97-283-A -Alvin R. Graham, et ux
CCt AFFIRMS CBA
(John F. Fader, II, Judge)
3/30/00

| | | |
|---|---|---|
| ALVIN R. GRAHAM and<br>MARVA C. GRAHAM<br>Petitioners | * | IN THE |
| | * | CIRCUIT COURT |
| | * | FOR |
| FOR JUDICIAL REVIEW<br>OF THE DECISION OF THE<br>BALTIMORE COUNTY<br>BOARD OF APPEALS | *<br>* | BALTIMORE COUNTY |
| Respondent | * | CASE NO. 3-C-98-6680 |

**********

## MEMORANDUM OPINION AFFIRMING DECISION OF THE BALTIMORE COUNTY BOARD OF APPEALS

This court determines that the decision by the Baltimore County Board of Appeals (the Board) denying Petitioners Alvin and Marva Graham (Grahams) a variance which would allow them to install an antenna farm[1] on their property is **AFFIRMED.** There was no error in applying the legal standard denying the variance, and the regulations applied by the Board are not preempted by the Federal Communications Commission (F.C.C.) Regulations.

### Background

This case arose as a result of the issuance of a Baltimore County Code Violation Notice to the Grahams on November 19, 1996 by Baltimore County

[1] In this case, the antenna farm contains a satellite antenna and two satellite dishes.



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Zoning Inspector Gary Freund, (Freund). Freund found the Grahams' antenna farm located on the side yard and not in the rear yard, which is in direct violation of the Baltimore County Zoning Regulations. The Grahams were ordered to correct the violations by December 4, 1996, which they failed to do.

Subsequently, the Grahams petitioned the Zoning Commission for a variance allowing the antenna farm on their property located at 1 Copperfield Court, Phoenix, Maryland.[2] The petition for variance was heard before the Zoning Commissioner for Baltimore County, and in his order of March 21, 1997, he denied the variance. His order also encompassed the television antenna, and while not the subject of the petition for variance, he ruled that it was improper and must be varied or corrected.

The Grahams appealed the Commissioner's decision to the Board, and a de novo hearing was held on October 1, 1997 and January 20, 1998. On June 18, 1998, the Board denied the variance request for a satellite dish and antenna and determined that the tower and antenna were in violation. The Board also found that the local zoning laws did not impose unreasonable limitations on the Grahams under the F.C.C. regulations.

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[2] The Grahams moved into their house in 1995, although it is not yet completed. They consulted with Jack Denbow and Harford Electronics on where to place the antenna farm, as they had difficulty getting television reception due to the topography of the land. It was not until after the Grahams had installed the antenna farm and Inspector Freund issued them a violation notice that they petitioned the Zoning Commission for a variance to allow them to retain the antenna farm in its current location.

I

The Grahams appealed the decision of the Board to this Court, and raised two questions:

I. Did the County Board of Appeals apply the wrong legal standard in denying the variance?

II. Are the Baltimore County Zoning Regulations preempted by F.C.C. regulations, and, therefore, unconstitutional?

This Court affirms the decision of the Board, and finds that the Board did not apply the wrong standard and that the zoning regulations are not preempted by F.C.C. regulations.

II

**Scope of Judicial Review of Administrative Agency**

The scope of judicial review of an administrative agency has been explained by the Court of Appeals in the case *MVA v. Karwacki*, 340 Md. 271, 666 A.2d 511 (1995):

> The scope of judicial review of an agency's factual determinations is extremely narrow. *Liberty Nursing Center v. Department of Health and Mental Hygiene*, 330 Md. 433, 442, 624 A.2d 941, 945 (1993). A reviewing court must defer to the agency's factual findings and inferences that are supported by substantial evidence. *United Parcel v. People's Counsel*, 336 Md. 569, 577, 650 A.2d 226, 230 (1994); **Caucus**, 320 Md. at 324, 577 A.2d at 788; *Lindsey*, 318 Md. at 334, 568 A.2d at 33. In other words, a reviewing court evaluates the administrative agency's fact finding results; it does not make an independent, *de novo* assessment of the evidence. *Zeitschel v. Board of Education*, 274 Md. 69, 82, 332 A.2d 906, 913 (1975). If there is any substantial evidence in the record to support an agency's factual determinations, the reviewing court must affirm the agency's



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decision, which on its face is correct, and presumed to be valid. *Liberty Nursing Ctr., supra,* 330 Md. at 442, 624 A.2d at 945; *Anderson v. Department of Public Safety* , 330 Md. 187, 212, 623 A.2d 198, 210 (1993); *Department of Health and Mental Hygiene v. Shrieves,* 100 Md. App. 283, 302, 641 A.2d 899, 908 (1994). For purposes of determining whether an administrative agency's decision is supported by substantial evidence in the record, substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Caucus,* 320 Md. at 324, 577 A.2d at 788. *See also Liberty Nursing, supra,* 330 Md. at 442, 624 A.2d at 945; *State Election Board v. Billhimer,* 314 Md. 46, 58, 548 A.2d 819, 825 (1988), *cert. denied,* 490 U.S. 1007, 109 S. Ct. 1644, 104 L. Ed. 2d 159 (1989); *Bulluck v. Pelham Wood Apartments,* 283 Md. 505, 512, 390 A.2d 1119, 1123 (1978); *Supervisor of Assessments v. Peter & John Radio Fellowship, Inc.,* 274 Md. 353, 355-56, 335 A.2d 93, 94 (1975); *Dickinson-Tidewater Inc. v. Supervisor of Assessments,* 273 Md. 245, 256, 329 A.2d 18, 25 (1974); *Snowden v. Mayor & City Council of Baltimore,* 224 Md. 443, 448, 168 A.2d 390, 392 (1961).

*Id.* at 280-81.

In *United Steelworkers of America AFL-CIO, Local 2610 v. Bethlehem Steel Corporation,* 298 Md. 665, 472 A.2d 62 (1983), the Court of Appeals stated that it is necessary that administrative agencies "resolve all significant conflicts in the evidence and then chronicle, in the record, full, complete and detailed findings of fact and conclusions of law."*Id* at 678. In the judicial review of an agency, "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.

More recently, the Court of Special Appeals has held:

A reviewing court may not make its own findings of fact, *Board of County Comm'rs v. Holbrook,* 314 Md. 210, 218, 550 A.2d 664 (1988), or supply factual findings that were not made by the agency. *Ocean Hideaway Condo. v. Boardwalk Plaza,* 68 Md.App. 650, 662,



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515 A.2d 485 (1986). Findings of fact are essential in order for the reviewing court to review meaningfully the agency's decision. *See Gray v. Anne Arundel Co.*, 73 Md.App. 301, 307-09, 533 A.2d 1325 (1987). Moreover, it is the agency's function to determine the inferences to be drawn from the facts. On review, neither the circuit court nor this Court may substitute its judgment for that of the agency. *Eberle v. Baltimore County*, 103 Md.App. 160, 165, 652 A.2d 1175 (1995).

*Maryland Securities Commissioner v. U.S. Securities Corporation, et al.*, 122 Md.App. 574, 586, 716 A.2d 290 (1998).

The circuit court acts as a reviewing court to the decisions by the Board of Appeals. The role of the circuit court is as follows:

The role of the circuit court in reviewing a Board of Appeals decision is set forth in Md. Code (1957, 1994 Repl. Vol.), Art. 25A, § 5(U), which provides in pertinent part:

'Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, **or if such decision is not in accordance with law**, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the said court may appeal from such decision to the Court of Special Appeals. The review proceedings provided by this subsection shall be exclusive.' (Emphasis added.)

The circuit court's standard of review is limited to whether the Board's decision is or is not 'in accordance with the law.'

The Court of Appeals has stated that the reviewing court may set aside, as 'not in accordance with law,' a decision of the Board of Appeals that is arbitrary, illegal, or capricious. *Levy v. Seven Slade, Inc.*, 234 Md. 145, 149, 198 A.2d 267 (1964). To determine whether the Board's decision is arbitrary, illegal, or capricious, the reviewing court must decide whether the question before the agency was fairly debatable. *Mortimer*, 83 Md. App. at 441.

An issue is fairly debatable if reasonable persons could have reached a different conclusion on the evidence and, if so, a reviewing court may not substitute its judgment for that of the administrative agency. The fairly debatable test is analogous to the clearly erroneous standard under Rule 8-131(c) and a decision is fairly debatable if it is supported by substantial evidence on the record taken as a whole. *Mortimer*, 83 Md. App. at 441. (Citations omitted.)

*Anne Arundel County v. 2020 C West St., Inc.*, 104 Md.App. 320, 325-6, 656

A.2d 341(1995).

## III
## Burden of Proof

In a case before an administrative agency, the burden of proof is generally on the party asserting the affirmative of an issue before such an agency. *Edmond v. Ten Trex Enterprises, Inc., et al.*, 83 Md.App. 573, 583, 575 A.2d 1267 (1990). However, in an administrative appeal, the burden of proof lies on the petitioner to show that the administrative proceedings prejudiced any of their substantial rights. *Nuger, et al. v. State Insurance Commissioner*, 238 Md. 55, 61, 207 A.2d 619 (1965). "In applying the substantial evidence test, a court should not substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken, and the decision must be viewed in the light most favorable to the agency, since decisions of administrative agencies are prima facie correct."*Miller v. Insurance Commissioner, State of Maryland*, 70 Md.App. 355, 366, 521 A.2d 761 (1987).

The Court of Appeals has held that "the action of the Board, affirmative or negative, is entitled to such respect by the courts that it will be set aside only if the attacker meets 'the heavy burden of overcoming the presumption of constitutionality of legislative action' by showing that the action of the Board in the exercise of its original jurisdiction was arbitrary, capricious or illegal". *Gilmor, et al v. Mayor and City Council of Baltimore, et al*, 205 Md. 557, 564-565, 109



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A.2d 739 (1954).[3] In *Maryland Advertising Co. v. City of Baltimore*, 199 Md. 214, the Board of Municipal and Zoning Appeals denied an application by the Maryland Advertising Company to erect an illuminated poster board in Baltimore City.*Id* at 215. The Circuit Court for Baltimore City affirmed, holding that "the applicant has the burden of satisfying the Court not only that the action of the Board was arbitrary and unreasonable, or unlawful, but that the application is one which it would be desirable to grant". *Id* at 220.[4]

In the present appeal, the burden was on the Grahams to show that the decision of the Board was "arbitrary, unreasonable and unlawful." *Maryland Advertising Co. v. Mayor and City Council of Baltimore*, 199 Md. 214, 220, 86 A.2d 169 (1952). They were unable to meet this burden. It is the task of this court to review the agency's findings using the substantial evidence test, and the

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[3] The Court of Appeals was referring to cases where an applicant applied for a permit for a billboard to be erected in a first or second commercial use district or industrial use district.

[4] The Court of Appeals reversed the decision of the Circuit Court affirming the Board of Municipal and Zoning Appeals, finding that its decision was arbitrary and invalid. *Id* at 222-223. The Court held " [a] zoning statute, ordinance or administrative order, as other actions in the exercise of the police power, is presumed to be valid unless it is shown on its face or by extrinsic facts to be invalid.... However, the duty of the courts not to substitute their judgment for the judgment of legislative or administrative authorities, acting within their powers, is no more imperative than the power and duty to set aside any purported exercise of such power which is in fact arbitrary, capricious or confiscatory. Zoning in this respect can no more escape judicial review than any other purported exercise of the police power...When it is found that the decision is not founded on the maintenance of the health, safety, security, morals, and general welfare the action will be set aside."*Gilmor et al. v. Mayor and City Council of Baltimore et al.,* 205 Md. 557, 564-65, 109 A.2d 739 (1954).



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"question on appeal becomes whether a reasoning mind could reasonably have reached the agency's factual conclusion." *Maryland Securities Commissioner v. U.S. Securities Corporation, et al.*, 122 Md.App. 574, 587, 716 A.2d 290 (1998). This court holds that the agency could so find.

## IV

## The Board's Factual Findings

A public hearing was held on October 1, 1997, a second day of hearings on January 20, 1998, and a public deliberation on April 1, 1998. The Board heard testimony from several sources. Those who testified for the Grahams were Margaret Graham, petitioner, Jack Denbow(Denbow), who installed the satellite dishes and antenna, and Walter Frazier(Frazier), who testified and was qualified as an expert in system design, placement and service integration of both satellite dishes and the antenna. Those who testified for the Protestants were Gary Freund(Freund), a Code enforcement officer with the Baltimore County Code Enforcement Division, Thomas More(More) an agent with Gaylord-Brooks Realty which was the developer of the subdivision, Jonathan Price, a resident in the subdivision, and Dr. Alvin Graham, Petitioner.

The Board found the testimony of Denbow and Frazier "to be less than convincing". County Board of Appeals Opinion, p. 24. The Board focused on Denbow's technical detail on how the installation process works and operates. More specifically, the Board noted Denbow's testimony that the Grahams wanted the "the dish placed where they would get the best reception, while cutting the

least number of trees. It was not where they would get the best reception but qualified 'without cutting the least number of trees' (T. 67) and that he was able to find such a location 'right where it is'. Opinion p. 24. The Board also noted that while Denbow stated that there was no other location to place the dish and antenna, this is qualified by the fact that the woods were creating the problem. Denbow also stated that the antenna or dish could be placed on the roof, and the Grahams would be able to get the same reception.

With regard to Frazier's testimony, the Board stated that while the satellite dishes and antenna were in the best spot, they could be "relocated if the tower were made higher or a large number of trees were eliminated."Opinion p. 25. Frazier also acknowledged that the topography of the Grahams property was consistent throughout the subdivision, and the property was only unique in its size in comparison to the other lots.

Price, a seven year resident of the subdivision, testified to the wooded nature of the lots in the area. He also stated that those residents who have sloping rear yards like that of the Grahams have located their satellite dishes in the rear yard so they are not visible. Price saw nothing unusual or unique about the Grahams property in comparison to others' in the subdivision. He stated that he had a satellite dish located in his rear yard and an antenna on his roof and had adequate reception.

With testimony to support the Board's finding on record, this Court is unable to substitute its opinion for the decision made within the expertise of the agency.

## V

### Preemption

The Grahams' second argument is that the Baltimore County Zoning Code is preempted by F.C.C. Regulations, and argues that as applied to the Grahams property, the satellite legislation is unconstitutional. This court does not agree, and affirms the Board's decision to deny the petition for variance.

The Grahams argue that the "threshold issue... is whether the ordinance 'differentiate[s] *between satellite* receive-only antennas and other types of antenna facilities...'. If it does not, it is not preempted by the regulation. If it does, it is preempted unless the ordinance meets both of the reasonableness tests set forth in the FCC regulation."*Olsen v. Mayor and City Counsel of Baltimore*, 321 Md. 324, 329, 582 A.2d 1225 (1990).[5]

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[5] The FCC regulation at issue is 47 C.F.R. §25.104, and states:
(a) Any state or local zoning, land-use, building, or similar regulation that materially limits transmission or reception by satellite earth station antennas, or imposes more than double costs on uses of such antennas, is preempted unless the promulgated authority can demonstrate that such regulation is reasonable, except that non-federal regulation or radio frequency emissions is not preempted by this section. For purposes of this paragraph (a), reasonable means that the local regulation :

(1) has clearly defined health, safety, or as aesthetic objective that is stated in text of the regulation itself; and

(2) Furthers the stated heath, safety or aesthetic objective without unnecessarily burdening the federal interest in insuring access to satellite services and in promoting fair and effective competition among competing communications service providers.

They argue that the BCZR fail this test because the regulations differentiate between types of antennas.

The Zoning Commissioner evaluated the relevant Baltimore County Zoning Regulations (BCZR)[6], and determined that the antenna tower was an accessory structure, and not a wireless transmitting and receiving facility. The Board agreed with the Commissioner, and also addressed the presence of the antenna tower

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[6] The portions of the BCZR relevant to this case are:

429.1 Satellite receiving dishes are permitted as accessory structures in all zones. When located on the roof of a building, an accessory satellite receiving dish shall be considered an accessory radio or television antenna, and it is not subject to the provisions of this section.
429.2 When located in residential zones, accessory satellite receiving dishes shall be located in the rear yard of a lot unless such location hinders reception, and the owner requests a variance. In addition, the dish shall be no larger than 10 feet in diameter.
429.3 In residential zones, the size of a satellite dish and its location on a lot are subject to the provisions of Section 307.
429.4 Principal satellite receiving dishes shall be considered wireless transmitting and receiving structures and are subject to the regulations governing such structures.

Section 300 of the BCZR provides height limitations for satellite dishes:

300.1A ...A satellite receiving dish is subject to the height limitations of the zone in which the dish is located. However, in residential zones, the height of an accessory satellite dish may not exceed 15 feet unless it is located on the roof of a building.
307.1 The zoning commissioner of Baltimore County and the county board of appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

located on the Grahams property. The BCZR that applies to this structure is Section 400 and in relevant part states:

> 400.1 Accessory buildings in residential zones...on corner lots they shall be located in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third.
> 400.3 The height of accessory buildings, except as such noted in Section 300, shall not exceed 15 feet.

In the present case, the Grahams largest dish was 10 feet in diameter, but was located in the side yard, not the rear. This violates BCZR 420.2, which requires accessory satellite dishes located in residential zones to be in the rear yard. While the Grahams did not include the antenna tower in their petition for a variance, the Board determined that the antenna tower ( between 19 and 20 feet in height) was in violation of BCZR 400.1 and BCZR 400.3, and needed to be in compliance without delay.

Because the Zoning Commissioner considered the antenna tower to be an accessory structure, and not a wireless transmitting and receiving facility, and the Board, having heard two days of testimony and having reviewed the briefs submitted by both sides, agreed with the Commissioner and denied the variance, the BCZR are not preempted.

This court affirms the decision of the Board, and holds that the F.C.C. regulations do not preempt the Baltimore County Zoning Regulations as applied to the Grahams.[7]

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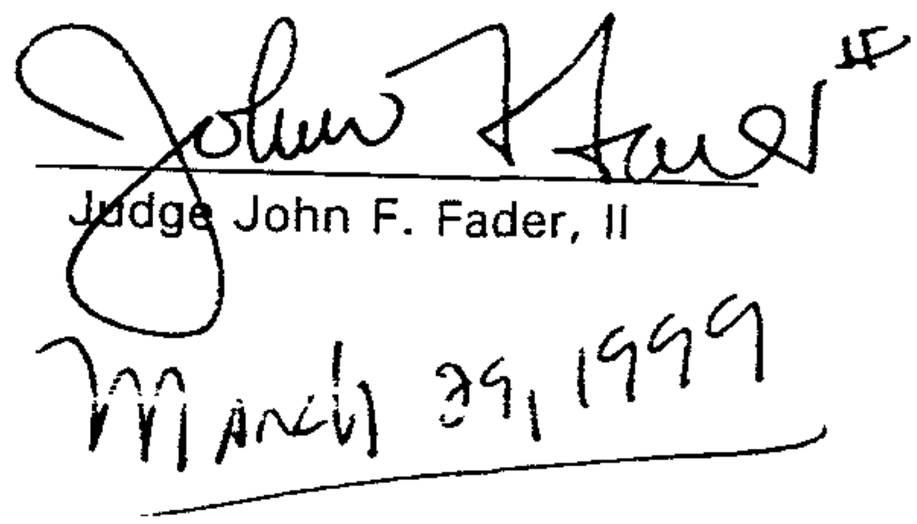
[7] It should be noted that the Board found it "inconceivable to the members of this Board that such highly educated individuals as the Appellants would

## VI

## Conclusion

It is for the reasons stated above that the decision of the Baltimore County Board of Appeals is **AFFIRMED**. A reviewing court may not substitute its opinion for that of the administrative agency. *MVA v. Karwacki, supra*. The decision of the Board was not arbitrary or capricious, nor did the Appellants meet their burden of showing that the Board's decision was so. This court also holds that the Baltimore County Zoning Regulations are not preempted by F.C.C. Regulations as applied to the Grahams, and therefore, the Grahams are in violation of the BCZR. This court holds that it was within the power of the Board to deny the Appellant's petition for a variance, and therefore, the decision of the Board is **AFFIRMED**.



Judge John F. Fader, II

March 29, 1999

JFF:clr

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would not investigate the matter of reception in their selection of a lot for home construction, if that were a matter of vital importance to them--as such it was--or even determine if any covenants or restrictions recorded in the Baltimore County Land records applied in the development...Opinion of the Board, p.23.

CC:

Michael L. Greilich, Esq.
Robert J. Feldman, Esq.
305 Washington Ave.
Suite 303
Towson, MD 21204

J. Carroll Holzer, Esq.
305 Washingtion Ave.
Suite 502
Towson, MD 21204

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

July 7, 1998

J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Civil Action No. 3-C-98-06680
ALVIN R. GRAHAM, ET UX

Dear Mr. Holzer:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on July 2, 1998, 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-98-06680.

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: Dee and Nancy Curran
People's Counsel for Baltimore County
Lawrence E. Schmidt /ZC
Pat Keller /Planning
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co. Atty

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on Recycled Paper

County Board of Appeals of Baltimore County

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

July 7, 1998

Michael L. Freilich, Esquire
305 Washington Avenue, Suite 303
Towson, MD 21204

RE: Civil Action No. 3-C-98-06680
ALVIN R. GRAHAM, ET UX

Dear Mr. Freilich:

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: Alvin R. Graham and Marva C. Graham

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on Recycled Paper

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF ALVIN R. GRAHAM and
MARVA C. GRAHAM *
1 Cooperfield Court
Phoenix, MD 21131 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 3-C-98-06680
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER *
ALVIN R. GRAHAM, ET UX
FOR A VARIANCE ON PROPERTY LOCATED *
ON THE SE/C COOPER ROAD AND COOPERFIELD
COURT (1 COOPERFIELD COURT) *
10TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT *
CASE NO. 97-283-A

* * * * * * * * * *

## CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Charles L. Marks, Margaret Worrall, and Thomas P. Melvin, 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, Michael L. Freilich, Esquire, 305 Washington Avenue, Suite 303, Towson, Maryland 21204, Counsel for Petitioners; Alvin R. Graham and Marva C. Graham, 1 Cooperfield Court, Phoenix, Maryland 21131, Petitioners; Dee and Nancy Curran, 25 Cooperfield Court, Phoenix, Maryland 21131, Protestants; J. Carroll Holzer, Esquire, HOLZER & LEE, 305 Washington Avenue, Suite 502, Towson, MD 21204, Counsel for Protestants; and 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
98 JUL -7 PM 3:07

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 Michael L. Freilich, Esquire, 305 Washington Avenue, Suite 303, Towson, Maryland 21204, Counsel for Petitioners; Alvin R. Graham and Marva C. Graham, 1 Cooperfield Court, Phoenix, Maryland 21131, Petitioners; Dee and Nancy Curran, 25 Cooperfield Court, Phoenix, Maryland 21131, Protestants; J. Carroll Holzer, Esquire, HOLZER & LEE, 305 Washington Avenue, Suite 502, Towson, MD 21204, Counsel for Protestants ; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204, this 7th day of July, 1998.

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

IN THE CIRCUIT COURT FOR BALTIMORE CITY

| | | |
|---|---|---|
| PETITION OF | * | |
| ALVIN R. GRAHAM and<br>MARVA C. GRAHAM<br>1 Copperfield Court<br>Pheonix, Maryland 21131 | * | Case Number 98-6680 |
| | * | |
| Applicants/Petitioners | * | |
| FOR JUDICIAL REVIEW OF THE DECISION<br>OF THE BALTIMORE COUNTY BOARD<br>OF APPEALS | * | |
| Old Courthouse, Room 49<br>400 Washington Avenue<br>Towson, Maryland 21204 | * | |
| IN THE MATTER OF THE APPLICATION<br>OF ALVIN GRAHAM - PETITIONER FOR<br>A ZONING VARIANCE ON PROPERTY<br>LOCATED ON THE SOUTHEAST CORNER<br>OF COPPER ROAD AND COPPERFIELD<br>COURT (1 COPPERFIELD COURT)<br>10th ELECTION DISTRICT,<br>6th COUNCILMANIC DISTRICT | * | |
| Applicants/Petitioners | * | |
| Case Number: 97-283-A | * | |

* * * * * *

RECEIVED
COUNTY BOARD OF APPEALS
98 JUL -7 AM 11:45

## Petition for Judicial Review

**ALVIN R. GRAHAM** and **MARVA C. GRAHAM (Grahams)** by their undersigned counsel hereby petition this Honorable Court for judicial review of the decision of the Baltimore County Board of Appeals dated June 18, 1998.

RECEIVED AND FILED
98 JUL -2 PM 12:23

Respectfully submitted,

Michael L. Freilich, Esquire
305 Washington Avenue
Suite 303
Towson, Maryland 21204
(410) 321-0040

**Certificate of Service**

I HEREBY CERTIFY that on this 27th day of July, 1998, a copy of the foregoing Petition for Judicial Review was sent by first class mail, postage pre-paid, to:

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

J. Carroll Holzer, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Michael L. Freilich

6/18/98

| | | |
|---|---|---|
| IN THE MATTER OF | * | BEFORE THE |
| THE APPLICATION OF | | |
| ALVIN R. GRAHAM -PETITIONER | * | COUNTY BOARD OF APPEALS |
| FOR A ZONING VARIANCE ON | | |
| PROPERTY LOCATED ON THE | * | OF |
| SOUTHEAST CORNER COOPER ROAD | | |
| AND COOPERFIELD COURT | * | BALTIMORE COUNTY |
| (1 COOPERFIELD COURT) | | |
| 10TH ELECTION DISTRICT | * | CASE NO. 97-283-A |
| 6TH COUNCILMANIC DISTRICT | | |

* * * * * * * * *

## O P I N I O N

This case comes to the Board of Appeals for Baltimore County relative to a Petition for Variance which was denied by the Zoning Commissioner. A public hearing was conducted on October 1, 1997, and a second day of hearings was held on January 20, 1998. Both counsel submitted written Briefs to the Board, and a public deliberation was held on April 1, 1998.

Opening statements at the public hearing were offered by both Michael Freilich, Esquire, Counsel for Petitioners /Appellants, and J. Carroll Holzer, Esquire, Counsel for Protestants. At the conclusion of the hearing, the Board offered Counsel the choice of oral closing statements or the opportunity to submit written Briefs simultaneously. The latter option was agreed upon, and the two Briefs were submitted on March 16, 1998.

At the commencement of the hearing, Mr. Holzer made a Motion to Dismiss, since the Petition for Variance requested a Baltimore County Zoning Regulations (BCZR) Section 400.1 remedy, citing this was (1) an improper request and should be dismissed; and (2) that the Petition for Variance did not include the antenna (tower), which was, and is, a violation of the BCZR.

Mrs. Margaret Graham, 1 Cooperfield Court, Phoenix, MD 21131,

testified in support of the Petitioner's position. Petitioner's Exhibits 1 (reflecting a map of the Phoenix area of Baltimore County) and 2 (an aerial photo taken of the area by Baltimore County in 1997) were admitted without objection. Petitioner's Exhibits No. 3A through 3E. reflecting various areas of the development, Petitioner's property, the tower, and so forth, were admitted into evidence and discussed individually by Mrs. Graham and examined individually by the Board members.

Mrs. Graham stated that both she and her husband were physicians and had paid $180,000 for the Cooperfield land. The house on the property was nearly completed as of October 1997; and when they had moved into the house, they observed that they had very poor television reception. That situation occasioned them to have the TV antenna and satellite dish installed. She related that the house on the property was quite large, consisting of approximately 15,000 sq. ft. over three separate levels, and was custom-built at a cost of approximately $2.5 million. The subject property is situated at the corner of Cooper Road and Cooperfield Court in a primarily rural area of Baltimore County on 11.4 acres. The only house visible from their property is the one across the roadway, and Mrs. Graham was not that familiar with other residents in the community. The question that prompted the various hearings involves one of the placement of equipment; that is, the antenna and the satellite dish.

Petitioner's Exhibit No. 4 was admitted reflecting the existing site as was Petitioner's Exhibit No. 5 (for Identification

Only) reflecting where the engineer located the existing satellite on the plot plan. Mrs. Graham described the property as cleared in the front and sloping in the rear, with the back and sides being wooded. She stated that, in 1997, she had spent about $600.00 to remove three "fairly small trees" to assist in better reception. She stated that she was not aware of any other place that the antenna could be placed. She opined that she and her husband had attempted to fit it in the attic, but it would not fit, and if placed on the roof, "it would detract from the house." The rear of the lot at the back edge of the slope presented problems because of certain wetlands. In order to improve the appearance, she and Dr. Graham had planted screening trees.

On cross-examination by Mr. Holzer, Mrs. Graham recited the reasons for the variance request and responded to questions concerning placement of the units. She indicated that a Mr. Patrick O'Keefe had posted the violation sign in November 1996. She testified that the pool had been added to the property about 1-1/2 years subsequent to the antenna and dish in August 1997. Petitioner's Exhibit 3E, photo #9, reflects the pool in the rear of the house with open space between the pool and the tree line.

As to Petitioner's Exhibit 3E [#10], Mrs. Graham was not sure if that photo reflected the side or back of the property. She and her husband physically moved into the property without a Baltimore County occupancy permit; and, as of October 1997, still did not have one, as the home still was not completed.

Mrs. Graham testified that there were three dishes on the

property -- small, medium and large -- with the small one on the antenna; and the medium and large ones freestanding. She acknowledged that some of the neighbors could see the unit from their properties. Mrs. Graham stated that Harford Electronics had installed the units on the recommendation of her builder. The Grahams had had discussions with the builder to place the units away from the house, and that landscaping was called for to screen the dish, and to that end about $8,000.00 had been spent to plant trees.

Protestants' Exhibit No. 1 was admitted, reflecting an October 29, 1996 letter written by the Graham's architect and signed by Mrs. Graham, indicating that she would either shield or move the antenna. Mrs. Graham indicated that at the time the letter was written she was not aware that the existing location was the only one where good reception was available. She stated that she and Dr. Graham had not tried other locations because it would be very expensive to conduct trials, and they had been told that reception anywhere else would not be as good. If the satellite were located near the house, it would require cutting older larger trees. As to Protestants' Exhibit No. 1, Mrs. Graham indicated that she had met with Mr. Moore who spoke for a number of their neighbors. She indicated that the neighbors would find the dish acceptable if it were adequately screened as long as the antenna was moved, so as not to be visible. The antenna had not been moved because the Grahams had been informed that reception would not be as good as where it was presently located.

Mr. Jack Denbow testified on behalf of the Petitioners. He stated that he had been in the business of installing antennas and dishes for roughly 42 years and that he was currently with Harford Electronics company. He stated that he had installed over 1,000 dishes and antenna and that the Grahams had called him because they wanted to get satellite and antenna reception. The Grahams were not able to get local reception, and he conducted tests to determine where the antenna should be placed, explaining the process: "Well, for the satellite system, you have to start out, you have to imagine 265 degrees roughly on compass. You look in that area -- this is satellite reception -- up at an angle of 9 degrees. Okay. This should be clear. You should be able to see clear sky at the point where the dish would be. Now, you are going to have to turn -- that dish will turn to approximately 180 degrees. And as it turns from the 265 to 180 degrees the angle will change from 9 to about 44-1/2 degrees. Now that entire area would have to be clear. The dish would have to see sky through that entire area." [T., pp. 66-67]

In response to the question as to where he decided to put the dish on the Graham property, Mr. Denbow responded, "They wanted it placed where they would get the best reception without cutting the least trees." [T., pp. 67, lines 13-14] Mr. Denbow indicated on Petitioners' No. 4 that he placed the dish exactly where it was presently located, about 50 feet from the road at the highest elevation. There were no other high points. Mr. Denbow stated that he could not find any high points for reception comparable to

what the Grahams were presently receiving. The pool area was downhill and getting closer to the trees, and "in order to achieve a 9 degree angle, you would have to cut the woods out because you have to look at the compass, look up 9 degrees and see clear sky." [T., p. 69] Basically the farther one proceeds downward, the closer one gets to the trees. Therefore to reach the lower angle, more trees must be cut, although topping the trees by about 5 feet might help from the front. Mr. Denbow stated that the antenna was placed at the highest spot at the greatest distance from the trees. As the antenna is moved closer to the trees, the reception decreases. He testified that the only other spot on the Graham property where the antenna might be placed was "closer to the road towards the front of the property." The back area presented problems because of the trees, and the swimming pool area was not desirable because of the downward hill and proximity to the trees. Mr. Denbow acknowledged that if the Petitioners were to place an antenna on the roof they could get reception equal to what they currently have but "they wouldn't get any better." [T., p. 72]

Petitioners' Exhibit No. 6 was admitted reflecting the Baltimore County permit to erect the antenna and satellite system. Again, Mr. Denbow stated that moving the antenna dish to the left or right of its present location would not help. The only other viable place for the antenna which would not inhibit reception would be closer to the road, and the dish would have to stay where it was, "and if you move it, then you're going into cutting down trees." [T., p. 73]

On cross-examination, Mr. Denbow stated that he last saw the antenna and dish about a month or so ago (12/97) and that evergreen trees had been placed in front of the dish and the antenna, with a couple of the trees about as tall as the tower section of the antenna, with the antenna sticking out just above it. The large dish was stated to be about 10 feet to the right on the ground, with the trees behind the dish about the same height. The back of the dish faces the road pointing towards the signal. Mr. Denbow again stated that in placing the antenna and dish, "I looked for the best place to have the best reception, and cut the least trees. That's what I was asked to do." [T., p. 76] He was also asked if he could "go here or could go there, and I said no, and one of the places was in the back of the house. And that was the worst place on the whole property." [T., p. 76-77]

Mr. Denbow acknowledged that he went to school to learn about installation about 40 years ago, and reception requirements were altogether different then, and that, while additional training might be advantageous, his training was essentially electronics, that he had a license to do antenna systems or anything electronic, and that a license was needed for sound systems in general. He stated that he did not supply any information about the property when applying for the permit to install the antenna and its location. Mr. Denbow acknowledged that the present swimming pool area was considered as an alternate site, but again that was one of the worst places possible behind the house. Mr. Denbow acknowledged the antenna tower to be nothing more than some sort of

steel /aluminum structure on which a satellite dish could be placed at the top of the 15-foot structure. If the tower were moved to the rear yard with a height increase of 5 feet higher, it would still not work because of the proximity to the trees, and a 5-foot increase would not be of any significance. The farther one goes down the rear hill, the more the trees create a problem for reception. He indicated "you have to have the antenna either clear the trees, or be further from the trees." [T., p. 84]

Mr. Denbow did not believe that increasing the height of the tower by 5 or 10 feet would help and that if it were moved into the rear yard, making it 25 feet higher, it wouldn't be the same height because of the downhill slope of the land. Mr. Denbow repeatedly stated that going down the hill in the rear of the property would place the equipment against the trees, and one could not go against the trees or place an antenna facing into the trees and expect to get acceptable reception. One must either clear the trees or be farther away from the trees.

Mr. Denbow stated that putting everything on the roof was not considered, but that an antenna tower extending 19 feet would provide acceptable reception [T., p. 88]. However, there would be mounting problems, because the roof is of slate construction, and apparently the Grahams did not want anybody putting it on the roof. While he had not explored the property to ascertain whether placement of the equipment on the roof would have the proper degree, Mr. Denbow stated that putting the 10-foot dish on the roof would be ridiculous since the wind resistance would probably cause

the chimney to fall down.

Mr. Denbow stated that there are actually three dishes involved: one about 18 inches; one about 3 feet; and the 10-foot one. He indicated that the 18-inch dish and the 3-foot one could be mounted on the roof.

On redirect by Mr. Freilich, Mr. Denbow related that it would cost more to move the unit than the original cost of assembly since the equipment would have to be dissembled and then reassembled, estimating the cost to be double that of the original. The original amount was later established to be $4,947.65, reflecting the antenna and satellite costs on the same bill. [Protestants' Exhibit No. 3] That amount reflected the cost of the material only and did not include mounting or labor.

Mr. Walter Frazier also testified on behalf of the Petitioners. He stated that he had 20 years experience in the design and installation of satellite and antenna systems, with certification by many groups. He had worked on major nearby projects, including the Orioles' stadium and the Raven facility, in addition to working for both Baltimore City and Baltimore County fire and police departments and various Federal Government agencies. Since 1983, he had been involved in approximately 5,000 residential installations and approximately 2,000 commercial installations. He stated that he was familiar with the Baltimore County Zoning Regulations and had assisted in developing guidelines for satellite/antenna zoning in addition to testifying before Congress relative to local zoning laws concerning satellite and

antenna installations. He currently teaches satellite education courses and was accepted as an expert in system design, placement and service integration of both satellite dishes and the antenna.

On cross-examination by Mr. Holzer, Mr. Frazier acknowledged that he was not licensed by the State, and that certification was needed only for the construction of systems. He opined that he had examined the Grahams' property and performed a site analysis. It was his opinion that the property had "peculiar" characteristics in the form of a wooded tree line and a descending level in the rear. It was his opinion that the present location was the best one for the installation of the units, since any other spot would require moving closer to the tree line, and as the angle became higher, one would need a taller pole, or need to cut down a substantial number of trees, in addition to making the tower more visible. It was basically a question of raising the pole 20 feet higher and also cutting down trees. Placing the units in any other location would increase aesthetic problems. He stated that the units could be placed on the roof, but if so, they would be even more visible to the neighbors.

