

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
 S/S Manorbrook Road, 1320 ft.
 W of Monkton Road * ZONING COMMISSIONER
 19 Manorbrook Road
 10th Election District * OF BALTIMORE COUNTY
 3rd Councilmanic District
 C. Stuart Jones, et ux * Case No. 96-16-A
 Petitioners
 * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 19 Manorbrook Road in Monkton. The Petition is filed by C. Stuart Jones and Maria S. Jones, his wife, property owners. Variance relief is requested from Section 1A03.4.B.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 23 ft. in lieu of the required 50 ft. The subject property is more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Zoning Variance.

Appearing at the public hearing held for this case was the Petitioner/property owner, C. Stuart Jones. The Petitioners were represented by Lawrence J. Quinn, Esquire. Joseph L. Bishop, Jr., and Jo-Ann Bishop, nearby property owners at 15 Manorbrook Road appeared as Protestants. They were not represented by counsel.

The essential facts relating to this case and the Petitioners' plans are not in dispute. Mr. and Mrs. Jones own property of approximately 1 acre adjacent to Manorbrook Road in Monkton. The property is rectangular in shape and ranges in width from 140 to 180 ft. The depth of the property is approximately 270 ft. The property is improved with an attractive existing single family dwelling and driveway. Numerous photos of the property and neighborhood submitted that this is an attractively maintained parcel situated in a community of large single family homes on relatively large lots.

ORDERED FOR FILING
 Date 8/24/95
 By M. G. [Signature]

MICROFILMED

Mr. Jones indicates that his is one of the few homes in the area without a garage. Thus, he proposes attaching a two car garage to the east side of the property. The garage will be 24 ft. in width x 22 ft. in depth. Mr. Jones indicated that the proposed location was most suitable for the garage. It will be situated at the end of the existing driveway. Location of the garage on the other side of the house is impractical because of the topography of the lot and the existence of a well on that side of the parcel. Location of the garage to the rear is impractical due to the location of the septic system and the grade of the lot. For all of these reasons, the Petitioner requests variance relief.

Mr. and Mrs. Bishop appeared in opposition. The reason for their opposition is frankly less than compelling. Mr. Bishop stated that the construction of the garage would not be esthetically pleasing and would be detrimental to the surrounding locale. Mr. Bishop also noted that the zoning regulations should be stringently enforced.

It is of great significance that this case is the second zoning Petition which has been filed for the property. Apparently, the Jones' predecessor in title, Lawrence E. Hiner III and Cherie Hiner, filed a similar Petition in 1990. In that matter, (case No. 90-395-A) Mr. and Mrs. Hiner sought identical variance relief. Specifically, a variance was sought to allow a 23 ft. setback in lieu of the required 50 ft. for a two car garage. By Order of then Zoning Commissioner, J. Robert Haines, dated May 9, 1990, the Petition for Variance was denied.

A preliminary question relates whether this prior Order bars reconsideration of this issue. Thus, the concepts of res adjudicata and collateral estoppel need be examined. These concepts are principals which both arise from the legal precept of estoppel by judgment. Both principals are simi-

lar in effect and are easily confused. Frequently, both members of the bench and bar cite one principal when another is applicable.

Res adjudicata bars additional litigation for an identical cause of action between the same parties or their privies. That is, in such an event, the second litigation is directly estopped. Res adjudicata requires that the same cause of action be the subject of the first and subsequent action.

Collateral estoppel also acts as a bar to subsequent litigation between identical parties or their privies. However, in the second suit, an identical cause of action is not required. Collateral estoppel acts as a bar to re-litigation of the same issues which were common to both suits. For full discussion of these principals, see Klein v. Whitehead, 389 A.2d, 374 (1978) and Miceli v. Foley, 83 Md. App. 543 (1990).

The question here is whether res adjudicata is applicable. Clearly, the cause of action is identical. Both the present Petition and previous Petition filed by Mr. and Mrs. Hiner seek identical relief from the identical section of the BCZR. That the causes of action are the same is beyond dispute. The differences here relate to the identity of the parties. That issue has been addressed by the Courts in both Klein and Miceli, infra, wherein the Court's held that identical parties are not necessary for res adjudicata to apply. Moreover, in MPC, Inc. v. Kenny, 279 Md. 29 (1977), the Court relaxed the identity of parties requirement.

In this case, clearly a privity of contract exists between Mr. and Mrs. Hiner and the Petitioners. The present Petitioners are successors in title to this property. As such, they are clearly bound by the prior decision. Moreover, it is well settled that zoning law relates to land use issues and not personal claims. The previous decision "runs with the land". For all of these reasons, the instant Petition must be denied.

Notwithstanding my decision, several additional comments are in order about the merits of the request. Section 307.1 of the BCZR regulates the consideration of variances by the Zoning Commissioner and, on appeal, the Board of Appeals. In essence, a three part standard is set forth. First, the Petitioner must demonstrate that compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. The Petitioner must show either practical difficulty or unreasonable hardship. Most often practical difficulty is alleged in that the burden to prove same is lesser than proving unreasonable hardship. Secondly, such variance relief can be granted only if consistent with the spirit and intent of the regulations. Third, relief can only be granted if there will be no injury to the public health, safety or general welfare.

As to the third of these tests, I would find no injury to the public welfare if the variance were granted. Placement of the garage, where proposed, is most appropriate. I can perceive of no detrimental impact resulting from the construction of the garage either to the Bishop property or any other surrounding parcel.

As to the second test, a grant of the variance would be consistent with the spirit and intent of the BCZR. The side yard setback requirements were clearly established to preserve a significant distance between houses in low density dwelling communities located in the R.C.4 zone. A review of the photographs show a significant distance between the Jones' property and the adjoining lot. Moreover, the location of the panhandle driveways leading to the Bishop property provides additional space between dwellings. Clearly, the spirit and intent of the regulation would be observed if the variance were granted.

As to the practical difficulty test, I am not convinced that the Petitioner has met its burden. The recent case of Cromwell v. Ward, 102

Md. App. 691 (1995) is particularly persuasive on this issue. Within that opinion, the Court sets a rigid and strict standard in interpreting the concept of practical difficulty. The testimony presented was that the garage could be located elsewhere on the lot without the necessary variance. In my view, an alternate location would be unwise for all concerned, including Mr. and Mrs. Jones and their neighbors. Location of the garage, other than where proposed, would disrupt the visual scheme of the neighborhood and property. Nonetheless, under the strict language employed in the Cromwell opinion, the variance must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

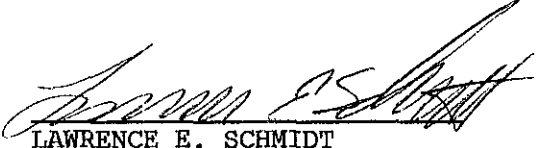
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of August, 1995 that a variance from Section 1A03.4.B.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 23 ft. in lieu of the required 50 ft. be and is hereby DENIED.

ORDER RECEIVED FOR FILING

Date

By

LES/mmn


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning.



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 23, 1995

Lawrence J. Quinn, Esquire
Tydings and Rosenberg
100 E. Pratt Street, Baltimore, Maryland 21202

RE: Case No. 96-16-A
Petition for Zoning Variance
C. Stuart Jones, III and Maria S. Jones, his wife, Petitioners

Dear Mr. Quinn:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3353.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

cc: Mr. and Mrs. C. Stuart Jones, III, 19 Manorbrook Rd., Monkton
cc: Mr. and Mrs. Joseph L. Bishop, 15 Manor Brook Road, Monkton





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 19 MANORBROOK RD. MONKTON, MD. 21111
which is presently zoned R.C. 4

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)

Section 1A 034 B6 (1A 00.3.B.3., 1970) to allow
a side yard setback of 23' in lieu 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) Attached garage would cause dwelling to go
beyond mandatory 50 feet setback requirement, to
23 feet. Other reasons to be discussed at hearing.

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)

C. STUART JONES

(Type or Print Name)

Signature

MARIA S. JONES

(Type or Print Name)

Signature

19 Manorbrook Rd.

Address

#: 472-1285

w: 247-1900

Phone No

MONKTON,

City

MD.

State

21111

Zipcode

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

Name

Address

Phone No.

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

Zoning Administration



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 19 MANGEBROOK RD. MONKTON, MD. 21111
which is presently zoned R.C. 4

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)

TO Allow 23' setback (side lot) in lieu of 50' required.

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

- 1) Attached Garage would cause dwelling to go beyond mandatory 50 feet setback requirement.
OTHER reasons to be discussed at hearing

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):

C. STUART JONES

(Type or Print Name)

C. Stuart Jones

Signature

MARIA S. JONES

(Type or Print Name)

Maria S. Jones

Signature

H: 472-1285

19 Manorbroom Rd.

W: 247-1900

Address

Phone No.

MONKTON, MD. 21111

City

State

Zipcode

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

Name

Address

Phone No.

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



RECEIVED

Zoning Description

Zoning Description for 19 Manorbrook Road Monkton, MD 21111. Beginning at a point on the south side of Manorbrook Road which is ^{SD}140 feet wide at the distance of ^{1320 WEST}79 feet ~~South~~ of the centerline of the nearest improved intersecting street, ^{MONKTON RD.}~~Manorbrook Road~~, which is ^{SD}23 feet wide. Being Lot #28 in the subdivision of Manorbrook as recorded in Baltimore County Plat Book #36, Folio #141, containing approximately 43,775 square feet. Also known as 19 Manorbrook Road and located in the 10th Election District, 6th Councilmanic District.

MICROFILMED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

96-16-11

District 10th

Date of Posting 7/22/95

Posted for: Variation

Petitioner: C.S. & Maria Jones

Location of property: 19 Manor Brook Rd, 5/2

Location of Signs: Facing road way, on property being zoned

Remarks: _____

Posted by [Signature]
Signature

Date of return: 7/28/95

Number of Signs: 1



CERTIFICATE OF PUBLICATION

TOWSON, MD.,

July 21, 1995

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 July 20, 1995.

THE JEFFERSONIAN,

G. H. Henshaw

LEGAL AD. - TOWSON

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: 495-12-A
(Item 18)

12 Manorbrook Road

5/6 Manorbrook Road,

1420 W. of Menkion Road

10th Election District

3rd Councilmanic

Legal Owner(s):

C. Stuart Jones and

Maria S. Jones

Hearing: Friday,

August 11, 1995 at 2:00

p.m. in Rm. 106, County Of-

fice Building.

Variance to allow a side yard setback of 29 feet in lieu of the required 50 feet.

LAWRENCE E. SCHMIDT

Zoning Commissioner for

Baltimore County

NOTES: (1) Hearings are Handi-
capped Accessible; for special ac-
commodations Please Call
887-3353.

(2) For information concern-
ing the File and/or Hearing, Please
Call 887-3391.
7/202 July 20.

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

No.

001.070

DATE 13 July 95 ACCOUNT R-001-6150

AMOUNT \$ 85.00

RECEIVED FROM: C. Stuart Jones

FOR: ZUNISHED Variance Item #16

19 M 03A03H01B3MICHRC 0003:12PM07-13-95 \$85.00

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
VALIDATION OR SIGNATURE OF CASHIER

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/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.: 16

Petitioner: Jones

Location: 19 Manorbroom

PLEASE FORWARD ADVERTISING BILL TO:

NAME: C. STUART JONES

ADDRESS: 19 MANORBROOM RD.

MONKTON, MD. 21111

PHONE NUMBER: 410-472-1285

AJ:ggs

(Revised 04/09/93)



TO: PUTUXENT PUBLISHING COMPANY
July 20, 1995 Issue - Jeffersonian

Please forward billing to:

C. Stuart Jones
19 Manorbroom Road
Monkton, MD 2111
472-1285

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: 96-16-A (Item 16)
19 Manorbroom Road
S/S Manorbroom Road, 1320' W of Monkton Road
10th Election District - 3rd Councilmanic
Legal Owner(s): C. Stuart Jones and Maria S. Jones
HEARING: FRIDAY, AUGUST 11, 1995 at 2:00 p.m. in Room 106, County Office Building.

Variance to allow a side yard setback of 23 feet in lieu 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.

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 17, 1995

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: 96-16-A (Item 16)
19 Manorbrook Road
S/S Manorbrook Road, 1320' W of Monkton Road
10th Election District - 3rd Councilmanic
Legal Owner(s): C. Stuart Jones and Maria S. Jones
HEARING: FRIDAY, AUGUST 11, 1995 at 2:00 p.m. in Room 106, County Office Building.

Variance to allow a side yard setback of 23 feet in lieu of the required 50 feet.

