

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE - NE/S Forest Lane, *
135' NW of c/l Newburg Avenue * DEPUTY ZONING COMMISSIONER
(415 Forest Lane) *
1st Election District * OF BALTIMORE COUNTY
1st Councilmanic District *
Larre N. Shiller, et ux * Case No. 97-566-SPHA
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Larre N. and Mary Shiller, through their attorney, Matthew H. Azrael, Esquire. The Petitioners seek approval that the previously approved variance in Case No. 92-97-SPHA remains in effect, despite the fact that the subject property was subsequently downzoned from D.R. 5.5 to D.R.2. In the alternative, the Petitioners seek relief from Sections 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 304 of the B.C.Z.R., to permit a lot area of 5,796 sq.ft. in lieu of the required 20,000 sq.ft., a lot width of 90 feet in lieu of the required 100 feet, a rear yard setback of 20 feet in lieu of the required 40 feet, and a minimum side yard of 10 feet in lieu of the required 15 feet. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Larre and Mary Shiller, property owners, Paul Lee, Professional Engineer who prepared the site plan for this property, Matthew H. Azrael, Esquire, attorney for the Petitioners, Linda Y. Lamb, adjoining property owner, and

ORDER RECEIVED FOR FILING
Date 8/26/97
By [Signature]

two other individuals who appeared in support of the Petitioner's request. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 5,796 sq.ft., zoned D.R.2, and is presently unimproved. The Petitioners purchased the subject property in 1995 and now wish to develop the site with a single family dwelling. However, due to the zoning history of this property, the requested relief is necessary in order to proceed as proposed.

This property was originally part of a larger parcel of land, which in 1939, was 200' x 64.4' in dimension. The property was subdivided in 1950 to create two lots, one of which is now known as 216 Newburg Avenue. The remaining lot, which is the subject of this request, is known as 415 Forest Lane and is 110' x 64.4' in dimension. This property became the subject of prior Case No. 92-97-SPHA in which the former property owners, James L. and Faye E. Haker, came before me seeking special hearing and variance relief to permit construction of a dwelling on the subject undersized lot. By Order dated August 13, 1992, I denied their request and the Petitioners subsequently filed an appeal of my decision to the County Board of Appeals who granted the relief on February 10, 1994. The Protestants in that case then filed an appeal of the Board's decision to the Circuit Court for Baltimore County (see Case No. 94-CV02068) which, by Order dated October 26, 1994, affirmed the Board of Appeals' decision. No further appeals followed the Circuit Court's decision and in 1995, Mr. & Mrs. Haker sold the property to Mr. & Mrs. Shiller.

Further testimony revealed that since the Circuit Court's decision in that matter, the entire area in which the subject property lies has been downzoned from D.R. 5.5 to D.R. 2. As a result, the size and area require-

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[Signature]

ments for the subject lot have changed and, in fact, are more restrictive. Thus, the Petitioners now come before me seeking approval that the variances granted in the prior case still apply, notwithstanding the change in zoning classification. The setbacks for the proposed dwelling are the same as those approved in the prior case. Further testimony indicated that Mr. & Mrs. Shiller purchased the subject property from the Hakers in reliance upon the variance relief granted in the prior case. If the special hearing relief requested herein is not granted, the Petitioners will not be able to develop the property as proposed.

After due consideration of the testimony and evidence presented, I find that the setbacks that were approved by the Board of Appeals and affirmed by the Circuit Court for Baltimore County in 1994, still remain in effect and are appropriate for the subject property. It is clear that strict compliance with current regulations would unduly restrict the use of the subject property due to the special conditions unique to this particular parcel and that the Petitioners would suffer practical difficulty and unreasonable hardship if the relief requested in the special hearing were denied. Inasmuch as the special hearing relief is being granted, the alternative variance relief shall be dismissed as moot.

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

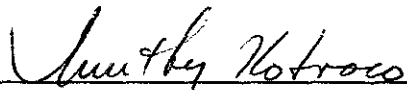
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 26th day of August, 1997 that the previously approved special hearing and variance relief in prior Case No. 92-97-SPHA for a single family dwelling on the subject undersized lot, in accordance with Petitioner's Exhibit 1, remains in effect, despite the fact that the

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Date 8/26/97
By [Signature]

subject property was subsequently downzoned from D.R. 5.5 to D.R.2, and as such, the Petition for Special Hearing be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking alternative relief from Sections 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 304 of the B.C.Z.R., to permit a lot area of 5,796 sq.ft. in lieu of the required 20,000 sq.ft., a lot width of 90 feet in lieu of the required 100 feet, a rear yard setback of 20 feet in lieu of the required 40 feet, and a minimum side yard of 10 feet in lieu of the required 15 feet, be and is hereby DISMISSED AS MOOT.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 8/26/07
By [Signature]

IN THE MATTER OF THE
THE APPLICATION OF
LARRE N. SHILLER, ET UX
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE NE/S FOREST LANE, 135'
NW OF C/L NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* * * *

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 97-566-SPHA

* * * *

O P I N I O N

This case is based on an appeal from an order of the Deputy Zoning Commissioner in which the Petition for Special Hearing was granted and the variance request dismissed as moot. A public hearing was held on Tuesday, December 16, 1997 at 10:00; and a public deliberation was held on January 15, 1998.

This matter involves a property located at 415 Forest Lane. It is separated from adjacent land known as 216 Newburg Avenue. In July 1950, by deed, 215 Newburg Avenue was sold. However, the terms of the deed excluded that portion of 216 Newburg Avenue known as 415 Forest Lane. Effectively, a subdivision of 216 Newburg Avenue into two separate and distinct properties was accomplished. The ownership of 216 Newburg Avenue changed a number of times until Mr. and Mrs. James Haker purchased the property in October 1966. The property at 415 Forest Lane was the subject of a request for special hearing and variance request in which the Deputy Zoning Commissioner denied the petition for special hearing, resulting in dismissal of Petition for Zoning Variance from Baltimore County's zoning regulations. That decision was appealed to the Baltimore County Board of Appeals (Case No. 92-97-SPHA). That Board, on February 10, 1994, ordered that the Petition for Special Hearing

requesting approval of the subject property as a buildable lot be granted; and the Petition for Variance from Section 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (BCZR) to permit a lot size of 5,796 sq. ft. in lieu of the required 6,000 sq. ft. and to permit a front yard setback of 36.5 feet in lieu of the required 30 feet was granted. That decision was affirmed by the Baltimore County Circuit Court on October 26, 1994.

In the instant case, the Petitioners are requesting that the variance granted by that prior Board in Case No. 92-97-SPHA be given effect in spite of the fact that the subject property was subsequently downzoned by the County Council from D.R. 5.5 to D.R. 2; or, in lieu thereof, that the lot's configuration and shape relative to the front line of the subject property was such that the strict adherence to the BCZR would result in an unreasonable hardship, also resulting in a practical difficulty in the construction of the dwelling, unless relief was granted for the lot size and setbacks.

Mr. Paul Lee, a registered professional engineer, 32 West Road, testified on behalf of the Appellants at the hearing. Mr. Lee has been engaged as a registered engineer since 1962, having worked for a number of local firms, 22 years of which was with Kidde Consultants; and, since 1978, has had his own engineering firm. He stated a number of developments that he had been actively involved with, and was accepted by both counsel as an expert in land development and planning. He recited the chain of ownership of the subject property, and in particular the subdivision which

occurred in 1950, which resulted in two separate lots, one at 216 Newburg Avenue and the other at 415 Forest Lane. The Forest Lane property was stated to be approximately 110 feet by 64.4 feet in dimensions. Mr. Lee testified that when 216 Newburg Avenue was subdivided in the 1950 sale the remaining portion, the subject property, was conceded to be a buildable lot in accordance with then-current regulations of 1945. He also opined that when the property was subdivided the two properties could easily have been split equally, with more than sufficient size for each lot to have separate homes constructed thereon. Additionally, Mr. Lee testified that a dimension lot error had been uncovered in 1989, and that the Hakers, who sold the property to the present petitioners, had been paying taxes on an incorrect assessment of the lot size, and that the assessor had likely assessed the property on the basis of it already being a "buildable lot" based on the listed size.

Under the D.R. 5.5 regulations, the subject property was within 204 sq. ft. of meeting the 6,000 sq. ft. requirement for the then-current lot size requirements. At that time, the Hakers also requested a special hearing and petition for variance relief which was denied by the Deputy Zoning Commissioner, granted by the Board of Appeals, and also affirmed by the Circuit Court. Mr. Lee stated that the owners wanted an envelope within which they could build their house, but that it would not consume the entire building envelope. Mr. Lee further stated his opinion that the lot was unique by reason of its size, even within the original D.R. 5.5

zoning classification, and was even more so in the present D.R. 2 zone. He recited the need for variances to permit the best use of the property, and that the lot is as big as others in the area, and without the requested variances is not a developable property.

Petitioner's Exhibits No. 1A and 1B, representing the Board of Appeals opinion of February 10, 1994, and the Circuit Court's subsequent opinion, were entered into evidence, as well as Petitioner's Exhibit No. 3, the Plat to Accompany a Petition for Variance. Mr. Lee stated that a house 70 feet by 24 feet would be the maximum permitted, that you could conceivably put within the building envelope; and that it would be a compatible single-family dwelling in what he considered to be a stable, old and very desirable community.

Cross-examination centered around the site plan and the dimensions of the proposed dwelling, since conceivably the property could hold a building envelope of 70 feet fronting down Forest Lane, and 24 feet deep.

Mr. Larry Shiller, 7826 Old Hollow Lane, Ellicott City, Maryland, also testified. He stated that he had purchased the property in June 1995 subsequent to the Circuit Court appeal; and he was fully aware of the legal situation and purchased the property based on reliance of the Circuit Court opinion of October 24, 1994. He stated that he and his wife owned the property and it was his desire to live near his work, and specifically in the Catonsville area. He had met with an architect to work with him to make any house built on the lot appropriate for the location. He

was fully aware of Section 304, and those matters covered to be handled at time of permit application. He stated he would make any changes necessary to comply with County building and zoning regulations. He indicated that his neighbor at 216 Newburg Avenue was supportive of his proposal and those in the immediate area had no objection. He stated no opposition was present at the Zoning Commissioner's hearing and a Mrs. Lamm showed up in support at that hearing. By the end of December 1997, he had planned to begin his project, but by that time the property had been downzoned.

On cross-examination, Mr. Shiller indicated that he had no intention of building a house that was 70 feet wide, and that in his opinion that would be totally inappropriate, but that he would try to live within the spirit and intent of the zoning laws to do the best that he could. The lot size limited his total flexibility. His current plans are for a 48-foot house, but he would like some flexibility as to the exact dimensions, that is to say, a house 48 feet by 24 feet with a plan for a garage. That ended Petitioners' case in chief.

People's Counsel entered a number of items which are documented in the Board's file. Ms. Berchie L. Manley, 402 Montemar Avenue, Catonsville, Maryland, testified on behalf of the South Rolling Road Community Association, showing the location of her house on People's Counsel's Exhibit No. 3 in relation to the subject lot. Ms. Manley testified relative to the 488-acre parcel which the subject of a reclassification encouraged by her community association and a number of others within the Catonsville area.

She outlined for the Board the basic parameters of the Association and indicated that most of the homes in her particular association were subdivision homes which were much smaller than that contemplated by the Petitioner. People's Counsel's Exhibit No. 3 indicated homes in the subdivision prior to the rezoning to D.R. 2 and Mrs. Manley commented that the community has been experiencing a number of individuals buying tracts of land and building homes thereon. The purpose of the D.R. 2 rezoning was to stop these smaller tracts from being developed. She was fearful that if an exception was granted in this case it would set a precedent. She stated that the frontage was of particular concern to the community association, and it would be particularly helpful to see the actual site plan with the house set thereon. Mrs. Manley opined relative to the purpose of downzoning and efforts being made to stabilize the community, by placing limitations on higher density.

The crux of Mrs. Manley's testimony was that the lot was far too small to accommodate the type of housing that the Petitioner was contemplating and that the granting of the relief requested by the Petitioner would create a precedent for other smaller lots in the Catonsville area.

This Board having reviewed the testimony and evidence produced at the hearing concludes that the Petitioner's request for special hearing should be dismissed and consideration given to the variance request. The Board is mindful of the forceful arguments made by People's Counsel relative to the prior rezoning of the D.R. 5.5 zone and the even more stringent requirements of the D.R. 2 zoning

when downzoning occurred on the part of the County Council. It also appreciates the concerns expressed by the local community association in its efforts to preserve the character of the Catonsville area commensurate with the downzoning in an effort to stabilize the community.

However, the facts and circumstances of this case are unique and require the Board to give consideration to the prior case and opinion rendered in Case No. 92-97-SPHA, subsequently affirmed by the Circuit Court. Those decisions will speak for themselves. That decision held that the subject property was a buildable lot and variances were granted from Sections 1B02.3.C.1 and 303.1. Having determined that the uniqueness standards and practical difficulty standards imposed by Cromwell v. Ward were met, this Board must recognize that, if appropriateness existed for relief at the time of the D.R. 5.5 zoning, that same standard must apply under the current D.R. 2 zoning in effect, whereby even more stringent standards are set forth. Additionally, the Petitioners purchased the property in good faith, based on the affirmation of the Board's decision by the Circuit Court, with the downzoning occurring before Petitioners had the opportunity to build thereon. The Board recognizes the concern of People's Counsel in that consideration should be afforded the stricter requirements of the D.R. 2 zoning, and what may be considered a precedent. However, the prior history of the property and the decisions affecting it, affirmed by a prior Board and the Circuit Court, render this decision as limited and unique with any others similar in nature

being highly unlikely.