On the property, he testified that there is a 10-foot satellite /antenna dish with black mesh which receives cable and national broadcasting channels, and international feeds, with some of the channels being pay channels and some free. The tower is approximately 19 feet tall supporting an 18-inch direct broadcast satellite (Direct TV), also local UHF /VHF antenna, and a data disk for business (a 3-foot dish), with a pole cemented into a supported

pad. There is a 10-foot dish on the ground, and in his opinion, the Grahams are probably under the Code requirement as to height. He opined that the Direct TV dish could be moved to the roof or anywhere between the house and the antenna, and in a clear area could be as low as 2 feet off the ground. However, everything would be more visible if moved closer to the house in a cleared area, and again, in his opinion the best place for reception on the subject property was the only place that he would have chosen had he originally been consulted. He indicated that the Grahams received broadcast only and that there are no outward broadcasting facilities.

Mr. Frazier indicated that the Grahams would lose all reception if the units were moved to the left and away from the road, as the ground level drops as one goes left, and in order to receive reception, the pole height would have to double or triple. The higher the pole, the more expensive it becomes, plus there would be wind problems in connection therewith.

If there were no aesthetic problem present, the unit could move forward 10 to 30 feet toward the house, but evergreens now planted would not shield the unit and it would also be even more visible to neighbors. Mr. Frazier explained that the longer the cable, the less signal degradation. Referencing Petitioners' Exhibit No. 4, Mr. Frazier located a line where the dish could be moved forward in a straight line toward the house, but again he indicated it would be more visible but that the reception would be acceptable for the Grahams.

He further related some site problems: the other sites in the immediate area are not this large; the rear of the property slopes and rolls downward; the tree lines offered a challenge to anyone installing both the satellite dish and antenna. He stated that this site was "probably the most unique that I've seen in my history of this type of work." He related the FCC guidelines which differentiate between regular antenna and satellite, and if the regulations add substantial cost, they are not permitted by the FCC.

On cross-examination, Mr. Frazier acknowledged that he had visited the property in November 1997 and was aware that the pool was located after the antenna had been placed, but even if it had been placed where the pool is now located, trees would have to be cut and the pole would have to be taller. Any location for the satellite would have to be screened on the right. He stated that the slate roof was a problem because it cannot be sealed or bolted properly, although it could possibly be done for the right amount of money. He stated that, again, he felt the property to be unique because of the rolling countryside. He had observed the property by getting out of his car and walking down the street, in which he could see the top part of the dish from the road. During the course of his community investigation, he had not seen similar drop-offs and that a topographical map would show that. He indicated that if the pole were moved to the left, it would not be as noticeable but that it would have to be raised; and that if moved toward the road it would become more noticeable. Again he

stated that the current location was the best location "without creating aesthetic problems." It was his opinion again that the antennas could be placed on the roof with the proper tools, but again the aesthetic look would be "gaudy."

Mr. Frazier acknowledged that such roof installations are permitted by the Baltimore County Zoning Regulations as a matter of right, and that a 10-foot dish could also be installed on the roof legally and technically, but then in his opinion, the Baltimore County Zoning Regulations adversely affected this property because the Federal regulations state that you cannot prohibit the use or lessen reception on the part of the users.

On re-direct by Mr. Freilich, Mr. Frazier indicated that the total cost to move or dismantle the units would be about $3,500.00, and that he was not quite sure exactly where the backyard of this particular piece of property was located.

Mr. Gary Freund, a Code enforcement officer with the Baltimore County Code Enforcement Division, also testified. He indicated that he had testified before the Board of Appeals in the past. He stated that a formal complaint had been lodged with Department, and he had been assigned to make a site inspection, which was done on November 12, 1996. He observed, during his visit, a satellite dish and TV antenna which he concluded to be located on the side yard of the subject property. He referenced Baltimore County Zoning Regulations, Section 400.1.C and the policy manual that requires accessory structures to be in the rear yard of Baltimore County properties, which in the instant case applied to both the satellite

dish and the tower. A violation correction notice was forwarded by mail to the Grahams (Protestants' Exhibit No. 4). As of the hearing date, there had been no prosecution of the violation because of the subsequent Petition for Variance being filed. The general policy of the enforcement department is to await the outcome of the hearing.

On cross-examination by Mr. Freilich, Mr. Freund acknowledged that the complaint had been filed by Mr. Greg Morris, 19 Cooperfield Court. A yellow strip was drawn on Petitioner's Exhibit No. 4, Mr. Freund indicating that anything to the rear of the line would be concluded to be the rear yard. Petitioner's Exhibit No. 7 was admitted referencing the definition of a rear yard in the policy manual, section D5 - governed by drawing C - similar to the Grahams' situation, where the witness had drawn his line. Mr. Freund stated that he did not need to make any calculations since he was positive that the units were not in the rear yard. He did not search for any other area to place the units since that was not within the scope of his job. Based on his visual observation and experience, the units were in the side yard area, and therefore in violation of the regulations.

Mr. Thomas Moore, an agent with Gaylord-Brooks Realty, also testified. This firm was the developer of the Cooperfield subdivision. A declaration of covenants did exist which prohibited satellite dishes and was recorded in the Land Records of Baltimore County. It was the custom of Gaylord-Brooks to give all purchasers a copy of the covenants, although Mr. Moore could not confirm that

Dr. and Mrs. Graham had actually received a copy of the covenants. The covenants did specifically address accessory structures, which require written authority from Gaylord-Brooks before any installation can take place. To the best of his knowledge, the Grahams had not secured such permission. Subsequently, Gaylord-Brooks had given permission, conditional on the units being properly screened and not visible from Cooperfield Road. They were given one year (11/96-11/97) to perform these tasks. Apparently the dish is still visible although partially screened, with the tower clearly visible from the road. Gaylord-Brooks' current position was that if the dish could be screened with no visibility, it would be satisfactory but that the tower had to be moved to an area not visible from the road. The neighbors accepted this compromise but no answer had been received from the Grahams. In his opinion, the Grahams were still in violation of the covenants.

Mr. Moore stated that any such approval must come from the architectural committee of Gaylord-Brooks and that others had sought permission for such satellite dishes which had been denied, essentially because such dishes were inappropriate in this type of development. Mr. Moore stated that these types of restrictions generally apply to all Gaylord-Brooks developments, and not specifically just for this subdivision. He was not aware of any other antennas in the Cooperfield development and was not aware of any other reception problems in the area.

Mr. Moore stated that there were 13 lots in the subdivision, and that the Morrises, Prices, Currans and others had complained

about the Graham units. Petitioners' Exhibit No. 8 was admitted [a subdivision plat of Cooperfield]. Mr. Moore stated that he had gone to Mrs. Graham because of the complaint filed by the neighbors to Gaylord-Brooks on July 9, 1996; that he had met on the property with a satellite person after the installation, along with the Grahams' builder, a representative of the satellite company, Mr. Moore, Mrs. Price, Mrs. Morris and several other neighbors. Mr. Moore represented Gaylord-Brooks to see if a solution could be reached to resolve the dish and antenna problems. Mr. Moore stated that the conclusion drawn at that meeting was that the dish could be located somewhere else based on comments made by the satellite representative.

A second meeting on the subject site took place in November 1996 with Mr. Moore, the Grahams, the builder, and Harry Hink, the Grahams' architect. At that meeting, screening was discussed that would shield the dish from the road and also possible relocation of the antenna (tower) to an area not visible from the road area. A letter was composed on the site by the architect, Harry Hink; Mr. Moore subsequently checked with the community and they objected to the terms, but he let the letter stand and felt that he had struck a deal with the Grahams, and they also believed that to be correct.

In November 1996, a letter was written by Gaylord-Brooks granting conditional approval of the dish, etc. A letter dated October 29, 1996 was entered as Protestants' Exhibit No. 1 (also Petitioner's No. 10) , which was the architect's letter compiled as a result of the previous meeting on site with Mr. Moore trying to

be the peacemaker and trying to work out a solution that would be acceptable to all parties. Protestants' Exhibit No. 11 reflected a letter paraphrasing the conditions by Mr. Moore relative to the moving of the units, painting them black, and items not outlined in the letter of October 29, 1996.

Mr. Jonathan Price, 29 Cooperfield Court, a resident for 7 years, testified on behalf of the Protestants. He indicated that he lived on Lot No. 6 (Petitioners' Exhibit No. 8) and had attended the first day of the hearings. He identified the Currans' lot as No. 7, the Morrises' lot as No. 8, and the Grahams' lot as No. 13. He stated that Mr. Morris was away on business in California, and Mr. Curran was away in Virginia on business, but that both of the Morrises had attended day one of the hearing. He described the Cooperfield neighborhood as being approximately 7 years old, quite rural, farms to the east and north, with a topography that sloped downward, with all lots having some degree of sloping, and before development was totally wooded, with roughly 75 percent currently wooded at the present time.

Mr. Price's major concern centered around the eye sore created by the two units as one enters the development; and the diminution in value if the units continued to remain in place. He stated that to the best of his knowledge the pool had not yet been constructed at the time the units were installed and that some plant screenings had taken place about a year subsequent. He was aware of Gaylord-Brooks' attempt to mediate the problem, and he had seen the letter from Gaylord-Brooks to the Grahams. He testified that, as of

November 1, 1997, the units were not screened from the road, although as of the hearing date, the dish was partially screened while the tower was still visible. As one enters the Cooperfield development, 20 percent of the dish is still visible.

He acknowledged the presence of other dishes in the community, and that he had a dish in his backyard and an antenna on the rear of his roof. The Currans and the Morrises also had satellite dishes. He stated that his was not visible from anyplace but his backyard and that the Morris and Curran units were also located in their backyards and not visible from Cooperfield Court. All of these properties had slopes in the back, which varyingly dropped dramatically at the wood line. Eighty percent of his lot is wooded. The Currans' lot is more open, sloping towards the woods and stream. The Morrises' property is not as sloping, but also is not completely flat. He opined that his reception was not ideal, and that is why he placed his antenna on the roof. He stated he had attended the August 1996 meeting, and was aware of the second August meeting which consisted of the builder, the Grahams, their architect, and other neighbors. His wife attended that meeting at which it was agreed to have an independent expert appear, and a document was received from that expert.

On cross-examination, Mr. Freilich asked if Mr. Price would prefer to have the 50-foot antenna on the roof, and Mr. Price said that he would equally oppose that proposal. Mr. Price stated that his property and 6,000 sq. ft. house cost $600,000.00. He was not aware of the current value. He acknowledged that the Grahams'

house was much larger than his, approximately 2-1/2 times greater in size. Mr. Price acknowledged that, as per Petitioners' Exhibits 7 and 8, there were no other corner lots in the development; and that he had not gotten a permit when his antenna was installed, nor had he consulted with any professional engineer before doing so. He stated that to the best of his knowledge his unit is located in his rear yard and that it is not visible to any other neighbors. He acknowledged that he could not see the Grahams' property from his house nor could the Currans or Morrises. He also acknowledged that some of the Grahams' bushes that had been used for screening had grown in the last year around the dish, but that about 13 feet of the antenna is still visible.

Mr. Freilich called Dr. Alvin Graham to testify on behalf of the Appellants. Dr. Graham stated he was a retired physician, that he and his wife had purchased the lot in 1989, that the house still was not completed as of the hearing date, and he acknowledged the August 1996 meeting (actually two meetings; one in July and one in August); he did not remember the expert Smith at all, and that Mr. Denbow, his satellite man, had attended. He stated that he and his wife had screened the dish with the shrubbery (some pines, magnolia bushes and low shrubs) recommended by the builder at a cost of approximately $9,000.00 as of April /May 1997, and acknowledged that some of the dish is still visible but that progress is being made. He also agreed that the antenna is also visible. He stated that to the best of his knowledge no other neighbors, except those protesting, had complained about the units, and particularly the

neighbor directly across the street had not complained to him, nor had any of the other neighbors along the stretch of the development.

The Board has present in this case an unusual situation in which a Federal regulation is involved arising out of the passage by Congress of the "Telecommunications Act of 1996." Under that legislation the Federal Government sought to impose certain restrictions on State and local zoning regulations that would limit such authority, if the legislation imposed unreasonable limitations on reception of satellite-delivered signals, but reception is received by the antenna tower. Counsel for the Appellants has cited Neufield v. City of Baltimore, et al (820 F.Supp.963 (d) Md. 1993) arguing that FCC Regulations preempt local zoning ordinances. The FCC Regulation relevant to this provides:

> State and local zoning or other regulations that differentiate between satellite receive only antennas and other types of antenna facilities are preempted unless such regulations
>
> (a) ****
>
> (b) do not operate to impose unreasonable limitations on, or prevent, reception of satellite delivered signals but receive - antenna, or to impose costs on the users of such antennas that are excessive in light of the purchase and installation of the equipment.
>
> 47CFR Sec. 25.194(1986) At.968

At basic issue is whether or not the local regulations present in the Baltimore County Zoning Regulations (BCZR) and strict compliance would deny the Appellants of their rights under the FCC regulation as it applies to the Appellants' property located at One

Cooperfield Court in Baltimore County.

The Appellant does not question the authority of the Baltimore County Council in enacting satellite legislation as to location, size, and other requirements, but only that when applied to the Appellants' property, it is unconstitutional. (N.B. The Neufield case pertained to an issue of adequate reception as to a satellite dish that could be positioned anywhere but a front yard.) [See also Wilson v. Mayor and City Council of Baltimore, 582 A.2d 1225, 321 Md. 324 (Md.App.1990).]

Those portions of the BCZR in relevant part that are applicable to the instant case follow:

> 429.1 Satellite receiving dishes are permitted as accessory structures in all zones. When located on the roof of a building, an accessory satellite receiving dish shall be considered an accessory radio or television antenna, and it is not subject to the provisions of this section.
>
> 429.2 When located in residential zones, accessory satellite receiving dishes shall be located in the rear yard of a lot unless such location hinders reception, and the owner requests a variance. In addition, the dish shall be no larger than 10 feet in diameter.
>
> 429.3 In residential zones, the size of a satellite dish and its location on a lot are subject to the provisions of Section 307.
>
> 429.4 Principal satellite receiving dishes shall be considered wireless transmitting and receiving structures and are subject to the regulations governing such structures.

Additionally, Section 300 of the BCZR prescribes certain height limitations for satellite dishes as follows:

> 300.1A -- ...A satellite receiving dish is subject to the height limitations of the zone in which the dish is located. However, in residential zones, the height of an accessory satellite dish may not exceed 15 feet unless it is located on the roof of a building.
>
> 307.1 -- The zoning commissioner of Baltimore County and the county board of appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The Zoning Commissioner in his opinion considered the antenna (tower) to be an accessory structure, and not a wireless transmitting and receiving facility. The Board has also considered the presence of an antenna (tower) on Appellants' property and its applicability in this matter. Section 400 of the BCZR governs accessory structures and recites in relevant part:

> 400.1 -- Accessory buildings in residential zones...on corner lots they shall be located in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third.
>
> 400.3 -- The height of accessory buildings, except as noted in Section 300, shall not exceed 15 feet.

The Board, having heard two days of public testimony, having examined the evidence, and having reviewed the Briefs submitted by counsel, has unanimously concluded that the Protestants' Motion to Dismiss the Petition is to be denied; and the Petition for Variance

is also denied.

It is unquestioned that the Appellants purchased the Cooperfield lot in 1989, in an upscale development consisting of a limited number of lots. They purchased the only corner lot in the development by choice, and also the largest lot in the development (11.4 acres). The home they elected to construct is a massive one consisting of approximately 15,000 sq. ft. on three levels. Mrs. Graham acknowledged that construction costs were running in the area of 2-1/2 million dollars; and that at the time she and Dr. Graham had moved into the house, an occupancy permit had not been secured from the County. The house was still not completed as of the hearing dates. The property had been cleared of trees in the front, and she acknowledged that a substantial number of trees had been removed in the construction process.

Apparently during this entire construction process, the Appellants had not consulted any professional opinion concerning satellite reception. The Appellants had attempted to place the antenna in the attic, but it would not fit; and throughout the entire proceeding, it was quite evident that the Appellants did not want the units on the roof, because of the slate condition and the fact that they would detract from the appearance of the house.

It is inconceivable to the members of this Board that such highly educated individuals as the Appellants would not investigate the matter of reception in their selection of a lot for home construction, if that were a matter of vital importance to them -- as such it was -- or even determine if any covenants or restrictions recorded in the Baltimore County Land Records applied

in the development before opting to such a purchase of the property and investment of over $2,000,000. Indeed, Mrs. Graham stated that both the dish and tower were in place before they elected to install a new swimming pool.

While the Appellants had Mr. Denbow and Mr. Frazier testifying on their behalf, the Board determined their testimony to be less than convincing. In his testimony, Mr. Denbow explained in technical detail how the installation process works and operates. He stated in the transcript that the Grahams wanted the dish placed where they would get the best reception, while cutting the least number of trees. It was not where they would get the best reception but qualified "without cutting the least number of trees" (T. p 67) and that he was able to find such a location "right where it is." While Mr. Denbow does state further in the transcript that there was no other place the dish and antenna could be located for similar reception, that is cautioned by the fact that the woods were creating the problem. As for the antenna, Mr. Denbow stated that he looked for the highest spot for the antenna tower, the greatest distance from the trees, and that the closer to the trees, the lower the quality of reception. He also testified that, if the Grahams were to place the antenna or dish on the roof, they would get reception equal to what they presently receive. [T. p 86]

The testimony of Mr. Frazier indicated that he had performed a site analysis and described the property as "peculiar" by reason of its wooded tree line and descending level. His basic testimony essentially confirmed his belief that the present location of the units was the best spot for the units, but that they could be

relocated if the tower were made higher or a large number of trees were eliminated. The roof location did not appear to be a problem, except for the mounts (slate roof and chimney) and basic aesthetics. While he believed the site to be unique by reason of its size in relation to the other lots in the development, he acknowledged that slopes and rolling country side were consistent throughout the development.

The testimony of Mr. Price also confirmed the wooded nature of most of the lots in the area. The Board had the opportunity to see the location and view both the tower and dish from Petitioners' Exhibit No. 12 (A, B, C, and D). Mr. Price also confirmed that those other residents in the subdivision who have rear yards that possess characteristic sloping features have located the satellite dishes in the rear yards, so that they are not visible from the road or other homes in the development. As a 7-year resident of the area, he saw nothing unusual, unique or different about the Grahams' property in comparison to other existing homes. Mr. Price admitted to a small dish in the rear portion of his property and an antenna on the rear portion of his roof with adequate reception. He acknowledged other dishes in the community, but none of these are visible from the road as is that of the Appellants.

Efforts made by Gaylord-Brooks to resolve the dispute had not been fruitful, since the Appellants appeared convinced that the existing location is the only location available for receiving wireless transmissions.

The Board in denying Appellants' request for a variance has considered the requirements for the granting of a variance under

Section 307 of the BCZR; Cromwell v. Ward, 102 Md.App. 691 (1995); and North v. St. Mary's County, 99 Md.App. 502, 638 A.2d 1165 (1994) .

Pursuant to Section 307 of the BCZR, variances "may be granted only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance and where strict compliance...would result in practical difficulty or unreasonable hardship."

North states:

> In the zoning context, the "unique" aspects of a variance requirement does not refer to the extent of the improvement upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other restrictions. In the respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls. 99 Md.App. 514

Cromwell states as follows:

> The first step requires a finding that the property...is -- in and of itself -- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty *or unreasonable hardship*.

The Board has also considered cases referenced by counsel for the Appellant (McLean v. Soley, 270 Md. 208; 210 A.2d 783 [1983]); relating to tree retention and does not believe it to be applicable in the instant case. The Board, as a finder of fact, has concluded

from the testimony and evidence that the Appellant has not met his burden of establishing sufficient uniqueness as required by the Maryland Courts to justify the granting of a variance in this case. Aside from lot size and size of the house (which was the choice of the Appellants), there is nothing unique about the subject lot - with all lots in the subdivision being hilly, sloping to a degree, partially wooded, and with open areas within the building envelope. While it is not necessary to dwell on the second requirement of Cromwell, that is, practical difficulty, the fact that the units could be relocated to comply with the local regulations as expressed in the transcript, the Board does not consider these to be oppressive, nor constituting practical difficulty, in light of the cost of the present house.

The Board also concurs with the observation stated in Protestants' Brief that, while the Petitioners did not include the antenna in their request for relief, the antenna (tower) is in violation of the zoning regulations, and needs to be in compliance with the zoning regulations without delay. The Petitioners should not benefit from filing an incorrect variance Petition under the wrong section of the BCZR, omitting the antenna, for which a citation already has been issued, with such action benefitting the Petitioners, since the violation was issued in the Fall of 1996; and, because of the appeal to this Board, no enforcement action has been taken by the appropriate Baltimore County agency. The Protestants are entitled to enforcement without additional, endless months of litigation which is detrimental to the interests of the Protestants.

**O R D E R**

**THEREFORE, IT IS THIS** 18th day of June, 1998 by the County Board of Appeals of Baltimore County

**ORDERED** that Protestants' Motion to Dismiss Petition be and the same is hereby **DENIED**; and it is further

**ORDERED** that the Petition for Variance to allow a detached accessory structure (satellite dish /antenna) to be located in the front and side yard of the subject property, in lieu of the required rear yard, 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**

Charles L. Marks, Acting Chairman

Margaret Worrall

Thomas P. Melvin

County Board of Appeals of Baltimore County

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

June 18, 1998

Michael L. Freilich, Esquire
MICHAEL FREILICH & ASSOCIATES, P.A.
305 Washington Avenue
Suite 303
Towson, MD 21204

RE: Case No. 97-283-A
Alvin R. Graham, et ux -Petitioners

Dear Mr. Freilich:

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, **with a photocopy provided to this office concurrent with filing in Circuit Court.** 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,

Charlotte E. Radcliffe for

Kathleen C. Bianco
**Administrator**

encl.

cc: Mr. and Mrs. Alvin R. Graham
J. Carroll Holzer, Esquire
Dee and Nancy Curran
Patrick M. O'Keefe
Thomas O. Moore
Mr. and Mrs. Greg Morris
Mr. Jonathan Price
People's Counsel for Baltimore County
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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|---|---|---|
| IN RE: PETITION FOR ZONING VARIANCE<br>SEC Cooper Rd. and Cooperfield Court<br>1 Cooperfied Court<br>10th Election District<br>6th Councilmanic District<br>Alvin R. Graham, et ux<br>Petitioners | *<br><br>*<br><br>*<br><br>*<br><br>* | BEFORE THE<br><br>ZONING COMMISSIONER<br><br>OF BALTIMORE COUNTY<br><br>Case No. 97-283-A |

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on a Petition for Variance for the property located at 1 Cooperfield Court in Phoenix. The Petitioner is filed by Alvin R. Graham and Marva C. Graham, property owners. As filed, variance relief is requested from Section 400.1 of the Baltimore County Zoning Regulations (BCZR) to allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard of the subject property, in lieu of the required rear yard. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit No. 1.

Appearing at the public hearing held for this case were Alvin R. Graham and Marva C. Graham, property owners/Petitioners. Also present in support of the Petition was Patrick M. O'Keefe, a Zoning Consultant, retained by the Petitioners. Larry Link, Jr., an Architect, engaged by the Petitioners also appeared and testified. Thomas O. Moore, Greg and Elizabeth Morris and Jonathan Price all appeared as interested persons/Protestants.

Testimony and evidence presented was that the subject property is 11.396 acres in area, zoned R.C.4. The property is located adjacent to the intersection of Cooper Road and Cooperfield Court in Phoenix. This is

a rural locale which features mostly farms, agricultural uses and single family dwelling communities. The subject property is part of the subdivision known as Cooperfield. This is a subdivision of large lots which contain substantial single family dwellings.

Mr. and Mrs. Graham have owned the property for several years and are constructing a dwelling thereon. Testimony and evidence offered was that this construction has been difficult in that the Grahams have had a series of problems with their building contractors. At present, the house is not complete. Photographs were submitted of the dwelling which show that same is under roof, however, additional work needs to be done. I also visited the site following the hearing and it was obvious that the construction is incomplete. The driveway and certain exterior portions of the dwelling are not finished. It is obvious, however, that the house is very large and no doubt constitutes a substantial investment.

The Petition for Variance is filed in order to legitimize the location of a satellite dish which is located on the property. Apparently, the dish was installed some time ago and has been the subject of a dispute between the property owners and members of the community. The dish is quite large and is located on that portion of the lot nearest Cooperfield Court. In addition to the dish, a large antenna structure is located nearby in the same portion of the yard. It was explained at the hearing that the dish was constructed so that the property owners can receive satellite television and the antenna constructed so that local television channels can be received. Although no specific measurements were presented at the hearing, my site visit leads me to estimate that the dish in approximately 10 ft. in diameter and approximately 12 ft. high. The antenna appears at least 20 ft. in height.

As noted above, a Petition for Variance has been filed seeking relief from Section 400.1 of the BCZR. As filed, this request is manifestly improper. Section 400.1 regulates the location of accessory buildings in residential zones. An accessory building is defined in Section 101 of the BCZR as, "One which is subordinate and customarily incidental to and on the same lot with a main building. . ." By both definition and policy, Section 400.1 has been applied to regulate barns, sheds, garages and similar structures. However, that section does not regulate satellite dishes, in that same are specifically regulated elsewhere in the BCZR.

Satellite dishes are specifically governed by Section 429 of the BCZR. Section 429.1 states that satellite dishes are permitted as accessory structures in all zones. Section 429.2 indicates that when located in residential zones, accessory satellite receiving dishes shall be located only in the rear yard of a lot unless such location hinders reception and the owner requests a variance. For the purposes of this section, the R.C.4 zone is considered a residential zone. (See Residential Zone definition- Section 101- Baltimore County Zoning Regulations).

Moreover, Section 300.1.A of the BCZR prescribes certain height limitations. That section specifically states that, in residential zones, the height of an accessory satellite dish may not exceed 15 ft. Therefore, it is clear that pursuant to these sections, the dish can be located only in the rear yard of a lot unless such location hinders reception and that the dish may not exceed 15 ft. in height.

A substantial amount of testimony was offered by the Petitioners about efforts which would be made in the future to shield the dish from view. Additionally, the Protestants who appeared all expressed concerns over the esthetic impacts of the dish. The Protestants testified that the dish's location on the corner of Cooperfield Court and Cooper Road was

highly visible to visitors and residents of the subdivision. Although this testimony is relevant, it ignores the primary focus of the regulation, i.e., whether the dish could function at a location in the rear yard.

The Petitioners failed to offer any persuasive testimony that the dish could not be located elsewhere for reasons related to its function and reception. To the contrary, a copy of a letter was received, signed by Marva C. Graham, one of the Petitioners, which states, in part, "If dish is still visible as of November 1, 1997, Dr. Graham will be responsible for its relocation of another negotiated location on the site." This statement by the Petitioner, is persuasive that the dish need not remain where presently situated for reasons related to its reception and function. Thus, the Petitioner has failed to meet that requirement contained within Section 429 which would justify variance relief.

An additional question which need be addressed relates to the location of the rear yard on the subject property. Although the regulation requires that the dish be located in the rear yard, it is difficult to determine exactly where the rear yard is on this property. The term "rear yard" is defined in Section 101 of the BCZR as, "A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building." In this case, it is difficult to determine the precise orientation of the dwelling, in part, due to the fact that the building is incomplete. Moreover, the large size of the building and large lot means that there will, no doubt, be several entrances to the dwelling. Moreover, it is of note that the subject property's address is #1 Cooperfield Court and the driveway which leads to the dwelling accesses that road.

Based upon all of these factors, I conclude that the dish is located in the side yard. The house appears to face the intersection of Cooper Rd. and Cooperfield Court and the dish is located in the side yard. Thus, variance relief is necessary, even under Section 429.

Lastly, although not the subject of the Petition, some discussion is warranted relative to the antenna. The BCZR regulates wireless transmitting and receiving facilities. However, the subject antenna does not appear to fit that description. This is not a transmitting device, only utilized to receive local television signals. Instead, the structure should be considered an accessory structure which would be governed by Section 400.1 of the BCZR. That section requires that on a corner lot, the antenna must be located on the third of the lot farthest removed from any street. In this case, irrespective of the designation of the side and rear yards, the antenna is not located on that third of the lot farthest removed from either Cooper Road or Cooperfield Court. Thus, the present location of the antenna is improper under the BCZR. Therefore, both the satellite dish and antenna are improperly located.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of March, 1997 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (BCZR) to allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard of the subject property, in lieu of the required rear yard, be and is hereby DENIED.

Any appeal from this decision must be taken in accordance with the applicable provisions set forth in Section 26-132 of the Baltimore County Code.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

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

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**Case No.: 97-283-A**

**IN THE MATTER OF:** Alvin R. Graham, ET UX-
Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

## MEMORANDUM OF LAW AND FACT

I

On or about January 1, 1997, **Alvin R. Graham and Marva C. Graham, Petitioners**, jointly and severally herein **"Graham,"** filed a Petition for Variance (**Petition**) with the Zoning Commissioner of Baltimore County for the property located at 1 Cooperfield Court, after receiving a November 19, 1996, notice of a Baltimore County Uniform Code Violation, from the Baltimore County Department of Permits and Development Management. Graham requested variance relief from the Baltimore County Zoning Regulations (**BCZR**) to allow a detached accessory structure (**satellite dish and antenna**) to be located in the front side yard of the subject property, in lieu of the required rear yard.

Section 429 of the BCZR governs satellite dishes. Section 429 provides in pertinent part:

> 429.1 -- Satellite receiving dishes are permitted as accessory structures in all zones. When located on the roof of a building, an accessory satellite receiving dish shall be considered an accessory radio or television receiving antenna, and it is not subject to the provisions of this section.
>
> 429.2 -- When located in residential zones, accessory satellite

> receiving dishes shall be located in the rear yard of a lot unless such location hinders reception, and the owner of request a variance. In addition, the dish shall be no larger than 10 feet in diameter.
>
> 429.3 -- In residential zones, the size of a satellite dish and its location on a lot are subject to the provisions of Section 307.
>
> 429.4 – Principal satellite receiving dishes shall be considered wireless transmitting and receiving structures and are subject to the regulations governing such structures.

Section 300 of the BCZR prescribes certain height limitations for satellites:

> 300.1.A. . . . A satellite receiving dish is subject to the height limitations of the zone in which the dish is located. However, in residential zones, the height of an accessory satellite dish may not exceed 15 feet unless it is located on the roof of a building.
>
> 307.1 -- The zoning commissioner of Baltimore county and the county board of appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty of unreasonable hardship.

Though not subject to Graham's Petition, the antenna is also in an issue in this matter.

According to Lawrence E. Schmidt (**Schmidt**), Zoning Commissioner for Baltimore County, Graham's antenna is to be considered an accessory structure, not a wireless transmitting and receiving facility. Section 400 of the BCZR, which governs accessory structures, provides in pertinent part:

> 400.1 -- Accessory buildings in residence zones . . . on corner lots they shall be located in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third.

> 400.3 – The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet.

On March 21, 1997, Schmidt denied Graham's Petition. Schmidt wrote in his Finding of Fact and Conclusions of Law (**Finding of Fact and Conclusion of Law**) that:

> The Protestants testified that the dish's location on the corner of Cooperfield Court and Cooper Road was highly visible to visitors and residents of the subdivision. Although this testimony is relevant, it ignores the primary focus of the regulation, i.e., whether the dish could function at a location in the rear yard . . .
>
> the Petitioners failed to offer any persuasive testimony that the dish could not be located elsewhere for reasons related to its function at a location in the rear yard.

Schmidt denied Graham's Petition because he was not convinced the satellite would not function if located in the rear yard.

Graham appealed Schmidt's decision, and the matter was heard, de novo, by the County Board of Appeals for Baltimore County (**Board of Appeals**) on October 1, 1997, and January 20, 1998.

II

A variance, is "authority . . . to use his property in a manner forbidden, " Cromwell et. al., v. Ward 102 Md. App 691. To award a variance to Graham, the Board of Appeals must find the parcel of land commonly known as 1 Cooperfield Court to be unique and due to it's uniqueness complying with BCZR section 429.3, would cause hardship to Graham.

In Cromwell et. al., v. Ward, the Court held that uniqueness of a property for zoning purposes requires:

> the subject property have an inherent characteristic not shared

> by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

Testimony was given on both October 1, 1997, and January 20, 1998, to the uniqueness of 1 Cooperfield Court's topography, subsurface conditions, and environmental factors.

On October 1, 1997, Marva Graham testified:

> Our land is cleared more in the front and it slopes down towards the back. And then it's wooded more in the back and on the sides (page 29, 19-20) . . . There are wetland[s] at the edge, back edge of the lot (31, 10-1).

Marva Graham also testified about a general westward sweep in the rear yard of 1 Cooperfield Court.

On January 20, 1998, Walter Frazier (**Frazier**), an expert witness, testified 1 Cooperfield Court, has the most unique installation of a satellite and antenna he has ever seen due to the uniqueness of the property. Frazier holds certifications from Society of Private and Commercial Earth Stations and the Satellite Broadcast Communications Association. The company he founded in 1983, Stansbury/Decker Systems Specialist, is rated as one of the best companies in the nation for Satellite technology installations and service. He has designed many of the areas finest Satellite installations including systems for the Maryland Stadium Authority, the Orioles, the Ravens, the FDA, the Justice Department, the Social Security Administration and NASA. Frazier teaches training courses. His areas of expertise include system design, integration, placement, and system services. Frazier testified the property was very large, heavily wooded,

with many hills and very soft ground.

A topographical map was admitted into evidence as, Petitioner's Exhibit 8. This map speaks for itself and shows the peculiarity's and uniqueness of 1 Cooperfield Court.

In addition to the topography, subsurface conditions, and environmental factors, 1 Cooperfield Court is unique in that there is an unusual architectural structure which makes calculating the rear yard difficult. In his Finding of Fact and Conclusions of Law, Schmidt writes:

> it is difficult to determine exactly what the rear yard is on this property. The term "rear yard" is defined in Section 101 of the BCZR as, "A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building." In this case, it is difficult to determine the precise orientation of the dwelling, in part, due to the fact that the building is incomplete. Moreover, the large size of the building and large lot means that there will, no doubt, be several entrances to the dwelling.

What constitutes the rear and side yards at 1 Cooperfield Court is debatable.

Perhaps what makes 1 Cooperfield Court most unique from the neighboring parcels of land is it's inability to receive good quality reception when satellites and antennas are installed in the rear yard. On January 20, 1998, Jonathan R. Price (**Price**), Protestant, and resident of 29 Cooperfield Court, testified he has a satellite in his rear yard and that he receives good reception. Price was also not qualified as an expert. The definition of the Price's "backyard" and the Graham's backyard are substantially different. The topography map, Exhibit 8 shows the only lot to use the BCZR method of determining the backyard is the Grahams! Price also testified that Mr. and Mrs Curran and Mr. and Mrs. Morris, all residents of Cooperfield Court, also have satellites in their rear yards. Graham would not be able to receive good reception if his satellite

and antenna were installed in the rear yard of 1 Copperfield Court.

According to Frazier's expert opinion the current location is the only location available to serve all interested parties. It is true the antenna farm can be moved move forward, perhaps 150 feet closer to the house, and could even be placed on the roof. But if either of these options were exercised the antenna farm would be much more evident, exposed and visible. If the antenna farm were moved towards the woods or left at its current location the owners recption would be impacted by both a loss of channel capacity and a deteriation of signal quality at the same time. The trees would prevent signal penetration to the antenna farm and would result in the loss of system performance. Mr. Frazier testifed it was clear to his understanding of the requirements for proper reception in the topography of the land in this case, that any location, except those indicated, would be detrimental to the systems reception. Graham, Frazier and Denbow all testified concerning the quality of reception if the antennas and satellite dish were in the rear yard.

The topography of the subdivision shows different elevations by almost 100 feet. The bottom line is the topograpy of 1 Cooperfield Court is different than any other parcel in the subdivision -- the tree line, the hills, the location of the rear yard as determined by the BCZR are different in kind and substance from other lots.

Frazier and Jack Denbow, also an expert in satellite installation , and who installed Graham's satellite, and Counsel for the Protestants, questioned Frazier about placing the satellites and antennas in the rear yard, behind the pool. Frazier explained an enormous amount of trees would need to be cut down and the antenna tower would need to be raised an additional twenty feet in order to receive quality reception. At the October 1, 1997, hearing on cross-

examination by the Protestants counsel, Denbow also testified to the possibility of placing the satellite and antenna behind the pool. The transcript from the October 1, 1997, hearing provides in pertinent part:

> JACK DENBOW: You're going downhill. You can see the grade of the ground [g]oing down. You're going down the hill and getting closer to the trees. . . How are you going to get a nice degree angle out of there? You'd have to cut have the woods out. . The further down you go, the worse it gets. (Pages 69-70 line 9-13; 1)

Denbow has been installing satellites and antennas for 42 years. It is Denbow's expert opinion that the satellite and antenna could not be installed in the rear yard of 1 Cooperfield Court. Protestant's counsel did not offer any expert testimony to refute Frazier's and Denbow's opinions.

Cromwell et. al., v. Ward provides:

> Variances may be granted "where special circumstances or conditions exist that are peculiar to the land . . . and where strict compliance . . . would result in practical difficulty

It is peculiar that 1 Cooperfield Court has so many tall trees in its rear yard that a satellite and antenna would not be able to receive quality signals if located in the "rear yard" as defined by **BCZR**. Frazier and Denbow both testified that a satellite may receive quality signals in the rear yard if a multitude of trees were cut down, and the antenna tower was raised. Cutting down enough trees to receive quality signals would not only be a financial hardship to Graham, but a environmental hardship to the community.