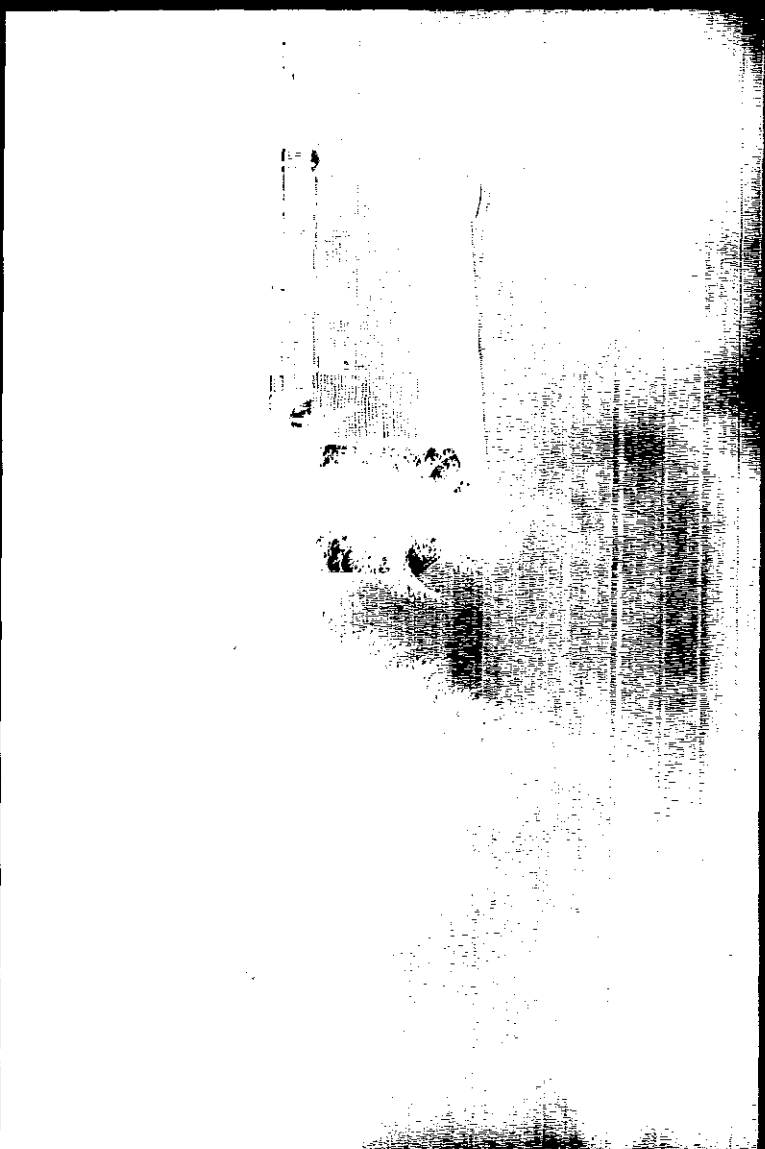
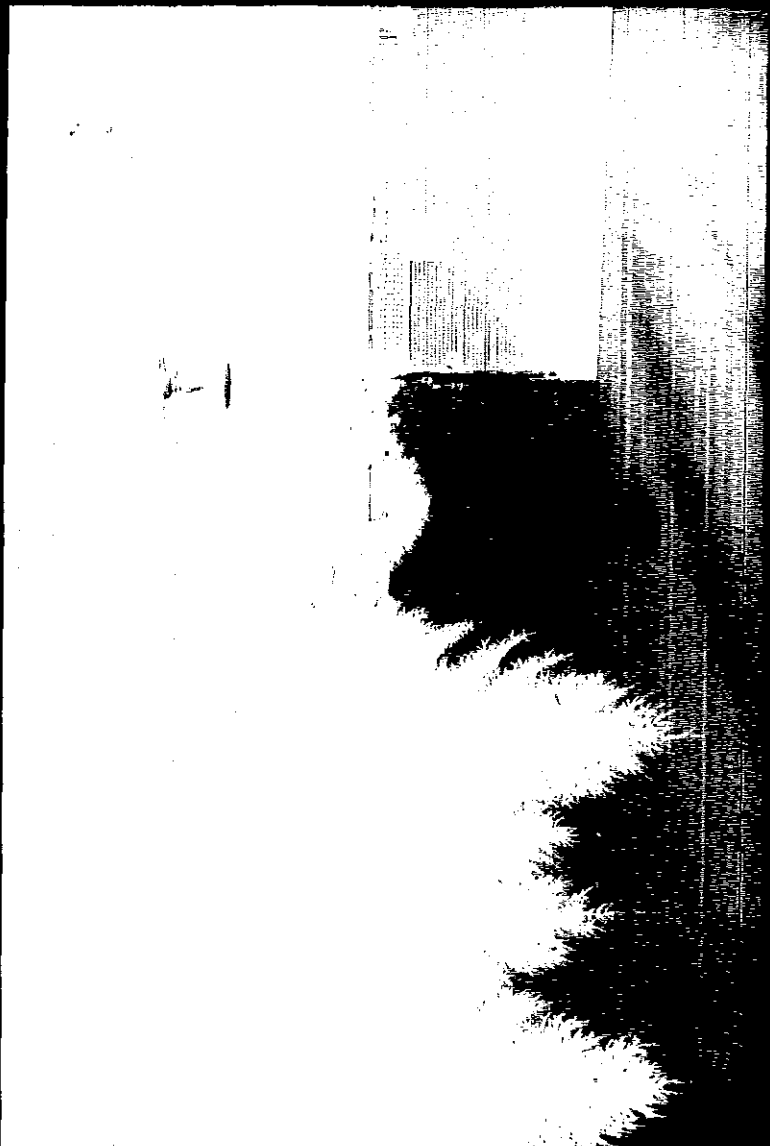
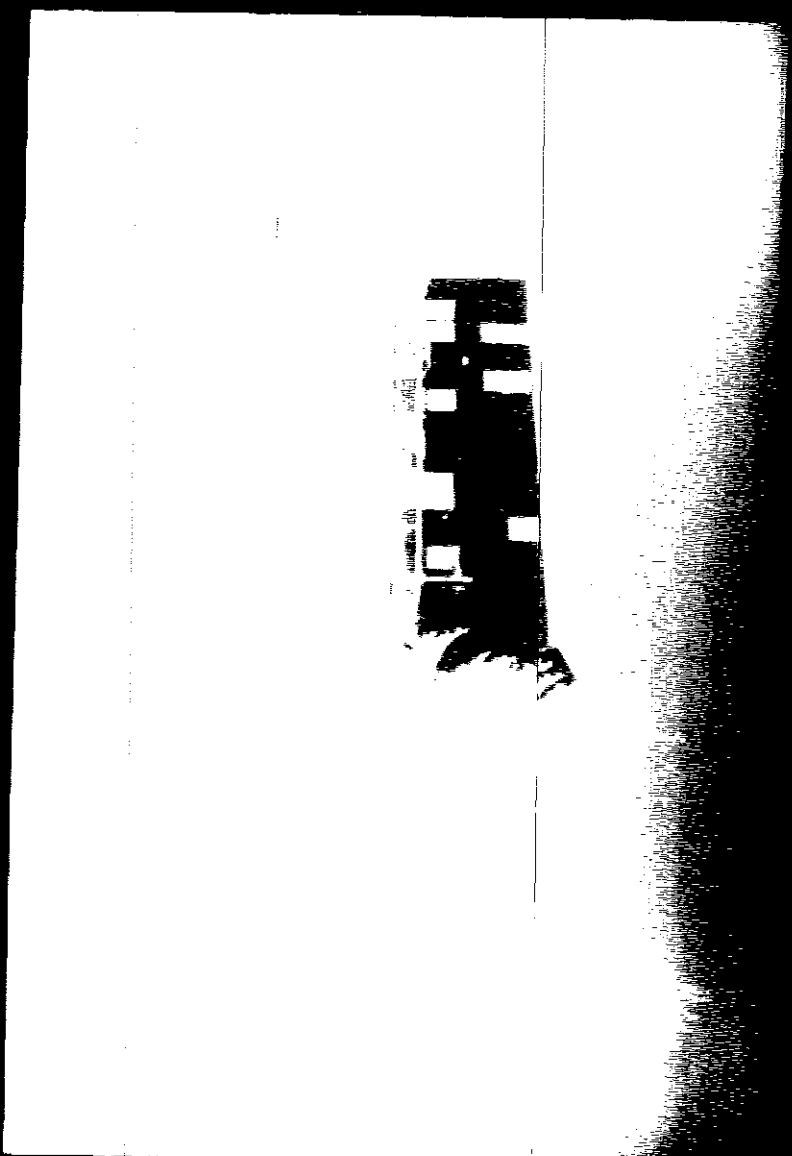
A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director
Department of Permits and Development Management

cc: C. Stuart Jones and Marie S. Jones

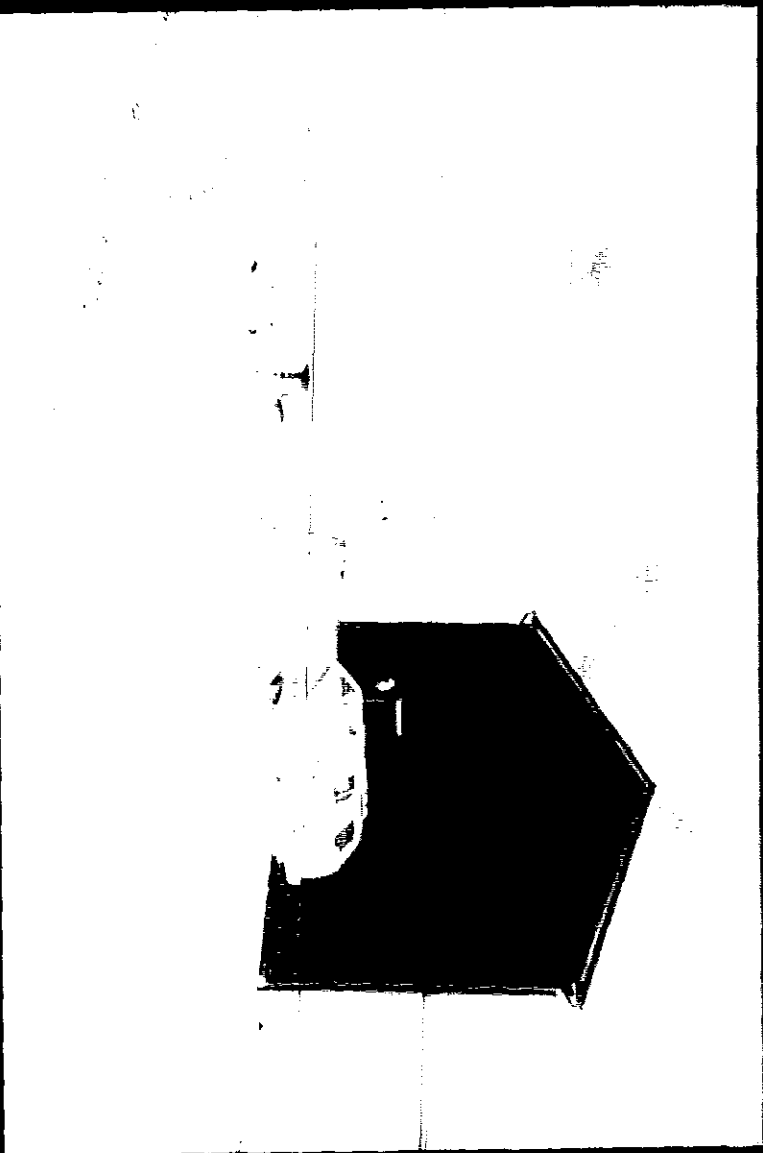
- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



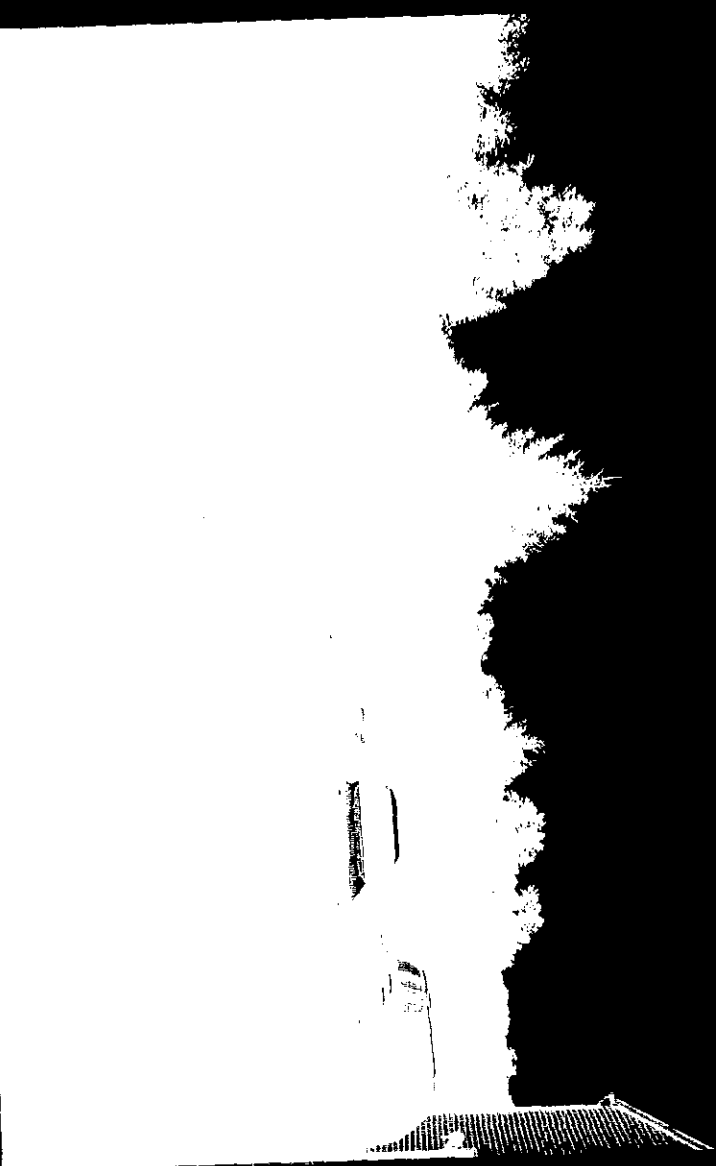


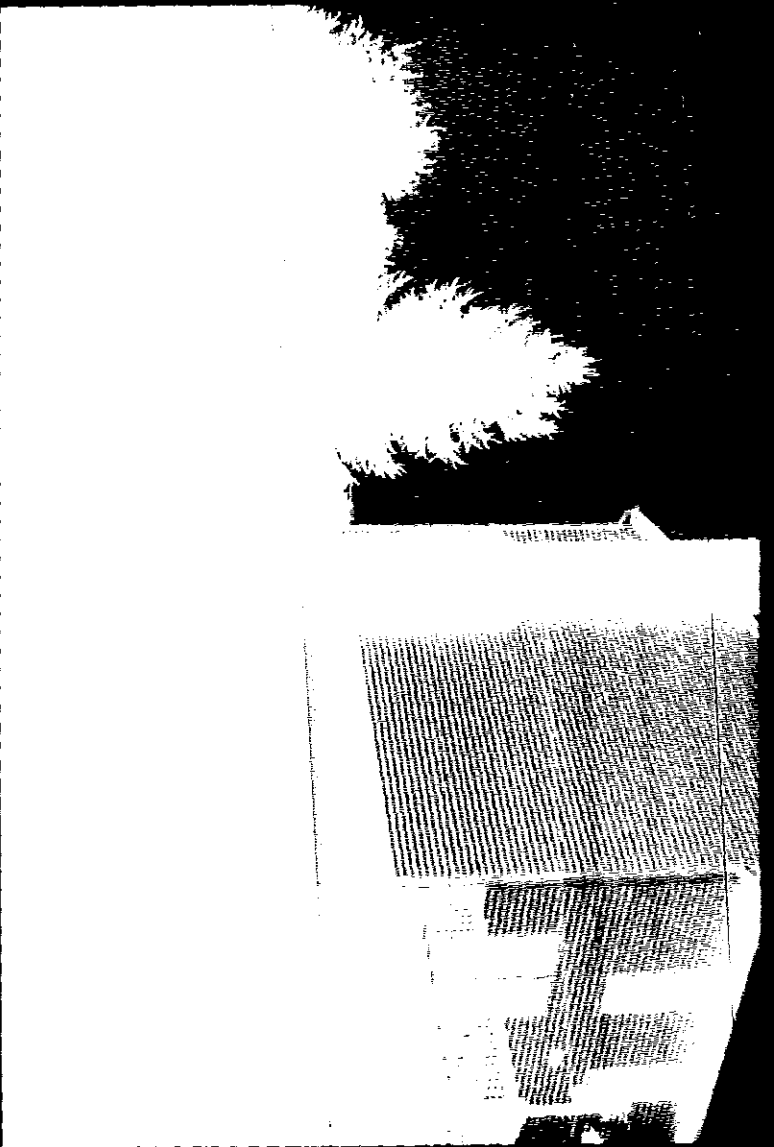
TREES TO BE REMOVED IF DETACHED
GARAGE WAS BUILT.

