Avenue twenty feet wide and distant twelve and sixteen twenty
five feet along the centre of said Avenue from the Public
Road and also being at the intersection of the third and fourth
lines of Lot No. 4 as laid down on a plat of Tenant Nelson
land surveyed by John A. Denton in March 1887 thence running
south thirty five degrees east one hundred and four feet to a stone
planted thence south fifty seven degrees west two hundred and eight feet

six and three quarter inches to a stone thence north thirty five degrees west one hundred and four feet to a stone thence north fifty seven degrees east twelve and sixteen twenty fifth perch to the place of beginning laid out for and said to contain one half an acre of Lands more or less it being a part and parcel of a lot of ground described in a deed from Tenant Nelson and wife to Robert H. Mason bearing date the 27th day of May A. D. 1889 and recorded among the Lands Records of Baltimore County in Liber J. W. 2. No 178 folio 262nd. Together with the buildings and improvements thereupon erected, made or being, and all and every the rights ways waters privileges, appurtenances and advantages to the same belonging or in anywise appertaining, and the said Robert H. Mason and Rebecca Mason his wife, covenant that they will warrant specially the property hereby granted, and that they will execute such further assurances as may be requisite.

Witness our hands and seals.

Test. } Robert H. Mason *Real*
 Oliver E. Fisher } Rebecca Mason *Real*

State of Maryland,

County of Baltimore to Wit.

I hereby certify that on the 15th day of August in the year one thousand eight hundred and ninety two before the undersigned a Justice of the Peace of the State of Maryland in and for the County of Baltimore aforesaid, personally appeared Robert H. Mason and Rebecca Mason, his wife and each acknowledged the foregoing deed to be their respective act.

Recorded Aug. 30th 1892. at 4 P. M. and examined
 per Lewis M. Bacon Clerk
 Oliver E. Fisher J. P.

3.29
 Witnessed by
 L. H. S. J. 8-1893

Joshua Hammond } The deed made the thirtieth day of
 and wife } August in the year eighteen hundred
 Augustus J. Albert } and ninety two by Joshua Hammond and
 Augusta Hammond his wife, both of
 Baltimore County in the State of Maryland
 to Augustus J. Albert who is the son of J. Taylor Albert declared
 and who resides in Baltimore City in said State, Witnesseth that for
 and in consideration of the sum of five thousand four hundred
 dollars (\$5400^{00/100}) cash in hand paid by said Augustus J. Albert
 to said Joshua Hammond and wife the receipt of which is hereby
 acknowledged the said Joshua Hammond and Augusta Hammond his
 wife do hereby grant sell and convey unto the said Augustus J.
 Albert his heirs and assigns in fee simple all those tracts or
 parcels of land situated in Baltimore County aforesaid, being part of the

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 3, 1994

Ms. Cynthia B. Bowden
Miller-Bowden Associates, Inc.
461-A Main Street
Reisterstown, MD 21136

RE: Zoning review of a proposed
single family dwelling on an
undersized parcel in an R.C.-5
zone, 10729 Davis Avenue
2nd Election District

Dear Ms. Bowden:

This letter references the submitted correspondence concerning the proposed construction of a single family dwelling on an undersized lot at the above referenced location.

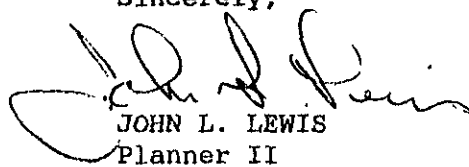
Based on the information and drawings provided the site is zoned R.C.-5 (Resource Conservation - Rural Residential) which require a one acre minimum lot size for a dwelling per Section 1A04.3.B.1 of the Baltimore County Zoning Regulations (BCZR). Section 304.1 and 304.1.C (BCZR) permit the erection of a dwelling on a lot having an area or width at the building line less than that required by the area regulations if "the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations", (i.e.: BCZR). The fact that lot 1 (.9 acres) is also adjacently owned by Mr. Johnson and supports an existing single family dwelling clearly shows that a conflict with the above referenced BCZR sections will exist for any proposed dwelling on the adjacent undersize .8 acre lot. Regretfully, due to this (BCZR) conflict a building permit for a new dwelling could not be approved by this office.



Ms. Cynthia B. Bowden
Page 2
March 4, 1994

Should you require any additional information or have any questions, please do not hesitate to contact me at 887-3391.

Sincerely,



JOHN L. LEWIS
Planner II

JLL/jaw

Petitioner's Ex. YB

Miller-Bowden Associates, Inc.

C. Brooke Miller, R.P.L.S.

Registered Land Surveyors
481-A Main Street
Reisterstown, Maryland 21136
(410) 833-5905 / FAX (410) 833-7409

Cynthia B. Bowden, L.S.

February 22, 1994

Baltimore County
Zoning Administration and Development Management
111 West Chesapeake Avenue, room 109
Towson, Maryland 21204

Attn: Arnold Jablon, director

Dear Mr. Jablon:

We are writing on behalf of our client, Mr. Robert Johnson.

Mr. Johnson owns property on Davis Avenue in Woodstock. The zoning is RC-5. This property is in three separate, but contiguous, parcels in his deed, and has been transferred as three separate parcels in the deeds since created in 1887. Two of the parcels had outsales - one in 1892 and one in 1938 - both prior to zoning. (Please refer to the attached, color-coded property mosaics and deed history.)

There are an existing dwelling and accessory buildings on parcel one (Mr. Johnson's current residence); the other parcels are vacant. Mr. Johnson would like to pursue a building permit for parcel two, which is an under-sized lot. A cursory review of the information at the zoning desk revealed a potential problem in meeting the requirements of Section 304 of the Zoning Manual.

We are therefore seeking a review and official response as to the use of this parcel, including what variances or special hearings would be required.

If you need additional information, or have any questions, please do not hesitate to call.

Sincerely,

Cynthia Bowden
Cynthia B. Bowden, L.S.

cc: Robert Johnson

encl.

MILLER-BOWDEN ASSOCIATES, INC.
481-A MAIN STREET
REISTERSTOWN, MD 21136

DATE	INVOICE	AMOUNT

7-16/520

1962

PAY <i>Forty and 00/100</i>		DOLLARS	
DATE	TO THE ORDER OF	GROSS	CHECK AMOUNT
<i>2/22/94</i>	<i>Baltimore County, Md.</i>	<i>fee zoning - Johnson</i>	<i>40 00</i>
		F.I.C.A. FED WITH / STATE	

MARYLAND NATIONAL BANK
BALTIMORE, MD

Cynthia B. Bowden

Title History for Robert D. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

~~current dead~~

~~10212/601~~ 11/15/93
George A. Humphrey, et al
to Robert D. Johnson (three parcels)

same as:

~~556/341~~ 06/19/22
John T.L. Barton and Fannie E. Barton
to Robert D. Johnson and Emma M. Johnson (third parcel)

and

958/201 06/12/35
Christina Peach
to Robert D. Johnson and Emma M. Johnson
(first and second parcels)

saving & excepting:

1041/501 10/05/38
Robert D. Johnson and Emma M. Johnson
to Frederick V. Johnson and Ruth A. Johnson

556/341 part of 355/161 12/27/09
Andrew J. Cashell and wife
to John T. Barton and Fannie E. Barton

958/201 same as 958/200 06/12/35
Robert D. Johnson and Emma M. Johnson
to Christina Peach
(first and second parcels)

same as:

264/196 09/02/02
William J. Peach, atty.
to Robert D. Johnson
(first and second parcels)

~~same as:~~

~~162/374~~ 06/11/1887
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(first parcel)

and

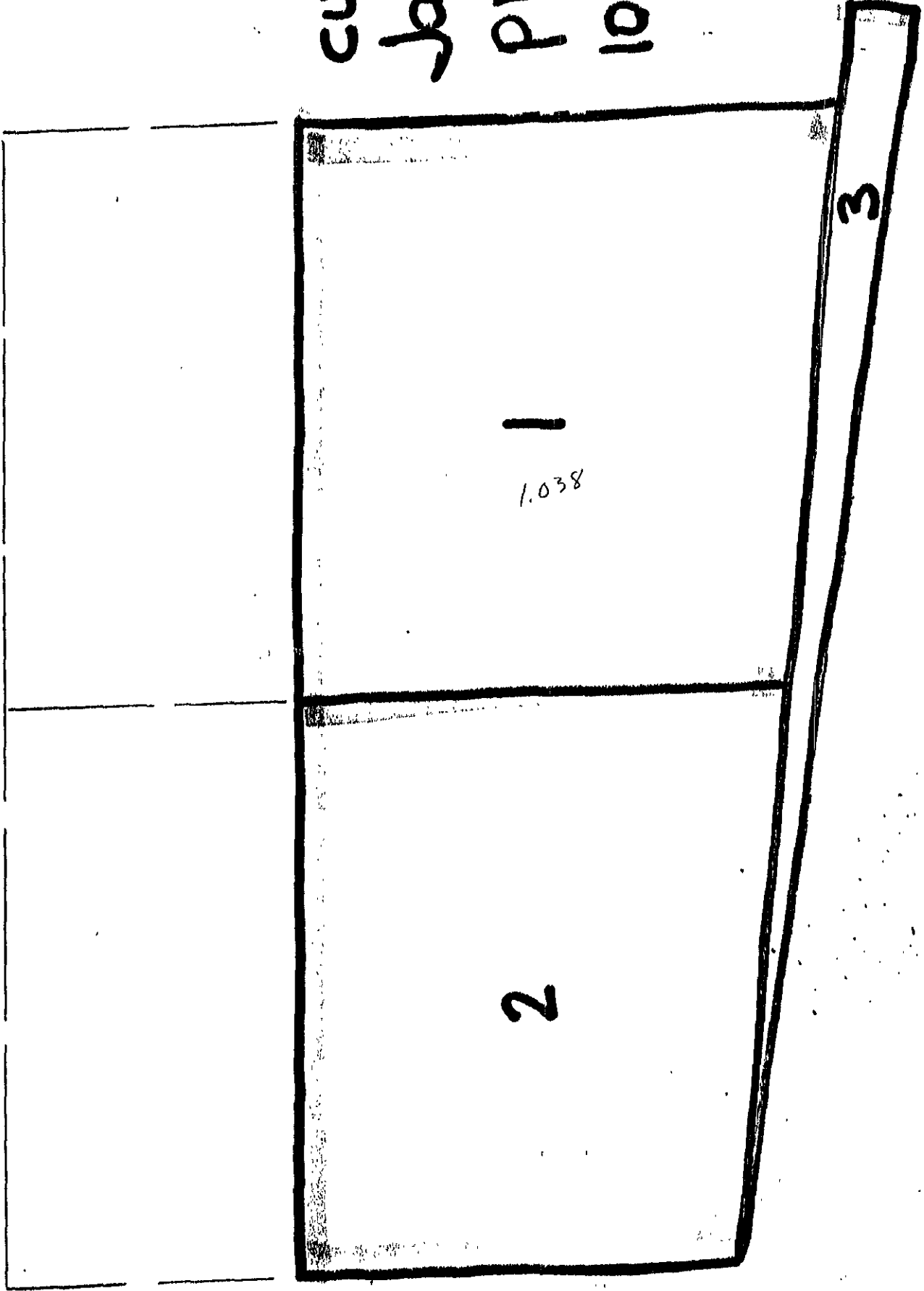
~~178/262~~ 05/27/1889
Tenant Nelson and Susannah M. Nelson
to Robert K. Mason
(second parcel)

saving & excepting 193/407 08/15/1892
~~Robert K. Mason and Rebecca Mason~~
to Louisa Everett

205

current
Johnson
property
10212/601

1" = 50'



193/407	1041/501
2 178/202	1 162/374

550/341 / 3

Baltimore County Government
Office of Zoning Administration
and Development Management

Petitioner's Ex-5A



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 2, 1994

Mr. James Grammer
McKee & Associates, Inc.
Shawan Place, 5 Shawan Road
Hunt Valley, MD 21030

RE: Waiver
Johnson Property
10729 Davis Avenue
DRC No.: 08014H

Dear Mr. Grammer:

On, August 1, 1994, the Development Review Committee reviewed the plan submitted on the above referenced project and determined that a waiver for Public Works Standards as requested would be within the scope, purpose and intent of the Development Regulations of Baltimore County. The development shall comply with all other applicable laws, rules and regulations of Baltimore County (Section 26-180).

Should you have any questions, please contact David Thomas, Assistant to the Director, Department of Public Works at 887-3451.

Respectfully yours,

A handwritten signature in cursive script that reads "Donald T. Rascoe".

Donald T. Rascoe
Development Manager

DTR/KAK/jaw
Enclosure
c: Les Schreiber
Susan Wimbley
Waiver File

Petitioner's Ex 5B



Development Review Committee Request Form

2 Copies of the Plan are Required

FEE: \$ 250.00 (payable to Baltimore County and is non-refundable)

Applicant Name: McKee & Associates, Inc. Filing Date: 7/26/94
 Address: Shawan Place - 5 Shawan Road Phone #: (410) 527-1555
Hunt Valley, Maryland 21030 Acreage: 2.9 +/-
 Project Name: Johnson Property File #: _____
 Address: 10729 Davis Avenue ADC Map #: 31 F5
 Councilmanic District: 1 Election District: 2

Request:

- Refinement Limited Exemption Waiver (see yellow form for requirements)

(Attach letter if necessary)

Requesting a waiver to the 20 foot minimum panhandle width for a single lot. See attached sheet.

DO NOT WRITE BELOW THIS LINE!

TO BE FILLED OUT BY COUNTY

Committee Action:

DRC #: _____

- () Denied
- () Limited Exemption under Section 26-171() ()
- () Material Amendment to the plan (*new CRG or HOH must be scheduled*)
- () Non-material Amendment to the CRG plan forwarded to Planning Board for determination
- () Plan Refinement (*submit enough plans for the agencies checked off below*)
- () Waiver recommendation forwarded to Planning Board for determination
- () Waiver of Standards referred to _____
(Department)
- () Zoning requires a () Special Hearing; () Special Exception; () Variance
- () Other _____

COMMITTEE COMMENTS:

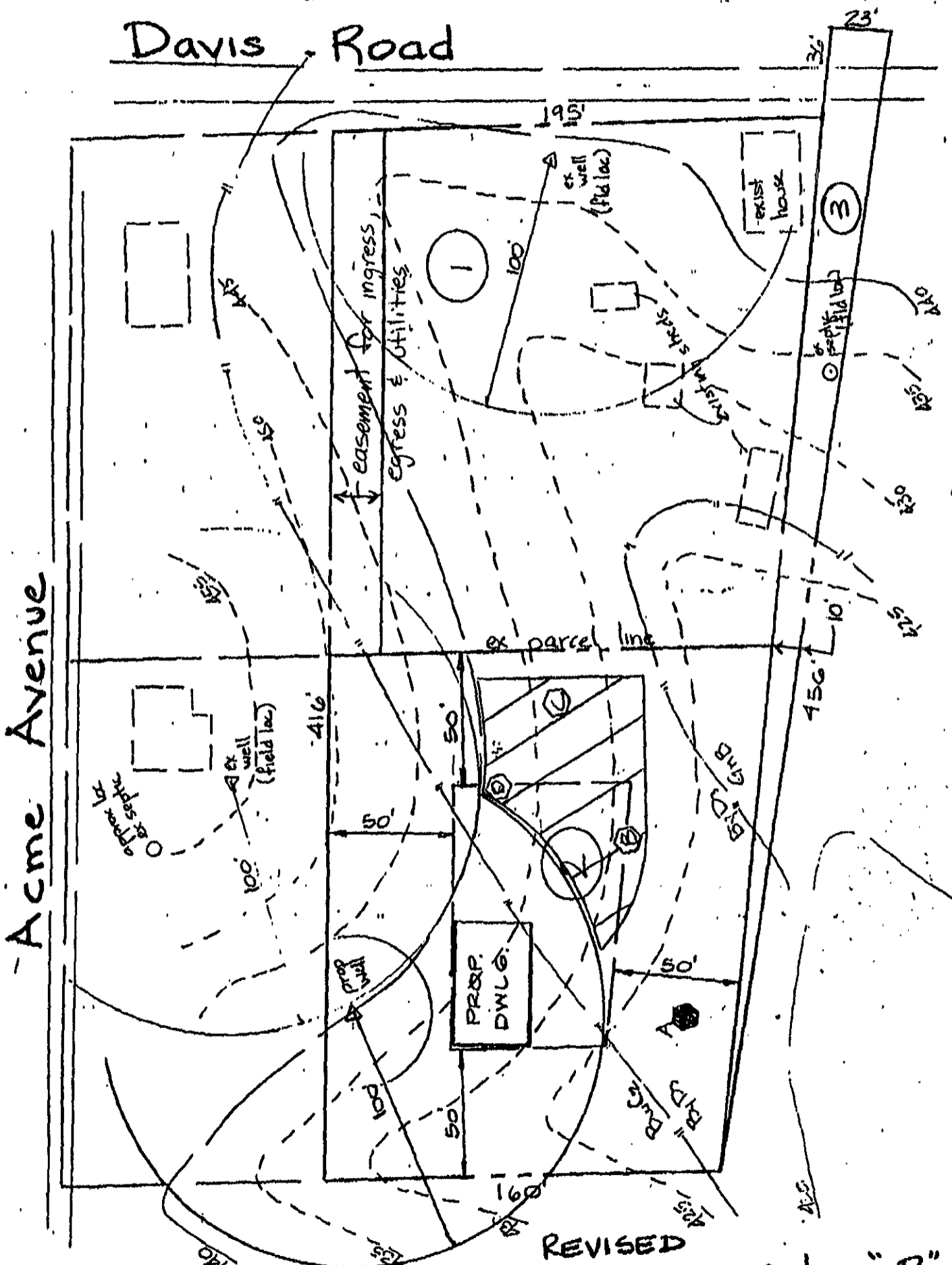
Agencies to Review and Return Comments to Committee:

- () DPW () OPZ () Zoning () DEPRM () EIRD () SWM () Rec & Parks () Fire

Signature of Coordinator _____ Meeting Date: _____

1. The Johnson Property is comprised of three separate parcels of ground as shown on the attached perc plan.
2. Lot One is improved with an existing dwelling and is 1.038 acres in size.
3. Lots Two and Three are intended to be combined into one lot which would contain approximately 0.94 acres of land.
4. Lot Three, when combined with Lot Two, will provide in fee access to the public roadway. It is, however, too narrow to meet the 20 foot minimum requirement, or accommodate a driveway without the necessity for an easement. As it is too narrow in width to meet the 20 foot requirement, we are requesting a waiver of standards to permit a minimum existing width of approximately 10 feet.
5. The owner will create an easement on the opposite side of Lot One for the purpose of ingress, egress, and utilities to Lot Two. The creation of this easement would serve the same purpose as the in-fee strip.
6. Upon approval of the waiver request, the owner intends to proceed with a special hearing before the Zoning Commissioner to permit the use of an undersized lot of record for the purpose of constructing a residence.

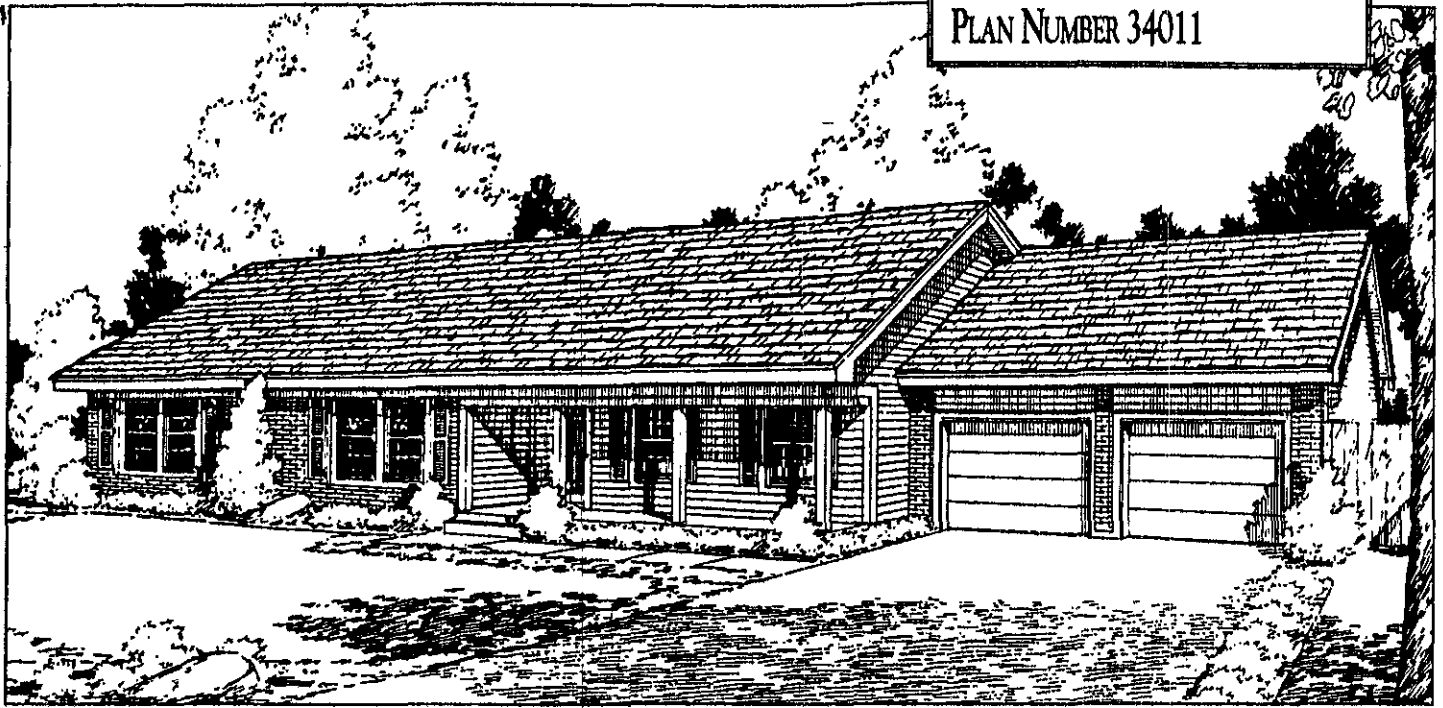
SHAWAN PLACE - 6 SHAWAN ROAD
 HUNT VALLEY, MD 21030
 TELEPHONE (301) 527-1555
 FACSIMILE (301) 527-1563



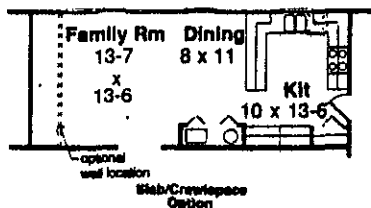
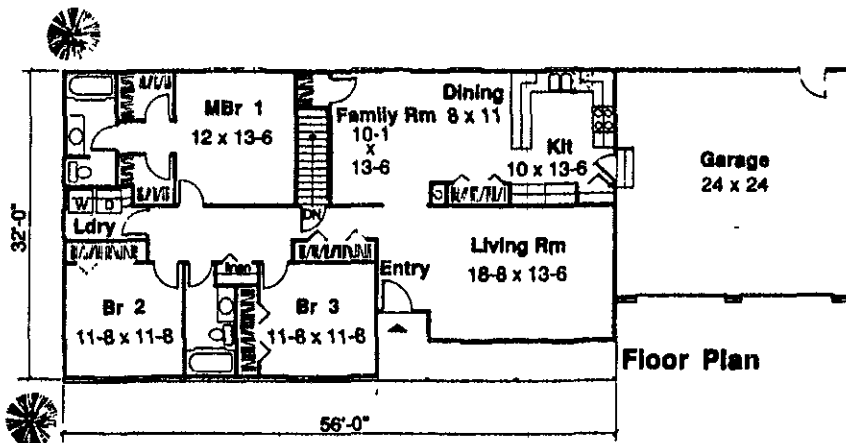
NOTE:
 LOT WAS RECORDED
 PRIOR TO 1972.

REVISED
 Perc Plan Option "B"
 Robert Johnson Property
 10729 Davis Avenue
 1"=60' REVISED 6-8-94
 4-28-94

PLAN NUMBER 34011



Windows Add Warmth



Abundant windows bathe the interior with natural light and allow fresh air to circulate in this beautiful one-story home.

The formal living room is in the front of the house, with the informal spaces of the kitchen, dining area, and family room all open to each other at the rear. The kitchen is equipped with a peninsula counter and has access to an optional garage.

The master suite features two huge walk-in closets and a private bath. Between the second and third bedroom is the second bathroom and a linen closet. More than enough closet space keeps clutter under control, and the laundry room is located conveniently near all three bedrooms.

Please indicate slab, crawlspace, or basement when ordering.

For price information and to order the plan, see page 113.

Plan Number 34011

Baths:	2
Bedrooms:	3
Total Living Area:	1,672 sq. ft.
Garage (optional)	566
Exterior Wall Framing:	2x4/2x6
Foundation Options:	

Basement, crawlspace, slab

BLUEPRINT PRICE CODE: B

This Plan

Petitioner's Ex. 6

McKEE & ASSOCIATES, INC.
Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET
TELEPHONE: (410) 848 - 6468
(410) 840 - 8428

WESTMINSTER, MARYLAND 21157
FACSIMILE: (410) 840 - 8429

DATE: August 8, 1994

TO: Baltimore County Office of Planning and Zoning RE: Robert Johnson

ATTENTION: Ervin McDaniel

Gentlemen:

- We are submitting Herewith Under separate cover
- We are forwarding
- We are returning

No.	Description
1	form for undersized lots
2	topo map
3	site plan
2	house plan
	photographs

- For processing For your use
- For your review Please call when ready
- In accordance with your request Please return to this office

Remarks: _____

For further information, please contact the writer at this office.

Very truly yours,
McKee & Associates Inc.

Enclosures
CC: Robert Johnson

Cynthia B. Bowden
Cynthia B. Bowden, L.S.
Associate

INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

TO: Director, Office of Planning and Zoning
Attn: Ervin McDaniel
County Courts Bldg, Rm 406
401 Bosley Av
Towson, MD 21204

B _____
Permit Number

FROM: Arnold Jablon, Director, Zoning Administration and Development Management

RE: **Undersized Lots**

Pursuant to Section 304.2(Baltimore County Zoning Regulations) effective June 25, 1992; this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

Robert Johnson 10729 Davis Avenue, Woodstock, MD 21163 461-8168
Print Name of Applicant Address Telephone Number

Lot Address 10729 Davis Avenue Election District 2 Council District 1 Square Feet 40,839.7 sq. ft.
0.937 acre

Lot Location: N E S side / corner of Davis Avenue . 329 feet from N E S side of Acme Avenue
(street) (street)

Lead Owner Robert Johnson Tax Account Number 02-08800000

Address 10729 Davis Avenue Telephone Number 461-8168
Woodstock, Maryland 21163

CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning)

	PROVIDED?	
	YES	NO
1. This Recommendation Form (3 copies)	<u>X</u>	_____
2. Permit Application	_____	<u>X</u>
3. Site Plan	<u>X</u>	_____
Property (3 copies)	_____	_____
Topo Map (available in Rm 204 C.O.B.) (2 copies) <small>(please label site clearly)</small>	<u>X</u>	_____
4. Building Elevation Drawings	<u>X</u>	_____
5. Photographs (please label all photos clearly)		
Adjoining Buildings	<u>X</u>	_____
Surrounding Neighborhood	<u>X</u>	_____

Residential Processing Fee Paid
Codes 030 & 080 (\$85)

Accepted by _____
ZADM

Date _____

TO BE FILLED IN BY THE OFFICE OF PLANNING AND ZONING ONLY

RECOMMENDATIONS/COMMENTS:

Approval Disapproval Approval conditioned on required modifications of the permit to conform with the following recommendations:

Signed by: _____
for the Director, Office of Planning & Zoning

Date:

SCHEDULED DATES, CERTIFICATE OF FILING AND POSTING
FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

The application for your proposed Building Permit Application has been accepted
for filing by _____ on _____
Date (A)

A sign indicating the proposed Building must be posted on the property for
fifteen (15) days before a decision can be rendered. The cost of filing is
\$50.00 and posting \$35.00; total \$85.00.

In the absence of a request for public hearing during the 15-day posting period,
a decision can be expected within approximately four weeks. However, if a valid
demand is received by the closing date, then the decision shall only be rendered
after the required public special hearing.

