11/5/97

IN THE MATTER OF
THE APPLICATION OF
JONATHAN L. THOMPSON, ET UX
FOR A ZONING VARIANCE ON
PROPERTY LOCATED ON THE WEST
SIDE SWEET AIR ROAD, 650'
NORTH OF CARROLL MANOR ROAD
(4913 JENKINS LANE)
10TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

- * BEFORE THE
- * COUNTY BOARD OF APPEALS
 - OF
- * BALTIMORE COUNTY
- * CASE NO. 98-23-A

OPINION

This matter was heard before the Baltimore County Board of Appeals on a <u>de novo</u> appeal from a denial by the Deputy Zoning Commissioner of a request by the Petitioner for a variance from Sections 400.1 and 400.3 of the <u>Baltimore County Zoning Regulations</u> (BCZR). The Petitioner specifically sought relief to permit an accessory structure to be located in the front yard of the Petitioner's property and to permit a height of said accessory structure of 20 feet in lieu of the permitted height of 15 feet. Petitioner was represented by David M. Meadows, Esquire, and Protestants appeared pro se.

After opening arguments, the Board first heard from Mr. Eric Hadaway, an environmental specialist with Daft-McCune-Walker, Inc., who was qualified as an expert in environmental compliance issues as they relate to Baltimore County development. Mr. Hadaway is also certified by the U.S. Army Corps of Engineers relative to wetlands issues. The witness testified that he met with the Petitioner, reviewed the records and information available at the Baltimore County Zoning and Development offices, made a physical review and examination of the site in question, and ultimately

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prepared a plat which was introduced before the Board as
Petitioner's Exhibit No. 1. He further related that the
Petitioner's property is approximately 1.59 acres, currently zoned
R.C. 2 and is one of six lots comprising Sweet Air Farms.

He stated that the Petitioner's property, alone among the others, contains a 50-foot wide drainage and utility easement and a pond, and is significantly impacted by wetlands. As a result of these environmental features, including poor underlying soil, the septic system of the lot was placed in such a way that the Petitioner's dwelling was required to be located to the extreme rear of the property. This configuration resulted in the only vehicular access to the property to be located on Jenkins Lane, a smaller roadway, as opposed to Sweet Air Road, the access outlet for the other lots in the development. It was further his opinion that the County would not likely allow access across a wetlands area, and thus the only viable access possible was that provided by Jenkins Lane. He opined, therefore, that based on these topographical and environmental factors the site in question was, in fact, unique among the other properties of Sweet Air Farms.

The Petitioner, Jonathan L. Thompson, was next to testify. He stated that, when he and his wife had the house built in 1986, the builder stated that the house was required to be located in the position on the lot upon which it presently exists. He testified that he was not offered any options for the location or configuration of the dwelling. He further testified that he was

Case No. 98-23-A Jonathan L. Thompson, et ux -Petitioners not aware that a building permit was necessary to construct the shed which is the subject of this Petition, or that a variance of any sort would be required. Moreover, he testified that his primary motivation as to the location of the shed was based upon the recommendations of Mr. Scott Thompson, a landscaper, in order to shield the shed as much as possible from his neighbors on adjoining properties and traffic on Sweet Air Road. He noted that, as soon as he was made aware that he was in violation of zoning laws of Baltimore County, work was brought to a halt, and he sought to obtain the proper permits. He provided additional testimony as to the quality of the construction and presented numerous photographs of the structure. He presented various supporting statements by neighbors as to his variance request and agreed that, although the shed is 20 feet in height and, therefore, in excess of the 15-foot limit under the BCZR, the size and proper construction practices thereupon required the additional height.

Under cross-examination, Petitioner agreed that he had applied for a building permit with the dimensions 16' by 16' by 15', although the actual construction was 16' by 16' by 20'. Additional photos were placed into evidence, and on redirect, Petitioner admitted that construction of the shed was substantially completed when the second Stop Work Order was received by him.

The testimony of Rodney Scholtz, a neighbor residing at 4825 Sweet Air Road, was presented by proffer as to his continuing approval and lack of objection to the shed as constructed. The

Case No. 98-23-A Jonathan L. Thompson, et ux -Petitioners testimony of Ralph Jordan, a retired carpenter, was also presented through a proffer and was that he was the party assisting in the construction of the shed and that all work was done in a workmanlike and appropriate manner. A third proffer was accepted relative to the testimony of the landscape architect, Scott Thompson, which was that the actual site of the shed was dictated by a desire of the Petitioner to place the structure in as inconspicuous a site as possible.

Protestant Mark Stershic testified in opposition to the Petitioner's variance request. He described his concerns relative to the placement, size and safety of the construction of the shed, and presented numerous photographs in support of his testimony. He also presented excerpts of the covenants signed by all property owners in Sweet Air Farms to support his contention that both the placement and size of the shed were in violation therefrom.

After some brief rebuttal testimony relative to the actual construction characteristics of the shed, testimony was concluded.

Petitioner seeks variance from the requirements of BCZR Section 400.1 which states:

Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered

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passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building (B.C.Z.R., 1955; Bill No. 27, 1963).

He also seeks variance from the requirements of 400.3 which state that:

The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. (B.C.Z.R., 1955)

It is well settled that appeals from decisions of the Baltimore County Zoning Commissioner are heard <u>de novo</u> before the Board of Appeals under the requirements of Section 26-129 of the <u>Baltimore County Code</u>. Moreover, the authority to grant variances from height and area regulations is set forth in Section 307.1 of the BCZR which states in part:

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 regulations, from off-street and 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. increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare... (B.C.Z.R., 1955; Bill No. 107, 1963).

The case law relative to variances in Baltimore County is well-settled. The seminal case on the subject is <u>Cromwell v. Ward</u>, 102 Md.App. 691, 651 A.2d 424 (1995). The Court wrote:

"conditions...peculiar to the land...and...practical difficulty...." Both must exist...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties.... Id. at 698.

In requiring a pre-requisite finding of "uniqueness," the Court defined the term and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area; i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions... <u>Id.</u> at 710."

Once "uniqueness" has been established, the second criteria set forth in Section 307.1, that of practical difficulty or unreasonable hardship, is addressed. The Court, in McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973), set forth the standard for this second inquiry as:

- Whether strict compliance with the zoning requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- Whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

In applying the facts of the instant case to Maryland law, this Board unanimously finds that, as to the location of the shed, the Petitioner has satisfied the rather strict requirements set forth under 307.1 , and Cromwell v. Ward. Although we agree with the philosophy most recently set forth in Friends v. B.G.&E., 120 Md.App. 444, 707 A.2d 866 (1998) that variances should be granted sparingly, we find that the developable building envelope on the subject property was reduced measurably by utility easements, wetlands, soil and septic system factors. As a result, we have a residence that does not even share the vehicular access of its neighbors, but rather utilizes a different road altogether. We believe that these constraints are clearly not self-imposed and are those types of factors envisioned by the Code and by the Court in Cromwell to justify a finding of "uniqueness." Having satisfied ourselves as to the first prong of the variance requirements, we likewise believe that the evidence clearly establishes the existence of "practical difficulty" as set forth in McLean. Strict compliance with the zoning, absent a variance, would unreasonably prevent appropriate use of the property for a permitted purpose and would otherwise render conformance unnecessarily burdensome; the granting of a site variance would do substantial justice to the applicant's use of the site; and, given the manner in which it has been planned and carried out in terms of visual and aesthetic

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Case No. 98-23-A Jonathan L. Thompson, et ux -Petitioners issues, is in conformance with the spirit of the law.

The Board feels that testimony failed to establish any concern relative to the safety of either the construction of the shed or its viability upon completion. In any event, any completion of the project will be done under the auspices and scrutiny of the appropriate building inspections to ensure compliance with applicable standards. Likewise, although the questions of private covenants were raised by the Protestants, these matters, if at all viable, should be raised before the Circuit Court and are not subject to the jurisdiction of this Board.

However, this Board also unanimously finds that the request for a variance from the height requirement set forth in BCZR 400.3 should not be granted. While the uniqueness of the site itself has been appropriately established by the topographical and environmental realities of the site, the decision to go above the 15 feet allowed by the Code is purely judgmental in nature and was not "imposed" in any way upon the Petitioner by the factors impacting on the site itself. It is clearly what the cases refer to as "self-imposed" in nature. As such, it does not meet the requirements of 307.1 of the BCZR, nor the criteria set forth in Cromwell and therefore is unanimously denied.

ORDER

THEREFORE, IT IS THIS _______, 1998 by the County Board of Appeals of Baltimore County

ORDERED that Petitioner's request for variance seeking relief

Case No. 98-23-A Jonathan L. Thompson, et ux -Petitioners from Section 400.1 of the Baltimore County Zoning Regulations (BCZR) to permit an accessory structure (shed) to be located in the front yard in lieu of the required rear yard be and the same is hereby GRANTED; and it is further

ORDERED that Petitioner's requested variance relief from Section 400.3 of the BCZR to permit an accessory structure (shed) with a height of 20 feet in lieu of the maximum permitted height of 15 feet be and the same is DENIED; and it is further

ORDERED that Petitioner shall have sixty (60) days from the date of this Order to bring the subject structure into compliance with the zoning regulations and this Order.

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 BALTAMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Margaret\ Worrall

Harry E. Brichheister, Jr.



County Board of Appeals of Baltimore County

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

November 5, 1998

David M. Meadows, Esquire MOORE, CARNEY, RYAN & LATTANZI, L.L.C. 4111 E. Joppa Road, Suite 201 Baltimore, MD 21236

RE: Case No. 98-23-A

Jonathan L. Thompson, et ux -Petitioners

Dear Mr. Meadows:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. 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. Rodcliffe for Kathleen C. Bianco

Administrator

encl.

CC: Mr. & Mrs. Jonathan L. Thompson
F. Xavier Spiegel
Ralph Jordan
Mr. and Mrs. Mark Stershic
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

-/-1-/117

IN RE: * BEFORE THE

PETITION FOR VARIANCE * BOARD OF APPEALS

W/S SWEET AIR ROAD, 650' N. OF * OF

CARROLL MANOR ROAD * BALTIMORE COUNTY

(4913 Jenkins Lane) *

6th COUNCILMAN DISTRICT * CASE NO. 98-23 A

JONATHAN L. THOMPSON, et ux.

Petitioner

MEMORANDUM IN SUPPORT OF PETITIONER'S PETITION FOR VARIANCE

This matter comes before the County Board of Appeals for Baltimore County on a de novo appeal from the denial of the Petitioner's Administrative Variance Petition which sought relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (BCZR). The specific relief sought by the Petitioner before the Zoning Commissioner and now before the Board of Appeals, is to permit an accessory structure to be located in the front yard of the Petitioner's property and to permit a height of said accessory structure of 20 feet in lieu of the permitted height of 15 feet. The specific sections of the BCZR are set forth below:

Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 ½ feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a

side interior property line if all other requirements are met.

The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building. (B.C.Z.R., 1955; Bill No. 27, 1963).

The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. (B.C.Z.R., 1955).

Appeals from decisions from the Baltimore County Zoning Commissioner are heard de novo before the Board of Appeals. <u>Section</u>, 603 Charter of Baltimore County, Maryland; <u>Section</u>, 26-129 Baltimore County Code, 1978 as amended.

Maryland Law Pertaining to the Grant of an Area Variance

As noted above, the Board of Appeals of Baltimore County has been delegated the authority to grant variances from the height and area regulations promulgated under the BCZR. Section 307.1, in pertinent part, 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. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare.... (BCZR, 1955; Bill No. 107, 1963).

The above quoted provision of the BCZR has been construed by the Court of Special Appeals as requiring a two part test. Cromwell v. Ward, 102 Md. App. 691, 651 A. 2d. 424 (1995); Friends v. B.G.& E., 120 Md. App. 444, 707 A. 2d. 866 (1998). The first step of the analysis requires a petitioner for an area variance to demonstrate special circumstances or conditions which exist that are peculiar to the land or structure which is the subject of the variance, or, as defined in Cromwell v. Ward, that the subject site is unusual or unique when compared to other properties in the neighborhood such that the zoning ordinance impacts upon the property differently from that restrictions impact on neighboring properties. Cromwell v. Ward, 651 A. 2d. @ 441. This "uniqueness test" for zoning purposes requires that, "the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-surface, conditions, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...." Cromwell, 651 A. 2d. @ 434.

Once the petitioner for an area variance meets the initial uniqueness criteria, required by <u>Cromwell v. Ward</u>, then the Petitioner must meet the second criteria as set forth in Section 307.1 of the BCZR, that "....the unique or peculiar circumstances have resulted in a practical difficulty or unreasonable hardship." <u>Cromwell</u>, 651 A. 2d. @ 439. Since the Petitioner in this case seeks an "area variance" as to the location and height of

the accessory structure, the standard of, "practical difficulty" applies. Anderson v. Board of App., Town of Chesapeake Beach, 22, Md. App. 22, 322 A. 2d. 220, 226 (1974). The Maryland Courts have further delineated the test of practical difficulty to be:

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

McLean v. Soley, 270 Md. 208, 310 A. 2d. 783 (1973); Anderson v. Board of App., Town of Chesapeake Beach, 22 Md. App. 28, 322 A. 2d. 220, 226, 227 (1974) and Loyola Loan Assn. v. Buschman, 227 Md. 243. 176 A. 2d. 355 (1961).

This second step of the variance law, although not reached in <u>Cromwell v. Ward</u>, was found to exist in <u>Friends v. B.G.& E.</u> In <u>Friends</u>, the Court of Special Appeals affirmed the decision of the Circuit Court for Baltimore County and the opinion of the Baltimore County Board of Appeals granting a variance from a 50 foot setback requirement to allow the installation of a new B.G.& E. substation in a central location within three (3) tracts owned by B.G.& E. to provide maximum setbacks from adjoining properties and to allow the greatest opportunity for visual buffers between the substation and adjoining properties. <u>Friends v. B.G.& E.</u>, 707 A. 2d @ 875, 885. The Court of Appeals also upheld the grant of an area variance in <u>McLean v. Soley</u>, 270 Md. 208, 310 A. 2d. 783 (1973).