In Cromwell, et. al. V, Ward, the Court, references McLean v. Soley, 270 Md. 208,210, A.2d 783(1973), which provides in pertinent part:

> the applicant for an area variance in connection with an application to build forty units asserted that it was his desire to retain the "present trees and natural growth, terrain, and topography which provides excellent drainage and natural screening and beauty." There was evidence that, if the applicant destroyed the existing trees, he could have built 330 units without needing the variance. It was established that a number of attractive trees along the western boundary would have to be destroyed absent a variance. The Court noted "there was considerable evidence to show the natural beauty of these trees and their importance to the ecology."

Instead of destroying perhaps hundreds of trees in the rear yard to receive quality satellite reception, Graham installed the satellite tower in the side yard of 1 Cooperfield Court, and planted trees to shield it. In McLean v. Soley, the Court opined:

> Given the unique facts of this case, we think those criteria are met by this evidence: that the construction of the buildings in strict compliance . . . requirements would result in the destruction of trees; that the . . . benefit of retaining trees would accrue to the general public.

The rear yard of 1 Cooperfield Court abuts wetlands. Requiring Graham to move the satellite tower to the rear yard and chop down trees in order to receive signals would be detrimental to the entire eco system. Graham does not believe he could cut down more trees, even if he wanted to, due to the wetlands, and the amount of trees already removed from his parcel.

According to Cromwell et. al., v. Ward, in order to be awarded a variance it must be:

> show that the difficulties or hardship were peculiar to the property in question in contract with those of other property owners in the same district, and . . . that the hardship was not the result of the applicants' own actions.

The hardship in this matter is not a result of Graham's actions. There is no other place on the Graham property to put this equipment - except, perhaps, the roof of the home.

If a variance isn't granted, Graham's hardship may be the expense of relocating the satellite and antennas to the roof, but more likely it would be the hardship of not having any television reception. Graham could put the satellites on the roof. This would mean spending thousands of dollars to reinforce the roof and transferring the equipment from the ground to the roof, if it could be done at all. Both Denbow and Frazier testified, placing the satellites on the roof would be a poor solution for all parties involved. If the satellite and antenna is moved to the roof it will be much more visible to the community and an eyesore to all. If Graham is not granted a variance, and forced to adhere to **BCZR 429.3**, Graham will not be able to have his satellite reception, and this would be a violation of FCC Regulations.

According to Neufeld v. City of Baltimore, et. al. (820 F.Supp. 963 (d) Md. 1993) the FCC Regulations preempts local zoning ordinances. The FCC Regulation relevant to this provides:

> State and local zoning or other regulations that differentiate between satellite receive only antennas and other types of antenna facilities are preempted unless such regulations
>
> (a) * * * *
>
> (b) do not operate to impose on reasonable limitations on, or prevent, reception of satellite delivered signals but receive - antenna, or to impose costs on the users of such antennas that are excessive in light of the purchase an installation of the equipment.

47CFR §25.104 (1986) At. 968

It is the Graham's position that to effectuate the local zoning ordinance with strict compliance on the Grahams would be a denial of their constitutional rights under the FCC Regulation and as it

is applied under this particular parcel of land. Not that the zoning regulation is unconstitutional, but its application is unconstitutional. The Neufeld case dealt with the issue of adequate reception in locating his dish anywhere but his front yard. See also Wilson v. Mayor and City Council of Baltimore, 582 A.2d 1225, 321 Md. 324 (Md. App.1990).

Respectfully Submitted

Michael L. Freilich, Esquire
Michael Freilich & Associates, P.A.
305 Washington Avenue, Suite 303
Towson, Maryland 21204
(410) 321-0040

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY,** that on this 16 day of March, 1998, a copy of the foregoing Memorandum of Law and Fact was mailed First class, postage prepaid to J. Carroll Holzer, 305 Washington Avenue, Suite 502, Towson, Maryland 21204.

Michael L. Freilich, Esquire
Michael Freilich & Associates, P.A.
305 Washington Avenue, Suite 303
Towson, Maryland 21204
(410) 321-0040

F:\GRAHAM\ZMEMOR.WPD

| | | |
|---|---|---|
| IN THE MATTER OF | * | BEFORE THE |
| ALVIN R. GRAHAM, ET UX.- | * | COUNTY BOARD OF APPEALS |
| PETITIONERS | * | CASE NO. 97-283-A |
| 1 COOPERFIELD COURT | * | |

* * * * * * * * * * * * *

## PROTESTANTS' MEMORANDUM

The Protestants, Mr. and Mrs. Greg Morris, 19 Cooperfield Road; Mr. and Mrs. Dee Curran, 25 Cooperfield Court; and Mr. and Mrs. Jonathan Price, 29 Cooperfield Court, by their attorney, J. Carroll Holzer, Holzer & Lee, hereby submit this Memorandum in lieu of final oral argument.

## STATEMENT OF THE CASE

This case arose as a result of Baltimore County Zoning Inspector Gary Freund's issuing a Baltimore County Code Violation Notice No. 100327 on November 19, 1996 to Alvin and Marva Graham of 1 Cooperfield Court (Protestants Exhibit #4). The Zoning Violation Notice and the testimony of Gary Freund support the fact that a satellite dish and a television antenna are both in violation of the Baltimore County Zoning Regulations in that they must be located in the rear yard. The Grahams were ordered to correct these violations by December 4, 1996, which they failed to do. However, to forestall enforcement by the County, the Grahams did file a Petition for Variance requesting relief for a satellite dish antenna to be in the front or side yard of their property.

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TOWSON, MARYLAND
21204

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(It should be noted no request was made in the Petition for Variance for the television antenna which is still in violation and has been since November of 1996.)

The Petition for the Variance was heard before the Zoning Commissioner for Baltimore County. His Order of March 21, 1997 denied the Variance requesting a satellite dish in the side yard. He further ruled that the television antenna, while not being the subject of the Petition for Variance, was improper under the Baltimore County Zoning Regulations and must either be varied or corrected. He noted (Page 5) that Petitioner's Request did not cover the television antenna. From this decision, the Petitioners appealed to this Board. Two hearing dates were held for the taking of testimony and presentation of the case. The Board has scheduled that this Memorandum be submitted by March 16, 1998, and a deliberation will be held on April 1, 1998.

## STATEMENT OF FACTS

Petitioners Graham reside at 1 Cooperfield Court, which is located in the Phoenix area of Baltimore County. The subject property is 11.396 acres, zoned RC-4. It is one lot in a subdivision of large lots which contain substantial single-family dwellings. The subdivision is know as "Cooperfield". The property is located adjacent to the intersection of Cooper Road and Cooperfield Court in Phoenix. This is a rural location, which features mostly farms, agricultural uses, and single-family dwelling communities.

The Grahams have owned the undeveloped lot for several years and have constructed a large dwelling thereon. At present, the house apparently is still not complete while the Grahams are residing in it without an occupancy permit, at least as of the beginning of the County Board of Appeals hearing. Graham had already constructed a large satellite dish as well as a large metal

antenna structure both located together not in the rear yard as required by the Zoning Regulations, but in the side yard, as testified to by Mr. Freund, the Zoning Inspector. The size and specifics of the satellite dish and television antenna structure were detailed in testimony. (Additional satellite dishes have been added to the structures since they were originally constructed and cited by Freund).

The Petition for Variance was filed in order to legitimize the location of the satellite dish, but as previously stated, there was no request for variance or other relief in regard to the large antenna structure which was also in violation, and is still in violation on the property.

The Zoning Commissioner recognized the incorrect and incomplete nature of the filing by the Petitioners in this case in his Opinion on Page 3. The Zoning Commissioner is correct- "This request, a Variance from Section 400.1 of the BCZR for the satellite dish is manifestly improper." Section 400.1 regulates the location of accessory buildings in residential zones, and by definition, the Section does not regulate satellite dishes because satellite dishes are specifically regulated by Section 429 of the Baltimore County Zoning Regulations. Section 429.2 regulates the requirements for a Variance of a satellite dish. The Zoning Commissioner also pointed out that Section 300.1.A of the BCZR prescribed a fifteen (15) foot height limit to the accessory satellite dish. The requested Petition does not cover the antenna, which is not a wireless transmitting and receiving facility. The antenna should have been requested as an accessory structure, governed by Section 400.1 of the BCZR.

The Protestants made two motions at the beginning of the hearing. Motion number one was that the Petition for satellite dish as filed was an improper request and should have been dismissed. If it is not, the question becomes whether or not the evidence supports the granting of

the Variance for the satellite dish. Protestants second motion related to the antenna, which was not the subject of any requested relief, and currently stands as a zoning violation, which should be corrected. The thrust of Protestants' motions was that we could go through this whole case, and litigate the matter, and then have to redo it all for the antenna, which would simply drag out the proceedings and delay the removal or compliance by the Grahams even longer. To date, nothing has occurred since November of 1996, and in March of 1997 the Zoning Commissioner ruled these two facilities were improper and in violation of the Zoning Regulations. Now we are in March of 1998, and the antenna and satellite dish are still in existence, with the likelihood that there will not be any relief for the Protestants from this violation. Even after the Zoning Commissioner's warning as to the antenna, the Petitioners failed to amend their request to resolve this matter promptly, which shows their intent to dely the ultimate resolution of this violation.

Summary of Testimony

The Protestants herein will not attempt to summarize all of the testimony. Suffice it to say, the CBA took many notes during both hearing days, of the direct testimony and cross-examination and can draw their own conclusions. Protestants would simply point out a few facts arising from that testimony:

- Mrs. Graham testified that the antenna and the dish were located prior to the time that the swimming pool was installed. (The swimming pool site would have been a potential accessible location which was forestalled by the Grahams reserving that area for the pool, rather than for the antennas and dish.)

- Mrs. Graham testified that the antenna could be put on the roof, but for the aesthetic considerations.
- Mrs. Graham acknowledged back on October 29, 1996 when she had no reason to say otherwise that the antenna and dish could have been relocated to a more remote location on her site to be totally concealed from view, and she agreed that the antenna could be relocated to another site (Protestants Exhibit #1). This document was relied upon by the Zoning Commissioner to support the fact that other alternative spots could be found. It is clear that had the Grahams considered the location of the dish and the antenna first before planning the pool, they would have had more area to lawfully locate the dish and the antenna. By their own actions they eliminated alternative locations.
- Jack Denbow testified the antenna and the dish were placed <u>before</u> the pool was installed.
- Denbow testified that the cost to move the antenna was minimal- in the area of $350.00 to $400.00.
- Mr. Walter Frasier of the Stansbury Satellite and Antenna Systems testified as an expert witness for Petitioners but whose testimony supported the Protestants position when he indicated the following:

    1. That there were other areas that the dish and the antenna could be moved to if the antenna and dish were placed on higher poles to avoid the tree line interference.

2. He acknowledged that there were other locations, including the roof of the house that could be appropriate with proper screening.

3. He testified that there were no other locations they could be moved to "without increasing aesthetic problems". This clearly reflects subjective judgment as to the issue of alternative sites.

4. He testified that the antenna could be moved also, as long as it was elevated. (Again, if it were in the rear yard with higher elevation it would not be seen by the Protestants from adjacent properties.

5. The existing screening that he says protects the view of the antenna and dish was planted after they were installed. The same plantings could have been used to shield the antenna and dish if moved to another location.

6. The cost involved is the necessity to dismantle and redo the antenna and satellite dish. (Protestants should not be prejudiced by the fact that the Petitioners placed both facilities in the wrong locations in violation of the Zoning Regulations, nor should that be a justification or an excuse to permit them to remain.)

7. Most importantly, at the end of his testimony, Frasier testified that the Baltimore County Zoning Regulations themselves are okay, that there is no constitutional issue involved, and that in this case, the property owner <u>could have</u> complied with the zoning regulation.

The Protestants' case consisted of Baltimore County Zoning Inspector Gary Freund, who testified that the location of the antenna and the dish are in the side yard, not in the rear yard; as

required by the Zoning Regulations and therefore, that is why he issued the violation. Tom Moore, from Gaylord Brooks, testified that the Petitioners are in violation of the Restrictive Covenant Agreement entered into when they purchased the property from Gaylord Brooks. Moore, chairman of the Architectural Commission, testified that the Grahams did not seek permission before installation, and that he tried to work out an arrangement whereby the Protestant neighbors would accept the location of the dish if the antenna were moved, but that the Petitioners would not agree and have not conformed even though Mrs. Graham agreed substantially in her letter of October 29, 1996, marked as Protestant's Exhibit #1 to comply with the Zoning Regulations. Moore rebutted testimony of the Petitioners, when he indicated that in August of 1996, in the presence of both Grahams, himself, and other neighbors, that the installer of the antenna and dish indicated that there were other locations on the property which would be acceptable for good reception.

Finally, Protestant Jonathan Price testified and presented photographs of the sites marked as Petitioner's Exhibit 12 A, B, C, and D. In addition, there are many other pictures marked and included in the case below before the Zoning Commissioner that were adopted in this Record. The Board is able to see the location and the view of both antenna and dish from those photographs. Most importantly, Price testified that all of the lots in the Cooperfield subdivision contain sloping rear yards with large trees similar to that of the Petitioners, Graham, and that all of the neighbors who have satellite dishes have hidden them in their backyard so as not to be seen from any public roads or homes in the subdivision. He testified that there was nothing unusual or unique about the Graham lot that made it differ from his lot, or the other lots in the neighborhood. Price objected to the television antenna/dishes on the Graham property in that it was viewable

from the street, which reduced the aesthetics of the neighborhood as well as the property values. Finally, Price testified that his lot in the subdivision is at the lowest point in the neighborhood with lots of trees, that they have a small satellite dish in their rear yard, and they get fine reception. Again, rebutting the testimony of the Petitioners that the only site for acceptable reception was on the side of their house.

## QUESTIONS PRESENTED

1. That the Petition for Variance was incorrectly filed and should be dismissed.
2. That the Petition for Variance does not include the antenna, which was and is in violation of the BCZR.
3. That the evidence presented does not support a finding that this huge lot of the Petitioners is unique.
4. That the Petitioners have not established that there is not another location which is acceptable, and does not hinder reception. In fact, the Petitioners did establish through their own witnesses that the roof provides acceptable reception, and no variance is needed, and that the rear yard is an acceptable location with a higher tower or pole.

## LEGAL ARGUMENTS

I. **That the Petition for Variance was incorrectly filed and should be dismissed.**

II. **That the Petition for Variance does not include the antenna, which was and is in violation of the BCZR.**

These arguments have previously been made in the oral Motion before the Board. It is submitted that the CBA, as to the satellite dish, should find that the requested relief is improper under the section. However, if the CBA is going to permit modification of the requested relief under the appropriate section, the variance should be denied for the reasons stated herein. In so far as the failure to include the antenna by the Petitioners, Protestants submit that the CBA should find that it is in violation of the Zoning Regulations and that relief has not been requested, and should require compliance with the Zoning Regulations immediately. To do otherwise would permit the Petitioners to file an incorrect Petition for Variance under the wrong zoning section, and then to omit the antenna, which is also a cited violation, all the while benefiting the Petitioners from these actions. It has already been a year and a half since the violation was noted in November of 1996, and enforcement action has yet to be taken. If the Board rules only on the satellite dish and not on the antenna, it will permit this case to be dragged through the appeal process, and when it is finished, they then can go back and ask for relief for the antenna, which would ensure many more years of litigation before the Protestants can have the Zoning Regulations enforced. This is fundamentally unfair and legally improper. Such delay and inaction should not inure to the benefit of the Petitioners.

III. **That the evidence presented does not support a finding that this huge lot of the Petitioners is unique.**

The Petitioners have failed to establish that the subject property is unique, a necessary element before the variance may be granted by this Board.

The Maryland cases of Cromwell v. Word, 102 Md. App. 691 (1995); and North v. St. Mary's County, 99 Md. App. 502 (1994), and are instructive of the two-pronged requirement for granting a variance in this case. A necessary prerequisite is the establishment by the Petitioner of some uniqueness of the subject property compared with other property in the neighborhood. Here there is an utter lack of evidence to support the fact that the Graham's property differs in any way from that of its neighbors, the Protestants. In fact, Graham's property is part of the neighbors' subdivision, being carved out of the same overall parcel as the Protestants. All lots in the subdivision are partially wooded, hilly, and present a substantially open area in the building envelope. From the testimony of the Petitioners alone, it is clear that this lot is not unique in any way from that of its neighbors in the subdivision. To reinforce that, Mr. Price's testimony clearly establishes that all lots in Cooperfield are partially wooded, sloped from the back of the building envelope with sloping backyards, and are comparable generally to that of the Grahams. There is no evidence to support a finding that the subject site is unique, and as a result, the variance request must fail.

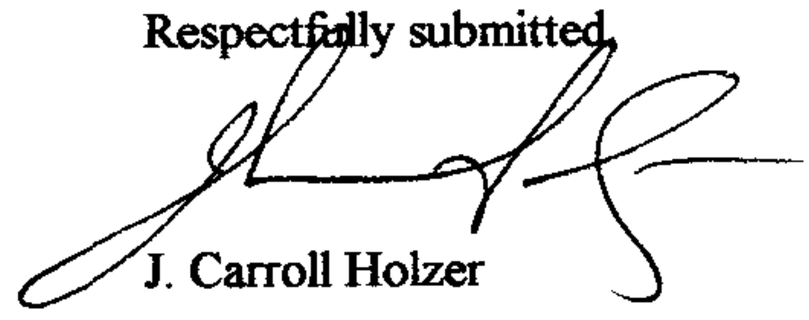
IV. **That the Petitioners have not established that there is not another location which is acceptable, and does not hinder reception. In fact, the Petitioners did establish through their own witnesses that the roof provides acceptable reception, and no variance is needed, and that the rear yard is an acceptable location with a higher tower or pole.**

The Petitioners have not established that pursuant to Section 429.2 that the present location in violation of the BCZR is the only location on the site which would not hinder reception.

The evidence on this point is clear that there are other areas on the subject site for the antenna and the satellite dish which would not hinder reception. The Grahams and both experts for them, Denbow, and particularly Frasier, acknowledged that the roof was available without the need for the variance, and the satellite reception would be as good or better than the current locations. Secondly, both experts, and particularly Frasier acknowledge that other locations in the rear yard which would conform to the zoning requirements would be available with the simple elevation of the antenna and the satellite so as to permit clearance of the trees in the rear property. Had the antenna and the dish been properly placed from the beginning in the rear yard, the expenditure by the Petitioners would have been minor, when compared with the cost incurred in the enforcement process, as well as this hearing process. Frasier was particularly frank when he acknowledged that aesthetic considerations only were responsible for the placing of the antenna and dish in the side yard in their present location. Of all the witnesses, Frasier was the most damaging to the Petitioners' case, in so far as his testimony.

Wherefore, the Protestants respectfully submit that this Board should deny the variance request, and require not only the satellite dish, which is the subject of Petitioner's Petition for Variance, but require the antenna, which was omitted from their request, but which has surfaced in testimony before the Zoning Commissioner and the Board of Appeals, and which was the subject of Gary Freund's Violation Notice, be required to be placed in the rear yard of the subject site, and end this abuse of the zoning process by the Petitioners.

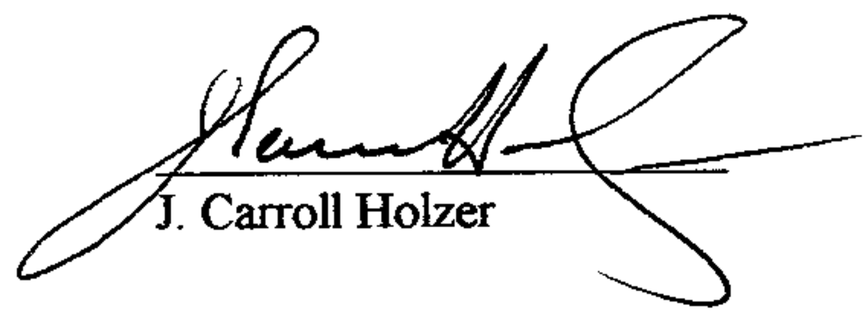
Respectfully submitted,



J. Carroll Holzer

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Protestants Memorandum was mailed first-class, postage pre-paid to Michael Freilich, Attorney for the Petitioners, 305 Washington Avenue, Towson, Maryland 21204.



J. Carroll Holzer

a:memos9\graham.mem

Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

March 18, 1997

Mr. and Mrs. Alvin R. Graham
One Cooperfield Court
Phoenix, Maryland 21131

RE: Petition for Variance
Case No. 97-283-A
Property Location: One Cooperfield Court

Dear Mr. and Mrs. Graham:

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 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.
c: Mr. Patrick M. O'Keefe, 523 Penny Lane, Hunt Valley, Md. 21030
c: Mr. Thomas O. Moore, P.O. Box 400, Phoenix, Md. 21131
c: Mr. and Mrs. Greg Morris, 19 Cooperfield Road, Phoenix, Md. 21131
c: Mr. Jonathan Price, 29 Cooperfield Court, Phoenix, Md. 21131

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on Recycled Paper

# Petition for Variance

## to the Zoning Commissioner of Baltimore County

**for the property located at** ~~One Cooperfield Court, Phoenix,~~ 97-283-A

**which is presently zoned** RC. 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) 400.1 To allow a detached accessory structure (satellite dish antenna) to be in the front + side yard in lieu of the rear yard in a RC-4 zone.

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

1. The present location is the best for reception by satellite dish because in back of the house, trees and the house interfere with the signal. The back yard is at a lower elevation than the present location.
2. A permit was obtained by the installer and he was not told of any restrictions. The dish was installed at considerable expense. It will be screened.

**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.

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):

Alvin R. Graham
(Type or Print Name)

Alvin R Graham
Signature

Marva C. Graham
(Type or Print Name)

Marva C. Graham
Signature

~~One Cooperfield Court 410-771-~~ 4130
Address Phone No

~~Phoenix, MD 21131~~
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 BEFORE MAR. 7 Next Two Months

ALL _____ OTHER _____

REVIEWED BY: JRA DATE 1-8 97

283.

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Zoning Administration & Development Management

97-283-A

ZONING DESCRIPTION FOR ONE COOPERFIELD COURT

BEING KNOWN AND DESIGNATED and Lot No. 13 as shown on a Plat eentitled "Plat of Cooperfield" which Plat is recorded among the Land Records of Baltimore County in Plat Book No. 660 folio 142.

Being the same lot of ground which by deed dated December 9, 1988 and recorded among the Land Records of Baltimore County in Liber 8061 Folio 499 was granted and conveyed by MARK J. DANEKER, Personal Representative for the Estate of WOLG BROEHM, UUNTO THE SAID PARTY OF THE FIRST PART.
Subject to the restrictions of record.

283..

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

No. 028620

DATE 3/27/97 ACCOUNT R001-615C

AMOUNT $ 210.00

RECEIVED FROM: Mr. Graham

FOR: Appeal 97-283-A ZC 3/21 decision

03A91#0225MICHRC $210.00
BA C012:35PM03-27-97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

---

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

No. 028072

DATE 1-5-97. ACCOUNT R.001.615C

AMOUNT $ 50.00

RECEIVED FROM: ALVIN & MARVA GRAHAM

O/C R VAR 50
TOTAL $50

FOR:

01A00#0031MICHRC $50.00
BA C003:54PM01-08-97

VALIDATION OR SIGNATURE OF CASHIER Item 283. SDA.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PETITION OF: ALVIN R. GRAHAM, ET UX

CI..L ACTION # # C-98-006680

IN THE MATTER OF ALVIN R. GRAHAM

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS

Mary Ross
Clerk's Office

Date: 8/25/98

[redacted]
of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #97-283-A
(Item 283)
1 Cooperfield Court
SEC Cooperfield Road
and Cooperfield Court
10th Election District
6th Councilmanic
Legal Owner(s):
Alvin R. Graham and
Marva C. Graham

**Variance:** to allow a detached accessory structure (satellite dish antenna) to be in the front and side yard in lieu of the rear yard.

**Hearing: Monday, March 10, 1997 at 9:00 a.m. in Rm. 118, Old Courthouse.**

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.

2/384 Feb. 27 C122685

# CERTIFICATE OF PUBLICATION

TOWSON, MD., Feb 27, 1997

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 Feb 27, 1997

**THE JEFFERSONIAN,**

A. Henderson

**LEGAL AD. - TOWSON**

[redacted]

**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 in Towson, Maryland on the property identified herein as follows:

Case: #97-283-A
(Item 283)
1 Cooperfield Court
SEC Cooper Road and
Cooperfield Court
10th Election District
6th Councilmanic
Legal Owner(s):
Alan R. Graham and
Marva C. Graham

Variance: to allow a detached accessory structure (satellite dish antenna) to be in the front and side yard in lieu of the rear yard.

**Hearing: Monday, March 10, 1997 at 9:00 a.m. in Rm. 118, Old Courthouse.**

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.

2/200 Feb. 13 C119590

# CERTIFICATE OF PUBLICATION

TOWSON, MD., 2/13, 1997

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 2/13, 1997.

**THE JEFFERSONIAN,**

A. Henrikson

LEGAL AD. - TOWSON

# CERTIFICATE OF POSTING

RE: Case No.: 97-283-A

Petitioner/Developer: DR. GRAHAM, ETAL

771-4130

Date of Hearing/Closing: 3/10/97

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #1 COOPERFIELD COURT

The sign(s) were posted on 2/7/97
(Month, Day, Year)

Sincerely,

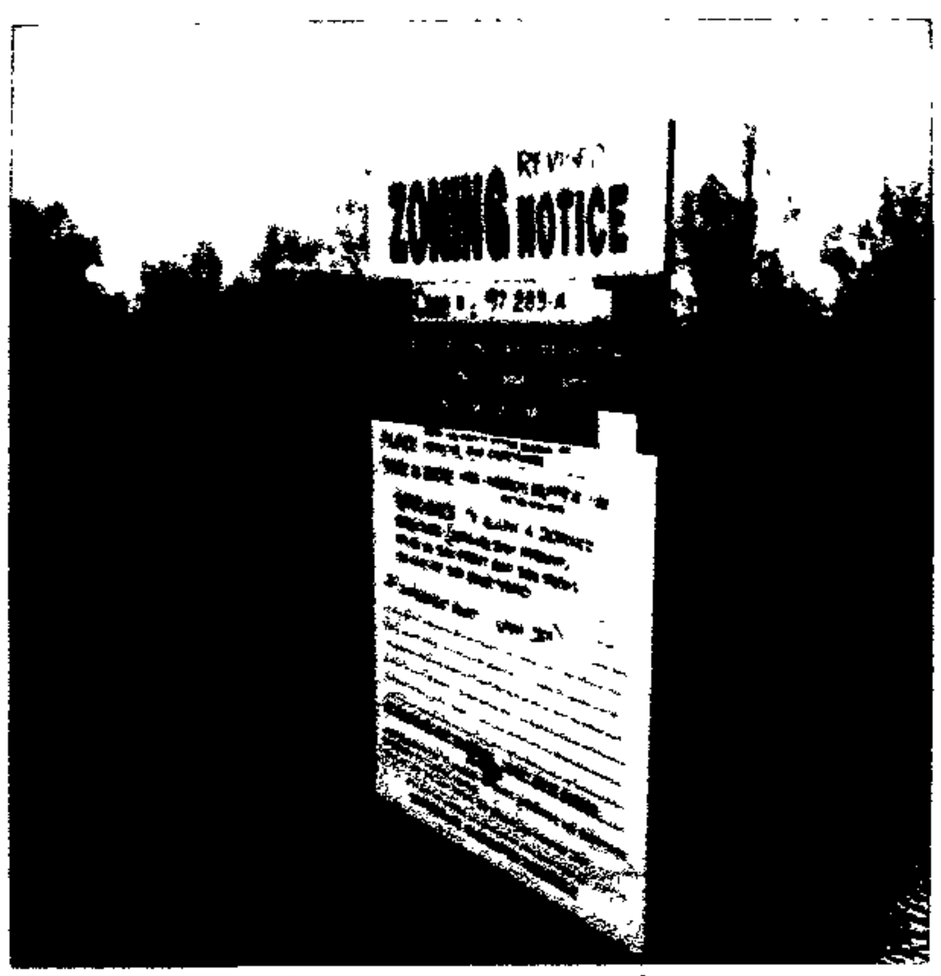
Patrick M. O'Keefe 2/9/97
(Signature of Sign Poster and Date)

Patrick M. O'Keefe
(Printed Name)

523 Penny Lane
(Address)

Hunt Valley, MD 21030
(City, State, Zip Code)

(410) 666-5366 Pager (410) 646-8354
(Telephone Number)




97-283-A
#1-COOPERFIELD CT.
DR. GRAHAM
771-4130
2/15/97
HRG 3/10/97 @ 9^00 AM

# CERTIFICATE OF POSTING

RE: Case No.: 97-283-A

Petitioner/Developer: ALVIN GRAHAM

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1 COOPERFIELD CT.

The sign(s) were posted on 5/8/97
(Month, Day, Year)

Sincerely,

Gary Feld 5/12
(Signature of Sign Poster and Date)

_____
(Printed Name)

_____
(Address)

_____
(City, State, Zip Code)

_____
(Telephone Number)

9/96
cert.doc

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

## 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 (responsibility of which, lies with the petitioner/applicant) 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 advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

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.: 282

Petitioner: Marva + Alvin Graham

Location: One Cooperfield Ct, Phoenix, MD 21131

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Marva and Alvin Graham

ADDRESS: One Cooperfield Ct
Phoenix, MD 21131

PHONE NUMBER: 410-771-4130

AJ:ggs

(Revised 09/24/96)

288.

Printed with Soybean Ink

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

# ZONING NOTICE

## Case No.: 97-283-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: ONE COOPERFIELD CT.

DATE AND TIME: _____

REQUEST: TO ALLOW A DE-TACHED ACCESSORY STRUCTURE (SATALITE DISH ANTENNA) TO BE IN THE FRONT & SIDE YARD IN LIEU OF THE REAR YARD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

**DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW**

**HANDICAPPED ACCESSIBLE**

9/96
post.4.doc

283

TO: PUTUXENT PUBLISHING COMPANY
2/13/97 Issue - Jeffersonian

Please foward billing to:

Alvin and Marva Graham
One Cooperfiled Court
Phoenix, MD 21131
771-4130

---

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-283-A (Item 283)
1 Cooperfield Court
SEC Cooper Road and Cooperfield Court
10th Election District - 6th Councilmanic
Legal Owner(s): Alvin R. Graham and Marva C. Graham

Variance to allow a detached accessory structure (satellite dish antenna) to be in the front and side yard in lieu of the rear yard.

HEARING: MONDAY, MARCH 10, 1997 at 9:00 a.m. in Room 118, Old Courthouse.

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
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

February 7, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-283-A (Item 283)
1 Cooperfield Court
SEC Cooper Road and Cooperfield Court
10th Election District - 6th Councilmanic
Legal Owner(s): Alvin R. Graham and Marva C. Graham

Variance to allow a detached accessory structure (satellite dish antenna) to be in the front and side yard in lieu of the rear yard.

HEARING: MONDAY, MARCH 10, 1997 at 9:00 a.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Alvin and Marva C. Graham

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY 2/23/97
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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on Recycled Paper

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

June 25, 1997

**NOTICE OF ASSIGNMENT**

**CASE #: 97-283-A** **IN THE MATTER OF: ALVIN R. GRAHAM, ET UX -** Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

**(Petition for Variance DENIED.)**

pp'd to 10/01/97 by Order of Counsel & Protestants

**ASSIGNED FOR:** **TUESDAY, AUGUST 26, 1997 at 10:00 a.m.**

**NOTICE:** This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

**No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.**

Kathleen C. Bianco
Administrator

---

cc: Petitioners /Legal Owners : Alvin R. Graham, et ux

Patrick M. O'Keefe /Zoning Consultant

Interested Persons /Protestants : Thomas O. Moore
Mr. and Mrs. Greg Morris
Jonathan Price

People's Counsel for Baltimore County

Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

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**

August 21, 1997

**NOTICE OF POSTPONEMENT & REASSIGNMENT**

**CASE #: 97-283-A** **IN THE MATTER OF: ALVIN R. GRAHAM, ET UX -** Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

**(Petition for Variance DENIED.)**

which was scheduled to be heard on August 26, 1997 has been **POSTPONED** at the request of Counsel for Protestants due to Circuit Court conflict; and has been

**REASSIGNED FOR:** **WEDNESDAY, OCTOBER 1, 1997 at 10:00 a.m.**

**NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

**No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.**

Kathleen C. Bianco
**Administrator**

Entered appearance 8/25/97

Attorney for Petitioners /Appellants : Michael L. Freilich, Esquire
cc: **Petitioners /Appellants** : **Alvin R. Graham, et ux**

**Patrick M. O'Keefe /Zoning Consultant**

**Counsel for Protestants** : **J. Carroll Holzer, Esquire**
**Protestants** : **Gregg and Betsy Morris**
**Dee and Nancy Curran**
**Jonathan and Cindy Price**

**Thomas O. Moore**

**People's Counsel for Baltimore Count**
**Pat Keller, Director /Planning**
**Lawrence E. Schmidt /Z.C.**
**Arnold Jablon, Director /PDM**
**Virginia W. Barnhart, County Attorne**

| Post-it® Fax Note 7671 | Date 8-25 | # of pages ▸ 1 |
|---|---|---|
| To M. Freilich | From C. Radcliffe | |
| Co./Dept. c/o Henry | Co. CBA | |
| Phone # | Phone # 410 887-3180 | |
| Fax # 410-337-8855 | Fax # 410 887-3182 | |

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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

October 3, 1997

**NOTICE OF ASSIGNMENT** /Day #2

CASE #: 97-283-A

IN THE MATTER OF: ALVIN R. GRAHAM, ET UX - Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

(Petition for Variance DENIED.)

CONTINUED FROM HEARING DAY #1 -10/01/97); AND HAS BEEN

ASSIGNED FOR: THURSDAY, DECEMBER 18, 1997 at 10:00 a.m. /Day #2

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Administrator

---

cc: Counsel for Petitioners/Appellants: Michael L. Freilich, Esquire
Petitioners /Appellants : Alvin R. Graham, et ux

Patrick M. O'Keefe /Zoning Consultant

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : Gregg and Betsy Morris
Dee and Nancy Curran
Jonathan and Cindy Price

Thomas O. Moore

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



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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**

October 20, 1997

**NOTICE OF POSTPONEMENT & REASSIGNMENT /Day #2**

**CASE #: 97-283-A** **IN THE MATTER OF: ALVIN R. GRAHAM, ET UX -** Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

**(Petition for Variance DENIED.)**

which was scheduled for hearing day #2 on 12/18/97 has been **POSTPONED** at the request of Counsel for Protestants due to Circuit Court schedule conflict to a date confirmed with Counsel; and has been

**REASSIGNED FOR:** **TUESDAY, JANUARY 20, 1998 at 10:00 a.m. /Day #2**

**NOTICE:** **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

**No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.**

**Kathleen C. Bianco**
**Administrator**

---

cc: Counsel for Petitioners/Appellants: Michael L. Freilich, Esquire
Petitioners /Appellants : Alvin R. Graham, et ux

Patrick M. O'Keefe /Zoning Consultant

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : Gregg and Betsy Morris
Dee and Nancy Curran
Jonathan and Cindy Price

Thomas O. Moore

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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County Board of Appeals of Baltimore County

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

January 20, 1998

**NOTICE OF DELIBERATION**

This case having been heard by the Board of Appeals on October 1, 1997 and January 20, 1998, the following date and time has been scheduled for deliberation in the matter of:

ALVIN R. GRAHAM, ET UX -Petitioners
CASE NO. 97-283-A

DATE AND TIME : Wednesday, April 1, 1998 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE TO COUNSEL : As requested by the Board, Briefs are due (Original and 3 copies) on Monday, March 16, 1998.

Kathleen C. Bianco
Administrator

cc: Counsel for Petitioners/Appellants : Michael L. Freilich, Esquire
Petitioners /Appellants : Alvin R. Graham, et ux

Patrick M. O'Keefe /Zoning Consultant

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : Gregg and Betsy Morris
Dee and Nancy Curran
Jonathan and Cindy Price

Thomas O. Moore

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

COPIED: C.M.W.

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 4, 1997

Mr. and Mrs. Alvin Graham
One Cooperfield Court
Phoenix, MD 21131

RE: Item No.: 283
Case No.: 97-283-A
Petitioner: Alvin R. Graham, et ux

Dear Mr. and Mrs. Graham:

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 January 8, 1997.

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 Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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on Recycled Paper

March 10, 1997

Dear Baltimore County:

As we are unable to attend the variance meeting, we are writing to express our opposition to the satellite disk and FM antenna placed on the lawn at 1 Cooperfield Court. Therefore, we ask you to disallow the variance.

We do, however, support the agreed-upon compromise outlined in the Graham's letter of October 29th, 1996 in which they would "relocate the FM antenna to an isolated location so as to be totally concealed from view and screen the satellite dish" so it could not be seen by November 1997.

If this is accomplished by May 1, 1997, then we would support the variance to allow the satellite dish to stay, screened, in place.

Sincerely,

Nancy W. Curran
Frank E. Curran III
25 Cooperfield Court
Phoenix

Baltimore County Government
Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 01/23/97

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 JAN. 21, 1996.

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: 276,277,278,281,282,283,284 AND 286.