*SUGGESTED POSTING DATE _____ D (15 Days Before C)

DATE POSTED _____

HEARING REQUESTED-YES _____ NO _____ -DATE _____

CLOSING DAY (LAST DAY FOR HEARING DEMAND) _____ C (B-3 Work Days)

TENTATIVE DECISION DATE _____ B (A + 30 Days)

*Usually within 15 days of filing

CERTIFICATE OF POSTING

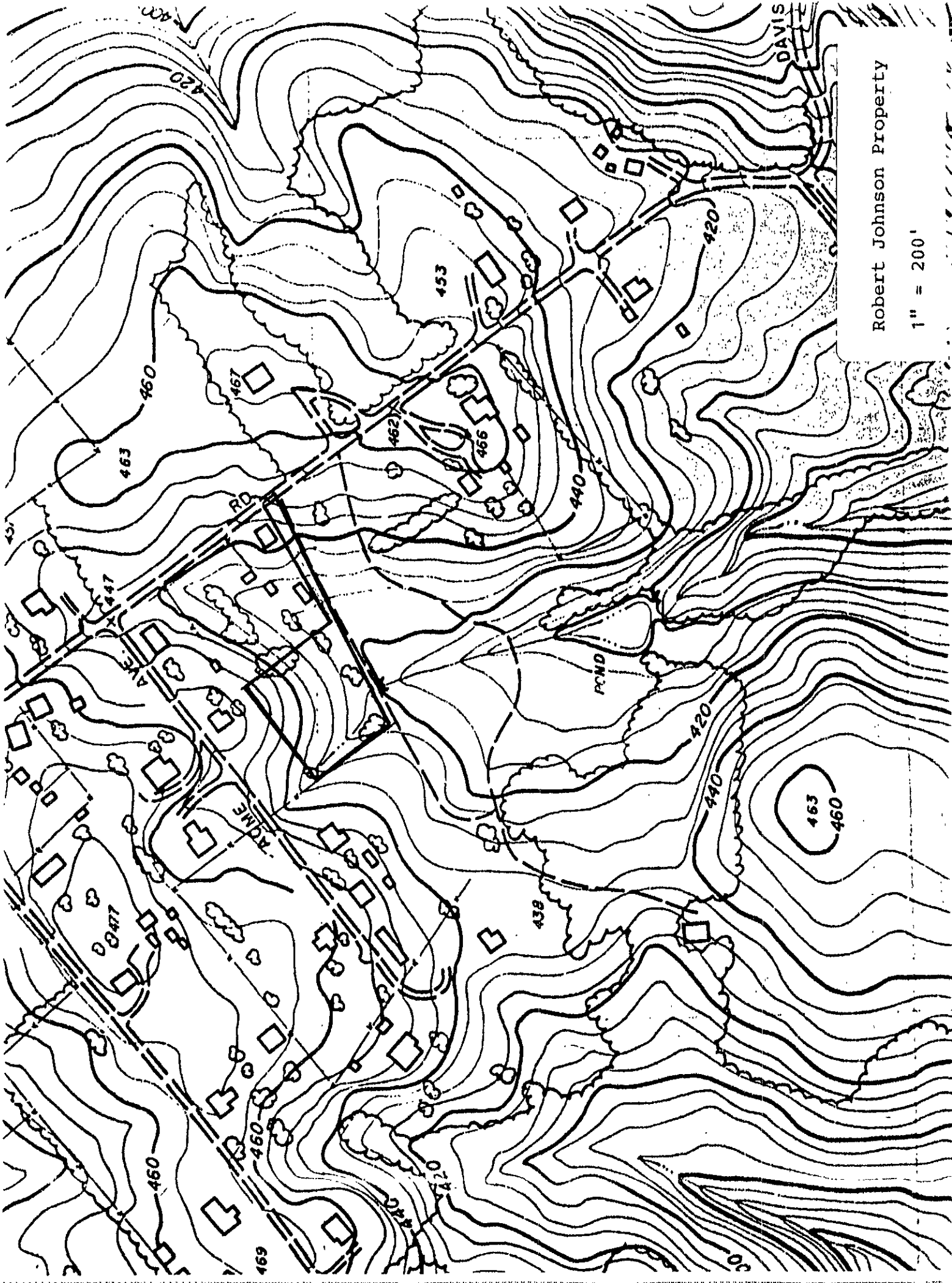
District _____

Location of property: _____

Posted by: _____ Date of Posting: _____
Signature

Number of Signs: _____

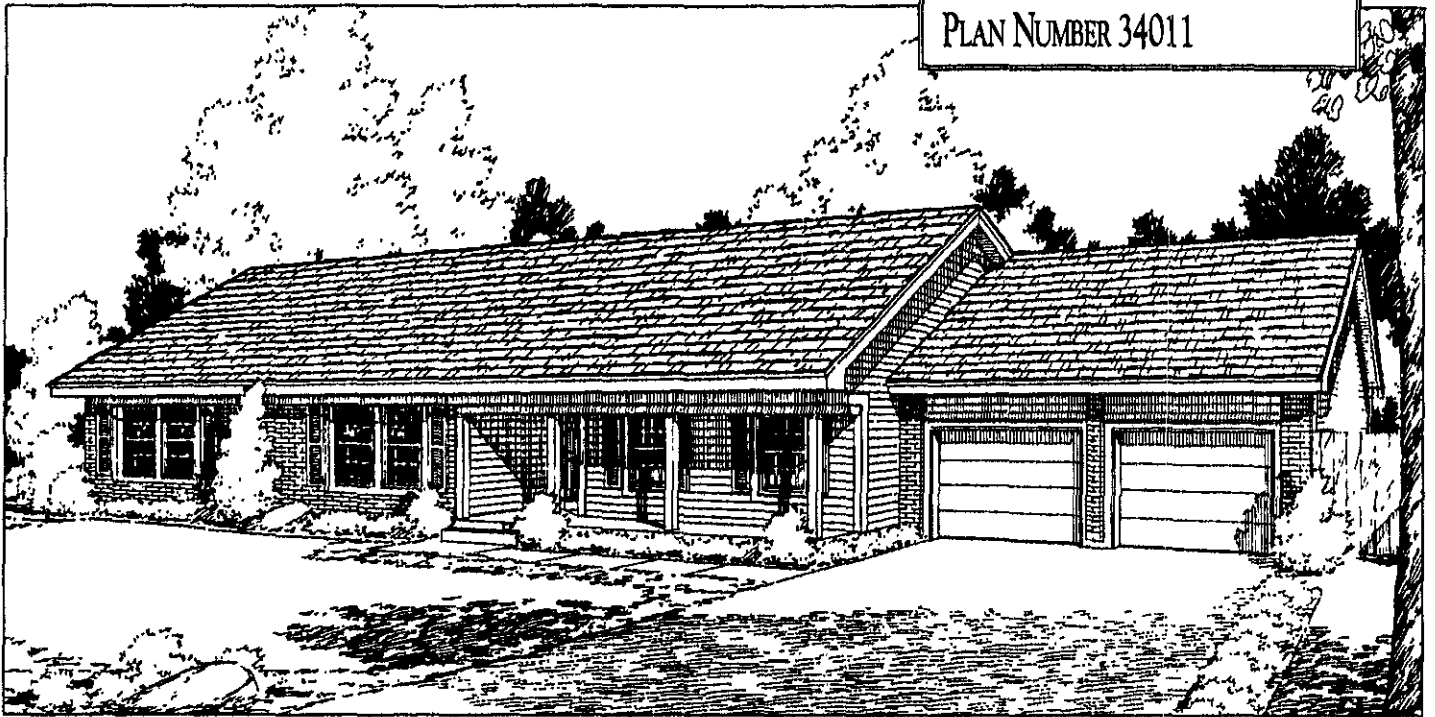
CK/UNDER.LOT (TXTSOPH)



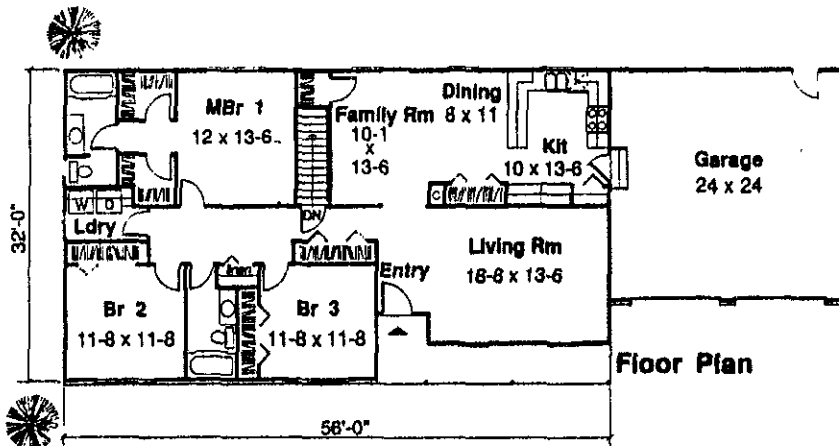
Robert Johnson Property

1" = 200'

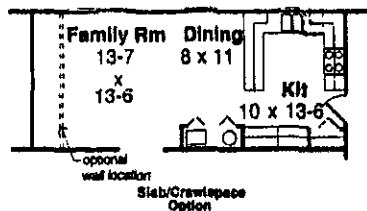
PLAN NUMBER 34011



Windows Add Warmth



Floor Plan



Abundant windows bathe the interior with natural light and allow fresh air to circulate in this beautiful one-story home.

The formal living room is in the front of the house, with the informal spaces of the kitchen, dining area, and family room all open to each other at the rear. The kitchen is equipped with a peninsula counter and has access to an optional garage.

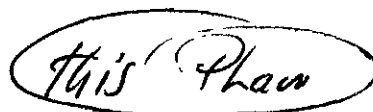
The master suite features two huge walk-in closets and a private bath. Between the second and third bedroom is the second bathroom and a linen closet. More than enough closet space keeps clutter under control, and the laundry room is located conveniently near all three bedrooms.

Please indicate slab, crawlspace, or basement when ordering.

For price information and to order the plan, see page 113.

Plan Number 34011

Baths:	2
Bedrooms:	3
Total Living Area:	1,672 sq. ft.
Garage (optional)	566
Exterior Wall Framing:	2x4/2x6
Foundation Options:	
Basement, crawlspace, slab	
BLUEPRINT PRICE CODE:	B





View across Lentz property to proposed house site on Johnson property (from Acme Ave)



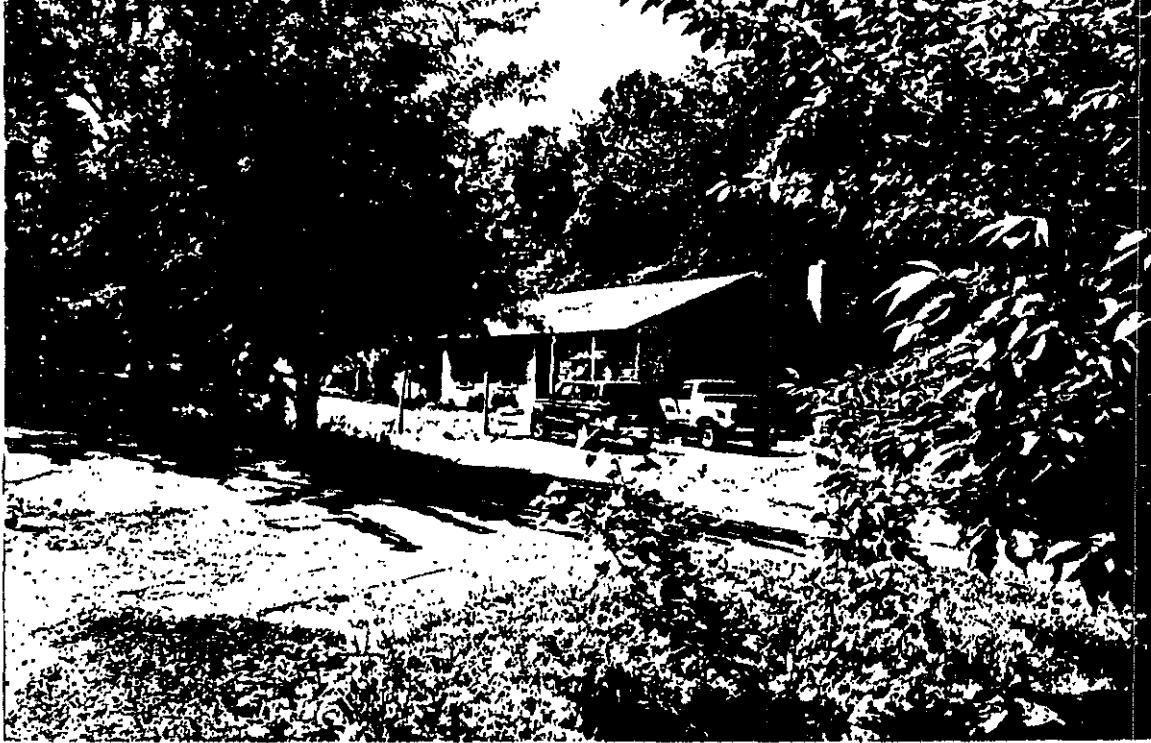
vacant Johnson lot from Davis Ave.



Davis Avenue (looking south)



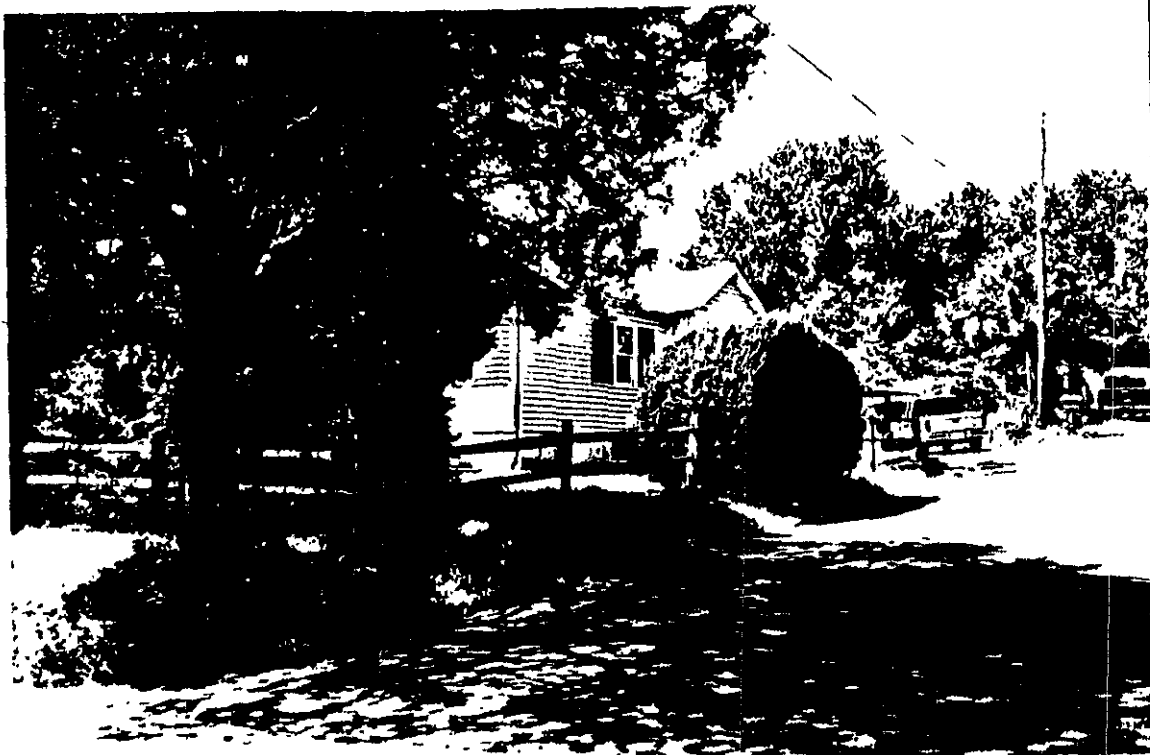
Robert Johnson current dwelling



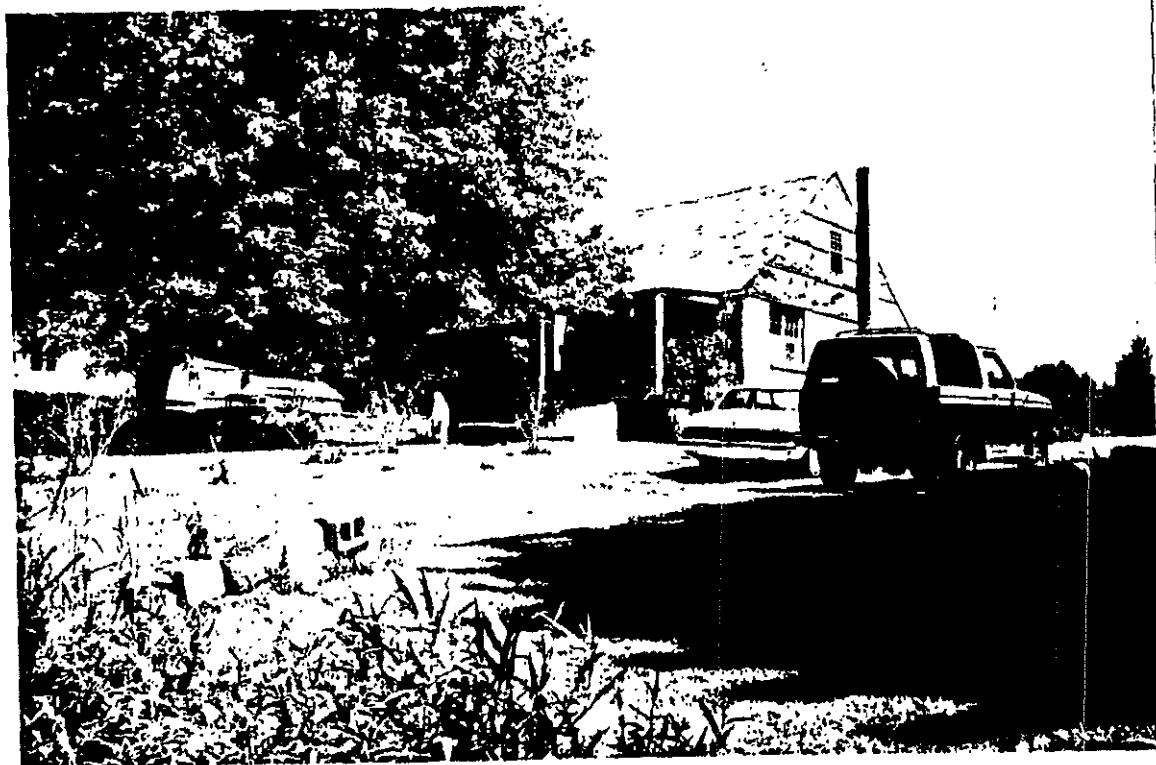
Existing house - Davis Avenue



Existing house - Acme Avenue
(Lentz)



Existing house at corner of Davis
and Acme (Kirkley)



Existing house - Davis Ave - opposite
Acme Avenue



Existing houses opposite side of
Davis Avenue



Petitioner's Ex. 7

McKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET
TELEPHONE: (410) 848 - 6468
(410) 840 - 8428

WESTMINSTER, MARYLAND 21157
FACSIMILE: (410) 840 - 8429

DATE: August 8, 1994

TO: Baltimore County Zoning

RE: Robert Johnson Property

ATTENTION: _____

Gentlemen:

- We are submitting Herewith Under separate cover
- We are forwarding
- We are returning

No.	Description
3	petitions for special hearing
3	petitions for variance
6	descriptions
2	zoning map
24	plats
1	Check for \$170.00 filing fee
1	advertising notice

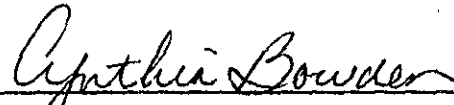
- For processing For your use
- For your review Please call when ready
- In accordance with your request Please return to this office

Remarks: _____

For further information, please contact the writer at this office.

Very truly yours,
McKee & Associates Inc.

Enclosures
cc: Robert Johnson


Cynthia B. Bowden, L.S.
Associate



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10729 Davis Avenue

which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve use of undersized single family lot (section 304.1). The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 ac) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay 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 restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Legal Owner(s):

Robert Johnson
(Type or Print Name)

Signature

(Type or Print Name)

Signature

10729 Davis Avenue

461-8168

Address

Phone No.

Woodstock, Maryland

21163

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Cynthia B. Bowden

McKee & Associates, Inc.

Name

257 East Main Street, Westminster, MD

Address

21157

Phone No.

840-8428

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 10729 Davis Avenue

which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1A04.3B.1 to allow the construction of a single family dwelling on a property less than one acre in size. Section 1A04.3B.3 to permit a rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.

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

- 1) lot of record - Originally created in 1889 & 1922 (2 separate parcels), with an outsale in 1892.
- 2) setback variance to allow adequate building envelope to meet health department requirements for wells and septic system.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s):

Robert Johnson

(Type or Print Name)

Robert Johnson

Signature

(Type or Print Name)

Signature

10729 Davis Avenue 461-8168
Address Phone No.

Woodstock, Maryland 21163
City State Zipcode

Name, Address and phone number or representative to be contacted.

Cynthia B. Bowden
McKee & Associates, Inc.

Name

257 East Main Street, Westminster, MD
Address 21157 Phone No. 840-8428

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____



Printed with Soybean Ink
on Recycled Paper



MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET

WESTMINSTER, MARYLAND 21157

Telephone: (410) 848 - 6468

(410) 840 - 8428

Facsimile: (410) 840 - 8429

Description of

ROBERT JOHNSON PROPERTY

10729 Davis Avenue

Woodstock, Maryland

2nd election district, Baltimore County

to accompany petitions for

VARIANCE AND SPECIAL HEARING

Beginning for the same in Davis Avenue, 329 feet, more or less, southeast of the centerline of Acme Avenue, thence running in Davis Avenue, as now surveyed, and referring the bearings of this description to the meridian established in the deeds,

- 1) South 33 degrees 26 minutes 58 seconds East 23.74 feet, thence leaving the road
- 2) South 65 degrees 05 minutes 00 seconds West 439.32 feet
- 3) North 35 degrees 00 minutes 00 seconds West 159.74 feet
- 4) North 54 degrees 27 minutes 57 seconds East 205.87 feet
- 5) South 35 degrees 00 minutes 00 seconds East 186.93 feet
- 6) North 62 degrees 00 minutes 00 seconds East 229.02 feet, to the beginning.

Containing 0.937 acres of land, more or less.

0514

15-7015/2540
31

BOB JOHNSON PLUMBING & HEATING
2932 ROGERS AVE.
ELLICOTT CITY, MD 21043

f-5- 19 *84*

PAY TO THE ORDER OF
Eastern County
One Hundred Twenty

\$ *170.* -
00 / *100* DOLLARS



Bob Johnson

FOR

⑆000514⑆ ⑆254070158⑆ 31⑆ 1001403⑆ 2⑆

GUARANTEE SAFETY
FEDERAL RESERVE BANK



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/neighboring property owners relative to property which is 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.: _____

Petitioner: Robert Johnson

Location: 10729 Davis Avenue, Woodstock, Maryland 21163

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Robert Johnson

ADDRESS: 10729 Davis Avenue

Woodstock, Maryland 21163

PHONE NUMBER: 461-8168

AJ:ggs

(Revised 04/09/93)

R. C. 5

R.

125

COURT

R. C. 5

DAVIS

R. C. 5

92-182-A

AVE

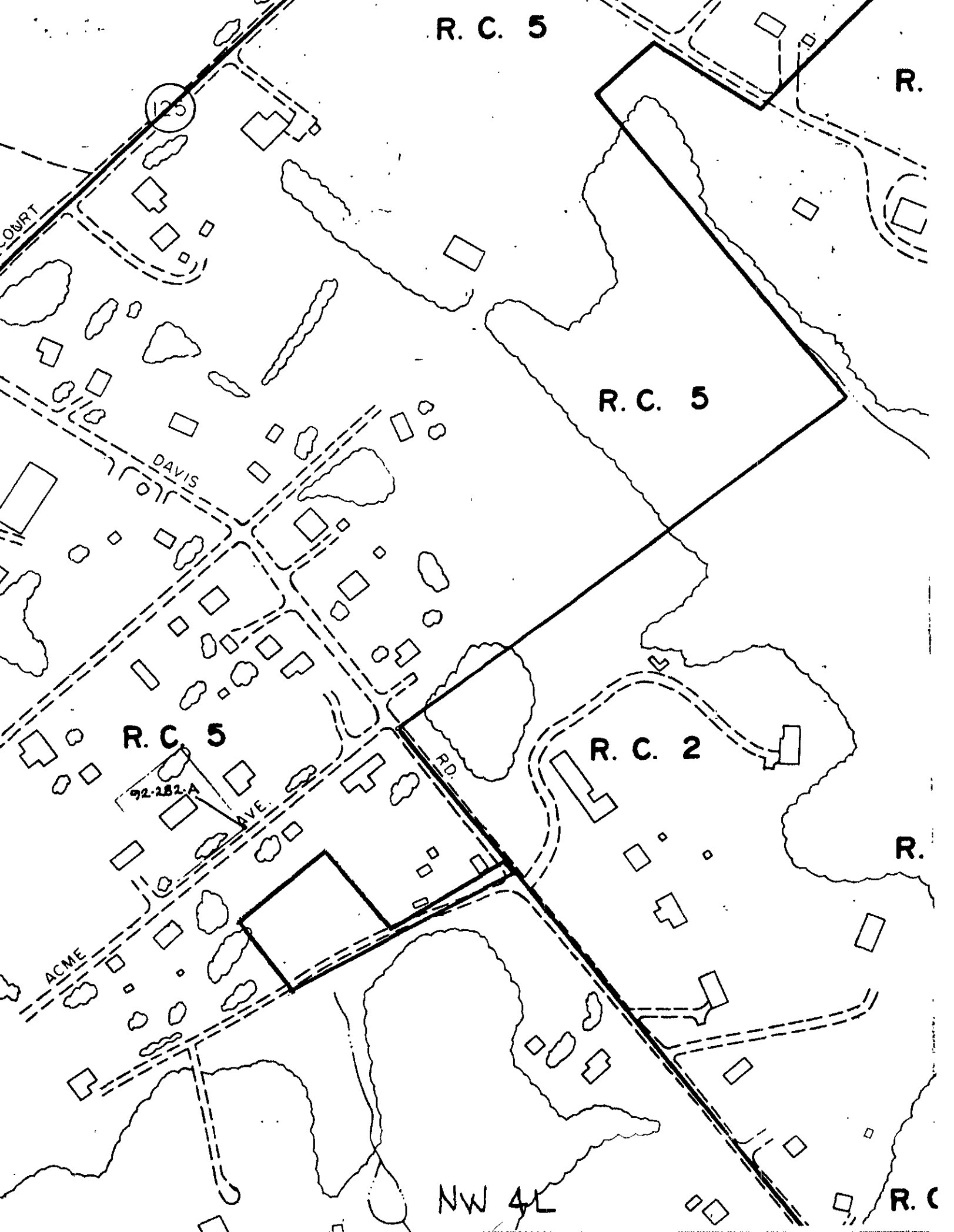
R. C. 2

ACME

R.

NW 4L

R. C



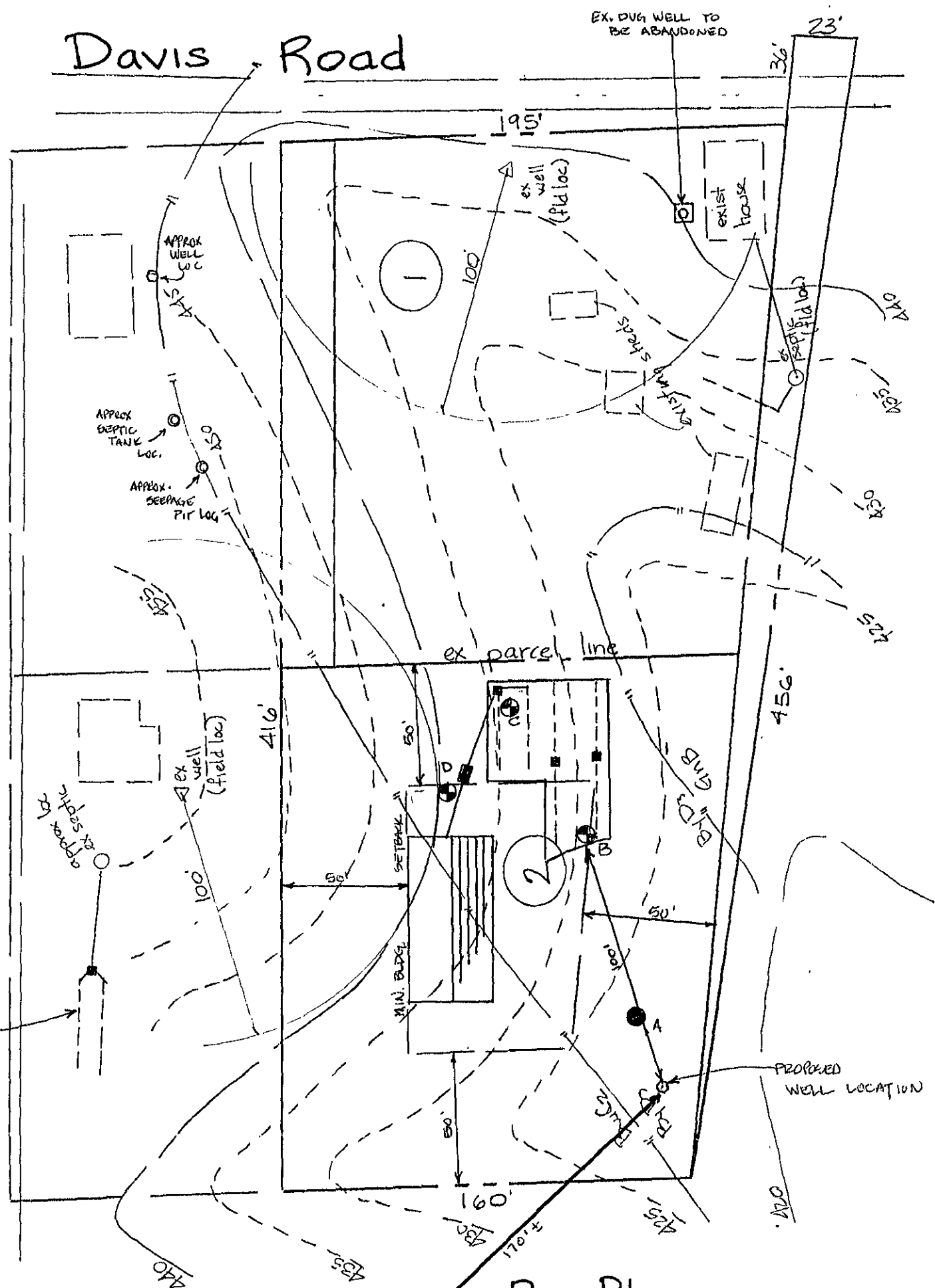
NOTES:

1. THE EXISTING DUG WELL ON LOT #1 MUST BE BACKFILLED PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR LOT #2
2. THE EXISTING SEPTIC SYSTEM SERVING LOT #1 MUST BE MOVED INTO LOT #1 PROPERTY PRIOR TO ISSUANCE OF A BUILDING PERMIT ON LOT #2

McKEE & ASSOCIATES, INC.
 Engineering - Surveying - Real Estate Development
 SHAWAN PLACE - 5 SHAWAN ROAD
 HUNT VALLEY, MD 21030
 TELEPHONE (301) 527-1555
 FACSIMILE (301) 527-1563.