There, the Court of Appeals upheld the decision of the Baltimore County Circuit Court and Board of Appeals in granting an area variance to a side yard setback requirement of the BCZR to preserve certain trees that existed on the site that added natural beauty to the property and were important ecologically, both to the property owner and the surrounding neighborhood. McLean v. Soley, 310 A. 2d. @ 787.

The Court quoted at length its prior decision in Loyola Loan Assn. v. Buschman, 227 Md. 243, 176 A. 2d. 355 (1961) in its construction of Section 307 of the BCZR.

".... This, we think, presents at least a case of "practical difficulty' within the meaning of Section 307 of the Regulations. To ignore it and to restrict Loyola to a building of uneconomic size where, as here, the Board's findings that there is no injury to the public health, safety and general welfare and that the proposed variance is in strict harmony with the spirit and intent of the Regulations should be upheld, would, we think, place too narrow a construction upon Section 307, and would itself impose an unreasonable hardship on the applicant...."

227 Md @ 250-251, 176 A. 2d. @ 359 McLean, 310 A. 2d. @ 787.

Facts Presented In Support of Variance Petition

Appearing at the hearing on behalf of the Petition was the legal owner of the property, Jonathan L. Thompson. Also appearing on behalf of the Petitioner was Mr. Eric C. Hadaway, an environmental specialist from the firm of Daft, McCune, Walker, Inc.; Mr. Rodney Scholz, who resides in the subdivision of which the subject property is a part; Mr. Ralph Jordan, a retired carpenter, who supervised and helped in the construction of the accessory structure; and, Mr. Scott Thompson, a professional landscaper, who helped the Petitioner select the site for the accessory structure.

Mr. Eric Hadaway was qualified as an expert witness in environmental issues as they impact on Baltimore County Development. Mr. Hadaway is certified by the U.S. Army Corps of Engineers to delineate wetlands.

Mr. Hadaway testified concerning his findings after an inspection of the Petitioner's property and adjoining properties which comprise the Sweet Air Farms subdivision. His examination included an environmental and soils examination of the area, a physical review of the site, discussions with the property owner, and a review of information on file in Baltimore County's Zoning and Development Offices. His findings are represented in the Plat introduced as Petitioner's Exhibit 1 (hereinafter referred to as the "Plat"). As depicted on the Plat, the Petitioner's property consists of approximately 1.59 acres of land located in the 10th election district of Baltimore County. The property is zoned RC2. The Petitioner's property is one of six (6) lots which make up the neighborhood of Sweet Air Farms. As depicted on the Plat, the portion of the Petitioner's lot which fronts on Sweet Air Road contains a 50 foot wide drainage and utility easement, a pond, significant wetlands, and an underlying soil type, which, in conjunction with Baltimore County Development Regulations, led to the placement of the Petitioner's home at the extreme southeastern portion of the lot near the property's intersection with a small public road identified on the Plat as Jenkins Lane. Mr. Hadaway testified that, in his opinion, these factors were unique in the neighborhood, as no other lots had these environmental factors. He noted that lots 1 through 4 all had driveways along Sweet Air Road, and that lot 6 had access to both Sweet Air Road and Jenkins Lane. He testified that the impact of these environmental features on the Petitioner's lot required the placement of the septic system

out of the poor soil conditions, which further led to the placement of the existing dwelling to the very rear of the property. The combination of the aforementioned factors has left the only vehicular access to the property along the portion of the Petitioner's lot which abuts Jenkins Lane. Thus, although the lot was originally designed for a driveway from Sweet Air Road, that plan of development was frustrated by the environmental and subsurface conditions, which has led to the Petitioner's present situation.

Next to testify was the Petitioner, Jonathan Thompson, on his behalf and on behalf of his wife, who resides with him on the property. Mr. Thompson testified that he and his wife were the original purchasers of the lot. He testified that the builder did not offer options for the location or configuration of their proposed home. The builder simply told Mr. Thompson where his home had to be located. He testified that since the house was built in 1986, he and his wife have considered the portion of their property from Jenkins Lane to the home as their front yard, and have established that portion of their home that fronts on Jenkins Lane as the main entrance to their house. Photographs marked as Exhibit Two were entered into evidence depicting the home and the general configuration of the lot subject to the Petition.

Mr. Thompson further testified that he was not aware that a building permit was necessary to build the shed which is the subject of the Petition or that a variance would be required. With regard to the location of the shed, Mr. Thompson testified that the location was chosen with the help of Mr. Scott Thompson, a landscaper, in order to shield the shed from view from both the adjoining properties and Sweet Air Road. A series of photographs were then introduced showing the Petitioner's shed from both Mr. and Mrs. Stershic's

property, Sweet Air Road, and adjoining properties within the neighborhood. Introduced as further exhibits in support of the Petition were letters solicited from eleven (11) neighbors in support of the Petition, along with photographs which depict the view of the shed area from some of the adjoining neighbors as well as the views of some of the supportive neighbor's homes from the subject property. Present in the court room was Mr. Rodney Scholz, who resides at 4825 Sweet Air Road (Lot 1 as depicted on Petitioner's Exhibit 1). Mr. Scholz confirmed that he was still in favor of the Petition and that his property utilized Sweet Air Road for access.

Mr. Thompson elaborated on the construction of the shed in question. He indicated that the location was chosen, not only for its utility for his property, but to insure that it could not be seen by his adjoining neighbors, as depicted in the photographs. Testimony of Mr. Ralph Jordan, a retired carpenter, was accepted by way of proffer that the shed had been constructed in conformance with Baltimore County Building Code requirements. Photographs of the interior of the shed were admitted as exhibits which depict the general quality of the shed's construction. It should be noted, as depicted on Petitioner's Exhibit 1, that the location of the shed was also chosen to allow continued vehicular access to the northern (statutory front) portion of the Petitioner's property. See, Petition's Exhibit 1.

Mr. Thompson testified when he was informed that his shed may be in violation of the zoning laws of Baltimore County, he stopped work on the shed and sought relief as instructed by the Baltimore County Building Inspectors. The testimony of Mr. Ralph Jordan was accepted as a proffer as to the quality of the construction of the shed, and the proffer

of Mr. Scott Thompson was also accepted as a landscaper in the area who helped select the site for the shed's location.

Mr. Mark Stershic and Mrs. Mary Stershic appeared as protestants at the hearing. Mr. Stershic offered testimony and photographs in opposition to the Petitioner's variance petition. Mr Stershic described his concerns in opposition to the placement, size and safety of the accessory structure. He expressed particular concern as to the shed's construction and certain cinder blocks shown under the shed in his photograph of 4-J. Mr. Thompson offered rebuttal testimony as to the cinder blocks, which were only used while the cement footers upon which the shed rests, cured. He also indicated that he relied upon the expertise of Mr. Jordan, whose testimony was previously accepted as proffer, that the shed complied with all building requirements. In fact, Mr. Thompson obtained a building permit for the shed, as instructed by the building inspector, and has been advised by the building inspectors that if the shed is allowed to remain, they will come back and complete their inspection of the structure and the installed footers. Mr. Thompson further testified that if allowed, he will complete the shed and address any reasonable safety concerns raised by governmental officials or Mr. Stershic.

Lastly, Mr. Stershic presented as an exhibit a declaration of restrictions, that he claimed were presented to the property owners on the purchase of lots in Sweet Air Farms. He read from a portion of the first page of the declaration as an additional reason for his objection to the Petitioner's variance. He did not, however, express an opinion that such variance would have a detrimental effect on the value of his property, nor did he dispute that the shed could not be seen from his property.

CONCLUSION

This matter comes before the Board of Appeals on a de novo appeal from the decision of the Zoning Commissioner of Baltimore County. The Petition is for an area variance to allow the existing structure, whose dimensions are 16' x 16' x 20', to remain in its present location on the Petitioner's lot as depicted on Petitioner's Exhibit 1. The specific variance request, pursuant to Section 307.1 of the BCZR. are from Sections 400.1 and 400.3 of the BCZR. Section 400.1 provides that accessory buildings in residential zones, other than farm buildings, shall only be located in the rear yard which will occupy not more than forty percent (40%) thereof. See Section 400.1 BCZR. As shown on Petitioner's Exhibit 2, the Petitioner's lot size consists of approximately 1.59 acres or 69,260.4 square feet. Thus, under Section 400.1, a lot of the Petitioner's size would normally yield a significant area for the placement of accessory structures. Unfortunately, because of the unique environmental conditions associated with the Petitioner's lot, the total area to the rear of the Petitioner's existing dwelling is only a small portion of the entire lot. However, if the front area of the Petitioner's property was considered a rear yard, as we believe it should be, almost three-fourths (3/4ths) of the existing total area would be available for accessory structures, forty percent (40%) of which would result in an area of approximately 20,778 square feet (approximately ½ of an acre). Further, the lack of vehicular access to Sweet Air Road has left the bulk of the property inaccessible by vehicles except through the statutory rear yard, where this accessory structure would otherwise be located. Thus, the unique environmental features of the Petitioner's property, which are not of the Petitioner's making, but are inherent characteristics of the lot, have

led to a disproportionate impact of the provisions of Section 400.1 on the Petitioner's lot as opposed to the surrounding neighborhood and community. See, Cromwell v. Ward, 651 A. 2d. @ 434. Thus, the size, environmental constraints, and topography have all led to Petitioner's meeting his burden of proof as to the first criteria required by Cromwell v. Ward. Certainly, the topography and subsurface conditions have impacted disproportionately on the Petitioner's property.

It should also be noted that Petitioner's property as well as the surrounding neighborhood is zoned RC2. Although by definition, Section 400.1 applies to residences in the RC zone, the overall purpose of the RC2 designation is to foster conditions favorable to continued agricultural uses. Section 1A01.1B of the BCZR. The RC zone, especially in areas that do not have public utilities (such as the Petitioner's lot), are given to large lots in a agricultural setting. This principle is recognized in Section 400.1, as it specifically does not apply to farm buildings. Thus, it can be argued that the purpose of Section 400 with regard to the location of accessory structures is more applicable to the higher density "DR" zones than in the RC zone where lots are significantly larger, and in which accessory structures can more readily blend in with the surroundings. Certainly, this is the opinion of the Petitioner and the majority of the neighbors.

Since the Petitioner's request for relief is an area variance, the Board must next address whether a practical difficulty exists. See, Anderson v. Board of Appeals and McLean v. Soley, supra. Using the three (3) factors as set forth in McClean v. Soley, the Petitioner has met his burden as to practical difficulty. First, strict compliance with the provisions of Section 400.1 would unreasonably prevent the use of nearly three-fourths

(3/4ths) of the Petitioner's lot for a permitted purpose, i.e., accessory structures. The dictates of the zoning provision render conformance unnecessarily burdensome to Petitioner's unique circumstances. In fact, if the shed were located either adjacent to, or to the immediate rear of the Petitioner's existing dwelling, it may have the effect to curtail all vehicular access to the majority of the Petitioner's property, presenting another practical difficulty. Additionally, the Petitioner believes that photographs entered into evidence show that the grading requirements of a rear yard location would be unnecessarily burdensome, whether for leveling a site or redirecting runoff around a site. Finally, such a location may make the shed more conspicuous, rather than less conspicuous and require the removal of the existing plantings which form a buffer between Petitioner's property and his neighbors. This would certainly not be in harmony with the spirit and intent of zoning regulations. See, McLean v. Soley, 310 A. 2d. @ 787. In short, an accessory structure of this square footage would normally be permitted by right on a property this size. However, because of environmental constraints which are peculiar to this property, there is no reasonable site on petitioner's property to locate the necessary structure which is consistent with the letter of local zoning regulations.

As the testimony of the Petitioner and the proffered testimony of Mr. Thompson point out, the present location of the shed is acceptable to the majority of the neighbors and cannot be seen by the protestants from their property, and is practically invisible to those passing by on Sweet Air Road. Photographs offered into evidence certainly show that there are other accessory structures nearby which are larger and more visible, one of which is located between the property's residence and Sweet Air Road as shown on the

site plan. The grant of the variance would do substantial justice to the Petitioner and no harm to the adjacent property owners. Furthermore, the relief requested is such that the spirit of the ordinance will be preserved, and public safety and welfare secured. Certainly, the purpose of locating accessory structures in the rear yard of residentially zoned property seems less urgent in the agricultural setting of an RC2 zone.

The Petitioner's arguments as to the location of the proposed accessory structure, apply equally to the request that the shed continue at 20 feet in lieu of the requirement of Section 400.3 that accessory structures not exceed 15 feet. As testified by Mr. Thompson (along with the proffered testimony of the landscaper), effort was made to locate the shed in a location well screened from the community. If the shed were built lower and wider, it would in fact be more visible. Further, the shed is in keeping with the agricultural setting and nearby farm buildings. Thus, the additional height is in conformity with the spirit of the zoning regulations to insure that accessory structures blend into their surroundings as the Petitioner's shed, in fact, does, as borne out by the neighborhood support and photographs presented by the Petitioner. There seems to be no other reasonable location on Petitioner's property for this structure, and no other way to build it, which would allow it to remain so in harmony with the spirit and intent of zoning regulations.

The Petitioner is aware that variances should be granted sparingly, Friends v. B.G. & E., 707 A. 2d. 885. However, due to the unique environmental constraints that have impacted the Petitioner's property, the burden of uniqueness as outlined in Cromwell v. Ward, has been met. And, unlike Cromwell, the present hardship did not result from the Petitioner's own action. Section 400.1 of the BCZR anticipated that a significant portion

of a residence on a lot can be utilized for accessory structures. In most instances, in residential zones, the rear yard is either equal or larger than the front. In Petitioner's case, the opposite is true, almost three-fourths (3/4ths) of the Petitioner's property has been designated as the front yard, even though the Petitioner utilizes Jenkins Lane as his only access to his dwelling. Thus, these unique circumstances have caused the requirement of Section 400.1 and 400.3 to impact disproportionately on Petitioner's property, thus allowing the Board to consider a variance. These constraints and the lack of vehicular access to Sweet Air Road further present practical difficulties as outlined above if the Petitioner is forced to comply strictly with the requirements of Section 400.1 and 400.3 of the BCZR. Certainly, the present location is in conformity with the agricultural setting in which the lot is located, is agreeable to the majority of the neighborhood, and in keeping with the spirit and intent of the zoning regulations.