Det X-3



PROPOSED SITE

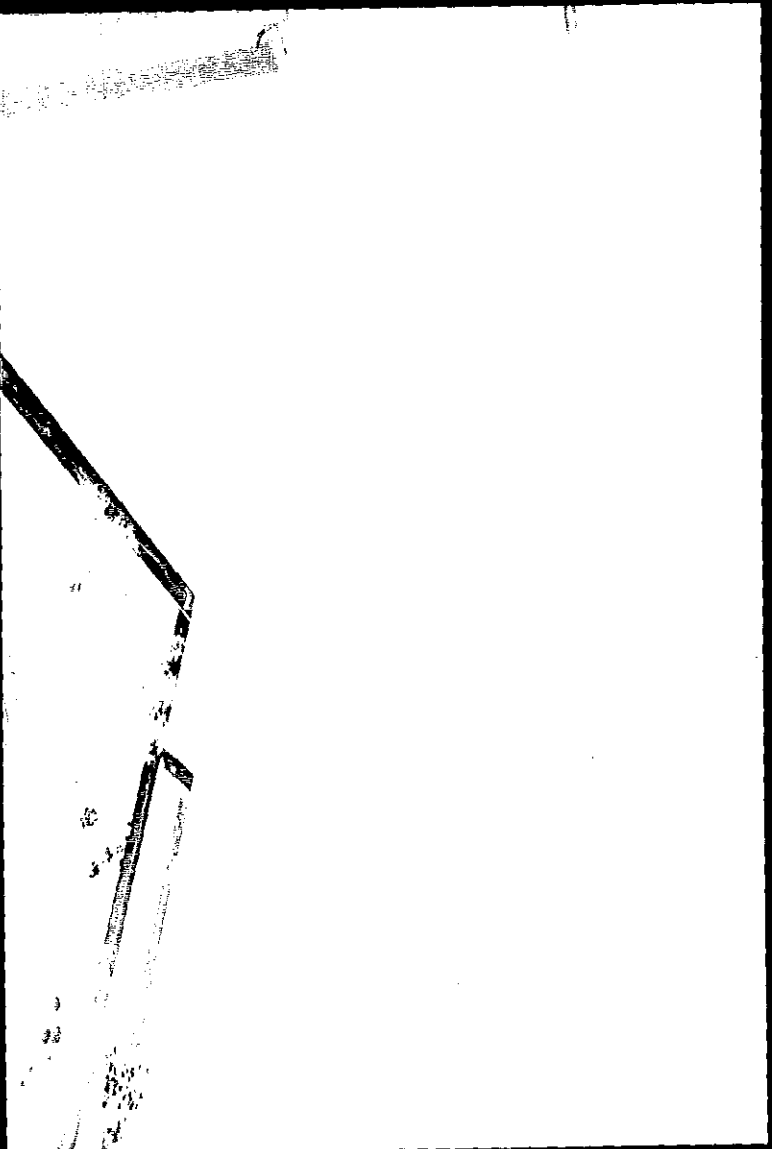




WEST SIDE OF HOUSE
(WELL PIPE)



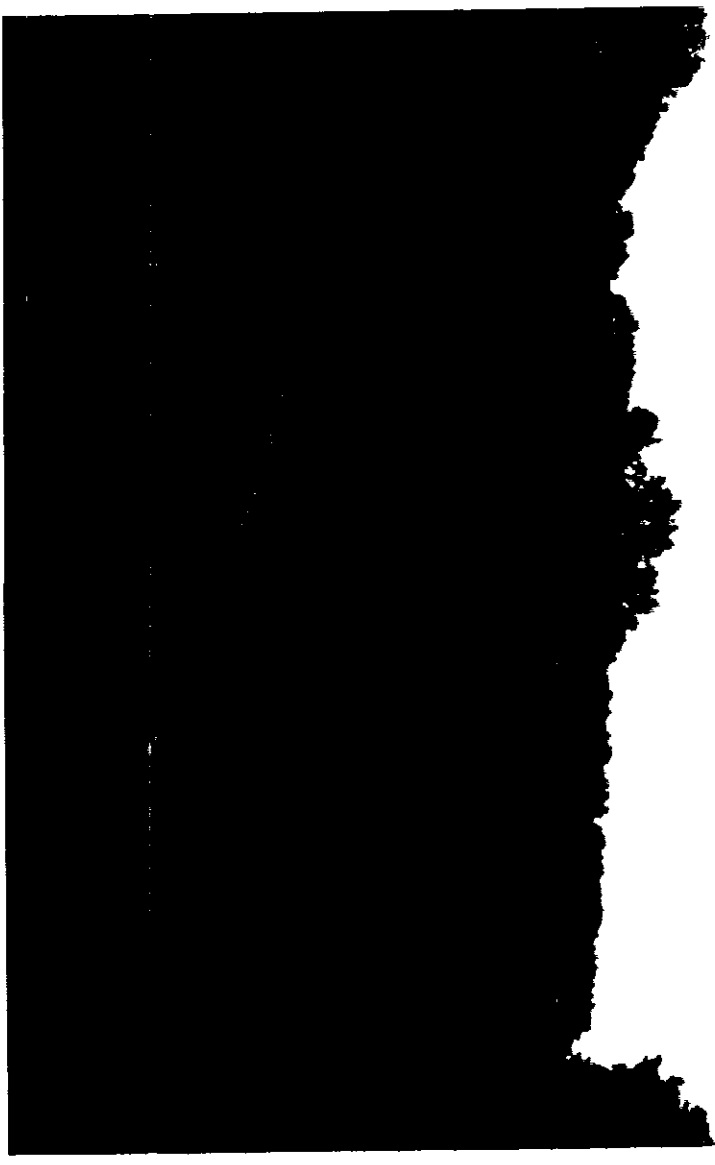
WEST SIDE OF HOUSE
(NO EXISTING DRIVEWAY)



EXISTING LANDSCAPE + TREES



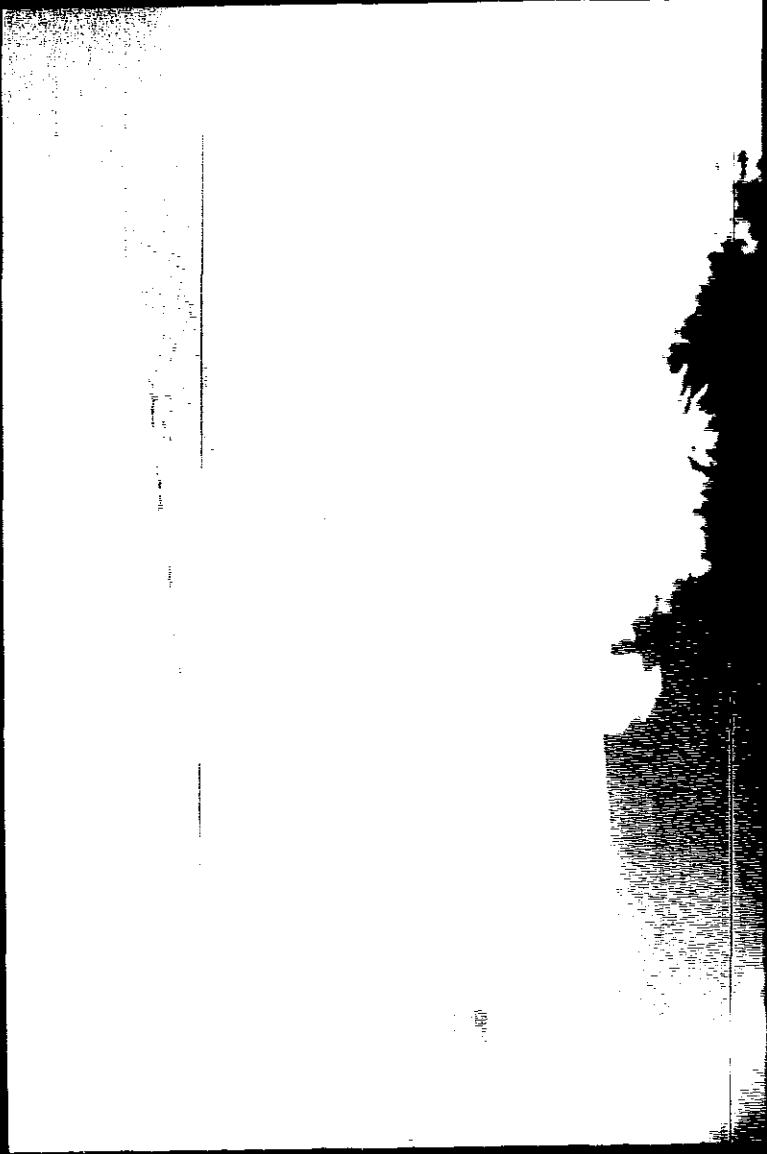
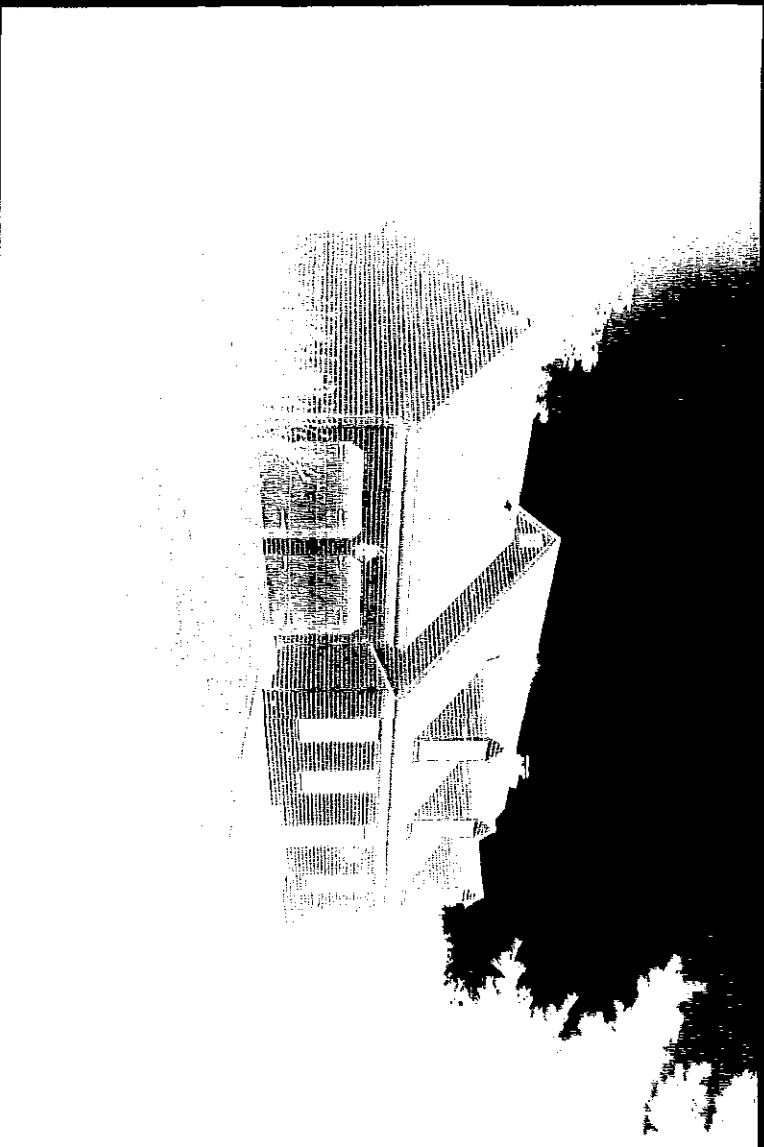
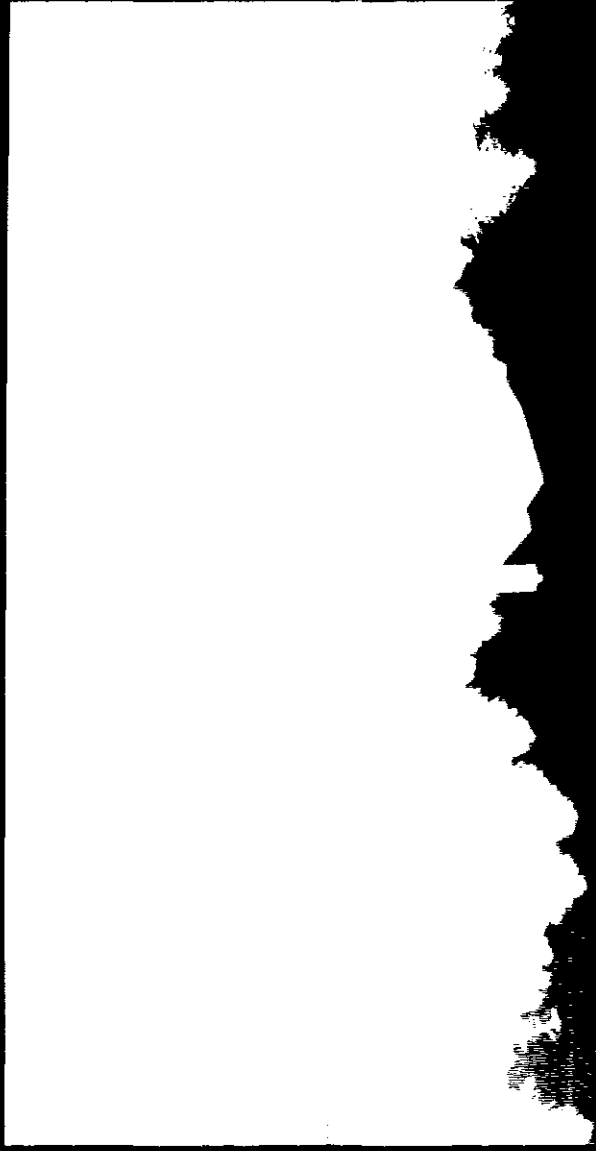
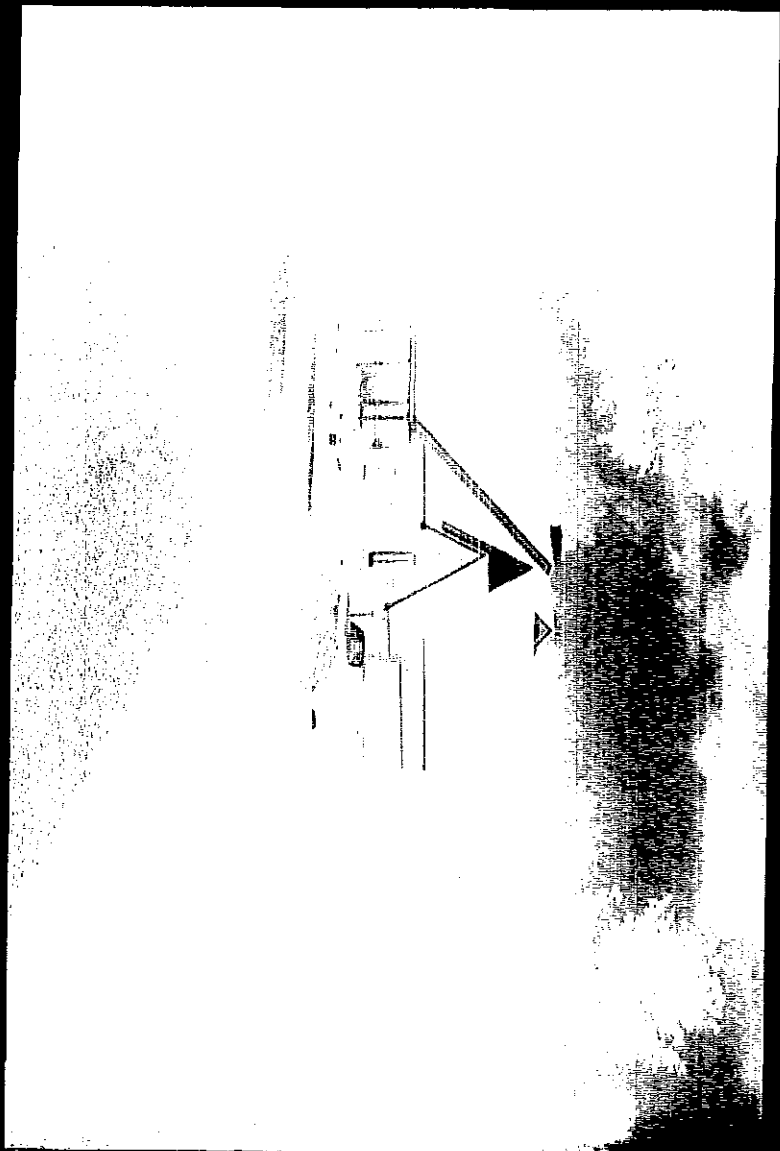
VIEW FROM MANOBBROOK Rd.