Davis Road

Acme Avenue



NOTE: THIS LOT WAS RECORDED PRIOR TO 1972.

Perc Plan
 Robert Johnson Property
 10729 Davis Avenue
 1"=50'
 4-28-94
 RAJEN, S. J. P.E.



PROTESTANT'S
EXHIBITS
A 1-11
DIRECTION OF
PHOTOGRAPHS

1



2



3



4



5



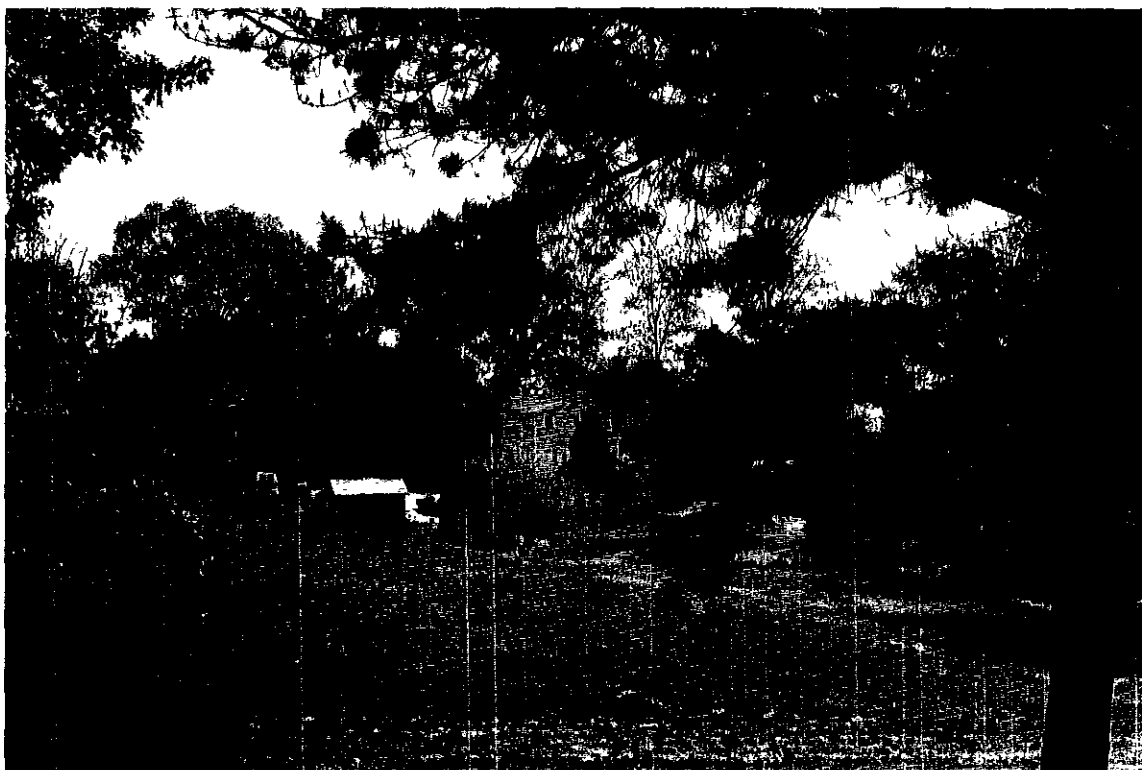
6



7



8



9



10



11

Protestants' Ex. E

MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION
REAL PROPERTY SYSTEM

05/11/95

PRIMARY SCREEN

BALTIMORE COUNTY

DISTRICT: 02 ACCT NO: 0208800000

SUBDIST:

OWNER NAME / MAILING ADDRESS
JOHNSON ROBERT D
10729 DAVIS AVE
WOODSTOCK MD 21163

DEED REF 1) /10212/ 601
2)
PLAT REF 1)

EXEMPT STATUS/CLASS
0 000

PRINCIPAL
RESIDENCE
YES

PREMISE ADDRESS
10729 DAVIS AVE

TOWN	GEO	ADVAL	TAX	LAND	COUNTY
CODE	CODE	CODE	CLASS	USE	USE
000	80	000		R	04

LEGAL DESCRIPTION

1.31 AC
WS DAVIS AVE
3960FT FROM GRANITE
TRANSFERRED FROM: HUMPHREY MAE

MAP	GRID	PARCEL	SUB-DIV	PLAT	SECT	BLOCK	LOT
86	8	196					

12/14/93 \$65,000

PRESS: <F1> VALUES SCRIN

<F3> SELECT NEXT PROPERTY

1995

ROBERT D. JOHNSON 10212/601 (12114/93)

ACCT # 0208800000

1.31 AC

1966-1967

MAE HUMPHREY

ACCT # 800,000

1.31 AC

1940-1945

ROBERT D. JOHNSON

ASSESSMENT RECORD OF 1940, PAGE 284

1943 LIFE ESTATE TO MAE HUMPHREY

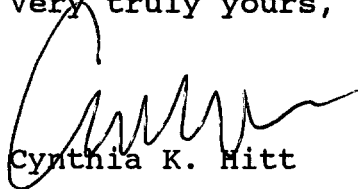
County Board of Appeals for Baltimore County
March 20, 1996
Page 2

meet set back requirements, nor is it required for any of the water and sewer utilities for Parcel 2 as a separate property (See the testimony of Cynthia Bowden on pages 61 through 63 of the Transcript, copies of which are enclosed herewith).

For the foregoing reasons, and in order to avoid semantical arguments under Section 304 of the BCZR, Mr. Johnson hereby amends his application, for clarification purposes, that he is combining Parcels 2 and 3, for development purposes only, and he is not combining Parcels 2 and 3 to form, create or recreate, subdivide or resubdivide a new single lot. If approved for development, Parcel 2 and Parcel 3 would be conveyed as per the Parcel 2 and Parcel 3 description on Exhibit A of Mr. Johnson's Deed. In the alternative, and for further clarification, Mr. Johnson withdraws Parcel 3 from consideration altogether, and requests approval to develop Parcel 2 as a single, undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations.

In the event that you have any questions, please do not hesitate to contact this office.

Very truly yours,



Cynthia K. Hitt

CKH:bb
cc: Kathleen S. Skullney, Esquire
Carole S. DeMilio, Esquire
Mr. Robert Johnson
Cynthia B. Bowden, L.S.

GEORGE A. HUMPHREY ET AL
To
ROBERT D. JOHNSON
10212/501
(11/15/93) -
3 PARCELS WITH SAVES & EXCEPTS

ROBERT D. JOHNSON
To
MAE HUMPHREY (LIFE ESTATE)
(BY WILL) 1943

ROBERT D. JOHNSON ET. UX.
To
FREDERICK I. JOHNSON ET. UX.
1041/501
10/5/1938
1/2 ACRE

CHRISTINA PEACH
To
ROBERT D. AND EMMA M. JOHNSON
958/201
6/12/35
2 PARCELS
① 1 AC 65 SQ. PERCH
② 1 AC 38 SQ. PERCH
(WITH EXCEPTION OF 1/2 AC.)

JOHN T.L. BARTON & FANNIE BARTON
To
ROBERT D AND EMMA M. JOHNSON
554/341
6/19/37
BEING PART OF 13 1/4 AC
AS DESCRIBED IN 355/161

ROBERT D. AND EMMA M. JOHNSON
To
CHRISTINA PEACH
958/200
6/12/1935
2 PARCELS (SEE ABOVE)

ANDREW CASHELL ET. UX.
To
JOHN T.L. BARTON ET. UX.
355/161
12/27/09
13 1/4 AC WITH SMALL EXCEPTION
(28 1/2 PERCH)
(SUBJECT TO MORTGAGE FROM
ANDREW CASHELL TO WILLIAM WADE)

WILLIAM J. PEACH (ATTY.)
To
ROBERT D. JOHNSON
264/196
9/2/1902
(SOLD AT PUBLIC SALE TO ROBT. D. JOHNSON)
ROBT. MASON DEFAULTS ON MORTGAGE TO WILLIAM WELLS

BARBARA E. MITCHELL
To
WILLIAM W WADE
BEING A PART OF "EAST LOTHIAN"
274/111
12/23/1903
13 1/4 AC "BEING A PART OF
A TRACT OF LAND CALLED
"EAST LOTHIAN"
(SAVE AND EXCEPT 28 1/2 P STRIP)

ROBERT K. MASON
To
LOUISA EVERRETT
197/407
3/15/1892
1/2 ACRE

TENENT NELSON ET. UX.
To
ROBERT K. MASON
178/202
5/7/1889
1 AC 38 SQ PERCH
(LOT No 5 ON PLAT)

TENENT NELSON ET. UX.
To
ROBERT K. MASON
162/374
6/11/1887
1 AC 65 SQ PERCH
(LOT No. 4 ON PLAT)

EAST LOTHIAN

WILLIAM PEACH (TRUSTEE)
To
TENENT NELSON
77/312
LAND INVOLVED IN EQUITY CASE 1871
DESCRIBED IN 16/189

WILLIAM CLEARY
To
LUDWIG EYLER'S
16/189
4 PARCELS, 64 AC, 13 1/2 AC 83 AC
PART OF EAST LOTHIAN

GEORGE A. HUMPHREY ET AL
To
ROBERT D. JOHNSON
10212/501
(11/15/93) -
3 PARCELS WITH SAVES & EXCEPTS

ROBERT D. JOHNSON
To
MAE HUMPHREY (LIFE ESTATE)
(By Will) 1943

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To
FREDERICK V. JOHNSON ET. UX.
1041/501
10/5/1938
1/2 ACRE

CHRISTINA PEACH
To
ROBERT D. AND EMMA M. JOHNSON
958/201
6/12/35
2 PARCELS
① 1 AC 65 SQ. PERCH
② 1 AC 38 SQ PERCH
(WITH EXCEPTION OF 1/2 AC.)

JOHN T.L. BARTON & FANNIE BARTON
To
ROBERT D AND EMMA M. JOHNSON
554/341
6/19/22
BEING PART OF 13 1/4 AC
AS DESCRIBED IN 355/101

ROBERT D. AND EMMA M. JOHNSON
To
CHRISTINA PEACH
958/200.
6/12/1935
2 PARCELS (SEE ABOVE)

ANDREW CASHELL ET. UX.
To
JOHN T.L. BARTON ET. UX.
355/101
12/27/09
13 1/4 AC WITH SMALL EXCEPTION
(28 1/2 PERCH)
(SUBJECT TO MORTGAGE FROM
ANDREW CASHELL TO WILLIAM W. WAGE)

WILLIAM J. PEACH (ATTY.)
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264/196
9/2/1902
(SOLD AT PUBLIC SALE TO ROBT. D. JOHNSON)
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12/23/1903
13 1/4 AC "BEING A PART OF
A TRACT OF LAND CALLED
"EAST LOTHIAN"
(SAVE AND EXCEPT 28 1/2 P. PERCH)

ROBERT K. MASON
To
LOUISA EVERRETT
197/407
8/16/1892
1/2 ACRE

TENENT NELSON ET. UX.
To
ROBERT K. MASON
178/202
5/7/1889
1 AC 38 SQ PERCH
(LOT No. 5 ON PLAT)

TENENT NELSON ET. UX.
To
ROBERT K. MASON
162/374
6/11/1887
1 AC 65 SQ PERCH
(LOT No. 4 ON PLAT)

WILLIAM PEACH (TRUSTEE)
To
TENENT NELSON
77/312
LAND INVOLVED IN EQUITY CASE 1871
DESCRIBED IN 16/189

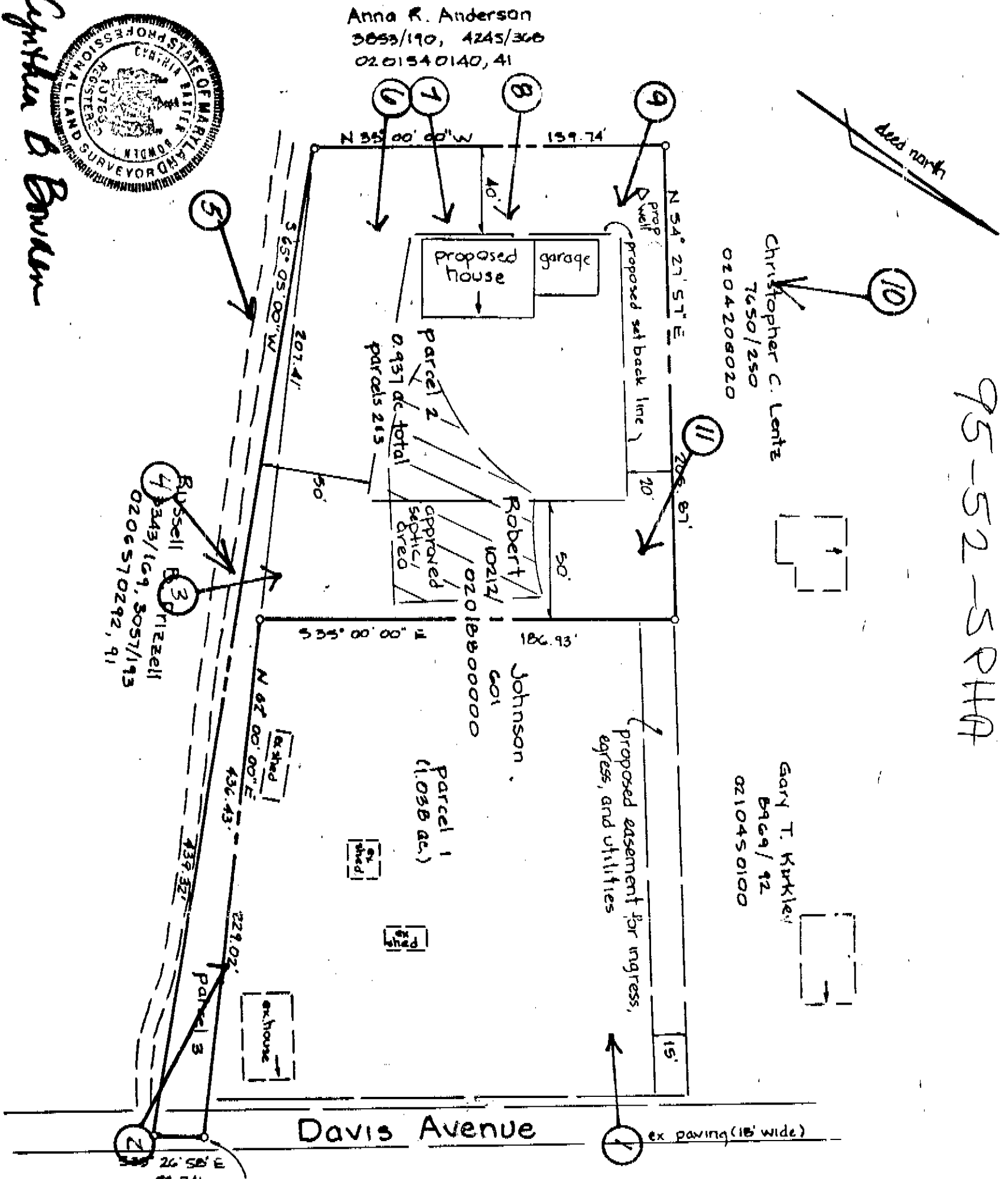
EAST LOTHIAN

WILLIAM CLEARY
To
LOWMYER EHLERS
16/189
4 PARCELS, 64 AC, 13 1/4 AC 83 AC
PART OF EAST LOTHIAN

DIRECTION OF PHOTOGRAPHS

95-52-5RHH

Prokshantz' Ex. B



Christopher C. Lentz
7650/250
0204208020

GARY T. KUKLIEV
B469/12
0210450100

Anna R. Anderson
3853/190, 4245/366
0201540140, 41

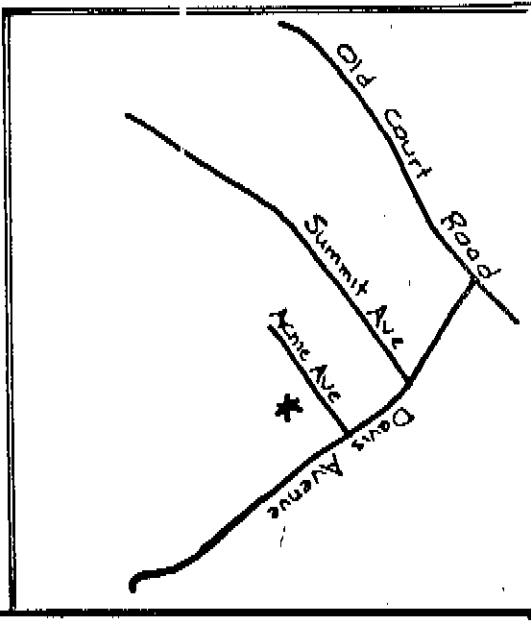
Russell B. Rizzell
3343/169, 5057/143
0206570292, 91

Robert Johnson
10212/1
02016800000



Cynthia B. Bowen

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428



Vicinity Map 1"=1000'

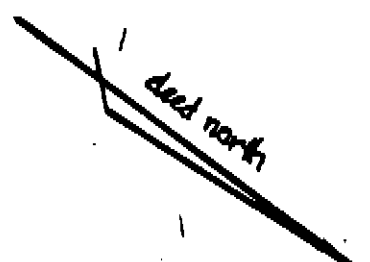
- NOTES:
1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
 2. Petition for special hearing to approve use of undersized single family lot under section 304.1.
 3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).
 4. Zoning map MW 4L current zoning: RC-5
 5. Election district - 2; councilmanic district - 1
 6. Refer to DRC #08014H granting a waiver of the 20 foot minimum panhandle width for a single lot.

P.O. 524 SE of E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

Petitioner's Ex. 1



Christopher C. Lentz
7650/250
0204208020

Gary T. Kukley
8469/92
0210450100

Anna R. Anderson
3853/190, 4245/360
0201540140, 41

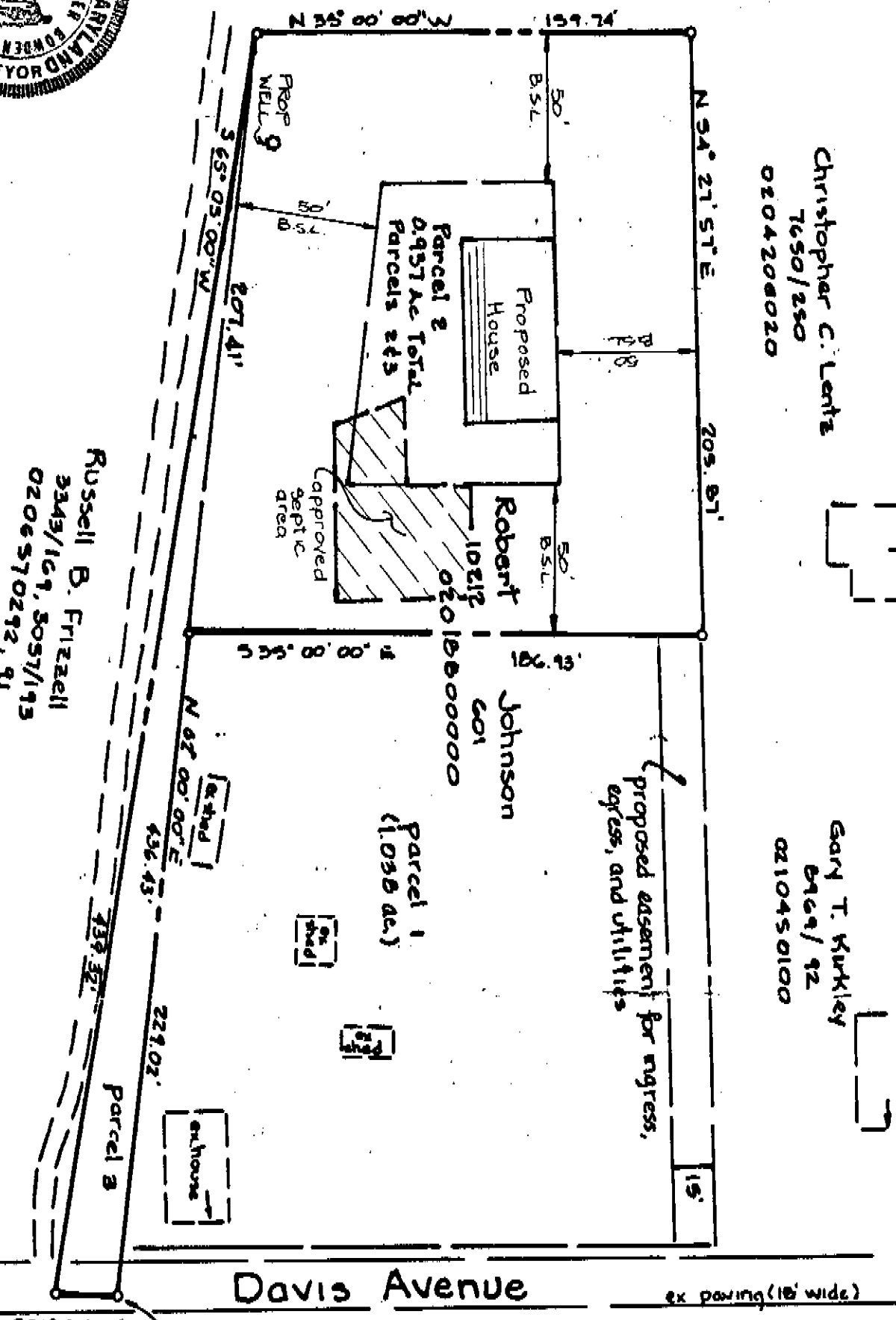


Cynthia Butler

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410)840-8428

Note: parcel 2 area 0.819
Parcel 3 area 0.118
Total 2 & 3 0.937 ac.

Russell B. Frizzell
3343/169, 5057/193
0206570292, 91



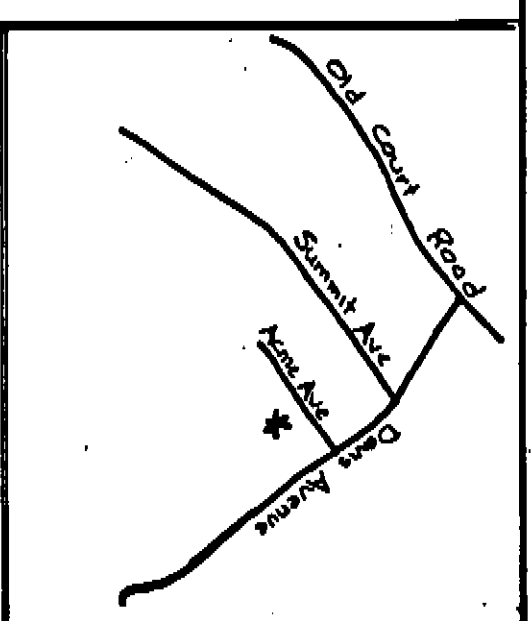
Proposed easement for ingress, egress, and utilities

NOTES:

1. Petition of zoning variance from section 304-38.1 to allow the use for a single-family dwelling of a lot of record less than one acre in size is hereby granted. The lot of record less than one acre is hereby re-zoned from RC-5 to RC-1 and a side setback of 40' instead of the required 60' and a side setback of 20' instead of the required 60'.
2. Petition for special hearing to approve use of undersized single family lot under section 304.1.
3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1932 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acres).
4. Zoning map MW 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #08014R granting a waiver of the 20 foot minimum parhandle width for a single lot.

P.O.B. 529 SE of E of Acme Avenue

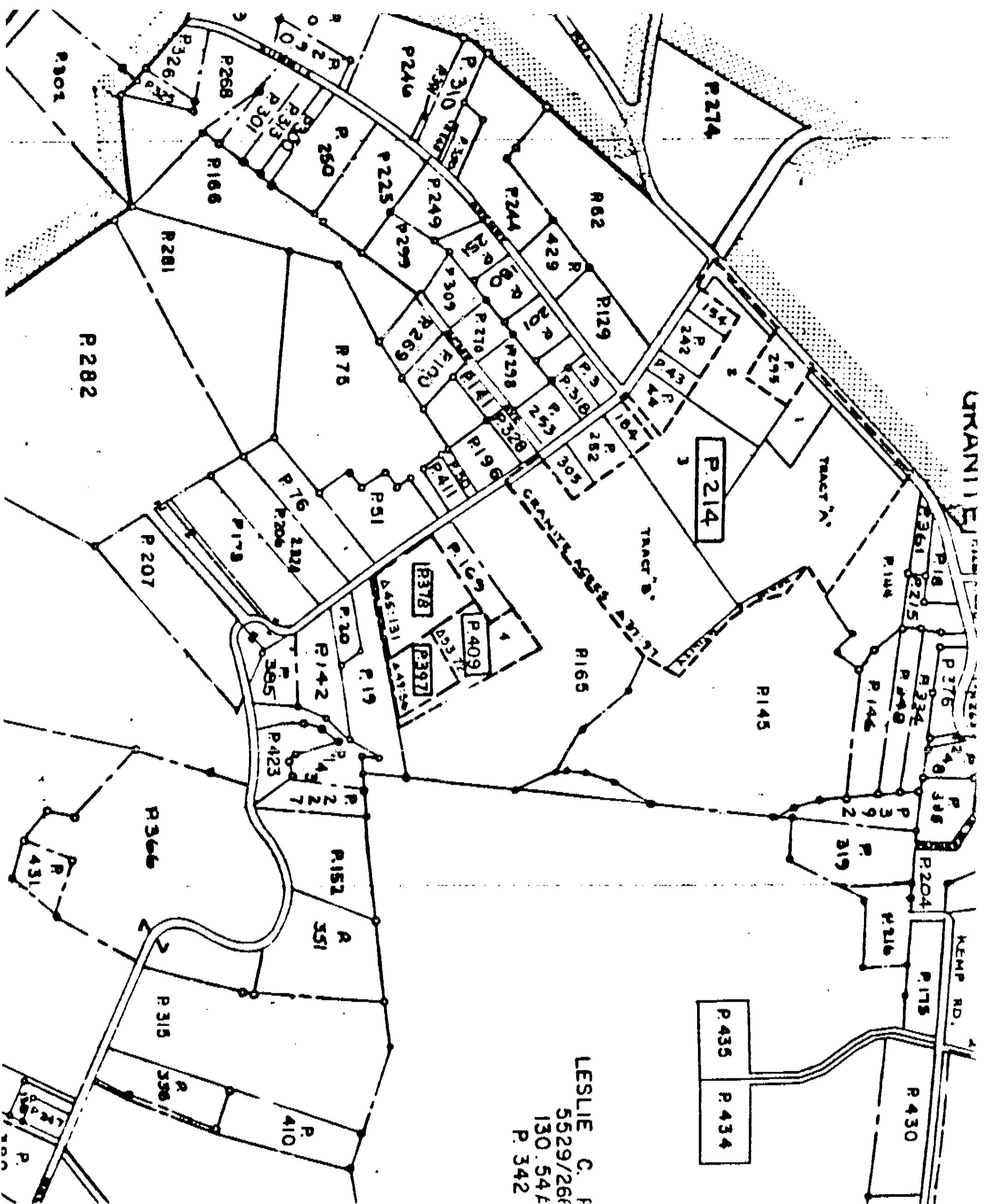
Vicinity Map 1"=1000'



PLAT TO ACCOMPANY PETITIONS FOR VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994
1" = 50'

Rev. 5-15-95

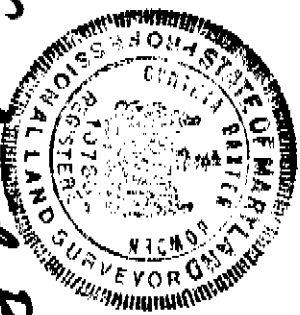


URKANI LESLIE

LESLIE C. F
 5529/26
 130.54
 P. 342

Profstanks' Ex. C

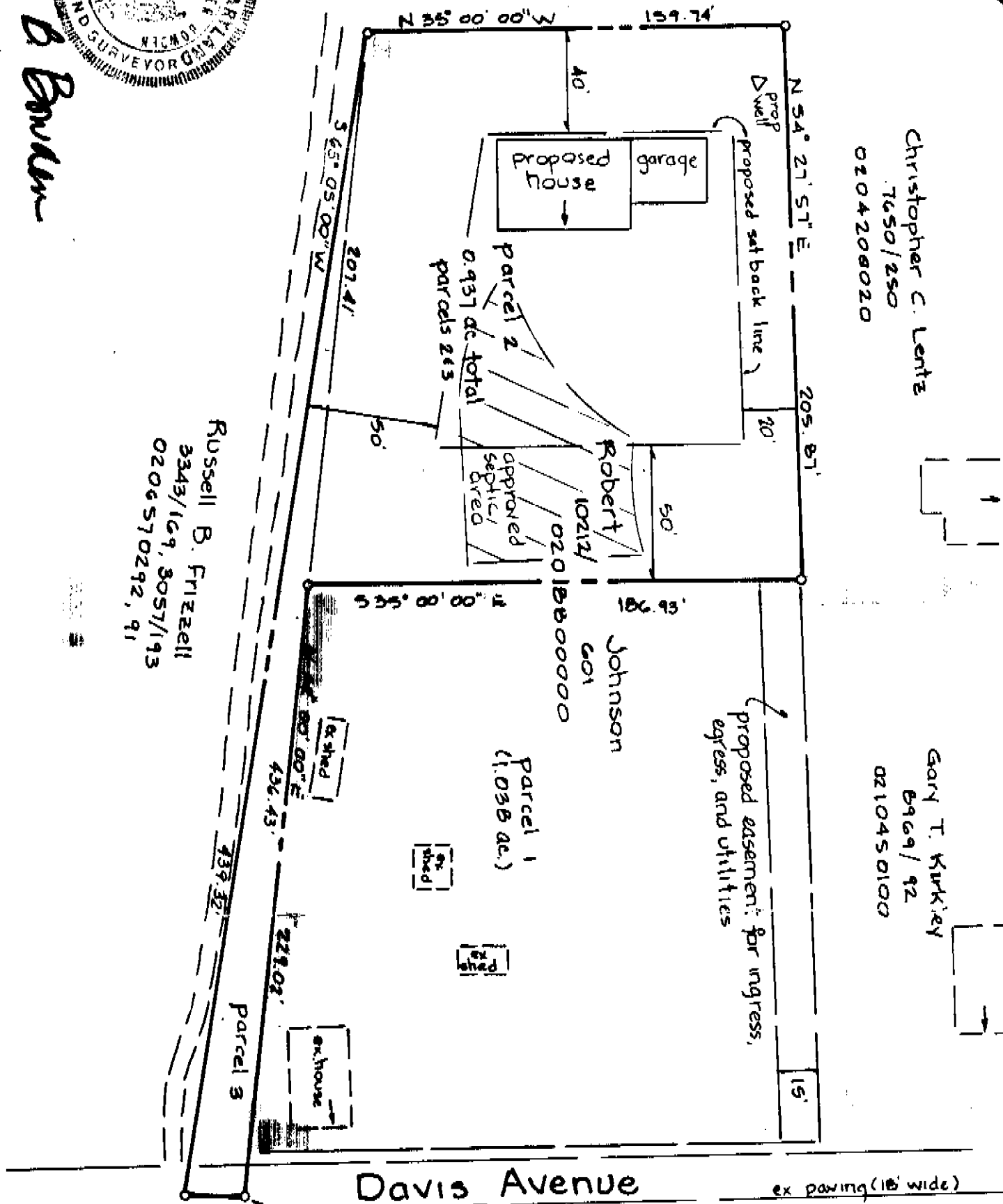
Anna R. Anderson
3053/190, 4245/360
0201540140, 41



Cynthia B. Bowler

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428

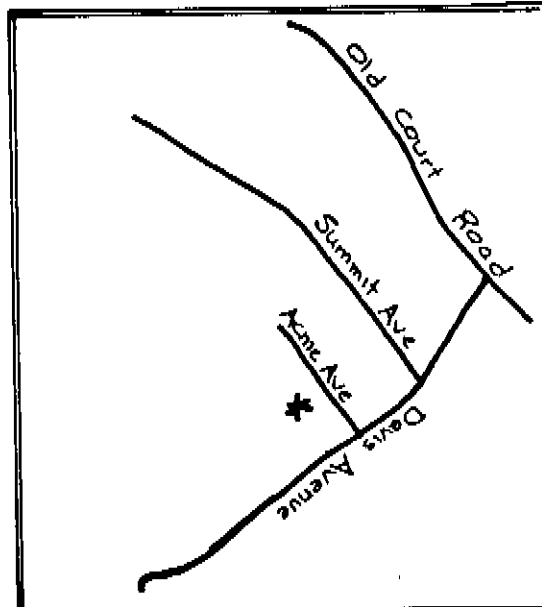
Russell B. Frizzell
3343/169, 3057/193
0206570292, 91



Christopher C. Lentz
7650/250
0204208020

Gary T. Kurkley
8969/92
0210450100

Davis Avenue ex paving (18' wide)



NOTES:

1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
2. Petition for special hearing to approve use of underzoned single family lot under section 304.1.
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4. Zoning map MW 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #08014H granting a waiver of the 20 foot minimum panhandle width for a single lot.