Therefore, the Petitioners respectfully request that their Petition for an area variance be granted to permit the accessory structure to remain in its present location and at its present height of twenty (20) feet in lieu of the permitted height of fifteen (15) feet.

David M. Meadows

Moore, Carney, Ryan & Lattanzi, L.L.C.

4111 Harford Road, Suite 201
Raltimore, Manuage 21236

Baltimore, Maryland 21236

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 22 day of July, 1998, a copy of the foregoing Petitioner's Memorandum was mailed, first class, postage prepaid, to:

Mr. and Mrs. Mark Stershic 4909 Sweet Air Road Baldwin, Maryland 21013

David M. Meadows

H \WP\DAVE\S-Z\THOMEMO.WPD

ORDER RECEIVED FOR FILING
Date
By

IN RE: PETITION FOR ADMIN. VARIANCE

W/S Sweet Air Road, 650' N of

Carroll Manor Road (4913 Jenkins Lane) 10th Election District 6th Councilmanic District

Jonathan L. Thompson, et ux

Petitioners

BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Case No. 98-23-A

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Jonathan L. and Van. T. Thompson. The Petitioners seek relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure with a height of 20 feet to be located in the front yard in lieu of the maximum permitted 15-foot height and rear yard location for a 16'x16'x20' shed. 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.

As noted above, this matter was filed through the Administrative Variance process, pursuant to Section 26-127 of the Baltimore County Code. That Section permits the Zoning Commissioner to grant variance relief without the necessity of a public hearing under certain circumstances. When relief through the administrative variance process is requested, the property is posted for 15 days with a sign advising the general public of the requested relief. During that time, any individual residing within 1,000 feet of the site in question can request a public hearing. In this case, the adjacent property owners, Mark and Mary Stershic, requested a hearing and a public hearing was scheduled for October 1, 1997.

Date RECEIVED FOR FILING

Appearing at that hearing on behalf of the Petition were Jonathan and Van Thompson, legal owners of the property, and Newton A. Williams, Esquire, attorney for the Petitioners. Also appearing on behalf of the Petitioners were F. Xavier Spiegel and Ralph J. Jordan. Appearing as Protestants in the matter were Mark and Mary Stershic, the adjoining property owners who requested the public hearing.

Testimony and evidence offered in support of the request revealed that the subject property consists of 1.59 acres, more or less, zoned R.C.2 and is improved with a one-story dwelling, a 12'x32' shed located to the rear of the site, and a recently constructed 16'x16'x20' shed, which is the subject of this request. Mr. Thompson testified that he recently built this shed with the help of some friends during the summer. He was not aware that a building permit was necessary to build the shed, or that variance relief was required to construct the shed in the front yard until he was advised of same by a Zoning Inspector. Mr. Thompson stated that the shed was already built by that time and was located in the front yard. Mr. Thompson testified that he built the shed adjacent to some trees in the front yard so as to buffer the shed from the view of surrounding neighbors and Sweet Air Road. The Petitioner submitted several photographs depicting the location of the shed and its view from various locations on and in the vicinity of his property. Mr. Thompson indicated that he has outgrown the smaller shed and that the new shed is needed to provide additional storage of personal household items as well as lawn and garden tools and equipment.

Appearing in opposition to the Petitioners' request were Mark and Mary Stershic, who reside on the adjacent property, known as 4909 Sweet Air Road. Mr. Stershic testified that he can see the shed from his house and the he is opposed to the granting of any variance that would permit

the shed to remain in the Petitioners' front yard. He testified that none of the other homeowners whose houses were part of this subdivision have sheds in their front yard. Furthermore, he has a safety concern as to the 20-foot height of the shed. He fears that a wind storm could cause the shed to topple and possibly blow onto his property. The site plan shows that the subject shed sits approximately 25 feet from the Stershic's property line.

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

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

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

After due consideration of the testimony and evidence presented,

I am persuaded to deny the variance. The Petitioners have failed to show
that special circumstances or conditions exist that are peculiar to their
property and that strict compliance with the zoning regulations would
unduly restrict the use of their property. Testimony and evidence showed
that sufficient land exists in the rear of the property where the subject

ONDER RECEIVED FAILING

TATES

TO STATES

TO

shed could have been constructed. I understand that there is insufficient screening in the rear yard and that the shed might be more conspicuous there than in the front yard. However, in applying the standards set forth in the case of <u>Cromwell v. Ward</u>, 102, Md. App. 691 (1995), I find that the Petitioners have failed to satisfy the burden imposed upon them in order for a variance to be granted.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this _______ day of October, 1997 that the Petition for Administrative Variance seeking relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (16'x16'x20' shed) to be located in the front yard with a height of 20 feet in lieu of the required rear yard location and maximum permitted height of 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioners shall have forty-five (45) days from the date of this Order to bring the property into compliance with the zoning regulations; and,

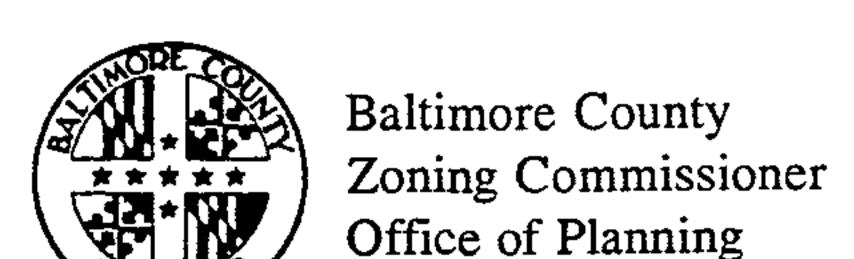
IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order to file an appeal of this decision.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs



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

October 10, 1997

Mr. & Mrs. Jonathan L. Thompson 4913 Jenkins Lane Baldwin, Maryland 21013

RE: PETITION FOR ADMINISTRATIVE VARIANCE
W/S Sweet Air Road, 650' N of Carroll Manor Road
(4913 Jenkins Lane)
10th Election District - 6th Councilmanic District
Jonathan L. Thompson, et ux - Petitioners
Case No. 98-23-A

Dear Mr. & Mrs. Thompson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been denied 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 Permits and Development Management Office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Mark Stershic 4909 Sweet Air Road, Baldwin, Md. 21013

People's Counsel

File



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at

4913 JENKINS LANE BALDWIN, MA

which is presently zoned

202

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

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 AND 400.3 TO ALLOW AN ACCESSORY STRUCTURE WITH A HEIGHT OF 20' TO BE LOCATED IN THE FRONT YARD IN LIEU OF THE MAXIMUM HEIGHT OF 15' AND REQUIRED REAR YARD LOCATION.

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

PLEASE

SEE AFFIGAVIT

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

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

			legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee			Legal Owner(s).
(Type or Print Name)			(Type or Print Name)
Signature			Signeture
Address	-		(Type of Print Name)
City	State	Zipcode	Signature
Attorney for Petitioner			4913 JENKINS LANE (HM 592-8727
(Type or Print Name)			Address Phone No
Signature			SALDWIN MA 21013 City State Zipcode Name, Address and phone number of representative to be contacted
Address	Phone No.		Jow THOMPSON
			4913 JENKINS LANE 617-2577
City	State	Zipcode	. Address Phone No.

Zoning Commissioner of Battimore County

ITEM #: 25

R FILING

ORDER RE(

ESTIMATED POSTING DATE: 8-3-9

65

Printed with Soybean Ink
` on Recycled Paper

Affidavit in support of 98-23-A Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at		JENKI	NS LANE	
	address A		40 A	0.0.2
•	BALD	WIN	M, ∆ State	Zip Code
That based upon personal knowledge, the followariance at the above address: (indicate hardship or			h I/we base the reque	st for an Administrative
REAR YARD CONSTRUCTION !		_		
YARD AND LIMITED SPACE IN	REAR Y	ard-Con	PLIANCE WITH	HEIGHT LIMITATION
15 NOT FEASIBLE BECAUSE AM	OUNT OF	STORAGE	SPACE NEE	SED WOULD
NECESSITATE A FOOTPRINT SO	LARGE	1) SPIRI	T AND INTER	IT BF ZONING
REGULATIONS COULD NOT BE	MET, A	ws 215	LOPE OF PRI	PERTY WOULD
FORCE ONE END OF SHED TO	SIT WEI	L BELOW	V GRADE, OR	OTHER END TO BE
ELEVATED HIGH ABOVE GRADE				RABLE.
PLEASE SEE ATTACHMENT	FOR M	ORE DET	AILS.	
That Affiant(s) acknowledge(s) that if a protes		nt(s) will be re	quired to pay a repo	sting and advertising fee and
may be required to provide additional informati	on.	E COL		
(/2 /-			Vani	Loages
ONATHAN L. THOMPSON	\ .	1/4	(signature) AN THANA	1 15VI - THUMENON
(type or print name)	- HARY	LAND	(type or print name)	
STATE OF MARYLAND, COUNTY OF BALT			.47	
of Maryland, in and for the County aforesaid, pe	ersona (v) appez		19 <u>17</u> , before me	e, a Notary Public of the State
Jonathan Lee Thompson	~ « Ve	un Tha	nh Bur.	Thompson
the Affiants(s) herein, personally known or satist that the matters and facts hereinabove set forth	factorily identi	ified to me as	such Affianti(s), and	made oath in due form of law
AS WITNESS my hand and Notarial Seal.				
7/16/97 date	-	NOTARY PUBI	M. Hos	<u>~</u>
	N	dy Commissio	T	
		4	31/00	

ORDER THE CHINE ORDER

ZONING DESCRIPTION FOR: 4913 Jenkins Lane

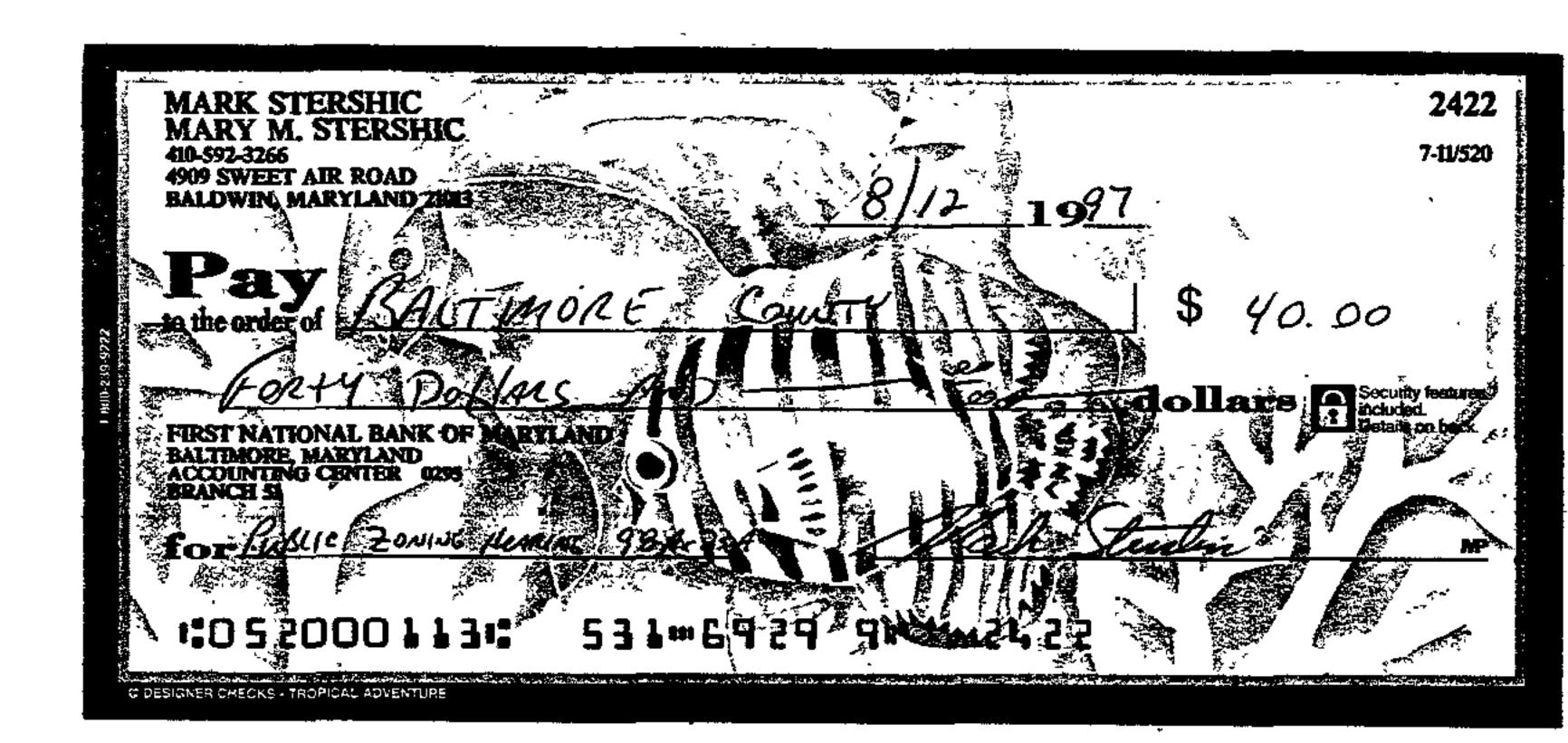
Beginning at a point on the West side of Sweet Air Road which is 40' wide at the distance of 650' North of the centerline of the nearest improved intersecting street Carroll Manor Road which is 30° wide.

Being Lot #5 in the subdivision of Sweet Air Farms as recorded in Baltimore County Plat Book #40, Folio #73, containing 1.59 acres. Also known as 4913 Jenkins Lane and located in the tenth Election District, 6th Councilmanic District.

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FFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT QQ_125 No. 041076	PROCESS ACTUAL TIME
DATEACCOUNT	REG WS02 CASHIER JRIC JWR DRAWER NISCELLANDUS CASH RECEIPT Receipt # 005768 (F1); CR 10. 041076
RECEIVED J. Thompson - 4913 Jankins Las FROM: Md. UAN- (010)	Paltimore County, Harviard
	CASHIER'S VALIDATION

PALTIMORE COUNTY, MARYLAND AFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No.	0445.3	PAID REGE PROCESS ACT	
DATE 11/6/97 ACCOUNT R. CO			5 HISTELLANDS D	einy but braked e
RECEIVED Jonathan L. Thomasc			CP NO. 044388	210.00 CHECK unty, Haryland
FOR: Apport - # 92-23-A				
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER		<u></u>	CASHIER'S	S VALIDATION



CERTIFICATE OF PUBLICATION

TOWSON, MD.,, 19_7/
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 successive weeks, the first publication appearing on $\frac{18}{18}$, $\frac{97}{19}$
weeks, the first publication appearing on $\frac{8}{100}$, 19 $\frac{9}{10}$.