To that extent, the Board concurs that the case should be decided under the D.R. 2 zoning. Without the requested variances, however, the land has no reasonable or viable use. As to the compatibility of review under 304, this issue does not come into play unless and until the variances are granted, and then Section 304.2 comes into focus. At that time, building permit application must be filed along with elevated drawings and a photograph of the neighborhood in order to determine the appropriateness of the proposed new building in relationship to other existing structures. Also, when the building permit is applied for, Planning and Zoning will be required to comment relative to site drainage and building orientation and location on the lot or tract. If a building permit is denied, then there is a process of further appeal to this Board.

O R D E R

IT IS THEREFORE this 11th day of February, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance from Section 1B02.3.C.1 and Section 303.1 of the Baltimore County Zoning Regulations to amend the previously granted variance in Case No. 92-97-SPHA, all required by the downzoning of the previously existing D.R. 5.5 zone to a D.R. 2 zone be and is hereby GRANTED as follows:

A. Existing variance to be amended:

1. Lot area of 5,796 sq. ft. in lieu of required 20,000 sq. ft. (an additional variance of 14,000 sq. ft. for a total of 14,204 sq. ft.);

2. Rear yard setback of 20 feet in lieu of required 40 feet (an additional variance of 10 feet for a total of 20 feet).

B. New variances granted by downzoning shift:

1. Lot width of 90 feet in lieu of required 100 feet (variance of 10 feet);

2. Minimum side yard of 10 feet (total of 20 feet) in lieu of the required minimum of 15 feet (total = 40 feet); a variance of 5 feet and 20 feet; and it is further

ORDERED that the proposed home is to be constructed within the building envelope; however, the maximum width of the building shall be no greater than 50 feet; and it is further

ORDERED that in addition to the other requirements of Section 304.2 of the BCZR, the Department of Permits & Development Management shall hold a public hearing, due notice of which shall be posted on the subject property, at which time additional comments shall be permitted as to compatibility, which shall be taken into consideration by the Department of Permits & Development Management in the consideration of the granting of the building permit; and it is further

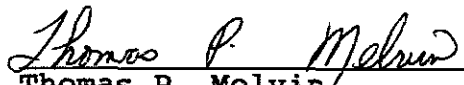
ORDERED that the Petition for Special Hearing filed in Case No. 97-566-SPHA shall be DISMISSED as moot.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Kristine K. Howanski, Chairman


Charles L. Marks


Thomas P. Melvin



County Board of Appeals of Baltimore County

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

February 11, 1998

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

RE: Case No. 97-566-SPHA
Larre N. Shiller, et ux

Dear Mr. Zimmerman:

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

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

Very truly yours,

Charlotte E Radcliffe for
Kathleen C. Bianco
Administrator

encl.

cc: Matthew H. Azrael, Esquire
Mr. and Mrs. Larre N. Shiller
Mr. Paul Lee
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director/PDM
Virginia W. Barnhart, County Attorney





Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

August 26, 1997

Matthew H. Azrael, Esquire
101 E. Chesapeake Avenue
Baltimore, Maryland 21286

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
NE/S Forest Lane, 135' NW of c/l Newburg Avenue
(415 Forest Lane)
1st Election District - 1st Councilmanic District
Larre N. Shiller, et ux - Petitioners
Case No. 97-566-SPHA

Dear Mr. Azrael:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted and the Petition for Variance dismissed, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Larre N. Shiller
7826 Old Hollow Lane, Ellicott City, Md. 21043

Mr. Paul Lee
304 W. Pennsylvania Avenue, Towson, Md. 21204

People's Counsel; Case Files



RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
PETITION FOR VARIANCE		
415 Forest Lane, NE/S Forest Lane, 135'	*	ZONING COMMISSIONER
NW of c/l Newberg Avenue		
1st Election District, 1st Councilmanic	*	OF BALTIMORE COUNTY
Larre N. and Mary Shiller	*	CASE NO. 97-566-SPHA
Petitioners		
* * * * *		

ENTRY OF APPEARANCE

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

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1997, a copy of the foregoing Entry of Appearance was mailed to Matthew H. Azrael, Esq., 101 E. Chesapeake Avenue, Towson, MD 21286, attorney for Petitioners.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

566



Petition for Special Hearing

97-566-SPHA

to the Zoning Commissioner of Baltimore County

for the property located at 415 Forest Lane

which is presently zoned DR 2

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

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

The Petitioners request that the Variance approved by the County Board of Appeals in Case No. 92-97-SPHA be given effect in spite of the fact that the subject property was subsequently downzoned from DR 5.5 to DR 2.

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

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

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

Contract Purchaser/Lessee.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner.

Matthew H. Azrael, Esq.

(Type or Print Name)

Signature

101 E. Chesapeake Avenue 410-821-6800

Address

Phone No.

Baltimore

MD

21286

City

State

Zipcode

Legal Owner(s):

LARRE N. SHILLER

(Type or Print Name)

Signature

MARY SHILLER

(Type or Print Name)

Signature

7826 Old Hollow Lane (410) 965-2209

Address

Phone No

Ellicott City

MD

21043

City

State

Zipcode

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

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY: MR

DATE

6/16/97

ORDER RECEIVED FOR FILING

Date

By





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 415 Forest Lane

which is presently zoned DR-2

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)

Petitioner requesting variance pursuant to Sect. 304 from Sect. 1B02.3.C.1 and 303.1 (see attached).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Lot configuration and shape, relative to the front lot line, of the subject property are such that the strict adherence to the above BCZR sections would result in unreasonable hardship. Practical difficulty in constructing a dwelling is present unless relief is granted for lot size and set backs.

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

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

Contract Purchaser/Lessee.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Matthew H. Azrael, Esq.

(Type or Print Name)

Signature

101 E. Chesapeake Avenue 410-821-6800

Address

Phone No.

Baltimore

MD

21286

City

State

Zipcode

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

Legal Owner(s):

LARRE N. SHILLER

(Type or Print Name)

Signature

MARY SHILLER

(Type or Print Name)

Signature

7826 Old Hollow Lane (410) 965-2209

Address

Phone No

Ellicott City MD 21043

City

State

Zipcode

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

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL OTHER

REVIEWED BY: mtl

DATE 6/16/97

Printed with Soybean Ink
on Recycled Paper



ORDER RECEIVED FOR FILING

Date

By

Petitioner requesting variance pursuant to Section 304 from Section 1B02.3C1 and Section 303.1 of the BCZR to amend previously granted variances by Case # 92-97SPHA and to request additional variances all required by the down shifting of the existing DR 5.5 zone to DR 2.

A. Existing variances requesting to be amended:

1. Lot area of 5,796 s.f. in lieu of required 20,000 s.f. (an additional variance of 14,000 s.f. - total = 14,204 s.f.).
2. Rear yard setback of 20' in lieu of required 40' (an additional variance of 10' - total = 20')

B. New variances required by zoning down shift:

1. Lot width of 90' in lieu of required 100' (a variance of 10').
2. Min. side yard of 10' (total = 20') in lieu of the required min. of 15' (total = 40').
A variance of 5' and 20'.

ORDER RECEIVED FOR FILING

Date

By

8/26/97
[Signature]

Paul Lee Engineering Inc.

304 W. Pennsylvania Ave.

Towson, Maryland 21204

410-821-5941

97-566-SHA

DESCRIPTION

0.133 ACRE PARCEL - 415 FOREST LANE

ELECTION DISTRICT 1C1 - BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the east side of Forest Lane, said point also being located North-westerly - 135 feet from the center of Newburg Avenue, thence running with and binding on said east side of Forest Lane (1) N 45° W - 90.00 feet, thence leaving said east side of Forest Lane (2) N 45° E - 64.4 feet, thence (3) S 45° E - 90.00 feet and (4) S 45° W - 64.4 feet to the east side of Forest Lane and said point of beginning.

Containing 5,796 s.f. of land more or less.



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 #97-566-SPHA
415 Forest Lane
NE/S Forest Lane, 135 NW of
of Newberg Avenue
1st Election District
1st Councilmanic
Legal Owner(s)
Larry N. Miller and
Mary Shiller

Special Meeting to approve
that various provisions of case no. 92-97-SPHA be given effect in spite of the fact that the property was subsequently downzoned from D-1855 to D.R.-2. The owner pursuant to Section 324 to amend previously granted variances by case no. 92-97-SPHA, lot area of 5,736 square feet and rear yard setback of 20 feet in lieu of the required 40 feet; lot width of 90 feet in lieu of the required 100 feet and minimum side yard of 10 feet (total 20 feet) in lieu of the required minimum of 15 feet (total 40 feet).

Hearing: Monday, August 4, 1997 at 11:00 a.m., Room 407 Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are handicapped accessible for special accommodations. Please Call (410) 887-3353.
(2) For information concerning the file and/or hearing, Please Call (410) 887-3391.

7/17/97 July 10 0156883

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 10, 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 July 10, 1997.

THE JEFFERSONIAN,

A. Henrichson
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 038109

DATE 6/16/97 ACCOUNT 01-615

By: MDM
Itm: 566

RECEIVED FROM: Azrael, Franz, + Franz - 415 Forest La.
AMOUNT \$100.00
(Shiller)

FOR: 010- Res Var.
030- Res Spec. Hesp - \$50.00

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACTUAL TIME
6/17/1997 6/17/1997 11:43:32
REG 4502 CASHIER JRIC JMK DRUMER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 000966
CR NO. 038109
\$100.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 069295

DATE 8/18/99 ACCOUNT 001-6150

RECEIVED FROM: Linda + David Lamb
AMOUNT \$10.00 (10M)

FOR: #99-2161

415 Forest La

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACTUAL TIME
8/19/1999 8/18/1999 15:30:35
REG 4502 CASHIER LSH LXS DRUMER
5 528 ZONING VERIFICATION
Receipt # 105629
CR NO. 069295
\$10.00 CK
Receipt Tot 10.00
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case # 97-566-SPHA

**Petitioner/Developer:
(Larre Shiller)**

**Date of Hearing/Closing:
(August 4, 1997)**

**Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 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 _____
415 Forest Lane Baltimore, Maryland 21228 _____**

**The sign(s) were posted on _____ July 18, 1997 _____
(Month, Day, Year)**

Sincerely,

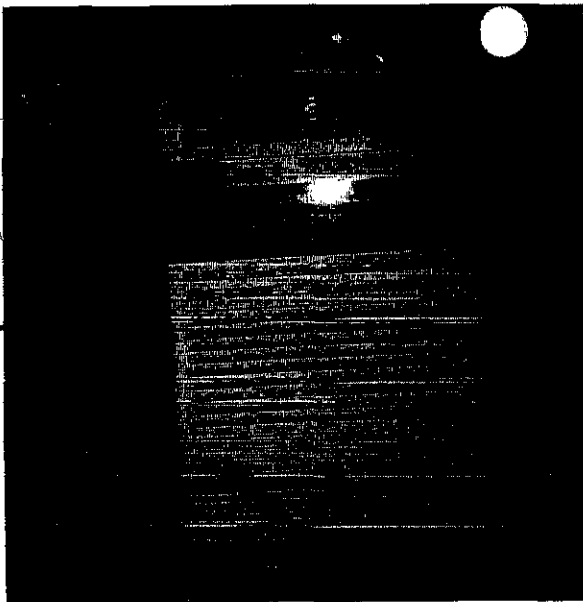

(Signature of Sign Poster & Date)

**_____
Thomas P. Ogle, Sr.
(Printed Name)**

**_____
325 Nicholson Road
(Address)**

**_____
Baltimore, Maryland 21221 _____**

**_____
(410)-687-8405
(Telephone Number)**



97-566-SPHA

CERTIFICATE OF POSTING

RE: Case No.: 97-566 SPHA

Petitioner/Developer: _____

LARRE N. SHILLER

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 415 FORREST LANE

The sign(s) were posted on 10/9/97
(Month, Day, Year)

Sincerely,

Gary Freund 10/97

(Signature of Sign Poster and Date)

GARY FREUND

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

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:

Item 566

ZONING NOTICE**Case No.:** 97-566-SPHA

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

PLACE: * _____**DATE AND TIME: *** _____

REQUEST: Special hearing to confirm the variance approved by
the County Board of Appeals in Zoning Case 92-97-SPHA and variance for
a lot area of 5,796 s.f. in lieu of 20,000 sf, a 20' rear yard
in lieu of 40', a 90' lot width in lieu of 100', and ²10' side
yard in lieu of 15' and a side yard set of 20' in lieu of 40'.

**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**



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/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (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.: 566

Petitioner: Larre N. and Mary Shiller

Location: 415 Forest Lane, Catonsville, MD 21228

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Larre N. Shiller

ADDRESS: 7826 Old Hollow Lane

Ellicott City, MD 21043

PHONE NUMBER: (410) 965-2209

AJ:ggs

(Revised 09/24/96)

Plat to accompany Petition for Zoning ☐ Variance ☐ Special Hearing

PROPERTY ADDRESS: _____ see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: _____

plat book # _____, folio # _____, lot # _____, section # _____

OWNER: _____



North

date: _____ prepared by: _____ Scale of Drawing: 1"= _____

 Vicinity Map
North
scale: 1"=1000'

LOCATION INFORMATION

Election District: _____

Councilmanic District: _____

1"=200' scale map#: _____

Zoning: _____

Lot size: _____
acres square feet

public private
SEWER: ☐ ☐
WATER: ☐ ☐

Chesapeake Bay Critical Area: ☐ yes ☐ no

Prior Zoning Hearings: _____

Zoning Office USE ONLY!

reviewed by: _____ ITEM #: _____ CASE#: _____

TO: PUTNAM PUBLISHING COMPANY
July 10, 1997 Issue - Jeffersonian

Please forward billing to:

Larre N. Shiller
7826 Old Hollow Lane
Ellicott City, MD 21043
410-965-2209

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: 97-566-SPHA
415 Forest Lane
NE/S Forest Lane, 135' NW of c/l Newberg Avenue
1st Election District - 1st Councilmanic
Legal Owner(s): Larre N. Shiller and Mary Shiller

Special Hearing to approve that variance approved in case no. 92-97-SPHA be given effect in spite of the fact that the property was subsequently downzoned from D.R.-5.5 to D.R.-2.
Variance pursuant to Section 304 to amend previously granted variances by case no. 92-97-SPHA: lot area of 5,796 square feet, and rear yard setback of 20 feet in lieu of the required 40 feet; lot width of 90 feet in lieu of the required 100 feet, and minimum side yard of 10 feet (total = 20 feet) in lieu of the required minimum of 15 feet (total = 40 feet).