P.O. B. 529 SE of
E of Acme Avenue

PETITIONER'S
EXHIBIT No 1A

PLAT TO ACCOMPANY PETITIONS FOR
VARIANCE AND SPECIAL HEARING

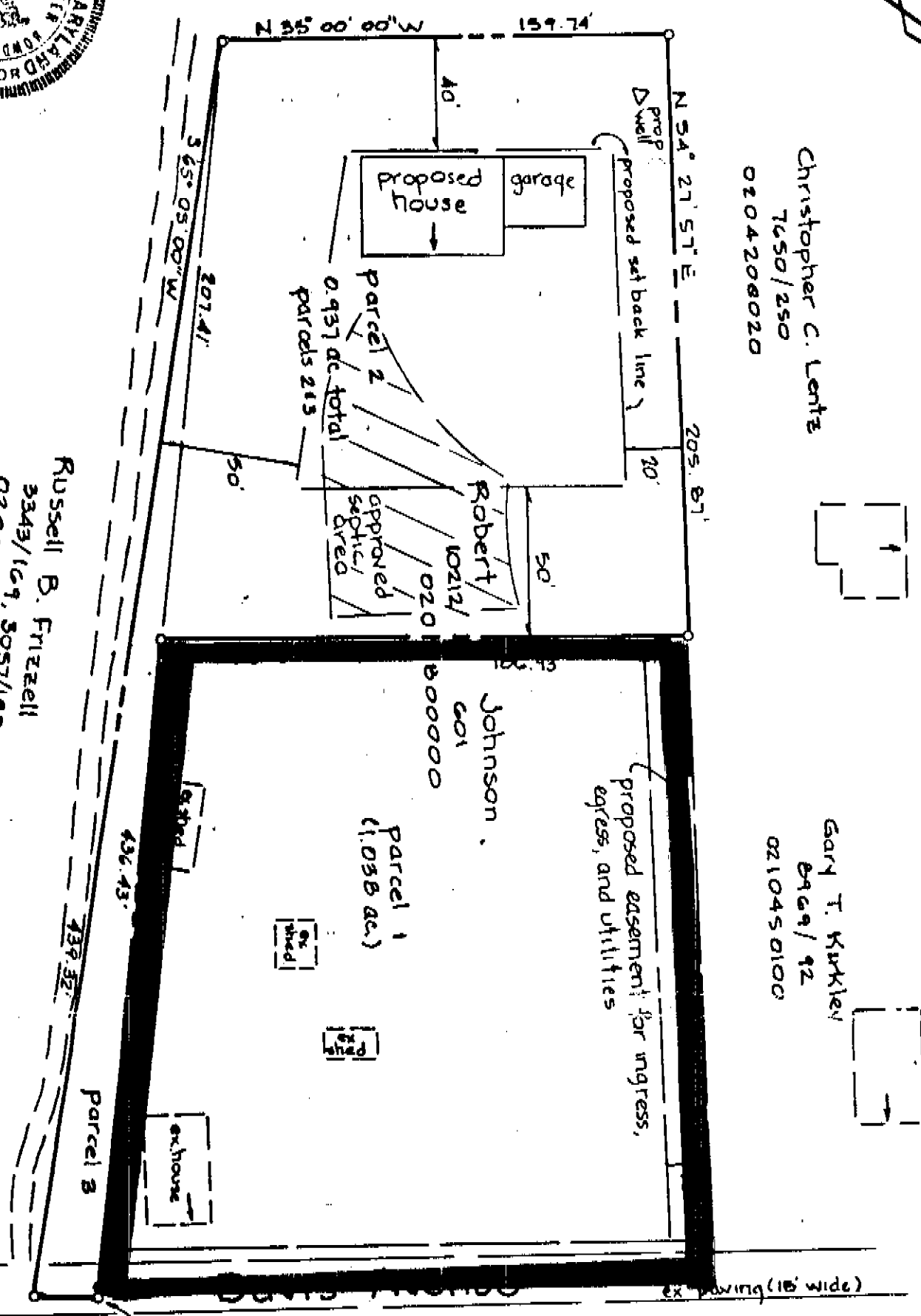
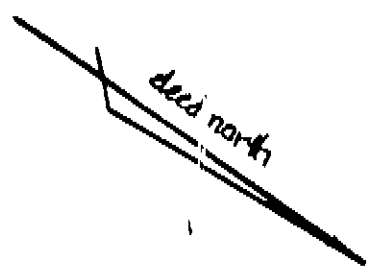
ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

PRESENT PROPOSAL

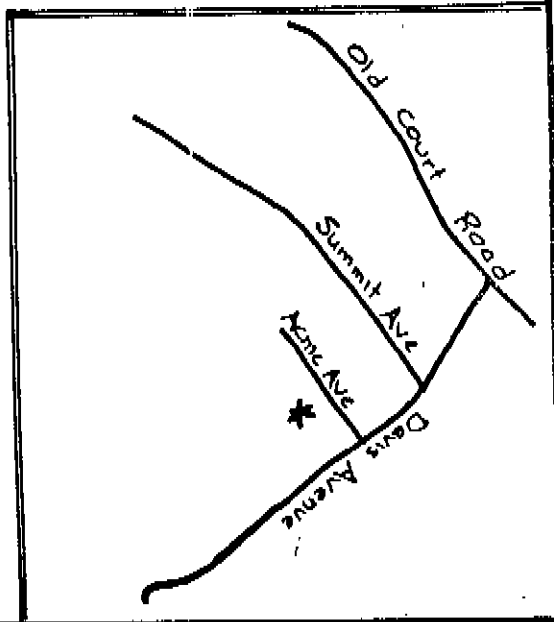
95-52-5 PHA

Christopher C. Lentz
7650/250
0204200020

Gary T. Kukley
8909/92
0210450100



Russell B. Fritzell
3343/169, 5057/143
0206570292, 91



Vicinity Map 1"=1000'

NOTES:

1. Petition of zoning variance from section 1M04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1M04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
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P.O.D. 529 SE of E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

Anna R. Anderson
3053/190, 4245/360
0201540140, 41



Cynthia B. Brewer

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410)840-8428

Protestants' Ex. D8

Anna R. Anderson
3053/190, 4245/360
0201540140, 41

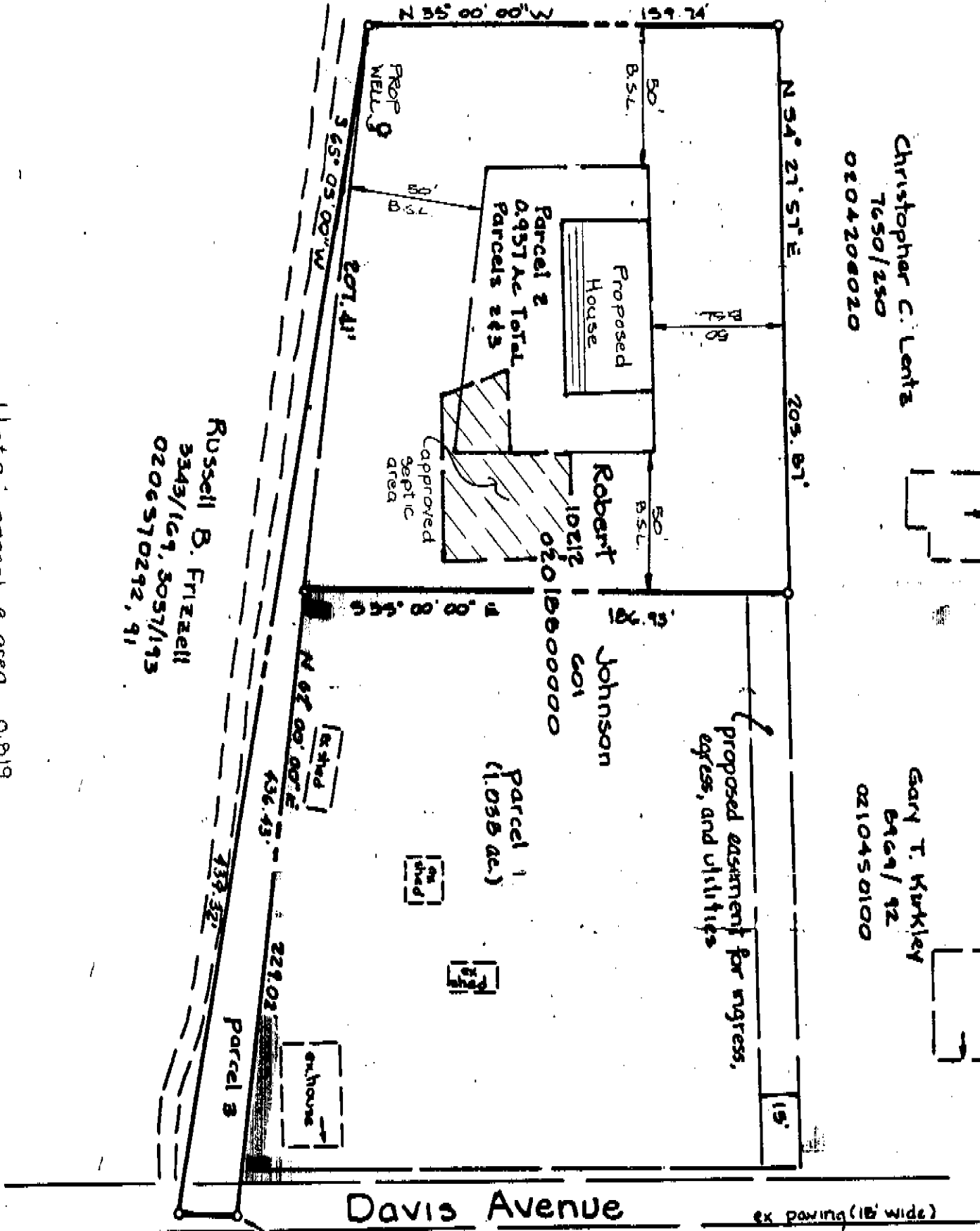
Christopher C. Lentz
7650/250
0204208020

Gary T. Kukley
8469/42
0210450100

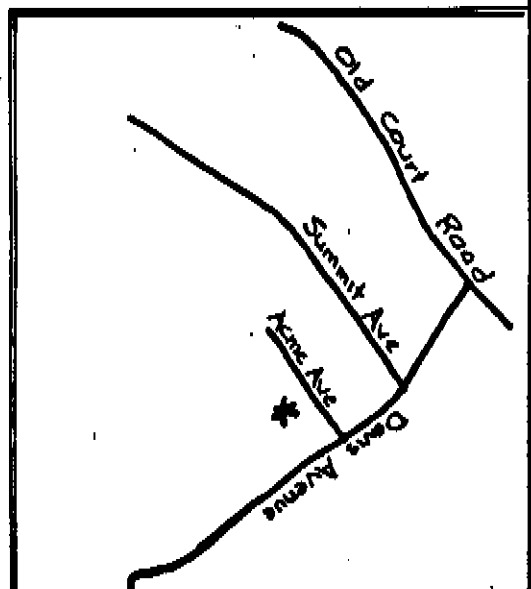
Russell B. Frizzell
3343/169, 3057/193
0206570292, 91

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410)840-8428

Note: parcel 2 area 0.819
Parcel 3 area 0.118
Total 2 & 3 0.937 ac.



Title History For
Robert D. Johnson
556/341, 06/19/82
104/501, 10/05/86
102/374, 06/11/1987
178/202, 05/27/1989
193/407, 08/15/1992



- NOTES:
1. Petition of zoning variances from section 304.1.1 to allow the use for a single family dwelling of a lot of record less than one acre in size, section 304.1.2 to permit rear setback of 40' instead of the required 60' and a side setback of 20' instead of the required 50'.
 2. Petition for special hearing to approve use of underzoned single family lot under section 304.1.1.
 3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1932, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acres).
 4. Zoning map MW 4L current zoning: RC-5
 5. Election district - 2; councilmanic district - 1
 6. Refer to DRC #08014H granting a waiver of the 20 foot minimum setback for a single lot.

P.O. Box 329 SE of
E of Acme Avenue

**PLAT TO ACCOMPANY PETITIONS FOR
VARIANCE AND SPECIAL HEARING**

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

Rev. 5-15-95

1871

95-52-SPHQ

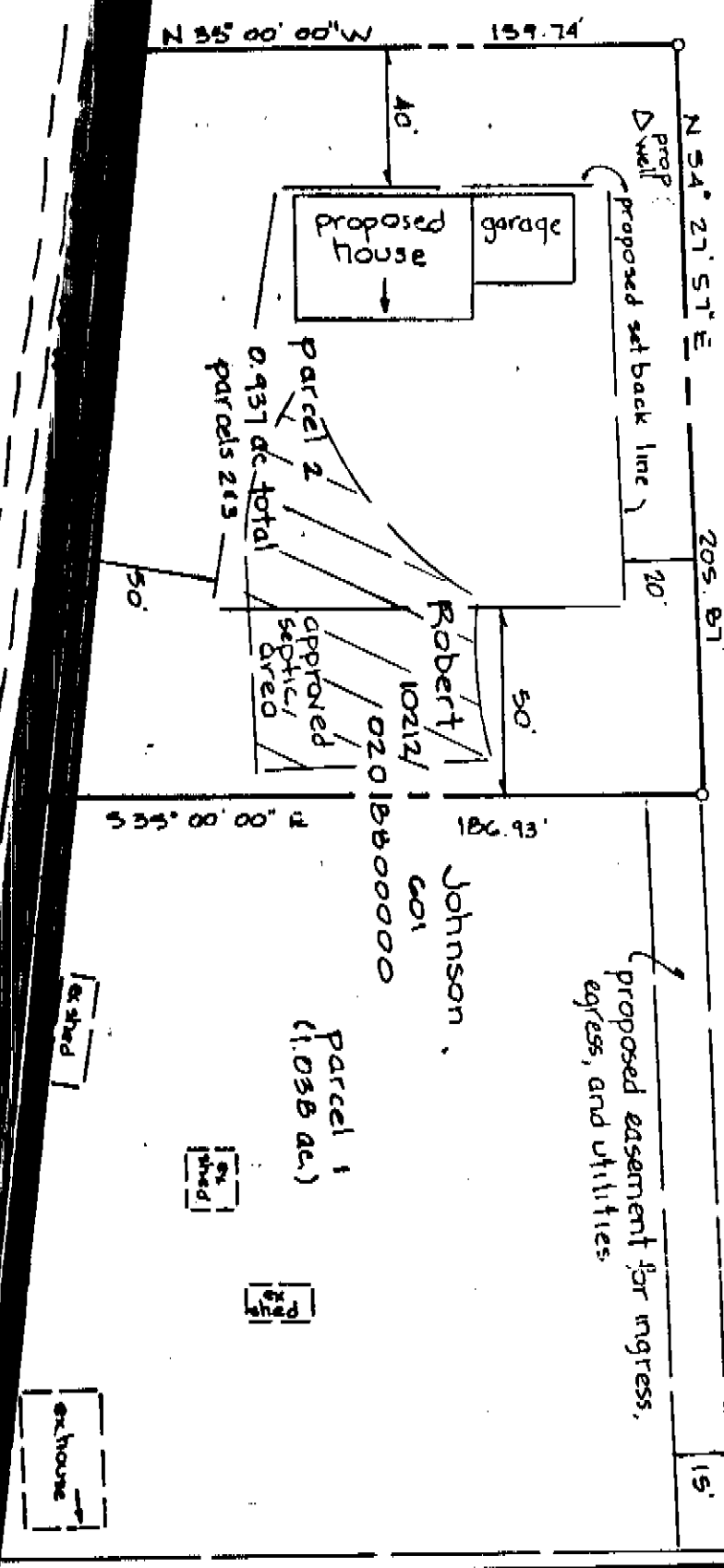
TENENT NELSON

7/3/12

Christopher C. Lentz
7650/250
0204208020

GARY T. KIRKLEY
8469/92
0210450100

Anna R. Anderson
3853/190, 4245/368
0201540140, 41



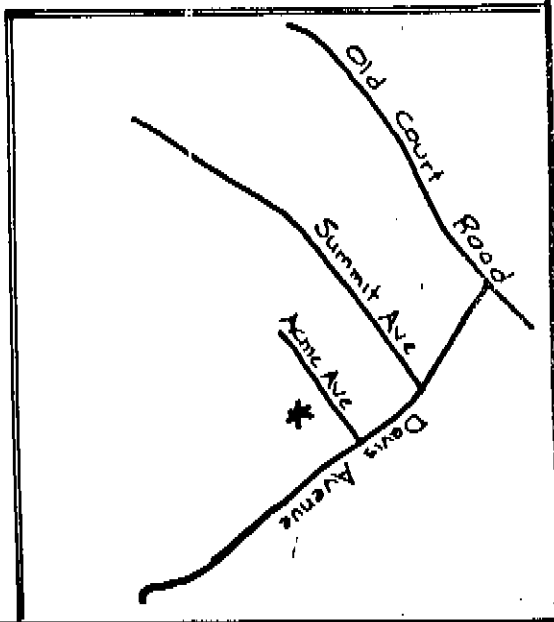
Russell B. Frizzell
3343/169, 3057/193
0206570292, 91

"EAST LOT" (PART OF)

Cynthia B. Bowen



McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428



Vicinity Map 1"=1000'

NOTES:

1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
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4. Zoning map MW 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #080148 granting a waiver of the 20 foot minimum panhandle width for a single lot.

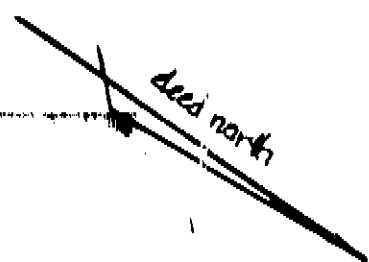
P.O. B. 529 SE of
E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR
VARIANCE AND SPECIAL HEARING
ROBERT JOHNSON PROPERTY
10729 DAVIS AVENUE
WOODSTOCK, MARYLAND 21163
August 10, 1994 1" = 50'

Protestants' EX. D5

1889

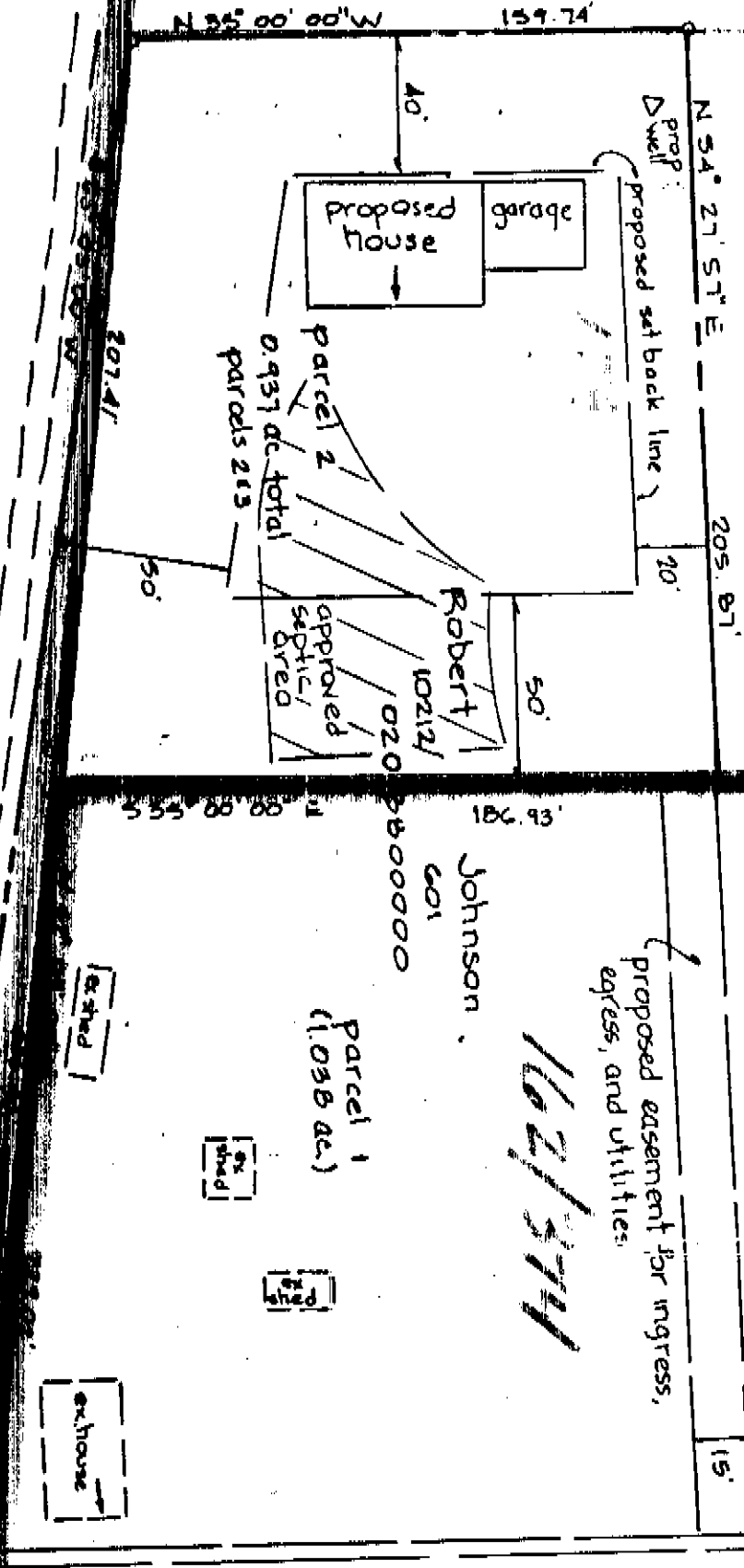
95-52-5PHH



Christopher C. Lentz
7650/250
0204208020

Gary T. Kukley
8469/92
0210450100

Anna R. Anderson
3855/190, 4245/368
0201540140, 41



proposed easement for ingress, egress, and utilities

162/374

Parcel 1
(1.038 ac.)

Johnson
601
0208800000

Russell B. Frizzell
3343/169, 3057/193
0206570292, 91

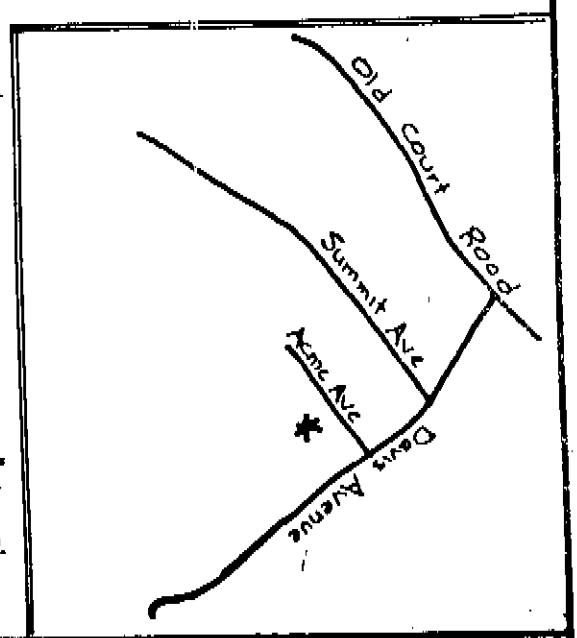
EAST LOT 14
(PART OF)

MCKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428



Cynthia B. Bowler

Davis Avenue
ex paving (16' wide)



Vicinity Map 1\"/>

NOTES:

- Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
- Petition for special hearing to approve use of undersized single family lot under section 304.1.
- The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).
- Zoning map MW 4L current zoning: RC-5
- Election district - 2; councilmanic district - 1
- Refer to DRC #08014H granting a waiver of the 20 foot minimum setback width for a single lot.