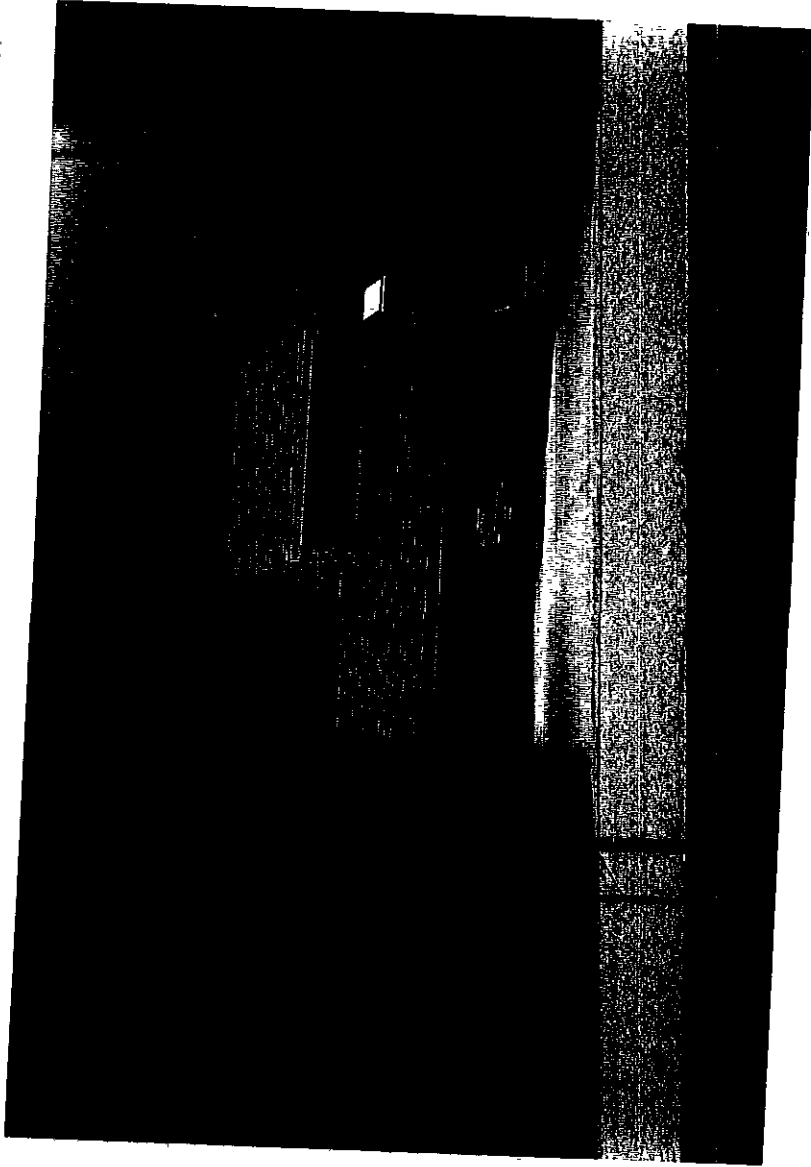


BISHOP'S DRIVEWAY

11

h-4





MICROFILMED

SURROUNDING HOMES ON MANOR BROOK Rd.

X-2

Baltimore County Government
Department of Permits and Licenses



111 West Chesapeake Avenue
Towson, MD 21204

887-3610

August 4, 1995

Mr. and Mrs. C. Stuart Jones
19 Manorbroom Road
Monkton, Maryland 21111

RE: Item No.: 16
Case No.: 96-16-A
Petitioner: C. S. Jones, et ux

Dear Mr. and Mrs. Jones:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on July 13, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over a printed name.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, ZADM

DATE: August 1, 1995

FROM: Pat Keller, Director, OPZ *A*

SUBJECT: 19 Manorbroad Road

INFORMATION:

Item Number: 16

Petitioner: Jones Property

Property Size: _____

Zoning: RC-4

Requested Action: Variance

Hearing Date: _____ / _____ / _____

SUMMARY OF RECOMMENDATIONS:

The applicant requests a variance to allow a setback of 23 feet in lieu of the required 50 feet.

While staff does not oppose the applicant's request, it is clear that the petitioner will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject variance.

Prepared by: Jeffrey W. Long

Division Chief: Carol L. Kerns

PK/JL

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: July 31, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Development Plans Review

RE: Zoning Advisory Committee Meeting
for July 31, 1995
Items 009, 011, 012, 013 and 016

The Development Plans Review Division has reviewed
the subject zoning items and we have no comments.

RWB:sw

MICROFILMED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 07/17/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JULY 24, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 09,10,11,12,13,14 & 16.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Maryland Department of Transportation
State Highway Administration

Hal Kassoff
Administrator

7-17-95

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

Re: Baltimore County
Item No.: 016 (CAM)

Dear Ms. Watson:

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

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

RE: PETITION FOR VARIANCE
19 Manorbrook Road, S/S Manorbrook Rd,
1320' W of Monkton Road, 10th
Election District, 3rd Councilmanic

C. Stuart Jones and Maria S. Jones
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-16-A

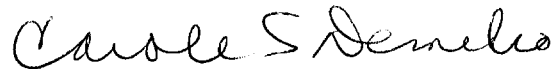
* * * * *

ENTRY OF APPEARANCE

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



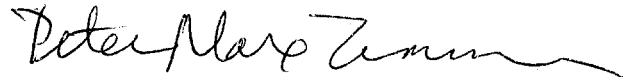
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 4th day of August, 1995, a copy of the foregoing Entry of Appearance was mailed to C. Stuart Jones and Maria S. Jones, 19 Manorbrook Road, Monkton, MD 21111, Petitioners.



PETER MAX ZIMMERMAN

MICROFILMED

8/11
Heating
Lanny

Joseph L. Bishop, Jr.
Jo-Ann Bishop
15 Manor Brook Road
Monkton, Maryland 21111

July 31, 1995

Baltimore County
Zoning Commissioners Office
400 Washington Avenue
Towson, Maryland 21204



Re: Case #96-16A

Sir:

We are the owners of 17.5 acres whose boundaries adjoin #19 Manor Brook Road. The property owners are seeking a side yard variance of 23' vs 50' for the construction of a garage. Our opposition to the request remains unchanged from the testimony rendered in the 1990 decision for case #90-395-A (see attachments).

There is ample land area to the west of the dwelling to accommodate a garage. This is not a hardship condition. The owners bought the property with full knowledge of the situation and we should not be asked to remedy the mistakes of the previous owners.

Building set back lines are imposed for reasons of sound development and we ask this commission to reaffirm those principles. In closing we again request this variance to be denied.

Respectfully Yours,

Joseph L. Bishop, Jr.
Jo-Ann Bishop
Joseph L. Bishop
Jo-Ann Bishop

cc: file
attachments

MICROFILMED

Protestants

PLEASE PRINT CLEARLY

~~PETITIONER~~(S) SIGN-IN SHEET

NAME

ADDRESS

Jo Ann Bishop

15 Manor Brook Rd
Monkton Md. 21111

Joseph L. Bishop

15 Manor Brook Rd.
Monkton, MD. 21111



Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

C. STUART JONES

19 Manorbrook Rd. Montclair, NJ

LAURENCE J. QUINN, Counselor for Petitioners

100 E. Pratt Street Baltimore, MD 21202

Tydings & Rosenberg



IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Manor Brook Road, 1320' *
W c/l of Monkton Road * ZONING COMMISSIONER
19 Manor Brook Road *
10th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
Lawrence Edward Hiner, III, et ux *
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A03.4.B.6 (1A00.3.B.3 1970) to permit a side yard setback of 23 feet in lieu of the required 50 feet, as more particularly described on Petitioner's Exhibit No. 3.

The Petitioners, Lawrence and Cherie Hiner, appeared and testified. Appearing as Protestants were Joseph and JoAnn Bishop.

Testimony indicated that the subject property, known as 19 Manor Brook Road consists of 1.003 acres +/-, zoned R.C.4 and is improved with an existing single family dwelling.

Testimony indicated that the Petitioners currently reside in Virginia and are attempting to sell the subject property. The Petitioners testified that they have been advised by their real estate agent that their house would be significantly more marketable if they were to construct an attached two car garage, as indicated on Petitioners' Exhibit #3. The Petitioners testified that, prior to the construction of their home, they failed to have a professional survey conducted, and staked the lot themselves. They further testified that the house was ultimately located 2-1/2 feet outside of the building envelope.

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

Mr. and Mrs. Joseph Bishop testified that they own the 17.5 acres to the south and southwest of the subject site and are concerned that the improvements will reduce the market value of their property. They also own two of the three panhandles adjoining Petitioner's property, as indicated on Petitioners' Exhibit No. 3. The Bishops testified that, in their opinion, the requested relief is not consistent with the esthetic integrity of this community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, in part, that such relief would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good. However, regarding that portion of the variance relief that would accommodate the proposed garage, there is insufficient evidence to allow a finding

MICROFILMED

Date

By

5/9/90
M. H. Hark

that the Petitioners would experience practical difficulty or unreasonable hardship if this portion of the requested relief was denied. The testimony presented by the Petitioners was in support of a matter of preference rather than of necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the land or be unnecessarily burdensome. Therefore, this portion of the variance relief must be denied.

However, after due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if a portion of the variance relief were not granted. It has been established that the requirements from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance relief granted herein will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of March, 1990 that the Petition for a Zoning Variance to permit a side yard setback of 23 feet in lieu of the required 50 feet, in accordance with Petitioners' Exhibit No. 3, is hereby DENIED; and

IT IS FURTHER ORDERED that a side yard setback of 47 feet in lieu of the required 50 feet is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the foregoing relief:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until

RECORDED

ORDER RECEIVED FOR FILING

Date

By

5/19/90
M. Hark

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.

2. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee (ZAC), which are adopted in their entirety and made a part of this Order.

3. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.


J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH/mm

cc: Peoples Counsel

ORDER RECEIVED FOR FILING

Date

5/19/90

By

M. Mork

FILED

5 Manorbrook Road
Monkton MD 21111
August 10, 1995

Dear Mr. and Mrs. Jones,

We were informed by some of the neighbors that you wanted to add a garage to your home. Ron and I often wondered why the original owners of your house never had a garage built in the first place. A garage would add to the looks of your house and make it complete. It would also add to the value of your house as well as to the value of all of our houses. Every house on the court has a garage either facing front or the side.

We both wish you luck in your project. If there is anything we can do please let us know. You have a beautiful home. We are lucky to have you in the neighborhood.

Sincerely,

Rosemary & Ron Saper

Rel. 5 A

Roy & Judy Fields
6 Manorbrook Road
Monkton, MD 21111

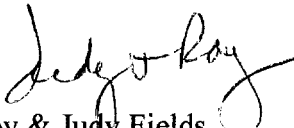
July 10, 1995

Stuart & Maria Jones
19 Manorbrook Road
Monkton, Maryland 21111

Dear Mr. & Mrs. Jones,

We understand you are attempting to have a garage built on your property. This letter is to inform you we, as a neighbor, have no objection to you doing this and wish you good luck.

Sincerely,


Roy & Judy Fields

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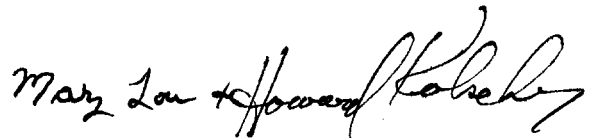
10/15/95

14 Manor Brook Road
Monkton, Maryland 21111-1605
August 8, 1995

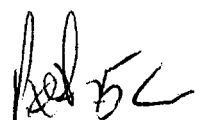
Dear Mr. & Mrs. Jones:

This is to affirm that we strongly support your effort to get a variance to construct an attached garage adjacent to your house. It would be a neighborhood asset and we wish you all the best.

Very truly yours,


Mary Lou & Howard Kolscher

RECEIVED



9 Manor Brook Road
Monkton, MD 21111
August 9, 1995

To: Baltimore County Zoning Commissioner

Re: **Request for Zoning Exception**
C. Stuart and Maria Jones
19 Manor Brook Road
Monkton, MD, 21111

Dear Commissioner:

As next-door neighbors of the Jones, we respectfully request that you **approve the Jones' request** for a zoning exception to build an attached garage adjacent to the east side of their house (which happens to be the side facing us). We **strongly support the Jones'** desire to build such a garage.

We believe that such an addition to their house would increase the value of their house, and indirectly, those of the neighborhood houses as well.

We would be very happy to answer any questions that you may have, as you consider this issue.

Thank you in advance for your consideration.

Sincerely,



Donna L. Vaccacio



Steven A. Vaccacio

Feb 5D
KJB

Harold S. Steinitz, Ph.D.

21 Manorbrook Road
Monkton, MD 21111
(410) 472-9017

Carol L. Steinitz, M.S., C.P.C.

August 7, 1995

Zoning Commissioner
Baltimore County
Towson, Maryland 21204

Dear Commissioner:

We are writing in behalf of Stuart and Maria Jones' zoning variance at 19 Manorbrook Road. We are their immediate next door neighbors, and thus have considerable interest in this matter.