HEARING: MONDAY, AUGUST 4, 1997 at 11:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

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

July 2, 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: 97-566-SPHA

415 Forest Lane

NE/S Forest Lane, 135' NW of c/l Newberg Avenue

1st Election District - 1st Councilmanic

Legal Owner(s): Larre N. Shiller and Mary Shiller

Special Hearing to approve that variance approved in case no. 92-97-SPHA be given effect in spite of the fact that the property was subsequently downzoned from D.R.-5.5 to D.R.-2.

Variance pursuant to Section 304 to amend previously granted variances by case no. 92-97-SPHA: lot area of 5,796 square feet, and rear yard setback of 20 feet in lieu of the required 40 feet; lot width of 90 feet in lieu of the required 100 feet, and minimum side yard of 10 feet (total = 20 feet) in lieu of the required minimum of 15 feet (total = 40 feet).

HEARING: MONDAY, AUGUST 4, 1997 at 11:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

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

Arnold Jablon
Director

cc: Larre N. and Mary Shiller
Matthew H. Azreal, Esq.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY JULY 20, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





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

September 26, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-566-SPHA

IN THE MATTER OF: LARRE N. SHILLER, ET UX -
Petitioner 415 Forest Lane 1st E; 1st C

(Petition for Special Hearing GRANTED; variance
request DISMISSED as MOOT.)

ASSIGNED FOR:

TUESDAY, DECEMBER 16, 1997 at 10:00 a.m.

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

Please refer to the Board's Rules of Practice & Procedure, Appendix C,
Baltimore County Code.

IMPORTANT: 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).

Kathleen C. Bianco
Administrator

cc: Appellant : People's Counsel for Baltimore County

Petitioners : Mr. and Mrs. Larre N. Shiller

Counsel for Petitioners : Matthew H. Azrael, Esquire

Paul Lee

Pat Keller, Director /Planning

Lawrence E. Schmidt /Z.C.

Arnold Jablon, Director /PDM

Virginia W. Barnhart, County Attorney





County Board of Appeals of Baltimore County

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

December 17, 1997

NOTICE OF DELIBERATION

Having concluded this matter on December 16, 1997, public deliberation has been scheduled by the Board as follows:

LARRE N. SHILLER, ET UX -Petitioners
Case No. 97-566-SPHA

DATE AND TIME : Thursday, January 15, 1998 @ 9:30 a.m.
LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

cc: Appellant : People's Counsel for Baltimore County
Petitioners : Mr. and Mrs. Larre N. Shiller
Counsel for Petitioners : Matthew H. Azrael, Esquire
Paul Lee
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Copied: K.M.C.



Case No. 97-566-SPHA

Larre N. Shiller, et ux - Petitioner

NE/s Forest Lane, 135' NW of c/l Newburg
Avenue (415 Forest Lane)

1st Election District

Appealed: 8/28/97

(see attached Plat
Pet.'s Ex. No. 1)



Baltimore County
Department of Permits and
Development Management

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

July 29, 1997

Matthew H. Azrael, Esquire
101 E. Chesapeake Avenue
Baltimore, MD 21286

RE: Item No.: 566
Case No.: 97-566-SPHA
Petitioner: Larre N. Shiller, et ux

Dear Mr. Azrael:

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 June 16, 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 (410-887-3391).

Sincerely,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive style with a large, stylized "R".

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)



June
8/4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and Development Management

DATE: July 16, 1997

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 415 Forest Lane

INFORMATION

Item Number: 566

Petitioner: Shiller Property

Zoning: DR 2

The request to build on an undersized DR 2 lot is subject to Section 304.1, 304.2, 303.1 and 1B01.3.C.1 of the BCZR.

History

The previous owners, James and Faye Haker owned both an improved lot at 216 Newburg Avenue and a vacant, contiguous, undersized lot at 415 Forest Lane. They conveyed the property at 216 Newburg Avenue to David and Karen Humes in 1988 and retained the undersized lot. A zoning hearing, Case No. 92-97 SPHA, was denied by the Deputy Zoning Commissioner, granted by the county Board of Appeals and affirmed by the Circuit Court on 10/26/94. At that time the property was zoned DR 5.5. Subsequently, in 1995, the Hakers conveyed the undersized lot to Larre and Mary Shiller. It was part of a 488 acre 1996 Comprehensive Zoning Map Issue, I-045, which rezoned the area from DR 3.5 and DR 5.5 to DR 3.5 and DR 2, (maps effective 12/2/96). The purpose of the rezoning was to preserve the low density residential character of the neighborhood and to prevent inappropriate infill development at a density inconsistent with the character of the area. The lot at 415 Forest Lane, is even more undersized pursuant to the DR 2 zoning which establishes a 20,000 square foot minimum lot size, lot width of 100', side yard of 15' and sum of side yards of 40'.

SUMMARY OF RECOMMENDATIONS

1. The application is lacking a formal undersized lot application, i.e., architectural drawings and photographs, which are required for compatibility review as per section 304.2 of the BCZR. That submittal must occur in order for a complete review.
2. Based on the information provided on the site plan, it appears that the bulk and massing of the proposed house is out of scale with the houses in the neighborhood. Due to the size of the house on this undersized lot, little open space or useable yard area is provided; the front building setback proposed is only 20', while the adjacent house at 409 Forest Lane is 34.5'.
3. Final comment will be provided after review of the undersized lot application.

Prepared by: _____

Jeffrey W. Lay

Division Chief: _____

Gary L. Keras

AFK/JL:lsn

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

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

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: July 9, 1997

FROM: Robert W. Bowling, Chief
 Development Plans Review Division

SIGNED: ROBERT W. BOWLING

SUBJECT: Zoning Advisory Committee Meeting
 for July 7, 1997
 Item No. 566

The Development Plans Review Division has reviewed the subject zoning item. Forest Lane is an existing road which shall ultimately be improved as a 30-foot street cross section on a 50-foot right-of-way.

RWB:HJO:jrb

cc: File

ZONE707.566



**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 7.1.97
Item No. 566 MJK

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,

/s/ 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

Baltimore County Government
Fire Department



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

(410) 887-4500

July 2, 1997

Arnold Fabian, Director
Planning, Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
410-387-1125

Re: Request for Comment GEE BELOW

Subject: DISSEMINATION MEETING OF June 10, 1997

Item No: GEE BELOW Iteming Age 22:

Comments:

First and foremost, the referenced property has been
referred to the Council and the comments below are approved and
should be reflected or incorporated into the final print for
the project.

2. The Planning and Development Office has no comments at this time,
in reference to the following item numbers:

561, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576.

PREPARED BY: LT ROBERT P. SAUERWALD

Fire Marshal's Office, PHONE 387-4881, MS-11027

cc: File



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 7/10/97

FROM: R. Bruce Seeley *RBS/SP*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: June 30, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:	566	577
	567	578
	568	
	569	
	570	
	571	
	574	
	575	

RBS:sp

BRUCE2/DEPRM/TXTS8P



Baltimore County
Department of Permits and
Development Management

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

August 29, 1997

Matthew H. Azrael, Esquire
101 E. Chesapeake Avenue
Baltimore, MD 21286

RE: Petitions for Special
Hearing and Variance
NE/S Forest Lane, 135' NW
of c/l Newburg Avenue
(415 Forest Lane)
1st Election District
1st Councilmanic District
Larre N. Shiller, et ux -
Petitioners
Case No. 97-566-SPHA

RECEIVED
COUNTY BOARD OF APPEALS
97 SEP -3 AM 10:03

Dear Mr. Azrael:

Please be advised that an appeal of the above-referenced case was filed in this office on August 28, 1997 by Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel. 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 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: People's Counsel



APPEAL

Petitions for Special Hearing and Variance
NE/S Forest Lane, 135' NW of c/l Newburg Avenue
(415 Forest Lane)
1st Election District - 1st Councilmanic District
Larre N. Shiller, et ux ~ Petitioners
Case No. 97-566-SPHA

Petitions for Special Hearing and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners Sign-In Sheet

Petitioners' Exhibit: 1 - Plat to Accompany Petition for Variance

Deputy Zoning Commissioner's Order dated August 26, 1997 (Granted in Part, Dismissed as Moot in Part)

Notice of Appeal received on August 28, 1997 from Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel

c: Matthew H. Azrael, Esquire, 101 E. Chesapeake Avenue, Baltimore, Maryland 21286
Mr. and Mrs. Larre N. Shiller, 7826 Old Hollow Lane, Ellicott City, Maryland 21043
Mr. Paul Lee, 304 W. Pennsylvania Avenue, Towson, MD 21204
People's Counsel of Baltimore County, M.S. 2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

August 28, 1997

CAROLE S. DEMILIO
Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITIONS FOR SPECIAL HEARING
AND ZONING VARIANCE
415 Forest Lane, NE/S Forest Lane,
135' NW of c/l Newberg Avenue
1st Election Dist, 1st Councilmanic
Legal Owners: LARRE AND MARY SHILLER
Petitioners
Case No. 97-566-SPHA

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Order dated August 26, 1997 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

A handwritten signature in cursive script, reading "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

A handwritten signature in cursive script, reading "Carole S. Demilio".

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Matthew H. Azrael, Esq., 101 E. Chesapeake Avenue, Towson, MD
21286, Attorney for Petitioner

Case No. 97-566-SPHA

SPH -Approval that prior approved variance remains despite fact that property downzoned from DR 5.5 to DR 2; OR IN ALTERNATIVE: VAR -lot area, lot width, rear yard setback; and side yard.

8/26/97 -D.Z.C.'s Order in which Petition for Special Hearing was GRANTED; Petition for Variances DISMISSED as MOOT.

9/25/97 Letter from Petitioner (as follow-up to prior t/c) requesting that this matter be scheduled for hearing on any date available due to postponements or withdrawals due to financial hardship.

9/26/97 - Notice of Assignment for hearing scheduled for Tuesday, December 16, 1997 at 10:00 a.m. sent to following:

People's Counsel for Baltimore County
Mr. and Mrs. Larre N. Shiller
Matthew H. Azrael, Esquire
Paul Lee
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/16/97 -Board convened for hearing; case completed. Scheduled for deliberation; notice to be sent. (K.C.M.)

12/17/97 -Notice of Deliberation sent to parties; scheduled for deliberation on Thursday, January 15, 1998 at 9:30 a.m. Copy of notice to K.C.M.

1/15/98 -Deliberation concluded; granted variance requested under DR 2 with limitation that there be a maximum of no more than 50' width for th house and compliance with compatibility process. (K.C.M.) Written opinion/order to be issued; appellate period to run from date of written Order.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Larre N. Shiller, et ux -Petitioners
Case No. 97-566-SPHA

DATE : Thursday, January 15, 1998 @ 9:30 a.m.

BOARD /PANEL : Kristine K. Howanski, Chairman (KKH)
Thomas P. Melvin (TPM)
Charles L. Marks (CLM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-566-SPHA /Larre N. Shiller, et ux. Testimony and evidence received in this case on December 16, 1997. Counsel: Counsel for Petitioners: Michael H. Azrael, Esquire; and the Office of People's Counsel for Baltimore County.

KKH: We are here to deliberate Case No. 97-566-SPHA, in the matter of Larre N. Shiller, one in which the case came up on appeal from the Zoning Commissioner's decision of August 26, 1997, affirming the approval of a previously approved variance in Case 92-97-SPHA, which dealt with the same property owned by others, and was handled below as granted as to the special hearing with the variance request dismissed as moot. Mr. Marks..?

CLM: Just prior to my comments, I would just like to say that all Board members have had the opportunity to review the file and all the testimony and evidence heard and accepted at the recent hearing, and individually gathered our thoughts and will be able to discuss the case intelligently this morning.

The history of the property essentially involves a request to construct a home on an undersized lot, subject to restrictions in the Baltimore County Zoning Regulations. More specifically, Section 303 as it pertains to front yard distance; Section 304 concerning use of an undersized square foot lot and reasonable notification as provided by law.

The property is a vacant, contiguous undersized lot. Previous owners owned the unimproved lot on Newburg and the subject lot. Newburg was conveyed to new owner but retained title to this lot. Case 92-97-SPHA concerning the lot which was denied by the Deputy Zoning Commissioner, granted by the Board and the Board's decision later affirmed October 26, 1996 by the Circuit Court. At that time, the property was zoned D.R. 5.5. The original Board held that the subject property was buildable lot under 304.1, and also granted variances from 1B02.3.C.1 and 303 of the zoning regulations.

Case No. 97-566-SPHA Larre N. Shiller, et ux
Minutes of Deliberation

Thereafter, in 1995, the present owners purchased the undersized lot with ultimate goal of constructing a home. However, during the map process, the subject property became part of a much larger issue which rezoned the area of D.R. 3.5 and D.R. 5.5 to D.R. 3.5 and D.R. 2, with the map's effective date of December 2, 1996. The purpose was obviously to preserve the low density residential nature of the area. Under D.R. 2, 20,000 sq. ft. minimum area is required; lot width of 100 feet; 40-foot side. The same question exists in the present case as in the prior case. However, because of the change in zoning, the question becomes more severe.