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

cc: File

**Maryland Department of Transportation**
*State Highway Administration*

David L. Winstead
Secretary
Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 1·17·97
Item No. 283 (JRA)

Dear Ms. Eubanks:

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 projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

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**

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:** Arnold Jablon, Director
Permits and Development
Management

**DATE:** January 17, 1997

**FROM:** Pat Keller, Director
Office of Planning

**SUBJECT:** Petitions from Zoning Advisory Committee

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

Item Nos. 277, 278, 279, 281 and 283

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 887-3495.

**Prepared by:** Jeffrey W. Long

**Division Chief:** Carl L. Kerns

PK/JL

ITEM277/PZONE/TXTJWL

| | | |
|---|---|---|
| RE: PETITION FOR VARIANCE<br>1 Cooperfield Court, SEC Cooper Road and<br>Cooperfield Ct, 10th Election District,<br>6th Councilmanic | *<br>*<br>* | BEFORE THE<br>ZONING COMMISSIONER<br>OF BALTIMORE COUNTY |
| Alvin R. and Marva C. Graham<br>Petitioners | * | CASE NO. 97-283-A |

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. 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 13th day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to Alvin R. and Marva C. Graham, 1 Cooperfield Court, Phoenix, MD 21131, Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

**BALTIMORE COUNTY, MARYLAND**

*Inter-Office Correspondence*

**TO:** C. Marks
T. Melvin
M. Worrall

**DATE:** March 17, 1998

**FROM:** Kathi

**SUBJECT:** In the Matter of Alvin Graham, et ux -Petitioners; Case No. 97-283-A /Closing Memos from Parties

Attached for your review and information are copies of the following documents which were filed in the subject matter, as requested by the Board at the conclusion of its hearing on January 20, 1998 (day #2):

1) Protestants' Memorandum filed by J. Carroll Holzer, Esquire, on behalf of Mr. and Mrs. Morris; Mr. and Mrs. Curran; and Mr. and Mrs. Price, Protestants; and

2) Memorandum of Law and Fact filed by Michael L. Freilich, Esquire, on behalf of Alvin R. Graham, et ux, Petitioners.

Deliberation in this matter is scheduled for Wednesday, April 1, 1998 at 9:30 a.m. A copy of the Notice of Deliberation was forwarded to you on January 20th.

Should you have any questions, please let me know.

kathi

Attachments

# PETITION PROBLEMS

**#276 --- JCM**

1. Need title of person signing for contract purchaser.

**#280 --- MJK**

1. There is no attorney listed on the petition form. As the legal owner is incorporated, they need to be represented by an attorney.

**#281 --- JRA**

1. Need telephone number for legal owner.

**#282 --- JLL**

1. No zoning on folder.
2. No election district on folder.
3. No councilmanic district on folder.
4. No acreage on folder.

**#283 --- JRA**

1. No acreage on folder.
2. No election district on folder.
3. No councilmanic district on folder.

**#285 --- CAM**

1. Need name and title of person signing for contract purchaser.

**#286 --- JCM**

1. Folder not marked "Floodplain".

**BALTIMORE COUNTY, MARYLAND**
Board of Appeals of Baltimore County
*Interoffice Correspondence*

DATE: March 26, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton TRS
Board of Appeals

SUBJECT: **Alvin R. Graham**
**Case No.: 97-283-A**
**Circuit Court Case No.: 03-C-98-006680**

Judge Fader of the Circuit Court issued an Order on March 29, 1999, AFFIRMING the Court of Appeals. The case was then appealed to the Court of Special Appeals. The Court of Special Appeals issued a Mandate on 9/15/99 Dismissing the Appeal. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

County Board of Appeals of Baltimore County

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

April 1, 1998

Michael L. Freilich, Esquire
MICHAEL FREILICH & ASSOCIATES, P.A.
305 Washington Avenue
Suite 303
Towson, MD 21204

Re: Case No. 97-283-A
Alvin R. Graham, et ux

Dear Mr. Freilich:

This office is in receipt of your correspondence of March 25, 1998 and attachments thereto written in reference to the memorandum submitted by Mr. Holzer on behalf of Protestants in the subject matter.

The Board concluded the hearing in this case on January 20, 1998, and with the receipt of memorandums from counsel on March 16, 1998, the record was closed.

Therefore, I am returning to you the enclosed correspondence dated March 25, 1998 and received by this office on March 31, 1998, which cannot be placed in the subject file nor become a part of the record in this matter.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
**County Board of Appeals**

Enclosure

cc: J. Carroll Holzer, Esquire

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 28, 1997

Mr. Patrick M. O'Keefe
523 Penny Lane
Hunt Valley, MD 21030

RE: Petition for Zoning Variance
SEC Cooper Road and Cooperfield Court
(1 Cooperfield Court)
10th Election District
6th Councilmanic District
Alvin R. Graham, et ux - Petitioners
Case No. 97-283-A

Dear Mr. O'Keefe:

Please be advised that an appeal of the above-referenced case was filed in this office on March 27, 1997 by Alvin R. Graham, et ux. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: Mr. Thomas O. Moore
Mr. and Mrs. Greg Morris
Mr. Jonathan Price
People's Counsel

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on Recycled Paper

Case No. 97-283-A

VAR -To allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard ilo the required rear yard.

3/21/97 -Z.C.'s Order in which Petition for Variance was DENIED.

---

6/25/97 - Notice of Assignment for hearing scheduled for Tuesday, August 26, 1997 at 10:00 a.m. sent to following:

Alvin R. Graham, et ux
Patrick M. O'Keefe /Zoning Consultant
Thomas O. Moore
Mr. and Mrs. Greg Morris
Jonathan Price
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

---

8/19/97 -Entry of Appearance on behalf of Gregg and Betsy Morris, Dee and Nancy Curran and Jonathan and Candy Price filed by J. Carroll Holzer, Esquire; also, request for postponement /scheduled to be in Howard County CCt that date /criminal trial.

- Contacted Petitioner by telephone regarding request; presently talking with Counsel; may be retaining attorney prior to hearing. Mrs. Graham will get back to me regarding postponement.

- (Note: Copy of Mr. Holzer's letter provided to rep. from Michael Freilich's office this date.)

---

8/21/97 -Postponement requested by Mr. Holzer granted; Notice of PP and Reassignment sent to parties; case rescheduled for hearing on Wednesday, October 1, 1997 at 10:00 a.m.

---

8/25/97 -Entry of Appearance /Michael L. Freilich on behalf of Petitioners; consent to continuance request made by Mr. Holzer.

---

10/01/97 -Hearing day #1 concluded; case continued to Hearing day #2 /Thursday, December 18, 1997 at 10:00 a.m. Notice sent. (C.W.M.)

---

10/17/97 -Letter from C. Holzer requesting postponement of 12/18/97 date; conflict with Circuit Court appeal hearing in the matter of Barbara Massey /-03-C-97-5235.

- T/C to C. Holzer and M. Freilich - confirmed availabilty of parties for reschedule date of Tuesday, 1/20/98; postponement to be granted upon confirmation of availability of Board members for this panel.

---

10/20/97 -Confirmed availability of C.M.W. for 1/20/98; Notice of PP and Reassignment /Day #2 sent to parties for hearing reassigned to Tuesday, January 20, 1998 at 10:00 a.m. Copies FAXed to Counsel this date.

---

1/20/98 -Hearing concluded; Briefs due 3/16/98; to be deliberated 4/01/98 at 9:30 a.m.

Case No. 97-283-A

VAR -To allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard ilo the required rear yard.

3/21/97 -Z.C.'s Order in which Petition for Variance was DENIED.

---

6/25/97 - Notice of Assignment for hearing scheduled for Tuesday, August 26, 1997 at 10:00 a.m. sent to following:

Alvin R. Graham, et ux
Patrick M. O'Keefe /Zoning Consultant
Thomas O. Moore
Mr. and Mrs. Greg Morris
Jonathan Price
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

---

8/19/97 -Entry of Appearance on behalf of Gregg and Betsy Morris, Dee and Nancy Curran and Jonathan and Candy Price filed by J. Carroll Holzer, Esquire; also, request for postponement /scheduled to be in Howard County CCt that date /criminal trial.

- Contacted Petitioner by telephone regarding request; presently talking with Counsel; may be retaining attorney prior to hearing. Mrs. Graham will get back to me regarding postponement.

- (Note: Copy of Mr. Holzer's letter provided to rep. from Michael Freilich's office this date.)

---

8/21/97 -Postponement requested by Mr. Holzer granted; Notice of PP and Reassignment sent to parties; case rescheduled for hearing on Wednesday, October 1, 1997 at 10:00 a.m.

---

8/25/97 -Entry of Appearance /Michael L. Freilich on behalf of Petitioners; consent to continuance request made by Mr. Holzer.

---

10/01/97 -Hearing day #1 concluded; case continued to Hearing day #2 /Thursday, December 18, 1997 at 10:00 a.m. Notice sent. (C.W.M.)

---

10/17/97 -Letter from C. Holzer requesting postponement of 12/18/97 date; conflict with Circuit Court appeal hearing in the matter of Barbara Massey /-03-C-97-5235.

- T/C to C. Holzer and M. Freilich - confirmed availabilty of parties for reschedule date of Tuesday, 1/20/98; postponement to be granted upon confirmation of availability of Board members for this panel.

---

10/20/97 -Confirmed availability of C.M.W. for 1/20/98; Notice of PP and Reassignment /Day #2 sent to parties for hearing reassigned to Tuesday, January 20, 1998 at 10:00 a.m. Copies FAXed to Counsel this date.

---

1/20/98 -Hearing concluded; Briefs due 3/16/98; to be deliberated 4/01/98 at 9:30 a.m.

1/20/98 -Notice of Deliberation sent to parties; scheduled for deliberation on Wednesday, April 1, 1998 at 9:30 a.m. Briefs due from counsel 3/16/98. C.M.W. Copy of Notice to CMW.

3/16/98 -Protestants' Memorandum filed by J. Carroll Holzer on behalf of Mr. and Mrs. Greg Morris; Mr. and Mrs. Dee Curran; and Mr. and Mrs. Jonathan Price.

-Memorandum of Law and Fact filed by Michael L. Freilich, Esquire, on behalf of Alvin Graham, et ux, Petitioners.

3/17/98 -Copies of above memos sent to panel members (C.M.W.); deliberation scheduled for 4/01/98.

---

4/01/98 -Deliberation concluded; Protestants' Motion to Dismiss Petition included in above Memo DENIED by Board; Petitioner's request for variance DENIED. Written Opinion/Order to be issued; appellate period to run from date of written Order. C.W.M.

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

05/11/00

Case Number: 03-C-98-006680 AE
Date Filed: 07/02/1998
Status: Open/Active
Judge Assigned: To Be Assigned,

In The Matter of: Alvin R Graham , et al

# C A S E  H I S T O R Y

## OTHER REFERENCE NUMBERS

| Description | Number |
|---|---|
| Administrative Agency | 97-283-A |
| Case Folder ID | C98006680V01 |

## INVOLVED PARTIES

| Type | Num | Name(Last,First,Mid,Title) | Addr Str/End | Disposition Addr Update | Entered |
|---|---|---|---|---|---|
| PET | 001 | Graham, Alvin R<br>Mail 1 Copperfield Court<br>Phoenix, MD 21131 | 07/02/98 | | 07/02/98 |
| Attorney: | 0005201 | Freilich, Michael L<br>Michael Freilich & Associates, P.A.<br>305 Washington Avenue<br>Suite 303<br>Towson, MD 21204<br>(410)321-0040 | | 07/02/98 | |
| | 0801354 | Feldman, Robert Jay<br>305 Washington Ave<br>Suite 303<br>Towson, MD 21204<br>(410)321-0040 | | 01/26/99 | |

| Type | Num | Name(Last,First,Mid,Title) | Addr Str/End | Disposition Addr Update | Entered |
|---|---|---|---|---|---|
| PET | 002 | Graham, Marva C | | | 07/02/98 |
| | Mail: | 1 Copperfield Court<br>Phoenix, MD 21131 | 07/02/98 | | |
| | Attorney: | 0005201 Freilich, Michael L<br>Michael Freilich & Associates, P A<br>305 Washington Avenue<br>Suite 303<br>Towson, MD 21204<br>(410)321-0040 | | 07/02/98 | |
| | | 0801354 Feldman, Robert Jay<br>305 Washington Ave<br>Suite 303<br>Towson, MD 21204<br>(410)321-0040 | | 01/26/99 | |
| ITP | 001 | Baltimore County Board Of Appeals | | | 07/02/98 |
| | Mail | Old Courthouse Room 49<br>400 Washington Avenue<br>Baltimore, MD 21204 | 07/02/98 | | |

## CALENDAR EVENTS

| Date | Time | Dur | Cer | Evnt | Lvl | Atty | Jdg | Day | Of | Rslt | By | ResultDt | Jdg | T | Notice | Rec | User ID |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 12/29/98 | 09:30A | 02Q | yes | CIVI | | JFF | 01 | /01 | | | | | | P | | JD | KS |

## JUDGE HISTORY

| JUDGE ASSIGNED | Type | Assign Date | Removal RSN |
|---|---|---|---|
| TBA To Be Assigned. | J | 07/02/98 | |

## DOCUMENT TRACKING

| Num/Seq | Description | Filed | Entered | Party | Jdg | Ruling | Closed | User ID |
|---|---|---|---|---|---|---|---|---|
| 0001000 | Petition for Judicial Review and pet002 | 07/02/98 | 07/02/98 | PET001 | TBA | | | JM JM |
| 0002000 | Certificate of Notice | 07/07/98 | 07/08/98 | ITP001 | TBA | | | DR DR |

# C A S E F R E Q U E N C Y R E P O R T

**FolderID: C98006680V01** **CaseID: 03C98006680**
**From: 01/01/1901** **To: 09/09/9999**
**Defendant:GRAHAM, ALVIN R.**
**Plaintiff:IN THE MATTER OF**

| Date | Time | Type | User | Location | Clerk | Reason |
|---|---|---|---|---|---|---|
| 09/15/1999 | 12 17 PM | CheckIn | | FILEROOM | | |
| 09/15/1999 | 9 54 AM | Transfer | Civil Department | Civil Department | Julio Angel | FROM C O.S A FOR DOCKETING |
| 07/06/1998 | 6 42 PM | Created | | OTHEROM | | Case Folder Created |

| Num/Seq | Description | Filed | Entered | Party | Jdg | Ruling | Closed | User ID |
|---|---|---|---|---|---|---|---|---|
| 0003000 | Transcript of Record from Adm Agency<br>* | 08/25/98 | 08/26/98 | ITP001 | TBA | | | DFF DFF |
| 0004000 | Notice of Transcript of Record Sent | 08/26/98 | 08/26/98 | ITP001 | TBA | | 08/26/98 | DFF DFF |
| 0005000 | Notice of Transcript of Record Sent | 08/26/98 | 08/26/98 | PET001 | TBA | | 08/26/98 | DFF DFF |
| 0006000 | Notice of Transcript of Record Sent | 08/26/98 | 08/26/98 | PET002 | TBA | | 08/26/98 | DFF DFF |
| 0007000 | Stipulation to Extend Time to File<br>Memorandum in Opposition to Decision of County Boad of Appeals | 09/18/98 | 09/21/98 | PET001 | TBA | | 09/21/98 | DFF DFF |
| 0008000 | Scheduling Order | 09/21/98 | 09/21/98 | 000 | TBA | | 09/21/98 | JD JD |
| 0009000 | Memorandum Of Law in Opposition of<br>Baltimore County Board of Appeal's Opinion<br>Filed by PET001-Graham, Alvin R, PET002-Graham, Marva C | 10/16/98 | 10/20/98 | PET001 | TBA | | 10/20/98 | SD SD |
| 0010000 | Memorandum of Law<br>fd by Mr/Mrs Greg Morris, Mr/MRs Dee Curran, Mr/Mrs Jonathan<br>Price | 11/13/98 | 11/16/98 | 000 | TBA | | 11/16/98 | DR DR |
| 0011000 | Open Court Proceeding<br>Dec. 29 1998 Hon John F Fader, II Hearing had Order to be<br>filed | 12/29/98 | 12/29/98 | 000 | JFF | | | GO GO |
| 0012000 | Pre Trial Hearing Letter Issued | 01/26/99 | 01/26/99 | 000 | TBA | | 01/26/99 | AJ AJ |
| 0013000 | Notice of Appeal to COSA or COA<br>* (10/69) Filed by PET001-Graham, Alvin R, PET002-Graham, Marva<br>C | 01/26/99 | 01/26/99 | PET001 | TBA | | | DFF DFF |
| 0014000 | *Request for transcript of trial held<br>before JFF on 12/29/99 | 02/26/99 | 02/26/99 | 000 | TBA | | | DR DR |
| 0015000 | Memorandum Opinion of the Court<br>affirming the decision of the BOA | 03/30/99 | 03/30/99 | 000 | JFF | | | PH PH |
| 0016000 | *Order to proceed w/out prehearing conf.<br>per Judge James R Eyler 03/18/99 | 05/12/99 | 05/14/99 | 000 | TBA | | | DR DR |
| 0017000 | Original Record sent to COSA<br>OF MARYLAND BY CERTIFIED MAIL, ONE FOLDER AND ONE TRANSCRIPT ON<br>MAY 17, 1000 | 05/17/99 | 05/17/99 | 000 | TBA | | | AJ AJ |

9/15/99

## TICKLE

| Code | Tickle Name | Status | Expires | #Days | AutoExpire | GoAhead | From | Type | Num | Seq |
|---|---|---|---|---|---|---|---|---|---|---|
| 1YRT | One Year Tickle (Jud | OPEN | 07/02/99 | 365 | no | no | DAAA | D | 000 | 000 |
| SLTR | Set List For Trial | DONE | 08/25/98 | 0 | yes | yes | DTRA | D | 003 | 000 |
| SLMR | Set List For Motions | CANCEL | 03/20/99 | 22 | no | no | DRST | D | 000 | 000 |

## EXHIBITS

| Line # | Marked | Code | Description | SpH | Sloc | NoticeDt | Disp Dt | Dis By |
|---|---|---|---|---|---|---|---|---|
| Offered By | | ITP 001 | Baltimore County Board Of App | | | | | |
| 000 | | B | BOX 94/ZOANING TRA | B | | | | |

## DIFFERENTIATED CASE MANAGEMENT

## TRACKS AND MILESTONES

Track R1 Description EXPEDITED APPEAL TRACK Custom Yes
Assign Date 09/21/98 Order Date : 09/21/98
Start Date · 09/21/98 Remove Date:

| Milestone | Scheduled | Target | Actual | Status |
|---|---|---|---|---|
| Motions to Dismiss under MD Rule 2-322( | | 10/06/98 | | OPEN |
| All Motions (excluding Motions in Limine | | 11/19/98 | | OPEN |
| TRIAL DATE is | 12/29/98 | 12/20/98 | | OPEN |

Alvin R. Graham, et ux 97-283-A

Civil Action No. 3-C-98-006680

| | |
|---|---|
| January 5, 1997 | Petition for Variance filed by Alvin R. and Marva C. Graham, Legal Owners; to allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard of the subject property. |
| March, 1997 | Entry of Appearance filed by People's Counsel for Baltimore County. |
| March 10 | Hearing held on Petition by the Zoning Commissioner. |
| March 21 | Order of the Zoning Commissioner in which Petition for Variance was DENIED. |
| March 27 | Notice of Appeal filed by Alvin R. Graham, et ux. |
| August 25 | Entry of Appearance filed by Michael L. Freilich, Esquire, on behalf of the Grahams. |
| October 1 | Hearing before the Board of Appeals (Day #1). |
| January 20, 1998 | Hearing before the Board of Appeals (Day #2 - concluded). |
| March 16 | Protestants' Memorandum filed by J. Carroll Holzer, Esq., on behalf of Mr. and Mrs. Greg Morris; Mr. and Mrs. Dee Curran; and Mr. and Mrs. Jonathan Price. |
| | Memorandum of Law and Fact filed by Michael L. Freilich, Esquire, on behalf of Alvin Graham, et ux, Petitioners. |
| April 1 | Deliberation conducted by the Board. |
| June 18 | Opinion and Order issued by the Board; Protestants' Motion to Dismiss Petition is DENIED; (motion presented orally at hearing); Petition for Variance is DENIED. |
| July 2 | Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael L. Freilich, Esquire, on behalf of Alvin R. and Marva C. Graham. |
| July 7 | Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County. |
| July 7 | Certificate of Notice sent to interested parties. |
| August 25, 1998 | Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County. |
| March 30, 1999 | Memorandum Opinion issued by the CCt; decision of the CBA is AFFIRMED (John F. Fader, II, Judge). |
| May 17, 1999 | Record to the Court of Special Appeals (appeal filed in CSA by Graham on 1/26/99 - Note CCT Opinion was issued 2 months after the appeal taken to a higher court) |

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

N O T I C E  O F  R E C O R D

Case Number: 03-C-98-006680
Old Case number:
C I V I L

In The Matter of: Alvin R Graham , et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 25th day of August, 1998.

Suzanne Mensh
Clerk of the Circuit Court, per D.F.

Date issued: 08/26/98

TO: BALTIMORE COUNTY BOARD OF APPEALS
Old Courthouse Room 49
400 Washington Avenue
Baltimore, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
98 AUG 27 PM 12: 37

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*

PETITION OF ALVIN R. GRAHAM and
MARVA C. GRAHAM *
1 Cooperfield Court
Phoenix, MD 21131 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS ACTION
OF BALTIMORE COUNTY * No. 3-C-98-06680
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER *
ALVIN R. GRAHAM, ET UX
FOR A VARIANCE ON PROPERTY LOCATED *
ON THE SE/C COOPER ROAD AND COOPERFIELD
COURT (1 COOPERFIELD COURT) *
10TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT *
CASE NO. 97-283-A

* * * * * * * * * * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles L. Marks, Margaret Worrall, and Thomas P. Melvin, 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 Department of Permits and Development Management and the Board of Appeals of Baltimore County:

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

No. 97-283-A

| | |
|---|---|
| January 5, 1997 | Petition for Variance filed by Alvin R. and Marva C. Graham, Legal Owners; to allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard of the subject property. |
| February 7 | Certificate of Posting. |
| February 27 | Publication in newspaper. |

RECEIVED AND FILED
98 AUG 25 AM 10: 12

| | |
|---|---|
| March 4, 1997 | ZAC Comments. |
| March, 1997 | Entry of Appearance filed by People's Counsel for Baltimore County. |
| March 10 | Hearing held on Petition by the Zoning Commissioner. |
| March 21 | Order of the Zoning Commissioner in which Petition for Variance was DENIED. |
| March 27 | Notice of Appeal filed by Alvin R. Graham, et ux. |
| August 25 | Entry of Appearance filed by Michael L. Freilich, Esquire, on behalf of the Grahams. |
| October 1 | Hearing before the Board of Appeals (Day #1). |
| January 20, 1998 | Hearing before the Board of Appeals (Day #2 - concluded). |
| March 16 | Protestants' Memorandum filed by J. Carroll Holzer, Esq., on behalf of Mr. and Mrs. Greg Morris; Mr. and Mrs. Dee Curran; and Mr. and Mrs. Jonathan Price. |
| | Memorandum of Law and Fact filed by Michael L. Freilich, Esquire, on behalf of Alvin Graham, et ux, Petitioners. |
| April 1 | Deliberation conducted by the Board. |
| June 18 | Opinion and Order issued by the Board; Protestants' Motion to Dismiss Petition is DENIED; (motion presented orally at hearing); Petition for Variance is DENIED. |
| July 2 | Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael L. Freilich, Esquire, on behalf of Alvin R. and Marva C. Graham. |
| July 7 | Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County. |
| July 7 | Certificate of Notice sent to interested parties. |

**Petitioner's Exhibit Nos.** 1-Map of Phoenix area of BC -showing Pet. property
2-Aerial photo - taken by cty 1997
3-A thru E -Photos
4-Revised Plot Plan 4/19/94 KLS Consultants

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

Case Number: 03-C-98-006680

RECEIVED
COUNTY BOARD OF APPEALS
'98 JUL -7 AM 11:3

TO: BALTIMORE COUNTY BOARD OF APPEALS
Old Courthouse Room 49
400 Washington Avenue
Baltimore, MD 21204

# NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

**CIRCUIT COURT FOR BALTIMORE COUNTY**
**CIVIL ASSIGNMENT OFFICE**
**COUNTY COURTS BUILDING**
**401 BOSLEY AVENUE**
**P.O. BOX 6754**
**TOWSON, MD 21285-6754**

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

Assignment Date: 09/21/98

Case Title: In The Matter of: Alvin R Graham , et al
Case No: 03-C-98-006680 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Richard P. Abbott at (410) 887-3233.
**You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:**

## SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 10/06/98
2. All Motions (excluding Motions in Limine) are due by..... 11/19/98
3. TRIAL DATE is..... 12/29/98
   Civil Non-Jury Trial, Start Time 09:30AM; To Be Assigned, 1/2 HOUR-APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponements must be submitted in writing with a copy to all counsel/parties involved. All requests for postponements of cases filed after October 1, 1994 must be approved by the Judge

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected (Call [410] 887-2920 for more

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M D Relay Service, (800) 735-2258.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

cc: Michael L Freilich Esq
Issue Date 09/21/98

RECEIVED
COUNTY BOARD OF APPEALS
98 SEP 23 PM 2:26

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Alvin R. Graham, et ux -Petitioners
Case No. 97-283-A

DATE : April 1, 1998 at 9:30 a.m.

BOARD /PANEL : Charles L. Marks (CLM)
Margaret Worrall (MW)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-283-A /Petition for Variance /Alvin R. Graham, et ux -Petitioners to allow a detached accessory structure (satellite dish antenna) to be located in the front and side yard of the subject property. Heard before the Board on October 1, 1997 and concluded on January 20, 1998.

Upon deliberation between panel members, including deliberation of Motions filed, following is the decision reached by the Board:

CLM: Protestants' Motion to Dismiss Petition DENIED; Petition for Variance relief is DENIED.

MW: Protestants' Motion to Dismiss Petition DENIED; Petition for Variance relief is DENIED.

TPM: Protestants' Motion to Dismiss Petition DENIED; Petition for Variance relief is DENIED.

The Board's unanimous decision based on testimony and evidence produced at hearing and after public deliberation is that Protestants' Motion to Dismiss Petition is DENIED; and Petition for Variance is DENIED.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggrieved by the Board's decision may appeal to Circuit Court; request by Mr. Marks that notice of appeal be given to the Board at the time of filing in Circuit Court.

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered in which the requested variance relief was denied.

~~~~~~~~~~~~~~~~~~~~~~~~

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator
~~~~~~~~~~~~~~~~~~~~~~~~

MICHAEL FREILICH & ASSOCIATES, P. A.

ATTORNEYS AT LAW
SUITE 303
305 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 321-0040

MICHAEL LEWIS FREILICH*

DELANE S. LEWIS†

*ADMITTED MD & FL
†ADMITTED MD & PA

PLEASE ADDRESS CORRESPONDENCE TO:
P. O. BOX 5465
TOWSON, MARYLAND 21285-5465

August 25, 1997

Kathleen C. Bianco, Administrator
County Based of Appeals of
Baltimore County
Old Courthouse, Room 49
Towson, Maryland 21204

**VIA FACSIMILIE:** 410-887-3182

**RE: Case No. 97-283-A**
**Graham**

Dear Ms. Bianco

I have just been retained to represent the Petitioners, the Grahams, in this matter. I hereby consent to a continuance from the Hearing which is scheduled for August 26, 1997, requested by J. Carroll Holzer

From my discussion with Charlotte in your office, it is my understanding there will be no additional expenses to my clients because of this consent

Sincerely yours,

Michael L. Freilich

MLF:edt

cc Graham
J. Carroll Holzer

GRAHAM0825.LTR

RECEIVED
COUNTY BOARD OF APPEALS
97 AUG 27 PM 12: 14

HOLZER

& LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

August 19 1997

**HAND DELIVERED**

Kathleen C. Bianco
Administrator
County Board of Appeals of
Baltimore County
Old Courthouse, Room 49
Towson, Maryland 21204

Re: Case No. 97-283-A
In the Matter of Alvin R. Graham, et ux

Dear Ms. Bianco:

I have just today been retained by Gregg and Betsy Morris, Dee and Nancy Curran and Jonathan and Candy Price to represent their interests in the above captioned hearing scheduled for Tuesday, August 26, 1997 at 10:00 a.m. My clients are adjacent property owners to the Appellants in the above captioned case On that same day, however, I have a criminal trial in the Circuit Court for Howard County at 9:00 a.m., in the matter of *State of Maryland v. Lynn Garrett*, Case Number 34338 which will preclude my appearance on that day.

Consequently, I respectfully request that Case Number 97-283-A be postponed until a mutually convenient time at the Board's convenience. By a copy of this letter, I have notified the Grahams of my request for postponement. To my knowledge, there is no counsel representing the Appellants to date. If you need to call me, I can be reached at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH:clg
cc: Dee & Nancy Curran
Alvin Graham

Recvd 8/19/97
CBA/kcb

HOLZER

& LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX. (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

**October 16, 1997**
**#6982**

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Case No.: 97-283- Alvin Graham, et ux.

Dear Kathy:

I received an assignment for the second day of the above captioned case for December 18, 1997 at 10:00 a.m. I previously have a Circuit Court Appeal in the matter of a Barbara Massey (Case No. 03-C-97-5235), scheduled for 9:30 a.m. on the morning of the 18th. I would, therefore, request a postponement to an earlier day, if possible.

Very truly yours,

J. Carroll Holzer

JCH/srp

cc: Mr. Michael R. Freilich
Gregg & Betsy Morris

RECEIVED
COUNTY BOARD OF APPEALS
97 OCT 17 AM 11:39

| | | |
|---|---|---|
| IN THE MATTER OF | * | BEFORE THE |
| IN THE MATTER OF: | * | COUNTY BOARD OF APPEALS |
| Alvin Graham, et ux | * | BALTIMORE COUNTY |
| 1 Cooperfield Court | * | CASE NO. 97-283-A |

* * * * * * * * * * * * *

**SUBPOENA**

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Wednesday Oct. 1, 1997 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Inspector Gary Freund
Address: PDM 111 West Chesapeake Ave.
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
97 SEP 26 AM 11:23

Name: J. Carroll Holzer, P.A.
Firm: 305 Washington Ave.
Address: Suite 502
Towson, MD 21204

410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

| | | |
|---|---|---|
| IN THE MATTER OF | * | BEFORE THE |
| IN THE MATTER OF: | * | COUNTY BOARD OF APPEALS |
| Alvin Graham, et ux | * | BALTIMORE COUNTY |
| 1 Cooperfield Court | * | CASE NO. 97-283-A |

* * * * * * * * * * * * *

**SUBPOENA**

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Wednesday Oct. 1, 1997 at 10:00 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Tom Moore, Sr.
Address: Gaylord Brooks
P.O. Box 400
Monkton, MD 21131

RECEIVED
COUNTY BOARD OF APPEALS
97 SEP 26 AM 11:24

Name: J. Carroll Holzer, P.A.
Firm: 305 Washington Ave.
Address: Suite 502
Towson, MD 21204

410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals. The Board requests the Sheriff to issue the summons set forth herein.

County Board of Appeals of
Baltimore County

Cost: $_____

Summoned: _____, 19____

Not served: _____, 19____

Sheriff of Baltimore County

# County Board of Appeals of Baltimore County

**Old Courthouse Room 49**
**400 Washington Avenue**
**Towson, Maryland 21204**
**410-887-3180**

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN -7 AM 11:21

**Case No.: 97-283-A**

**IN THE MATTER OF:** Alvin R. Graham, ET UX-
Petioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

**SUBPOENA**

STATE OF MARYLAND, BALTIMORE COUNTY TO WRIT

TO: **Jack Denbow**
**3223 Sandy Hook Rd.**
**Street, MD 21154**

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; ( ) Personally appear and produce documents or objects:

at Hearing Room 48, OldCourthouse, 400 Washington Avenue, Towson, MD 21204 on the 20th day of Janaury, 1998, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents:

Subpoena requested by Petitioner; and any questions should be refered to:

Michael Freilich, counsel for Petitioner, 305 Washington Ave., Suite 303, towson, MD 21204; (410) 321-0040.

Date Issued _____ Charlotte E. Radcliffe
Clerk

Notice:

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.

(2) This subpoena shall remain in effect until you are granted leave to depart by the Court or by an officer acting on behalf of the Court.

# County Board of Appeals of Baltimore County

**Old Courthouse Room 49**
**400 Washington Avenue**
**Towson, Maryland 21204**
**410-887-3180**

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN -7 AM 11:23

**Case No.: 97-283-A**

**IN THE MATTER OF:** Alvin R. Graham, ET UX-
Petitioner 1 Cooperfield Court
10th Election District; 6th Councilmanic

**SUBPOENA**

STATE OF MARYLAND, BALTIMORE COUNTY TO WRIT

TO: **Walter K. Frazier**
**5193 Raynor Avenue**
**Linthicum, MD 21090-1434**

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and or objects only; ( ) Personally appear and produce documents or objects:

at Hearing Room 48, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on the 20th day of January, 1998, at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents:

Subpoena requested by Petitioner; and any questions should be referred to:

Michael Freilich, counsel for Petitioner, 305 Washington Ave., Suite 303, Towson, MD 21204; (410) 321-0040.

Date Issued_____ Charlotte E. Radcliffe
Clerk

Notice:

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.

(2) This subpoena shall remain in effect until you are granted leave to depart by the Court or by an officer acting on behalf of the Court.

MICHAEL FREILICH & ASSOCIATES, P. A.
ATTORNEYS AT LAW
SUITE 303
305 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 321-0040

MICHAEL LEWIS FREILICH*

ROBERT JAY FELDMAN

*ADMITTED MD & FL

PLEASE ADDRESS CORRESPONDENCE TO:
P.O. BOX 5465
TOWSON, MARYLAND 21285-5465

July 10, 1998

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

J. Carol Holzer, Esquire
305 Washington Avenue, Ste. 502
Towson, Maryland 21204

**RE: In the Matter of Alvin R. Graham, et ux, Petitioners**

Dear Sirs:

Enclosed herein is a copy of Mr. and Mrs. Graham's Petit ion for Judicial Review.

Should you have any questions, please feel free to call.

Sincerely yours,

Michael L. Freilich/edf

Michael L. Freilich

MLF/edf

Enclosure (1)

cc: Drs. Alvin & Marva Graham

L:\GRAHAM\070298 LTR

98 JUL 13 PM 1:49
COUNTY BOARD OF APPEALS
RECEIVED

19 Cooperfield Court
Phoenix, MD 21131

March 7, 1996

Dear Zoning Department:

I cannot attend the March 10th meeting because I have a prior commitment. However, I do want to express my concern over the satellite and TV antenna at 1 Cooperfield Court.

Frankly, I do not want to have to look at these structures every time I drive or walk by. No other neighborhood in the area allows such eyesores, and nearly every guest I've had since these structures showed up last June has commented on them.

While my preference would be to have them both moved, I'm willing to meet the Grahams "half-way" and accept their promise to move the antenna and screen the satellite dish. My concern is over timing—we've been led to believe, since last summer, that the relocation of the antenna and the planting of white pines to screen the dish was all due to start "soon." But nothing has been done to date.

So, while I'd like to support the Grahams in their request for a variance, I can only do so with caution. Therefore, I join my neighbors in asking you to offer a conditional variance, pending the relocation of the antenna and the planting of screening trees by May 1st.

Thank you for helping in this matter,

Iva Hannas

Iva Hannas

**Gaylord Brooks Architectural Committee, Inc.**
P O Box 193, 3314 Paper Mill Road, Phoenix, Maryland 21131
(301) 667-0800 Fax (301) 667-0078

December 19, 1996

Dr. Marva Graham
1 Cooperfield Court
Phoenix, MD 21131

Re: a.) Sediment Control
b.) Satellite Dish Screening

Dear Dr. Graham:

I am writing to request that the items referenced above be addressed as soon as possible.

Item a.) Sediment control of runoff on the south side of your property is a concern of your non-Cooperfield neighbors. The rapid flow water and sediment run-off creates damage by undercutting paved roads and the resulting mud is an eyesore. Failure to take the proper steps to effectively control rapid water flow and sediment runoff is a serious matter and could involve Baltimore County penalties in addition to the cost to repair damaged road surfaces.

Item b.) Satellite dish screening was addressed in my letter to you dated November 7, 1996. It was my understanding that the screening of the satellite dish would be accomplished in the near future (by December 31, 1996). Such a timetable was necessary in order to show the neighbors that you were sensitive to their concern over the visibility of the satellite dish. Failure to make a prompt response leads only to more misunderstanding from the community. After all, they have tolerated an unfinished house, trailers, piles of dirt and a spot-o-pot at the entrance to Cooperfield for almost three years. The reference in my letter to a November 1, 1997 date was to give time for the plantings to become established and the neighbors to become accustomed to the landscape screening. It was not intended to be a due date for the *installation* of such screening material.

It is my hope that you can understand the "other side" of these two issues and will take prompt steps to address them.

Thank you for your attention to these matters.

Very truly yours,

Thomas O. Moore

Thomas O. Moore

TOM/rb

895 - 3950

Oct. 29/96.

To the fellow residents of Cooperfield.

I, Drs. Grahams., represent myself as an active & proactive representative of this wonderful community. As a member of this community, ie. Cooperfield, I am responsible for the screening of a satelite dish in its location so as not to present an eyesore or a detriment to the community or myself. The FM/UV. antenna will be relocated to a more remote location on my site as to be totally concealed from view from Cooperfield Road.

Respectfully.