P.O.B. 529 SE of
E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR
VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

Pro Husbands, Et. Al

1902

95-52-5 PTH

197/407

Christopher C. Lentz
7650/250
0204208020

Gary T. Kirkley
8969/42
0210450100

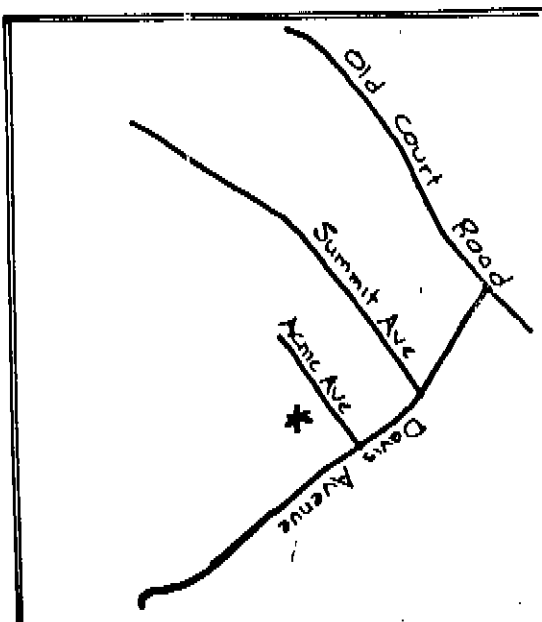
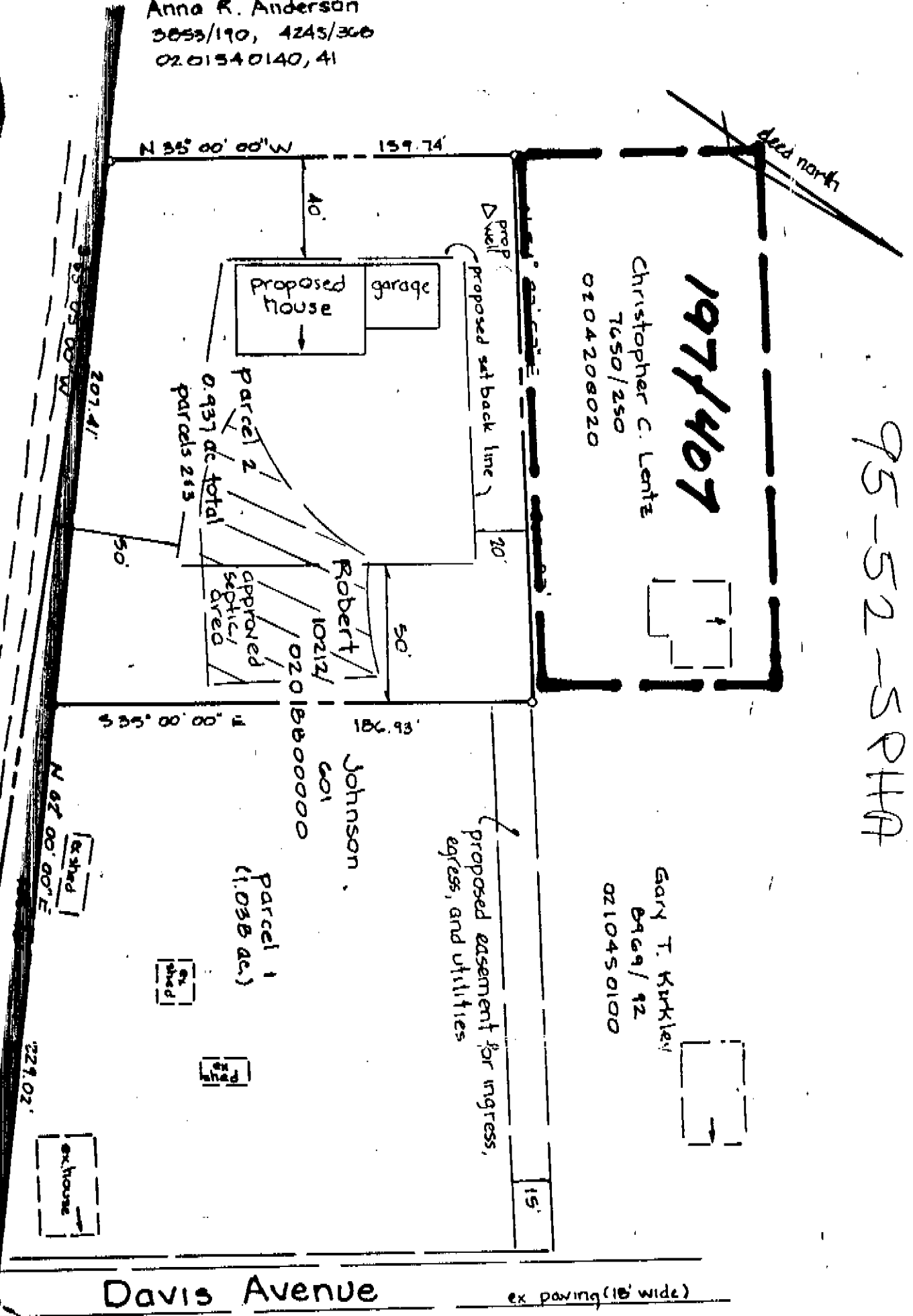
Anna R. Anderson
3853/190, 4243/300
0201540140, 41

Russell B. Frizzell
3343/169, 3057/193
0206570292, 91

"EAST LOTWAY"
(PART OF)

Cynthia B. Brown

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428



- NOTES:
1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
 2. Petition for special hearing to approve use of undersized single family lot under section 304.1.
 3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).
 4. Zoning map MM 4L current zoning: RC-5
 5. Election district - 2; councilmanic district - 1
 6. Refer to DRC #08014H granting a waiver of the 20 foot minimum parhandle width for a single lot.

P.O.B. 529 SE of
E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR
VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994
1" = 50'

Protestants' Ex. D3

6/12/1922 TRANSFER OF 5,270 SQ. FT. TO ROBERT D. JOHNSON

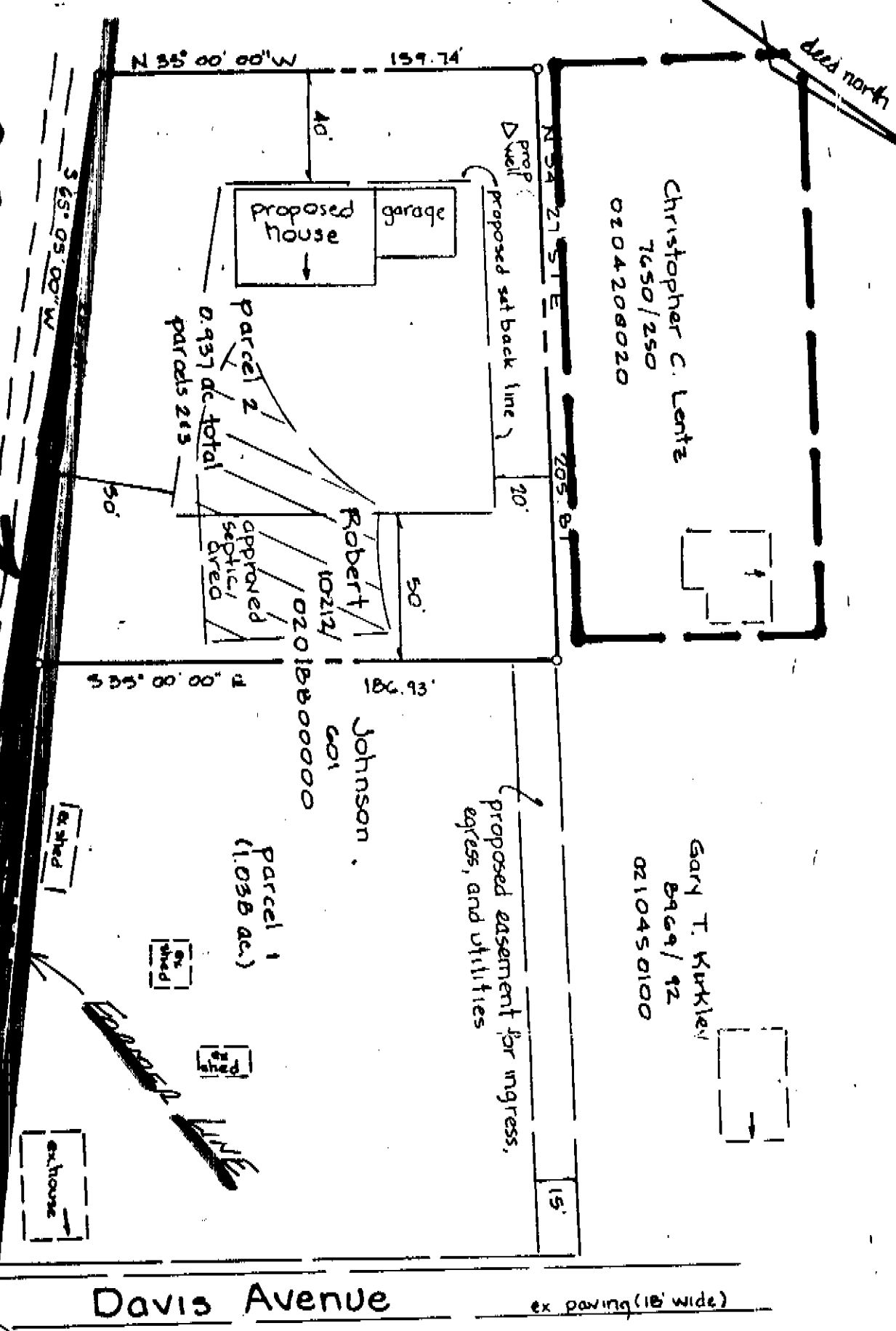
95-52-5 PTH FROM JOHN BARROW

Anna R. Anderson
0859/190, 4245/366
0201540140, 41



Cynthia B. Broun

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410) 840-8428

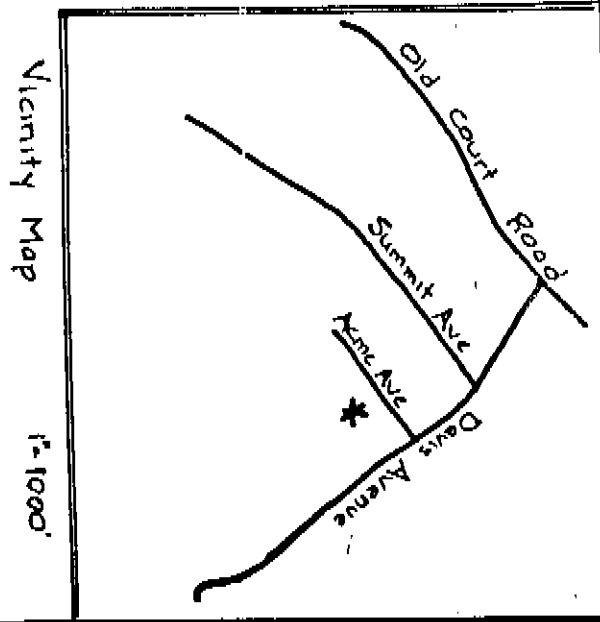


OUTRECOVERED FROM 355/161

Russell B. Frizzell
3343/169, 3057/193
0206570292, 91
355/161

"PART OF EAST LOT 14" 13 1/4 AC

Davis Avenue
ex paving (18' wide)



Vicinity Map 1"=1000'

NOTES:

1. Petition of zoning variance from section 1M04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1M04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
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4. Zoning map MR 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #080148 granting a waiver of the 20 foot minimum panhandle width for a single lot.

POB. 529 SE of E of Acme Avenue 550/1341

PLAT TO ACCOMPANY PETITIONS FOR VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

Protestants' Ex. D2

1943 LGNO CONVEYED TO MAE HUMPHREY (LIFE ESTATE)

95-52-SRHA

LISTED AS 1.31 AC AND 1943 TAX RECORD

N/E 197/407

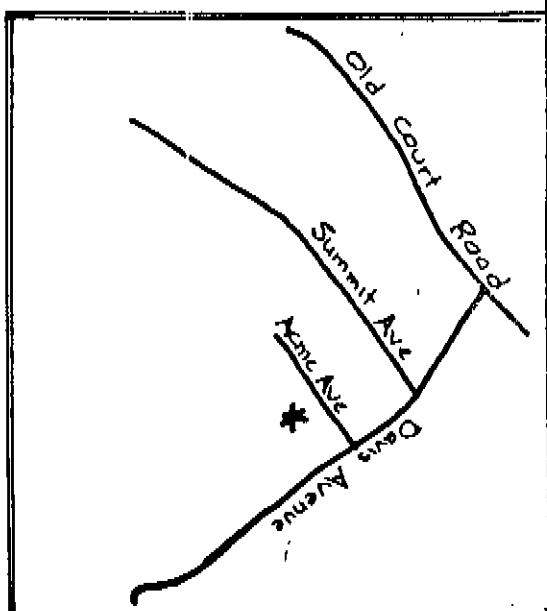
Christopher C. Lentz
7650/250
0204208020

Gary T. Kirkley
8969/42
0210450100

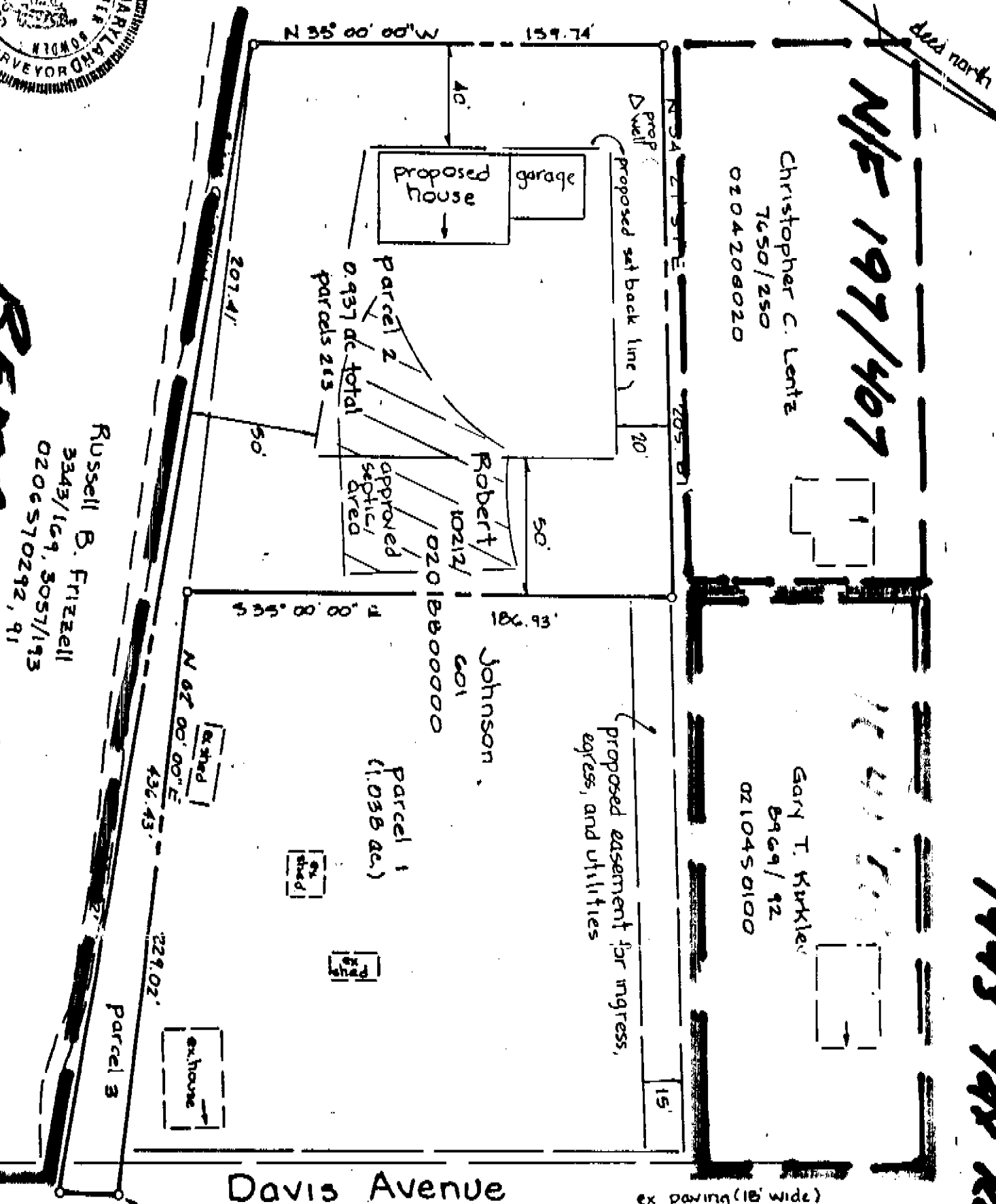
P. 284

1944 Gas #

80000
1.31 Ac



Anna R. Anderson
3053/190, 4245/360
0201540140, 41



Davis Avenue

ex paving (18' wide)

NOTES:

1. Petition of zoning variance from section 1A04.3B.1 to allow the use for a single family dwelling of a lot of record less than one acre in size; section 1A04.3B.3 to permit rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.
2. Petition for special hearing to approve use of understated single family lot under section 304.1.
3. The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1927, with outfalls in 1892 and 1936. The parcel fronting on Davis Avenue has sufficient gross area (1.038 acres) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acres).
4. Zoning map MW 4L current zoning: RC-5
5. Election district - 2; councilmanic district - 1
6. Refer to DRC #08014H granting a waiver of the 20 foot minimum panhandle width for a single lot.

Protestants' Ex. D.I

P.O. B. 329 SE of E of Acme Avenue

PLAT TO ACCOMPANY PETITIONS FOR VARIANCE AND SPECIAL HEARING

ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland 21163
August 10, 1994 1" = 50'

REMAINDER OF

355/141

13 1/4 AC PART OF E 443

LOT 141A



Cynthia B. Bowen

McKEE & ASSOCIATES, INC.
257 EAST MAIN STREET
WESTMINSTER, MARYLAND 21157
(410)840-8428

IN THE MATTER OF THE APPLICATION OF ROBERT JOHNSON - PETITIONER FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE DAVIS AVENUE 329' SOUTHEAST OF ACME AVENUE (10729 DAVIS AVENUE) 2ND ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT ZONING CASE NO. 95-42-SPHA

ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL ACTION No. 3-C-95-5779

OPINION ON REMAND BY VIRTUE OF ORDER REMANDING CASE TO BOARD OF APPEALS FOR DECISION ON ISSUE

This case returns to us on a remand from the Circuit Court for Baltimore County for determination of a particular issue. Before addressing the remand on the merits, the Board has two preliminary issues. Subsequent to the remand, Counsel for Mr. Johnson wrote a letter to the Board seeking to amend the application that was considered below. Insofar as the letter was submitted after the close of the evidence, the Board cannot consider it at this time in the case's present posture. The second preliminary issue pertains to the present composition of the Board. There are only two Board members left that sat on the initial case. As such, the Board cannot proceed to deliberate the remand without the agreement of counsel for the parties. Insofar as counsel for all parties agreed to proceed with the remaining two Board members, the Board believes it has authority to proceed in this limited context.

The property owner, Robert Johnson, owns three abutting parcels of land, one of which is improved with an existing house, and is described as Parcel 1. The remaining two parcels, Parcels 2 and 3, comprise less than one acre in toto. All three parcels

Circuit Case No. 3-C-95-5779 /Robert Johnson On Remand from the Circuit Court /Zoning #95-42-SPHA

were duly recorded by deed prior to March 30, 1955. Accordingly, were each parcel owned by a different individual, and undeveloped, each owner conceivably could attempt to develop his or her parcel without complying with the one-acre minimum, so as long he or she was in compliance with all other zoning and other regulations. This, however, is not such a case. One owner owns, and in fact bought, all three parcels at the same time and believed when he purchased them that they constituted a single lot. We agree that the bundling and selling of these three parcels at one time constituted the creation of a new lot, thus terminating any grandfathering provisions. The owner's action of now seeking to segregate Parcels 2 and 3 from Parcel 1 constitutes an attempt to create yet another lot. In either event, the Board is considering something different from a lot approved prior to March 30, 1955. Accordingly, Johnson cannot avail himself of the relief afforded under Section 304.1A of the Baltimore County Zoning Regulations (BCZR).

Were Johnson nonetheless able to proceed by virtue of Section 304.1A, however, the Board acknowledges that he does not satisfy Section 304.1C insofar as he owns adjoining land, namely, Parcel 1. As Section 304.1C makes clear on its face, Section 304 was designed to provide relief for the occasional property owner who finds himself or herself holding title to a single undeveloped, undersized lot without change from prior to March 30, 1955 to the present, and thus finds himself or herself unable to build a house.

2

Circuit Case No. 3-C-95-5779 /Robert Johnson On Remand from the Circuit Court /Zoning #95-42-SPHA

Johnson has a house and, accordingly, has not been deprived of a reasonable use of his property.

In short, the Board views the attempt to segregate Parcels 2 and 3 from Parcel 1 as the creation of a new lot, thus rendering Section 304.1A inapplicable. Even were Petitioner eligible to proceed under Section 304.1A, however, he did not meet the criteria of Section 304.1C.

We believe this clarifies our position, and would still find as a fact that the Petition for Special Hearing seeking to develop parcels 2 and 3 of the subject property should be denied, and will so order.

ORDER

IT IS THEREFORE this 20th day of June, 1996, by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Hearing seeking approval to develop parcels 2 and 3 of the subject property as a single undersized lot be and the same is hereby DENIED.

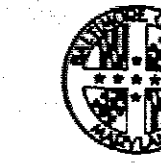
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Kristine R. Howanski, Acting Chairman

S. Diane Levero

3



County Board of Appeals of Baltimore County

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

June 20, 1996

Kathleen S. Skullney, Esquire WOODWARD, BUTLER & SKULLNEY, LLC 403 Allegheny Avenue Towson, MD 21204

RE: REMAND /Case No. 95-42-SPHA Robert Johnson Civil Action No. 3-C-95-5779

Dear Ms. Skullney:

Enclosed please find a copy of the Board's Opinion on Remand issued this date in response to the March 11, 1996 Remand Order of the Circuit Court for Baltimore County.

Very truly yours,

Kathleen C. Bianco Administrative Assistant

encl

cc: Cynthia K. Hitt, Esquire Mr. Robert Johnson Cynthia B. Bowden /McKee & Associates Mr. & Mrs. Robert Bopst Peter Max Zimmerman /People's Counsel for Baltimore County Carole S. Demilio, Deputy People's Counsel The Honorable John F. Fader, Jr. Circuit Court for Baltimore County Clerk of the Court /Case No. 3-C-95-5779 Lawrence E. Schmidt Arnold Jablon, Director/PDM Virginia W. Barnhart, County Attorney

Printed with Soybean Ink on Recycled Paper

CIRCUIT COURT FOR BALTIMORE COUNTY Suzanne Mensch Clerk of the Circuit Court County Courts Building 401 Bosley Avenue P.O. Box 6754 Towson, MD 21285-6754 (410)-887-2601, TTY For Deaf: (800)-735-2258

03/19/96

Case Number: 03-C-95-005779 AA Date Filed: 06/29/95 Status: Open/Active Previous Case ID: Judge Assigned: To Be Assigned.

Johnson vs County Board Of Appeals Of Baltimore County

CASE HISTORY

INVOLVED PARTIES

True Copy Test For Carolyn Mensch, Clerk. Submitted Court

03-C-95-005779 Date: 03/19/96 Time: 13:05 Page: 2

217 Main Street Second Floor Laurel, MD 20707 (410)792-7205

Type	Num	Name/Last, First, Mid Title / Dispo	Entered
RES	005	Bobst, Robert E	06/08/95
Attorney:	0022015	Skullney, Kathleen Susan	
217 Main Street Second Floor Laurel, MD 20707 (410)792-7205			
RES	006	Anderson, Anna R	08/08/95
Attorney:	0022015	Skullney, Kathleen Susan	
217 Main Street Second Floor Laurel, MD 20707 (410)792-7205			
RES	007	Lentz, Jamie C	08/08/95
Attorney:	0022015	Skullney, Kathleen Susan	
217 Main Street Second Floor Laurel, MD 20707 (410)792-7205			
PLT	001	Johnson, Robert	06/29/95
Attorney:	0030061	Hitt, Cynthia	
Siskins Grady Rosen Et Al 2 E Fayette St Baltimore, MD 21202 (301)539-6606			
DEF	001	County Board Of Appeals Of Baltimore County	06/29/95
Attorney:	0065744	Demilio, Carole	
Room 47, Courthouse 400 Washington Avenue Towson, MD 21204 (410)887-2188			
0020705	Zimmerman, Peter M		
Unverified Address Suite 204 606 Baltimore Ave Baltimore, MD 21204 (410)296-2424			

03-C-95-005779 Date: 03/19/96 Time: 13:05 Page: 3

CALENDAR EVENTS

Date	Time	Dur	Cer	Evt	Jdg	L Day	Of Rst	By Result	Jdg	T Notice	Rec
01/25/96	09:30A	001	yes	CIVIL	TBA	01	/01				P 11/22/95

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA	To Be Assigned.	J	06/29/95

DOCUMENT TRACKING

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID	
001000	Petition for Judicial Review	06/29/95	06/29/95			TBA	PLT001		JMG JMG	
Jg #1 Petition of Robert Johnson for Judicial Review of the decision of the County Board of Appeals of Baltimore County in the Matter of Robert Johnson for special hearing and variance on property located on the South Side Davis Avenue (10729 Davis Avenue), 2nd Election District, 1st Councilmanic District Case # 95-52-SPHA Copy sent to agency.										
001001	Answer	07/24/95	07/24/95			TBA	DEF001	M 01/17/96	GC KH	
jc's Rec'd 7/17/95										
001002	Answer	08/08/95	08/08/95			TBA	RES001	M 01/17/96	LG KH	
LG #4 all respondents										
002000	Certificate Of Notice	07/19/95				TBA	000		LG LG	
1g#2										
003000	Transcript of Record from Adm Agency	08/30/95	08/30/95			TBA	000		DEF OFF	
*df (5) fd. (Filed 8/29/95).										
004000	Notice - Rept of Record of Proceedings	08/30/95	08/30/95			TBA	000		DEF OFF	
*df (6) fd. Copies Sent. (Filed 8/29/95).										
005000	Notice - Rept of Record of Proceedings	08/30/95	08/30/95			TBA	PLT001	08/30/95 M 08/30/95	DEF OFF	
006000	Notice - Rept of Record of Proceedings	08/30/95	08/30/95			TBA	DEF001	08/30/95 M 08/30/95	DEF OFF	
007000	Stipulation to Modify Time Requirements for Filing Memoranda.	09/29/95	09/28/95			TBA	000	09/29/95	DEF OFF	
008000	Memorandum	10/23/95	10/20/95			TBA	PLT001	10/23/95	JMG JMG	
Jg with exhibits										

03-C-95-005779 Date: 03/19/96 Time: 13:05 Page: 4

Num/Seq	Description	Filed	Received	Tickle	For	Party	Routed	D Closed	User ID	
009000	Hearing Notice	11/22/95	11/22/95			TBA	000	11/22/95 M 11/22/95	JD JD	
010000	Memorandum	12/11/95	12/08/95			TBA	DEF001		CG CG	
010001	Answer Reply Memorandum	12/27/95	12/26/95			TBA	PLT001	M 01/16/96	JMG PA	
011000	Memorandum	12/11/95	12/08/95			TBA	RES005	12/11/95	CG CG	
Martha Bopst, Steve Goodmuth, Anna Anderson, Russell E. Frizzell, Christopher Lentz and Jamie Lentz.										
012000	Memorandum to Assignment	02/01/96	01/26/96			JFF	000		KP KP	
013000	Open Court Proceeding	02/22/96				JFF	000		TG TG	
Hon. John F. Fader II. Hearing had. Order to be filed.										
014000	Order of Court	03/11/96				JFF	000	6 03/11/96	PS PS	
REMANDING above case to Board of Appeals for determination of the issue. fd.										

EXHIBITS

Line #	Marked	Code	Description	SPH	Sloc	Notice	Disp	Dt	Dis	By
001		EXH	001 County Board Of Appeals Of Baltimore County							

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: K. Howanski
D. Levero
DATE: April 22, 1996

FROM: Kathi
SUBJECT: Robert Johnson /Remanded to the Board by Judge Fader
(2 members remaining of panel /B. Hackett was 3rd)

Attached for your information and review are the following listed documents relative to the subject remand.

By way of a brief background, this was the last case on which Bill Hackett sat as a member of the Board; the special hearing was denied by the Board (approval to develop parcels 2 and 3 as single undersized lot) on May 31, 1995; and an appeal taken to the Circuit Court by the Petitioner. This matter has now been remanded to the Board by Judge Fader by Order dated March 11, 1996.

- Attached are copies of:
- 1) The Board's 5/31/95 Opinion/Order
 - 2) Judge Fader's 3/11/96 Remand Order
 - 3) Letter from Cynthia Hitt, attorney for Mr. Johnson, regarding amendments to Petition as originally filed; and
 - 4) Response to above 3/20/96 letter from Peter Zimmerman relative to the Court's Remand and the grounds for same.

Also, by way of information, both of you are scheduled to sit on Wednesday, May 29, 1996 (Industrial waste cases /Ms. Desserts) starting at 10:00 a.m.

Should you have any questions or require your notes, etc., in this matter, please let me know.

Attachments



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse

400 Washington Ave.

Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 15, 1996

Mr. Robert O. Schuets, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
10729 Davis Avenue, S/S Davis
Ave., 29' SE of Acme Ave., 2nd
Election Dist., 1st Councilmanic
ROBERT JOHNSON, Petitioner
Circuit Court Case No.
3-C-95-5779
CBA Case No. 95-52-SPHA

Dear Mr. Chairman:

The Petitioner in the above-captioned case sought relief under BCZR Section 304 (Undersized lot) to construct a second dwelling on premises located in the historic area of Granite in the western area of Baltimore County. The CBA denied the relief in a decision dated May 31, 1995.

Petitioner appealed to the Circuit Court. He had initially challenged the appeal to the County Board of Appeals noted by Kathleen Skulney, a duly licensed attorney who also resides in the neighborhood. Ms. Skulney participated in the Zoning Commissioner's hearing. Many other neighbors also participated in both the Zoning Commissioner's hearing and the hearing before the CBA. Our office participated in the CBA hearing.

The CBA denied the Petitioner's objection to standing. The Circuit Court likewise heard oral argument on this issue and affirmed the Board's position that a proper appeal was taken from the decision of the Zoning Commissioner to the CBA.

Mr. Robert O. Schuets, Chairman
Board of Appeals of Baltimore County
April 15, 1996
Page Two

The Protestants objected to the relief requested because the Petitioner failed to satisfy BCZR Sections 304.1A and 304.1C, which state as follows:

"Section 304 -- USE OF UNDERSIZED SINGLE-FAMILY LOTS
[B.C.Z.R., 1955; Bill No. 47, 1992.]

304.1 A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; (B.C.Z.R., 1955; Bill No. 47, 1992.)
- All other requirements of the height and area regulations are complied with; and (B.C.Z.R., 1955.)
- The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. [B.C.Z.R., 1955; Bill No. 47, 1992.]

It is clear from the decision of the Circuit Court that the Court was troubled by the inadequacy of the findings in the written opinion of the CBA. There was no assertion by the Court that the decision was erroneous. Otherwise, the CBA decision would have been reversed. Rather, the Court stated it was not able to determine, under the standards of *United Steelworkers v. Bethlehem Steel*, 298 Md. 665 (1984), whether the Board made the proper findings of fact to determine if Section 304.1A was satisfied by the Petitioner. Having reached that conclusion, the Court determined it could proceed no further on the merits, including a determination whether Section 304.1C was satisfied.