The original lot size, 6,000 sq. ft. compared to 5,796 sq. ft. The new regulations required 20,000 sq. ft. Obviously the configuration of the lot is such that strict adherence to the zoning regulations results in unreasonable hardship and practical difficulty in erecting a dwelling unless relief is granted.

Petitioner alleges that the relief granted in the prior case be given effect, even with the downzoning. This Board has a number of options available. We can say that the previously approved variance in 92-97-SPHA remains in effect despite the downzoning, or we can grant relief to grant an area of 5,796 sq. ft. in lieu of 20,000 sq. ft., lot width of 90 feet in lieu of 100 feet; rear 20 feet in lieu of 40 feet; side yard 10 feet in lieu of 50 feet, as per Petitioner's Exhibits 1 and 3.

The decision rendered by the Board originally in 1994 approving the special hearing and granting approval of the property as buildable lot and variances from 1B03.C.1 and 303.1 of the zoning regulations was affirmed by Judge Hennigan in October 1994 and the decision not appealed.

In 1995 the former owners sold the property to the Shillers; purchased in good faith and they relied on the variances. In 1996, the property was rezoned to D.R. 2. In this particular case, good faith is a very important issue. The basic thrust of People's Counsel and community activists is that the proposed residence is inappropriate and sets a precedent; and that it's not consistent with the spirit and intent of the zoning regulations.

If it were not for granting of the original decision by the Board, I would be in agreement with the advocacy of People's Counsel and the community. However, in 1994 the Board determined it was buildable and that the variances should be granted within the requirements of law. Hardship did exist, not of Petitioner's self-infliction. Surely if they were granted in the prior case under 5.5, the need for variance

Case No. 97-566-SPHA Larre N. Shiller, et ux
Minutes of Deliberation

becomes even more acute considering the downzoning.

The purpose of Petitioner's request is that the variance applied in Case 92-97-SPHA be given effect and to that request I would agree. Strict compliance with the current regulations would restrict use of the property unique to the land, and Petitioner would suffer practical difficulty and unreasonable hardship. It has been argued that it is premature and should go back to the Deputy Zoning Commissioner. I do not agree. Without the variance, the land has no reasonable or viable use. If the variance is granted, building permit application must be filed along with drawings and photo of neighborhood to determine appropriateness of the building. Additionally, when the building permit is applied for, planning and zoning will supply comments relative to building alteration, site change, and so forth. Should permission be denied, the property owner can file additional appeal.

My own personal position is that a variance should be looked upon with disfavor and request for variance should be looked at intently. The more variances that are granted, the weaker the law becomes. This is an unusual and unique case -- were it not for a prior ruling, my position would be other than stated. In this case, I think they should be granted but since the purchasers bought the land in reliance on variances, I think the variances as originally propounded should come into play and not the ones requested today.

KKH: What is the practical effect of that, Mr. Marks, when you say that? -- original variances should be granted under old zoning? -- of doing it that way?

CLM: The reason, I think, is that -- that is what I am saying -- they are inheriting that; I think that the downzoning was severe; situation now that requires 20,000 sq. ft. This lot has less than 6,000 sq. ft.; the purpose was to construct a type of building on the lot. Critical to what I am saying is that they bought the property in reliance on the prior variances granted and affirmed. It is my feeling that they have no greater rights than at the time of the original decision.

KKH: Right, but my understanding is that they are asking for the same envelope as before; what was ruled on before. They are within that.

CLM: I think it's the same envelope but not the setbacks.

KKH: As a practical matter, you are permitting this envelope but under the old case with the old zoning? You would want to have it be that we are granting the variance....

Case No. 97-566-SPHA Larre N. Shiller, et ux
Minutes of Deliberation

CLM: But only to the extent it was granted by the prior Board. That may require another site plan but it's a unique situation.

KKH: I have to question how we can do it under the old zoning; engaging a fiction that we have that zone when we don't.

What's the harm that you see -- when I first glanced at it, I kind of agreed with People's Counsel that we should decide it under D.R. 2. I want these folks -- I made the same findings of fact as you insofar as I agree, first off, I don't like granting variances. I try to be mindful of the fact that it is something we don't do easily or lightly, but like you, I found there was good faith in this instance, and that they were not provided with notice -- and not for a bad reason -- they reasonably relied and were prejudiced by this. Hardship exists and was not created by the Petitioners; they were good faith purchasers.

I also agree with you that the compatibility review is the cart that follows the horse. It's important for us to decide what we do here before these folks have to go the compatibility route. I was inclined in that regard to condition that they have a hearing at that level insofar as counsel for Petitioner indicated they were willing to do that. I was going to grant under the D.R. 2 only because I could not see how we can have fiction where D.R. 5.5 exists.

[At this point, People's Counsel requested opportunity to approach the Bench; denied by Chairman as highly irregular. Deliberation resumed.]

I came to basically the same conclusion -- that variances should be granted but under the D.R. 2 and not D.R. 5.5. Facts support your findings -- I've laid them out -- but you have gone over everything. Only question is -- under what zoning?

CLM: The problem I had -- no plan submitted actually stating it; there is no exact plan. Petitioner has said he is going to comply - is there some way...

KKH: Could go as high as 70, in that envelope. Mr. Marks, the reason I say D.R. 2 -- I understand your rationale why you want it to be no more than what was granted before, but given that the property is D.R. 2 now, I'm uncomfortable with engaging in a fiction that it's 5.5; I'm unsure how far this Board can go in some kind of theory; I think we are a little limited in that regard.

Case No. 97-566-SPHA Larre N. Shiller, et ux
Minutes of Deliberation

CLM: I do think, Kris, that when application is made for the permit, they will have to be more specific. I would rely on the judgment of the folks who handle those permits that it is not too large and fits in with the character of the neighborhood. To that extent, I would not object to going with the D.R. 2.

KKH: My problem is that the Board is more limited -- if we were the Circuit Court, I would feel comfortably that we could say they are holding land in trust or estoppel by pleading, something like that; but we don't have that; we just have this situation -- I feel we have inherited the situation - if it was unique under lesser requirements, it would be so under these conditions.

What do you see as a pitfall? I know the standards for setbacks are different but I don't know if that is fair to visit that on these folks.

CLM: Probably not. My real concern is that we don't establish precedent. I don't believe this case would because the facts and circumstances are unique and it has been adjudicated by the Board of Appeals and the Circuit Court. It's an isolated situation without impact on the rest of zoning.

To that extent and with the full knowledge that when the permit is applied for, appropriate Baltimore County agency will review the whole situation and make sure that the house proposed and built is in conformity with the community.

KKH: If you change, Mr. Marks, to D.R. 2, what would you say would have to be done? What would have to be done to come around and have some comfort with that in this case?

CLM: I don't really have a problem with it, Kris, because, again, a lot of the decisions regarding type of home will be made when the permit is applied for -- the compatibility study.

My only concern was 70' home on this area could be excessive. Seems to be out of character.

TPM: I would agree with that.

KKH: Current plan is for a 48-foot house; wanted flexibility; sounds like something where the idea was he would have maximum of maybe 50-foot house in that envelope.

I understand what you are saying but is that the kind of thing you want to do?

CLM: I think that when we issue the Order, there should be some

Case No. 97-566-SPHA Larre N. Shiller, et ux
Minutes of Deliberation

kind of restriction.

TPM: That's what the Petitioner is requesting; should be in the Order that it's no bigger than 48 or 50 feet.

KKH: Do we have similar concerns with the depth? I don't think so. So we would do D.R. 2 setbacks to accommodate their envelope with the understanding that the house width would not exceed 50 feet.

CLM: I would not have a problem with that.

KKH: There would be compatibility review hearing?

CLM: Yes. There would be a public hearing.

KKH: That would seem to be an accommodation of the neighborhood's legitimate concerns; to not have a monstrosity placed there without unduly limiting or prejudicing Petitioners. This is pretty fact-specific. Is that something you are comfortable with?

TPM: Yes, I'm very comfortable with that.

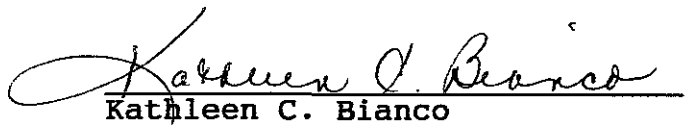
KKH: We appear to be unanimous that we will be granting the variances requested under D. R. 2 with limitation that there be a maximum of no more than 50' width for the house, and that they, in accordance with offer, agree to the hearing that can be set in the compatibility process so that there is that opportunity for public understanding of what is planned.

Anything else? That would moot the special hearing.

CLM: That's it.

KKH: We stand closed for this deliberation.

Respectfully submitted,


Kathleen C. Bianco

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 28, 1998
Permits & Development Management

FROM: Charlotte E. Radcliffe 
County Board of Appeals

SUBJECT: Closed File: 97-566-SPHA /Larre N. Shiller, et ux

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 97-566-SPHA)

September 22, 1997

Mr. Larre N. Shiller
7826 Old Hollow Lane
Ellicott City, Maryland 21043-6961

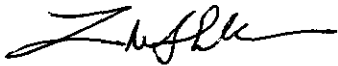
Ms. Kathleen Bianco
Baltimore County Board of Appeals
Room 490, Old Court House
Towson, Maryland 21204

Dear Ms. Bianco:

I am writing to you concerning the appeal of my Petition for Special Hearing and Variance from the Zoning Commissioner's Office (case #97-566-SPHA, Larre Shiller, et ux.). As we discussed on the telephone on Monday, a delay in the appeal date until next year would be of great personal and financial hardship to me and my wife. Please make every effort to schedule the Board of Appeals hearing at the Board's earliest convenience.

If you have any questions, I can be reached at (410) 965-2209 during the day and (410) 379-2114 in the evenings. Thank you very much.

Sincerely,



Larre N. Shiller

cc: Mr. Matthew Azrael, Esquire
101 E. Chesapeake Ave., Towson, Md., 21286

Mr. Paul Lee
304 W. Pennsylvania Avenue, Towson, Md., 21204

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RECEIVED
COUNTY BOARD OF APPEALS

POSS 12/16/97



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

September 1, 1999

Mr. David B. Lamb
216 Newburg Avenue
Catonsville, MD 21228

Dear Mr. Lamb:

RE: Zoning Verification, 415 Forest Lane, Zoning Case 97-566-SPHA
1st Election District

Mr. Arnold Jablon, Director of Permits and Development Management, has requested that I respond to your letter of August 13, 1999 regarding the above referenced property.

Please be advised that the subject variance relief (Case #97-566-SPHA) does follow the property and is not adversely affected by subsequent transfers of the lot in question. However, please be aware that in the Board of Appeals Opinion, page 9, the Board ordered,

...that in addition to the other requirements of Section 304.2 of the BCZR, the Department of Permits & Development Management shall hold a public hearing, due notice of which shall be posted on the subject property, at which time additional comments shall be permitted as to compatibility, which shall be taken into consideration by the Department of Permits & Development Management in consideration of the granting of the building permit...

I have been unable to confirm through this office's records that a subsequent hearing was held relative to the compatibility issue referenced above. You may want to contact the attorney who handled the case for Mr. Shiller. His name is Matthew H. Azrael, and may be reached at (410) 821-6800.

It is possible that the property may be downzoned again in the future. Whether further downzoning is likely or not is another issue. For more insight into this issue, I would suggest you contact Diana Itter, the area planner for this district. Diana may be reached at (410) 887-3211. In the event the property is downzoned (e.g. D.R.1), a new variance petition would be required.

Come visit the County's Website at www.co.ba.md.us

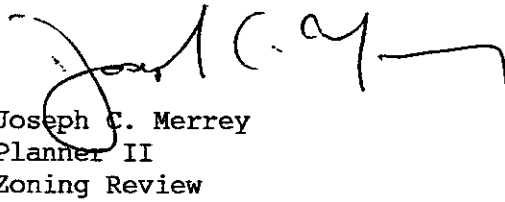


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on Recycled Paper

Mr. David B. Lamb
September 1, 199
Page 2

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,



Joseph C. Merrey
Planner II
Zoning Review

c. Case Number: 97-566-SPHA

JCM:ggs

Subject: Property Review

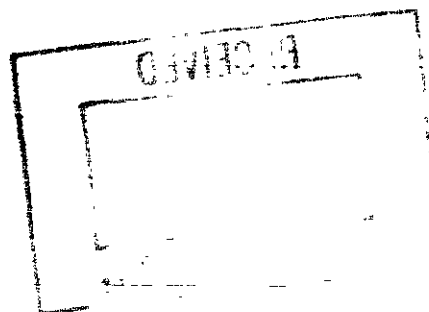
Dear Mr. Jablon,

Please find check for \$10.00 for property review. A technician with Baltimore County Zoning suggested I contact you. I am in the process of buying the property lot behind my house. I live at 216 Newburg Ave Catonsville, Md and the lot in question is 415 Forest Lane. The lot used to be the back yard of my house and has a long history. It was subdivided back in 1950 and since then the ownership at my house has changed several times. The present owner of the lot (Mr. Shiller) bought the lot in June 1995 the dimensions of which are 110 ft by 64.4 ft. Mr Shiller was granted a variance with restrictions (in order to make it possible to build) by the Baltimore County Board of Appeals on Feb 11, 1998 (please see case number 97-566-SPHA) after the property was downzoned from D.R. 5.5 to D.R. 2. Since that time he has ran into personal problems and has decided to sell the property to my wife and I. He had originally bought it as a "buildable" lot at the time. This has of course increased the value and hence the cost of the property. I wish to purchase the lot for the time being so that my children have a place to play etc. Since we would also be paying more for this lot than one would ordinarily pay if it were not a buildable lot, I wish to know in writing if the variance granted will follow the property when we purchase it. I was told by technicians in zoning that this is the usually the case though I am not sure by reading the decision of the County Board of Appeals if this is so in this case. This would grant ourselves the ability to either sell it as a buildable lot (and thereby holding its value) years from now or build a house on it for ourselves in the future. I realize that a building permit would also need to be applied for at that time. I wish to receive a response in writing. Also, what is the possibility of the area or lot being downzoned again in the future? Would one need to go through the whole process of application for variance again?