Dr. Graham.

addendum: if dish is still visible as of Nov. 1/97, Dr. Grahams. will be responsible for its relocation to another negotiated location on the site.

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

Send copy of decision

| NAME | ADDRESS |
| --- | --- |
| THOMAS O. MOORE | P.O. BOX 400, PHOENIX MD 21131 |
| GREG MORRIS | 19 COOPERFIELD CT PHOENIX MD 21131 |
| Elizabeth Morris | 19 Cooperfield Ct Phoenix MD 21131 |
| JONATHAN PRICE | 29 COOPERFIELD CT PHOENIX MD 21131 |

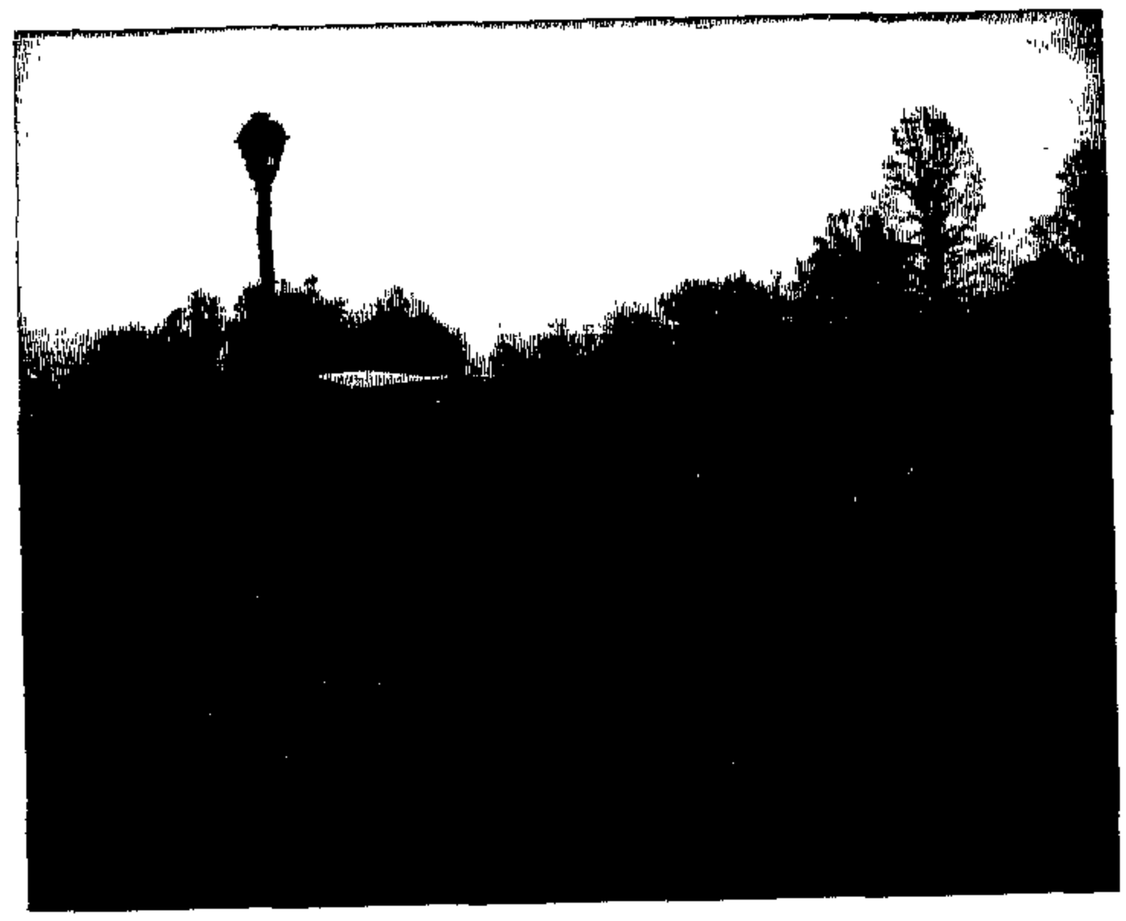
(PLEASE PRINT CLEARLY)

PETITIONER(S) SIGN-IN SHEET

| NAME | ADDRESS |
| --- | --- |
| GRAHAM | |
| Allen R. Graham | 1 COOPERFIELD COURT |
| Marian Graham | 1 COOPERFIELD COURT |
| PATRICK M. O'KEEFE | 523 PENNY LA. HUNT VALLEY 21030 |
| L. J. Link Jr. Inc. | box 727 Parkhlandville Md. 21022. |

Printed with Soybean Ink
on Recycled Paper

2-27-96



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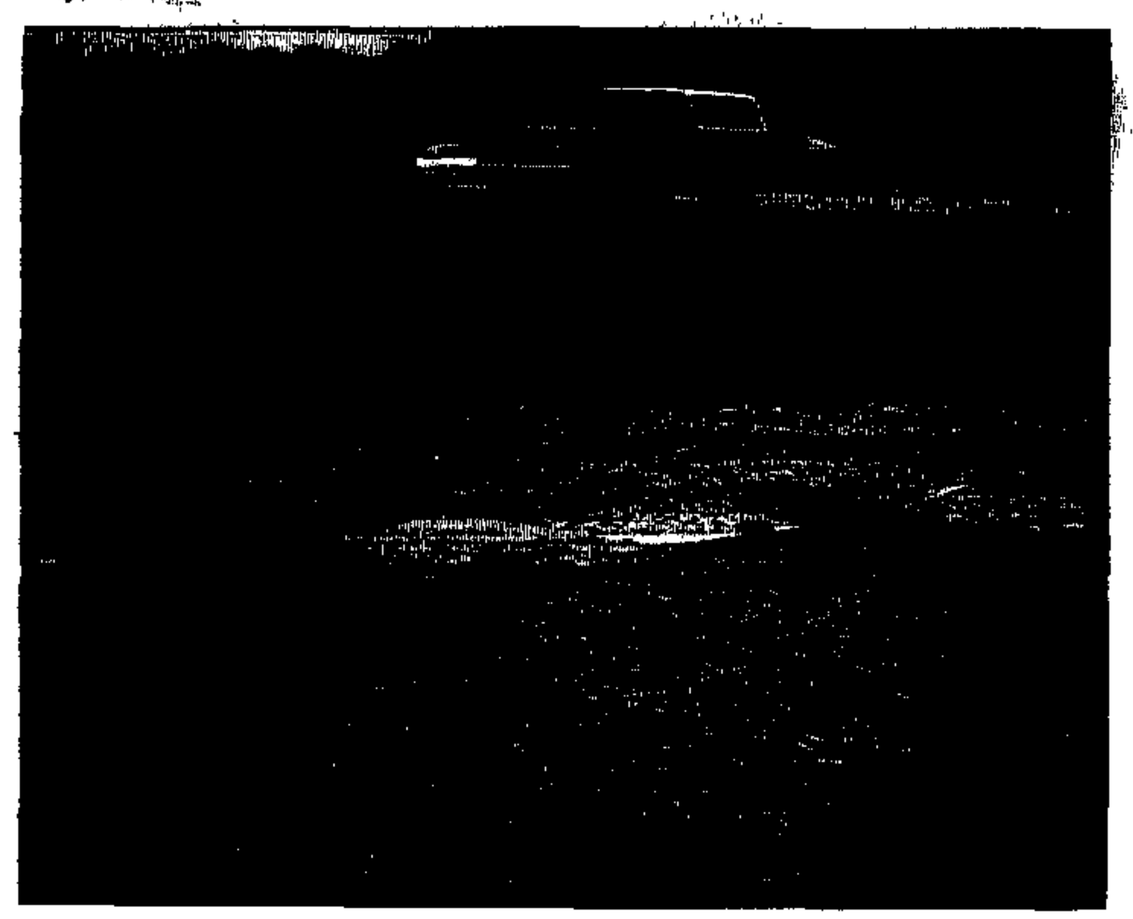


2·27·96

2·27·96

Prop. #3

#96

# HARFORD ELECTRONIC SER.

3223 Sandy Hook Rd.
STREET, MD 21154
(301) 838-9191

| PROPOSAL SUBMITTED TO | PHONE | DATE |
|---|---|---|
| DRs Alvin & Marva Graham | (410) 584-8217 | 3/19/96 |
| STREET: 1 Cooperfield Ct | JOB NAME | |
| CITY, STATE AND ZIP CODE: Phoenix, MD 21131 | JOB LOCATION | |
| ARCHITECT | DATE OF PLANS | JOB PHONE |

We hereby submit specifications and estimates for:

Satellite Sys. and UHF/VHF Antenna sys. With 20' Tower.

| | | |
|---|---|---|
| 1- | Toshiba TRX-2220 Receiver W/decoder | 1660.00 |
| 1- | Unimesh 10' Dish | 490.00 |
| 1- | Chaparral C Band feed | 85.00 |
| 1- | Norsat 21° LNB | 125.00 |
| | Aim 20 dB Amp | 55.00 |
| | Von Weise 18" Arm | 120.00 |
| 1- | 10' Sch. 40 Mast | 65.00 |
| 1- | Channel Master 3671 Ant. | 195.00 |
| 1- | " " 0064 Amp | 75.00 |
| 1- | " " 9510 Rotor | 80.00 |
| 1- | " " 1612 Mast | 13.00 |
| 1- | Rohn 20G 10' Tower sect. | 88.00 |
| 1- | " 20AG 9' " " | 96.00 |
| 1- | " SBH25G 3'4" Hinged base sect. | 170.00 |
| 2 | " TB50 Bushings | 15.00 |
| 500' | Sat. cable | 351.00 |
| 500' | RG6 coax | 95.00 |
| 500' | 18-3 Rotor wire | 90.00 |
| 34- | Bags concrete mix | 145.00 |
| | All grounding and misc. hardware for both systems | 80.00 |
| | | 4093.00 |
| | Tax | 204.65 |
| | Labor | 650.00 |
| | | 4947.65 |

**We Propose** hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

dollars ($ 4947.65 ).

Payment to be made as follows:

Deposit of 1649.00 .Another 1649.00 after installation of satellite dish, tower and ant. sys.

Then final payment of 1649.65 after hook up, testing and programming.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature _____

Note: This proposal may be withdrawn by us if not accepted within _____ days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

Signature _____

FORM 116-3 COPYRIGHT 1960 – Available from NEBS Inc., Groton, Mass. 01450

Prot. # 4

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

**Code Enforcement:** 887-3351 X 7285
**Building Inspection:** 887-3953

**Plumbing Inspection:** 887-3620
**Electrical Inspection:** 887-3960

## BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

VIOLATION(S) OF TITLE 3, 7, 18, 24, OR 26 OF THE BALTIMORE COUNTY CODE, ZONING, OR OTHER CODES, REGULATIONS, AND POLICIES AS INDICATED BELOW:

Violation Notice No. 100327

Name(s) ALVIN & MARVA GRAHAM
Address 6420 S.W RICHEY LA. PORTLAND, OR.
Location of Violation (if different than address) 1 COOPERFIELD CT
Election District 10 Permit No. _____ Case No. 97/1826
Vehicle License No.: _____ Vehicle ID: _____

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:
§§
§§
§§

Zoning Regulations:
§§ 429
§§
§§

Building Code (BOCA):
§§
§§
§§

Livability Code (§18-66):
§§
§§
§§

Investment Property Act (§7-66):
§§
§§

Electrical Code (NEC):
§§
§§

Plumbing Code (NSPC):
§§
§§

Dwelling (CABO):
§§
§§

Other: §§

Engr. located Sat. Dish.

COMMENTS OR OTHER VIOLATIONS:
SATELLITE DISH & T.V. ANTENNA MUST BE LOCATED IN REAR YARD, 2 1/2' FROM ALL PROPERTY LINES.

400.1.C
P.4-1 BCPM
(RC) ACC. USES OR STRUCTURES SUBJECT TO 400
BCZR
Rear Yd. w/ Setbacks

12/20/96

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE ~~12/4/96~~ FAILURE TO COMPLY WILL RESULT IN THE PENALTIES DESCRIBED ON THE REVERSE SIDE OF THIS VIOLATION NOTICE.

DATE ISSUED: 11/19/96 INSPECTOR: FREUND

**STOP WORK NOTICE**

PURSUANT TO INSPECTION AND IDENTIFICATION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT.

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN: _____

DATE ISSUED: _____ INSPECTOR: _____

*IMPORTANT INFORMATION ON FINES AND PENALTIES PRINTED ON REVERSE SIDE PLEASE READ CAREFULLY.*

AGENCY

Prot. #5



GJG/sw
07/25/89

C RC/F 41.00
DECLAR 0
SA CLERK 41.00
#51440 C001 R02 T14:
01/02/

# DECLARATION OF COVENANTS AND RESTRICTIONS

## COOPERFIELD

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS** made this 26th day of December, 19 89, by Gaylord Brooks Realty Company, hereinafter called the "Declarant".

## RECITALS

(A) The Declarant is the owner, in fee simple, of the tract of land lying in the Tenth Election District of Baltimore County, Maryland, containing approximately ninety eight (98) acres of land, as shown on the Plat entitled Cooperfield, (hereinafter referred to as the "Plat"), which Plat is recorded among the Land Records of Baltimore County in Liber S.M. 60, Folio 142 and as hereafter referred to as Cooperfield.

(B) The Declarant, for the purposes of creating and maintaining a general scheme of development and for the protection of the economic interest of the Declarant, desires that the aforesaid lots be subject to the covenants, conditions and restrictions hereinafter set forth, for the benefit of the Declarant, and the future owners of all Lots in the Development.

(C) The purpose of the Covenants and Restrictions is to enhance the quality of the Subdivision, as hereafter defined, and to support maximum property value for the Declarant and future property owners. To further these purposes, the Declarant and each Lot Owner, as hereafter defined, has the individual right, but not any obligation to enforce these Covenants and Restrictions against any violation by means as provided herein or by appropriate legal proceedings. The Declarant has no legal obligation to enforce these Covenants and Restrictions but may selectively act to further its own best interests. Any Lot Owner has the right to retain legal counsel to enforce any of the Covenants and Restrictions.

**NOW, THEREFORE,** the Declarant for itself, its successors and assigns, hereby declares that all the aforesaid tract of land known as Cooperfield shall be subject to the covenants, restrictions, conditions and reservations hereinafter set forth.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
DATE

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

TRANSFER NOT REQUIRED
BALTIMORE COUNTY, MARYLAND
Per Joy Burgoon
Appraiser

## ARTICLE I - DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

(a) **"The Property"** shall mean and refer to all the real property shown on the Record Plat referred to above.

(b) **"Lot"** shall mean and refer to those properties designated as Lots 1 through 13 on the aforesaid Plat.

(c) **"Dwelling"** shall mean and refer to any building or portion of a building situated upon the Property and designated and intended for use and occupancy as a residence by a single family.

(d) **"Developer"** or **"Declarant"** shall mean and refer to Gaylord Brooks Realty Company and its successors and assigns.

(e) **"Lot Owner"** shall mean and refer to every person, group of persons, corporation, trust or other legal entity, or any combination thereof, who holds legal title to a Lot in the Subdivision, provided, that (a) no Lessee (other than a Lessee under a 99 year lease creating a ground rent of such Lot) , and (b) no Mortgagee or Trustee under a Deed of Trust of any Lot shall be deemed to be a Lot Owner unless and until such Mortgagee or Trustee acquires of record the Mortgagor's or Grantor's equity of redemption in said Lot.

(f) **"Subdivision"** shall mean the final Subdivision of Cooperfield as recorded among the Plat Records of Baltimore County; or as amended in accordance with this Declaration.

(g) **"Plans and Specifications"** shall mean engineering site plans, landscape plans, and architectural working drawings and any other supporting documents which may be required by the Developer.

## ARTICLE II - PROPERTY SUBJECT TO DECLARATION AND MUTUALITY OF BENEFIT

SECTION 1. Property. The real property which is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to these restrictive covenants is located in Baltimore County, State of Maryland, and is more particularly designated on the Plat.

SECTION 2. Benefit. The restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every Lot in the Subdivision and are intended to create mutual, equitable servitudes upon each of said Lots in favor of each and all of the other Lots therein; to create reciprocal rights between the respective owners of all of said Lots; to create a privity of contract and estate between the grantees of said Lots, their heirs, personal representatives, successors and assigns, and shall, as to the owner of each such Lot, his heirs, personal representatives, successors or assigns, operate as covenants running with the land for the benefit of each and all other Lots in the Subdivision and their respective owners.

## ARTICLE III - UTILITIES

SECTION 1. Utility Easements. Easements along all property lines extending from the property line into each Lot for a width of five feet (5') are hereby reserved by the Declarant for the installation and maintenance of utilities and drainage facilities. All additional easements reserved for those purposes are as shown on the Plat. In addition thereto, the Baltimore Gas and Electric Company, C & P Telephone Company and any cable television company operating in Baltimore County shall have the right to place upon the Lots, at such locations as may be deemed necessary by them, electrical transformers, transformer pads, telephone pedestals, and television cable. The aforesaid companies shall also have the right to use the Roadway System for purposes of maintaining their respective distribution systems. No structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels. The Declarant reserves the right to place fencing within said easements as is desirable in its discretion, provided however, that such fencing shall not interfere with said easements.

## ARTICLE IV - ARCHITECTURAL REVIEW

SECTION 1. Purpose. No building, fence, wall, hedge or other structure shall be constructed on any Lot until the Plans and Specifications, including color scheme and a grading plan showing the location of the structure, have been approved in writing by Gaylord Brooks Architectural Committee, Inc. ("GBAC") or its assignee. No later changes or additions after initial approval thereof or remodeling or reconstruction shall commence until such has also been approved in writing by GBAC or its assignee. Before commencement of construction, the owners of Lots shall present their Plans and Specifications to GBAC together with a non-refundable fee of One Hundred Dollars

($100.00) covering the cost of reviewing the Plans and Specifications. Plans and Specifications must be acted on by GBAC within thirty (30) days after submission. If GBAC fails to act on said Plans and Specifications within said thirty (30) day period after submission, the Plans and Specifications shall automatically be approved. GBAC shall have the right to refuse to approve any such Plans and Specifications, or grading and location plans, which are not suitable or desirable, in its opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications, or grading or location plans, it shall have the right to take into consideration the suitability of the proposed building or other structure, the materials of which it is built, the site upon which it shall be erected, the harmony thereof with the surroundings and the effect of the building or other structure on the roadway as planned and the view from the adjacent or neighboring properties. In the event of the failure of the purchaser or purchasers of Lots in Cooperfield to obtain or to comply with the required prior written approval of plans, specifications, and grading studies as established in this paragraph, said purchasers hereby agree to reimburse GBAC or its assigns for all costs and expenses to which it may be put as a result of said failure, including but not limited to court costs and attorney's fees, and to bear all expenses necessary to conform any improvements to approved status including costs of demolition and reconstruction, if necessary. Any approved Dwelling constructed on said Lots shall be completed in every exterior detail within twelve (12) months from date of beginning such construction. Material samples, if not retrieved by the Lot Owner, will be disposed of ten (10) days following approval.

SECTION 2. Liability. Neither GBAC, nor any architect or agent thereof shall be responsible in any way for any defects in any Plans and Specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such Plans and Specifications.

## ARTICLE V - USE AND BUILDING RESTRICTIONS

SECTION 1. Land Use. Lots as shown on the Plat shall be used for private residential purposes only and no Dwelling shall be erected, altered, or placed or permitted to remain on any Lot other than one detached Dwelling, said Dwelling designed for single-family occupancy. Single-family occupancy shall not be construed to prevent the erection of a Dwelling with an attached apartment or living area for use by a Lot Owner or members of the owner's family. Nothing herein contained shall prevent the use of part of a Lot as a right of way for use by other Lots within the Subdivision or adjoining property. Residential use shall not bar a home office use of the Property provided the Owner of said

Lot complies with the applicable zoning regulations of Baltimore County. Private residential use shall not prohibit acquisition of the property for investment purposes or for acquisition by a contiguous property owner who does not intend to erect a residential dwelling in the immediate future. Any tenant under a lease of any of the Property for a period of less than ninety nine (99) years, although not a Lot Owner, shall be bound by all of the use and building restrictions contained herein.

SECTION 2. Building Restrictions.

(a) No structure of a temporary character, such as, but not limited to, a trailer, shack, or tent, shall be placed or used on any of the Lots as a residence or for storage, or as an auxiliary building, either temporarily or permanently, except that a temporary structure may be placed or used thereon if used and operated solely in connection with the construction of permissible permanent improvements; provided, however, that such temporary structure shall be removed from the premises within thirty (30) days after completion of the construction of the permissible permanent improvements; and provided, further, that such structure be removed within a period of twelve (12) months from the date of its original construction, whichever shall occur first.

(b) Attached two car garages are required unless specifically waived in writing by GBAC.

(c) No recreational vehicles, such as, but not limited to, boats, campers, motor homes, and tent vehicles, may be parked or kept on any Lot without first obtaining the written approval of GBAC herein, which approval shall be revocable by GBAC. No motorized bikes or similar type recreational vehicles may be operated on any Lot.

(d) No live poultry, hogs or other similar livestock shall be kept on any Lot. Horses and/or cows may be kept on any Lot provided however that the number of horses and/or cows so kept is in accordance with applicable Baltimore County Zoning Regulations and that they are properly housed and cared for and are restricted to the owner's Property. Written approval of GBAC must be obtained prior to the keeping of horses and/or cows, which approval shall be revocable by GBAC. A maximum of two (2) dogs and two (2) cats is permitted by right, provided that they are properly housed and cared for and are restricted to the owner's Property. Written approval from GBAC is required for dogs and cats in excess of this number, which approval shall be revocable by GBAC.

(e) Owners of Lots shall be responsible for providing driveway access to their homes from the paved portion of the public road or common driveway abutting the owner's Lot as

designated on the Plats. All driveways shall be paved with a hard durable surface, such as macadam, tar and chip, concrete or other similar material. Paving shall be completed one (1) year from the date of commencement of construction of the Dwelling on said Lot.
NO BERM SHALL BE ALLOWED ALONG THE DIVISION LINE BETWEEN THE PUBLIC ROAD AND LOT WHICH WILL IN ANYWAY INHIBIT THE WATER COURSE INTENDED IN THE APPROVED ROAD DESIGN.
NOTE: COMMON DRIVEWAYS CONSTRUCTED BY DEVELOPER ARE NOT TO BE ALTERED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE DECLARANT HEREIN.

(f) All Lots in Cooperfield shall be kept free from rubbish and trash of any kind, clean and with lawns, including the area between the lot line and the paved portion of the road, neatly mowed a minimum of three (3) times per growing season, so that grass and weeds do not exceed eight (8) inches in height. In the event the owners of any Lot(s) do not so maintain their Lot(s), the Declarant or its employees shall have the right to enter upon said Lot to cut or remove the grass, weeds, rubbish or trash, and the Owner of any Lot or parcel so benefitted shall pay reasonable charges for such services as is determined by the Declarant or its designee.

(g) No future facilities, including poles and wires for the transmission of electricity, telephone and the like shall be placed or maintained above the surface of the ground on any Lot; and no external or outside antennae towers or television discs of any kind shall be erected without the prior written approval of GBAC or its duly authorized representative(s). Developer reserves the right to install utility poles, wires and the like above ground as it deems necessary in providing utility service to any Lot.

(h) No more than seven thousand (7,000) square feet of wooded area on any Lot or parcel may be cleared without the express authorization of the Declarant.

(i) No sign or other advertising device of any nature shall be placed on any Lot advertising the said Lot or the improvements thereon as being for sale unless approved in writing by the Declarant. This restriction shall terminate on April 1, 1991.

(j) No change in ground level may be made on any Lot in excess of one foot in height over existing grades without the written approval of the Declarant obtained prior to the commencement of work.

(k) No vehicle shall be parked on any street in the Subdivision. No truck of any type shall be parked for storage overnight or longer on any Lot in the Subdivision in such a

manner as to be visible to the occupants of other Lots in the Subdivision or the users of any street within the Subdivision, unless the prior written approval of the Declarant has been obtained, which approval may be revoked by the Declarant at any time.

(l) Any Dwelling or outbuilding on any Lot in the Subdivision which may be destroyed in whole or in any part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain on the Lot for more than sixty (60) days.

(m) No fuel tanks of any kind, excepting tanks for heating oil, shall be buried on any Lot.

(n) A construction entrance twelve feet by fifty feet (12' x 50') must be built on each Lot by the Lot Owner prior to construction and shall consist of not less than eight inches (8") of crushed stone and shall be maintained during construction to minimize sediment runoff and damage to the road system adjacent to the construction site.
DAMAGE TO THE ROAD SYSTEM RESULTING FROM IMPROPERLY INSTALLED AND MAINTAINED CONSTRUCTION ENTRANCES SHALL BE THE RESPONSIBILITY OF THE LOT OWNER.

SECTION 3. Environmental Control. The Declarant has entered into an agreement with the Baltimore County Department of Environmental Protection and Resource Management to adhere to the following "Water Quality Best Management Practices" and, by the acceptance of a Deed conveying any Lot, the Owner thereof covenants to adhere to the same:

(a) All areas except that used for buildings, sidewalks and paving, will be planted with vegetated cover and/or landscaped as soon as possible after final grading and maintained in such condition.

(b) Dirt and debris accumulating on private roads will be removed according to the following schedule: May through October, concurrent with grass mowing; November through April, as required.

(c) Snow removal will be by mechanical means except in severe snow and ice conditions, when deicing compounds may be used.

(d) Application of fertilizers, herbicides and pesticides will not exceed recommendations of the University of Maryland Cooperative Extension Service.

(e) Filling will not occur in grassed or lined drainage ditches or swales.

## ARTICLE VI - GENERAL

SECTION 1. Provisions to Run With The Land. The provisions herein contained shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant or the Owner of any part of said land included in the Plat, their respective legal representatives, heirs, successors, and assigns. Failure by the Declarant, or any such owner or owners to enforce any restriction, condition, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occuring prior or subsequent thereto.

SECTION 2. Term and Amendment. These restrictions shall inure to the benefit of and shall be enforceable by the Declarant and any Lot Owner, their respective legal representatives, heirs, successors and assigns until April 1, 2014. From and after April 1, 2014, the easements created by Articles III, IV and V hereof shall continue in full force and effect in perpetuity. After April 1, 2014, the remaining provisions in this Declaration (with the exception of Articles III, IV and V) may be amended and/or terminated in their entirety by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners entitled to vote, which instrument shall be filed for recording among the Land Records of Baltimore County, Maryland or in such other place of recording as may be appropriate at the time of the execution of such instrument.

SECTION 3. Invalidation. Invalidation of any of these covenants, agreements, restrictions or conditions by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

SECTION 4. Limitation. These restrictions shall apply to the Lots as shown on the aforesaid Plat entitled Cooperfield and shall not be binding on any other property of the Declarant, its successors and assigns.

SECTION 5. Subdivision.

(a) No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise, after acquisition from the Declarant. With respect to any of said Lots while owned by the Declarant, the Declarant expressly reserves the right to alter property lines, to alter setback lines, to alter any easements, and to otherwise revise the aforesaid Subdivision Plat and/or Development Plan of Cooperfield in any respect subject to

applicable Baltimore County regulations and requirements. And in connection therewith, the Declarant further reserves the right to modify the Subdivision Plat and/or Development Plan as filed with Baltimore County, Maryland, as to any Lots to be resubdivided. Included in this reservation is a special limited irrevocable power of attorney to sign on behalf of any interested party such waivers or consents as may be required by Baltimore County, consenting to the alteration of the Subdivision Plat and/or Development Plan.

(b) Nothing herein shall be construed to prevent the resubdivision of Lot Nos. 12 and 13 and Tract A by the Declarant or subsequent owner in the event of future changes in Baltimore County Zoning Regulations. In such event, the size of any lot(s) resulting from such resubdivision shall be not less than three (3) acres. With respect to Tract A, use of Tract A as a building lot and/or resubdivision shall be allowed in the event such use and/or resubdivision is permitted by Baltimore County, either through a change in Zoning Regulations or as a result of the shifting of density from adjacent property to Tract A. Any lot(s) on or partially on Tract A resulting from such use and/or resubdivision shall be at least three (3) acres in size.

## ARTICLE VII - DEVELOPER

SECTION 1. Reservation of Rights. The Developer reserves an easement to exercise its right at any time prior to or subsequent to conveyance of individual Lots in Cooperfield to enter upon any of the Property, to complete, in its sole discretion, development of the Property; such development including but not limited to tree cutting, and grading and filling in order to install roads, storm drains and utilities.

SECTION 2. Waiver of Restrictions and Covenants. The Declarant, its successors and assigns, reserves the right to waive such portion of the Restrictions and Covenants placed on this Property as the Declarant deems necessary or in the best interest of the development as determined by the Declarant. All waivers shall be in writing and a copy thereof shall be filed with the Declarant and a copy thereof shall be available to all Lot Owners upon request.

SECTION 3. Special Limited Power of Attorney.

**AS STATED IN ARTICLE VI, SECTION 5, DECLARANT RESERVES THE RIGHT TO SIGN ON BEHALF OF ANY INTERESTED PARTY OR LOT OWNER SUCH WAIVERS OR CONSENTS AS MAY BE REQUIRED BY BALTIMORE COUNTY, CONSENTING TO THE ALTERATION OF THE SUBDIVISION PLAT AND/OR DEVELOPMENT PLAN.**

**AS WITNESS** the hand and seal of Richard A. Moore, President, Gaylord Brooks Realty Company.

WITNESS: GAYLORD BROOKS REALTY COMPANY

Reatha L. Burk BY _____
Richard A. Moore, President

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I **HEREBY CERTIFY**, that on this 26th day of December, 1989, before me, the subscriber, a Notary Public of the State of Maryland, County of Baltimore, personally appeared Richard A. Moore, President, Gaylord Brooks Realty Company, and he acknowledged the foregoing Declaration of Restrictions to be the act and deed of Gaylord Brooks Realty Company.

AS WITNESS my hand and Notarial Seal.

Reatha L. Burk
NOTARY PUBLIC

My Commission Expires: July 1, 1990

The Mortgagee or Trustee under a Deed of Trust of the Property joins in the execution of this Declaration for the purpose of evidencing its consent thereto.

By: Suzann M. Stephens V.P.
Reisterstown Federal Savings Bank

AFTER RECORDING - RETURN TO:
GAYLORD BROOKS REALTY CO.
REATHA L. BURK
P.O. BOX 193
PAPERMILL RD
PHOENIX, MD. 21131

Plot. 6 ID only

# SATELLITE VIDEO SYSTEMS, INC.

"Your Total Satellite Supplier"
37 S. Cranberry Road • Westminster, MD 21157
(410) 875-0422 • Fax (410) 875-5687

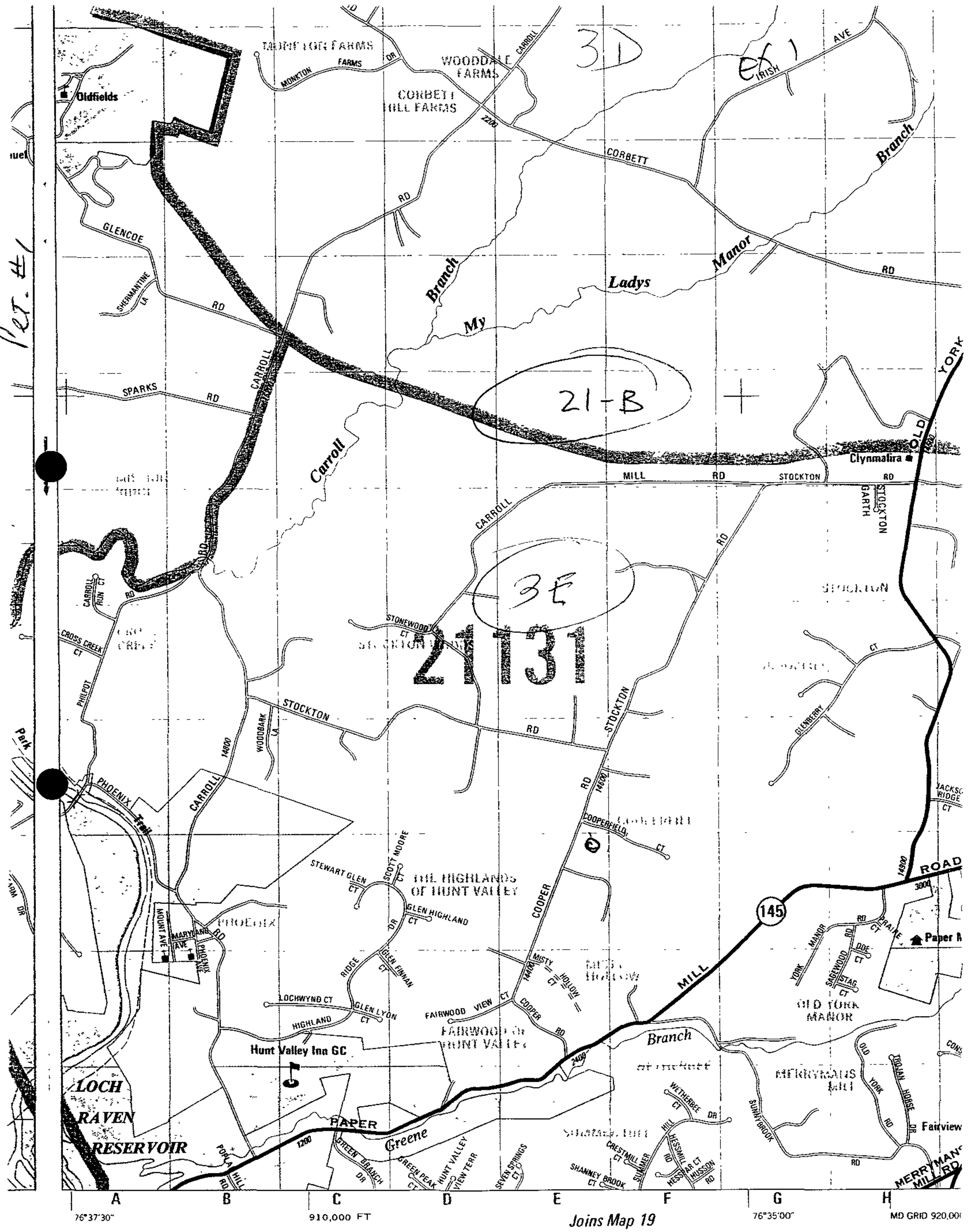
1-19-98

Mr. Price,

I did go to the property in Question in August of 96 to offer an expert opinion. I do recall the situation w/ the placement of the Satellite Equip and T.V. tower. I did show them an alternative location where the Satellite dish would work and could be masked from both the house and the road w/ the proper landscaping. All parties w/ an interest in the decision were present at the time. I would consider my opinion to be 100% reliable. I have been in the Satellite business since 1980. Our company has installed over 3000 Satellite systems to date. Call if you have further Questions.