The Petitioner now seeks to amend his Petition to delete Lot 3 from the relief requested, under a misguided belief that such action will "cure" any objection by the Circuit Court. In effect, the proposed dwelling will be located on an even smaller lot than the one acre minimum. This new proposal, set forth in Petitioner's counsel's letter to the Board dated March 20, 1996, is illegal and insufficient for the following reasons:

Mr. Robert O. Schuets, Chairman
Board of Appeals of Baltimore County
April 15, 1996
Page Three

1. The letter fails to address the application of Section 304.1C. In addition to Lots 2 and 3, the Petitioner owns adjoining Lot 1, on which a dwelling is constructed. This provision alone disqualifies Petitioner from seeking the requested relief.

2. The effective combination of two parcels (Lots 2 and 3) as a single lot on which a dwelling will be constructed is not a "semantics" issue under Section 304.1A. The purpose of this section is to limit relief to those rare instances where a pre-March 30, 1955 single undeveloped lot existed intact through changes in the applicable zoning regulations. Petitioner's attempt to convey both lots in a single deed or in separate deeds to the same buyer for the proposed construction, without combining the descriptions, is nothing more than a "semantics" sham to avoid compliance with Section 304.1A. There is nothing in the Circuit Court opinion to suggest that such a proposal is legitimate.

3. Petitioner also proposes, as an alternative, to "withdraw Parcel 3 from consideration altogether." Such an amendment is new relief and may not be considered by the Board in the manner proposed by Petitioner. (See *People's Counsel v. Mangione*, 85 Md.App. 738 (1991).)

We propose that the Circuit Court's Remand Order is nothing more than a request for further clarification of the application of Section 304.1 to the facts of the case to support the Board's denial of the Petition.

Very truly yours,

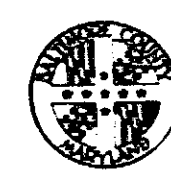
Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel

CSD/caf

cc: Cynthia K. Hitt, Esquire

Kathleen S. Skulney, Esquire



County Board of Appeals of Baltimore County

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

April 25, 1996

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 95-52-SPHA
Robert Johnson -Petitioner

Dear Mr. Zimmerman:

I am in receipt of your April 16, 1996 letter with reference to the above matter.

Since two of the Board members who sat on the instant case continue on the Board, and inasmuch as I was not a member constituting the panel for that particular case, I have forwarded your letter to the two remaining Board members as though it were addressed to them. The two remaining Board members will resolve the remand issues outstanding in this case.

Very truly yours,

Robert O. Schuets
Robert O. Schuets, Chairman
County Board of Appeals

cc: Cynthia K. Hitt, Esquire
Kathleen S. Skulney, Esquire

file copy



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse

400 Washington Ave.

Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 9, 1996

Kristine K. Howanski, Esquire
Ms. S. Diane Levero
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
10729 Davis Avenue, S/S Davis
Ave., 29' SE of Acme Ave., 2nd
Election Dist., 1st Councilmanic
ROBERT JOHNSON, Petitioner
Circuit Court Case No.
3-C-95-5779
CBA Case No. 95-52-SPHA

Dear Ms. Howanski and Ms. Levero:

We are in receipt of your notice setting in the above-captioned matter before the Board for May 29, 1996 at 9:30 a.m., pursuant to the Remand Order of Judge John Fader.

As you will recall, the third panel member of the County Board of Appeals who heard the case on the merits is no longer a member of the Board.

We believe Board of Appeals Rule 1C in Appendix G of BCZR (adopted by the County Council), and Article VI of the County Charter apply. This Rule requires a panel of three (3) members to conduct Board business. Only in the event of death or illness of a sitting Board Member may the remaining two (2) Board Members continue with the matter at hand, if counsel or parties of record agree (emphasis added).

Fortunately, the situation at hand does not involve illness or death. However, there is no authority which would permit the remaining two (2) Board Members to proceed on the Remand Order under the present circumstances.

Kristine K. Howanski, Esquire
Ms. S. Diane Levero
Board of Appeals of Baltimore County
May 9, 1996
Page Two

If the Board permits, we will present additional oral argument on May 29.

Very truly yours,

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

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel

CSD/caf

cc: Cynthia K. Hitt, Esquire

Kathleen S. Skulney, Esquire

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION
ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF: Robert Johnson -Petitioner
Case No. 95-52-SPHA
(Circuit Court Case No. 3-C-95-5779)

DATE : May 29, 1996 @ 9:30 a.m.
BOARD /PANEL : Kristine K. Howanski (KKH)
S. Diane Levero (SDL)
SECRETARY : Kathleen C. Bianco
Administrative Assistant

Among those present at the deliberation were Cynthia K. Hitt, Esquire, on behalf of Robert Johnson; Kathleen Skulney, Esquire, on behalf of Mr. & Mrs. Robert Bost; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

PURPOSE --for public deliberation and resolution of issues and final decision of the Board pursuant to Remand Order of the Circuit Court for Baltimore County (The Honorable John J. Fader II).

KKH: We are here to deliberate Case No. 95-52-SPHA, Robert Johnson. This is pursuant to the Remand Order of the Circuit Court for Baltimore County by Order dated March 11, 1996 of The Honorable John Fader.

After the case was closed, we did receive a letter by Ms. Hitt dated March 20, 1996, seeking to amend the application. The practice of the Board has been, and I think logically so it must be, that the case is closed. We are not at liberty to consider a different iteration at this time, and we must proceed with the case as it stood back before us at the original hearing.

We also are in receipt of a letter by People's Counsel dated May 9, 1996, alerting us to the jurisdictional limitations as set forth in the Board of Appeals Rule 1C in Appendix G of the BCZR, and that Rule requires a panel of three members to conduct Board business. Only in the event of death or illness of a sitting member can we proceed with the matter at hand, providing counsel of record or parties agree. My thought on this is that whether the rule is applicable or not, it is clear that we cannot proceed in either event with only two Board members, absent the agreement of counsel for the parties of record. My understanding is that we do have agreement of

counsel at this time, and I would invite them to tell me to the contrary right now so the record may reflect that, if that is not the case.

Not hearing any objection, I want the record, at least in our notes, to reflect that we are proceeding with two Board members, with the agreement of counsel and with the understanding that our deliberations today will be a nullity if the two Board members cannot come to an agreement on the matter.

I believe that dispenses with the preliminary issues, and I will now address what is truly the deliberation portion of the case. And when I do this, I will preface it, as I have been since I don't like speaking a long time on it, I just take traditional notes of Larry Stahl's objection to public deliberation, and ask that it be set forth -- that my statement is that I adopt his objection to it -- is enough to have it set forth in our deliberation today.

As I read Judge Fader's remand, the question is quite limited and does not actually close the case. It's more a matter of tying up a potential loose end. And that is, he was struck by the utter silence in our record of the operation or how we dealt with the grandfathering provisions of 304.1A, and the issue, while simple, does have its own consequences. And I will tell you, Diane, that when I looked at it, and my notes at least, was that had parcel 2 stood alone, I would have considered that a lot that was potentially eligible for consideration under 304.1A. But it did not come to us in that particular posture. It came to us with a desire to combine parcels 2 and 3, and my sense of it was that it took that parcel out of the old situation.

That is, they were trying to put the two together, creating a new lot, and have that lot considered on its own merits. So I would view the combination of parcel 2 and parcel 3 as a new lot for that reason.

On the other hand, and I guess what I need to say, since I am in this position now, is that either way, I think it still begs the question. That is, whether we just end the inquiry there -- cannot really end it -- or whether it is grandfathered in, it still needs to jump through the hoops of remaining zoning laws. And the issue here is whether or not it jumps through the hoops of 304.1C.

Section 304.1C is the requirement when they go ahead and permit one family dwelling, detached or semi-detached, to be erected on a lot of less than one acre -- that the owner of

the lot does not own adjacent adjoining lot to conform to the width and area requirements contained in these regulations. My reading of this statute, coupled actually with, I believe, the landowners' understanding of what they purchased at the time, was that this was -- and the logic behind it -- this was to enable an unfortunate landowner who had purchased a single undersized lot and now there are new requirements and as a technical matter, they would not be allowed to develop that one lot they purchased. This was intended to aid that person not being able to put a home on that lot. Here, we have somebody who in fact has three parcels, and already has a home on the first parcel. So, I do not view this Petitioner as somebody who would be able to avail themselves of this relief.

And so for those reasons, I would clarify that I would view the combining of the two parcels as the creation of a new lot, but that I would go on further to argue that 304.1C would knock this particular Petitioner out of the box because of the adjoining land issue. And I do so, again, because I believe that the purpose of the section was to help that person with an undeveloped parcel that may find themselves unable to build a home on that lot.

I would then clarify our position in that fashion, and come up with the same result that we came up with.

SDL: Well, parcels 2 and 3 were lots duly recorded by deed before 1955. The main question in my mind was because they were conveyed along with Parcel 1 in the original deed -- did that constitute creation of a new lot; and thus cannot be grandfathered to allow a house on less than one acre. People's Counsel argue that subsequent to 1955 there has been rearrangement of the lot line -- does not comply with Section A. Because the deed conveys these parcels together, they are treated as one piece of property, and a new lot has been created. The previous deeds have been substituted and ability to build does not apply.

Further, whether or not Petitioner has met 304.1A, he certainly did not meet 304.1C; he is the owner of Parcels 2 and 3 and owns sufficient land to conform to one acre minimum in R.C. 5. Parcel 1 is comprised of 1.03 acres; already has a house. Petitioner has not met 304.1 and cannot build. Petitioner has a total of 1.975 acres of contiguous land; he has a reasonable use of his property, which is the intent of 304.1.

Other than that, for that reason, I would deny the petition.

I just would mention that I agree with you that Cynthia Hitt's (counsel for petitioners) letter of March 20th tries to amend this petition, and in my opinion, we are reviewing a matter on remand, and cannot consider amendments. I will add that the proposed amendments would not change my position to deny the petition because it still would not comply.

CKH: We appear to be unanimous because we do agree that act of seeking two and three as a lot -- it was the creation of a new lot. This took it out of the grandfathering provisions. Also, we are in agreement that either way, we are not satisfied that 304.1C has been satisfied. So even if it had gotten far enough -- it would still have a problem. We are in accord. We will go ahead and issue this clarification.

That closes this deliberation.

Respectfully submitted,

Kathleen C. Bianco
Kathleen C. Bianco
Administrative Assistant



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

May 30, 1996

Kathleen S. Skullney, Esquire
WOODWARD, BUTLER & SKULLNEY, LLC
403 Allegheny Avenue
Towson, MD 21204

Cynthia K. Hitt, Esquire
SISKIND, GRADY, ROSEN & HOOVER, P.A.
Jefferson Building
Two East Fayette Street
Baltimore, MD 21202

Peter Max Zimmerman, People's Counsel
for Baltimore County
Carole S. Demilio, Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: REMAND /Case No. 95-42-SPHA
Robert Johnson /Deliberation
Civil Action No. 3-C-95-5779

Dear Counsel:

As indicated by the Board on May 29, 1996, at the deliberation of the subject matter on remand from the Circuit Court, enclosed please find a copy of the Minutes of Deliberation for your information and file.

The Board's Opinion on Remand, which will constitute the Board's final Order in this matter, will be issued within the next couple of weeks, and a copy sent to all parties of record upon issuance.

Very truly yours,

KCB
Kathleen C. Bianco
Administrative Assistant

encl

cc: Virginia W. Barnhart, County Attorney w/enclosure

Printed with Soybean Ink
on Recycled Paper

LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202
TELEPHONE (410) 526-6000, BALTIMORE, MD
(410) 526-0948, WASHINGTON, D.C.
TELEFAX NO. (410) 526-0259
OF COUNSEL
DANE L. BORNHORN, P.A.

May 2, 1995

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

Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

Dear Sir/Madam:

Please enter the appearance of Siskind, Grady, Rosen & Hoover, P.A. and Cynthia K. Hitt, on behalf of the Petitioner, Robert Johnson in the above-referenced matter.

Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Cynthia K. Hitt
Cynthia K. Hitt

CKH:kc
1525.01
cc: Robert Johnson

95MAY -3 11:20

LAW OFFICES OF
SISKIND, GRADY, ROSEN & HOOVER, P.A.

JEFFERSON BUILDING
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202
TELEPHONE (410) 526-6000, BALTIMORE, MD
(410) 526-0948, WASHINGTON, D.C.
TELEFAX NO. (410) 526-0259
OF COUNSEL
DANE L. BORNHORN, P.A.
OF COUNSEL
DANE L. BORNHORN, P.A.

March 20, 1996

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

Re: Robert Johnson - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd District
1st Councilmanic District
Case No. 95-52-SPHA
Our File No. 1525.01

Dear Board Members:

This letter is written on behalf of my client, Mr. Robert Johnson. We are in receipt of the Circuit Court's order remanding the case to the Board of Appeals for a decision on issue.

As the Board is aware, Mr. Johnson is seeking approval "to develop" Parcels 2 and 3 of Mr. Johnson's property pursuant to Section 304 of the Baltimore County Zoning Regulation.

A copy of the Deed to Mr. Johnson is a part of the record and a copy of the Deed is enclosed herewith. Exhibit A to the Deed describes three (3) fee simple lots of land, which have been commonly referred to in this case as Parcel 1, Parcel 2 and Parcel 3.

Mr. Johnson, does not intend, by his application to submit a plat of resubdivision, or to off convey this property with the legal description other than that description relating to the second parcel and the strip of land found in Exhibit A to his Deed. Therefore, the combination of Parcels 2 and 3 is not the "creation" of a new lot, but is merely the combination of two (2) existing parcels for purposes of seeking approval to develop an undersized lot, Parcel 2, under Section 304 of the BCZR. Indeed, as the testimony in this case indicated, Parcel 3 would add absolutely nothing to the development of this parcel other than land fronting the public roadway. In other words, Parcel 3 is not required to

County Board of Appeals for Baltimore County
March 20, 1996
Page 2

meet set back requirements, nor is it required for any of the water and sewer utilities for Parcel 2 as a separate property (See the testimony of Cynthia Bowden on pages 61 through 63 of the Transcript, copies of which are enclosed herewith).

For the foregoing reasons, and in order to avoid semantical arguments under Section 304 of the BCZR, Mr. Johnson hereby amends his application, for clarification purposes, that he is combining Parcels 2 and 3, for development purposes only, and he is not combining Parcels 2 and 3 to form, create or recreate, subdivide or resubdivide a new single lot. If approved for development, Parcel 2 and Parcel 3 would be conveyed as per the Parcel 2 and Parcel 3 description on Exhibit A of Mr. Johnson's Deed. In the alternative, and for further clarification, Mr. Johnson withdraws Parcel 3 from consideration altogether, and requests approval to develop Parcel 2 as a single, undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations.

In the event that you have any questions, please do not hesitate to contact this office.

Very truly yours,

Cynthia K. Hitt
Cynthia K. Hitt

CKH:bb
cc: Kathleen S. Skullney, Esquire
Carole S. Demilio, Esquire
Mr. Robert Johnson
Cynthia B. Bowden, L.S.

This Deed
MADE THIS 15th day of November in the year One Thousand Nine Hundred and Ninety Three by and between GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding, ROBERT D. HUMPHREY, JUNE M. PAYE, by her attorney-in-fact, Margaret L. Hedding, and MARGARET L. HEDDING, parties of the first part, and ROBERT D. JOHNSON party of the second part.

Witnesseth, That in consideration of the sum of Sixty Five Thousand Dollars (\$65,000.00), the receipt of which is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, as sole owner, his personal representatives, heirs and assigns, in fee simple, all those parcels of ground situate in Baltimore County, Maryland and described as follows, that is to say:

See "Exhibit A" attached hereto and made a part hereof.

The improvements thereon being known as 10729 Davis Avenue, Woodstock, Maryland 21163.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

RECEIVED FOR TRANSFER
State Department of Assessments & Taxation
for Baltimore County
27 10-7-9
Edwin E. Tillman, Jr., Esquire

BY THE EXECUTION OF THIS DEED, THE PARTIES OF THE FIRST PART HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE ACTUAL CONSIDERATION PAID OR TO BE PAID, INCLUDING THE AMOUNT OF ANY MORTGAGE OR DEED OF TRUST OUTSTANDING IS AS HEREINBEFORE SET FORTH.

THE WITHIN GRANTEE(S) DO HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE LAND CONVEYED HEREIN IS RESIDENTIALLY IMPROVED OWNER-OCCUPIED REAL PROPERTY AND THAT THE RESIDENCE WILL BE OCCUPIED BY US AS EVIDENCED BY THE SIGNATURE(S) BELOW.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lots of ground and premises to the said party of the second part as sole owner, his personal representative, heirs and assigns, in fee simple.

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

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

Test:

George A. Humphrey
GEORGE A. HUMPHREY, by his attorney-in-fact, Margaret L. Hedding
Robert D. Humphrey
ROBERT D. HUMPHREY
June M. Paye
JUNE M. PAYE, by her attorney-in-fact, Margaret L. Hedding
Margaret L. Hedding
MARGARET L. HEDDING
Robert D. Johnson
ROBERT D. JOHNSON

AFTER RECORDING RETURN TO:
Robert A. Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

SCHEIDT AND BOND
NOT APPLICABLE
SIGNATURE OF *JPH* DATE 12-7-96

1 Q. You indicated that you felt that you had some
 2 sort of approval on this proposal?
 3 A. We are under the impression we have a verbal
 4 approval of this plan.
 5 Q. But you don't have any written approval of that?
 6 A. That letter is not in our hand.
 7 Q. And you do not have a witness here to say that's
 8 been approved?
 9 A. No, not at this time.
 10 Q. So you really have no indication this is an
 11 accepted plan?
 12 A. Strictly speaking, yes.
 13 Q. When you look at the area designated for the
 14 drainage field on parcel two being proposed, is there
 15 adequate area to move that drainage field, should it fail?
 16 A. Yes.
 17 Q. Where would that be?
 18 A. Okay. The area that is shown actually has three
 19 septic systems in the area. And the health department
 20 requires that we provide enough area for one system and
 21 two replacements.

BOARD OF APPEALS - original transcript -

WOODWARD, BUTLER & SKULLNEY, P.L.C.
 ATTORNEYS AT LAW
 405 ALLEGHENY AVENUE
 TOWSON, MARYLAND 21284
 PHONE 410 821-4770
 FAX 410 821-4773
 *ALSO LICENSED IN GEORGIA

C. VICTORIA WOODWARD*
 ELISE A. BUTLER
 KATHLEEN S. SKULLNEY

April 25, 1996

Mr. Robert O. Schuetz, Chairman
 County Board of Appeals of Baltimore County
 Old Courthouse, Room 49
 400 Washington Avenue
 Towson, Maryland 21204

Re: Petition for Special Hearing
 Petition for Variance
 10729 Davis Avenue, S/S Davis Ave.,
 2nd Election Dist.,
 1st Councilmanic Distr.,
 Robert Johnson, Petitioner
 Circuit Court Case No. 3-C-95-5779
 CBA Case No. 95-52-SPHA

Dear Mr. Chairman,

The Board's decision denying the Petition in the above referenced case was appealed by the Petitioner to the Circuit Court for Baltimore County. After oral argument, Judge Fader ordered a remand of the Board's decision "[b]ecause this court cannot determine how the Board of Appeals resolved the principle issue in this case relating to the acreage of (Petitioner's) lot..." The Court further states that "[i]t is not readily apparent to this court whether resolution of this issue is a matter of law, of fact or both." Clearly, the Court's Order for remand is not asking the Board to reconsider its opinion or render a new decision. What the Court plainly seeks, rather, is an understanding of the basis and scope of the Board's existing determination.

Therefore, Protestants concur with People's Counsel, as set forth in its letter dated April 15, 1996, that any amendment of the original petition for "clarification" as proposed by Petitioner is procedurally improper at this time. The Board does not require clarification of the petition or the Petitioner's case to satisfy the Court. The need for clarification lies squarely between the Court and the Board.

Protestants further concur with the conclusion of People's Counsel that BCZR Sections 304.1A and C preclude the granting of the above petition in any event.

Protestants respectfully request that the Board of Appeals respond to the Order of the Circuit Court by simply clarifying the basis of its decision.

Sincerely,

Kathleen S. Skulney
 Kathleen S. Skulney
 Attorney for Protestants

cc: Cynthia K. Hitt, Esquire
 Carole S. Demilio, Esquire

Kathleen S. Skulney
 Attorney at Law
 10813 Davis Avenue
 Granite, MD 21163

January 4, 1995

Arnold Jablon, Director
 Zoning Administration and
 Development Management Office
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Re: PETITIONS FOR SPECIAL HEARING AND ZONING VIOLANCE
 10729 Davis Avenue
 South side Davis Avenue, 329 ft. SE of Acme Avenue
 2nd Election District
 1st Councilmanic District
 ROBERT JOHNSON, Petitioner
 Case No. 95-52-SPHA

Dear Mr. Jablon:

Please enter an appeal of the order of the Baltimore County Zoning Commissioner granting the Petition for Special Hearing dated December 6, 1994 in the above referenced case to the Baltimore County Board of Appeals.

Having entered the appeal, please forward to this office copies of any pertinent, necessary, and appropriate papers.

Enclosed is appellants' check in the amount of \$210.00 representing the filing fee of \$175.00 and the sign fee of \$35.00.

Very truly yours,

Kathleen S. Skulney
 Kathleen S. Skulney

cc: Robert Johnson
 Cynthia B. Bowden

JAN 4 1995
 ADM

Item 54

McKEE & ASSOCIATES, INC.
 Engineering - Surveying - Real Estate Development

257 EAST MAIN STREET WESTMINSTER, MARYLAND 21157
 TELEPHONE: (410) 848-6468 FACSIMILE: (410) 842-1425
 (410) 840-8428

DATE: August 8, 1994

TO: Baltimore County Office of Planning, Zoning and Zoning Robert Johnson

ATTENTION: Ervin McDaniel

Gentlemen:

- We are submitting Herewith Under separate cover
 We are forwarding
 We are returning

No.	Description
1	form for undersized lots
2	topo map
3	site plan
2	house plan
	photographs

- For processing For your use
 For your review Please call when ready
 In accordance with your request Please return to this office

Remarks:

For further information, please contact the writer at this office.

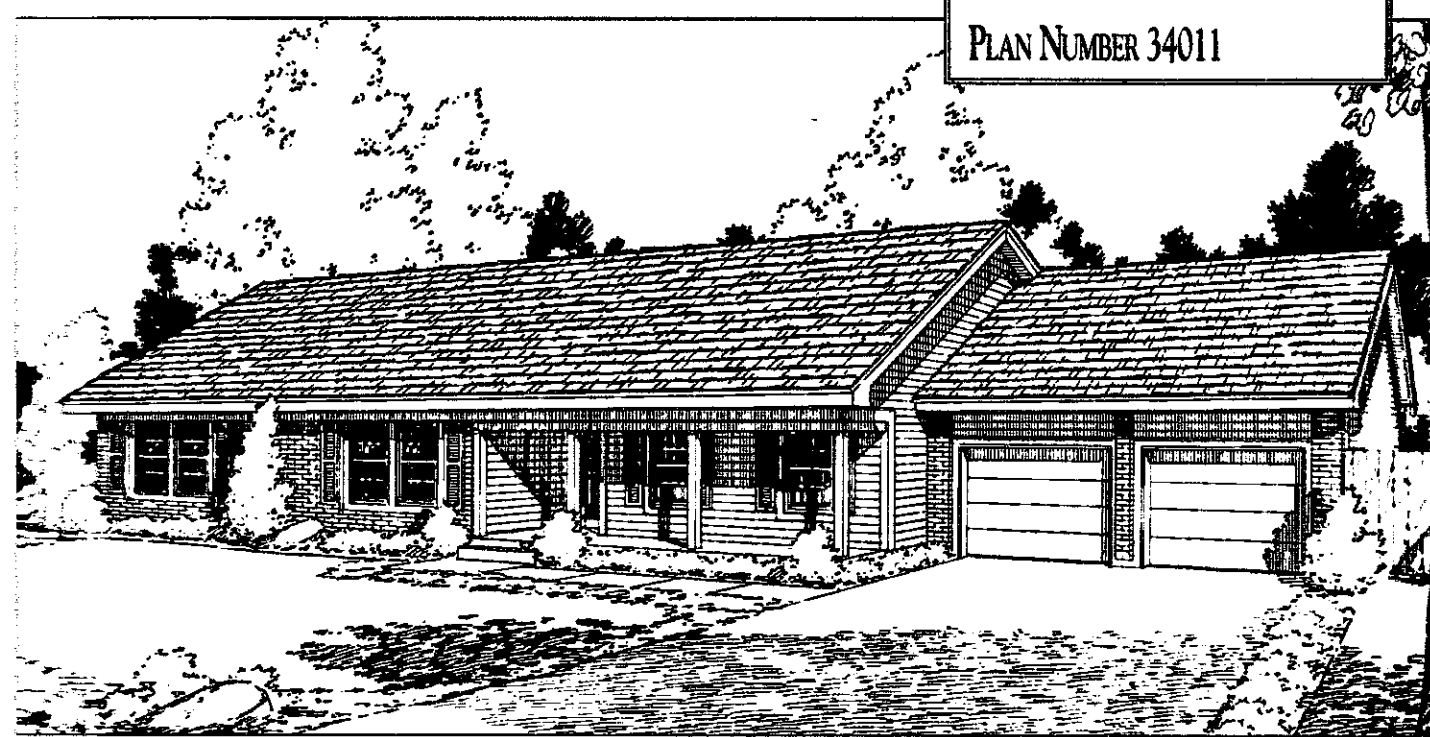
Very truly yours,
 McKee & Associates Inc.