Thank you,

David B. Lamb
216 Newburg Ave
Catonsville, MD 21228

Phone: (410) 744-8378

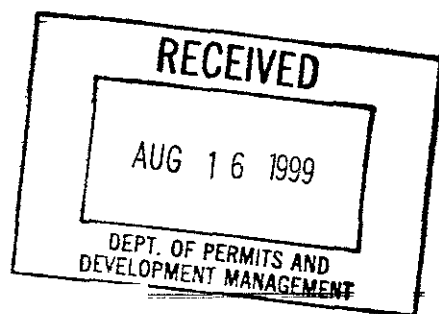


99-2161

8/16/99
WCR
f

Aug 13, 1999

To: Jcw
8/17/99
na
B. Cashner



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

LARRE N SHILLER

Paul Lee

Mary Shiller

~~Handwritten signature~~

Linda Y Lamb

7926 OLD HOLLOW LN, E.C., 21043

304 W. Pennsylvania Ave 21204

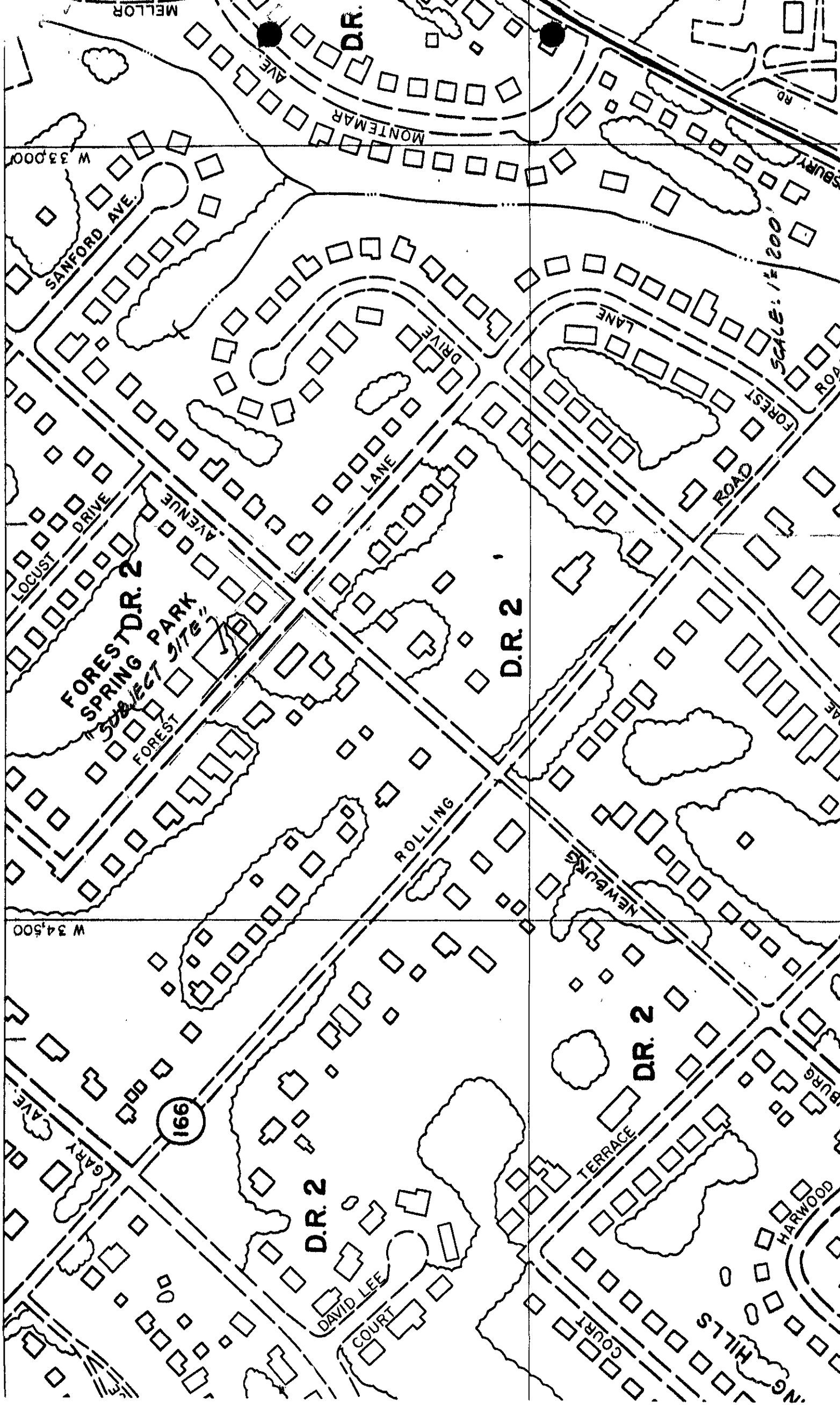
7826 Old Hollow Lane 21043

6745 WATERLOO RD, #232, 21227

2212 WASHINGTON AVE. 21204

216 Newburg Ave. 21228





IN THE MATTER OF THE
THE APPLICATION OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE NORTH SIDE OF FOREST
LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-97-SPHA
*

* * * * *

O P I N I O N

This case comes before the Board in an open hearing and deliberation, on an appeal by James L. Haker, et ux, of the Deputy Zoning Commissioner's Order denying the Petition for Special Hearing and resulting dismissal of the Petition for Zoning Variance requesting relief from the Baltimore County Zoning Regulations (BCZR) concerning lot size and front and rear yard setbacks. The Board heard testimony for the Petitioners from Fay Haker and James Haker, the Petitioners, and Paul Lee, expert in land planning and engineering. The Board heard testimony for the Protestants from Frederick G. Timmel, Mary R. Lawrence, Beverly Solley, and Nicholas Beccio, all residing near the subject property, as well as from the Protestants, David and Karen Humes. From said testimony and the evidence and exhibits received, we find the following facts.

The subject property, known as 415 Forest Lane, is a property separated from adjacent land known as 216 Newburg Avenue. Under the terms of sale on the deed dated July 19, 1950, 216 Newburg Avenue was sold by Charles and Laurine Lovell to Edwin and Agnes Johnson; the terms excluded that portion of 216 Newburg Avenue now known as the subject property, 415 Forest Lane. The subject

Ret. 1A
+ (1B)

property was sold by Charles and Laurine Lovell to James and Fay Haker on June 18, 1970. The actual metes and bounds of the subject property were never recorded as a separate property, but the subject property was made separate from 216 Newburg Avenue as a result of the July 19, 1950 sale and, for lack of a better word than the term of art, subdivision of 216 Newburg Avenue to two separate properties and ownerships.

Following the 1950 Johnson acquisition of 216 Newburg Avenue, ownership of 216 Newburg changed several times until Mr. & Mrs. Haker purchased the property on October 18, 1966; the subject property was purchased by the Hakers nearly four years later. Mr. & Mrs. Haker owned both properties until they sold 216 Newburg Avenue on February 3, 1988 to the Protestants, keeping 415 Forest Lane for future use.

Property tax records, official County correspondence and the Petitioners' testimony indicate that the Petitioners have made a good faith attempt in the past to ascertain the correct dimensions of 415 Forest Lane, paying property taxes for nearly 20 years on an incorrect and inflated assessment which also caused the Petitioners to make financial decisions on incorrect information. Paul Lee, Registered Professional Engineer and an expert in land planning, testified that, during his review, he noticed that Baltimore County discovered the lot dimension error on July 31, 1989, and that the Petitioners had not only paid taxes on an incorrect assessment of lot size, but that their assessor likely had assessed the property on the assumption that the lot was already a "buildable lot" based

on the listed size.

Mr. Lee's testimony included an historical overview of applicable zoning regulations since 1945, including some detail regarding setback requirements, minimum lot sizes and important dates of changes in the regulations. He testified that, when 216 Newburg Avenue was subdivided in the 1950 sale, the remaining portion (the subject property) was considered a buildable lot in accordance with then-current regulations of 1945. He further testified that the subject property is within 200 square feet of meeting current lot size requirements. Mr. Lee stated that the 1950 sale of 216 Newburg Avenue constituted a valid recording of the subject property by a practice of "saving and excepting"; on cross-examination, he stated that BCZR Section 304.1 is met by virtue of the stated date that the subject property was created; on redirect testimony, Mr. Lee stated that "saving and excepting" was a common practice in 1950 and that numerous properties throughout the County were likely described by metes and bounds remaining after division of a property.

Concerning other issues, Mr. Lee testified that a variance is needed on the issues of front and rear yard setbacks; that the front yard setback proposed is in alignment and with the side setback of the adjacent (216 Newburg Avenue) property; that the best use of the property is for construction of a single-family dwelling; that improvement of the site as proposed would be consistent with the neighborhood; that adequate utilities exist to construct the proposed dwelling; and that the proposed development

of the property is in the spirit of current regulations.

Testimony by the Petitioners was mainly limited to recounting evidence presented, except a few points. First, numerous improved lots in the neighborhood are smaller than the area stipulated under the pre-1955 regulation and that the subject property far exceeds those regulations; and, second, had they known that the subject property is under-sized by current regulations, they would not have sold 216 Newburg Avenue alone, but would have required the inclusion of 415 Forest Lane as part of the sale.

Testimony by those present for the Protestants, other than the Protestants themselves, was limited to a recounting of letters presented as exhibits: that they do not believe that construction of a home on the site would be in keeping with the surroundings; that their "views" from their homes would be adversely affected; and that their properties' values would be reduced as a result of the new dwelling.

A few words concerning the proposed building envelope on the subject property are of value at this point. The proposed building envelope as shown in the Petitioners' exhibits indicates that a new dwelling as proposed would be located no closer to any neighboring home than any other nearby home to its respective neighboring homes, and, in fact, may be more remote than others.

Testimony from the Protestants, while similar to other protesting testimony, did include a short summary of negotiations with the Petitioners because the Protestants desire to purchase the subject property, probably to maintain the property as-is, Mrs.

Humes indicating they would be impacted by "...having to look at someone else's back yard and unsightly house from their back yard." During cross-examination, Mr. Humes indicated he could not imagine why the Hakers would sell 216 Newburg Avenue and retain the adjacent lot if the lot was not buildable. He also indicated he has no problem with 206, 208 or 210 Newburg Avenue, all of which have lots that are smaller than 415 Forest Lane.

This Board heard all testimony and has reviewed the exhibits and finds the following: First, the subject property was created and described by means and practice of that day and that the subject property was therefore considered buildable as of the date of first sale, July 19, 1950. Therefore, we find that the subject property is a buildable lot in accordance with BCZR 304.1, which states:

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

- "A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; and {B.C.Z.R., 1955; Bill No. 47, 1992.}
- "B. all other requirements of the height and area regulations are complied with; {B.C.Z.R., 1955.}
- "C. the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. {B.C.Z.R., 1955; Bill No. 47, 1992.}

As such, we also find contrary to the Deputy Zoning Commissioner's dismissal of variance petition as moot. In light of our finding that the subject property is a buildable lot, the Petition for

Zoning Variance requesting relief from BCZR Sections 1B02.3.C.1 and 303.1 must be considered. We find that the proposed development to be well within regulations in force at the time the subject property was created, as regards lot size and front and rear yard setbacks (Petitioners' Exhibit 10: Zoning Regulations and Restrictions for Baltimore County - 1945, Section III.C.1, 2 and 4). Lot configuration and shape, relative to the front lot line, of the subject property are such that the strict adherence to the above BCZR sections would result in an even greater hardship to the Petitioners than the over-payment of property taxes to the recent date of corrected assessment. Practical difficulty in constructing a dwelling is present unless relief is granted for lot size and setbacks. We find the proposed development to be consistent with the surrounding community and agree with the expert testimony that the best use of the property is as a lot with a single-family dwelling, and that the proposed development would not adversely affect the health, safety or welfare of the community. Therefore, we shall find in favor of the zoning variance.

O R D E R

IT IS THEREFORE this 10th day of February, 1994 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Hearing requesting approval of the subject property as a buildable lot be and the same is hereby GRANTED; and it is further

ORDERED that the Petition for Variance from Sections 1B02.3.C.1 and 303.1 Baltimore County Zoning Regulations to permit

a lot size of 5,796 sq. ft. in lieu of the required 6,000 sq. ft., and to permit a rear yard setback of 36.5 ft. in lieu of the required 30 ft. be and the same is hereby GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Robert O. Schuetz
Robert O. Schuetz

S. Diane Levero
S. Diane Levero

IN THE MATTER OF THE
THE APPLICATION OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE NORTH SIDE OF FOREST
LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-97-SPHA
*

* * * * *

AMENDED ORDER

On February 10, 1994, this Board issued an Opinion and Order in the above-captioned matter. The Board, on its own initiative, pursuant to Rule 10, has reviewed its Order issued in the proceedings and finds that a clerical error exists within that Order, and, more particularly, that a portion of the language with regard to the variances granted therein was inadvertently omitted. Accordingly, the Board will correct this clerical error in its Order as indicated by the underscored portion of the following Amended Order.