The house in which the Joneses now reside was built soon after we moved into the neighborhood nine years ago. Because of the original owner's financial difficulties, as well as the zoning problem which necessitates this hearing, the planned attached garage was never built by its original owners, leaving this house the only one on the road without an attached garage. We feel strongly that the proposed addition of an attached garage would add to the appearance of the house, as well as enhance the appearance of the neighborhood as a whole. We believe that the proposed attached garage will not only improve the aesthetics of the neighborhood, but also increase the value of the surrounding homes.

Despite the problem of proximity to their other immediate neighbors' driveway, the proposed attached garage will not detract from a visually spacious site. In addition, the bordering driveway leads to a home that is approximately a quarter mile from Manorbrook Road, and therefore considerably insulated overall (and not even visible) from the other homes on the street.

We heartily **support** the re-zoning that would allow the Joneses to build an attached garage, and we congratulate them on their efforts to improve their property.

Sincerely,

Harold S. Steinitz

Harold S. Steinitz

Carol L. Steinitz

Carol L. Steinitz

WICR/FILMED

Ref 5E
X-9

Joseph L. Bishop, Jr.
Jo-Ann M. Bishop
15 Manor Brook Road
Monkton, Maryland 21111

May 15, 1995

Maria/Stuart

Thank you for sharing your garage plans with us. Upon careful review of the proposal we feel our position remains unchanged from 1990. I am attaching a copy of correspondence, from 5 years ago, to the zoning commissioner in regards to the former owner's variance request.

Our decision is based solely upon the intent of the mandated setback requirements in providing aesthetically pleasing building locations. I regret the original owners were remiss in not adhering to those standards but we feel our decision is best for us and the Manor Brook subdivision. Therefore, I would respectfully request that you consider placing the garage on the west end of your home.

Sincerely Yours,



Lee Bishop

enclosures
cc: file

Ref No 6

Joseph L. Bishop, Jr.
Jo-Ann M. Bishop
15 Manor Brook Road
Monkton, Maryland 21111

April 17, 1990

Zoning Commissioner of Baltimore County

Re: Petition #90-395-A

Dear Sir:

We are the owners of three contiguous parcels of land in the Manor Brook subdivision, one of which adjoins #19 Manor Brook Road. While we agree that the subject dwelling needs immediate improvement to conform to the quality of adjacent properties we take exception to a variance on the east side of said property. It may improve the appearance of the house, but aesthetically it would encroach upon our property line. In our opinion the proposed attempt to correct the mistake at our expense is unacceptable. We ask that you reject this petition for variance and suggest that said garage might be constructed on the west side where there is more than ample space.

Respectfully Yours,

Joseph L. Bishop, Jr.

Jo-Ann M. Bishop

cc: A. J. Tampieri, Esq.
cc: File

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: #19 Manor Brook Road see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Manor Brook

plat book # 36, folio # 141, lot # 28, section #

OWNER: C. SPURER JONES + MARILYN JONES

Lot behind

3 lots behind

96-16-A

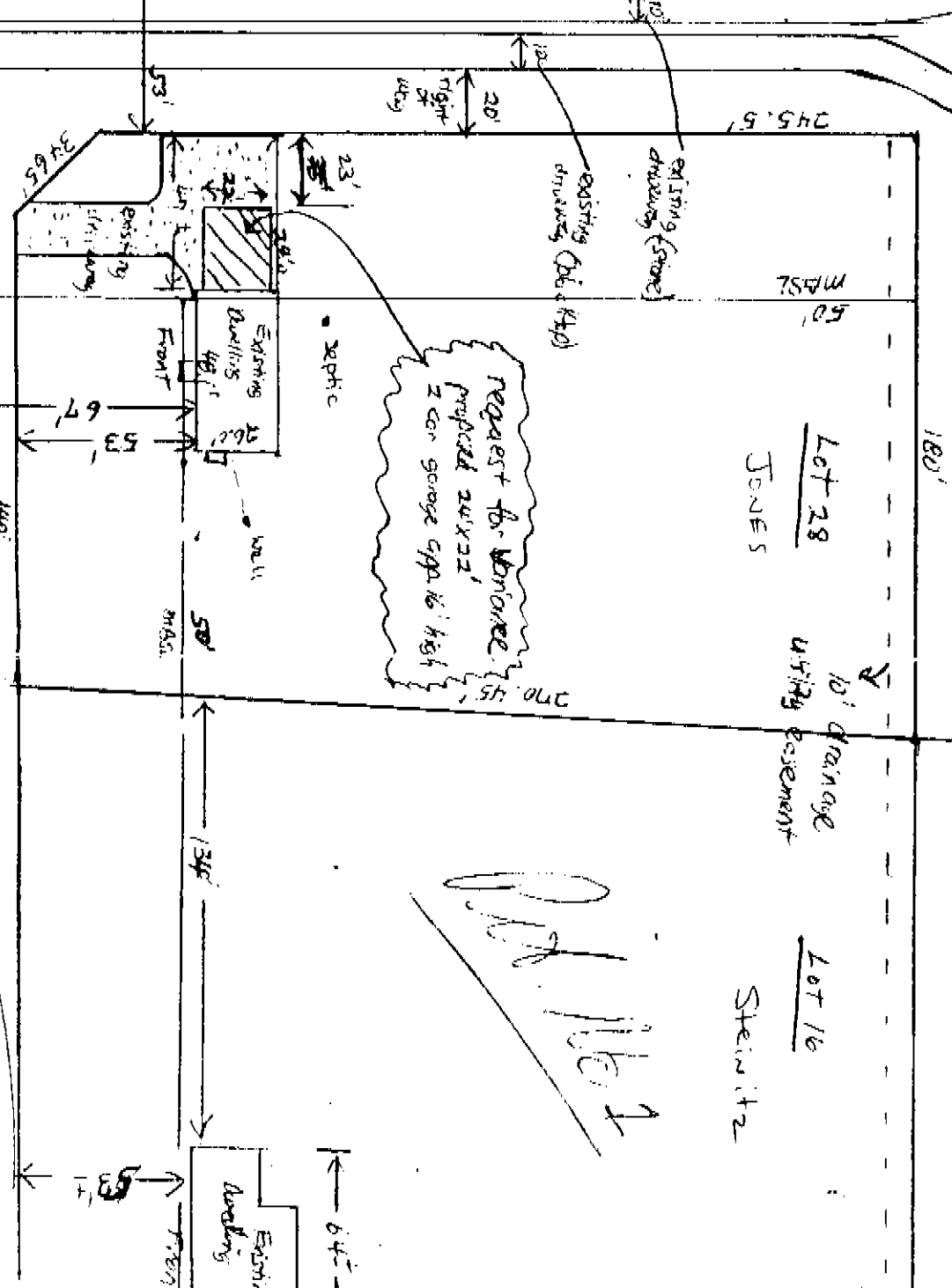
Lot 29
VACATED

Lot 28
JONES

60' garage
utility basement

Lot 16
SPURER

Existing
Building
Front



REPAIR & RECONSTRUCT
PROPOSED 24x32'
CAR GARAGE OFF 16' H&H

96-16-A

LOCATION INFORMATION

Election District: 10
Councilmanic District: 6

1"=200' scale map#: N.E. 26-A

Zoning: R.C.4

Lot size: 1.0 acreage

43,975 square feet

SEWER: ☐ PUBLIC ☒ PRIVATE
WATER: ☐ YES ☒ NO

Chesapeake Bay Critical Area: ☐ YES ☒ NO

Prior Zoning Hearings: 4/85

April 1990 Petition # 96-295-A

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

date: 12

prepared by: Scale of Drawing: 1"=50'

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: #19 Manor Brook Road see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Manor Brook

plat book # 36, folio # 141, lot # 28, section #

OWNER: C. SPURST JONES + MARILYN JONES

Lot behind

3 lots behind

96-16-A

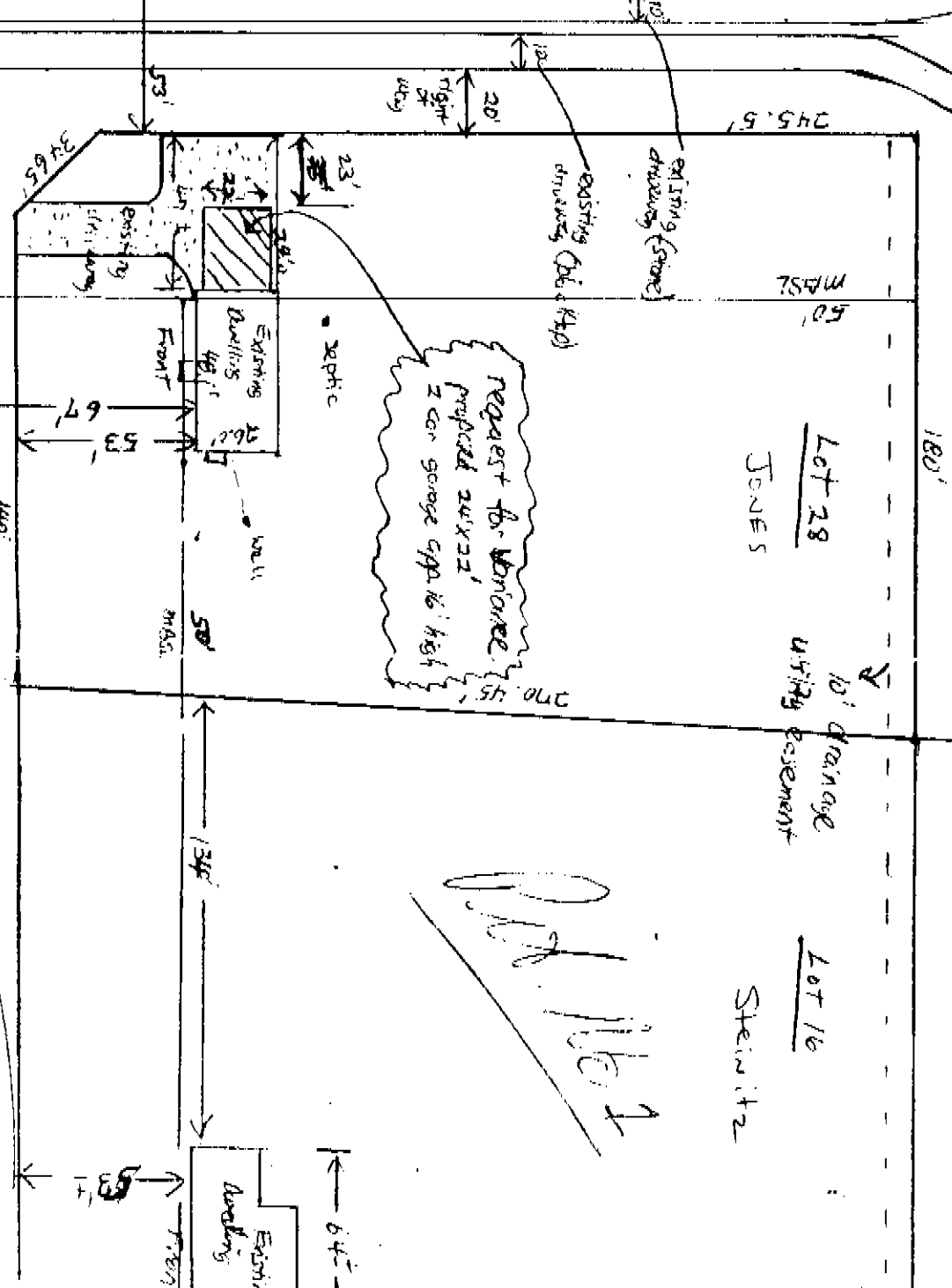
Lot 29
VACATED

Lot 28
JONES

60' garage
utility basement

Lot 16
SHEWITZ

Existing
Building
Front



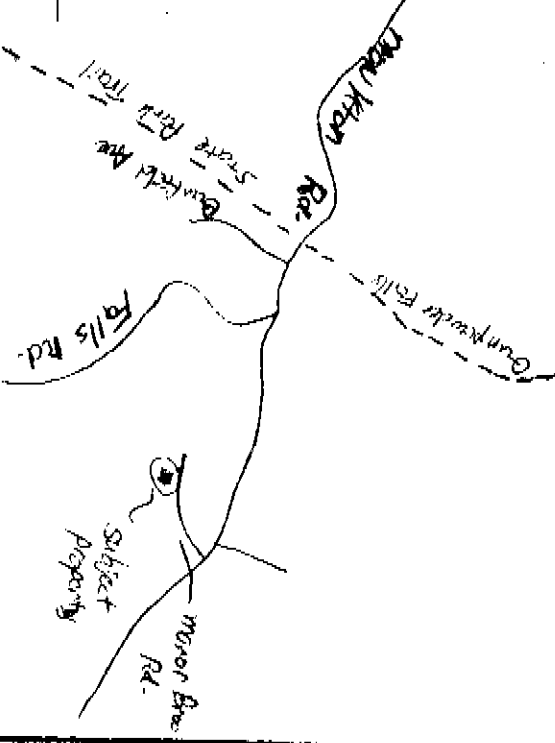
Proposed 24x32' car garage
Septic

Existing
Building
Front

North
date: 12
prepared by:

Scale of Drawing: 1"=50'

Vicinity Map
Scale: 1"=1000'



LOCATION INFORMATION

Election District: 10
Councilmanic District: 6

1"=200' scale map: N.E. 26-A

Zoning: R.C.4

Lot size: 1.0 acreage

43,975 square feet

SEWER: ☒ PUBLIC ☒ PRIVATE
WATER: ☒ ☒

Chesapeake Bay Critical Area: ☐ YES ☒ NO
Prior Zoning Hearings: 4/85

April 1990 Petition # 96-295-4

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Manorbrook Road, 1320 ft. * ZONING COMMISSIONER
W of Monkton Road *
19 Manorbrook Road *
10th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
C. Stuart Jones, et ux * Case No. 96-16-A
Petitioners *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 19 Manorbrook Road in Monkton. The Petition is filed by C. Stuart Jones and Maria S. Jones, his wife, property owners. Variance relief is requested from Section 1A03.4.B.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 23 ft. in lieu of the required 50 ft. The subject property is more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Zoning Variance.

Appearing at the public hearing held for this case was the Petitioner/property owner, C. Stuart Jones. The Petitioners were represented by Lawrence J. Quinn, Esquire. Joseph L. Bishop, Jr., and Jo-Ann Bishop, nearby property owners at 15 Manorbrook Road appeared as Protestants. They were not represented by counsel.

The essential facts relating to this case and the Petitioners' plans are not in dispute. Mr. and Mrs. Jones own property of approximately 1 acre adjacent to Manorbrook Road in Monkton. The property is rectangular in shape and ranges in width from 140 to 180 ft. The depth of the property is approximately 270 ft. The property is improved with an attractive existing single family dwelling and driveway. Numerous photos of the property and neighborhood submitted that this is an attractively maintained parcel situated in a community of large single family homes on relatively large lots.