Thanks

Jay Smith


Oldfields
MONKTON FARMS
WOODDALE FARMS
CORBETT HILL FARMS
CARROLL
IRISH AVE
CORBETT RD
GLENCOE
SHERMANTINE LA
RD
Branch
Ladys
Manor
My
SPARKS RD
CARROLL RD
Carroll
21-B
YORK
Clynmalira
MILL RD
STOCKTON RD
STOCKTON GARTH
CARROLL RD
3E
21131
CARROLL RUN CT
CROSS CREEK CT
PHILPOT
STONEWOOD CT
STOCKTON RD
WOODBARK LA
STOCKTON RD
GLENBERRY CT
Park
PHOENIX Trail
CARROLL RD
COOPERFIELD CT
JACKSON RIDGE CT
STEWART GLEN CT
SCOTT MOORE CT
THE HIGHLANDS OF HUNT VALLEY
GLEN HIGHLAND CT
COOPER RD
145
MILL ROAD
PHOENIX
MOUNT AVE
MARYLAND AVE
PHOENIX AVE
RIDGE DR
GLEN FINNAN CT
MISTY HOLLOW CT
YORK MANOR RD
PRAIRIE CT
Paper Mill
LOCHWYND CT
GLEN LYON CT
HIGHLAND
FAIRWOOD VIEW CT
COOPER RD
OLD YORK MANOR
Hunt Valley Inn GC
Branch
LOCH RAVEN RESERVOIR
PAPER
Greene
PORLA HILL RD
GREEN BRANCH DR
GREEN PEAK CT
HUNT VALLEY VIEW TERR
SEVEN SPRINGS CT
WETHERBEE CT
HILL
HESSMILL RD
CRESTMILL CT
SUMMER
SHANNEY BROOK CT
HESSMAR CT
HUSSON RD
SUNNY BROOK RD
OLD YORK RD
TROJAN HORSE DR
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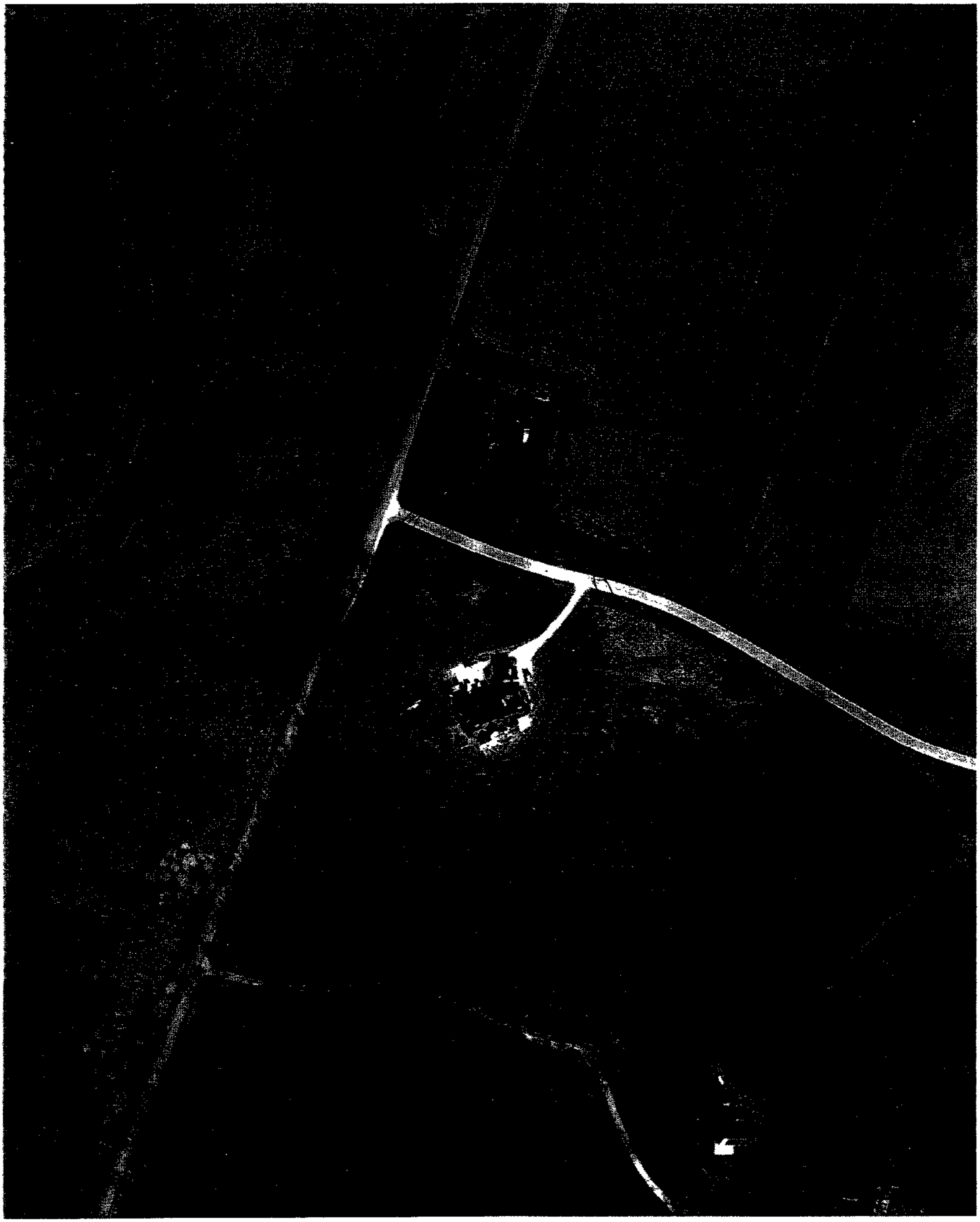
Per. # 2



Per. # 2

Pet. 3A

2

Per. 3B

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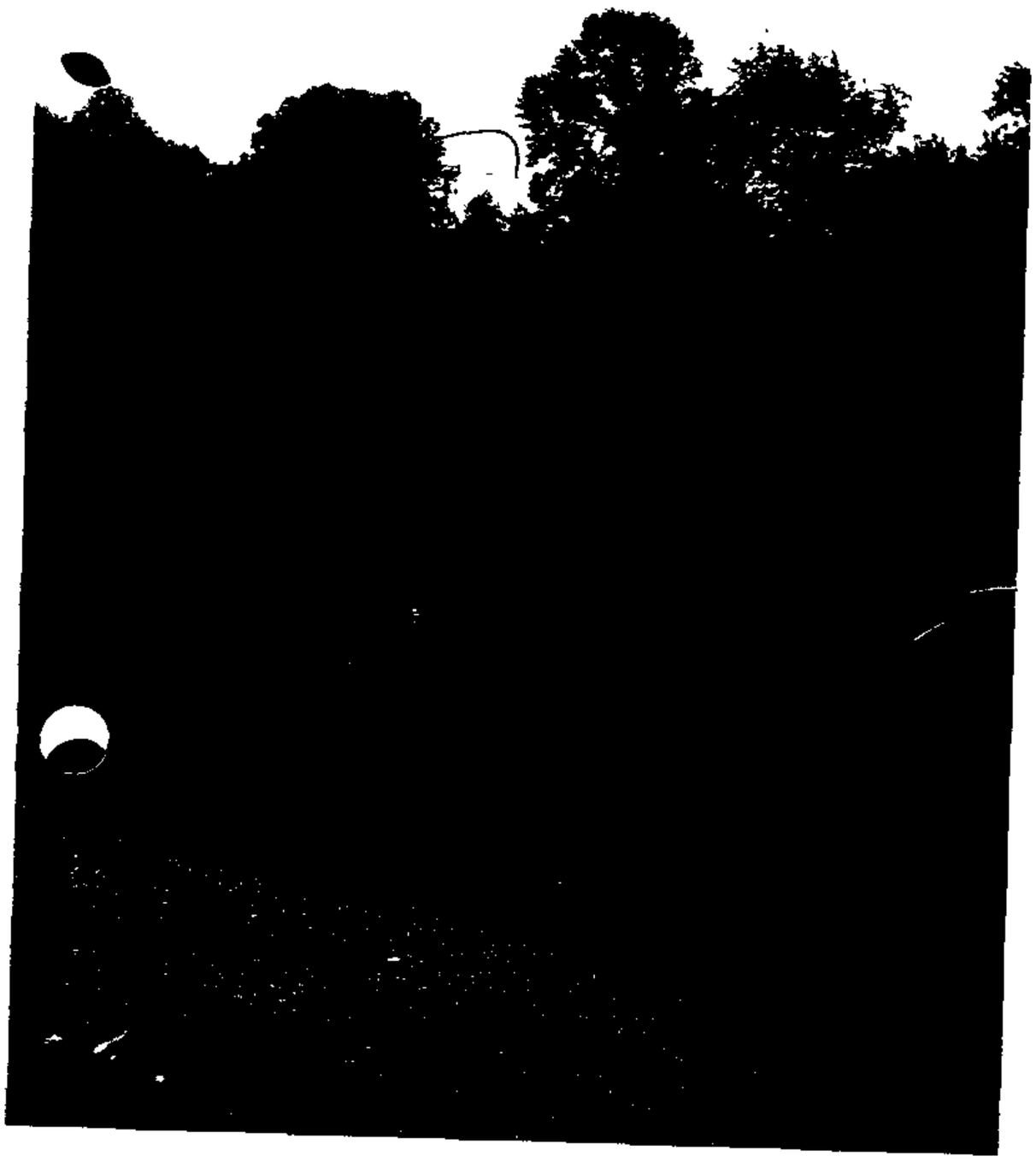
4

Per 3C



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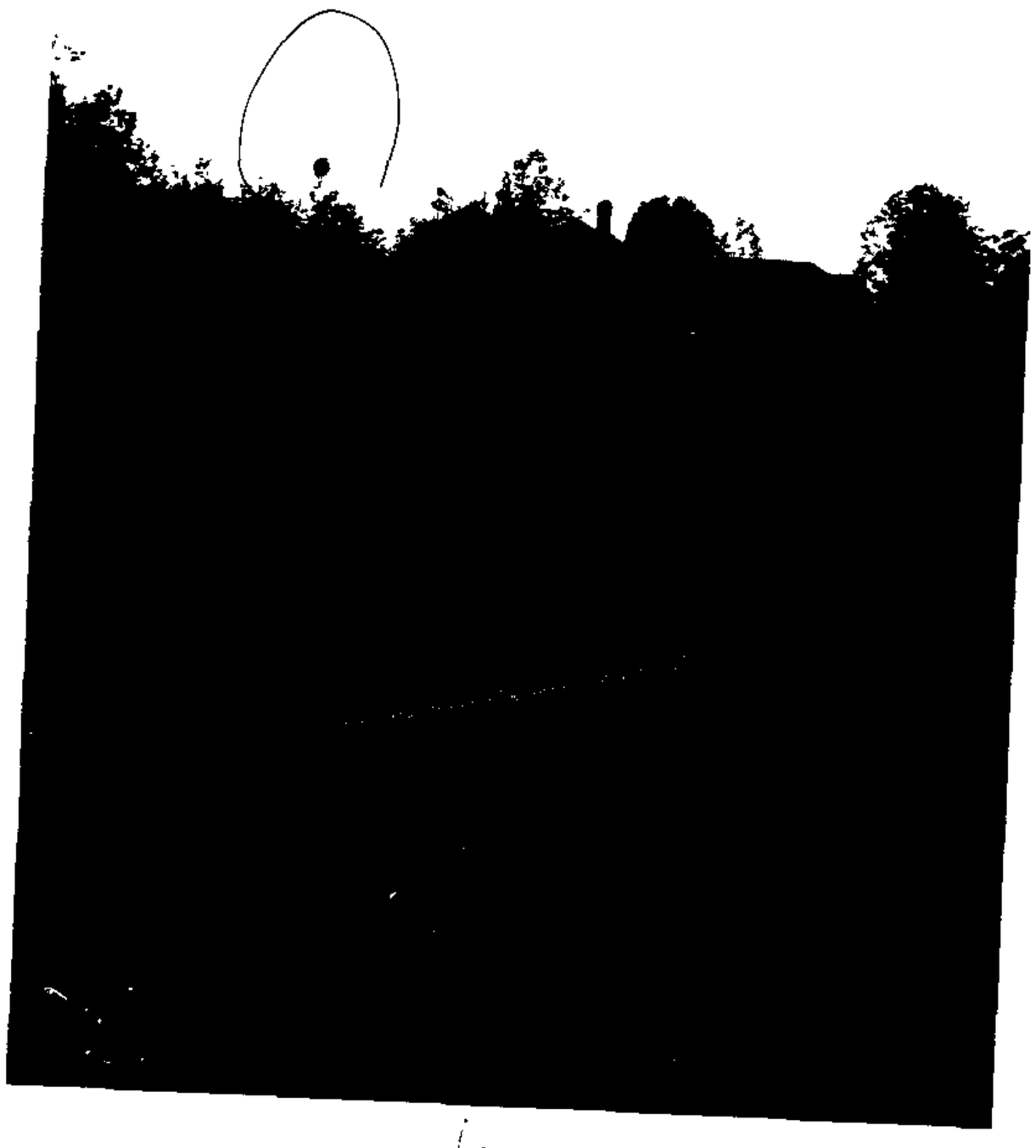

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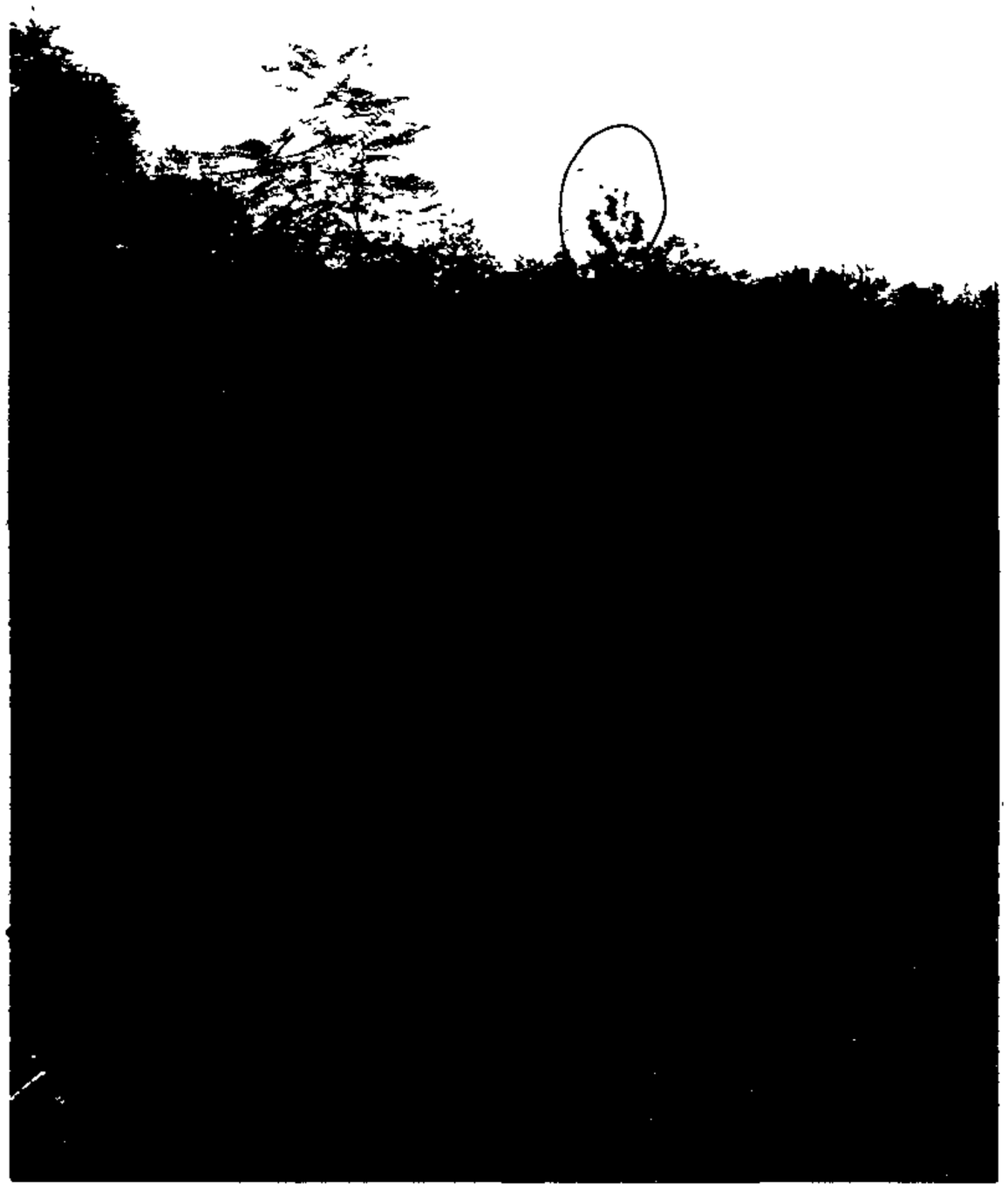
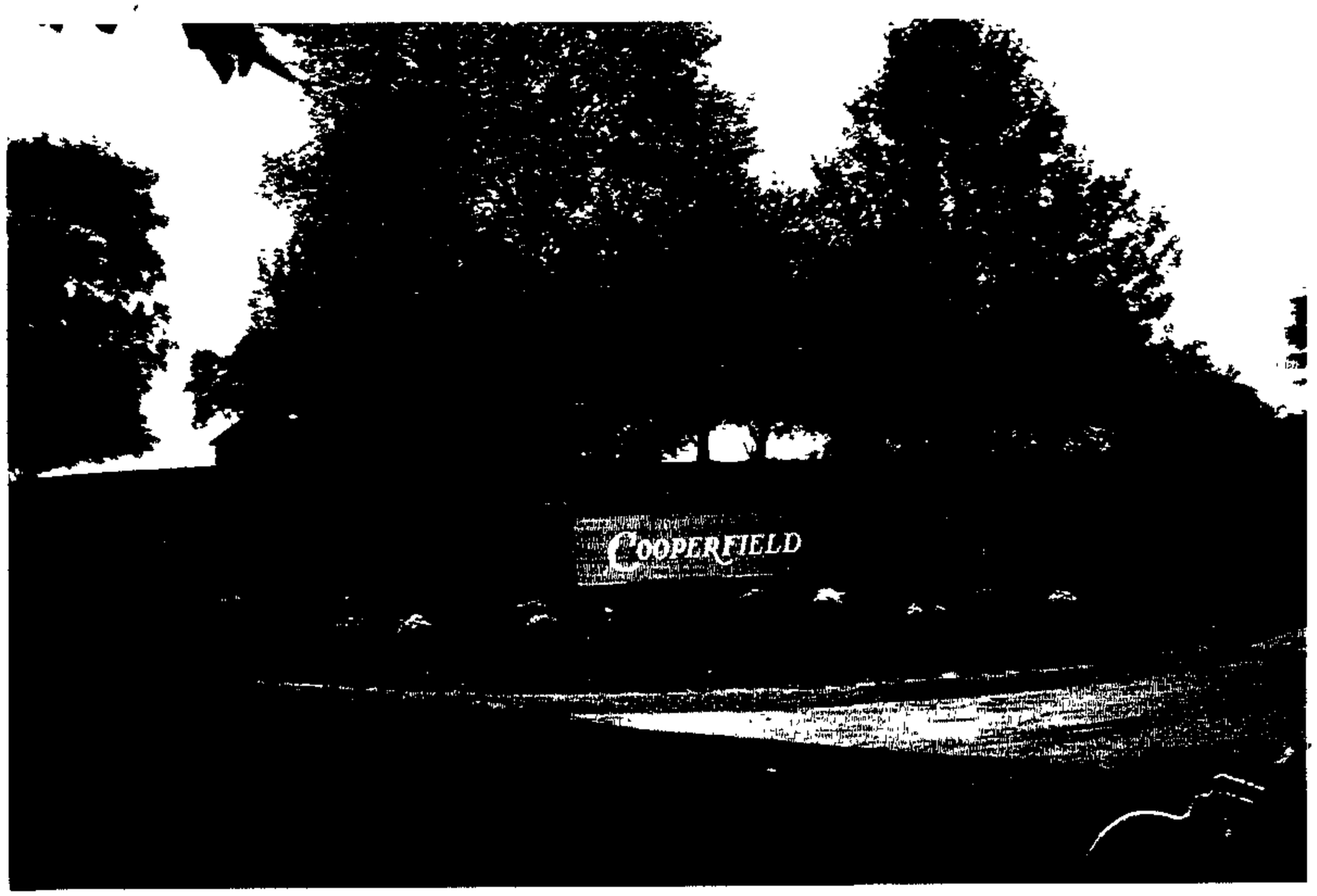
Pet 3D





Pet 3E

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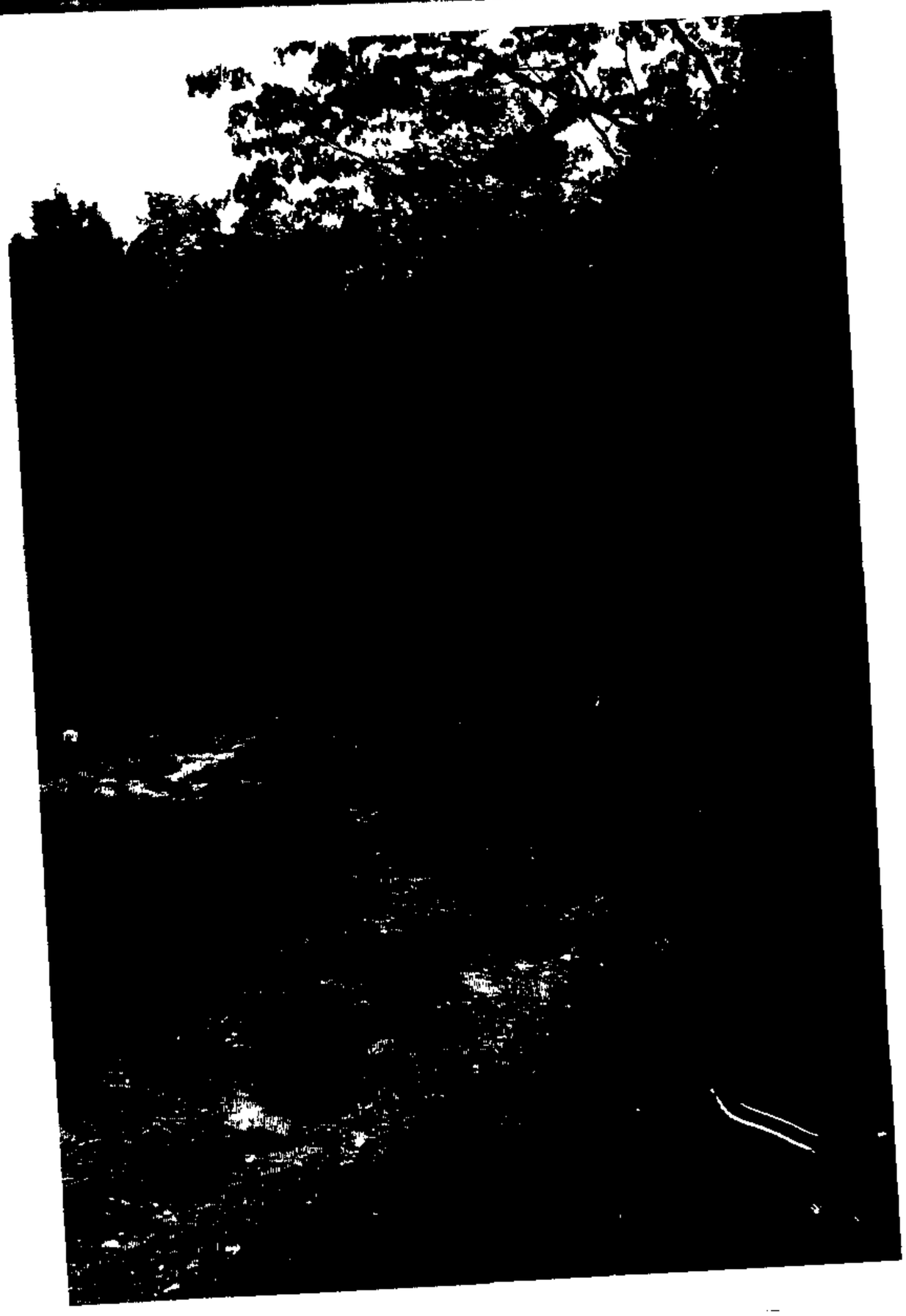

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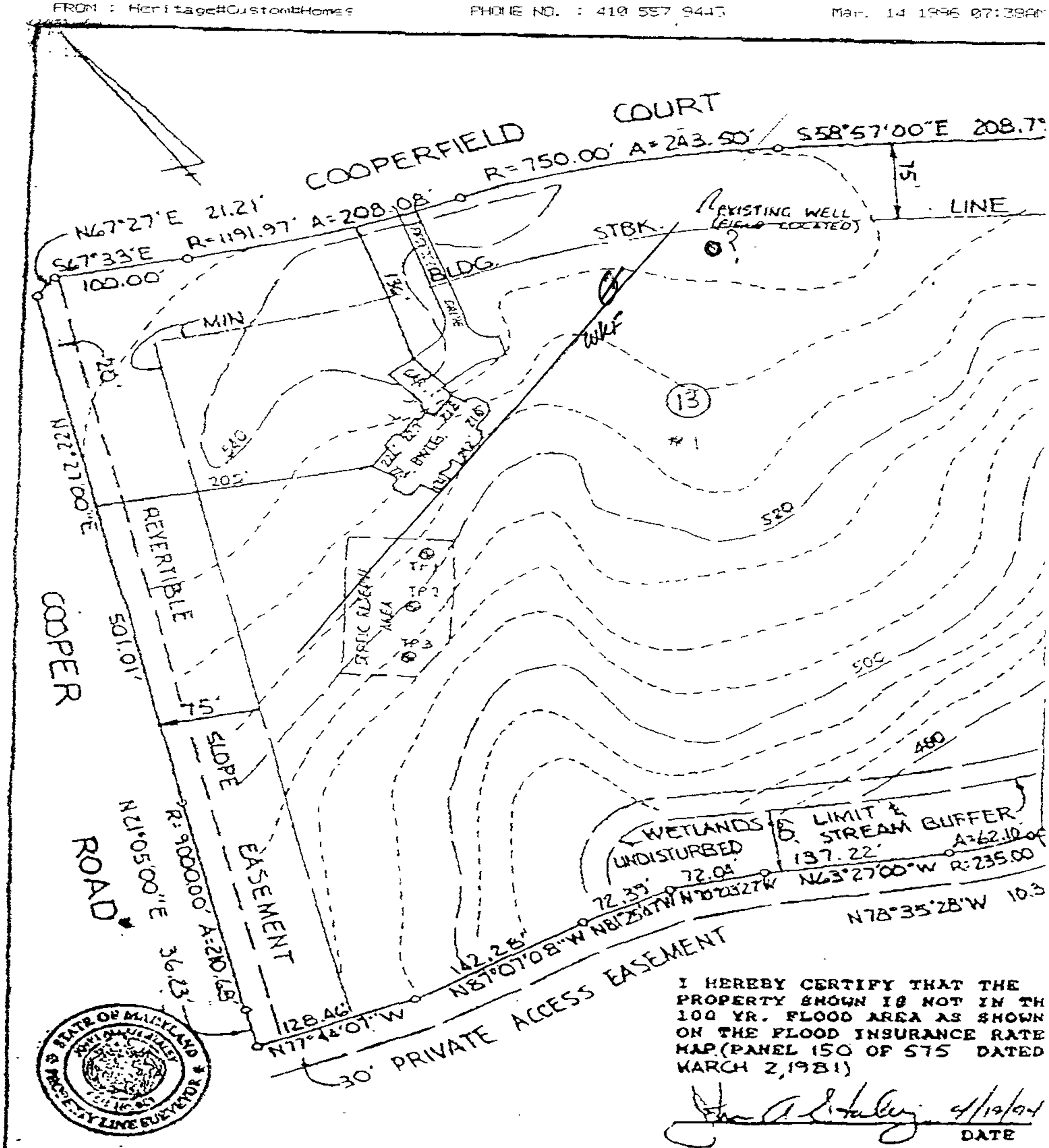
BACKYARD




I HEREBY CERTIFY THAT THE PROPERTY SHOWN IS NOT IN TH 100 YR. FLOOD AREA AS SHOWN ON THE FLOOD INSURANCE RATE MAP.(PANEL 150 OF 575 DATED MARCH 2,1981)

4/14/94
DATE

RECORDED: 60-142

"THE INFORMATION ON THIS PLAT SHOWS ONLY THAT THE IMPROVEMENTS INDICATED HEREON ARE LOCATED AS SHOWN WITHIN THE OUTLINES OF THE LOT UPON WHICH THEY ARE ERECTED AND IS NOT TO BE CONSTRUED AS AN ESTABLISHMENT OF PROPERTY LINES.

PROP. LAND SURVEYOR NO. 5011

LOCATION OF EXISTING STRUCTURE
LOT 13

COOPERFIELD

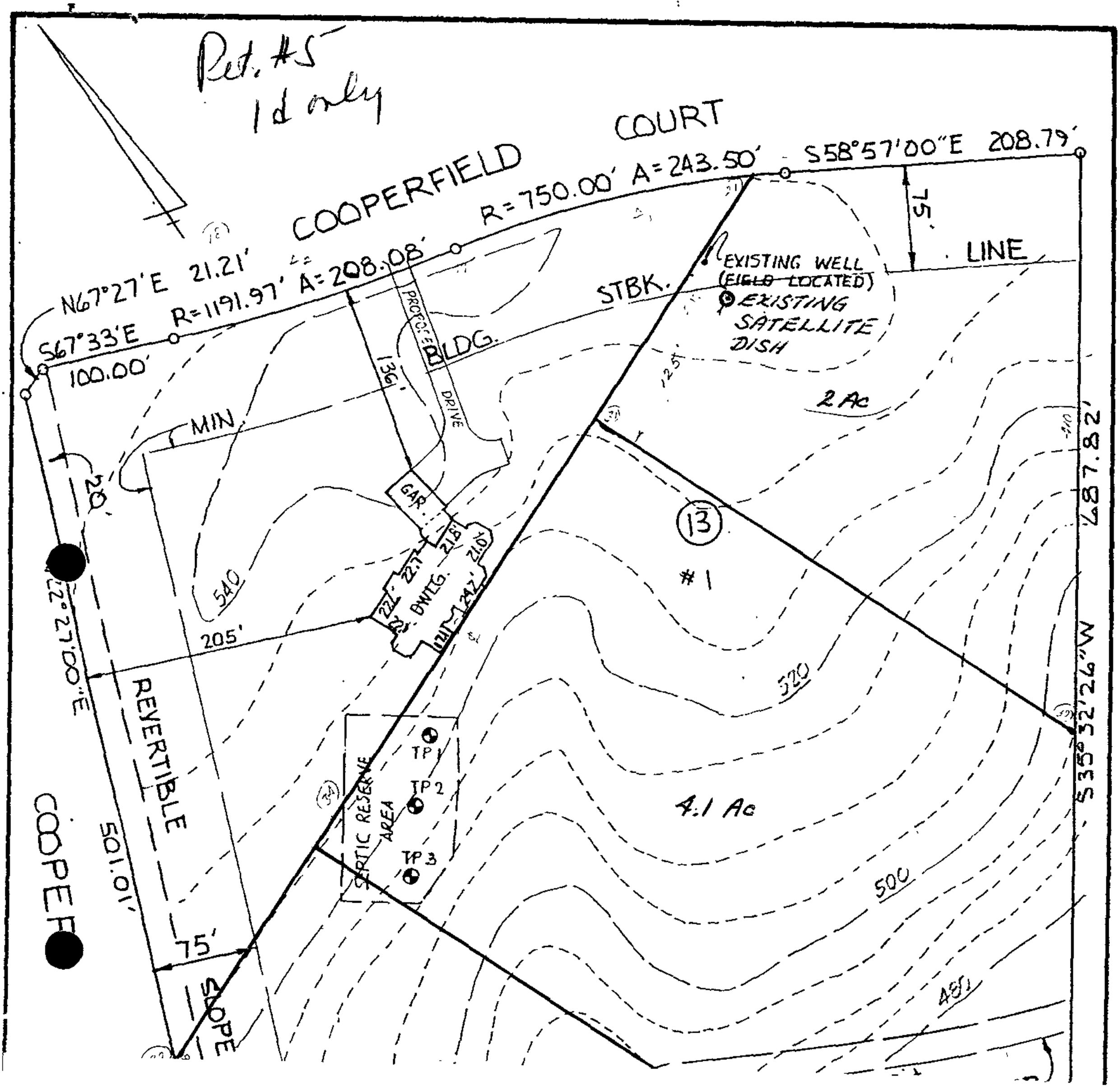
10TH ELECTION DISTRICT
BA[illegible] COUNTY, MD.

K.L.S. Consultants, Inc
ENGINEERS AND SURVEYORS

102 N. MAIN STREET
BEL AIR, MARYLAND 21014
(410) 879/838-1441

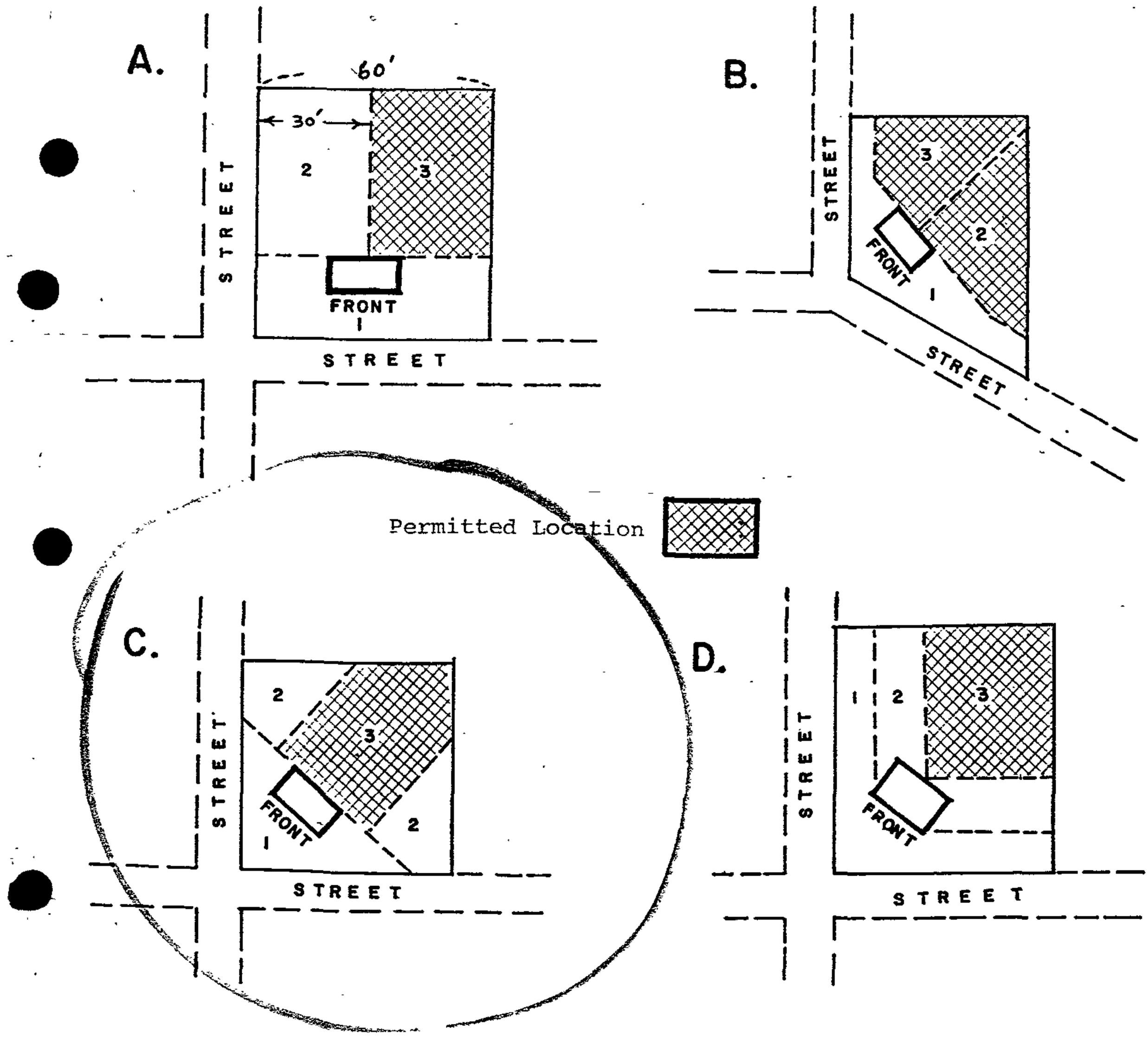
| DATE | SCALE | FILE NO. |
|---|---|---|
| 18APR1994 | 1"=100' | 8587-15 |

REVISED PLOT PLAN


Ret. #5
1d only
COOPERFIELD COURT
R=750.00' A=243.50'
S58°57'00"E 208.79'
75'
LINE
N67°27'E 21.21'
R=1191.97' A=208.08'
S67°33'E
100.00'
STBK.
EXISTING WELL
(FIELD LOCATED)
EXISTING SATELLITE DISH
PROPOSED BLDG.
DRIVE
136'
MIN
20'
2 Ac
13
#1
GAR.
21.5'
21.0'
22.7'
22'
BWLG.
24'
540
205'
320
S22°27'00"E
REVERTIBLE
501.01'
TP 1
TP 2
TP 3
SEPTIC RESERVE AREA
4.1 Ac
500
480
75'
SLOPE
COOPER
S35°32'26"W
487.82'

# D-5 CORNER LOTS — PERMITTED ACCESSORY BUILDING OR USE LOCATION

"Section 400.1- Accessory buildings in residence zones, other than farm buildings (Section404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2½ feet from any side or rear lot lines....."