Enclosures
 CC: Robert Johnson

Cynthia B. Bowden
 Cynthia B. Bowden, L.S.
 Associate

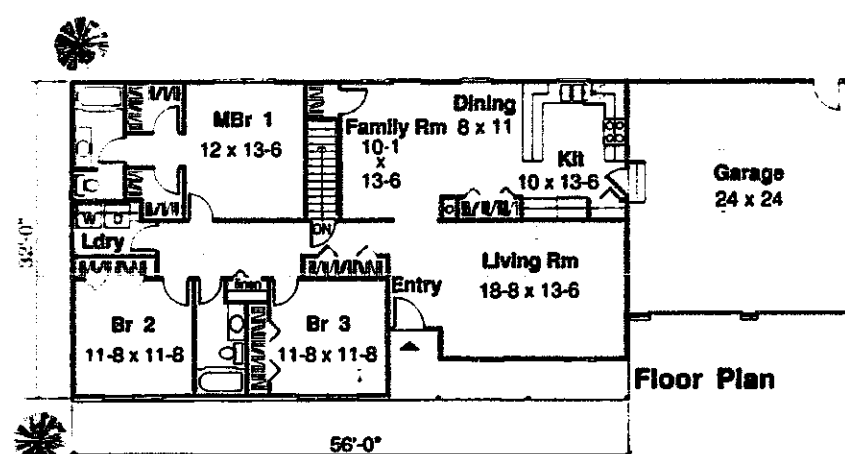
PLEASE PRINT CLEARLY PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Robert Bepst	10721 DAVIS AVE
MICHAEL BOBST	10721 DAVIS AVE
William Kirkley	10737 Davis Ave
Chris Topher Lewis	10805 Acme Ave
Steven P. ...	10803 DAVIS AVE
Russell Fargell	10727 DAVIS AVE
Francis Faith	10813 ACME AVE
KATHLEEN SKULLNEY	10813 DAVIS AVE, 21163



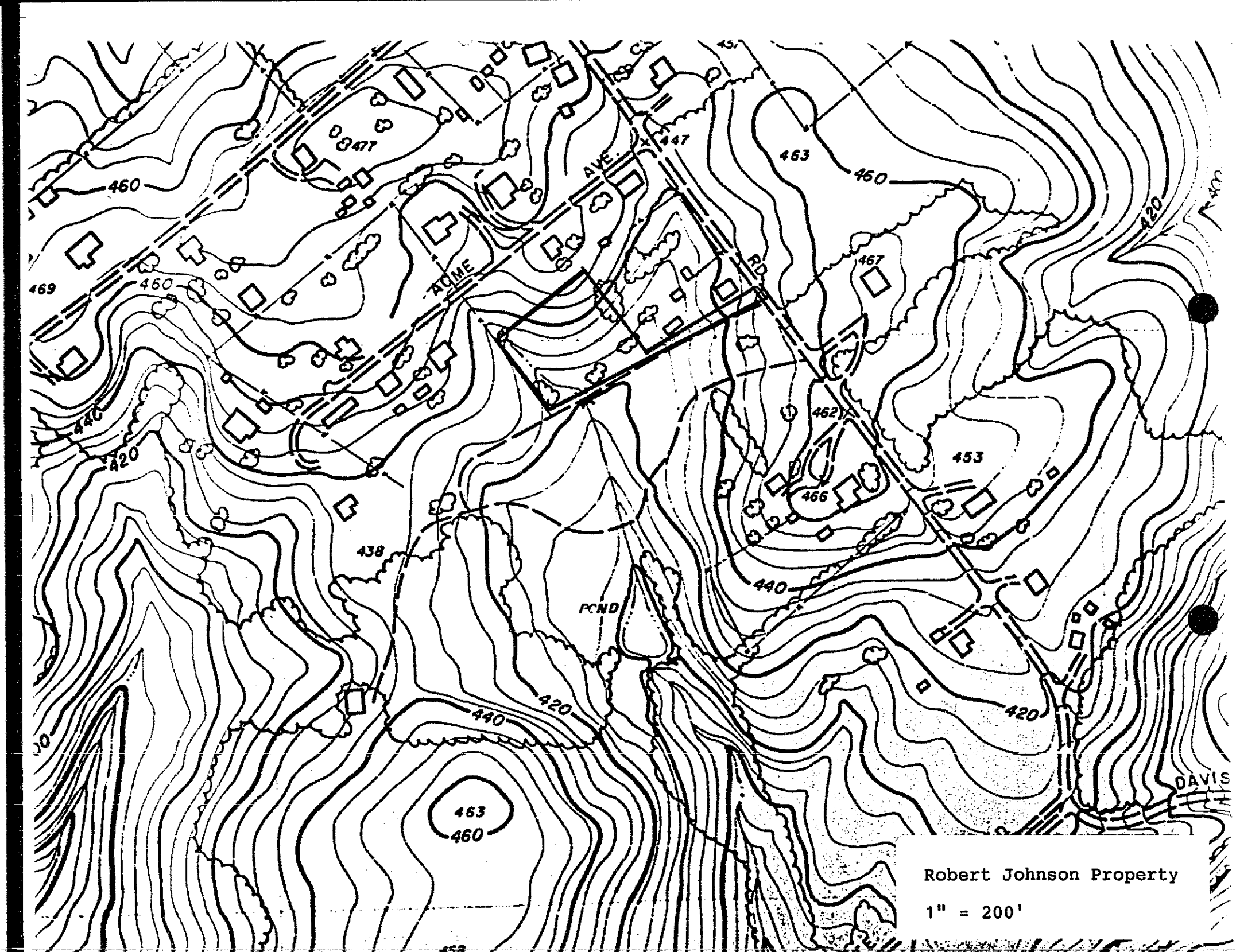
PLAN NUMBER 34011

Windows Add Warmth



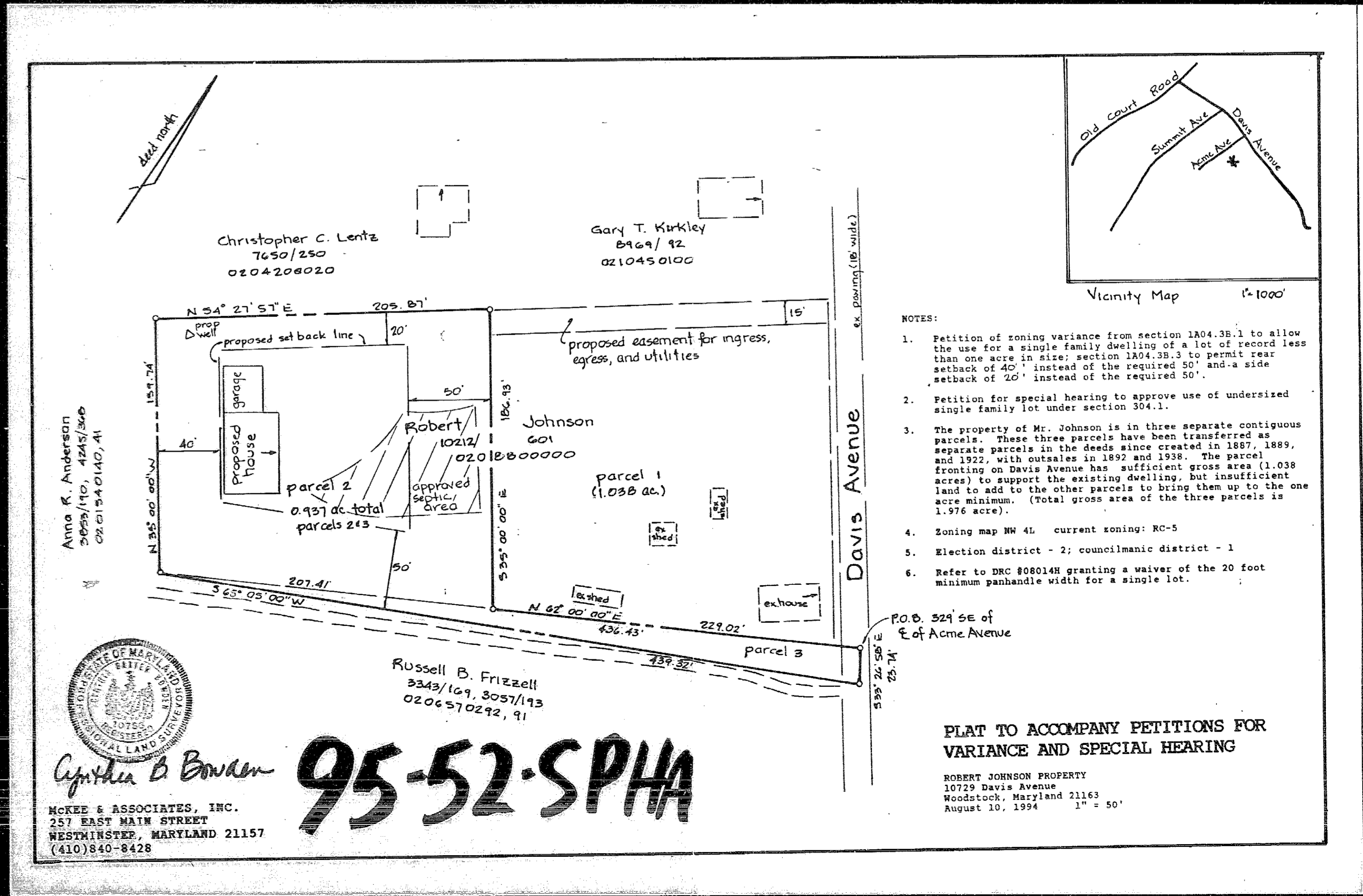
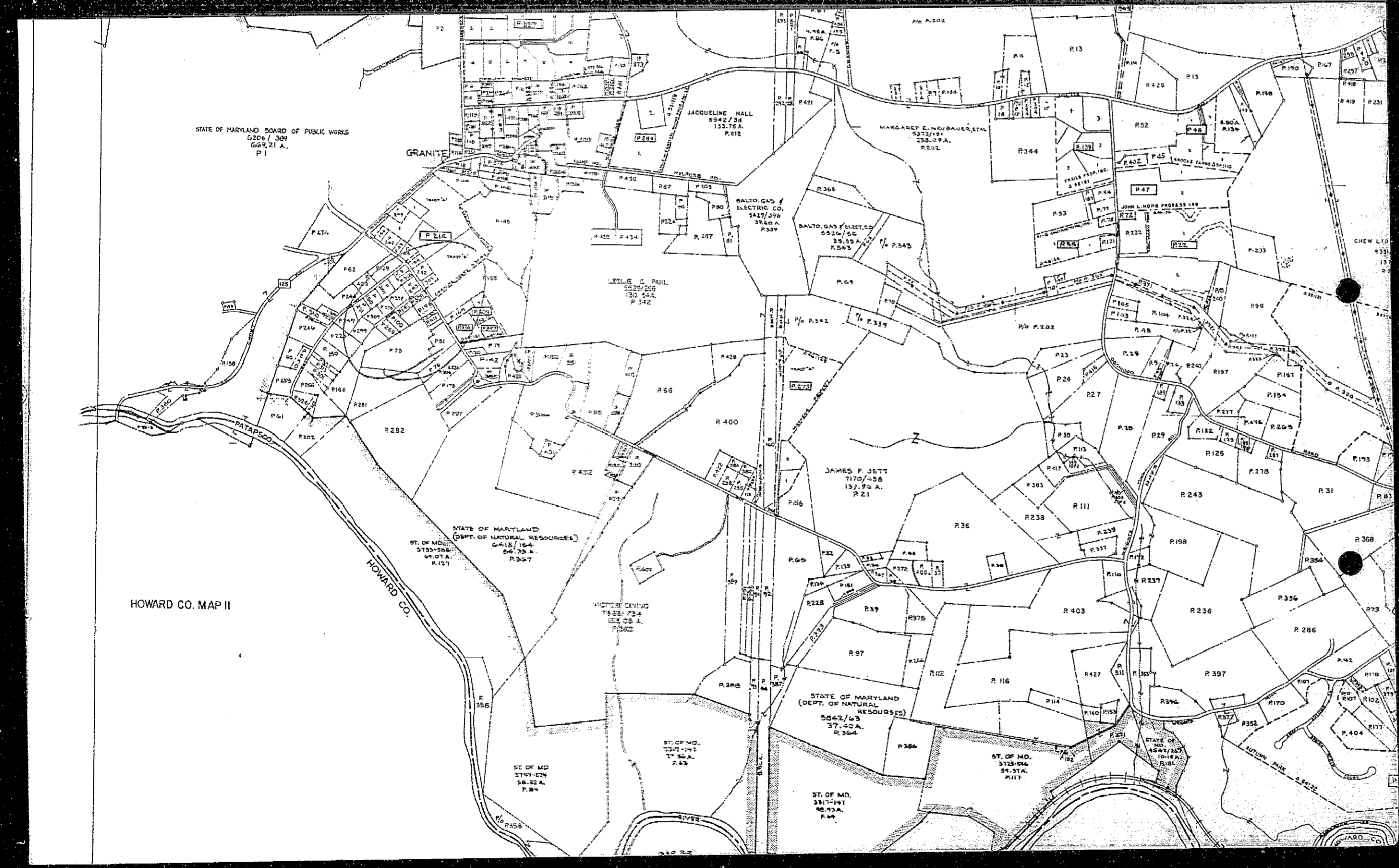
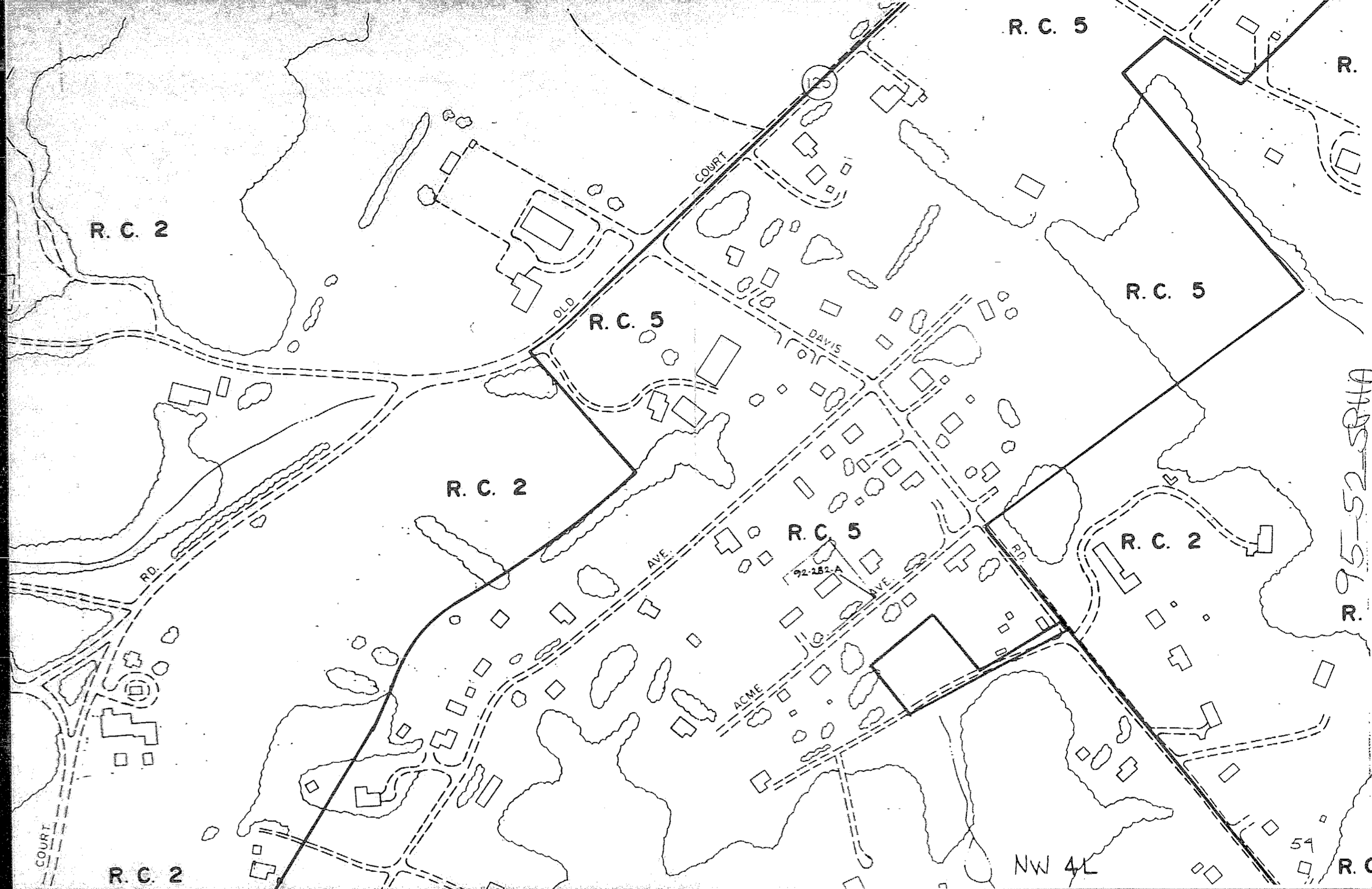
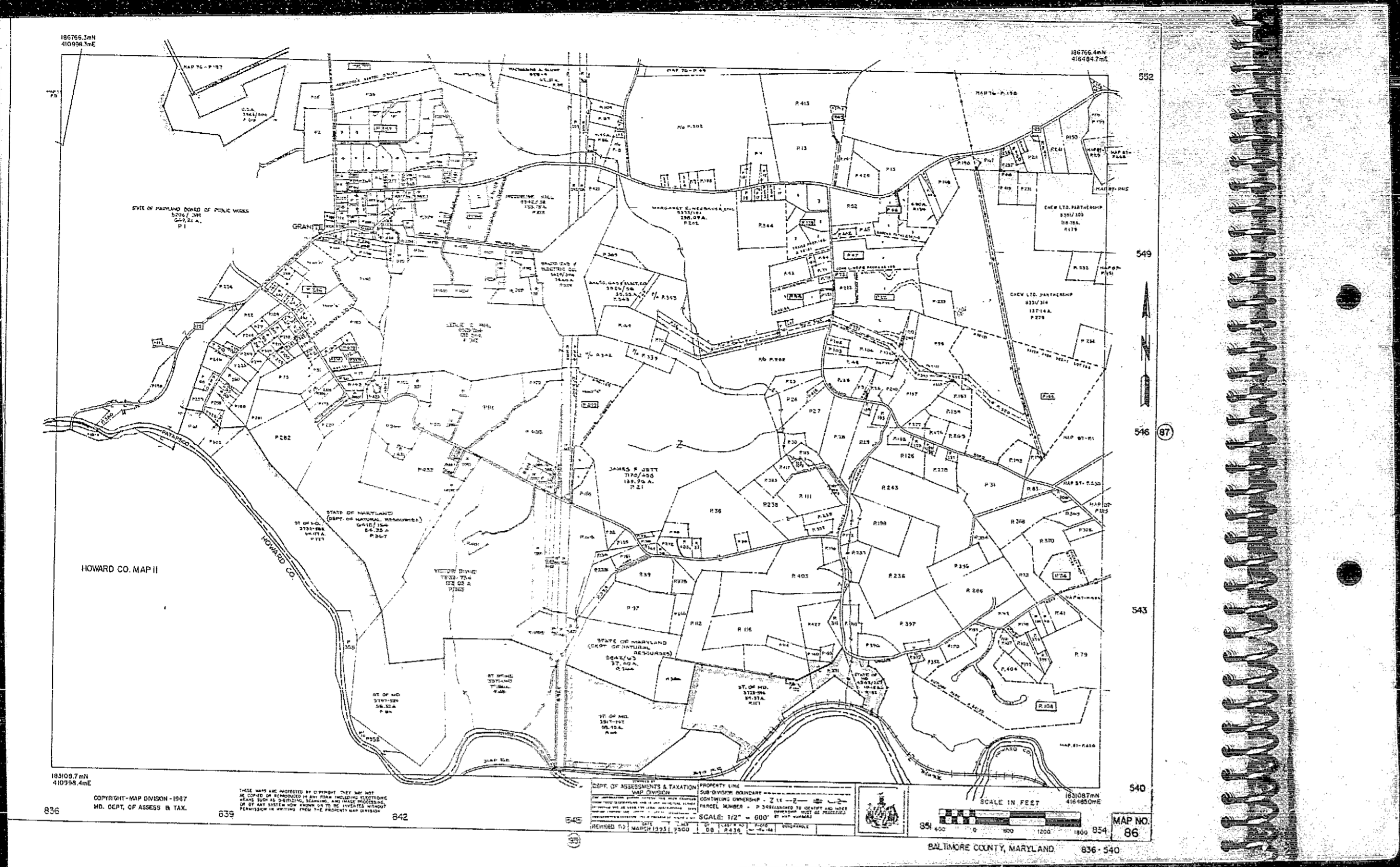
Abundant windows bathe the interior with natural light and allow fresh air to circulate in this beautiful one-story home. The formal living room is in the front of the house, with the informal spaces of the kitchen, dining area, and family room all open to each other at the rear. The kitchen is equipped with a peninsula counter and has access to an optional garage. The master suite features two huge walk-in closets and a private bath. Between the second and third bedroom is the second bathroom and a linen closet. More than enough closet space keeps clutter under control, and the laundry room is located conveniently near all three bedrooms. Please indicate slab, crawlspace, or basement when ordering. For price information and to order the plan, see page 113.

Plan Number 34011
 Baths: 2
 Bedrooms: 3
 Total Living Area: 1,672 sq. ft.
 Garage (optional): 564 sq. ft.
 Exterior Wall Framing: 2-4/2-6
 Foundation Options: Basement, crawlspace, slab
 BLUEPRINT PRICE CODE: B



Robert Johnson Property
 1" = 200'

this plan



95-52-SPHA - Robert Johnson
 REMANDS TO CBA for decision
 on issue - 3/11/96
 John F. Fader, II, J.

PETITION OF: IN THE CIRCUIT COURT
 ROBERT JOHNSON FOR BALTIMORE COUNTY

vs. CASE NO. 95 CV 5779

BOARD OF APPEALS

ORDER REMANDING CASE TO BOARD OF APPEALS FOR DECISION ON ISSUE

Because this court cannot determine how the Board of Appeals resolved a principle issue in this case relating to the acreage of a lot that Robert Johnson (Johnson) seeks to develop, this case is remanded to the Board of Appeals this 8th day of March 1996. For determination of the issue

Johnson owns three (3) parcels of land in Baltimore County, Maryland, which for sake of simplicity we describe as follows:

- Parcel 1. 1.038 acres
- Parcel 2. .819 acres
- Parcel 3. .119 acres

Parcel 3 is a narrow strip of land with frontage on Davis Avenue and extending south of Parcel 1 and 2. Johnson proposed to combine Parcel 1 and 2 for development. An opinion by the Board of Appeals dated May 31, 1995 denied approval to develop parcels 2 and 3 of the subject property as a single undersized lot. It is undisputed but that there is a minimum lot requirement of one (1) acre for the construction of a one family or semi-detached dwelling. While both parties agree that Section 304.1 B.C.Z.R. governs the issue of development when there is a request for a construction of a dwelling less than one (1) acre, they have a

FILED MAR 11 1996

cc: Hitt / Skulley / Zimmerman

dispute at inception not resolved by the Board of Appeals. In pertinent part,

B.C.Z.R. reads:

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955; Bill No. 47, 1992.]

304.1--A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; and [B.C.Z.R., 1955; Bill No. 47, 1992.]

Both Parcel 2 and Parcel 3 were lots duly recorded by deed prior to March 30, 1955. That means that should Johnson attempt to develop Parcel 2 of 0.819 acres, it could do so without complying with the one (1) acre minimum, providing of course that all other zoning and other regulations are in compliance.

Johnson's Position is that Parcel 2 fits the exception, that a one (1) acre limitation does not control, and that the combining of Parcel 2 and Parcel 3 does not mean there is now a "new" lot submitted for development not subject to the March 30, 1955 exception as to minimum lot size.

Protestant's Position is that the combination of Parcel 2 and Parcel 3 for development means that a "new" lot -- something different from a lot approved prior to March 30, 1955.

Focus by the Board of Appeals began and ended with this issue of a one (1) acre minimum lot requirement. It is not readily apparent to this court whether resolution of this issue is a matter of law, of fact or of both. What the Board of Appeals decided was as follows:

From the testimony and evidence presented, the Board reaches the following conclusions. No legitimate reason exists for any further subdivision of this small parcel with evidence of well and sewerage system problems. Mr. Johnson merely is desirous of building a house

on a lot that is considerably less than the required one-acre area. The Board is of the opinion that to grant this request is only going to create more water and sewerage problems for the neighbors on all sides, and therefore will deny the variance, and will so order.

What this court needs to know is whether the Board of Appeals concludes the combination of Parcel 2 and Parcel three constitutes a "new" lot so as to make the grandfather provision of March 30, 1995 not applicable. If so, why so; if not, why not.

B.

Resolution of the issue must first be made by the Board of Appeals, for the reasons stated in *United Steelworkers v. Beth. Steel*, 298 Md. 665, 472 A.2d 62 (1984):

Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgement and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

Id. at 679.

John F. Fader II
 Judge

JFF:am

cc: Cynthia K. Hitt, Esq.
 Siskind, Grady, Rosen & Hoover
 Two East Fayette Street
 Baltimore, MD 21202

Kathleen S. Skulley, Esq.
 217 Main Street
 Second Floor
 Laurel, MD 20707

Peter Zimmerman, Esq.
 Carole S. DeMilio, Esq.
 People's Counsel for Baltimore County
 400 Washington Avenue
 Towson, MD 21204

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF ROBERT JOHNSON
 10729 David Avenue
 Woodstock, MD 21146

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 Room 49, Old Courthouse, 400 Washington Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF ROBERT JOHNSON FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE DAVIS AVENUE, 329' SOUTHEAST OF ACME AVENUE (10729 DAVIS AVENUE) 2ND ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT CASE NO. 95-52-SPHA

CIVIL ACTION No. 3-C-95-5779

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of Permits and Development Management and the Board of Appeals of Baltimore County:

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

No. 95-52-SPHA

Petition for Special Hearing to approve the use of undersized single family lot.

95-52-A, Robert Johnson
 File No. 3-C-95-5779

- August 25 Publication in newspapers.
- August 26 Certificate of Posting of property.
- September 7 ZAC Comments.
- September 20 Hearing held on Petition by the Zoning Commissioner.
- December 6 Order of the Zoning Commissioner in which Petition for Variance was DISMISSED AS MOOT; Petition for Special Hearing was DENIED.
- December 14 Notice of Appeal filed by Kathleen S. Skulley.
- May 16, 1995 Hearing before the Board of Appeals.
- May 31 Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.
- June 29 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Cynthia K. Hitt, Esquire, on behalf of Robert Johnson.
- July 11 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
- July 11 Certificate of Notice sent to interested parties.
- August 29, 1995 Transcript of testimony filed.

Petitioner's Exhibits No. 1 -Plat to accompany Petition for Special Hearing (Variance with-drawn)
 2 -Color coded Plat (Ex. 1) w/ title history

- 3A-Deed of 11-15-93
- 3B-Deed of 6-19-22
- 3C-Deed of 10-5-38
- 3D-Deed of 6-11-1887
- 3E-Deed of 5-27-1889
- 3F-Deed of 8-15-1892
- 4A-Letter of 3-3-94 from John Lewis to Cynthia Bowden
- 4B-Letter of 2-22-94 from Cynthia

95-52-A, Robert Johnson
 File No. 3-C-95-5779

- Bowden to Jablon
 - 5A-Letter of 8-2-94 from Donald Rascoe to James Grammer
 - 5B-DMC Request from and attachments
 - 6-McKee & Associates cover letter of 8-8-94 to attn. of Ervin McDaniel and attachments
 - 7-McKee & Associates cover letter of 8-8-94 to Balto. County Zoning and attachments
 - 8-Finds of Fact and Conclusions of Law w/ cover letter of 12-2-94 by Lawrence Schmidt
 - 9-Perc Plan of Johnson Property
- Protestant's Exhibits No. A1-All -Photographs
 B -Direction of Photo
 C -Current Tax Map
 D1-DB -Color coded title history
 E -Md. DAT Tax Record of Johnson Property

August 29, 1995 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

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

cc: Cynthia K. Hitt, Esquire
 Robert Johnson
 Kathleen S. Skulley, Esquire
 People's Counsel for Baltimore County

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF ROBERT JOHNSON
 10729 David Avenue
 Woodstock, MD 21146

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 Room 49, Old Courthouse, 400 Washington Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF ROBERT JOHNSON FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE DAVIS AVENUE, 329' SOUTHEAST OF ACME AVENUE (10729 DAVIS AVENUE) 2ND ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT CASE NO. 95-52-SPHA

CIVIL ACTION No. 3-C-95-5779

CERTIFICATE OF NOTICE

Madam Clerk:

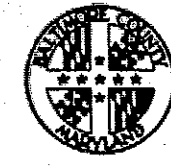
Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Kristine K. Howanski and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Cynthia K. Hitt, Esquire, SISKIND, GRADY, ROSEN & HOOVER, P.A., Jefferson Building, Two East Fayette Street, Baltimore, MD 21202, Counsel for Petitioner; Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163, Petitioner; Mr. & Mrs. Robert Bopst, 10721 Davis Avenue, Woodstock, MD 21163; Kathleen S. Skulley, Esquire, 10813 Davis Avenue, Woodstock, MD 21163, Counsel for Mr. & Mrs. Bopst; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED
 95 JUL 11 PM 2:40

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Cynthia K. Hitt, Esquire, SISKIND, GRADY, ROSEN & HOOVER, P.A., Jefferson Building, Two East Fayette Street, Baltimore, MD 21202, Counsel for Petitioner; Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163, Petitioner; Mr. & Mrs. Robert Bopst, 10721 Davis Avenue, Woodstock, MD 21163; Kathleen S. Skullney, Esquire, 10813 Davis Avenue, Woodstock, MD 21163, Counsel for Mr. & Mrs. Bopst; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204, this 11th day of July, 1995.

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



County Board of Appeals of Baltimore County

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

July 11, 1995

Kathleen S. Skullney, Esquire
10813 Davis Avenue
Granite, MD 21163

RE: Civil Action No. 3-C-95-5779
ROBERT JOHNSON

Dear Ms. Skullney:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on June 29, 1995, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

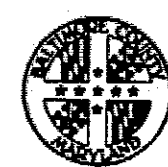
Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-95-5779.

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

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

Enclosure

c: Mr. & Mrs. Robert Bopst
People's Counsel for Baltimore County
Pat Keller /Planning
Lawrence E. Schmidt /PDM
Arnold Jablon /PDM
W. Carl Richards /PDM
Docket Clerk /PDM
Virginia W. Barnhart, County Attorney



County Board of Appeals of Baltimore County

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

July 11, 1995

Cynthia K. Hitt, Esquire
SISKIND, GRADY, ROSEN & HOOVER, P.A.
Jefferson Building
Two East Fayette Street
Baltimore, MD 21202

RE: Civil Action No. 3-C-95-5779
ROBERT JOHNSON

Dear Ms. Hitt:

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

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

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

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

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

Enclosure

c: Robert Johnson

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RECEIVED AND FILED

PETITION OF
ROBERT JOHNSON
10729 Davis Avenue
Woodstock, MD 21146
Petitioner

IN THE
CIRCUIT COURT

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204
Case No. 95-52-SPHA
IN THE MATTER OF THE
APPLICATION OF
ROBERT JOHNSON - PETITIONER
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE SOUTH SIDE DAVIS AVENUE
329' SOUTHEAST OF ACME AVENUE
(10729 DAVIS AVENUE)
2ND ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

CIVIL CASE NO.
3-C-95-5779

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

Robert Johnson, Petitioner, pursuant to Maryland Rule 7-201, et seq., hereby requests judicial review of the Final Opinion and Order (the "Decision") of the County Board of Appeals of Baltimore County issued in the above-referenced case on May 31, 1995.

The Petitioner was a party to the proceeding to the County Board of Appeals of Baltimore County pursuant to which the Decision was issued.

The Decision by the County Board of Appeals of Baltimore County issued in its Final Opinion and Order on May 31, 1995,

95 JUL 29 AM 10:22
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IN THE MATTER OF THE * BEFORE THE
THE APPLICATION OF * COUNTY BOARD OF APPEALS
ROBERT JOHNSON - PETITIONER *
FOR A SPECIAL HEARING AND *
VARIANCE ON PROPERTY LOCATED * OF
ON THE SOUTH SIDE DAVIS AVENUE * BALTIMORE COUNTY
329' SOUTHEAST OF ACME AVENUE *
(10729 DAVIS AVENUE) * CASE NO. 95-52-SPHA
2ND ELECTION DISTRICT *
1ST COUNCILMANIC DISTRICT * * * * *

O P I N I O N

This matter comes before this Board on appeal from a decision of the Zoning Commissioner in which the Petition for Special Hearing was granted. Prior to the hearing, the Petition for Variances was withdrawn.

The Property Owner, Robert Johnson, desires to build a house on an undersized lot that he owns. Mr. Johnson actually owns three abutting parcels. Parcel one is 1.038 acres in area and is improved with an existing house. Mr. Johnson resides on this property. The second parcel is to the rear of parcel one on Davis Avenue and contains approximately .819 acre. Parcel three is undeveloped and is a long, narrow strip which abuts the southern borders of parcels one and two, and is approximately .118 acre in area. The Petitioner proposes combining lots two and three for development. However, the portion of lot three that abuts parcel two is the very narrow edge of the triangle and contains very little usable area. Mr. Johnson purchased this site one and one-half years ago, and it has been in his family for many years. The original deed contained five parcels. Adjacent to parcel one, a lot was subdivided out along Acme Avenue. It was sold and developed. Adjacent to parcel two, a lot was subdivided out along

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denied the Petitioner's Petition for Special Hearing seeking approval to develop Parcels 2 and 3 of the subject property as a single undersized lot.