Mr. Jones indicates that his is one of the few homes in the area without a garage. Thus, he proposes attaching a two car garage to the east side of the property. The garage will be 24 ft. in width x 22 ft. in depth. Mr. Jones indicated that the proposed location was most suitable for the garage. It will be situated at the end of the existing driveway. Location of the garage on the other side of the house is impractical because of the topography of the lot and the existence of a well on that side of the parcel. Location of the garage to the rear is impractical due to the location of the septic system and the grade of the lot. For all of these reasons, the Petitioner requests variance relief.

Mr. and Mrs. Bishop appeared in opposition. The reason for their opposition is frankly less than compelling. Mr. Bishop stated that the construction of the garage would not be esthetically pleasing and would be detrimental to the surrounding locale. Mr. Bishop also noted that the zoning regulations should be stringently enforced.

It is of great significance that this case is the second zoning Petition which has been filed for the property. Apparently, the Jones' predecessor in title, Lawrence E. Hiner III and Cherie Hiner, filed a similar Petition in 1990. In that matter, (case No. 90-395-A) Mr. and Mrs. Hiner sought identical variance relief. Specifically, a variance was sought to allow a 23 ft. setback in lieu of the required 50 ft. for a two car garage. By Order of then Zoning Commissioner, J. Robert Haines, dated May 9, 1990, the Petition for Variance was denied.

A preliminary question relates whether this prior Order bars reconsideration of this issue. Thus, the concepts of res adjudicata and collateral estoppel need be examined. These concepts are principles which both arise from the legal precept of estoppel by judgment. Both principals are simi-

-2-

lar in effect and are easily confused. Frequently, both members of the bench and bar cite one principal when another is applicable.

Res adjudicata bars additional litigation for an identical cause of action between the same parties or their privies. That is, in such an event, the second litigation is directly estopped. Res adjudicata requires that the same cause of action be the subject of the first and subsequent action.

Collateral estoppel also acts as a bar to subsequent litigation between identical parties or their privies. However, in the second suit, an identical cause of action is not required. Collateral estoppel acts as a bar to re-litigation of the same issues which were common to both suits. For full discussion of these principals, see Klein v. Whitehead, 389 A.2d, 374 (1978) and Miceli v. Foley, 83 Md. App. 543 (1990).

The question here is whether res adjudicata is applicable. Clearly, the cause of action is identical. Both the present Petition and previous Petition filed by Mr. and Mrs. Hiner seek identical relief from the identical section of the BCZR. That the causes of action are the same is beyond dispute. The differences here relate to the identity of the parties. That issue has been addressed by the Courts in both Klein and Miceli, infra, wherein the Court's held that identical parties are not necessary for res adjudicata to apply. Moreover, in KPC, Inc. v. Kenny, 279 Md. 29 (1977), the Court relaxed the identity of parties requirement.

In this case, clearly a privity of contract exists between Mr. and Mrs. Hiner and the Petitioners. The present Petitioners are successors in title to this property. As such, they are clearly bound by the prior decision. Moreover, it is well settled that zoning law relates to land use issues and not personal claims. The previous decision "runs with the land". For all of these reasons, the instant Petition must be denied.

-3-

Notwithstanding my decision, several additional comments are in order about the merits of the request. Section 107.1 of the BCZR regulates the consideration of variances by the Zoning Commissioner and, on appeal, the Board of Appeals. In essence, a three part standard is set forth. First, the Petitioner must demonstrate that compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. The Petitioner must show either practical difficulty or unreasonable hardship. Most often practical difficulty is alleged in that the burden to prove same is lesser than proving unreasonable hardship. Secondly, such variance relief can be granted only if consistent with the spirit and intent of the regulations. Third, relief can only be granted if there will be no injury to the public health, safety or general welfare.

As to the third of these tests, I would find no injury to the public welfare if the variance were granted. Placement of the garage, where proposed, is most appropriate. I can perceive of no detrimental impact resulting from the construction of the garage either to the Bishop property or any other surrounding parcel.

As to the second test, a grant of the variance would be consistent with the spirit and intent of the BCZR. The side yard setback requirements were clearly established to preserve a significant distance between houses in low density dwelling communities located in the R.C.4 zone. A review of the photographs show a significant distance between the Jones' property and the adjoining lot. Moreover, the location of the panhandle driveways leading to the Bishop property provides additional space between dwellings. Clearly, the spirit and intent of the regulation would be observed if the variance were granted.

As to the practical difficulty test, I am not convinced that the Petitioner has met its burden. The recent case of Cromwell v. Ward, 102

-4-

Md. App. 691 (1995) is particularly persuasive on this issue. Within that opinion, the Court sets a rigid and strict standard in interpreting the concept of practical difficulty. The testimony presented was that the garage could be located elsewhere on the lot without the necessary variance. In my view, an alternate location would be unwise for all concerned, including Mr. and Mrs. Jones and their neighbors. Location of the garage, other than where proposed, would disrupt the visual scheme of the neighborhood and property. Nonetheless, under the strict language employed in the Cromwell opinion, the variance must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of August, 1995 that a variance from Section 1A03.4.B.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 23 ft. in lieu of the required 50 ft. be and is hereby DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

-5-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 23, 1995

Lawrence J. Quinn, Esquire
Tydings and Rosenberg
100 E. Pratt Street, Baltimore, Maryland 21202

RE: Case No. 96-16-A
Petition for Zoning Variance
C. Stuart Jones, III and Maria S. Jones, his wife, Petitioners

Dear Mr. Quinn:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3353.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmm
att.

cc: Mr. and Mrs. C. Stuart Jones, 19 Manorbrook Rd., Monkton
cc: Mr. and Mrs. Joseph L. Bishop, 15 Manor Brook Road, Monkton



Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at 19 MANORBROOK RD. MONKTON, MD 21111
which is presently zoned R.C. 4

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated 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)

Section 1A03.4.B.6 (1A00.3.B.3., 1970) to allow
a side yard setback of 23' in lieu 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) Attached Garage would cause dwelling to go
beyond mandatory 50 feet setback requirement,
23 feet. Other reasons to be discussed at hearing.

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.

Contact Purchaser/Lender

Type or Print Name

Signature

Address

City

State

Zip

Phone No.

Address

City

State

Zip

Phone No.

Address

City

State

Zip

Phone No.

Legal Owner(s)

C. STUART JONES

C. Stuart Jones

MARIA S. JONES

Maria S. Jones

19 Manorbrook Rd.

MD. 21111

City

State

Zip

Phone No.

Address

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Zoning Description

Zoning Description for 19 Manorbrook Road Monkton, MD 21111. Beginning at a point on the south side of Manorbrook Road which is 140 feet wide at the distance of 79 feet South of the centerline of the nearest improved intersecting street, Manorbrook Road, which is 29 feet wide. Being Lot #28 in the subdivision of Manorbrook as recorded in Baltimore County Plat Book #36, Folio #141, containing approximately 43,775 square feet. Also known as 19 Manorbrook Road and located in the 10th Election District, 6th Councilmanic District.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 10th Date of Posting 7/22/95
Posted for: Variance
Petitioner: C. S. Jones
Location of property: 19 Manorbrook Rd, 8p
Location of Signs: Property, 19 Manorbrook Rd, Property, 19 Manorbrook Rd
Remarks:
Posted by: [Signature] Date of return: 7/28/95
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. July 21, 1995
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 July 20, 1995

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

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: #96-16-A (Item 16)
19 Manorbrook Road
5/5 Manorbrook Road, 1320' W of Monkton Road
10th Election District - 3rd Councilmanic
Legal Owner(s): C. Stuart Jones and Maria S. Jones
Hearing: Friday, August 11, 1995 at 2:00 p.m. in Room 106, County Office Building.
Variance to allow a side yard setback of 23 feet in lieu of the required 50 feet.
LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (Hearings are Handicapped Accessible for special accommodations. Please Call 887-3353.)
For information concerning the file and/or hearing, please call 887-3391.
7/202 July 20.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 002638
DATE 8/14/95 ACCOUNT 7-00-6150
AMOUNT \$ 25.00
RECEIVED FROM: C. Stuart Jones
FOR: Zoning Variance Item #16
10340343183410HRC \$55.00
VALIDATION OR SIGNATURE OF CASHIER
DATE: 8/14/95 TIME: 1:30 BY: [Signature]

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 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.: 16
Petitioner: Jones
Location: 19 Manorbrook
PLEASE FORWARD ADVERTISING BILL TO:
NAME: C. STUART JONES
ADDRESS: 19 MANORBROOK RD.
MONKTON, MD. 21111
PHONE NUMBER: 410-472-1235

Ad: ggs

(Revised 04/09/94)

13

TO: PUPPENT PUBLISHING COMPANY
July 20, 1995 Issue - Jeffersonian

Please forward billing to:

C. Stuart Jones
19 Manorbrook Road
Monkton, MD 21111
472-1285

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:

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19 Manorbrook Road
5/5 Manorbrook Road, 1320' W of Monkton Road
10th Election District - 3rd Councilmanic
Legal Owner(s): C. Stuart Jones and Maria S. Jones
HEARING: FRIDAY, AUGUST 11, 1995 at 2:00 p.m. in Room 106, County Office Building.
Variance to allow a side yard setback of 23 feet in lieu 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

July 17, 1995

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: 96-16-A (Item 16)
19 Manorbrook Road
5/5 Manorbrook Road, 1320' W of Monkton Road
10th Election District - 3rd Councilmanic
Legal Owner(s): C. Stuart Jones and Maria S. Jones
HEARING: FRIDAY, AUGUST 11, 1995 at 2:00 p.m. in Room 106, County Office Building.
Variance to allow a side yard setback of 23 feet in lieu of the required 50 feet.

Arnold Jablon
Director
Department of Permits and Development Management

cc: C. Stuart Jones and Maria S. Jones

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 106, 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.

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

887-3610

August 4, 1995

Mr. and Mrs. C. Stuart Jones
19 Manorbrook Road
Monkton, Maryland 21111

RE: Item No.: 16
Case No.: 96-16-A
Petitioner: C. S. Jones, et ux

Dear Mr. and Mrs. Jones:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on July 13, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director, ZADM DATE: August 1, 1995

FROM: Pat Keller, Director, OP2 A

SUBJECT: 19 Manorbrook Road

INFORMATION:

Item Number: 16
Petitioner: Jones Property
Property Size: _____
Zoning: RC-4
Requested Action: Variance
Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:

The applicant requests a variance to allow a setback of 23 feet in lieu of the required 50 feet.

While staff does not oppose the applicant's request, it is clear that the petitioner will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject variance.

Prepared by: Jeffrey H. Log

Division Chief: Carol L. Kern

PK/JL

ITEM16/PZONE/TXTJWL

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: July 31, 1995
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E., Chief
Development Plans Review
RE: Zoning Advisory Committee Meeting
for July 31, 1995
Items 009, 011, 012, 013 and 016

The Development Plans Review Division has reviewed
the subject zoning items and we have no comments.

RWB:sw

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 07/17/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JULY 24, 1995.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed
by this Bureau and the comments below are applicable and required to
be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 09,10,11,12,13,14 & 16.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File
Printed on Recycled Paper

Maryland Department of Transportation
State Highway Administration

7-17-95

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

Re: Baltimore County
Item No: 016 (CAM)

Dear Ms. Watson:

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 affected 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
Ronald Burns, Chief
Engineering Access Permits
Division

BS/

RE: PETITION FOR VARIANCE * BEFORE THE
19 Manorbrook Road, S/S Manorbrook Rd, * ZONING COMMISSIONER
1320' W of Monkton Road, 10th * OF BALTIMORE COUNTY
Election District, 3rd Councilmanic *
C. Stuart Jones and Maria S. Jones * CASE NO. 96-16-A
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

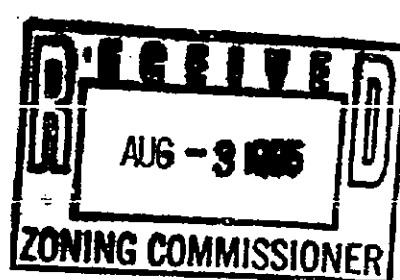
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of August, 1995, a copy
of the foregoing Entry of Appearance was mailed to C. Stuart Jones and
Maria S. Jones, 19 Manorbrook Road, Monkton, MD 21111, Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

Joseph L. Bishop, Jr.
Jo-Ann Bishop
15 Manor Brook Road
Monkton, Maryland 21111



July 31, 1995

Baltimore County
Zoning Commissioners Office
400 Washington Avenue
Towson, Maryland 21204

Re: Case #96-16A

Sir:

We are the owners of 17.5 acres whose boundaries adjoin #19
Manor Brook Road. The property owners are seeking a side yard
variance of 23' vs 50' for the construction of a garage. Our
opposition to the request remains unchanged from the testimony
rendered in the 1990 decision for case #90-395-A (see
attachments).

There is ample land area to the west of the dwelling to
accommodate a garage. This is not a hardship condition. The
owners bought the property with full knowledge of the situation
and we should not be asked to remedy the mistakes of the previous
owners.

Building set back lines are imposed for reasons of sound
development and we ask this commission to reaffirm those
principles. In closing we again request this variance to be
denied.

Respectfully Yours,

Joseph L. Bishop, Jr.
Jo-Ann Bishop
Joseph L. Bishop
Jo-Ann Bishop

cc: file
attachments

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
JoAnn Bishop	15 Manor Brook Rd
Joseph L. Bishop	Monkton, Md. 21111
	15 Manor Brook Rd.
	Monkton, MD 21111

Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
C. STUART JONES	19 Manor Brook Rd. Monkton, MD 21111
Lawrence E. Hiner, III, et ux	19 Manor Brook Rd. Monkton, MD 21111
	Tridings & Rosenberg

Printed with Soybean Ink
on Recycled Paper

JUL-31-'95 MON 11:58 1D:PLANNING TEL NO:410-887-5862 #239 P02

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Manor Brook Road, 1320' * ZONING COMMISSIONER
W of Monkton Road * OF BALTIMORE COUNTY
19 Manor Brook Road *
10th Election District * CASE NO. 90-395-A
3rd Councilmanic District *
Lawrence Edward Hiner, III, et ux
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A03.4.B.6
(1A00.3.B.3 1970) to permit a side yard setback of 23 feet in lieu of the
required 50 feet, as more particularly described on Petitioner's Exhibit
No. 3.

The Petitioners, Lawrence and Cherie Hiner, appeared and testified.
Appearing as Protestants were Joseph and JoAnn Bishop.

Testimony indicated that the subject property, known as 19 Manor
Brook Road consists of 1.003 acres +/-, zoned R.C.4 and is improved with
an existing single family dwelling.

Testimony indicated that the Petitioners currently reside in Virginia
and are attempting to sell the subject property. The Petitioners testi-
fied that they have been advised by their real estate agent that their
house would be significantly more marketable if they were to construct an
attached two car garage, as indicated on Petitioners' Exhibit #3. The
Petitioners testified that, prior to the construction of their home, they
failed to have a professional survey conducted, and staked the lot them-
selves. They further testified that the house was ultimately located
2-1/2 feet outside of the building envelope.