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

The Zoning Commissioner of Baltimore County by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Tow son Manyland on the property identified herein as follows:

4913 Jenkins Lane W/S Sweet Air Road, 650" N of Carroll Manor Road 10th Election District 6th Councilmanic

Legal Owner(s): Jonathan L. Thempson & Van T. Bui-Thompson Variance: to allow an acces-

sony structure with a height of 20 feet to be located in the front yard in lieu of the maximin beight of 15 feet and re-

Zoning Commissioneciae

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.

9/244 Sept. 18 .C174434

**

	RE: Case No.: <u>98-23-人</u>
	Petitioner/Developer:
	JONATHAN THOMPSON
	Date of Hearing/Closing: 8/18/97
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
This letter is to certify under the penalties of p	erjury that the necessary sign(s) required by law
were posted conspicuously on the property location 4913 Jewk	cated at
The gion(a) wors	a/ - / a
The sign(s) were posted on	(Month, Day, Year)
4913 JENKINS LA	Sincerely, -
	(Signature of Sign Poster and Date)
	RICHARD E. HOPFMAN
	(Printed Name)
	904 DELLOOD DR. (Address)
	FALLSTON, MO ZIOAT
	(City, State, Zip Code) (410) 879-3122
	(Telephone Number)
POSTED 8/3/97 Speking & S/3/97 RICHARO E. HOPPMAN	12 1997

	RE: Case No.: 98-23-A
	Petitioner/Developer:
	JONATHAN LEE THOMPSO
	Date of Hearing/Closing: 10/1/97
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	-
Ladies and Gentlemen:	
This letter is to certify under the penalties of p	erjury that the necessary sign(s) required by law
were posted conspicuously on the property loc	_
	JENKINS LA.
The sign(s) were posted on	Month, Day, Year)
CS # 98-73-A 4913 JENKINS LA	Sincerely, Rechard E 9/11/97 (Signature of Sign Poster and Date) Richard E-Hoffinan (Printed Name) 904 DELLWOOD DR. (Address) FALLSTON, Mo. 21047 (City, State, Zip Code) (410) 879-3122 (Telephone Number)
POSTED 9/16/97 Theheal & 2/16/97	
·	

	RE: Case No.: 98-23-A
	Petitioner/Developer: JONATHAN L. THOMPSON
•	Date of Hearing/Closing:
Baitimore County Department of Permits and Development Manage County Office Building, Room 1 111 West Chesapeake Avenue Towson, MD 21204	gement
Attention: Ms. Gwendolyn Stepi	iens
Ladies and Gentlemen:	
This letter is to certify under the were posted conspicuously on the JENKINS LANE	penalties of perjury that the necessary sign(s) required by law e property located at
The sign(s) were posted on	12/1/97
The signited were besieve ou	(Month, Day, Year)
	Sincerely,
	Hay Few - 12/1/97
	(Signature of Sign Poster and Date)
	GARY FREUND
	(Printed Name)
	(Address)
	(City, State, Zip Code)
	(Telephone Number)

CLOSING DATES.

Request for Zoning: Additional Variance

Date to be Posted: Anytime before but no later than *8-3-9

Format for Sign Printing, Black Letters on a White Background:

ZONING NOTICE

ADMINISTRATIVE VARIANCE

Case No.: 98-23-A

A VARIANCE TO PERMIT AN ACCESSORY

STRUCTURE IN THE FRONT YARD WITH A HEIGHT

OF 20' IN LIEN OF THE REQUIRED REAR YARD

AND MAXIMUM HEIGHT OF 15'

PUBLIC HEARING?

PURSUANT TO SECTION 26-127(b) (1), <u>BALTIMORE COUNTY CODE</u>. AN ELIGIBLE INDIVIDUAL OR GROUP MAY REQUEST A PUBLIC HEARING CONCERNING THE PROPOSED VARIANCE, PROVIDED THE REQUEST IS RECEIVED IN THE ZONING REVIEW BUREAU BEFORE 5:00 P.M. ON

ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT, COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVE., TOWSON, MD 21204, (410) 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL AFTER ABOVE DATE UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

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

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

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

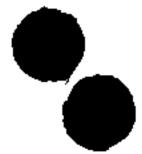
For newspaper advertising:
Item No.: 23
Petitioner: MR + MRS JONATHAN L. THOMPSON
Location: 4913 JENKINS LANE
PLEASE FORWARD ADVERTISING BILL TO:
NAME: JONATHAN THOMPSON.
ADDRESS: 4913 JENKINS LANE
BALDWIN, MD 21013
PHONE NUMBER: (410) 592-8727

AJ:ggs



(Revised 04/09/93)





TO: PUTUXENT PUBLISHING COMPANY

September 18, 1997 Issue - Jeffersonian

Please foward billing to:

Jonathan L. Thompson 4913 Jenkins Lane Baldwin, MD 21013 410-592-8727

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 <u>Towson, Maryland</u> on the property identified herein as follows:

CASE NUMBER: 98-23-A 4913 Jenkins Lane

W/S Sweet Air Road, 650' N of Carroll Manor Road
10th Election District - 6th Councilmanic District

Legal Owner(s): Johnathan L. Thompson & Van T. Bui-Thompson

Variance to allow an accessory structure with a height of 20 feet to be located in the front yard in lieu of the maximum height of 15 feet and required rear yard location.

HEARING: WEDNESDAY, OCTOBER 1, 1997 at 9:00 a.m., Room 407 Court 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

September 12, 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: 98-23-A 4913 Jenkins Lane

W/S Sweet Air Road, 650' N of Carroll Manor Road 10th Election District - 6th Councilmanic District

Legal Owner(s): Johnathan L. Thompson & Van T. Bui-Thompson

Variance to allow an accessory structure with a height of 20 feet to be located in the front yard in lieu of the maximum height of 15 feet and required rear yard location.

HEARING: WEDNESDAY, OCTOBER 1, 1997 at 9:00 a.m., Room 407 Court Building, 401 Bosley Avenue.

Arnold Jablon Director

cc:

Mark S. Sterschic Jonathan L. Thompson Newton A. Williams, Esq.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY SEPTEMBER 17, 1997.
 - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
 - (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



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

December 29, 1997

NOTICE OF ASSIGNMENT

CASE #: 98-23-A

IN THE MATTER OF: JONATHAN L. THOMPSON, ET UX '-Petitioners 4913 Jenkins Lane 10th Election District; 6th Councilmanic District

(Petition for Variance DENIED by D.Z.C.)

ASSIGNED FOR:

WEDNESDAY, MAY 20, 1998 at 10:00 a.m.

NOTICE:

 \mathcal{C}^{\prime}

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

Please refer to the Board's Rigles 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. Mo postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco Administrator

: Mr. & Mrs. Jonathan L. Thompson

cc:

Appellants /Petitioners

Newton A. Williams, Esquire

F. Xavier Spiegel

Ralph Jordan

Mr. and Mrs. Mark Stershic

People's Counsel for Baltimore County 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

Hearing Room - Room 48 Old Courthouse, 400 Washington Avenue

May 5, 1998

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 98-23-A

IN THE MATTER OF: JONATHAN L. THOMPSON, ET UX -Petitioners 4913 Jenkins Lane 10th Election District; 6th Councilmanic District

(Petition for Variance DENIED by D.Z.C.)

which was scheduled for hearing on May 20, 1998 has been POSTPONED at the request of Petitioner /Appellant; and has been

REASSIGNED FOR:

TUESDAY, JUNE 30, 1998 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: Appellants /Petitioners : Mr. & Mrs. Jonathan L. Thompson

F. Xavier Spiegel Ralph Jordan

Mr. and Mrs. Mark Stershic

People's Counsel for Baltimore County 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

June 30, 1998

NOTICE OF DELIBERATION

This case having been heard by the Board of Appeals on June 30, 1998, the following date and time has been assigned to this matter for deliberation:

JONATHAN L. THOMPSON, ET UX CASE NO. 98-23-A

DATE AND TIME : Thursday, August 13, 1998 at 9:30 a.m.

LOCATION: Room 48, Basement, Old Courthouse

NOTE: CLOSING BRIEFS ARE DUE FROM COUNSEL ON WEDNESDAY, JULY 22, 1998.

Original and 3 copies)

Kathleen C. Bianco Administrator

cc: Counsel for Appellants /Petitioners : David M. Meadows, Esquire
Appellants /Petitioners : Mr. & Mrs. Jonathan L. Thompson

F. Xavier Spiegel Ralph Jordan

Mr. and Mrs. Mark Stershic

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

COPIED: L.W.B.



То:		Arnold L. Jablon
From: -		R. Bruce Seeley 1955/99
Subject:		Zoning Item #23
		4913 Jenkins Lane
		Zoning Advisory Committee Meeting of: <u>August 11, 1997</u>
		Department of Environmental Protection and Resource Management has no comments on the e-referenced zoning item.
	of the	Department of Environmental Protection and Resource Management requests an extension for the review e above-referenced zoning item to determine the extent to which environmental regulations apply e site.
<u>X</u> _	•	artment of Environmental Protection and Resource Management offers the following comments on the e-referenced zoning item:
_	<u>X</u> _	Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
		Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code).
_		Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections

26-436 through 26-461, and other Sections, of the Baltimore County Code).

Date: August 13, 1997

Attach original petition

GP:DL:sp

jablon.doc



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 8.7-97

Item No.

023

J C M

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,

Ponald Burns, Chief

Engineering Access Permits

Division

LG

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 11, 1997

Department of Permits & Development

Management

Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 11, 1997

Item Nos. 020, 021, 022, 023, 025, 026, 027, 028, 029, 030, & 033

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

RWB:HJO:jrb

cc: File



9

Office of the Fire Marshal 700 East Joppa Road Towson, Maryland 21286-5500 (410)887-4880

DATE: 10/07/36

Arnord Jaclen, Sirettor
Zoning Administration and Development Management
Baltimore County Office Pauloing
Towson, MD 21204
MAIL STOP-1105

PC: Property Juner: See delow

Location: DIETRIBUTION MEETING OF August 4, 1997

Itam No.: BEE BELOW Zoning Agenda:

Sen lemen:

Pursuant to your request, the referenced price ty has been surveyed by the Bureau and the comments below are applicable and required to be carrected or incorporated into the timal plant for the property.

8. The Fire Marchal's Difice has no comments at this time. IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

020, 021, 012, 023, 025, 026, 027, 018, 029. 030, 031. and 033

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office. PHONE 887-4851, MS-1102F

10: Tile

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 15, 1997

FROM: Arnold F. "Pat" Keller, III, Director

Office of Planning

SUBJECT: Zoning Advisory Petitions

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

Item Nos. 23, 42, 43, 46, 47, 48, 49, 50, and 51

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at (401) 887-3495.

Prepared by:

Division Chief:

AFK/JL

BALTIMORE COUNTY, MARYLAND Inter-Office Correspondence

DATE: January 15, 1999

TO: Charles L. Marks, Chairman

Board of Appeals

FROM: James H. Thompson

Code Inspections and Enforcement

RE: Case No. 98-23A

4913 Jenkins Lane Thompson -Petitioner

A review of the code enforcement records does not indicate any active violation case against this property. Therefore, if you wish to grant this individual's request, we certainly have no objections.

JHT/hek

c: Jonathan Thompson, 4913 Jenkins Lane, Baldwin, MD 21013

IN RE: * BEFORE THE

PETITION FOR VARIANCE * BOARD OF APPEALS

W/S SWEET AIR ROAD, 650' N. OF * OF

CARROLL MANOR ROAD * BALTIMORE COUNTY

(4913 Jenkins Lane) *

6th COUNCILMAN DISTRICT * CASE NO. 98-23 A

JONATHAN L. THOMPSON, et ux.

Petitioner *

ENTRANCE OF APPEARANCE

Please enter the appearance of David M. Meadows, Esquire, and Moore, Carney, Ryan & Lattanzi, L.L.C., on behalf of the Petitioners, Jonathan L. Thompson, et ux.

David M. Meadows

Moore, Carney, Ryan & Lattanzi, L.L.C. 4111 E. Joppa Avenue, Suite 201

Baltimore, Maryland 21236

(410) 529-4600

Attorneys for Petitioners



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

January 12, 1999

Jonathan Thompson 4913 Jenkins Lane Baldwin, MD 21013

Dear Mr. Thompson:

RE: 4913 Jenkins Lane, Zoning Case #98-23-A, 10th Election District

Pursuant to your letter of December 28, 1998 regarding a spirit and intent determination for the above referenced zoning case, specifically, whether or not you will be permitted to move the subject shed deeper into your lot as depicted on your red-lined plan, please be advised as follows.

Regarding the proper way to measure the height of the shed for zoning purposes, I have enclosed a copy of page 1-8 of the Policy Manual which illustrates measuring from the highest <u>natural</u> grade to the highest point of the structure. Fifteen feet between these two points will satisfy the maximum height requirement of Section 400.3 of the <u>Baltimore County Zoning Regulations</u> (BCZR). However, whether or not you will be permitted to move the shed to the proposed location will be a determination for the Board of Appeals, particularly in consideration of the protestants that appeared and the fact that Mr. Kotroko denied <u>all</u> the requested relief when the issue was before him. In consideration of the above, I believe that it would be inappropriate for this office to make the requested determination. My advice is to contact the Board of Appeals at 410-887-3180 for the appropriate procedure to present your issue for "reconsideration". You may wish to seek legal counsel to further advise you on this issue.

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

JCM:cjs

Enclosure

c: Zoning case #98-23-A

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: L. Stahl

DATE: July 22, 1998

M. Worrall

H. Buchheister

FROM: Kathi

SUBJECT: Case No. 98-23-A /Jonathan L. Thompson -Petitioner

The subject matter is scheduled for deliberation on Thursday, August 13, 1998, at 9:30 a.m. As requested by the Board at the conclusion of the hearing on June 30, 1998, the following documents have been filed, copies of which are provided herewith for each panel member's review:

- 1. Closing Brief filed by Mark and Mary Stershic.
- 2. Memorandum in Support of Petitioner's Petition for Variance filed by Jonathan Thompson, Petitioner.