IT IS THEREFORE this 17th day of February, 1994 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing requesting approval of the subject property as a buildable lot be and the same is hereby GRANTED; and it is further

ORDERED that the Petition for Variance from Section 1B02.3.C.1 and 303.1 Baltimore County Zoning Regulations to permit a lot size of 5,796 sq. ft. in lieu of the required 6,000 sq. ft., and to permit a rear yard setback of 20 feet in lieu of the required 30 feet, and a front yard setback of 36.5 feet in lieu of the required 50 feet be and the same is hereby GRANTED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Robert O. Schuetz
Robert O. Schuetz

S. Diane Levero
S. Diane Levero

Pit. 1B

PETITION OF FREDERICK G. TIMMEL
OF 401 Forest Lane
Catonsville, MD 21228

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

IN THE CASE OF
IN THE MATTER OF THE
APPLICATION OF
JAMES L. HAKER, ET UX,
FOR A SPECIAL HEARING AND
VARIANCE OF PROPERTY LOCATED
ON THE NORTH SIDE OF FOREST LANE
130 FEET WEST OF THE CENTER LINE
OF NEWBURGH AVENUE
(416 Forest Lane)

* IN THE
*
* CIRCUIT COURT
*
* FOR
*
* BALTIMORE
*
* COUNTY
* Case No. 94CV02068

OPINION

This Court has been petitioned by Frederick G. Timmel to review a decision by the Baltimore County Board of Appeals dated February 10, 1994 and February 17, 1994 (amended) granting variances and other relief unto the Respondents, James L. Haker et ux.

The issues raised by the Petitioner are as follows:

1. Did the County Board of Appeals of Baltimore County err, as a matter of law, in its finding that the Petitioners, below, satisfied the requirements of Baltimore County Zoning Regulations (B.C.Z.R.) Section 304 and/or Section 304.1?

2. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of B.C.Z.R. Section 304 and/or Section 304.1 to the facts in this case, did the County Board of Appeals of Baltimore

Ref Ex-2

County err in failing to find that the Petitioners, below, are victims of a "self-inflicted injury"?

3. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of B.C.Z.R. Section 304 and/or 304.1 to the facts in this case, did the County Board of Appeals of Baltimore County err in granting a front yard set back variance which will result in building of a structure that extends greater than fourteen (14) feet in front of all of the other houses oriented to Forest Lane on the subject block and, thereby, finding that such construction would "be consistent with the surrounding community"?

The facts are fairly simple and not seriously in dispute:

This matter concerns property known as 415 Forest Lane in Catonsville, Baltimore County, Maryland. In 1939 the subject parcel was an undivided larger part of a parcel owned by Charles Wilson Lovell and Laurine Lovell. The entire tract measured 200 feet by 64.4 feet.

In 1950, Mr. and Mrs. Lovell conveyed out by deed a portion of that entire tract unto Edwin T. Johnson and Agnes A. Johnson. The parcel conveyed out measured 110 feet by 64.4 feet saving and excepting the balance of the tract unto Mr. and Mrs. Lovell. The parcel conveyed out is now known as 216 Newburgh Avenue. The residue reserved is now known as 415 Forest Lane for which dimensions are 90 feet by 64.4 feet. The square footage of 415 Forest Lane

is 5796 square feet which is less than the 6000 square feet necessary to construct a dwelling in a DR 5.5 zone. In a deed dated June 18, 1970, the Lovells conveyed 415 Forest Lane to the Hakers who had by a deed dated October 16, 1966 purchased 216 Newburgh Avenue.

The Hakers by a deed dated February 3, 1988 conveyed 216 Newburgh Avenue to David and Karen Humes, said parcel being improved by a house and a garage. The Hakers retained unto themselves the unimproved lot known as 415 Forest Lane.

Upon determining that 415 Forest Lane did not meet the development requirements of Baltimore County Code and Regulations, the Hakers filed a petition for variance which was denied by the Deputy Zoning Commissioner. Subsequently, an appeal was filed to the Baltimore County Board of Appeals who granted the relief requested by James L. Haker and Faye E. Haker, his wife.

The rules governing judicial review of Administrative Agency Decisions are found in Maryland Rules of Procedure Rule 7-201 et seq.

A reviewing court may, and should examine facts found by an agency, to see if there was evidence to support each fact found. If there was evidence of the fact in the record before the agency, no matter how conflicting or how questionable the credibility of the source of the evidence, the Court has no power to substitute its assessment of credibility for that made by the agency, and by doing so,

reject the fact. Commissioner, Baltimore City Police Department v. Cason 34 Md. App. 487, 368 A2 1067 (1977). Hoyt v. Police Commissioner of Baltimore City, 279 Md. 74, 367 A2 924 (1977). Not only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the ruling inference. Bullock v. Pelham Woods Apt., 283 Md. 505, 390 A2 1119 (1978).

A reviewing court may and should examine any conclusion reached by an agency, to see whether reasonable minds could reach that conclusion from the facts in the record before the agency, either by direct proof or by permissible inference. If the conclusion could be so reached, then it is based on substantial evidence, and the Court has no power to reject that conclusion. The common denominator for testing judicial review of the act of an administrative agency has been defined as whether a reasoning mind reasonably could have reached the factual conclusion which the agency found and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment. Supervisor of Assessments v. El, 272 Md. 77, 321 A2 166 (1974).

Section 304 - Use of Undersigned Single-Family Lots, Subsection 304.1 provides:

- A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior

to March 30, 1955; and [B.C.Z.R., 1955; Bill No. 47, 1992.]

- B. all other requirements of the height and area regulations are complied with; [B.C.Z.R., 1955]
- C. the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.
[B.C.Z.R., 1955; Bill No. 47, 1992.]

The Appellant argues that the requirements of the law have not been met since there is not a duly recorded deed or a validly approved subdivision that existed prior to the enactment of Section 304. The crux of the argument is that the 1950 deed did not separately and correctly describe that parcel that was saved and excepted. They further argue that the regulation has not been complied with since the subject property is deficient in two respects by being both undersized and in need of a building line variance. Baltimore County Zoning Regulation Section 307 is not applicable to Section 304 and a variance may not be sought in order to become compliant with the requirements of the height and variance regulations. Finally, they argue that the relief requested by the Hakers will result in a house being built on 415 Forest Lane which will be in non-conformity to the neighborhood.

A deed is defined as a conveyance of realty, a writing signed by the grantor, whereby title to realty is transferred from one to another. Black's Law

Dictionary. A subdivision is defined as the division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes.

(B.C.Z.R. 1955). There exists no definition for a subdivision in the Baltimore County Zoning Regulations or Baltimore County Public Laws existing prior to 1955.

It is a sound rule of construction, that if possible, unless it contravenes some rule of law, every part of a deed and the intention of the parties shall prevail. It is, also, a well established principle, that the title to realty cannot be held in abeyance; it must, at all times, reside somewhere, and in such force, that an injury to the possession can be redressed by an action at law. Georges Creek Co. v. Detmold, 1 Md. 225. Now if the construction of the law as proposed by Counsel for the Appellant was correct, then the title to the locus in quo, would reside nowhere. This view would, indeed, present an anomalous state of things. Where a deed creates a reservation in favor of the grantor, knowledge by the grantor is all that is required and there is no necessity for the execution of another deed to give effect to the reservations. Georges Creek Co. v. Detmold, 1 Md. 225.

It is a cardinal principal in the construction of deeds, contracts and wills that the intention of the parties shall prevail, unless it violates or infringes some principal of law. Zittle v. Weller, 63 Md. 190 (1895).

Mr. Paul Lee, a licensed engineer who was qualified as an expert, opined that the 1950 deed created a recorded law and a subdivision in regard to 415 Forest Lane.

Transcript p.50, 11.9-20. Transcript p.59, 11.12-19.

In examining the whole deed and title to the subject property, there seems to be substantial evidence based on the law and the testimony of Mr. Paul Lee to determine that the intention of the grantors was to create a valid deed and subdivision and to reserve for themselves a 90' x 64.4' lot. Thus they would not be required pursuant to Georges Creek Co. v. Detmold, Id. to create a new deed with a metes and bounds description. Consequently, the Board of Appeals could then find that the lot had been duly recorded by a deed or a validly approved subdivision prior to the adoption of Section 304 of the Baltimore County Zoning Regulations.

As to the Petitioners second contention that the Respondents have not met the requirements of 304.1(b), the Petitioner argues that 307 B.C.Z.R. permitting variances which, if granted, would result in compliance with the height and area requirements are not applicable to 304.1 B.C.Z.R..

Section 307 provides:

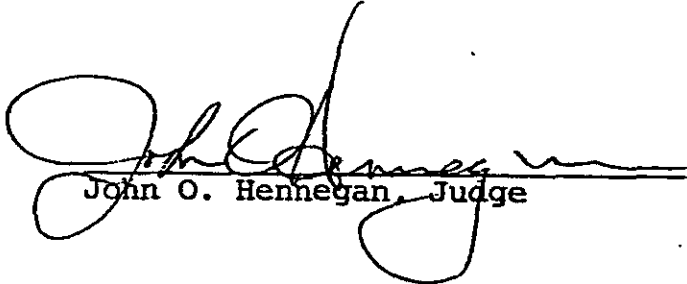
307.1 The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon Appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances 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 County Council has not directly by legislation exempted 304.1 from the advantages bestowed on property owners through Section 307. In contrast Business Maritime Zones Sec. 417.7(G) (Bill No. 149-92) precludes the property owner from obtaining variances under certain circumstances. In addition, the County Council has sought to limit or modify one's rights to variances in an RTA, Sec. 1B01.1(B)(11)(b)(7) (Bill 124-81) repealed and replaced by Bill 2-92 Sec. 1B01.1(B)(1)(c). The County Council is presumed to have acted with respect to full knowledge and information as to prior and existing law. Bd. of Educ. of Garrett Cty. v. Lendo 453 A2 1185, 295 Md. 55 (1982). Therefore, if it was their intent to remove Section 304.1(b) B.C.Z.R. from the benefits of Section 307 B.C.Z.R. then they would have done so. Further there is substantial evidence that a hardship exists and the requested variance is not a result of a self-inflicted injury.

Finally, the record supports the finding that there is no adjoining land as required by §304.1(c).

As to the Petitioners' final contention that the variances granted are not in conformity with the surrounding neighborhood, there is ample evidence from both sides to support the various positions of the parties. It is within the purview of the County Board of Appeals to judge the credibility of the witnesses. A review of the transcript reveals that the County Board of Appeals had substantial evidence to support its findings. There is substantial testimony to conclude that reasonable minds could reasonably have reached the conclusion that the granting of the variances was in conformity with the character of the neighborhood and consistent with the surrounding community.

Based on the reasons cited above, this Court finds that there is substantial evidence to support the findings of the County Board of Appeals and this Court AFFIRMS their decision.


John O. Hennegan, Judge

October 26, 1994

CC Francis X. Borgerding, Jr., Esquire
Kenneth H. Masters, Esquire

. 296-6820

P.E. plus
per
Comme P.C.
and #7

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and Development Management

DATE: July 16, 1997

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 415 Forest Lane

INFORMATION

Item Number: 566

Petitioner: Shiller Property

Zoning: DR 2

The request to build on an undersized DR 2 lot is subject to Section 304.1, 304.2, 303.1 and 1B01.3.C.1 of the BCZR.

History

The previous owners, James and Faye Haker owned both an improved lot at 216 Newburg Avenue and a vacant, contiguous, undersized lot at 415 Forest Lane. They conveyed the property at 216 Newburg Avenue to David and Karen Humes in 1988 and retained the undersized lot. A zoning hearing, Case No. 92-97 SPHA, was denied by the Deputy Zoning Commissioner, granted by the county Board of Appeals and affirmed by the Circuit Court on 10/26/94. At that time the property was zoned DR 5.5. Subsequently, in 1995, the Hakers conveyed the undersized lot to Larre and Mary Shiller. It was part of a 488 acre 1996 Comprehensive Zoning Map Issue, I-045, which rezoned the area from DR 3.5 and DR 5.5 to DR 3.5 and DR 2, (maps effective 12/2/96). The purpose of the rezoning was to preserve the low density residential character of the neighborhood and to prevent inappropriate infill development at a density inconsistent with the character of the area. The lot at 415 Forest Lane, is even more undersized pursuant to the DR 2 zoning which establishes a 20,000 square foot minimum lot size, lot width of 100', side yard of 15' and sum of side yards of 40'.

SUMMARY OF RECOMMENDATIONS

18

1. The application is lacking a formal undersized lot application, i.e., architectural drawings and photographs, which are required for compatibility review as per section 304.2 of the BCZR. That submittal must occur in order for a complete review.
2. Based on the information provided on the site plan, it appears that the bulk and massing of the proposed house is out of scale with the houses in the neighborhood. Due to the size of the house on this undersized lot, little open space or useable yard area is provided; the front building setback proposed is only 20', while the adjacent house at 409 Forest Lane is 34.5'.
3. Final comment will be provided after review of the undersized lot application.