ORDER RECEIVED FOR FILING
Date 8/1/95
By [Signature]

NOT RECORDED

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

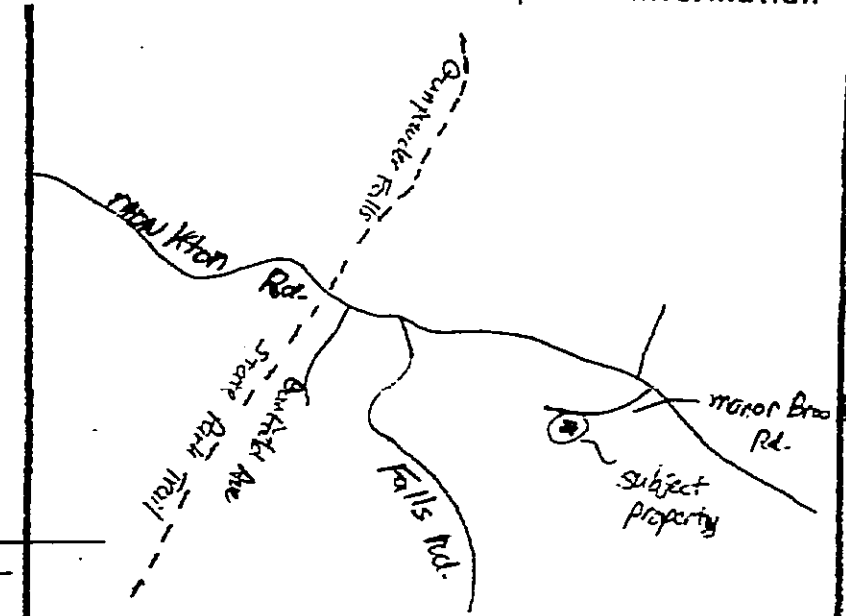
PROPERTY ADDRESS: #19 Manor Brook Road see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Manor Brook

plat book # 36, folio # 141, lot # 28, section #

OWNER: C. STUART JONES + MARIAS JONES

96-16-A



Vicinity Map
Scale: 1"=1000'

LOCATION INFORMATION

Election District: 10

Councilmanic District: 6

1"=200' scale map #: N.E. 26-A

Zoning: R.C.4

Lot size: 1.0 acreage 43,775 square feet

SEWER: ☐ PUBLIC ☒ PRIVATE

WATER: ☐ PUBLIC ☒ PRIVATE

Chesapeake Bay Critical Area: ☐ YES ☒ NO

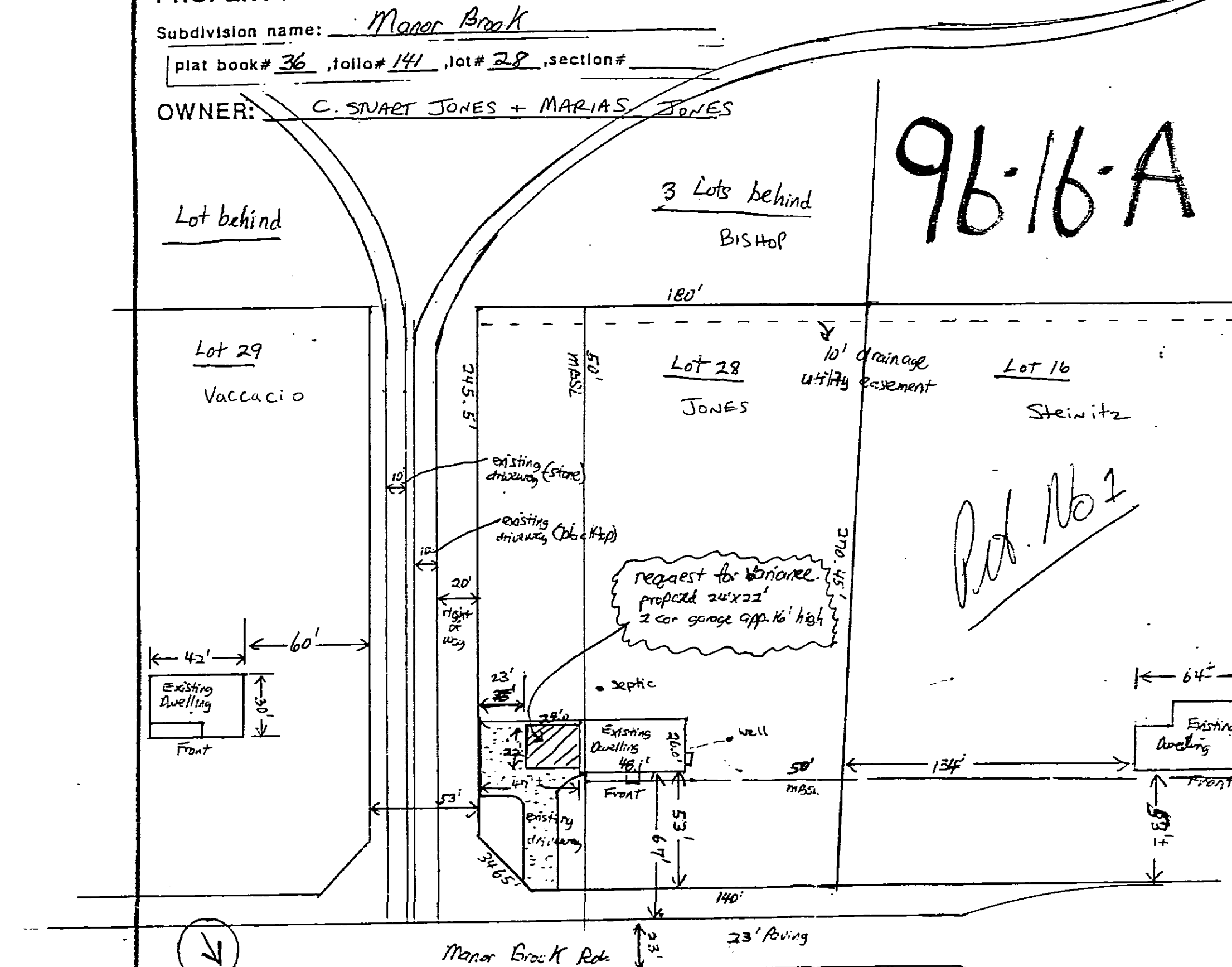
Prior Zoning Hearings: 465

April 1990 ... Petition # 90-395-A

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

18



North

date: prepared by:

Scale of Drawing: 1"=50'

5 Manorbrook Road
Monkton MD 21111
August 10, 1995

Dear Mr. and Mrs. Jones,

We were informed by some of the neighbors that you wanted to add a garage to your home. Ron and I often wondered why the original owners of your house never had a garage built in the first place. A garage would add to the looks of your house and make it complete. It would also add to the value of your house as well as to the value of all of our houses. Every house on the court has a garage either facing front or the side.

We both wish you luck in your project. If there is anything we can do please let us know. You have a beautiful home. We are lucky to have you in the neighborhood.

Sincerely,

Rosemary & Ron Saper

Ref 5 A

Roy & Judy Fields
6 Manorbrook Road
Monkton, MD 21111

July 10, 1995

Stuart & Maria Jones
19 Manorbrook Road
Monkton, Maryland 21111

Dear Mr. & Mrs. Jones,

We understand you are attempting to have a garage built on your property. This letter is to inform you we, as a neighbor, have no objection to you doing this and wish you good luck.

Sincerely,

Judy & Roy
Roy & Judy Fields

Ref 6 AB

14 Manor Brook Road
Monkton, Maryland 21111-1605
August 8, 1995

Dear Mr. & Mrs. Jones:

This is to affirm that we strongly support your effort to get a variance to construct an attached garage adjacent to your house. It would be a neighborhood asset and we wish you all the best.

Very truly yours,

Mary Lou & Howard Kolscher

Ref 5 C

9 Manor Brook Road
Monkton, MD 21111
August 9, 1995

To: Baltimore County Zoning Commissioner

Re: Request for Zoning Exception
C. Stuart and Maria Jones
19 Manor Brook Road
Monkton, MD, 21111

Dear Commissioner:

As next-door neighbors of the Jones, we respectfully request that you approve the Jones' request for a zoning exception to build an attached garage adjacent to the east side of their house (which happens to be the side facing us). We strongly support the Jones' desire to build such a garage.

We believe that such an addition to their house would increase the value of their house, and indirectly, those of the neighborhood houses as well.

We would be very happy to answer any questions that you may have, as you consider this issue.

Thank you in advance for your consideration.

Sincerely,

Donna L. Vaccacio
Steven A. Vaccacio

Ref 5 D

Harold S. Steinitz, Ph.D.

21 Manorbrook Road
Monkton, MD 21111
(410) 472-9017

Carol L. Steinitz, M.S., C.P.C.

August 7, 1995

Zoning Commissioner
Baltimore County
Towson, Maryland 21204

Dear Commissioner:

We are writing in behalf of Stuart and Maria Jones' zoning variance at 19 Manorbrook Road. We are their immediate next door neighbors, and thus have considerable interest in this matter.

The house in which the Joneses now reside was built soon after we moved into the neighborhood nine years ago. Because of the original owner's financial difficulties, as well as the zoning problem which necessitates this hearing, the planned attached garage was never built by its original owners, leaving this house the only one on the road without an attached garage. We feel strongly that the proposed addition of an attached garage would add to the appearance of the house, as well as enhance the appearance of the neighborhood as a whole. We believe that the proposed attached garage will not only improve the aesthetics of the neighborhood, but also increase the value of the surrounding homes.

Despite the problem of proximity to their other immediate neighbors' driveway, the proposed attached garage will not detract from a visually spacious site. In addition, the bordering driveway leads to a home that is approximately a quarter mile from Manorbrook Road, and therefore considerably insulated overall (and not even visible) from the other homes on the street.

We heartily support the re-zoning that would allow the Joneses to build an attached garage, and we congratulate them on their efforts to improve their property.

Sincerely,

Harold S. Steinitz
Carol L. Steinitz

Ref 5 E

Joseph L. Bishop, Jr.
Jo-Ann M. Bishop
15 Manor Brook Road
Monkton, Maryland 21111

May 15, 1995

Maria/Stuart

Thank you for sharing your garage plans with us. Upon careful review of the proposal we feel our position remains unchanged from 1990. I am attaching a copy of correspondence, from 5 years ago, to the zoning commissioner in regards to the former owner's variance request.

Our decision is based solely upon the intent of the mandated setback requirements in providing aesthetically pleasing building locations. I regret the original owners were remiss in not adhering to those standards but we feel our decision is best for us and the Manor Brook subdivision. Therefore, I would respectfully request that you consider placing the garage on the west end of your home.

Sincerely Yours,

Lee Bishop

enclosures
cc: file

Ref 5 B



WEST SIDE OF HOUSE
(WELL PIPE)