A copy of the Notice of Deliberation was forwarded to you on June 30th. Should you have any questions regarding the above, or need any additional information, please call me.

kathi

Attachments

Jue Japan

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: September 29, 1999 TO:

Permits & Development Management

Charlotte E. Radcliffe U FROM:

SUBJECT: Closed File:

98-23-A /Jonathan L. Thompson, et ux

Since no further appeal was taken from the Board's Opinion dated November 5, 1998, and the 30-day appellate period has expired, we are hereby closing the file and returning same herewith.

Attachment (File No. 98-23-A)





Baltimore County Department of Permits and Development Management

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

ABOUT YOUR ADMINISTRATIVE VARIANCE

Legal Owner(s): Johnathan L. Thompson & Van T. Bui-Thompson

CASE NUMBER: 98-23-A

4913 Jenkins Lane

W/S Sweet Air Road, 650' N of Carroll Manor Road

10th Election District - 6th Councilmanic District

Post by Date: 8/3/97 Closing Date: 8/18/97

Contact made with this office regarding the status of this case should reference the case number and be directed to 887-3391. This notice serves as a refresher regarding the administrative process.

- 1) The Zoning Notice sign must be visible on the property under petition on or before the "Post by Date" noted above. It should remain there until after the closing date.
- 2) The "Closing Date" noted above, is the deadline for a neighbor to file a formal request for a public hearing.
- 3) After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. He/She may (a) grant the requested relief, (b) deny the requested relief, or (c) Order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days) as to whether or not your petition has been granted, denied, or will go to public hearing.
- In cases that must go to a public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), notification of same will be forwarded to you. The sign on the property must be changed giving notice of the hearing's date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign, must be forwarded to this office.

PLEASE UNDERSTAND THAT ON THE CLOSING DATE, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

Arnold Jablon Director

cc: Jonathan L. Thompson & Van T. Bui-Thompson



Printed with Soybean Ink on Recycled Paper





Baltimore County Department of Permits and Development Management

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

November 6, 1997

COUNTY BOARD OF ALE

Mr. and Mrs. Mark Stershic 4909 Sweet Air Road Baldwin, MD 21013

Variance
W/S Sweet Air Road, 650'
N of Carroll Manor Road
(4913 Jenkins Lane)
10th Election District
6th Councilmanic District
Jonathan L. Thompson, et
ux - Petitioners

Case No. 98-23-A

Dear Mr. and Mrs. Stershic:

Please be advised that an appeal of the above-referenced case was filed in this office on November 5, 1997 by Jonathan L. Thompson. 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.

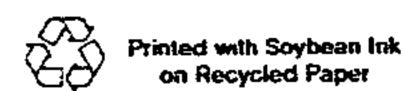
Sincerely,

ARNOLD JABLON

Director

AJ:rye

c: People's Counsel



Petition for Administrative Variance W/S Sweet Air Road, 650' N of Carroll Manor Road (4913 Jenkins Lane)

Jonathan L. Thompson, et ux - Petitioners

Case No. 98-23-A

Petition for Administrative Variance (+ AFFIDANIT)

Description of Property

Reacest for a Public Hearing filed by Mark Starnic 8/25/97

Leartificate of Posting

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:

1 - Plat to Accompany Petition for Zoning Variance

2 - Eleven Letters in Support of the Petitioner

3 - Eight Photographs

4 - Letter of Support from Cindy Lane

5 - Photograph of View from Property Line

6 - One Photograph

✓8A-B - Two Photographs

9 - Three Photographs
10 - Resume for F. Xavier Spiegel

Protestants' Exhibits: 1 - Ten Photographs

Letter from Jonathan Thompson

Letter plus Enclosures from Jonathan Thompson to Timothy Kotroco, Deputy Zoning Commissioner dated October 9, 1997

Letter from Scott D. Thompson to Timothy Kotroco, Deputy Zoning Commissioner dated October 10, 1997

✓Deputy Zoning Commissioner's Order dated October 10, 1997 (Denied)

Notice of Appeal received on November 5, 1997 from Jonathan L. Thompson

c: Mr. and Mrs. Jonathan L. Thompson, 4913 Jenkins Lane, Baldwin, Maryland 21013

Mr. and Mrs. Mark Stershic, 4909 Sweet Air Road, Baldwin, MD 21013 People's Counsel of Baltimore County, M.S. 2010 Timothy Kotroco, Deputy Zoning Commissioner Arnold Jablon, Director of PDM

Newton A. Williams, Esquire NOLAN, PLUMHOFF & WILLIAMS, CHTRD. Suite 700, Nottingham Centre 502 Washington Avenue Tourson, MD 21204-4528

F. Xavier Spiegel 3122 Parktowne Road Baltimore, MD 21234 (appeared at Z.C. hearing in support of Petition)

Ralph Jordan 2245 Carroll Mill Road Phoenix MD 21131 (appeared at Z.C. hearing on behalf of Petition)

Counsel for Petitioner:

David M. Meadows, Esquire MOORE, CARNEY, RYAN & LATTANZI, L.L.C. 4111 E. Joppa Road, Suite 201 Baltimore, MD 21236

Case No. 98-23-A

VAR -To permit an accessory structure with height of 20' to be located in front yard ilo maximum permitted 15' height and rear yard location for 16'x16'x20' shed.

10/10/97 -D.Z.C.'s Order in which Petition for Variance was DENIED.

12/29/97 -Notice of Assignment for hearing scheduled for Wednesday, May 20, 1998 at 10:00 a.m. sent to following:

Mr. & Mrs. Jonathan L. Thompson
Newton A. Williams, Esquire
F. Xavier Spiegel
Ralph Jordan
Mr. and Mrs. Mark Stershic
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

- 5/01/98 -Letter from Mr. Thompson, Petitioner, requesting postponement of 5/20/98 hearing; consulted engineer who assisted in finding counsel to represent Mr. Thompson before Board (no entry of appearance at this time -schedule conflict w/5/20/98 hearing date); also exploring other options.
- 5/05/98 -Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, June 30, 1998 at 10:00 a.m.
- 6/30/98 -Entry of Appearance filed by David M. Meadows, Esquire, on behalf of Jonathan Thompson, Petitioner /Appellant.
 - Hearing concluded as to testimony and evidence; closing briefs due from counsel 7/22/98; deliberation scheduled for Thursday, August 13, 1998 at 9:30 a.m.; Notice of Deliberation sent this date to parties and copies to panel (L.W.B.)
- 7/10/98 -Closing Brief filed by Mark and Mary Stershic.
- 7/22/98 -Memorandum in Support of Petitioner's Petition for Variance filed by Jonathan Thompson.
 - Copies to Board L.W.B
- 8/13/98 -Deliberation concluded; variance as to location granted; as to height denied; order to be issued; appellate period to run from date of written Order. (L.W.B.)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF: Jonathan L. Thompson, et ux

Case No. 98-23-A

DATE: Thursday, August 13, 1998

BOARD / PANEL : Lawrence M. Stahl (LMS)

Margaret Worrall (MW)
Harry E. Buchheister, Jr. (HEB)

SECRETARY: Kathleen C. Bianco

Administrator

PURPOSE: To deliberate Case No. 98-23-A /Petition for Variance

/Jonathan L. Thompson, et ux; hearing held June 30, 1998.

LMS: Good morning, everyone. We are here in Case No. 98-23-A.

Open deliberation is required by statute and law.

HEB: This case is similar to at least two appeals in the past in which I was involved; what constitutes front and rear yards of property; one property questions water front property in which owner determined water front was rear; other was property served by circular drive.

In this matter, we have a residence with no vehicular access to Sweet Air Road but rather Jenkins Lane; front of house on Jenkins Lane; main entrance to house.

Of subject property, 1.5 acres for locating home was reduced measurably by utility easement, wetlands, septic system location. Testimony received indicated it was unique; all others had driveways on Sweet Air Road; but septic system led to location of this dwelling; access to Jenkins Lane.

Petitioner's contention that Jenkins Lane side of dwelling as location for accessory structure would be problem to neighbors; landscaping problems; vehicular access; general difficulties. Because of environmental constraints, no reasonable site to locate structure consistent to letter of zoning regulations.

Meets Cromwell v. Ward as to location of shed.

Unfortunately, Petitioner, rather flagrantly it appears to me, went ahead without a permit; received support from 11 neighbors after partially constructed; did not approach immediate neighbors who did not approve.

Petitioner seeks relief to permit structure of 20' in lieu of allowed 15' (400.3 of BCZR). Defends height by reference to other structures nearby; asserted by protestant that other structures are barns. My inclination is that the 20' height should be denied.

Deliberation /Case No. 98-23-A Jonathan L. Thompson, et ux

MW: Harry has adequately set out the situation; 1.59 acre property in Baldwin, Sweet Air section of the County; improved with dwelling and accessory shed which is the subject of dispute.

Owners are requesting variances as to location and to the height of the shed. We are here to determine variance and not a violation situation as to whether or not a permit was obtained. Question of safety of structure is really one in my mind that has to be determined by building inspectors; not by this Board. Private covenants - not before this Board.

Although zoned RC, to be farm must meet additional standards. Every residence on RC 2 property is not a farm. Here on variance request and must meet standards.

I also went through very much the same process; constraints as to location; I would agree with Harry that environmental constraints are such that access must be from Jenkins Lane; agree with Harry as to the granting for this location.

However, I have a problem as to the second variance for 20' height in lieu of 15' limitation. This is not a farm property; nothing to do with agriculture. I simply did not hear testimony that the uniqueness of this property forced owners to go up rather than out; problem of owners own making. Therefore, I would like to hear from someone else as to whether I missed anything. But I would be inclined to grant the variance as to the location but would not be inclined to grant the variance for height.

LMS: Let's summarize points discussed; I essentially agree with you, Margaret, that based on one of two theories, the property is unique; given testimony, it is a difference between this lot and others in the development; requirements of Cromwell.

Does have uniqueness to property; access different; building envelope different; requirements imposed by environmental issues different. Would rather go with the unique argument than decide which is front and which is back. Meets spirit of law. In terms of position, would lean toward grant of variance because of uniqueness.

Other issues raise problems: covenants through circuit court; as to safety, other than letter from protestant, no testimony or evidence as to safety. Inspector will go through this. Have real problem as to height. Whereas location is imposed, height is by choice. Height, square footage and usage are matters of choice; no imposed conditions.

Testimony and evidence clearly show uniqueness; practical difficulty as to location. However, the height needs to come down. Permit was issued for, I believe, 16'.

Deliberation /Case No. 98-23-A Jonathan L. Thompson, et ux

MW: Law says 15'. I don't see how it could be 16'.

LMS: I would rule that the height needs to be determined by Baltimore County statute as required in the permit to be issued for the property.

If 15' is the law, then that is what it should be. In terms of requesting variance for the existing height, I see no justification.

MW: I think that's where we are as well, aren't we, Harry? I wanted to hear what everyone else said.

HEB: That would not be left to the judgement of the inspector?

MW: No. The law says 15'. I think it's simply a matter of denying the variance.

LMS: If we were to grant for more than the code required - would have to show uniqueness for that height.

The variance will be granted as to the location. From the requirements relative to the position of the structure.

No evidence in the record to justify height; we will deny the variance as to height.

There will be a written opinion issued by this Board. There will be a right of appeal for 30 days from the date of that opinion, and not from today; appeal taken to the Circuit Court for Baltimore County, and is an appeal on the record.

NOTE:

These minutes serve to indicate that public deliberation in this matter was held this date and a final decision rendered in which the requested variance relief was granted as to location of shed; and denied as to height of shed.

Respectfully submitted,

Kathleen C. Bianco

Administrator



Scott D. Thompson

Landscapes, LLC.

Designer • Contractor • Nurseryman

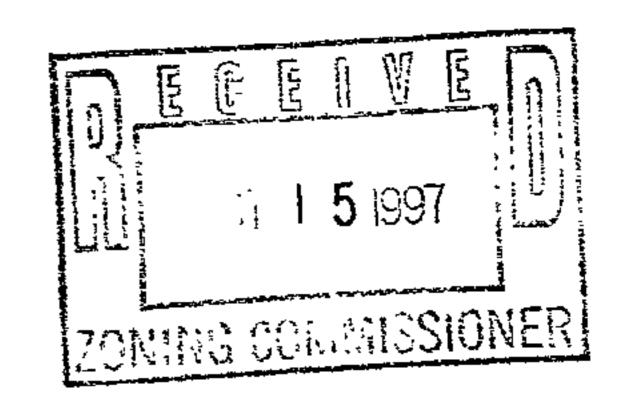
1302 North Bend Roaa

1302 North Bend Road Jarrettsville, MD 21084 (410) 557-7904 MHIC #23341



10/10/97

Dinothy Kotroco
Deputy Zaring Commissioner
Courty Courts Building
No. 401 Bosley Averal.
Towar MD. 21204



Dear Mr. Commissioner:

2 am writing about zoning case #

In recipt of letter sent to me from Jarathan Bronger dated 10/9/97. After reviewing the letter of am in complete accordance and agreement with the information outlined in this letter I hope this note with help his case. Respectfully



State of Maryland
With Price

file copy

July 8, 1998

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

To Whom It May Concern:

As requested, the following is a summary of our grievance against Mr. Jonathon Thompson, who has constructed a $16' \times 16' \times 20'$ shed in the front yard of his house without permits or inspections and in violation of zoning regulations and covenants. Mr. Thompson retroactively requested a permit for a $16' \times 16' \times 15'$ shed, misleading the Baltimore County Office of Permits, as a 20' high shed had already been built.

The shed, as seen in pictures presented during the hearing, did not appear to have adequate support.

He perjured himself by stating, under oath, that his property is zoned agricultural, when it is in fact zoned RC-2. Being zoned RC-2 invalidates his contention that neighboring barns on agriculturally zoned land can be used as a comparison to his shed.

He has further perjured himself by stating under oath that the pond on his property already existed when he purchased the land, when in fact he had the pond constructed, not once, but twice, using heavy construction equipment.