Petitioner requests such other and further relief as the nature of this cause may require.

Respectfully submitted,

Cynthia K. Hitt
CYNTHIA K. HITT
Siskind, Grady, Rosen & Hoover, P.A.
2 E. Fayette Street
Baltimore, Maryland 21202
(410) 539-6606
Attorneys for the Petitioner

Case No. 95-52-SPHA Robert Johnson -Petitioner 2

Acme Avenue, sold and developed. All of these parcels in the town of Granite were created in 1887, 1889 and 1922.

Cynthia Bowden, who was employed by Mr. Johnson as a surveyor, testified at length as to the areas and the metes and bounds and description of the property.

Testifying in opposition to the petition was Steve Goodmuth, a cartographer with the Department of Natural Resources and a map maker who took photographs of the site, researched the tax records, did a title search entered as an exhibit, and evidenced his concerns as to the reported well problems and drainage problems in the neighborhood, and testified that a bad precedent would be established if the subject property was subdivided any further.

Testifying in opposition to the granting the Petition, and noting their personal well problems, sewerage problems, drainage problems and water problems were: Russell Frizzell, a 33-year resident and neighbor; Robert Bopst, who testified at length as to sewerage problems; Christopher Lentz, noting that his well almost failed and that his neighbor's did; Jamie Lentz, who testified that she feared the effect of a new well on her well; and Anna Anderson, who testified to the historical aspects of the area.

From the testimony and evidence presented, the Board reaches the following conclusions. No legitimate reason exists for any further subdivision of this small parcel with evidence of well and sewerage system problems. Mr. Johnson merely is desirous of building a house on a lot that is considerably less than the required one-acre area. The Board is of the opinion that to grant

Case No. 95-52-SPHA Robert Johnson -Petitioner 3

this request is only going to create more water and sewerage problems for the neighbors on all sides, and therefore will deny the variance, and will so order.

O R D E R

IT IS THEREFORE this 31st day of May, 1995 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing seeking approval to develop parcels 2 and 3 of the subject property as a single undersized lot be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Acting Chairman

Kristine K. Howanski
Kristine K. Howanski

S. Diane Levero
S. Diane Levero

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE BEFORE THE ZONING COMMISSIONER
S/S Davis Ave., 329 ft. SE of Acme Avenue
10729 Davis Avenue
2nd Election District
1st Councilmanic District
Robert Johnson
Petitioner

PINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing and Variance for the property located at 10729 Davis Avenue in the Woodstock section of Baltimore County. The Petition is filed by Robert Johnson, property owner. As to the Petition for Special Hearing, the Petitioner owner requests a finding that development of parcels 2 and 3 of the subject property as a single undersized lot is permissible pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR). As to the Petition for Variance, relief is requested from Section 1A04.3.B.1 of the BCZR to allow a single family dwelling on a property less than one acre. Also, variance relief is requested from Section 1A04.3.B.3 of the BCZR to permit a rear setback of 40 ft. in lieu of the required 50 ft., and a side yard setback of 20 ft. in lieu of the required 50 ft. All of the subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1A, the plat to accompany the Petitions for Special Hearing and Zoning Variance.

Appearing at the requisite public hearing was the property owner, Robert Johnson. Also present was Cynthia Bowden, a professional land surveyor from McKee and Assoc. Ms. Bowden prepared the site plan and testified on behalf of the Petitioner. Numerous residents of the subject locale appeared in opposition. They included Mr. and Mrs. Robert Bopst, Mr. Kirkley, Christopher Lentz, Steven Goodmath, Russel Fritze, and Francis Faint.

and Kathleen Skulnney. All of these Protestants reside nearby in the residential community of Woodstock and are neighbors of the subject property.

This case presents this Zoning Commissioner with yet another opportunity to address Section 304 of the BCZR; a provision which is frequently misapplied and misunderstood. A discussion of the impact of that section will follow, however, a brief recitation of the facts, which apparently are not at issue, is appropriate.

Mr. Johnson has been the owner of the subject property for approximately one year. He testified that he acquired same from his Aunt, a Mrs. Humphreys, and that the property has been in his family for over 100 years. His present holdings encompass three specifically identified parcels as shown on the site plan. Parcel No. 1 is 1.038 acres in area. It is presently improved with an existing house which fronts Davis Avenue. The rear yard contains three sheds. Mr. Johnson resides on this property. A second parcel is to the rear of parcel 1 from Davis Avenue. According to Ms. Bowden's testimony, it was surveyed as containing approximately .819 acres. Parcel 2 is undeveloped but is proposed for development for a single family residential dwelling. Parcel 3 is also presently undeveloped. It is a long narrow strip which runs along the southern borders of parcels 1 and 2 from Davis Avenue. This narrow strip of land is approximately .1118 acres in area. The Petitioner proposes combining lots 2 and 3 for development.

As shown on Petitioner's Exhibit Nos. 1A (the site plan) and 1B, (the title history summary), parcels 1 and 2 were originally parts of larger tracts. Specifically, parcel 1 originally included adjoining land to the north. However, some years ago, the property was subdivided and a northern section of parcel 1 was out conveyed. The northern piece is presently

owned by Gary T. Kirkley and is improved with a single family dwelling. Parcel 2 has a similar history. As is the case with parcel 1, an out conveyance was made many years ago and that lot is now under the ownership of Christopher C. Lentz. Mr. Lentz has also improved the property with a dwelling and resides thereon.

There was some conflict in testimony about the actual acreage of parcel 2. The Protestants' proffered that the deeds from the out conveyance of the Lentz property showed that the remainder of parcel 2 is approximately 6/10ths of 1 acre. This is slightly smaller than the testimony offered by Ms. Bowden as to the acreage computed by survey of .819 acres. In any event, it is agreed that parcels 2 and 3, when combined, would be less than 1 acre. Based on the accuracy of the survey, I find, as fact, that parcel 1 is indeed 1.038 acres and parcels 2 and 3, when combined, are .937 acres. Thus, the total Johnson holdings are 1.975 acres.

The property is zoned R.C.5. Pursuant to Section 1A04.3.B.1 of the BCZR, any lot in an R.C.5 zone must be 1 acre in area. It is also to be noted that that section of the BCZR regulates density in an R.C.5 zone and provides that the maximum gross residential density of a lot of record is .667 dwellings per acre.

As noted above, special hearing relief is requested pursuant to Section 304 of the BCZR. Section 304 governs use of undersized lots in Baltimore County. It is applicable to one family detached or semi-detached dwellings, which is proposed here. In essence, Section 304 is the County Council's attempt to establish uniform regulations for use of lots which are either of insufficient area or width. The Council, no doubt, recognized that there exists in Baltimore County a number of old lots which were created prior to the adoption of the first comprehensive set of zoning

regulations in 1955. Section 304 provides that if a lot of record existed prior to that date, it may be residentially developed in certain circumstances. In addition to having been in existence prior to 1955, the section requires that the owner of the lot not own sufficient adjoining land which, when combined with the undersized lot, would create a lot large or wide enough to satisfy the area and/or width requirements. Moreover, all other requirements of the height and area regulations of the BCZR must be complied with.

As I have stated in my evaluation of this section in other opinions, the mere request for an area variance would render the relief available through Section 304 inappropriate. That is, if the Petitioner requests a zoning variance from a setback regulation, for example, that Petitioner does not comply with Section 304.1.B which provides that all requirements of the height and area regulations are complied with. Clearly, a variance does not equate to satisfaction of a height and area requirement, rather, the grant of the variance relief is a lawful exception to the particular regulation.

I noted this conclusion at the public hearing to the Petitioner and his surveyor, Ms. Bowden. My remark solicited testimony from her to the effect that the variances requested (as to the rear and side yards) were not actually justifiable under law. Specifically, she testified that the variances were requested so that a house could be built with a garage and so as to provide an increased buffer for the septic system. However, most importantly, Ms. Bowden admitted that a house could be constructed to comply with the rear and side yard setbacks. It is clear, therefore, that the variance relief cannot be granted, in that the Petitioner has admittedly

failed to satisfy the tests in Section 307 of the BCZR and those developed in the case law.

This being the case, it is, likewise, clear that relief is available under Section 304 of the regulations. If the proposed house is built without variances, the Petitioner satisfies all of the requirements of Section 304. That is, I find that the subject properties (combined lots 2 and 3) existed as lots of record prior to 1955. Moreover, without any variance relief granted, the Petitioner complies with all other requirements of the height and area regulations. Lastly, testimony was persuasive that the Petitioner does not own adjoining land which can be used to increase the area and/or width of lots 2 or 3, when combined. Thus, I find, as fact, that the Petitioner has satisfied the tests of Section 304.

A significant amount of testimony was offered by the Protestants about the effect of the application of Section 304. Specifically, the Protestants argued that relief should not be granted under Section 304 in this instance, because it would be contrary to the density requirements. I am appreciative of the density requirements in an R.C.5 zone, as noted above. However, in my view the application for relief under Section 304 is not an attempt to variance density. Sections 304 and 307 of the BCZR are entirely different sections intended to be applied by the County Council in different instances. Section 304 is strictly to be applied to residential development on older existing undersized lots. Variances, as provided in Section 307, are quite different. Although it is indeed true that Section 307 variances cannot be applied to density requirements, that is not what is attempted here. Rather, the Petitioner is proceeding under Section 304 which does allow the result requested.

Therefore, based on the testimony and evidence presented, I am persuaded to grant the Petition for Special Hearing. The Petitioner shall be permitted, in accordance with the provisions of Section 304, to construct a single family dwelling on lots 2 and 3. Let it also be noted that I am not troubled by the combination of parcels 2 and 3 for this purpose. This is the Petitioner's attempt to come as close as possible to the one acre lot minimum. The Protestants' argument, that the aggregation of parcels 2 and 3 is somehow contrary to the spirit of Section 304, is without merit. To the contrary, the combination of these two lots is within the spirit of Section 304.1.C. of the BCZR.

Therefore, having granted relief under the special hearing, the Petition for Variance must be denied. Let it first be noted that the request for variance relief as to the one acre lot minimum requirement is unnecessary and moot by the grant of the special hearing, pursuant to Section 304. However, as to the rear and side yard variances, they are denied based on the Petitioner's representative's own testimony as to the lack of practical difficulty and in view of my holding as to the Special Hearing.

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 in part and dismissed, in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6th day of December 1994, that, pursuant to the Petition for Special Hearing, approval to develop parcels 2 and 3 of the subject property as a single undersized lot, pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR), be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1A04.3.B.1 of the BCZR to allow a single family dwelling on a property less than one acre, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that a variance from Section 1A04.3.B.3 of the BCZR to permit a rear setback of 40 ft. in lieu of the required 50 ft., and a side yard setback of 20 ft. in lieu of the required 50 ft., be and is hereby DENIED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LES:mmn

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

December 2, 1994

Mr. Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

RE: Petitions for Special Hearing and Variance
Case No. 95-52-SPHA
Property: 10729 Davis Avenue

Dear Mr. Johnson:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Variance have been approved.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at the office of Zoning Administration and Development Management (ZADM), at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmn

att.
cc: Ms. Cynthia B. Bowden, McKee & Assoc. Inc.
cc: Mr. and Mrs. Robert Bopst
cc: Mrs. Kathleen Skulnney

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
10729 Davis Avenue, S/S Davis Ave,
329' SE of Acme Avenue, 2nd Election
District, 1st Councilmanic
District, 1st Councilmanic
Robert Johnson
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-52-SPHA

ENTRY OF APPEARANCE

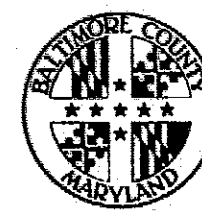
Please enter the appearance of the People's Counsel, in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21284
(410) 887-2186

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Cynthia B. Bowden, McKee & Associates, Inc., 257 E. Main Street, Westminster, MD 21157, representative for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Petition for Special Hearing
to the Zoning Commissioner of Baltimore County

for the property located at 10729 Davis Avenue
which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve use of undersized single family lot (section 304.1). The property of Mr. Johnson is in three separate contiguous parcels. These three parcels have been transferred as separate parcels in the deeds since created in 1887, 1889, and 1922, with outsales in 1892 and 1938. The parcel fronting on Davis Avenue has sufficient gross area (1.038 ac) to support the existing dwelling, but insufficient land to add to the other parcels to bring them up to the one acre minimum. (Total gross area of the three parcels is 1.976 acre).

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay 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 restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s)
Type or Print Name: Robert Johnson
Signature: *Robert Johnson*
Address: 10729 Davis Avenue, Woodstock, Maryland 21163
City: Woodstock, State: Maryland, Zipcode: 21163
Attorney for Petitioner: Cynthia B. Bowden, McKee & Associates, Inc., 257 East Main Street, Westminster, MD 21157, Phone No: 410-8428

ESTIMATED LENGTH OF HEARING: 1 hr
RECEIVED BY: CAM DATE: 10 Aug 94



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 10729 Davis Avenue
which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A04.3B.1 to allow the construction of a single family dwelling on a property less than one acre in size. Section 1A04.3B.3 to permit a rear setback of 40' instead of the required 50' and a side setback of 20' instead of the required 50'.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s)
Type or Print Name: Robert Johnson
Signature: *Robert Johnson*
Address: 10729 Davis Avenue, Woodstock, Maryland 21163
City: Woodstock, State: Maryland, Zipcode: 21163
Attorney for Petitioner: Cynthia B. Bowden, McKee & Associates, Inc., 257 East Main Street, Westminster, MD 21157, Phone No: 410-8428

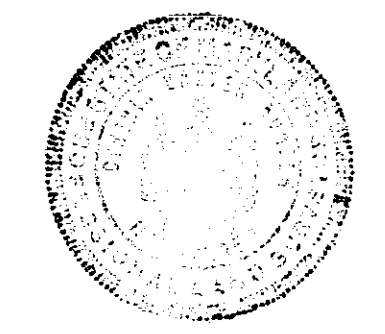
ESTIMATED LENGTH OF HEARING: 1 hr
RECEIVED BY: CAM DATE: 10 Aug 94

MCKEE & ASSOCIATES, INC.
Engineering - Surveying - Real Estate Development

267 EAST MAIN STREET WESTMINSTER, MARYLAND 21157
Telephone: (410) 848-6468
(410) 840-8428
Facsimile: (410) 840-8429

Description of
ROBERT JOHNSON PROPERTY
10729 Davis Avenue
Woodstock, Maryland
2nd election district, Baltimore County
to accompany petitions for
VARIANCE AND SPECIAL HEARING

Beginning for the same in Davis Avenue, 329 feet, more or less, southeast of the centerline of Acme Avenue, thence running in Davis Avenue, as now surveyed, and referring the bearings of this description to the meridian established in the deeds,
1) South 33 degrees 26 minutes 58 seconds East 23.74 feet, thence leaving the road
2) South 65 degrees 05 minutes 00 seconds West 439.32 feet
3) North 35 degrees 00 minutes 00 seconds West 159.74 feet
4) North 54 degrees 27 minutes 57 seconds East 205.87 feet
5) South 35 degrees 00 minutes 00 seconds East 186.93 feet
6) North 62 degrees 00 minutes 00 seconds East 229.02 feet, to the beginning.
Containing 0.937 acres of land, more or less.



54

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 8/26/94
Posted for: Special Hearing & Variance
Petitioner: Robert Johnson
Location of property: 10729 Davis Ave, S/S
Location of Signs: Facing Ave. Hwy, on property being zoned
Remarks:
Posted by: 11/11/94 Date of return: 9/2/94
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/26, 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 8/25, 1994.

THE JEFFERSONIAN,
A. H. HAMILTON
LEGAL AD. - TOWSON

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 property which is 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 accessed 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.

Carl Jarlon
ARNOLD JARLON, DIRECTOR

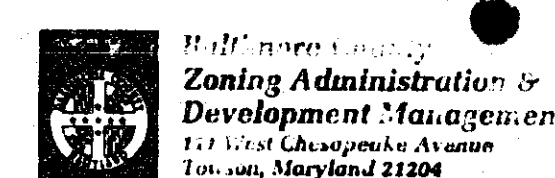
For newspaper advertising:

Item No.: 54
Petitioner: Robert Johnson
Location: 10729 Davis Avenue, Woodstock, Maryland 21163
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Robert Johnson
ADDRESS: 10729 Davis Avenue
Woodstock, Maryland 21163
PHONE NUMBER: 461-8168

Atty: (Revised 04/09/93)

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 52948
DATE: 10/15 ACCOUNT: R-601612
AMOUNT: \$211.00
RECEIVED FROM: ANNA L. BOWDEN
FOR: 10729 DAVIS AVE - CASE NO. 95-52-SPHA
RELATE TO 10729
VALIDATION OR SIGNATURE OF CASHIER



Office of Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
95-52-SPHA
Account: R-001-8150
Number: 54
CAM
Date: 10 Aug 94
Robert Johnson
10729 Davis Ave
010 - 50
030 - 50
01080 - 70
17000
03A03R0073M1C-RC \$170.00
SA 0303131P08-10-94
Please Make Checks Payable To: Baltimore County

PETITION OF: ROBERT JOHNSON
CIVIL ACTION # 3-C-95-5779
IN THE MATTER OF ROBERT JOHNSON
RECEIVED FROM THE COUNTY BOARD OF APPEALS CERTIFIED DOCUMENTS, EXHIBITS AND BOARD'S RECORD EXTRACT FILED IN THE ABOVE-ENTITLED CASE.
Date: 8/29/95
Clerk's Office

TO: PUTNERT PUBLISHING COMPANY
August 25, 1994 Issue - Jeffersonian
Please forward billing to:
Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163
461-8168

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-52-SPHA (Item 54)
10729 Davis Avenue
S/S Davis Avenue, 329' SE of Acme Avenue
2nd Election District - 1st Councilmanic
Petitioner(s): Robert Johnson
HEARING: TUESDAY, SEPTEMBER 20, 1994 at 2:00 p.m. in Room 118, Old Courthouse.
Special hearing to approve the use of undersized single family lot. Variance to allow the construction of a single family dwelling on a property less than one acre in size; and to permit a rear setback of 40 feet instead of the required 50 feet and a side setback of 20 feet instead of the required 50 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-52-SPHA (Item 54)
10729 Davis Avenue
S/S Davis Avenue, 329' SE of Acme Avenue
2nd Election District - 1st Councilmanic District
Petitioner(s): Robert Johnson
HEARING: TUESDAY, SEPTEMBER 20, 1994 at 2:00 p.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of undersized single family lot.
Variance to allow the construction of a single family dwelling on a property less than one acre in size; and to permit a rear setback of 40 feet instead of the required 50 feet and a side setback of 20 feet instead of the required 50 feet.

Arnold Jablon
Director

cc: Robert Johnson
McKee & Associates, Inc.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-1382.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE BY 867-1391.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 31, 1995

NOTICE OF ASSIGNMENT

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

CASE NO. 95-52-SPHA ROBERT JOHNSON - Petitioner
S/S Davis Avenue, 329' SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District

SPH -Development of parcels 2 and 3 as single undersized lot; VAR -rear and side yard setbacks; lot size.

12/06/94 -Z.C.'s Order in which Petition for Special Hearing is GRANTED; Petition for Variance DISMISSED AS MOOT as to lot size; DENIED as to setbacks.

NOTE: Appealed as to Special Hearing grant only.

ASSIGNED FOR: TUESDAY, MAY 16, 1995 at 10:00 a.m.

cc: Kathleen Skulney, Esquire Appellant /Protestant
Mr. & Mrs. Robert Bopst /Protestants
Mr. Robert Johnson Petitioner
Cynthia B. Bowden /McKee & Associates
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Rotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 29, 1996

NOTICE OF ASSIGNMENT /On Remand from Circuit Court

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. 95-42-SPHA ROBERT JOHNSON
10729 Davis Avenue, S/S Davis Avenue
2nd E; 2nd C

RE: Remand Order of the Circuit Court for Baltimore County

3/11/96 -Remanded to CBA for resolution of principal issue per the Court's Order (Judge John J. Fader, II).

Scheduled for public deliberation and resolution of issues and final decision of the Board pursuant to Judge Fader's Remand Order; and has been

ASSIGNED FOR: WEDNESDAY, MAY 29, 1996 at 9:30 a.m.

cc: Kathleen Skulney, Esquire
Mr. & Mrs. Robert Bopst
Cynthia K. Hitt, Esquire
Robert Johnson
People's Counsel for Baltimore County
Pat Keller
Lawrence M. Schmidt
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEP. 07 1994

Robert Johnson
10729 Davis Avenue
Woodstock, Maryland 21163

RE: Item No. 54, Case No. 95-52-SPHA
Petitioner: Robert Johnson

Dear Mr. Johnson:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 10, 1994 and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.
- 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.
- 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 of the filing fee.

Very truly yours,
W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Owen Stephens, ZADM DATE: August 26, 1994

FROM: Jeffrey Long
Office of Planning & Zoning

SUBJECT: Zoning Advisory Comments

Please be advised that additional time is required to review the following Petitions:

ITEM NOS. 41, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, and 61.

Please contact me if you have any questions or require additional information.

Jeffrey Long
Jeffrey Long

RECEIVED
AUG 29 1994
ZADM

STEPHENS, J.L. PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 29, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for August 23, 1994
Item No. 54

The Developers Engineering Section has reviewed the subject zoning item. Per Section 22-85 of Article IV of the County Code, the Development Regulations, Panhandle Driveways, Subsection (a), each lot of less than 3 acres shall include an in-fee strip of land providing access to the local street. The panhandle fee strip shall be a minimum of 20 feet in width to serve one lot. See Department of Public Works Standard Plate R-47, Panhandle Driveway - Rural Zone, for details.

The existing ground slopes at an 18% to 20% grade. Verify stream location along southwest property line.

RWB:sw

Maryland Department of Transportation
State Highway Administration

O James Lighthizer
Secretary
Hal Kassoff
Administrator

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

Re: Baltimore County
Item No. 54 (ZADM)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for David Ramsey, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 29, 1994
Zoning Administration and
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos.: 48, 49, 53, 54, 57, 58, 61, 62, 63, 64, 67, and 70.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long
Division Chief: Gary L. Kern

PK:JL:bjjs

ZACITEMS_NC/PZONE/ZAC1

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

95-52
August 30, 1994

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

FROM: J. Lawrence Pilson,
Development Coordinator, DEPRM

SUBJECT: Zoning Item #54 - Johnson Property
10729 Davis Avenue
Zoning Advisory Committee Meeting of August 22, 1994

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

Environmental Impact Review

Development of the property must comply with Article X of the Baltimore County Code, "The Forest Conservation Act."

Ground Water Management

Soil percolation tests have been completed. Prior to conveyance, a meeting the minimum Baltimore County standards must be drilled.

JLP:MK:TE:sp

JOHNSON/DEPRM/TATSBP

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

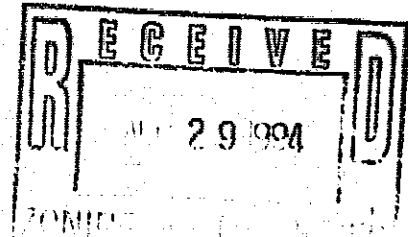
9/20
95-52-SPHA

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 29, 1994

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee



The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos.: 48, 49, 53, 54, 57, 58, 61, 62, 63, 64, 67, and 70.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*
Division Chief: *Cary L. Kears*

PK:JL:bjs

ZACITENS.NC/PZONE/ZAC1

INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

TO: Director, Office of Planning and Zoning
Attn: Erin McDaniell
County Courts Bldg, Rm 406
401 Bosley Av
Towson, MD 21204

FROM: Arnold Jablon, Director, Zoning Administration and Development Management

RE: Undersized Lots
Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:
 Robert Johnson 10729 Davis Avenue, Woodstock, MD 21163 461-8168
 Lot Address 10729 Davis Avenue Election District 2 Council District 1 Square Feet 40,839.7 sq. ft.
Lot Location: NE 50' side / corner of Davis Avenue, 329 feet from SE corner of Acme Avenue

Land Owner: Robert Johnson Tax Account Number: 02-08800000
Address: 10729 Davis Avenue Telephone Number: 461-8168
Woodstock, Maryland 21163

CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning)

	YES	NO
1. This Recommendation Form (3 copies)	X	
2. Permit Application		X
3. Site Plan Property (3 copies)	X	
Topo Map Available in the Site Case? (2 copies) Green Label Site Plan?	X	
4. Building Elevation Drawings	X	
5. Photographs (seven total of photos shown) Adjoining Buildings	X	
Surrounding Neighborhood	X	

Residential Processing Fee Paid
Codes 000 & 000 (9505)
Accepted by: [Signature]
Date: [Blank]

See Item #
54
ZAC AGENDA

RECOMMENDATIONS/COMMENTS:
 Approval Disapproval Approval conditioned on required modifications of the permit to conform with the following recommendations:

Signed by: *James Mowey* Date: August 23, 1994
Mr. Director, Office of Planning & Zoning

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
January 5, 1995

Mr. Robert Johnson
10729 Davis Avenue
Woodstock, MD 21163

RE: Petition for Special Hearing
S/S Davis Avenue, 329 Ft SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District
1st Councilmanic District
Robert Johnson-Petitioner
Case No. 95-52-SPHA

Dear Mr. Johnson:

Please be advised that an appeal of the above-referenced case was filed in this office on December 16, 1994 by Kathleen Skulney. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winarski at 887-3391.

Sincerely,
Arnold Jablon
ARNOLD JABLON
Director

AJ:jaw

Ms. Cynthia B. Bowden
Mr. and Mrs. Robert Bopst
People's Counsel

APPEAL

Petition for Special Hearing (only)
S/S Davis Avenue, 329 Ft. SE of Acme Avenue
(10729 Davis Avenue)
2nd Election District - 1st Councilmanic District
Robert Johnson-PETITIONER
Case No. 95-52-SPHA

- Petition(s) for Special Hearing (only)
- Description of Property
- Certificate of Posting
- Certificate of Publication
- Entry of Appearance of People's Counsel
- Zoning Plans Advisory Committee Comments
- Protestant(s) Sign-In Sheets
- Undersize Lot Recommendation Form
- Copy of Plan Number 34011
- Copy of Elevation Map
- Ten Photographs (not marked as an exhibit)
- Petitioner's Exhibits: 1A- Plat to Accompany Petitions for Variance and Special Hearing
1B- Title History for Robert D. Johnson
- Protestant's Exhibits: 1 - Petition from the Woodstock-Granite Residence
- Zoning Commissioner's Order dated December 6, 1994 (Granted)
- Notice of Appeal received on January 4, 1994 from Kathleen S. Skulney

c: Kathleen S. Skulney, Esquire, 10813 Davis Avenue, Granite, 21163
Ms. Cynthia B. Bowden, McKee & Associates, Inc., 257 East Main Street, Westminster, MD 21157
Mr. and Mrs. Robert Bopst, 10721 Davis Avenue, Baltimore, MD 21163
Mr. Robert Johnson, 10729 Davis Avenue, Woodstock, MD 21163
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM

ROBERT JOHNSON 95-52-SPHA
RE: Petitions for Special Hearing and Variance

- Petition for Special Hearing to approve the use of undersized single family lot.
- September 20 Hearing held on Petition by the Zoning Commissioner.
- December 6 Order of the Zoning Commissioner in which Petition for Variance was DISMISSED AS MOOT; Petition for Special Hearing was DENIED.
- December 14 Notice of Appeal filed by Kathleen S. Skulney.
- May 16, 1995 Hearing before the Board of Appeals.
- May 31 Opinion and Order of the Board in which the Petition for Special Hearing was DENIED.
- June 29 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Cynthia K. Hitt, Esquire, on behalf of Robert Johnson.
- July 11 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
- July 11 Certificate of Notice sent to interested parties.
- August 29, 1995 Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
- March 11, 1996 Order remanding case to Board of Appeals for clarification per Order issued by Circuit Court (John F. Fader, II, J.).
- March 20 Letter from Cynthia Hitt, Esquire, regarding above remand order. /cy to K & M 4/22/96
- April 15 Letter from P. Zimmerman in response to above letter from Ms. Hitt. /cy to K & M 4/22/96
- April 25 Letter from K. Skulney, Esquire, concurring with People's Counsel, and responding to Ms. Hitt's letter.
- April 29 Notice of Assignment /on remand from Circuit Court /scheduled for deliberation and resolution of issues raised; scheduled for Wednesday, May 29, 1996 at 9:30 a.m.

R-93-306, York-Ridgely Joint Venture 2
File No. 67/323/ 93-CV-10641
Page 2 /Robert Johnson 95-52-SPHA

- May 29, 1996 Deliberation by Board consisting of two members (Howanski and Levero) by agreement of all parties of record. Clarified matter on remand; approval sought in Petition for Special Hearing DENIED. Copies of Minutes to be provided to counsel.
- May 30 Copy of Minutes of Deliberation sent to counsel for parties of record; written Opinion on Remand to be issued; appellate period to run from date of that written, final Order.

ROBERT JOHNSON 95-52-SPHA
RE: Petitions for Special Hearing and Variance

- Petition for Special Hearing to approve the use of undersized single family lot.
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- March 20 Letter from Cynthia Hitt, Esquire, regarding above remand order. /cy to K & M 4/22/96
- April 15 Letter from P. Zimmerman in response to above letter from Ms. Hitt. /cy to K & M 4/22/96
- April 25 Letter from K. Skulney, Esquire, concurring with People's Counsel, and responding to Ms. Hitt's letter.