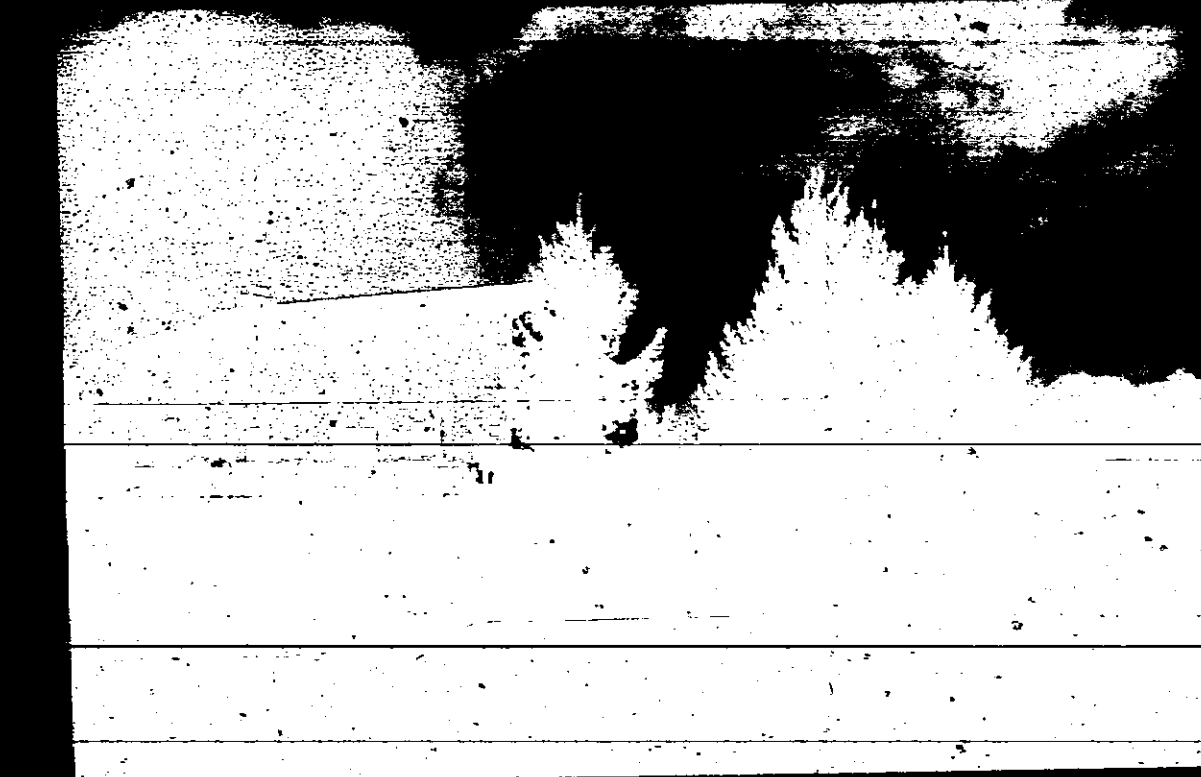
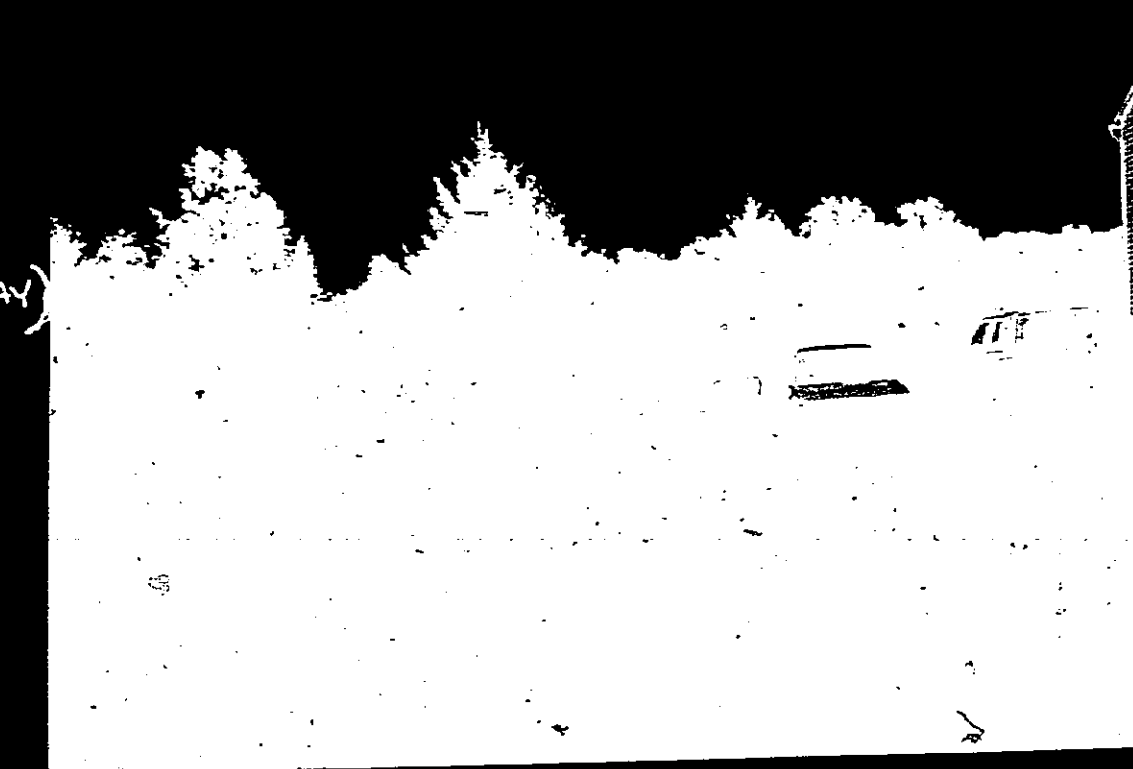
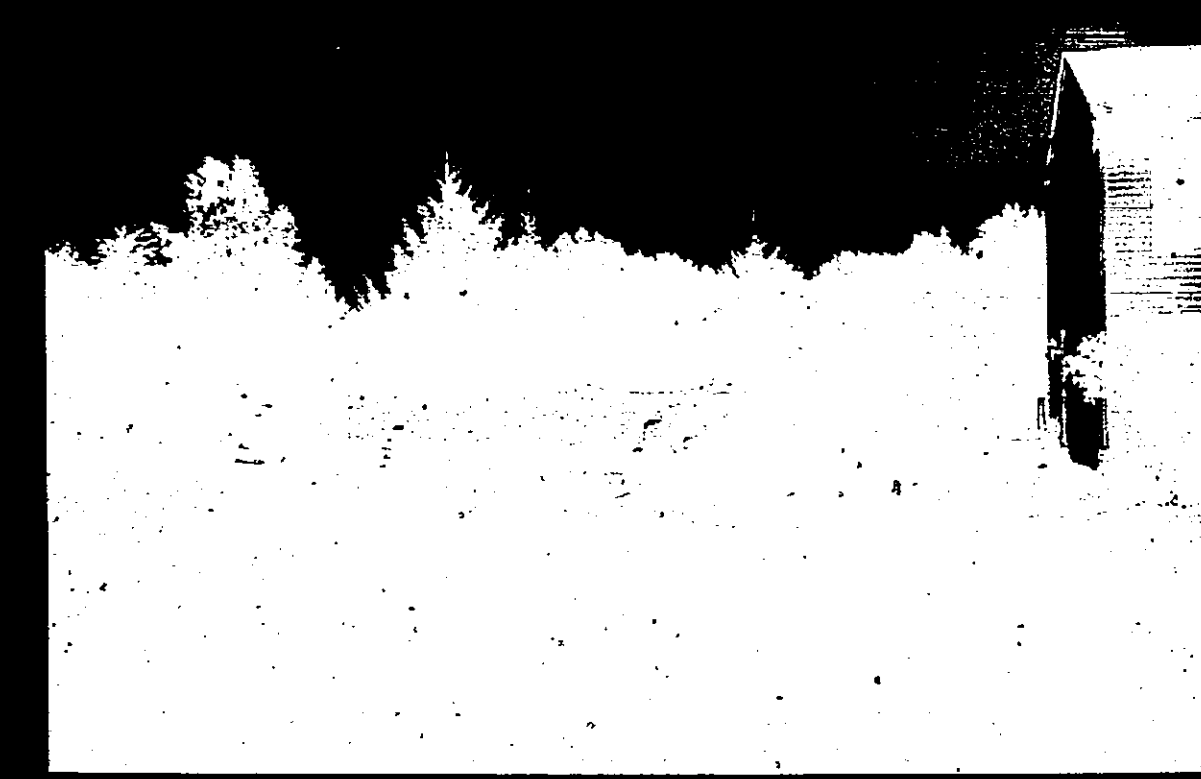
WEST SIDE OF HOUSE
(NO EXISTING DRIVEWAY)



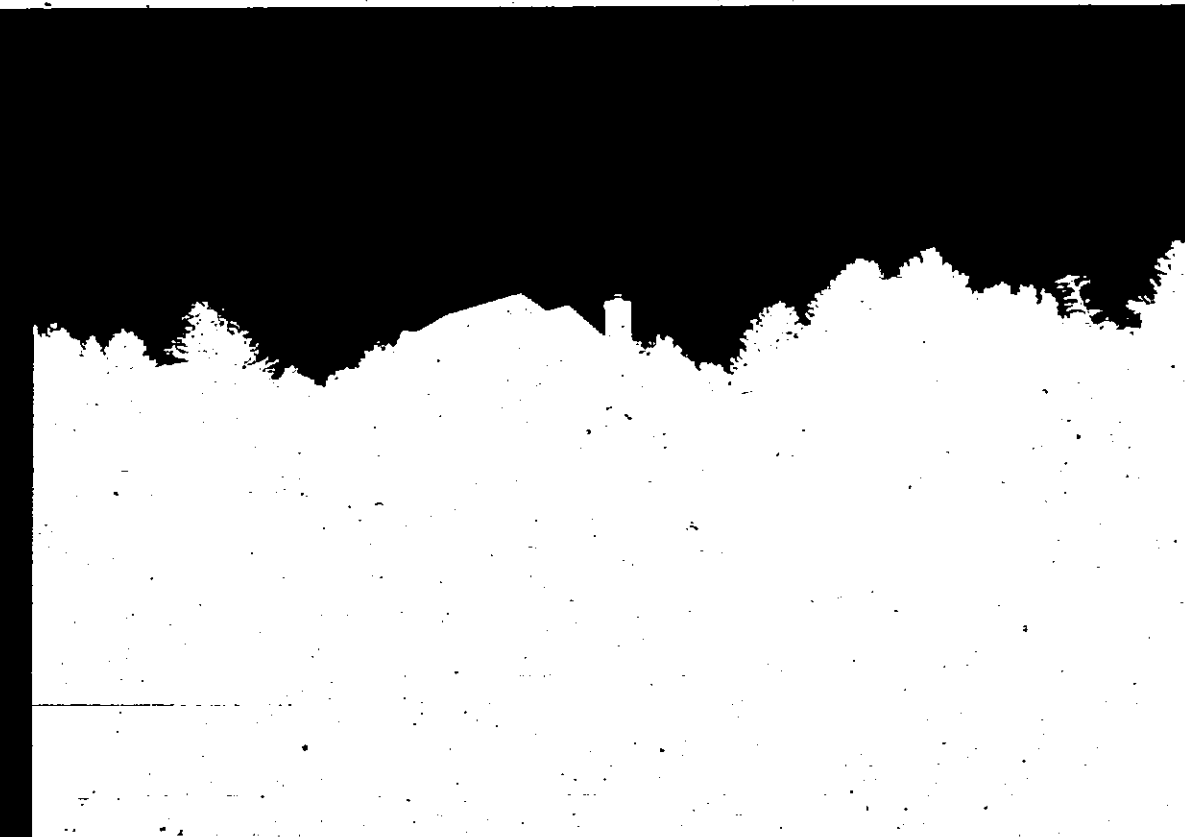
EXISTING LANDSCAPE + TREES



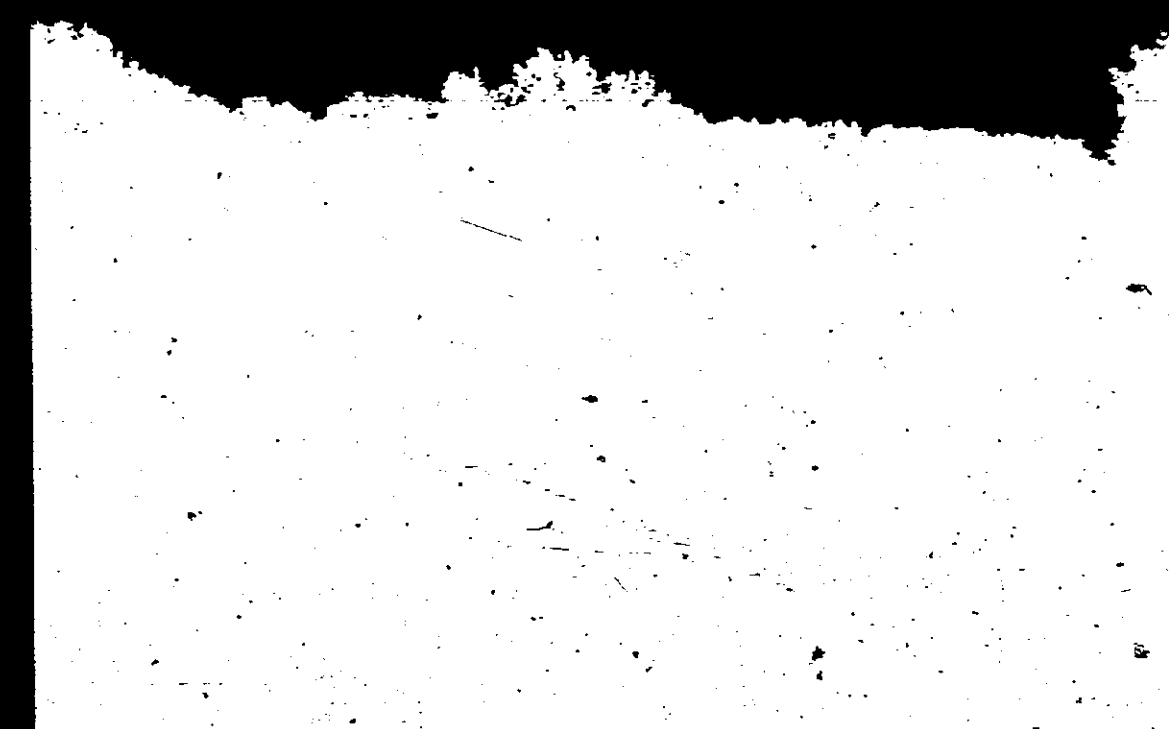
PROPOSED SITE



TREES TO BE REMOVED IF DETACHED
GARAGE WAS BUILT.



VIEW FROM MANORBROOK Rd.



BISHOP'S DRIVEWAY

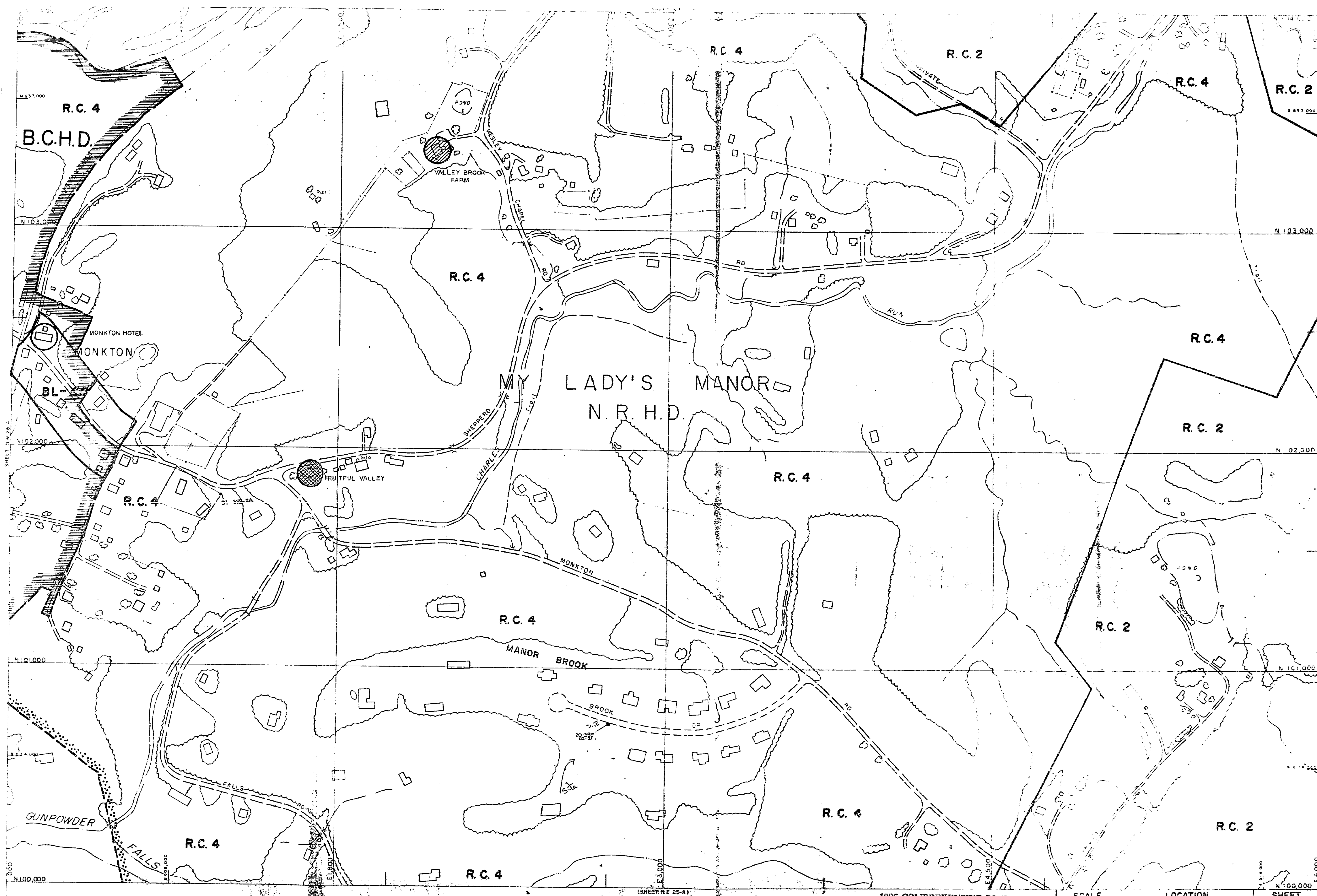


SURROUNDING HOMES ON MANORBROOK Rd.

X-2

Ret-4

Ret X-3



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

MONKTON

200