The covenant, which was given to property buyers at settlement, states that no outbuilding shall be constructed without approval. The covenant is valid for 30 years from April 25, 1978 (Liber 5880, page 417, section 7, paragraph A).

Baltimore County zoning regulations states that accessory buildings in residential zones (other than farm buildings) shall be located in the rear yard (Baltimore County zoning regulation 400.1). The regulation also states that the height of accessory buildings shall not exceed 15 feet (Baltimore County zoning regulation 400.3).

In order to obtain a variance it is necessary to prove that complying with regulations would be unnecessarily burdensome. We do not feel that compliance with the zoning law would be unnecessarily burdensome to Mr. Thompson and he has not demonstrated the need for an oversized shed.

In addition to being oversized, we feel that the shed is unsafe, as it was built without foundations and footings and is supported several feet in the air by stacked cinderblock and shims.

Mr. Thompson built the shed without securing permits or inspections by county officials to secure compliance with building code safety regulations. The structure is not of general benefit to the neighborhood. It does not add value to the property and in our opinion is an unsafe eyesore. Mr. Thompson has never approached us to see if a compromise is possible. Instead of contacting us in an attempt to negotiate the position and height of the shed, he circulated a petition to other neighbors to show support for his violations. In fact, the neighbors closest to him were never petitioned and do not approve.

Sweet Air Farms is a beautiful tract of land in Baltimore County and we feel that Mr. Thompson's construction violates the aesthetics of the area. Thank you for your consideration.

Sincerely,

Mark & Mary Stershic 4909 Sweet Air Road

Baldwin, Maryland 21013

Mark & Mary Stessler

(410) 592-3266

CC: Mr. Jonathon Thompson

August 12, 1997

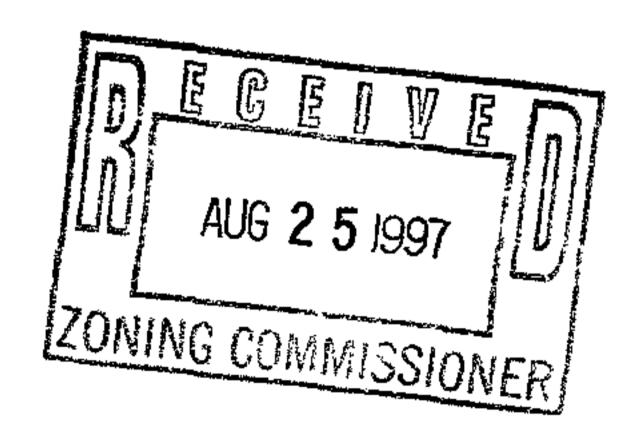
Baltimore County Zoning Review Lawrence Schmidt 111 W. Chesapeake Ave Room # 111 Towson, Maryland 21204

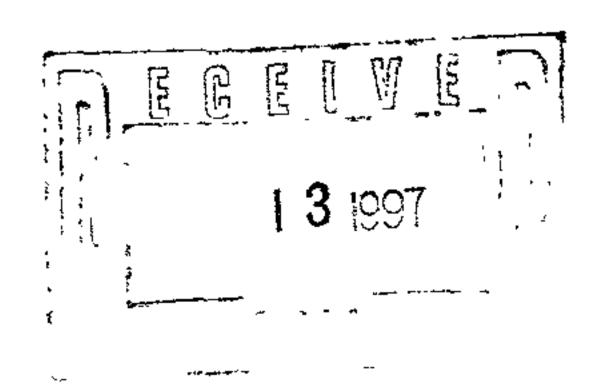
Dear Mr. Schmidt,

Per the sign listed at 4913 Jenkins Lane (Actually according to tax records 4913 Sweet Air Road) I am requesting a public hearing for the zoning variance record # 98A-23A. I do not feel that the structure that has already been completed belongs in the property owners' front yard. Enclosed is a check for \$40 as my assurance to appear before the zoning board. Please advise me as to the date of the hearing.

Mark & Starchic

Mark S. Stershic 4909 Sweet Air Road Baldwin, Maryland 21013 410-592-3266





Baltimore County Board of Appeals Rm 49, Old Courthouse Towson, MD 21204

Dear Ms. Bianco,

I am writing to request a postponement in zoning case #98-23A.

A couple of months ago I contacted a surveyor, who put me in contact with an engineer. The engineer helped me to find an attorney, who advised me that I needed a postponement both because of a scheduling conflict and to allow time to explore other options. Please don't hesitate to call me if you have any questions.

Thanks very much for your help.

Sincerely,

Jonathan L. Thompson

4913 Jenkins Lane Baldwin, MD 21013

(410) 592-8727

cc: Mark & Mary Stershic

Me. Shampaan nor available around mid-August

8/13 -> 8/23

Baltimore County Zoning Review Lawrence Schmidt 111 W. Chesapeake Ave Room # 111 Towson, Maryland 21204

Dear Mr. Schmidt,

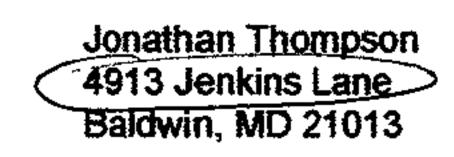
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Mach Stusten

Mark S. Stershic 4909 Sweet Air Road Baldwin, Maryland 21013 410-592-3266 AUG 2 5 1997

97 NOV 14 AM 9: 25

13



December 30, 1998

Board of Appeals of Baltimore County Towson, MD 21204

To whom it may concern:

I am writing regarding zoning case # 98-23-A.

The decision in that case is dated 11/5/98, and allows me sixty days to come into compliance.

Thirty days were lost to the Appeal period.

Since then, I have lost still more time due to the holidays and my father's recent relapse into leukemia. He was diagnosed just before Christmas and admitted to Hopkins on 12/28.

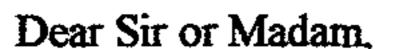
I can't comply before the deadline.

Therefore, I respectfully request an extension.

Sincerety,

Jonathan Thompson

(410) 592-8727



I would like to make a few brief points.

Before I started planning my new shed, I knew nothing about permits or zoning regulations. I spoke with a Baltimore County contractor about the possible necessity of a building permit. He explained that I didn't need one as long as the shed was bolted to its foundation rather than nailed down. The bolts would make the shed a portable, temporary structure. I know better now, but I believed him to be an authority on Baltimore County regulations and was confident he knew what he was talking about.

The site and configuration of my shed are ideal, both for practical (construction) reasons and for maintaining the spirit and intent of zoning regulations. The people with the best views of the shed(across Sweet Air Road) all agree with me, as do the folks in the homes behind mine and my neighbor to the west(Bill Lane, whose name was used fraudulently by a complainant).

The only people I could find who are unhappy about my shed are the Stershics, who said they were worried that lightning or a tornado might make it fall on their children. Mark finally said, "I guess I just don't like it there because it's not supposed to be there." If I had a variance, my shed would be okay with them, but since I don't have one, they don't really want me to be able to get a variance. I'm puzzled by their stance, but believe the Stershics will be pacified when a variance is granted.

If there is anything at all I can clear up for you, PLEASE don't hesitate to call me at (410) 592-8727. I will be out of town for a while, but I'm eager to offer a prompt response to any messages.

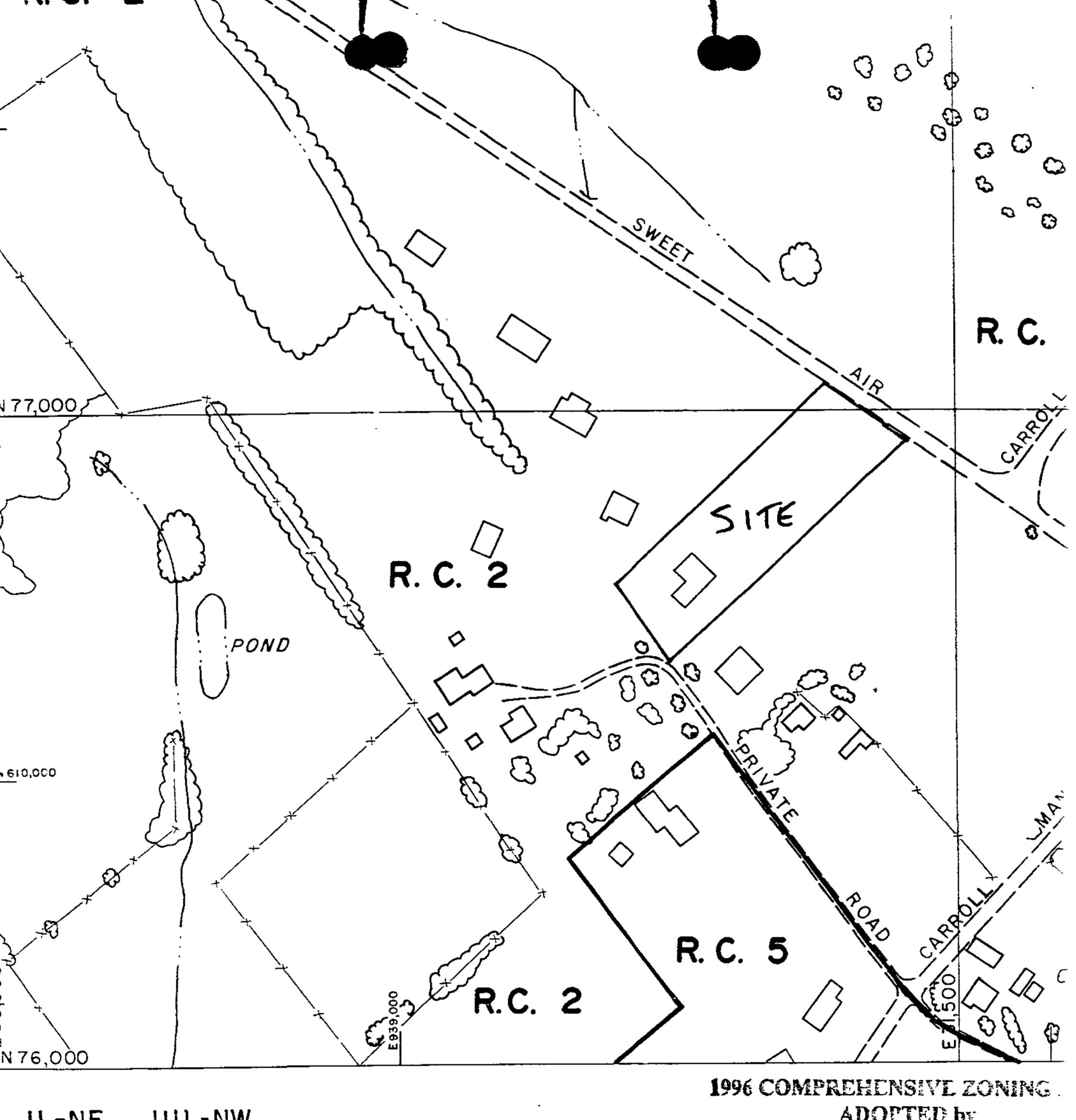
Thank you very much for your help and your consideration of my petition for a variance.

(/-2/~-

Jonathan Thompson

4913 Jenkins Lane

Baldwin, Md 21013



U-NE

UU-NW

EE -SE VV -SW

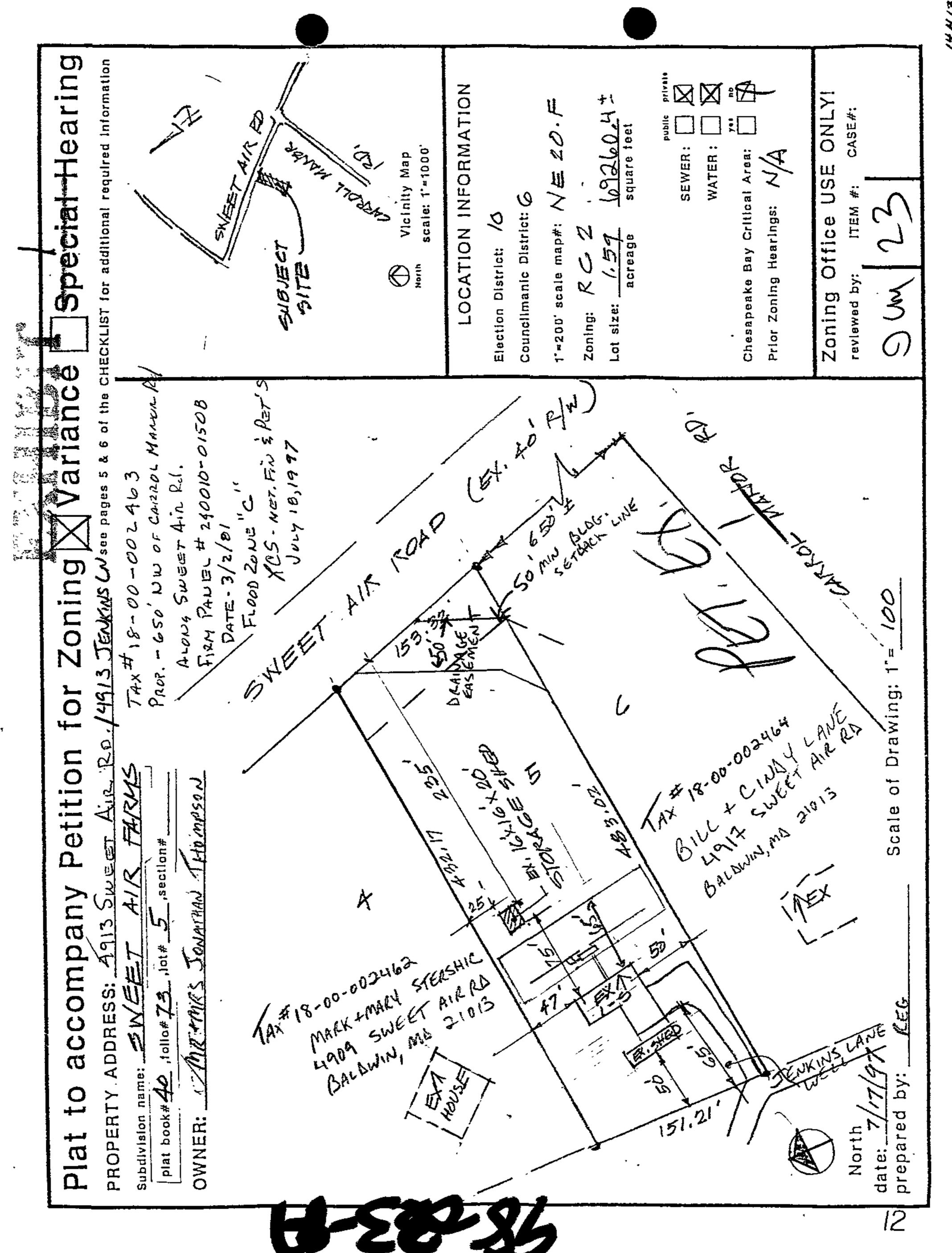
THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

ADOPTED by

THE BALTIMORE COUNTY COU OCTOBER 8, 1996

Bills Nos. 129-90, 136-90, 101-90, 101-90, 131-9

Chairman, County Councily



THIS DECLARATION, Made this 25th day of April in the year 1978, by Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., witnesseth:

WHEREAS, the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., are the owners of all that parcel of land located in the Tenth Election District of Baltimore County, State of Maryland, located on Sweet Air Road, containing 10.466 acres of land, more or less, by Deed dated October 7, 1976 and recorded among the Land Records of Baltimore County in Liber.