Prepared by: Jeffrey W. Lay

Division Chief: Gary L. Keras

AFK/JL:lsn

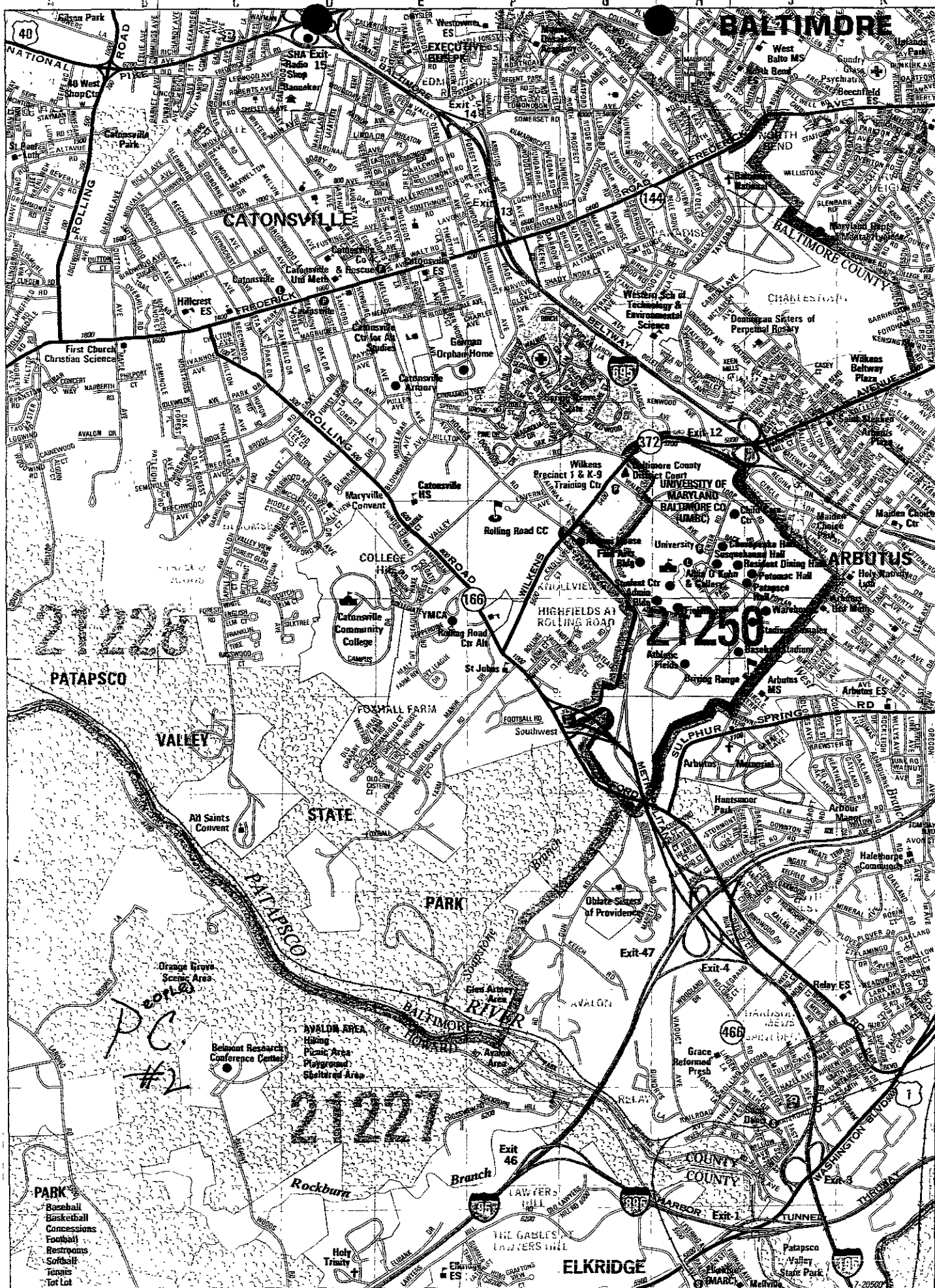
Park
RE
st
Plaza

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anch

NCH



520,000 FT

39°15' 00"

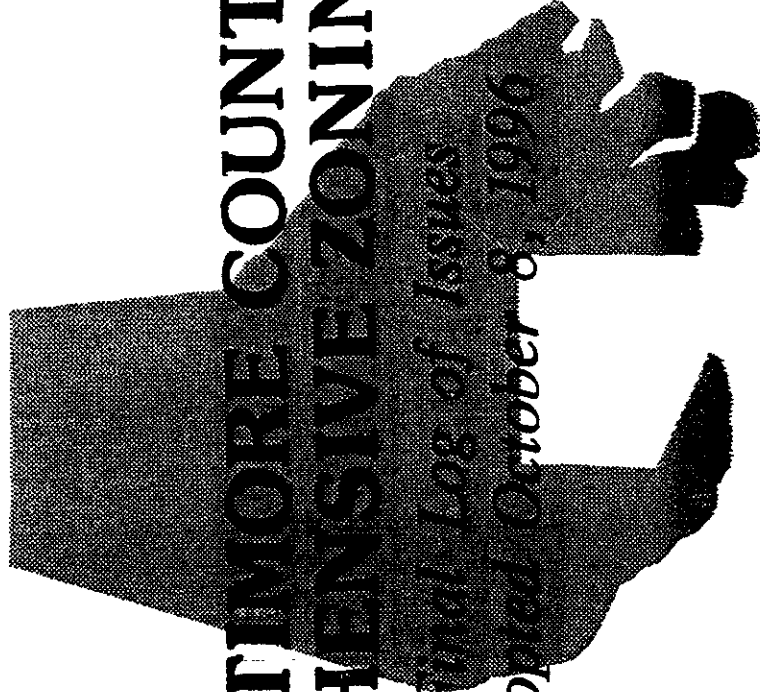
MD GRID 510,000 FT

P. C. #5

BALTIMORE COUNTY COMPREHENSIVE ZONING MAP

Final Log of Issues

Adopted October 8, 1996

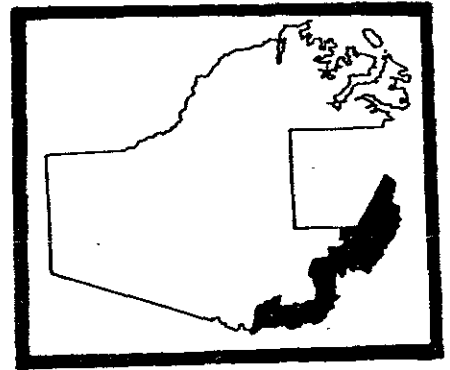
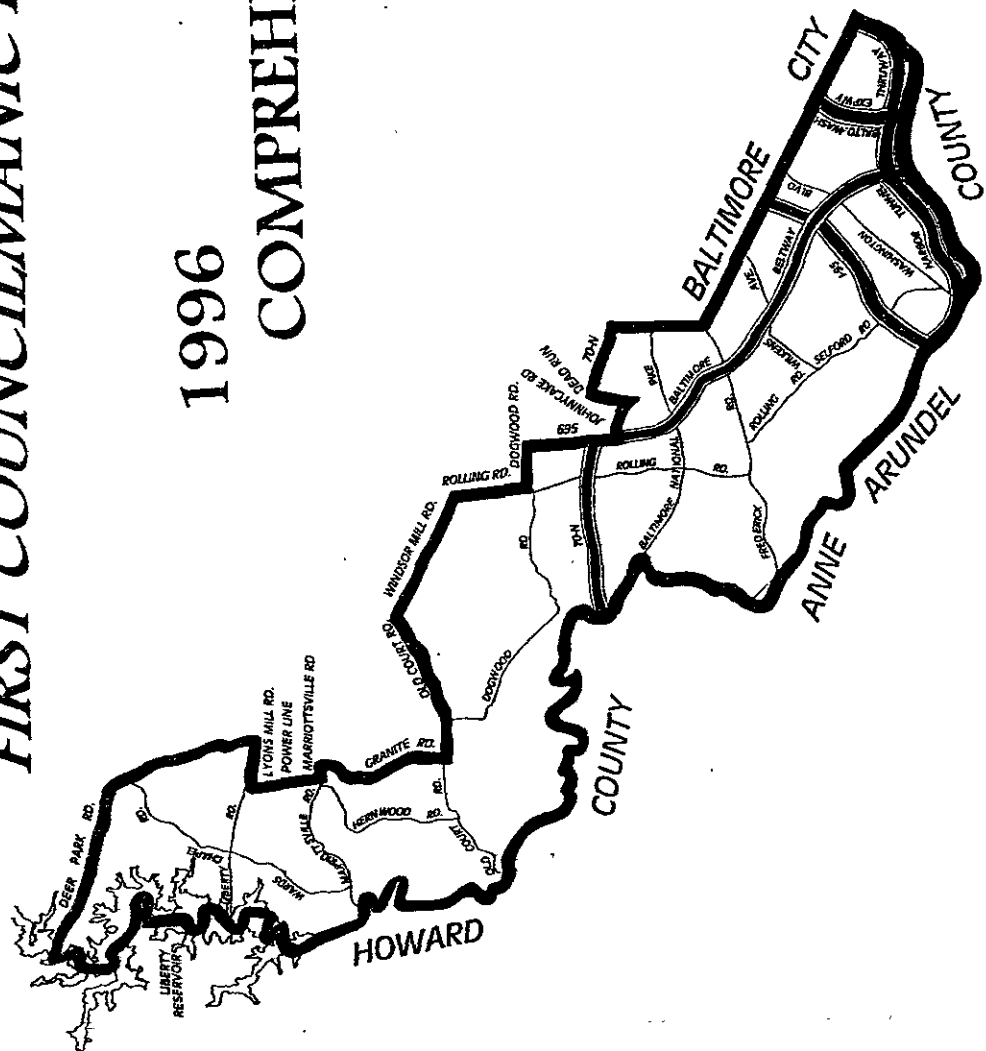


Charles Demko DPC →

FIRST COUNCILMANIC DISTRICT

1996

COMPREHENSIVE ZONING PROCESS



October 8, 1996

Baltimore County 1996 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
1-044	Gun Road Historical & Protective Assoc.	North side of I-95, 400' south of Gun Road (1450 S. Rolling Road).	OR 2 30.130 Total 30.130	DR 1 30.130 Total 30.130	OR 2 30.130 Total 30.130	OR 2 30.130 Total 30.130	
1-045	South Rolling Road Community Association	East and West side of Rolling Road, south of Frederick Road.	DR 3.5 277,000 DR 5.5 211,000 Total 488,000	DR 2 488,000 Total 488,000	DR 3.5 277,000 DR 5.5 211,000 Total 488,000	DR 2 445,010 DR 3.5 42,990 Total 488,000	See Issue 1-037 and 1-057. Overlay adopted.
1-046	Coalition for Preserv. of S. W. Balt. County	Northwest side of Shelbourne Road, 2000' northeast of Sulphur Spring Road.	OT 80,000 Total 80,000	DR 2 80,000 Total 80,000	OT 80,000 Total 80,000	OT 80,000 Total 80,000	See Issue 1-027.

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 1996, SPECIAL SESSION
OCTOBER 8, 1996 7:00 P.M.

A. The meeting was called to order by Chairman Kamenetz at 7:15 P.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 120 persons in attendance and the following Councilmembers were present:

S. G. SAMUEL MOXLEY	FIRST DISTRICT
KEVIN KAMENETZ	SECOND DISTRICT
T. BRYAN MCINTIRE	THIRD DISTRICT
DOUGLAS B. RILEY	FOURTH DISTRICT
VINCENT J. GARDINA	FIFTH DISTRICT
JOSEPH BARTENFELDER	SIXTH DISTRICT
LOUIS L. DEPAZZO	SEVENTH DISTRICT

B. CALL OF BILLS FOR FINAL READING AND VOTE

BILL 129-96, Comprehensive Zoning Maps - First District, was called. Councilman Moxley moved to accept the Planning Board's recommendation on the following issues:

1-001, 1-003, 1-004, 1-006, 1-008, 1-009, 1-013, 1-016, 1-022, 1-027, 1-029, 1-030, 1-031, 1-035, 1-038, 1-039, 1-042, 1-044, 1-046, 1-047, 1-049, 1-050, 1-051, 1-052, 1-053, 1-054, 1-057, 1-058

Councilman McIntire seconded the motion and these issues were passed unanimously.

Councilman Moxley then moved the following changes in the First District Comprehensive Zoning Map:

1-002 from DR 5.5 (10.300 ac.) to DR 10.5 (6.20 ac.) and DR 5.5 (4.10 ac.), as shown on the overlay. Motion was seconded by Councilman McIntire and passed unanimously.

1-005 from DR 5.5 (9.400 ac.), BL (3.100 ac.) and BR (6.300 ac.) to DR 5.5 (9.10 ac.), BL (2.56 ac.), BR AS (1.06 ac.) and BR (6.08 ac.), as shown on the overlay. Motion was seconded by Councilman Kamenetz and passed unanimously.

1-007 from DR 3.5 (31.100 ac.), BLR (10.000 ac.) and BR (3.700 ac.) to DR 5.5 (30.00 ac.), BR AS (2.30 ac.) and BR (12.50 ac.), as shown on the overlay. Motion was seconded by Councilman Riley and passed unanimously.

1-028 from DR 5.5 (3.800 ac.) to DR 5.5 (2.32 ac.) and BR (1.48 ac.). Motion was seconded by Councilman Riley and passed unanimously.

1-032 from DR 3.5 to BM. Motion was seconded by Councilman Riley and passed unanimously.

1-033 from DR 5.5 to OR 2. Motion was seconded by Councilman Riley and passed unanimously.

1-034 from DR 1(38.2 ac.), RO (.35 ac.) and BL (.35 ac.) to BL (.35 ac.), RO (.35 ac.), DR 2 (9.109 ac.) and DR 1 (29.091 ac.). Motion was seconded by Councilman Riley and passed unanimously.

1-036 from BM to BM CCC. Motion was seconded by Councilman Riley and passed unanimously.

1-037 from DR 5.5 to BM. Motion was seconded by Councilman Riley and passed unanimously.

1-040 from DR 3.5 (104.400 ac.) and DR 5.5 (27.00 ac.) to DR 2. Motion was seconded by Councilman Riley and passed unanimously.

1-041 from ML AS (0.923 ac.) and ML (0.680 ac.) to BR. Motion was seconded by Councilman Riley and passed unanimously.