Pet. #6

Ex 6

# BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

BUILDINGS ENGINEER

## ELECTRICAL PERMIT

PERMIT #: E270150 XREF #. B262463 DIST: 08 PREC: 00

JOB LOCATION: 1 COOPERFIELD CT
SUBDIVISION:

DATE ISSUED: 05/14/96

OWNERS INFORMATION
NAME: GRAHAM, ALVIN & MARVA
ADDR: 1 COOPERFIELD CT PHOENIX MD 21131
OCCUPANT INFORMATION
NAME: SAME
ADDR: SAME
PHONE #:

APPLICANT INFORMATION
JOHN I DENBOW JR
HARFORD ELECTRONIC SER
3223 SANDY HOOK RD
STREET MD 21154

PHONE #: 838-9191 LICENSE #: RA595 BUILDING PERMIT #:

EXISTING METER #: POLE #:
STRUCTURE USE: RESIDENTIAL BUILDING: NEW WORK DESCRIPTION: NEW
INSPECTOR REQUESTED DATE: DATE POWER CO NOTIFIED:

DETAIL OF WORK AND ADDITIONAL INFORMATION
INSTALL SATELLITE DISH, INSTALL T/V ANTENNA ON 20' TOWER

FEE: $20.00

ROUGH WIRING OUTLETS

LIGHT SWITCH RECEPT LOW VOLTAGE
MISC

RECEIPT #:A300764 FEE: $20.00

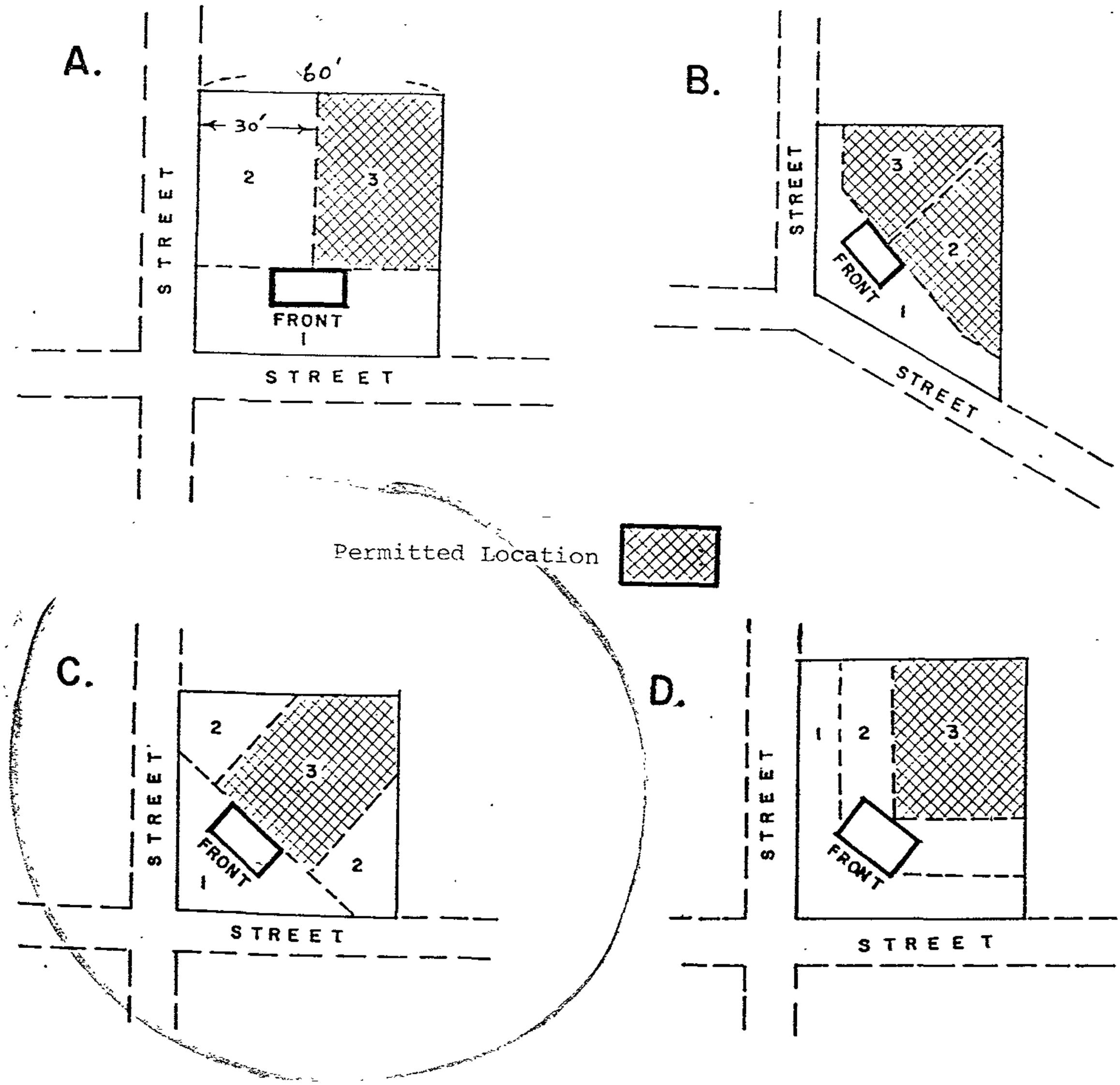


PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

Per. # 7 ~~Lady~~

# D-5 CORNER LOTS — PERMITTED ACCESSOR BUILDING OR USE LOCATION

"Section 400.1- Accessory buildings in residence zones, other than farm buildings (Section404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2½ feet from any side or rear lot lines....."



Per. #9

July 12, 1996

Mr. Tom Moore, Sr.
Gaylord Brooks
P.O. Box 400
Monkton, MD 21131

Dear Tom,

Thank you again for all the assistance you have given with the many mundane matters I have thrust upon you the past few years!

I am writing on behalf of all the current homeowners at Cooperfield regarding the satellite dish and antenna at the top of the hill. While we certainly look forward to being neighbors with the Grahams when they move into their new house, we are very concerned about the dish and antenna that are quite visible from Cooperfield Court. It is our feeling that no Cooperfield homeowner should install any electronic equipment such as this that can be seen by those who live in the community or are visiting. While I understand from our conversation that the Grahams are going to make a concerted effort to landscape around the equipment to make it less visible, I get the impression that some of it would still be visible.

All of us certainly understand the need for improved television reception in our area. We are of the opinion that if any homeowner wishes to install a dish/antenna of any size, it should not be visible to others. I would think that one can argue that visible equipment of this type does not improve home values in the immediate area and probably could negatively impact a decision of a potential buyer.

We look forward to the Grahams arrival in the near future and would hope that they understand our position. There looks to be enough room south and west of the house with which to position this equipment. Incidentally, the Grahams have always been responsive to our requests for funds to help maintain Cooperfield. This year I did not know where to mail the request and that is the reason we have not received any money from them. As you know, I tried to get their local address from your office and from Mr. Buttion without any success.

Please inform the Grahams that I am happy to talk about this with them directly and can be reached at 410-783-3307 during office hours and 410-329-3344 at home.

Sincerely,

Jonathan R. Price

Dee Curran

Pet. # 10

Oct. 29/96.

To: the fellow residents of Cooperfield.

I, Drs. Grahams., represent myself as an active & proactive representative of this wonderful community. As a member of this community, ie. Cooperfield, I am responsible for the screening of a satelite dish in its location so as not to present an eyesore or a detriment to the community or myself. The FM/UV. antenna will be relocated to a more remote location on my site as to be totally concealed from view from Cooperfield Road.

Respectfully.

Dr. Graham.

addendum: if dish is still visible as of Nov. 1/97, Dr. Grahams. will be responsible for its relocation to another negotiated location on the site.

Per. # 11 idwtg

**Gaylord Brooks Architectural Committee, Inc.**
P.O. Box 193, 3314 Paper Mill Road, Phoenix, Maryland 21131
(301) 667-0800 Fax (301) 667-0078

November 7, 1996

Dr. Marva Graham
1 Cooperfield Court
Phoenix, MD 21131

Re: Conditional Satellite Dish
and FM Antenna Site Approval
Cooperfield Lot 13

Dear Dr. Graham:

Please be advised that the site location of the satellite dish and FM antenna on the above referenced property have been given conditional approval by Gaylord Brooks Architectural Committee, Inc. (GBAC). Final approval will be contingent upon the following:

1. The FM antenna tower is to be painted black and relocated to a position deeper off Cooperfield Court. The new location is to be adequately screened with mature evergreen material so the FM antenna is not visible from the road.

2. The satellite dish is to remain at its present location and is to be screened with mature evergreen material so it is not visible from the road. The evergreen material is to be of the size used at Mr. Buttion's residence (see attached photos) to screen his satellite dish.

3. Per the attached letter and addendum, Dr. Graham agrees that "if the dish is still visible as of November 1, 1997, Dr. Graham will be responsible for its relocation to another negotiated location on the site".

This conditional approval does not constitute <u>final</u> approval which will be made after November 1, 1997, subject to the above conditions.

Thank you for your cooperation in this matter.

Very truly yours,

Thomas O. Moore

Thomas O. Moore,

TOM/rb
cc: Mr. John Price
Mr. L.J. Link, Jr.
Enclosure

Reg. #13



9

| | | |
|---|---|---|
| IN THE MATTER OF | * | BEFORE THE |
| ALVIN R. GRAHAM, et ux., | * | COUNTY BOARD OF APPEALS |
| 1 Cooperfield Court | * | OF BALTIMORE COUNTY |
| 10th Election District | * | Case No. 97-283-A |
| 6th Councilmanic District | * | October 1, 1997 |
| | * | |

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 at 10:15 a.m., October 1, 1997.

* * * * *

Reported by:

C.E. Peatt

9 1 BOARD MEMBERS:

2 CHARLES MARKS, Acting Chairman

3 THOMAS P. MELVIN

4 MARGARET WORRALL

5

6

7 APPEARANCES:

8 MICHAEL L. FREILICH, Esquire
On behalf of Petitioners/Appellants

9

J. CARROLL HOLZER, Esquire
10 On behalf of Protestants

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1 Q. You have never, because you testified to my
2 question previously, you have never set up a trial antenna
3 or tried to move that antenna to any other location to
4 determine whether or not the reception could be better,
5 have you?
6 A. No.
7 MR. HOLZER: No further questions.
8 REDIRECT EXAMINATION
9 BY MR. FREILICH:
10 Q. Did you make an offer to paint the tower black?
11 MR. HOLZER: Objection.
12 THE CHAIRMAN: That's not proper redirect.
13 MR. FREILICH: I have no further questions.
14 THE CHAIRMAN: This witness may be excused.
15 MR. FREILICH: I'd like to call Jack Denbow.
16 J A C K D E N B O W,
17 having been called as a witness, was duly sworn and
18 testified as follows:
19 DIRECT EXAMINATION
20 BY MR. FREILICH:
21 Q. Mr. Denbow, will you please state your age?

1 A. My age? Sixty-three.
2 Q. Where is your office located?
2 A. Street. Eight miles north of Belair, up Route 1.
4 Q. Mr. Denbow, sometimes it's hard to hear because
5 there's a vent here and there is one over by you. Okay.
6 Now, how long have you been in the business of
7 installing antennas and dishes?
8 A. Thirty-five, forty years, somewhere around there.
9 Q. When did you start doing this?
10 A. I started doing it at age twenty, so that puts me
11 about forty-two.
12 Q. Have you done it since then continuously?
13 A. Yes.
14 Q. Now, about how many antenna installations and
15 dish installations do you think you have done in the last
16 forty-two years?
17 A. I haven't a clue. A lot.
18 Q. A Hundred thousand?
19 A. More than a thousand.
20 Q. I'm sorry?
21 A. More like a thousand than the hundred thousand.

2

1 Q. Were you called to install to get reception at
2 the Graham resident?
3 A. Right.
4 Q. Where's that residence located?
5 A. Cooperfield Court, isn't it?
6 Q. Do you recall why?
7 A. They wanted to get satellite and antenna
8 reception.
9 Q. Were they able to get local reception?
10 A. No.
11 Q. Did you look at the property?
12 A. Yes.
13 Q. Did you make tests?
14 A. Yes.
15 Q. Did you determine where an antenna should go?
16 A. Yes.
17 Q. Explain to us how you go through that process.
18 A. Well, for the satellite system, you have to start
19 out, you have to imagine 265 degrees roughly on compass.
20 You look in that area -- this is satellite reception -- up
21 at an angle of nine degrees.

2

Okay. This should be clear. You should be able to see clear ski at that point where the the dish would be.

Now, you're going to have to turn -- that dish will turn to approximately 180 degrees. And as it turns from the 265 to 180, the angle up will change from nine to about forty-four and a half degrees.

Now, that entire area would have to be clear. The dish would have to see clear ski through that entire arc.

Q. How did you decide where to put the dish on the Graham property?

A. They wanted it placed where they would get the best reception with cutting the least trees.

Q. Were you able to find such a location?

A. Right where it is.

Q. I'd like to show you what's been admitted into evidence as No. 4. Okay.

This has part of an elevation, a map to it, I believe they call them topography marks.

A. Yes.

2

1 Q. Ms. Graham believes and testified that mark that
2 I am pointing to where my finger is is the location of the
3 antenna and dish, is that correct?
4 A. It's pretty close. Where's the house here? Yes,
5 that's pretty close.
6 Q. What elevation is that?
7 A. Like 540. I can't see that too well.
8 MR. FREILICH: May I help him? He's having
9 trouble.
10 Q. It shows --
11 MR. HOLZER: Objection. I mean, this is an
12 expert witness who's testifying.
13 MR. FREILICH: He can't read the copy.
14 MR. HOLZER: Then provide him with something he
15 can read, sir.
16 A. It is the highest point there. Whatever point --
17 it's right on the road.
18 THE CHAIRMAN: On what?
19 THE WITNESS: Fifty or so feet from the road.
20 There's no higher level there.
21 THE CHAIRMAN: Mr. Freilich is getting you

2

1 something there.

2 Q. Now, are there any other high points?

3 A. I couldn't find any, see any, no.

4 Q. Is there any other place where the dish and

5 antenna could be placed for similar reception to what

6 she's currently getting anywhere on this property?

7 A. No.

8 Q. What about where the pool area is?

9 A. You're going downhill. You can see the grade of

10 the ground doing down. You're going down the hill and

11 getting closer to the trees.

12 How are you going to get a nine degree angle out

13 of there? You'd have to cut have the woods out.

14 Like I just said, you have to look out at that

15 compass, look up nine degrees and see clear sky.

16 So if you go down the hill towards trees, you're

17 getting closer to the trees and down the hill. So the

18 angle out at nine degrees is going to mean, let's take all

19 the woods.

20 Q. Let's suppose that it's down by that break of

21 land between the pool and the --

2 1 A. The further down you go, the worse it gets.
2 Q. What does that mean?
3 A. That means you get closer and closer to the
4 trees, so the angle, to reach the lower angle, you'd have
5 to cut more.
6 Q. Could you top the trees out?
7 A. You top them off to about five foot.
8 Q. You mean from the front?
9 A. Yes.
3
10 Q. Let's talk about the antenna. How did you decide
11 where to place the antenna?
12 A. You look for the highest spot for the antenna the
13 greatest distance from the trees.
14 The closer you move the antenna to the trees and
15 get them into the trees, your reception drops right off.
16 Q. Is there any other spot on the Graham property
17 where you could put this?
18 A. Closer to the road.
19 Q. You mean more towards the front of the property?
20 A. Right.
21 Q. Is there any other place in back?

3 1 A. No. It's all trees.

2 Q. What about by the swimming pool area?

3 A. No. You're going down the hill and up against the

4 trees.

5 Q. Now, as you understand the Baltimore County

6 zoning code -- you work with it on a regular basis,

7 correct?

8 MR. HOLZER: Objection. He hasn't laid the

9 foundation.

10 Q. Do you work with the Baltimore County zoning code

11 on a regular basis?

12 A. Do I work for Baltimore County?

13 Q. No. Do you work with the Baltimore County zoning

14 code on a regular basis?

15 A. Not necessarily with them. I get permits to do

16 jobs. I get the permits. I don't work with the zoning

17 board in any way.

18 Q. If Drs. Graham were to put an antenna on the roof

19 of their house --

20 A. Right.

21 Q. -- would they get better reception than they do

3

now?

A. They'd get as good. They wouldn't get any better.

Q. When you were hired, did you go for a permit?

A. Yes.

Q. I'd like to show you a copy of a document which is going to be to be marked as Exhibit No. 6. What is this document?

A. That's a permit, Baltimore County permit.

Q. Tell me what it is and how you got it.

A. I simply went over and applied for the permit to put up the antenna and satellite system.

Q. Does that say that on this permit?

A. Yes.

Q. Will you please circle where it says it? Put an initial by it, please.

A. (Indicating.)

MR. FREILICH: I move Petitioners' Exhibit 6 be admitted.

MR. HOLZER: No objection.

THE CHAIRMAN: Thank you.

Q. Let me ask you a question. Suppose you were to

3 take the antenna and/or the dish and move it to the left or right of where it is, would that affect reception?

A. Left or right from what angle?

Q. There are woods nearby. Would you be able to move this so you'd be far enough from those woods that they'd still get reception, or would it deteriorate?

A. In the case of the antenna?

Q. Yes.

A. The only place you could move it where it wouldn't deteriorate would be out closer to the road.

Q. What about the dish?

A. The dish would have to stay pretty much where it is, because if you move it out closer to the road, the nine degree angle is going to catch the house.

And if you move it in, then you're going into cutting more trees.

MR. FREILICH: I have no further questions of this witness at this time.

THE CHAIRMAN: Mr. Holzer.

CROSS EXAMINATION

BY MR. HOLZER:

3

Q. I am curious, sir. When is the last time you saw the antenna and the satellite dish when you viewed them?

A. A month or so ago, I guess.

Q. A month or so ago?

A. Yes.

Q. Have you observed the planting and landscaping that's been placed in front of the dish and the antenna?

A. Trees.

Q. Trees?

A. Yes.

Q. What kind of trees?

A. I don't know exactly what kind of trees.

Q. Are they evergreen?

A. Yes, they are evergreen trees.

Q. The height, could you estimate the height of them?

A. Well, I said when I was there. A couple of those trees are probably just about as tall as the tower portion of the antenna, and the antenna was sticking out just above it.

Q. What about the large dish, how big is that large

3 1 dish?

2 A. That's ten foot, but it's right on the ground.

3 Q. So if the trees were as high as the top of that

4 satellite dish, they'd be ten foot high?

5 A. Yes, but that's behind the dish, not in front of

6 the dish.

7 Where you would lose your reception is in front

8 of the dish.

9 Q. Is the face of the dish pointing towards the

10 road?

11 A. No. The back. The face of the dish is pointing

12 towards the signal, where we'd get the signal from.

13 Q. Let me ask you a question. You say you have been

14 doing this for thirty-five to forty years, that is,

15 installing satellite dishes?

16 A. That's installing satellite dishes among other

17 things we do. We do other things.

18 Q. What's the name of your company?

19 A. Harford Electronics.

20 Q. So you're the gentleman that was originally there

21 and installed the various antennas and dish?

A. Correct.

Q. Did you ever indicate to anyone there was another place on the property that those antenna and dish could go back a number of years ago?

A. No.

MR. FREILICH: Objection. Assumes a fact not in evidence.

MR. HOLZER: This is cross-examination.

THE CHAIRMAN: Overruled. You can answer.

THE WITNESS: Do I answer?

THE CHAIRMAN: Yes.

A. I looked for the best place to have the best reception, and cut the least trees. That's what I was asked to do.

Q. Did you state at any time to anyone at the time you were attempting to locate this that there could be other locations on the property?

A. I was asked if you could go here or could go there, and I said no.

And one of the places was in the back of the house. And that was the worst place on the whole

4

1 property.

2 Q. Did you go to school to learn how to install

3 these?

4 A. About forty years ago, but they were altogether

5 different then.

6 Q. Is there any training that one has to take to be

7 current, to keep current in terms of satellite dishes and

8 their effectiveness?

9 A. Yes, there would be some training it wouldn't

10 hurt for one to have.

11 Q. Have you had that training?

12 A. I don't know of any training. It's not that hard

13 of a thing to do, not that complicated.

14 Q. Did you ever receive any training for purposes of

15 electronics and dealing with signals from satellites and

16 signals for satellite dishes?

17 A. Electronics -- specifically for a satellite dish,

18 no. It's the same as any other signal though.

19 Q. Are there any licenses required in order to

20 understand and install satellite dishes and antennas?

21 A. None that I know of.

4 1 Q. So you can start -- not you, but anyone could
2 basically start a company installing satellite dishes and
3 go out and be retained by a homeowner to put them up?
4 A. It depends what county. For instance, in
5 Baltimore County, you have to have a Baltimore County
6 license.
7 Q. You need a Baltimore County permit?
8 A. You need a Baltimore County license to get the
9 Baltimore County permit.
10 Q. Do you have a Baltimore County license?
11 A. Yes, sir. That's how I got the permit.
12 Q. And it's a license to do what?
13 A. To do antenna systems or anything electronic. You
14 need it for sound systems in general.
15 Q. In applying for the building permit or the permit
16 you received that's marked as Petitioner No. 6, was there
17 a plat that you presented to the county before they issued
18 this permit?
19 A. No.
20 Q. So all you did is go to the desk and tell them
21 you wanted a permit for the name and address, et cetera,

4

and they give you the permit?

MR. FREILICH: Objection.

Q. You pay for it?

MR. FREILICH: You're asking him to tell us what Baltimore County does after he made his presentation? It needs to be a foundation for that.

MR HOLZER: I thought it was simple, but I will ask it another way.

Q. When you go to the Department of Permits and Licenses to get this permit marked as Petitioners' Exhibit 6, did you, other than paying for it, did you have to provide them any information about its proposed location?

A. The permit number for the house construction there.

Q. That's it?

A. Yes.

Q. No drawings?

A. No.

Q. No location survey?

A. I guess they know what the lot is. They gave them a permit to build the house. That's all I go by.

4 1 Q. You didn't tell them where you were going to put
2 the antenna?
3 A. No.
4 MR. FREILICH: Objection. It assumes it makes a
5 difference what Baltimore County does. It's clearly
6 irrelevant, and he knows it.
7 THE CHAIRMAN: I will let him answer.
8 MR. HOLZER: Thank you.
9 Q. Now, when you originally were retained, were you
10 hired by Ms. Graham, or were you hired by an architect?
11 A. I was hired by Ms. Graham after the builder put
12 me in touch with Ms. Graham.
13 Q. So did you have any discussions with the
14 architect -- I think his name was Mr. Link -- as to the
15 property?
16 A. I -- really, the only thing he seemed to be
17 concerned with was where it was going to go as far as
18 covering up -- what they were going to do with their
19 trees, whatever they were going to do. I don't really
20 know.
21 MR. FREILICH: I object and move to strike. I

4 1 tried to do this earlier on a conversation, and we had a
2 strenuous objection.
3 THE CHAIRMAN: I am going to strike the
4 testimony. I am inclined to agree.
5 Q. Were you told not to place the satellite dish and
6 antenna in an area that was to be occupied by the swimming
7 pool?
8 MR. FREILICH: Objection.
9 A. No way. I told you that before.
10 MR. FREILICH: I withdraw my objection.
11 Q. Were you asked not to?
12 A. Was I asked not to put it in? I was asked, could
13 they. I said they could not, that was the worst possible
5 14 place.
15 Q. Right behind the house?
16 A. Right.
17 Q. Are you familiar -- have you installed any
18 satellite dishes in any of the other properties or behind
19 the homes in any of the other houses in the neighborhood?
20 A. No.
21 Q. Are you familiar with satellite dishes that may

5 1 exist in the neighborhood?

2 A. No.

3 Q. In regard to the antenna -- let me ask it both

4 ways.

5 In regard to the antenna, this is nothing more

6 than some sort of steel or aluminum structure upon which

7 an antenna is placed at the top of a fifteen-foot

8 structure, is that correct?

9 A. That could be a description of what an antenna

10 is.

11 Q. Is there any reason why, if you look at the grid

12 lines on this plan that was submitted by the property

13 owner, is there any reason why you could not increase the

14 height of the -- not the antenna, but of the structure

15 that holds the antenna?

16 A. The tower.

17 Q. -- the tower, from fifteen feet to twenty feet to

18 make up for the five foot grade difference in the slop of

19 the back yard?

20 A. That would have to be measured. When you move

21 the antenna closer to the trees, though, it might be

5 1 ninety or a hundred feet --

2 Q. I'm sorry, sir, I didn't ask you to move it

3 closer to the trees. I asked --

4 A. I can't answer your question without explaining.

5 Q. Let's say we are not going to move it closer to

6 the trees, but move it into the rear yard and make the

7 tower five feet higher than what it is now.

8 A. No, it wouldn't work, because if you move it in

9 the back yard, you're moving closer to the trees, and the

10 trees are higher, and five foot wouldn't even make any

11 difference.

12 Q. But if you placed it where it is now and it's

13 twenty feet high, if you moved it into the rear yard, made

14 it twenty-five feet high, it would be the same height? It

15 wouldn't be any difference, would be?

16 A. It wouldn't be the same height, because you went

17 down the hill.

18 Q. But you raised the height of the supporting tower

19 by five feet?

20 A. You went more than five feet down the hill.

21 Q. Let's raise it ten feet, sir.

5 1 A. If you let me answer the rest of your question,
2 as you go down that hill, you get against the trees.
3 You have to be away from the trees. You can't go
4 against the trees and stick an antenna facing into the
5 trees and expect to get reception.
6 You have to have the antenna either clear the
7 trees or be further away from the trees.
8 Q. Taking your position, the Board is perfectly
9 capable of looking at the site, looking at the pictures,
10 and looking at the drawing and determining whether or not
11 there's a place that is as far from the trees as the
12 existing antenna.
13 But if it happens to be down five feet or ten
14 feet, is there any electronic reason why the tower could
15 not be heightened by five or ten feet, the antenna placed
16 on top of that, as long as it is not closer to the trees
17 that exists right now?
18 A. Not down that hill.
19 Q. Let's take the satellite, the large satellite.
20 It's a ten-foot diameter?
21 A. Right.

5 1 Q. And it's sitting on the ground?

2 A. Yes.

3 Q. Is it not possible to place that dish on a pole

4 or supporting structure of some sort that can make up the

5 difference in elevation between the spot that it's located

6 now and some other spot on the property?

7 A. Unh-unh.

8 Q. You have to say yes or no.

9 A. No.

10 Q. So what you're saying is is that if one were to

11 move it downgrade by five feet and put it on a five-foot

12 pole and point it in the same direction that it's pointing

13 now, without cutting the arc, or cutting the degree

14 between it and the trees, you would still say that's not

15 possible?

16 A. Yes, because when you move towards the trees and

17 drop five foot, you're rating -- the pole five foot isn't

18 going to do any good because you got to close to the

19 trees.

20 You changed the angle. You either have to get

21 back so you get an angle over, or if you get up close, you

5 1 have to move them out of the way.

2 Q. Now, you did testify that there is -- that from a

3 reception standpoint only, from getting a good signal --

4 A. What are we talking about now, the satellite or

5 antenna?

6 Q. Both. From either reception standpoint of either

7 the satellite dish or the antenna, if you placed it on the

6 8 roof, you would get as good as reception as you're getting

9 now where it's --

10 A. Puting everything on the roof of the house?

11 Except for possibly the satellite dish on the low side.

12 I'd have to check that.

13 That wasn't even thought about, putting it on the

14 house.

15 Q. So you never explored the potential of putting it

16 on the roof?

17 A. No.

18 Q. Now, would it be easy to -- forget the satellite

19 dish for the momement.

20 Tell me what the antenna on top of the tower

21 actually looks like? How big is that?

6 1 A. Fifteen foot from front to rear, and about that
2 wide.
3 Q. The antenna?
4 A. Yes.
5 Q. Maybe I don't understand what we are talking
6 about.
7 A. It doesn't look that big in the picture.
8 Q. I show you a photograph of what appears on the
9 left side --
10 MR. HOLZER: I'm sorry.
11 MR. FREILICH: Thank you.
12 Q. I show you a photograph of what appears on the
13 left side of the photograph to be a tower with what we all
14 know as a normal TV --
15 A. This is it. From the front to the rear is
16 fifteen foot, and this rear element is about that same
17 distance.
18 Q. For the record, the witness said that the antenna
19 that is on top of the tower from front to rear is fifteen
20 feet and the width at its widest is --
21 A. It's approximately the same.

6 1 Q. It's approximately fifteen feet?
2 A. Right.
3 Q. Now, how high is the -- I mean, what holds it up
4 in the air you're calling a tower, is that correct?
5 A. Yes.
6 Q. How high is this tower?
7 A. That tower would be nineteen feet.
8 Q. So we have a nineteen-foot tower. Now, if you
9 just took the antenna part of this antenna and tower and
10 placed it on the roof --
11 A. Yes?
12 Q. -- would it not be higher than --
13 A. Yes, that would be work. Okay.
14 Q. And would it get acceptable reception?
15 A. Right, except for the problem of mounting.
16 Q. But you could mount it on a chimney? You can
17 mount it on a pole? We have been mounting them since
18 1945.
19 A. I don't think they want anybody on that slate
20 roof.
21 Q. So it's not a question then of not being able to

6 1 be done, but it's a question of preferance, not to have --
2 MR. FRIELICH: Objection. That was not the
3 testimony, and that was not what the witness said.
4 MR. HOLZER: He said they don't want anybody
5 putting it up on the slate roof.
6 MR. FREILICH: Yes, but that is not what you said
7 when you repeated the testimony.
8 Q. So it can be done if one would be willing to get
9 up and install it on a slate roof, correct?
10 A. Yes.
11 MR. HOLZER: I would offer this photograph only
12 for purposes of the fact that the witness has identified
13 it, so we should probably put it in the record as
14 Protestants' No. 2.
15 Q. Did you tell me, sir, that the satellite dish
16 could also be placed on the roof, but you haven't explored
17 this particular property to determine whether or not you'd
18 have the proper degree?
19 A. Right, I didn't. But not only that, it would
20 be -- putting the big dish on that roof would be
21 ridiculous, really, because what you'd have to do to

6 1 support it would be -- the wind resistence of a ten-foot
2 dish, it would probably take the chimney down.
3 Q. What about -- how many dishes are there? Are
4 there three dishes?
5 A. Yes, one eighteen inch and one about three feet
6 and the ten foot.
7 Q. The three-foot dish is the smaller one depicted
8 in the photograph?
9 A. The smaller one is eighteen inches.
10 Q. Could that be mounted on the roof?
11 A. Yes, could be.
12 Q. What about the three-foot one?
13 A. Could be.
14 MR. HOLZER: I have no further questions.
15 THE CHAIRMAN: Mr. Freilich?
16 REDIRECT EXAMINATION
17 BY MR. FREILICH:
18 Q. What would it cost to move the antenna from one
19 place to another?
20 A. It would cost more than it took originally to put
21 it in. Because we'd have to disassemble and then

6 1 reassemble, so, ballpark, as much as it cost to put it in
2 plus whatever time it took to disassemble and take it
3 down.
4 Q. Could you estimate?
5 A. Probably double.
6 Q. What did you charge?
7 A. I don't remember.
8 Q. Let me show you a document which you had. Do you
9 recognize this document? Yes or no.
10 A. Yes.
11 Q. Does it refresh your memory as to what you
12 charged Drs. Graham for this work?
13 A. Yes. What I could see.
14 Q. What is your memory, now that it's been
15 refreshed?
16 A. It's right here.
17 Q. But that's not in evidence. What is your
18 testimony? How much did you charge?
19 A. 4947.65.
7 20 Q. That's sixty-five cents at the end?
21 A. Right.

7 1 Q. So then your estimate is that it would be at
2 least double that?
3 MR. HOLZER: Objection. Could I state the basis
4 for the objection?
5 The question he was asked originally, before he
6 showed him the document to refresh his recollection, was
7 how much would it cost to move the antenna.
8 The amount that he was given was 4947.65 which
9 dealt with the parts and the labor for not only the
10 antenna, but also the satellite dish. So the answer is
11 not reflective of the question.
12 I would respectfully request that he tell us,
13 answer the question counsel asked, which was how much did
14 it cost to install the antennna and to move the antenna.
15 MR. FREILICH: My recollection is I did ask about
16 both, because I knew they were both on the same bill.
17 If you want to take the time, we can have the
18 reporter look it up.
19 MR. HOLZER: I will withdraw the question and ask
20 him on recross.
21 THE CHAIRMAN: You can proceed.

7 1 MR. HOLZER: I will ask it on recross.

2 Q. Let's talk about this slate roof. From your

3 experience doing this, could you get on the slate roof and

4 put up a ten-foot dish?

5 MR. HOLZER: Objection. We don't have a roof

6 expert here.

7 THE CHAIRMAN: I agree. I will sustain the

8 objection.

9 A. No. We --

10 THE CHAIRMAN: No, no. I am sustaining that.

11 Q. Have you ever installed one on a slate roof?

12 A. No.

13 Q. Do you know what you would have to do to install

14 one on a slate roof?

15 MR. HOLZER: Objection. He's never installed

16 one.

17 MR. FREILICH: No further questions.

18 MR. HOLZER: I'm sorry, was that last document

19 marked as an exhibit?

20 Let's mark it as a protestants' exhibit.

21 MR. FREILICH Which one?

7 1 MR. HOLZER: The one you used, the bill.

2 MR. FREILICH: What number?

3 MR. HOLZER: Protestant's No. 3.

4 THE CHAIRMAN: Mr. Holzer.

5 RECROSS EXAMINATION

6 BY MR. HOLZER:

7 Q. Sir, looking at this bill that you testified from

8 for your counsel, could you look at it?

9 Out of that total, 4947.65, could you break out

10 what it cost for the antenna?

11 A. If you want to break out just the antenna, it

12 would --

13 Q. They have already paid for the materials. It's a

14 question of moving it. So what's your labor?

15 A. What I'm saying is, I don't know. I'd have to

16 see.

17 Q. Could you give an estimate?

18 A. No. I haven't even had a chance to look at it.

19 You were asking me about moving this antenna to a chimney.

20 Q. Or moving it to another location in the back yard

21 and making it a little higher.

7 1 A. It's altogether different. If you're going to
2 use a tower, or disassemble the tower, reassemble the
3 tower, or just mount the antenna on a chimney without the
4 tower.
5 Q. Let me make it simple.
6 A. That's more expensive to mount it up there. I
7 can't give you anything near a correct estimate.
8 Q. Let me make it simple. What you can give me is
9 the cost of the material for the antenna alone?
10 A. Right here.
11 Q. Tell us what that is, the total?
12 A. It's one ninety-five, seven-five, eighty,
13 thirteen. That does not include mounts. I don't have the
14 mounts on here for a chimney, and neither is the labor.
15 Q. I understand. We'll do this. So would mounts be
16 twenty-five or fifty or a hundred dollars?
17 A. I don't know. I am not even going to say,
18 because I don't know what kind of mounts we would need.
19 Q. I am sure you don't want to give a low bid here.
20 A. I can't tell you.
21 Q. So let's say that the parts that you have listed

7 1 were $363, and whatever it costs to buy additional mounts
2 and whatever your labor would be?
3 A. I don't know what it would take to mount it. It's
4 just not just a matter of clamping mounts. She has a
5 pretty high chimney. You might -- I never had that in
6 mind. I don't know.
7 Q. Tell me, you said this tower which was nineteen
8 feet was in two sections?
9 A. Yes.
10 Q. Take the largest section, how much does the
11 largest section cost?
12 A. The largest is not the most expensive.
13 Q. Taking the smallest and give me the most
14 expensive?
15 A. $96.
16 Q. For a section?
17 A. Yes.
18 Q. How --
19 A. That piece is nine foot. That's the top section.
20 MR. HOLZER: Thank you, sir. No further
21 questions.

7 1 THE CHAIRMAN: Mr. Freilich?

2 MR. FREILICH: No questions.

3 THE CHAIRMAN: The witness is excused.

4 MR. FREILICH: May counsel approach?

5 (Discussion held at the Bench off the record.)

6 THE CHAIRMAN: Okay. In view of the fact one of

7 the counsel has time constraints in conjunction with

8 another matter pending, and the Board also has another

8 9 hearing scheduled for 1 p.m., we will continue this matter

10 over and we will advise counsel as to a mutually

11 satisfactory date, and then reschedule a second day of

12 hearing.

13 So I thank you all for your patience. This

14 hearing is concluded.

15 (Hearing adjourned.)