E.H.K.Jr., No. 5684 folio 098 from Thomas G. Clark and Walter Leo Clark; and

WHEREAS the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., have caused the aforesaid tract of land to be subdivided into residential building lots known as Sweet Air Farms, the plats of such development being recorded among the Land Records of Baltimore County, in Plat Book E:H.K.Jr., No. 40 folio 73; and

WHEREAS the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., desire to assure a uniform plan and scheme of development for the residential community known as Sweet Air Farms and for that purpose adopts the covenants and restrictions hereinafter set forth, it being the intention of the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., to insure the best use and the most appropriate development and improvement of each building site, and to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve, as far as practicable, the natural beauty of the said tract; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of the property; to encourage and secure the erection of attractive homes therein with appropriate locations on building sites; to secure and maintain

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er: Same Signature Acclara

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A HUBER, P.A.
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FAIRVIEW PEDETIAL BLC
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ELLICOTT CITY, MD,
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proper building setbacks from streets and adequate free spaces between structures; and in general, to provide for a high type and quality of improvement in said development and thereby enhance the value of investments made by purchasers of building sites therein and improve the quality of life of the residents thereof.

NOW, THEREFORE, THIS DECLARATION WITNESSETH, that in consideration of the premises, the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., do hereby declare and establish upon the tract hereinabove referred to and the development known as Sweet Air Farms, the following protective restrictions, covenants and reservations, to be enforced and observed by the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., its successors and assigns, to wit:

- I. BUILDINGS PERMITTED:
- (a) The land included in the said tract shall be used for private residential purposes only and no building shall be erected or maintained thereon except private dwelling houses designed for occupation by not more than one family.
- (b) No part of the tract covered by this Declaration shall be used at any time for semi-detached houses, duplex houses or other types of multiple housing units or apartment houses, it being the intention of the Declarants that all of the land contained within the said tract shall be used for single family dwellings and no other purposes, except such purposes as may be specifically reserved hereunder in other preceeding or succeeding sections of this Declaration.
- (c) Nothing herein shall be construed as preventing the erection of private, non-commercial garages providing the same are constructed as an integral part of the dwelling.
- (d) Any part of any dwelling house now or hereafter erected on said tract may, with the written consent of the Declarants, be used as a physician's office or dentist's office or lawyer's office for the treatment of patients and for the practice of such professions, provided that the physician, dentist

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B HUBER, P.A.
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AIRVIEW FEDERAL BLDG,
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ELLICOTT CITY, MD,
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or lawyer using such office resides in the same dwelling in which such office is located.

II. SETBACKS:

- (a) No building, or any part thereof, shall be erected on any lot nearer to the front lot line as shown as the recorded Plat of Sweet Air Farms, herein referred to, nor nearer to any side lot line than is permitted by applicable law or zoning regulation.
- (b) An encroachment into the aforesaid setback areas of not more than twelve (12) inches by open porches, eaves, bay windows and steps, shall not constitute a violation of this restriction or of the setback restriction shown on the Plat of Sweet Air Farms herein referred to or re-subdivision or any amendments thereof.

III. SUBDIVISION:

- (a) No lot as shown on the Plat of Sweet Air Farms shall be resubdivided so as to permit more than one dwelling.
 - IV. APPROVAL OF PLANS, ETC.:
- (a) No building, fence, wall or other structures shall be commenced, erected, placed or altered in structure or color on any lot until the plans and specifications, including color scheme and a grading plan showing the location of the structure, have been approved in writing by the said parties of the first part. The said parties of the first part shall have the right to refuse to approve any such plans or specifications or grading and location plan which are not suitable or desirable, in its opinion, for aesthetic or other reasons; and in so passing upon such plans plans, specifications and grading and location plan, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure or the roadway, as planned, on the outlook from the adjacent or neighboring property. No fence or wall shall be erected, placed or altered on any lot

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nearer to any street than the minimum set back line as provided hereinafter in paragraph 3. Where two adjacent houses are of different distances from the street, no fence or wall between these two lots shall be closer to the street than the front corner of the house most distant from the street. Fences where permitted shall not exceed forty-two (42) inches in height and shall not impede surface drainage. The restriction in this paragraph shall not apply to enclosures of open patios or open garden courts and shall not apply to retaining walls required by topography, which enclosures and retaining walls shall require the written consent and approval of the said parties of the first part as to location, size, height, materials used and type of construction.

- V. EASEMENTS, ETC.:
- (a) Easments as shown on the recorded plat of Sweet Air Farms are hereby reserved to within Declarants, their personal representatives and assigns, for the purpose of the construction, installation and maintainence of sanitary and storm water sewers, poles for electric power and telephone lines, and for other utilities, both above and below the surface of the land, and they further reserve said easements for the purpose of effecting proper surface drainage of the lots in such manner as in the opinion of the Declarants, their personal representatives and assigns, shall be proper.
- (b) Declarants reserve the right to convey to any public authority and to any corporation having the power to acquire the same, as a dedication to public use, that area between the existing right of way line of Sweet Air Road and the proposed widening line as shown on the aforesaid Plat of Sweet Air Farms, as well as the revertible slope easement as shown on the aforesaid Plat and the drainage easement as shown on the aforesaid Plat of Sweet Air Farms, recorded as aforesaid.

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- VI. OFFENSIVE ACTIVITIES, ETC.:
- (a) No noxious or offensive trade or activity shall be carried on upon a lot; nor shall anything be done thereon which

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may be or become a nuisance or annoyance to the neighborhood.

- (b) No chickens, ducks, geese or other types or kind of fowl, nor horses, ponies, cows, or livestock of any kind whatsoever, may be kept, bred or maintained on any lot or lots or in any dwelling or building erected thereon, nor shall any owner or occupant be permitted to breed domestic animals such as cats, dogs, etc.
- view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale, or signs used by a builder to advertise the property during the construction and sales period, not to exceed one hundred square feet for each such sign.

VII. DURATION, VIOLATIONS, ETC.:

- (a) These covenants and restrictions shall run and bind the land and shall be binding upon all of the parties and all of the persons claiming under them until thirty (30) years from the date hereof, at time said covenants shall automatically extend for successive periods of ten (10) years, unless, by a vote of the majority of the then owners of the lots in fee simple or the leasehold estate therein (excluding mortgagees under mortgages, note holders and Trustees under Deeds of Trust on said properties or parts thereof, and also excluding owners of annual rents who have a reversionary interest therein, if any), it shall be agreed to change as herein specified shall be made by the recording among the Land Records of Baltimore County sixty days prior to the expiration of the said thirty (30) years or any ten (10) year renewal period.
- (b) In the event of the violation or attempted violation of the within covenants and restrictions, it shall be lawful for the Declarants or any other person or persons owning any lot on the Plat of Sweet Air Farms subject to these restrictions, or such persons who shall have been granted the right of enforcement hereunder, to prosecute any proceedings at law or in equity, against the person or persons violating or attempting to violate any such covenant or restriction to require the restoration of

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& HUBER, P.A.
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ELLIGOTT CITY, MD,
21043

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said property to be in conformity with these covenants and restrictions and/or recover damages or other dues for such violation.

- (c) The invalidation of any one of these covenants by judgment or Court Decree shall in no way affect the validity of any of the other provisions contained herein, and the remainder thereof shall remain in full force and effect.
- (d) Any and all of the rights and powers (including discretionary powers and rights) herein reserved by or conferred upon the said Declarants herein may be assigned or transferred by the said Declarants to any one or more corporations or associations agreeing to accept them. Until such assignment, any discretionary powers or rights shall be exercised by the within Declarants and their judgment shall be final and conclusive in such discretionary matters. Upon the recordation of an appropriate assignment of the rights and powers among the Land Records of Baltimore County the grantee or grantees of such rights and powers shall thereupon and thereafter have the right to exercise and perform all the rights and powers reserved by or conferred upon the said Declarants by this Declaration. The within Declarants reserve the right, so long as they have any interest in the aforesiad Sweet Air Farms, to waive such portions of the protective covenants and restrictions herein set forth, except as to Items Nos. I and II, as they may deem for the best interest of the development. Upon the Assignment of the rights and powers herein referred to, the within Declarants shall have no further rights, powers or duties hereunder,

VIII. If any provisions of the covenants and restrictions herein contained or the application of such provision to any person or circumstances shall be held invalid, the remainder of these covenants and restrictions, or the application of the provisions thereof to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

IX. The provisions herein contained shall run with the land and shall inure to the benefit of and be enforceable by the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber,

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ELLICOTT CITY, MO.
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Jr., their successors and assigns or the Owner of any leasehold or fee simple interest (not including the reversionary, mortgages or beneficial interest) of any lot, their respective personal representatives, successors and assigns and the failure by the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., or any lot owner to enforce any restriction, condition or covenant herein contained shall not in any event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occuring prior or subsequent thereto.

x. It is hereby expressly provided that nothing herein contained shall constitute a dedication of any street shown on any Plat of Bird Hill Estates, the title to all such streets designated on any said Plat being hereby expressly reserved to the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., nor shall any deed from Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., hereafter made conveying any part of the land shown and included in any such Plat be held to convey the title to or to dedicate the bed of, any street except where expressly so conveyed or dedicated in the deed.

The said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., hereby gives and grants to each owner hereafter acquiring title to any lot, the right to such use of the streets shown on any such plat as may be necessary for reasonable and convenient ingress and egress to and from the lot belonging to such owner, but, subject to the uses by said Owners, the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., expressly reserve to themselves the title to both the surface and beds of all such streets and the right to use and occupy the same and further reserves the right to grade, change the grade of, regrade, change the location of, partially close or close any street or private lane shown on any said Plat, but no change of location or closing shall be made that will materially interfere with the said right of convenient ingress and egress

IN WITNESS whereof the said Herbert J. Arnold, Richard R. Beauchemin and George L. Huber, Jr., have caused this Declaration to be executed by affixing their hands and seals.

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ARNOLD, BEAUCHERIN
A HUBER, P.A.
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PAIRVIEW FEDERAL BLDG.
PIST BALTO, NAT'L PIKE
ELLICOTT CITY; MD.
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The within Declaration is executed by Edgar A. Kalb and Estella M. Kalb, his wife, the holders of a Mortgage from Herbert J. Arnold, et al, dated October 7, 1976 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr., No. 5684 folio 101, solely for the purpose of subordinating the same to the within Declaration of Restrictions and for no other purpose whatsoever, retaining the lien of said Mortgage on all of the property therein described.

WITNESS:	$\mathcal{L}_{\mathcal{L}}$	
	HERRERT J. ARNOLD	(SEAL)
Major a. Thomps	RICHARD R. BEAUCHEMIN	(SEAL)
•	GEORGE L. HUBER, JR.	(SEAL)
•	EDGAR A KALB	(SEAL)
Maion a. Mong	Son Estella M. KALB	(SEAL)
		•

STATE OF MARYLAND, COUNTY OF Kulling TO WIT:

I HEREBY CERTIFY that on this 25 day of 1978, before me, the subscriber, a Notary Public of the State of Maryland in and for County, personally appeared Herbert J. Arnold, and he acknowledged the aforegoing Declaration to be his act for the uses and purposes therein contained and as 15 gigned and sealed the same in my presence.

AS WITNESS my hand and Notarial Seal.

HUDER, NA. DIE CI'My Commission Expires:

Notary Public

INTER PEDERAL BLOG.

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STATE OF MARYLAND, COUNTY OF

, TO WIT:

I HEREBY CERTIFY that on this day of 1978, before me, the subscriber, a Notary Public of the State of Maryland in and for County, personally appeared Richard R. Beauchemin, and he acknowledged the aforegoing Declaration to be his act for the uses and purposes therein contained and as signed and sealed the same in my presence.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

July 1, 1978

Motary Public

•

LIBER 5880 PAGE 421

STATE OF MARYLAND, COUNTY OF Kultimow, TO WIT:

I HEREBY CERTIFY that on this day of april 1978, before me, the subscriber, a Notary Public of the State of Maryland in and for County, personally appeared George L. Huber, Jr., and he acknowledged the aforegoing Declaration to be his act for the uses and purposes therein contained and as such signed and sealed the same in my presence.

AS WITNESS my hand and Notarial Seal.