1-043 from RC 2 to RC 3. Motion was seconded by Councilman Riley and passed unanimously.

1-045 from DR 3.5 (277.00 ac.) and DR 5.5 (211.00 ac.) to DR 2 (445.01 ac.) and DR 3.5 (42.99 ac.), as shown on the overlay. Motion was seconded by Councilman Riley and passed unanimously.

1-048 from DR 16 to DR 5.5. Motion was seconded by Councilman Riley and passed unanimously.

1-055 from BLR to BL. Motion was seconded by Councilman Riley and passed unanimously.

1-056 from DR 16 (0.400 ac.) and RO (0.250 ac.) to DR 5.5. Motion was seconded by Councilman Riley and passed unanimously.

Thereafter, upon motion by Councilman Moxley, seconded by Councilman McIntire, Bill 129-96, as amended, passed by the following roll call vote:

Supplement



Baltimore County Office of Planning
401 Bosley Avenue Towson Maryland 21204
(410) 887-3480

Community Usent, paid for
sear.

11/27 - list to Bill - 1100 names
labels made
with sent in 12/22

12/29 - letters to be
sent

12/29 - Sent Supplement

1996 COMPREHENSIVE ZONING MAP APPLICATION

This form and required material must be presented in person

OFFICE USE ONLY	
Issue No. <u>1-045</u>	Received on <u>10/31/98</u>
Council District <u>154</u>	Fee (non-refundable) <u>75.00</u>
Planner <u>Hughes</u>	Receipt No. _____

APPLICANT INFORMATION

1. Name Norman R. SCHMUFF

6. Attorney or Representative Norman R. Schmuff, Pres

2. Organization (if applicable) South Rolling Road Community Assn

Firm name (if applicable) _____

3. Mailing Address 9 Forest Dr

Address _____

4. City, State, Zip Baltimore, MD 21228

City, State, Zip _____

H. (410) 747-7258

Business Phone Number _____

B. (301) 443-9620

5. Home, Business Phone _____

PROPERTY INFORMATION - SEE ATTACHMENT

7. Property Owner's Name See attached

8. Property Street Address _____ Zip _____

9. Acreage of Property 488 acres

10. Distance to nearest street/intersection (name street) E & W side of S. Rolling Rd, S. of Frederick Rd.

11. Election Dist. (2 digit) See attached

Property tax number (10 digit) _____

12. Property tax map number / parcel number _____

Election Dist. (2 digit) _____

Property tax number (10 digit) _____

Property tax map number / parcel number _____

Election Dist. (2 digit) _____

Property tax number (10 digit) _____

Property tax map number / parcel number _____

RECLASSIFICATION INFORMATION

13. Acreage of land requested for rezoning 488 acres

14. Zoning History (issue/case #, year, type) _____

15. Existing zoning (acres per zone) DR 3.5 / DR 5.5 - 211 ac.

16. Requested zoning (acres per zone) DR 2 - 488 acres

17. Existing Use of Parcel Residential

18. Proposed Use of Site Residential

19. 1000' scale zoning map no. F-2 G-2 200' scale zoning map no. SW 36 SW 46 SW 3F SW 4F

THE INFORMATION SHOWN ON THIS FORM IS ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE

Norman R. Schmuff
(SIGNATURE)

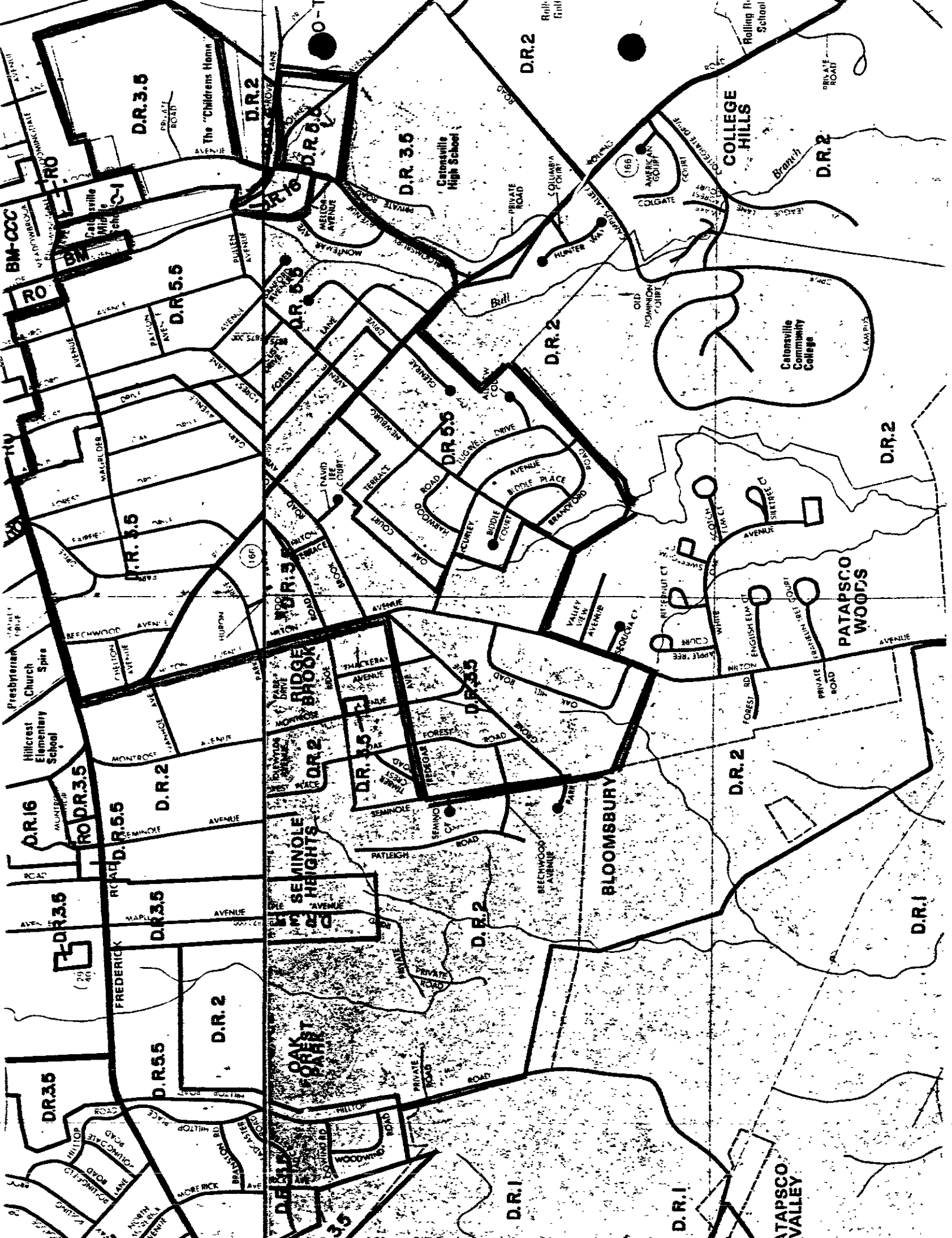
OWNER ACKNOWLEDGEMENT: Are you the owner? N X Y _____ If yes, review and sign below.

- I hereby grant permission to Baltimore County for any required inspections of my property in regard to the subject zoning request.
- I hereby acknowledge that if any rezoning occurs, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible. Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all County, State, and Federal requirements in effect at that time must be satisfied.
- I hereby acknowledge that the raising of an issue in no way guarantees that the requested zoning will be applied to the parcel by the County Council upon adoption of the Comprehensive Zoning Map.

NA
Owner Name (Please Print)

Signature

Peoples
R.C.
#4



SUPPLEMENTAL INFORMATION 1-045

Every four years, the Baltimore County Council comprehensively reviews and revises the County's Official Zoning Maps as required by County law.

An issue has been raised during the current Comprehensive Zoning Map Process (CZMP) that encompasses your property specified on the attached notification. The raising of this issue does not necessarily mean that your property will be rezoned, but that the County is investigating the appropriateness of the current zoning.

The petitioner for Issue 1-045 is the South Rolling Road Community Association. The area involved in the request totals 488 acres and involves hundreds of property owners. The existing zoning is DR 5.5 (5 1/2 homes per acre) for 211 of the 488 acres, and DR 3.5 (3 1/2 homes per acre) on 277 acres.

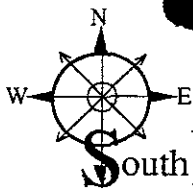
The suggested new zoning is DR 2 (2 homes per acre) on the entire 488 acres. The expressed intent of the issue is to limit infill development by decreasing the number of homes permitted per acre and increasing the required minimum lot size.

When an issue is raised, a thorough investigation is performed before any recommendation is made. During this process County planners are available to receive your comments, questions and concerns. County planners will make recommendations to the Baltimore County Planning Board on all issues by March 1, 1996, and in April, 1996, the Planning Board will hold public hearings to receive testimony on all zoning requests.

Before the end of June, 1996, the Planning Board will make recommendations to the County Council, which will hold its own hearings in September, 1996. Times and dates of all hearings will be advertised in local newspapers.

The County Council has sole authority to determine the final zoning on each property. The Council may accept, reject, or modify the recommendations of the Planning Board. These options include retaining the existing zoning or applying to a property any zone or combination of zones. The Council's final adoption of the Official Zoning Maps will take place by October 16, 1996.

Please do not hesitate to contact this office, either in writing or by phone at (410) 887-3480. To assure that written comments are incorporated into the appropriate file, please be certain to include the Issue Number (referenced on the notification letter) on all correspondence.



P.C. # 6

South Rolling Road Community Association

15 December 1997

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

To whom it may concern:

In the matter of "Case number 97-566-SPHA," the South Rolling Road Community Association hereby authorizes Birchie Manley of 402 Montemar Avenue Catonsville to be our representative.

Sincerely yours,

Norman R. Schmuff,
President SRRCA
9 Forest Dr.
Catonsville, MD 21228-5028



South Rolling Road Community Association

15 December 1997

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

RE: Case number 97-566-SPHA, In the matter of: Larre N. Shiller et ux

Dear Sirs:

With regards to the above zoning case 97-566-SPHA, the South Rolling Road Community Association wishes to register our vehement opposition to the grant of the requested variances for construction of a proposed dwelling at 415 Forest Lane in Catonsville. To permit construction on this undersized lot with the requested setbacks would set a dangerous precedent which could lead to the destruction of this community as we know it. The proposed residence is clearly inappropriate in the context of the surrounding neighborhood, and inconsistent with the spirit and intent of the Baltimore County Zoning regulations for this area.

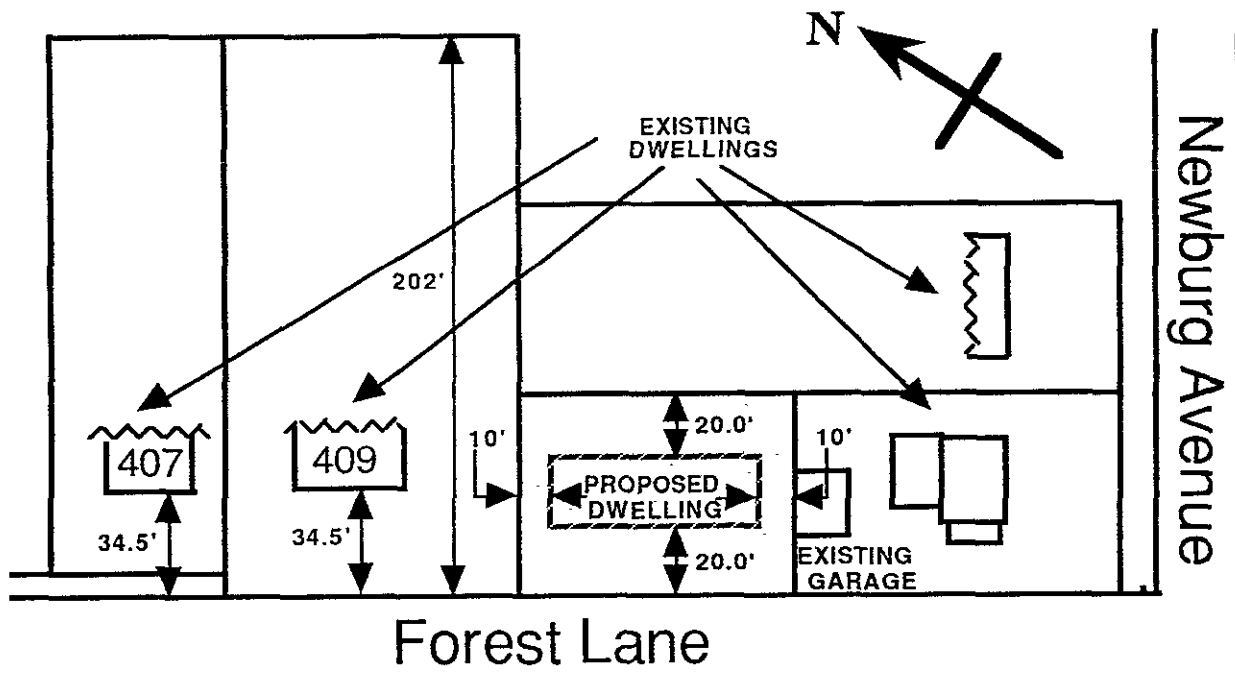
Attached is an article reprinted from our April SRRCA Newsletter with a diagram which clearly shows the inappropriate nature of this proposed development in the context of surrounding houses.

We ask that the requested variances be rejected.

Sincerely yours,

Norman R. Schmuff,
President SRRCA
9 Forest Dr.
Catonsville, MD 21228-5028

6c



County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

97-566-SPHA

Shuler

Petitioner's #4A-40

(7 photos)