16 * * * * *

17

18

19

20

21

8

I N D E X


| Witness | Direct | Cross | Redirect | Recross |
|---|---|---|---|---|
| Marva Graham | 17 | 36 | 56, 64 | 62 |
| Jack Denbow | 64 | 73 | 90 | 94 |

8

E X H I B I T S


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County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Address Service Requested

Petitioner's 12A - 12D
(4 photos)

Case # 97-283-A
Graham

ALVIN R. GRAHAM, ET UX 97-283-A

2/3/98 - Taken to COB for duplication:

**Petitioner's Ex. #8**

Ret'd 2-3-98 @ 10:00 am

Henry Reichenberg /MICHAEL FREILICH & ASSOCIATES

# Plat to accompany Petition for Zoning [x] Variance [ ] Special Hearing

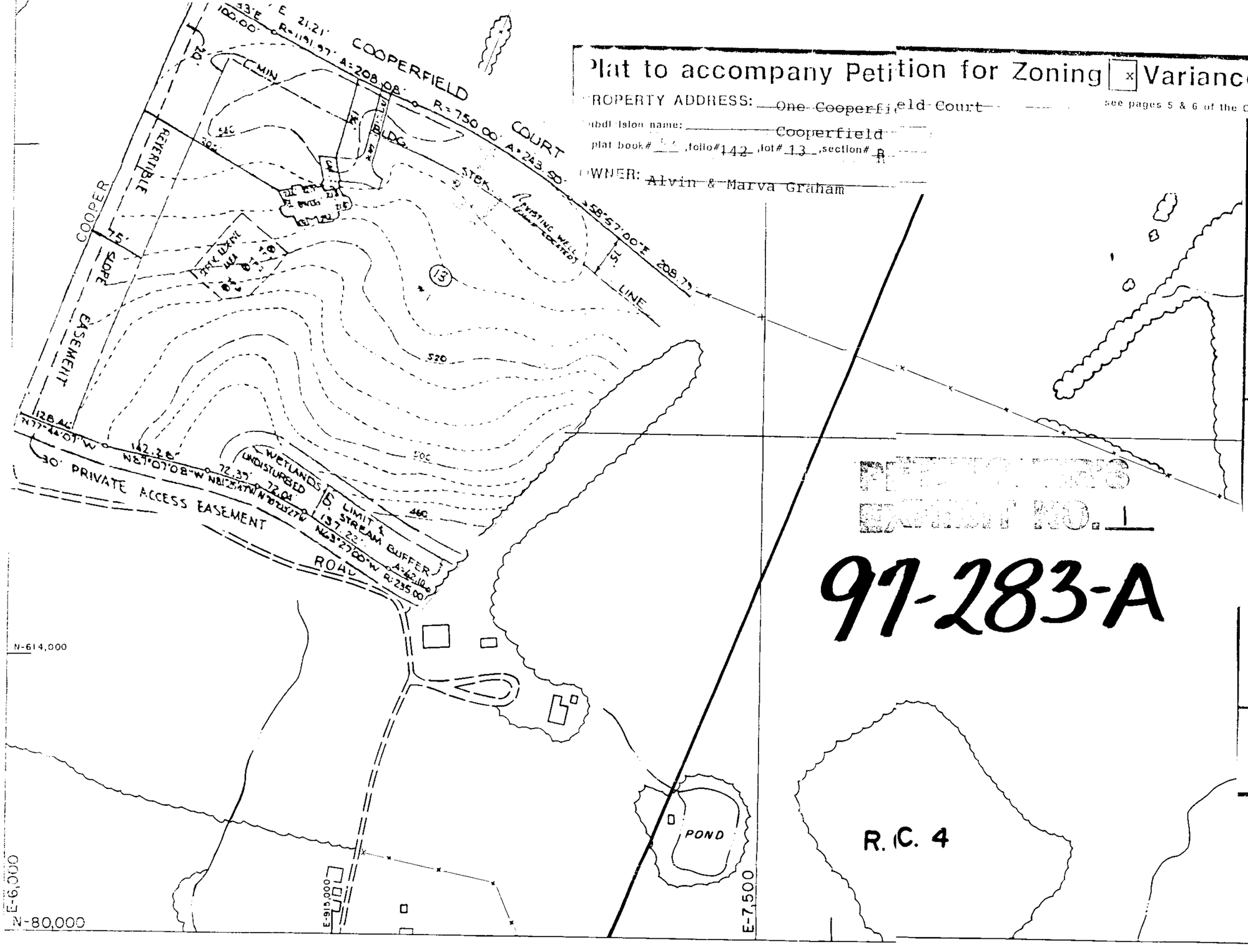
see pages 5 & 6 of the CHECKLIST for additional required information

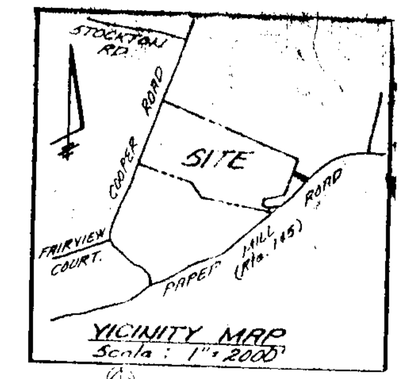
PROPERTY ADDRESS: One Cooperfield Court

subdivision name: Cooperfield

plat book# ___ ,folio# 142 ,lot# 13 ,section# B

OWNER: Alvin & Marva Graham




Vicinity Map
scale: 1"=1000'

## LOCATION INFORMATION

Election District: 10

Councilmanic District: 3

1"=200' scale map#: NE 12-A

Zoning: RC-4

Lot size: 11.396 acreage ___ square feet

| | public | private |
|---|---|---|
| SEWER: | [ ] | [✓] |
| WATER: | [ ] | [X] |

| | yes | no |
|---|---|---|
| Chesapeake Bay Critical Area: | [ ] | [X] |

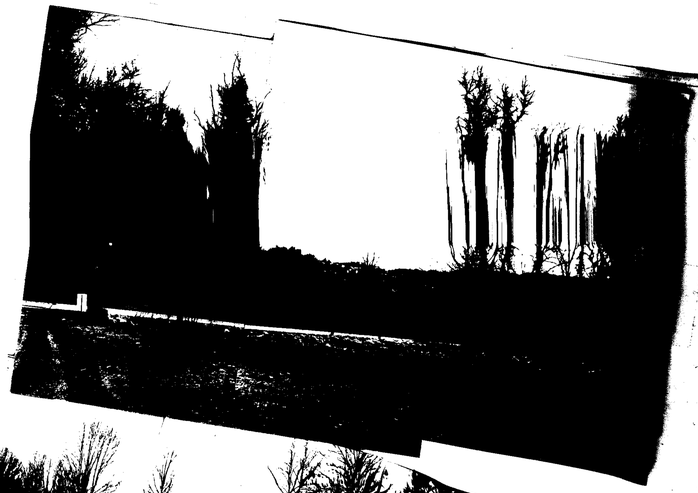
Prior Zoning Hearings: NONE

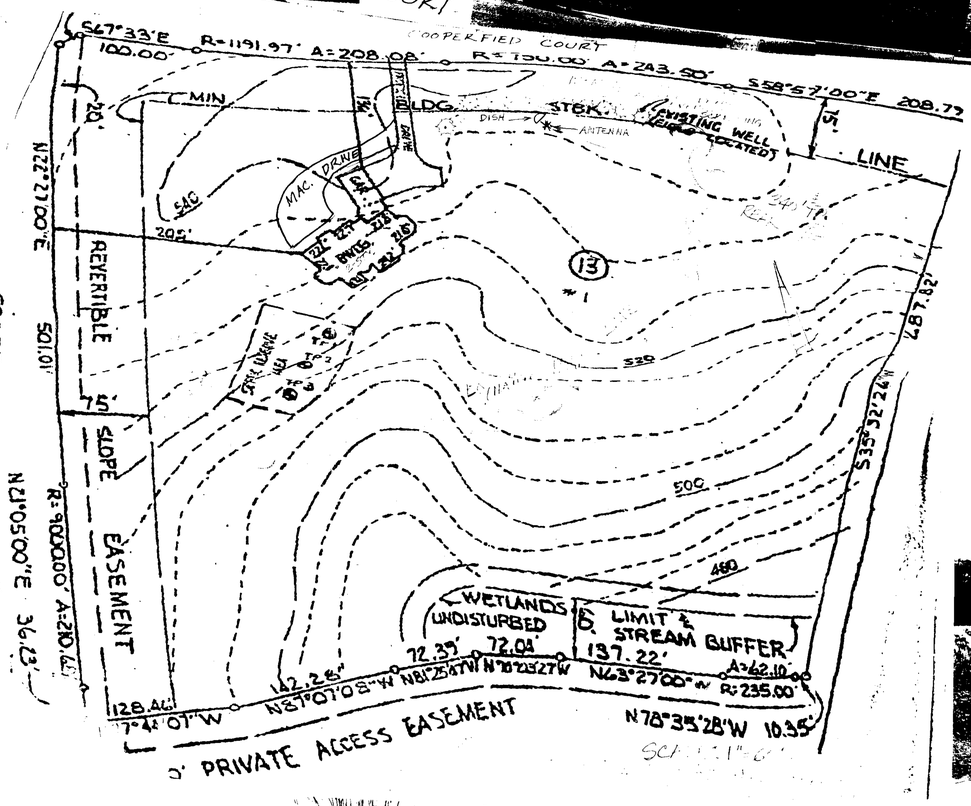
## Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

PETITIONER'S EXHIBIT NO. 1

91-283-A

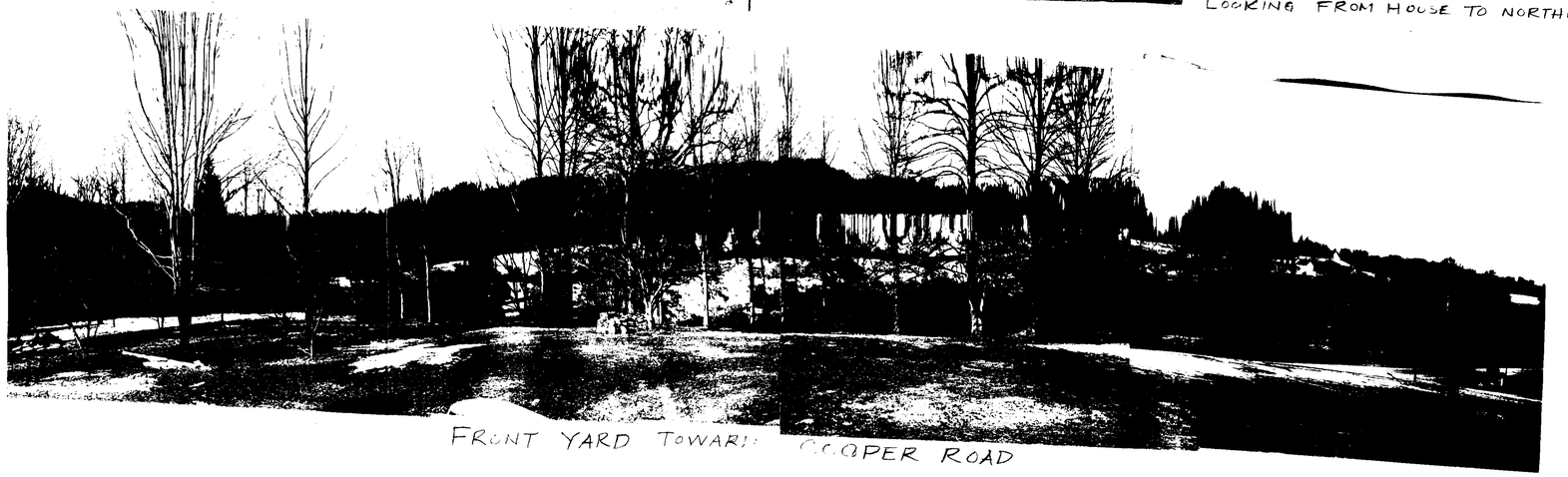




LOOKING EASTERLY ALONG COOPERFIELD COURT

LOOKING SOUTHWESTERLY FROM COOPERFIELD COURT TOWARD HOUSE #1

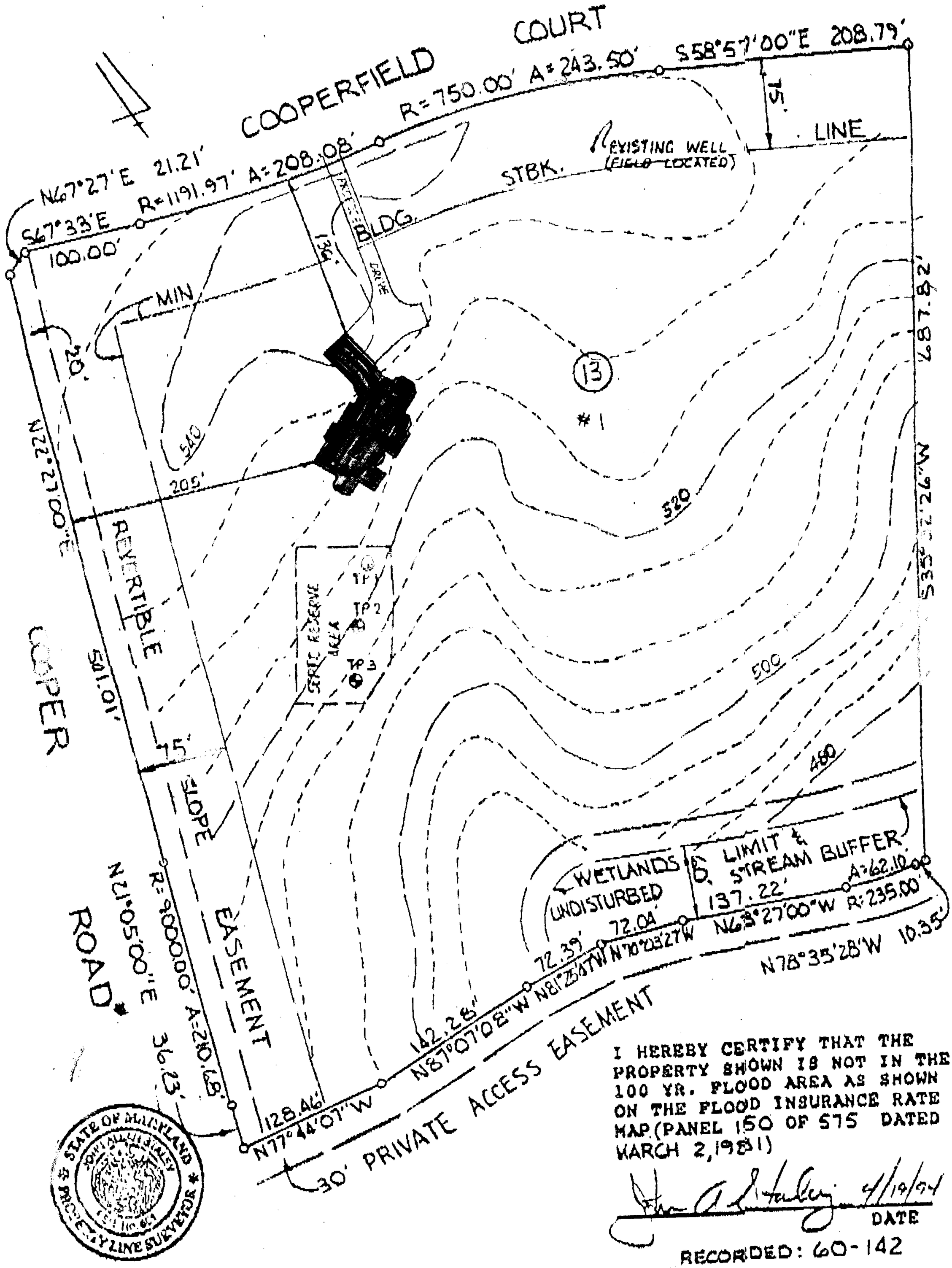
LOOKING FROM HOUSE TO NORTHEASTERLY



FRONT YARD TOWARD COOPER ROAD

BL. 110 LOT 1 HORTHWEST

97/283




I HEREBY CERTIFY THAT THE PROPERTY SHOWN IS NOT IN THE 100 YR. FLOOD AREA AS SHOWN ON THE FLOOD INSURANCE RATE MAP (PANEL 150 OF 575 DATED MARCH 2, 1981)

4/19/94
DATE

RECORDED: 60-142

# Plat to accompany Petition for Zoning [x] Variance [ ] Special Hearing

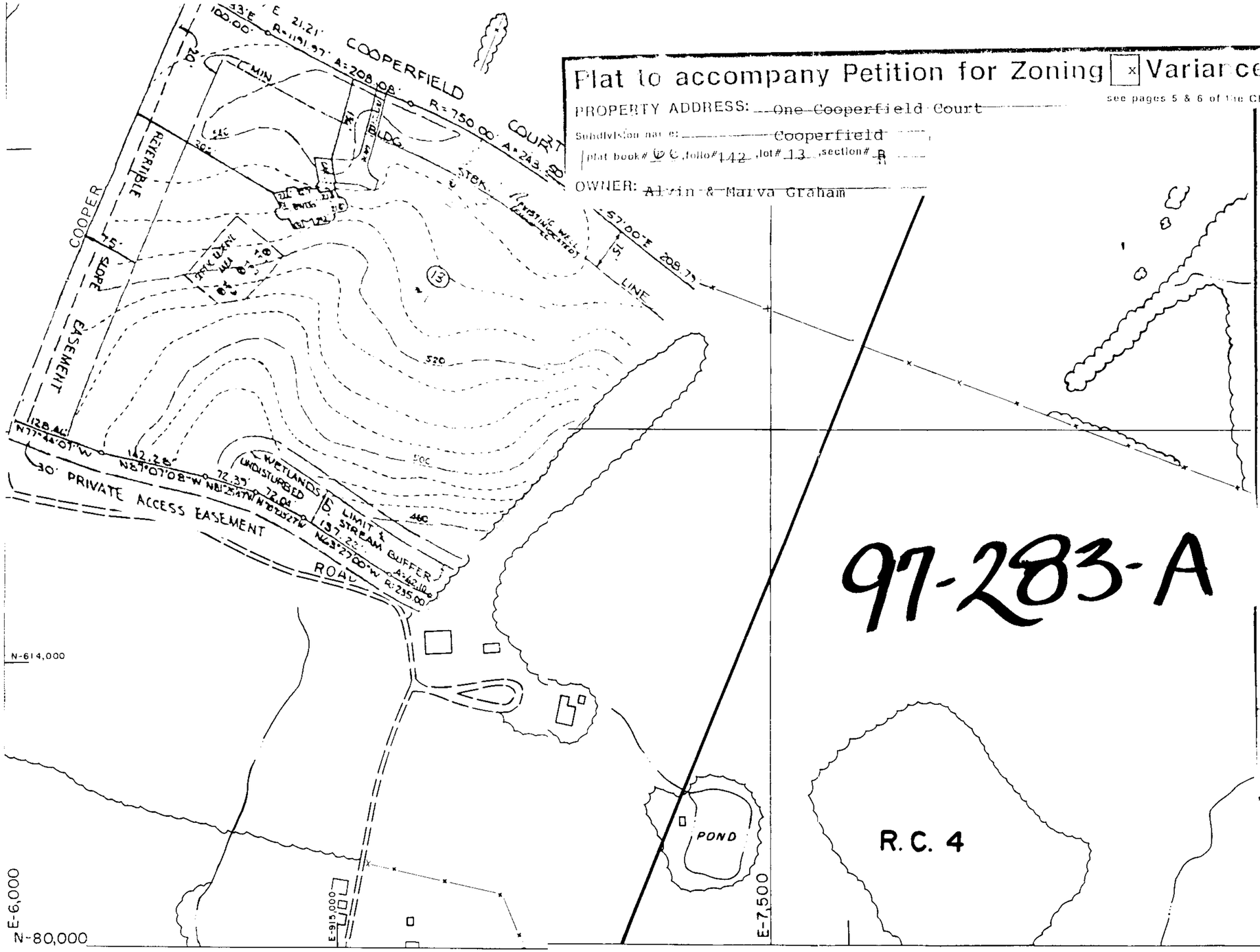
see pages 5 & 6 of the CHECKLIST for additional required information

PROPERTY ADDRESS: One Cooperfield Court

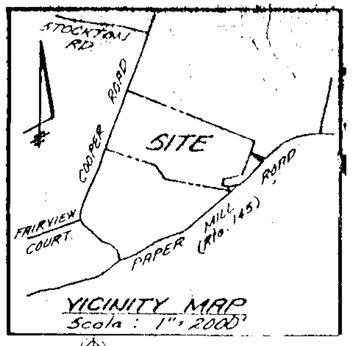
Subdivision name: Cooperfield

plat book# 10 C, folio# 142, lot# 13, section# B

OWNER: Alvin & Marva Graham




97-283-A




North

Vicinity Map
scale: 1" = 1000'

## LOCATION INFORMATION

Election District: 10

Councilmanic District: 3

1"=200' scale map#:

Zoning: RC-4

Lot size: 44,396 square feet
acreage

| | public | private |
|---|---|---|
| SEWER: | [ ] | [X] |
| WATER: | [ ] | [X] |

| | yes | no |
|---|---|---|
| Chesapeake Bay Critical Area: | [ ] | [X] |

Prior Zoning Hearings:

## Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

1. The Recording of this Plat does not Constitute or Imply Acceptance, by the County, of any Street, Park, Easements, Open Space or other Public Areas shown on this Plat.
2. The Recording of this Plat does not Guarantee Installation of Streets or Utilities by Baltimore County.
3. The Information Shown on this Plat may be Superseded by a subsequent or Amended Plat.
4. Additional Information Concerning this Plat may be obtained from the Office of Planning & Zoning, and the Department of Public Works.
5. This Plat is Subject to County Council Bill 56-82 (Sect 22-68) of the County Code Relating to the Lapse and Revocation of a Record Plat.
6. Bearings and Coordinates shown on this Plat are Referred to Baltimore County Metropolitan District Grid, True Site #13627 N 78 148 40 E 8,118 46 #13626 N 78 180 35 E 8,630 81
7. Streets and/or Roads shown hereon and marked thereof in Deeds are for purposes of Description only, and the same are not intended to be Dedicated to Public Use. The Fee-Simple Title to the Beds thereof is Expressly Reserved in the Grantors of the Deed to which this Plat is Attached, their Heirs and Assigns.
8. Highway and Highway Widening, Slope, Drainage & Utility Easements AND PUBLIC ACCESS EASEMENTS shown hereon are Reserved onto the Owner and/or thereby offered for Dedication to Baltimore County, Md. The Owner, his Personal Representative, Successors & Assigns shall Convey said Areas by Deed to Balto Co, Md at No Cost.
9. For Panhandle Lots, Refuse Collection, Snow Removal and Road Maintenance are provided to the junction of the Panhandle and the Street Right-of-Way Line only, and not onto the Panhandle lot Driveway.

[illegible] DEVELOPER WILL COMPLY WITH THE LATEST MANAGEMENT PRACTICES CONTAINED IN THE WATER QUALITY MANAGEMENT POLICY [illegible] THE FLOOD PLAIN SECTIONS ARE THE 100 YEAR WATER SURFACE [illegible] LIMITS HAVE BEEN DETERMINED FROM FIELD INSPECTIONS BY THE BALTIMORE COUNTY DEPARTMENT OF [illegible] NO TREE CUTTING, CLEARING, OR CONSTRUCTION WILL BE CONDUCTED IN THIS AREA EXCEPT [illegible] THE WATER QUALITY MANAGEMENT POLICY

## COORDINATES

| Nº | North | East | Nº | North | East |
|---|---|---|---|---|---|
| 271 | 80,406.24 | 5,825.38 | 221 | 81,012.45 | 7,732.20 |
| 272 | 80,920.67 | 6,423.71 | 222 | 81,048.90 | 7,810.76 |
| 273 | 81,120.04 | 6,103.31 | 223 | 81,098.71 | 7,739.91 |
| 274 | 81,687.37 | 6,338.55 | 224 | 81,146.39 | 7,631.29 |
| 212 | 81,583.09 | 6,296.63 | 225 | 81,221.54 | 7,286.66 |
| 213 | 81,591.22 | 6,314.22 | 226 | 81,293.76 | 7,104.98 |
| 214 | 81,553.03 | 6,604.66 | 227 | 81,443.72 | 6,855.86 |
| 215 | 81,490.72 | 6,604.90 | 228 | 81,539.54 | 6,615.67 |
| 216 | 81,400.89 | 6,830.07 | 229 | 81,597.24 | 6,425.74 |
| 217 | 81,250.90 | 7,079.19 | 230 | 81,637.43 | 6,333.32 |
| 218 | 81,172.69 | 7,215.98 | 231 | 81,657.02 | 6,325.18 |
| 219 | 81,097.54 | 7,620.66 | | | |
| 220 | 81,057.80 | 7,711.15 | | | |

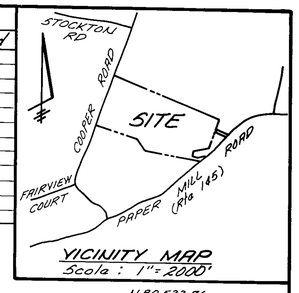
## DENSITY CALCULATIONS

Gross Area of Property ------ 100.112 AC±
Exist Zone ---------- RC-2 & RC-4
AREA RC-2 Zone ---------- 44.882 AC±
AREA RC-4 Zone ---------- 55.230 AC±
Lots Permitted RC-2 Zone ---- 2 Lots
Lots Permitted RC-4 Zone ---- 11 Lots
Total Lots Permitted ------ 13 Lots
Total Lots Shown ---------- 13 Lots

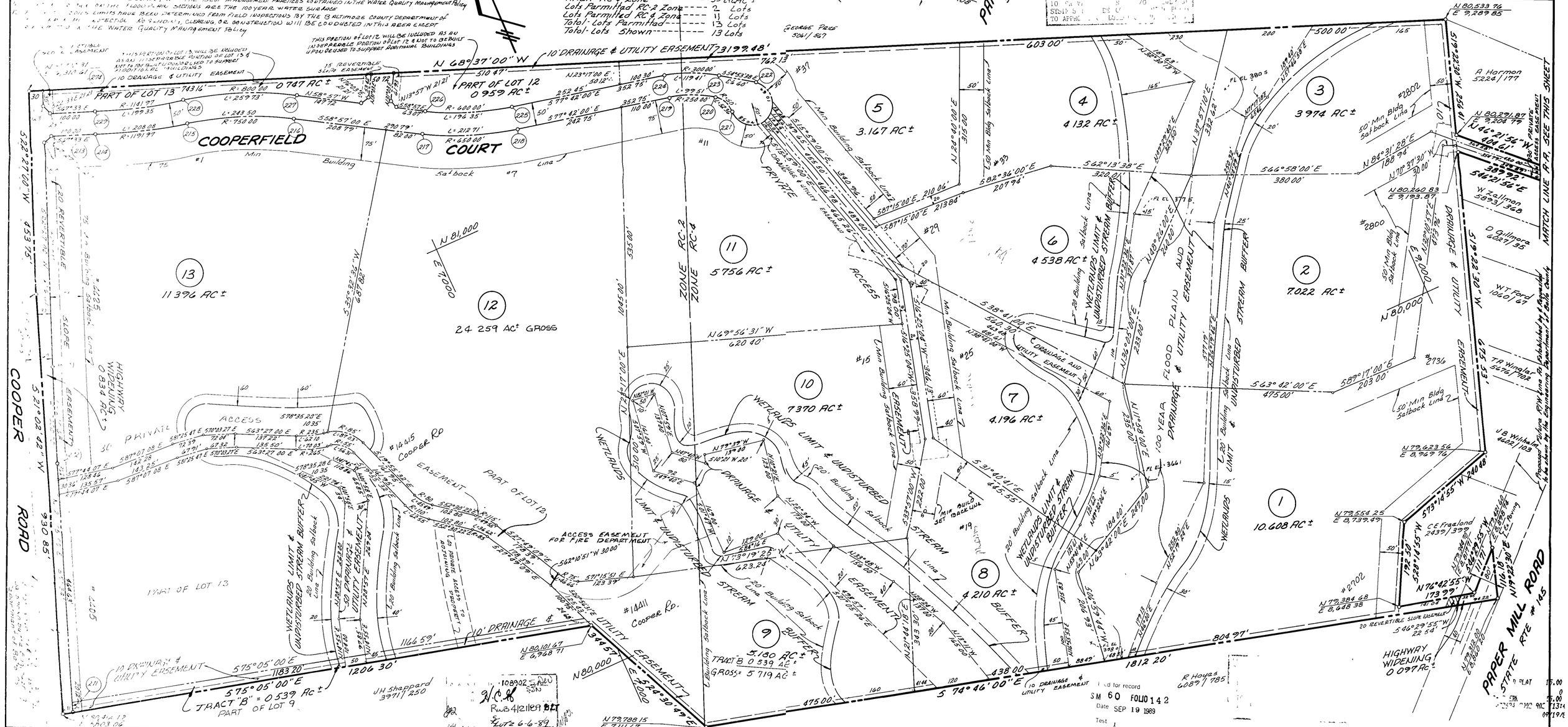
## CURVE DATA

| Curve | Δ | Radius | Length | Tang | Bearing & Long Chord |
|---|---|---|---|---|---|
| 214 to 215 | 10°00'07" | 1197.97' | 208.08 | 104.30' | S 72°35'04"E 207.81' |
| 215 to 216 | 18°36'07" | 750.00' | 243.50' | 122.83' | S 68°15'04"E 242.43' |
| 217 to 218 | 18°45'00" | 650.00' | 212.71' | 107.32' | S 68°19'30"E 211.76' |
| 219 to 220 | 22°48'22" | 250.00' | 99.51' | 50.42' | S 66°17'49"E 98.86' |
| 220 to 221 | 60°00'00" | 50.00' | 52.36' | 28.87' | S 24°53'38"E 50.00' |
| 221 to 222 | 240°00'00" | 50.00' | 209.44' | — | — |
| 223 to 224 | 22°48'22" | 300.00' | 119.41' | 60.51' | N 66°17'49"W 118.63' |
| 225 to 226 | 18°45'00" | 600.00' | 196.35' | 99.06' | N 68°19'30"W 195.48' |
| 227 to 228 | 18°36'07" | 800.00' | 259.73' | 131.02' | N 68°15'04"W 258.59' |
| 228 to 229 | 10°00'07" | 1141.97' | 199.35' | 99.93' | N 72°33'04"W 199.10' |
| 272 to 273 | 01°22'00" | 9000.00' | 214.68' | 107.34' | N 21°46'00"E 214.67' |

ALL HIGHWAY WORK IN THE MARYLAND STATE HIGHWAY ADMINISTRATION AND BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT PERMITS MUST BE OBTAINED PRIOR TO ANY WORK BEING DONE IN THE STATE RIGHT OF WAY TO AFFECT THE PROPOSED IMPROVEMENTS SHOWN HEREON.

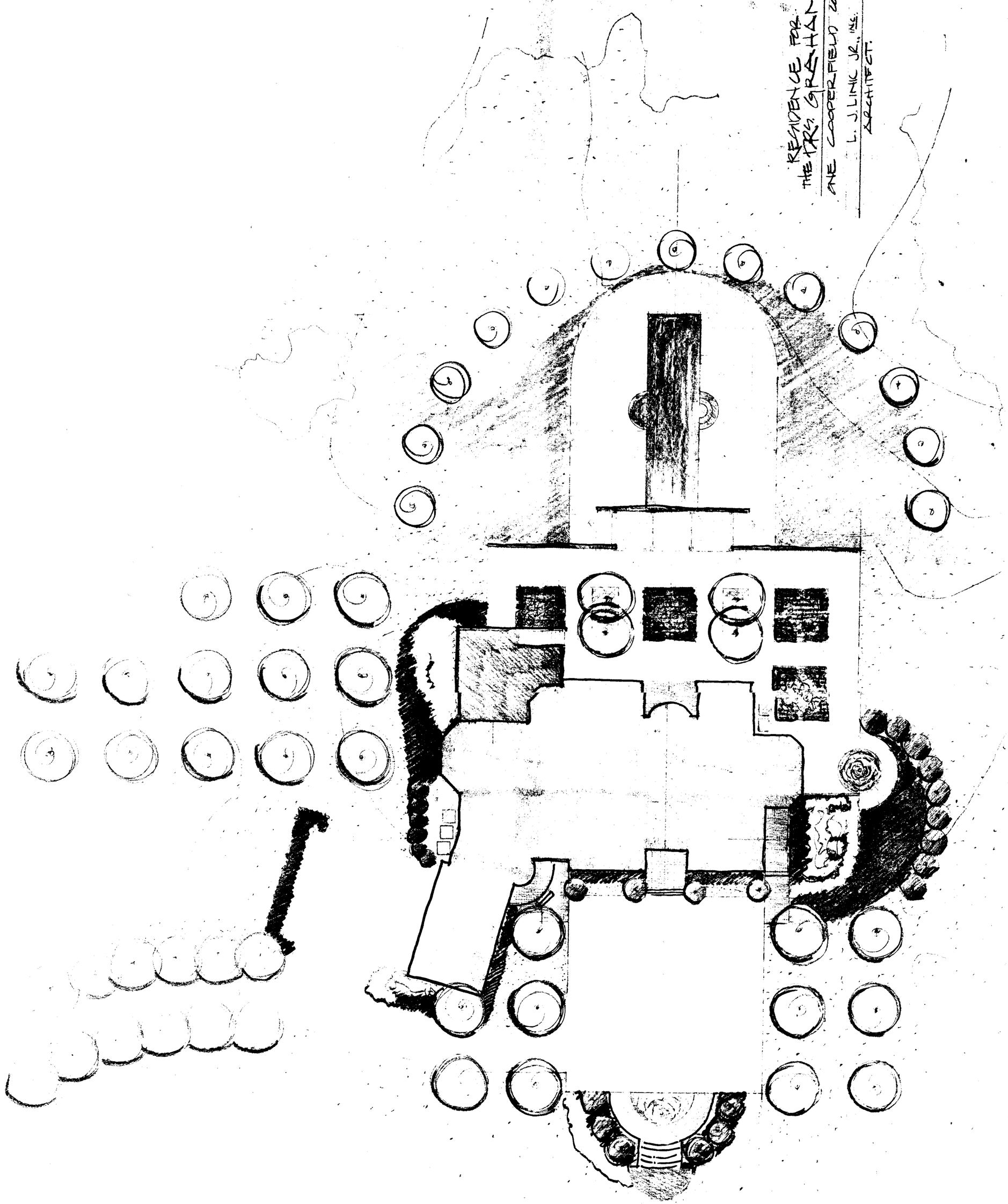


VICINITY MAP
Scale : 1" = 2000'




| DEPARTMENT OF PUBLIC WORKS | OWNER'S CERTIFICATE: | SURVEYOR'S CERTIFICATE: | E. F. RAPHEL & ASSOCIATES<br>REGISTERED PROFESSIONAL LAND SURVEYORS | "COOPERFIELD" |
|---|---|---|---|---|
| Thomas J. Stosur 4-28-89<br>Chief Date | The Undersigned, Owner of the Land Shown on this Plat hereby Certifies that, to the Best of His Knowledge the Requirements of Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland, Has been Complied with Insofar as some concerns the Making of the Plat and Setting of the Markers.<br>GAYLORD BROOKS REALTY CO<br>PO BOX 193, PHOENIX MD 21131<br>Owner(s) PRES. RICHARD A. MOORE 3/3/89 Date | The Undersigned, A Registered Land Surveyor of the State of Maryland, does Hereby Certify that he is the Surveyor who prepared this Plat and that the Land Shown on this Plat has been Laid Out and the Plat thereof has been prepared in Compliance with Subsection (C) of Section 3-108 of the Real Property Article of the Annotated Code of Maryland, Particularly Insofar as some Concerns the Making of the Plat and the Setting of the Markers.<br>Reg Land Surveyor 3/3/89 Date | 205 Courtland Ave<br>Towson, Maryland 21204 | 10TH Elect Dist - Baltimore Co., Md<br>Scale 1" = 100' Date Jan 31, 1989<br>DEED REFERENCE: SM 8061/494 & SM 8061/499<br>TAX ACCOUNT # 10-02-065050<br>CRG APPROVAL DATE: 9/16/88 |
| APPROVED FOR DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT<br>Robert W. Sheesley 4-28-89<br>Date | | | | |
| APPROVED FOR OFFICE OF PLANNING AND ZONING<br>5-26-89<br>Director of Planning & Zoning Date | | | | |

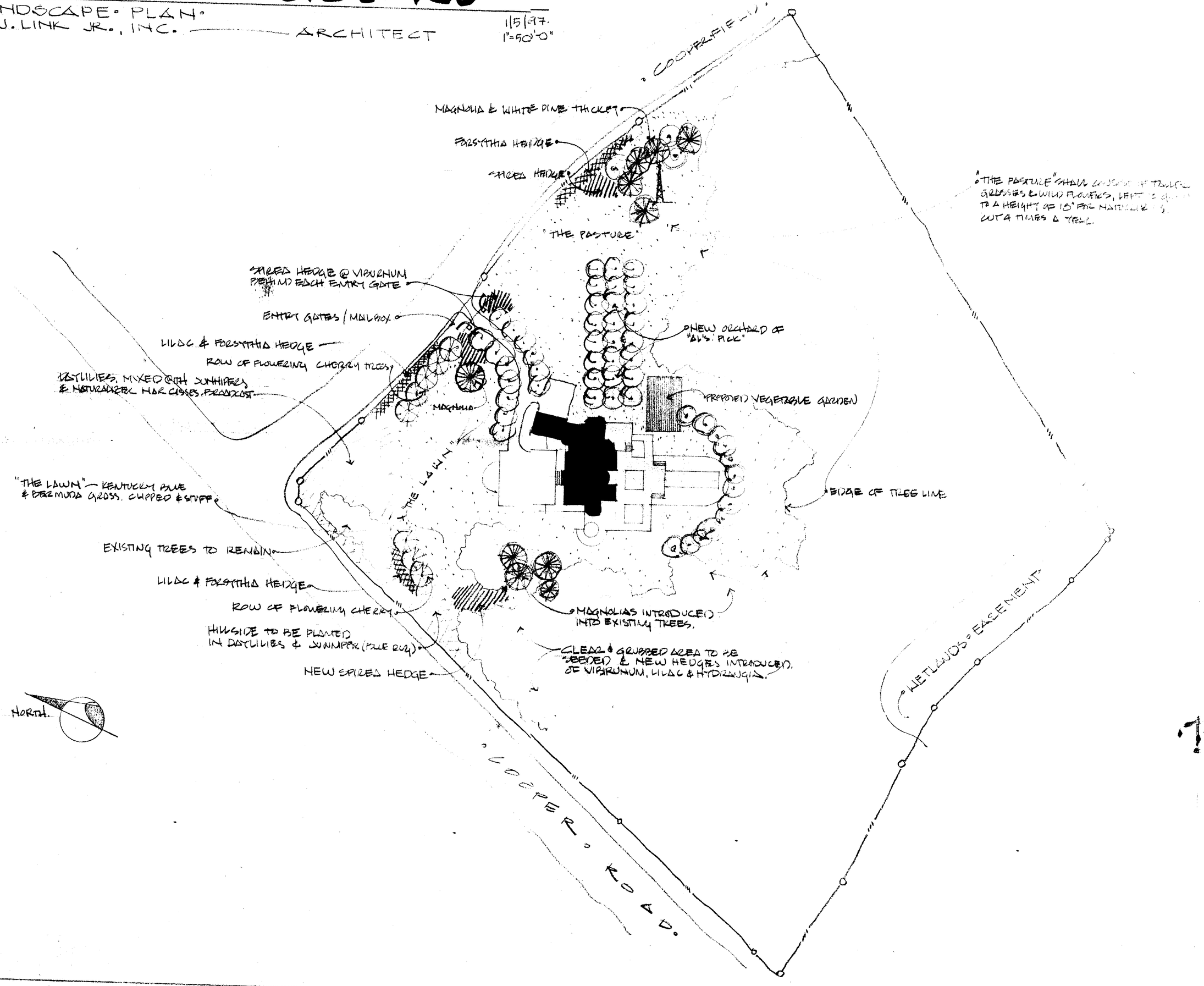
Filed for record
SM 60 FOLIO 142
Date SEP 19 1989
Test
Clerk


RESIDENCE FOR
THE MRS. GRAHAMS
ONE COOPERFIELD COURT
L. J. LINK JR., INC.
ARCHITECT.

# LANDSCAPE PLAN

L.J. LINK JR., INC. — ARCHITECT

1/5/97.
1"=50'-0"

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