OF CHILL MY Commission Expires:

Notary Public

1:44 1, 1970

RCEATS :

STATE OF MARYLAND, COUNTY OF PORTLOSSING, TO WIT:

I HEREBY CERTIFY that on this to the day of the State of 1978, before me, the subscribed, a Notary Public of the State of Maryland in and for County, personally appeared Edgar A. Kalb and Estella M. Kalb, his wife and they acknowledged the aforegoing Declaration to be their act for the uses and purposes therein contained and as such signed and sealed the same in my presence.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

Notary Public

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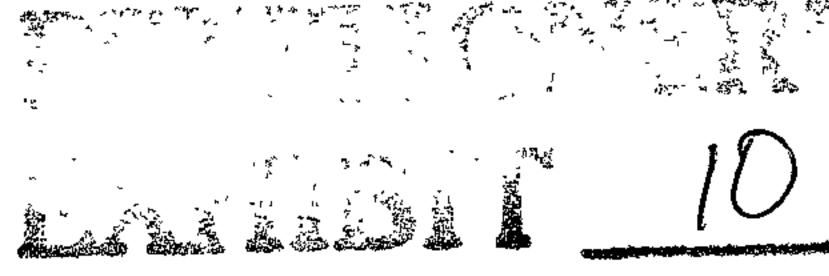
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ELLICOTT CITY, MD

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Rec'd for record MAY 3 1978 at A A Par Elmer, H. Kahline, Jr., Clerk
Mail to Mindd December Mulet
Receipt No., C 5 32 00



F. Xavier Spiegel 3122 Parktowne Road Baltimore, MD 21234 (410) 661-2192

Personal

Born February 20, 1939 - Baltimore, MD

Education

University of Illinois, Urbana, Illinois M.S. Metallurgical Engineering, 1963
Loyola College, Baltimore, Maryland
B.S. Physics/Engineering, 1961

Professional Affiliations

American Association of Mining, Metallurgical and Petroleum Engineers
American Society of Engineering Educators
American Society for Metals (Executive Committee 1975 - present; past Chapter Chairman)
Institute of Transportation Engineers
Maryland Academy of Sciences (Advisory Board 1970-present; Scientific Council 1982-89)
Maryland Institute for Metals
Sigma Pi Sigma
President, Maryland Acad. of Sciences, 1985-89
Trustee, Maryland Acad. of Sciences, 1985-89

Grants Awarded

A.E.C. - Radiation Health Physics - 1964
N.S.F. - Undergraduate Laboratory Dev. - 1969
Center for Materials Research - Contract ISIS
1981-83
SREB Computer Facilities 1967-71
Westinghouse Electric Corporation 1982-84
Bureau of Mines 1982-85

Publications

- "Ternary G & E Silicides and Germanides of Transition Elements", F. X. Spiegel, D. Bardos and Paul Beck, Tran. AIME, Vol. 227, June 1963, 575-579.
- "Beta Manganese Phases in Ternary Systems of Transition Elements with Silicon, Germanium or Tin', D.I. Bardos, R.K. Malik, F. X. Spiegel and Paul A. Beck, Trans. AIME, Vol. 236, January 1966, 40-47.
- "On the Measurement of the Coefficient of Restitution of the 'Superball'", F. X. Spiegel and B. J. Weigman, Am. Jour. Ph. 34, 719 (1967).

- 4 "A Falling Sphere in a Viscous, Rotating Liquid", B. J. Weigman and F. X. Spiegel, Am. Jour. Ph. 35 678 (1967).
- 5 "A Statistical Analysis of Periodic Motion" F. X. Spiegel and B. J. Weigman, Am. Jour. Ph. 35 678 (1967).
- 6 "The Lecture Laboratory", F. X. Spiegel and B. J. Weigman, Am. Jour. Ph. 39 706 (June 1971).
- 7 "Advanced Experimentation for Sophomores" F. X. Spiegel, Am. Jour. Ph. 39 702 (June 1971).
- 8 "The Lecture Laboratory", F. X. Spiegel and B. J. Weigman, The Physics Teacher 9 392-293 (October 1971).
- "Laboratory Notes and Procedures", F. Xavier Spiegel, Bernard Weigman, and Helene F. Perry, 1973.
- "The Senior Thesis Design Projects: An Innovative Approach Combining Traditional Design with Real-World Communication Experience", F.X. Spiegel and G.S. Kohne, Int. J. Appl. Engng. Ed., Vol. 4, No. 1., pp. 17-22, 1988.
- "Crystal Models for the Beginning Student", F. Xavier Spiegel, NIST Special Publication 822, November 1990 31-44.
- "An Automated System For Creep Testing,"
 F. Xavier Spiegel and Bernard Weigman, NASA
 Conference Publication 3151, November 1991,
 251-262.
- "Five Experiments In Materials Science For Less Than \$10.00, F. Xavier Spiegel, NASA Conference Publication 3151 November 1991, 263-265.
- "A Systems Approach To Local Problems," F. Xavier Spiegel, Responsible Change for the 21st Century, August 12-21, 1991, Palm Springs, California, USA, National Institute for Curriculum Development, Enschede, The Netherlands

- "An Automated DATA Collection System for a Charpy Impact Tester", Bernard Weigman and F. Xavier Spiegel, NASA Conference Publication 3201,371-376
- "Experiments in Materials Science from Household Items", F. Xavier Spiegel, NASA Conference Publication 3201, 377-384
- 'Crystal Models for the Beginning Student'', F. Xavier Spiegel, Journal of Materials Education, Vol.14, Nos 5&6 1992, 375-388
- Continuous Undirectional Fiber Reinforced Composites, Fabrication and Testing, 'W.D. Wampler, F.X.Spiegel, H.A.West, Journal of Materials Education, Vol. 14, No.4 1992, 293-302, Also, NASA Conference Publication 3259, 43-50
- 19 `Digital Data Collection For the Charpy Impact Tester'', G.S. Kohne & F.X. Spiegel, Journal of Materials Education, Vol. 15, 1&2 1993, 91-100
- 20 `Design & Construction of a Tensile Tester for the Testing of Simple Composites', Mark A. Borst & F.X.Spiegel, NASA Conference Publication 3259, 51-100
- 21 "Inexpensive Materials Science Demonstrations", F.Xavier Spiegel, NASA Conference Publication 3259,119-124
- 22 `An Automated Digital Data Collection and Analysis System for the Charpy Impact Tester'', Glenn S. Kohne & F. Xavier Spiegel, NASA Conference Publication 3259, 469-480
- Crystal Models for the Beginning Student: An Extension to Diamond Cubic'', Harvey A. West & F. Xavier Spiegel, Journal of Materials Education, Vol. 16, No. 4, 1994, also NASA Conference Publication 3304, August 1995
- 24 `Demonstrations in Materials Science From the Candy Shop'', F. Xavier Spiegel, 1995 Annual Conference Proceedings ASEE, 588-590, June 25-28,1995, Anaheim, California, Also, NASA Conference Publication 3304,187-192
- 25 `Factorial Design: An Eight Factor Experiment Using Paper Helicopters'', Michael

Kozma & F. Xavier Spiegel NASA Conference Publication 3330, May 1996, 131-148

- There Are Good Vibrations and Not So Good Vibrations', F. Xavier Spiegel NASA Conference Publication 3330, May 1996, 317-322
- 27 ``A Novel Approach To Hardness Testing'', F. Xavier Spiegel & Harvey a. West, NASA Conference Publication 3330, May 1996, 323-328
- 28 `Incorporating Materials Science Projects in a Capstone Design Course'', F. Xavier Spiegel & Paul J. Coyne, Jr. ASEE Conference Proceedings on CD ROM, Washington, D.C., June 1996

Pending Publications

``Factorial Design: The Efficient Technique for the Design of Experiments'', Ann M. Nickle & F. Xavier Spiegel, accepted, 8th IOSTE Synposium, Edmonton Alberta, Canada, August 17-23 1996

Accepted Update New: 96, Los Alamos, New Mexico, October 1996, `Update New, the Experience of one College'', F. Xavier Spiegel, `Elasticity, Plasticity, and Anelaticity: Demonstrations'', F. Xavier Spiegel, `A Magnetic Dilemma: A Case Study'', F. Xavier Spiegel

"Common Techniques for the Identification and Analysis of Unknown Metals and Alloys", Glenn S. Kohne & F. Xavier Spiegel, submitted to Journal of Materials Education

Proprietary Documents for the Westinghouse Electric Corporation

"The MATE Survey of Air Force Test Equipment", F. Xavier Spiegel, 1979.

"Review of MATE Study Procedures," F. Xavier Spiegel, 1979.

"Systems Study of a MATE Demonstration Module for Air Force Facilities," F. Xavier Spiegel, 1980.

"Human Factors and the MATE System," F. Xavier Spiegel, 1980.

Other Proprietary Documents

"Instruments for the Sorting and Identification of Scrap Metal," F. Xavier Spiegel and E. Horowitz, ISIS Publication, January 1982.

"Helping Students Write Well," Barbara E. Fassler Walvoord, Contributor, pp. 99-103.

"Basic Guidelines for Spark Testing," F. Xavier Spiegel and John Ross, ISIS Publication, 1982.

"The Identification and Analysis of Metals and Alloys", F. Xavier Spiegel, ISIS Publication, 1982.

"Spark Testing Data on Thirty-two Selected Alloys," F. Xavier Spiegel and John Ross, ISIS Publication, 1982.

"The ISIS Spark Test Reference Chart", F. Xavier Spiegel and John Ross, ISIS Publication, 1982.

Additional Information

Visiting Scientist for Maryland Academy of Sciences - 1963 -

Consultant to Dr. Werner Spitz, Medical Examiner, 1970

Director of off campus research 1963 - Director of Internship Program for Science Majors, 1970 - 86

Member of special committee to Study Computer Facilities

Research at the University of Illinois in the field of transition elements and x-ray diffraction.

Research at Loyola in the field of Thermionic Emission, Field Emission, Photoelectric Emission, Aerosol Physics and the use of closed circuit TV for undergraduate experimentation.

Research at the Johns Hopkins University in the areas of X-Ray Fluorescence, Optical Emission Spectroscopy, Acoustic Emission, Von Karman Critical Velocity, Creep Characteristics of Rope, Thermal Analysis Thermography, Hardness Testing, Instrumentation.

Research at the David Taylor Research and Development Laboratory, Annapolis, Md. in the area of Composite Fabrication.

Certificate of Achievement from Army ROTC 1970, 1975, 1980.

Selected to Outstanding Educators of America, 1972

Selected to Engineers of Distinction 1973 Co-director of Computer Facilities 1973-75 Alumnus of the Year 1974 - Loyola College Chairman - Dept. of Physics, Engineering and Computer Science, Loyola College 1973-1980.

Invited to Participate in the First International Congress on the Use of Case Studies in Engineering 1979.

Invited to Observe Polaris Missile Shot 1977 Research Scientist - The Johns Hopkins Center for Materials Research 1981 - 1983.

Fellow-by-Courtesy, The Whiting School of Engineering 1983 -

Participated in BACWAC 1981 - 1982 Associate Professor of Engineering - Loyola National Educators' Workshop Committee 1990-International Organization for Science and Technology Education 1990 -

Nominated and elected to Order of the Engineer 1995

Who's Who in Science and Engineering, 1996 Chair, Materials Division ASEE 1995-1996, 1996-1997 Nominated & Elected

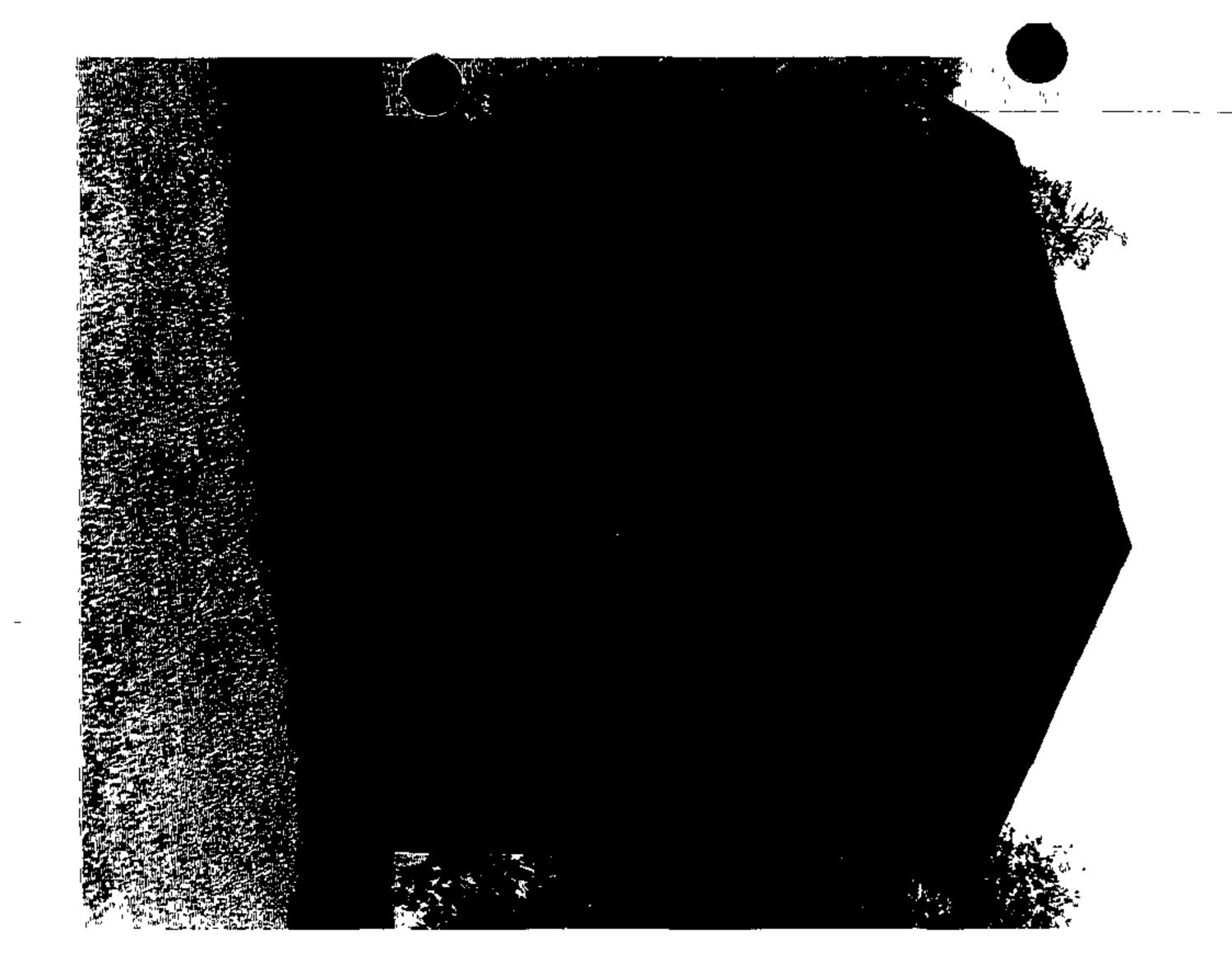


View from done. Property #5

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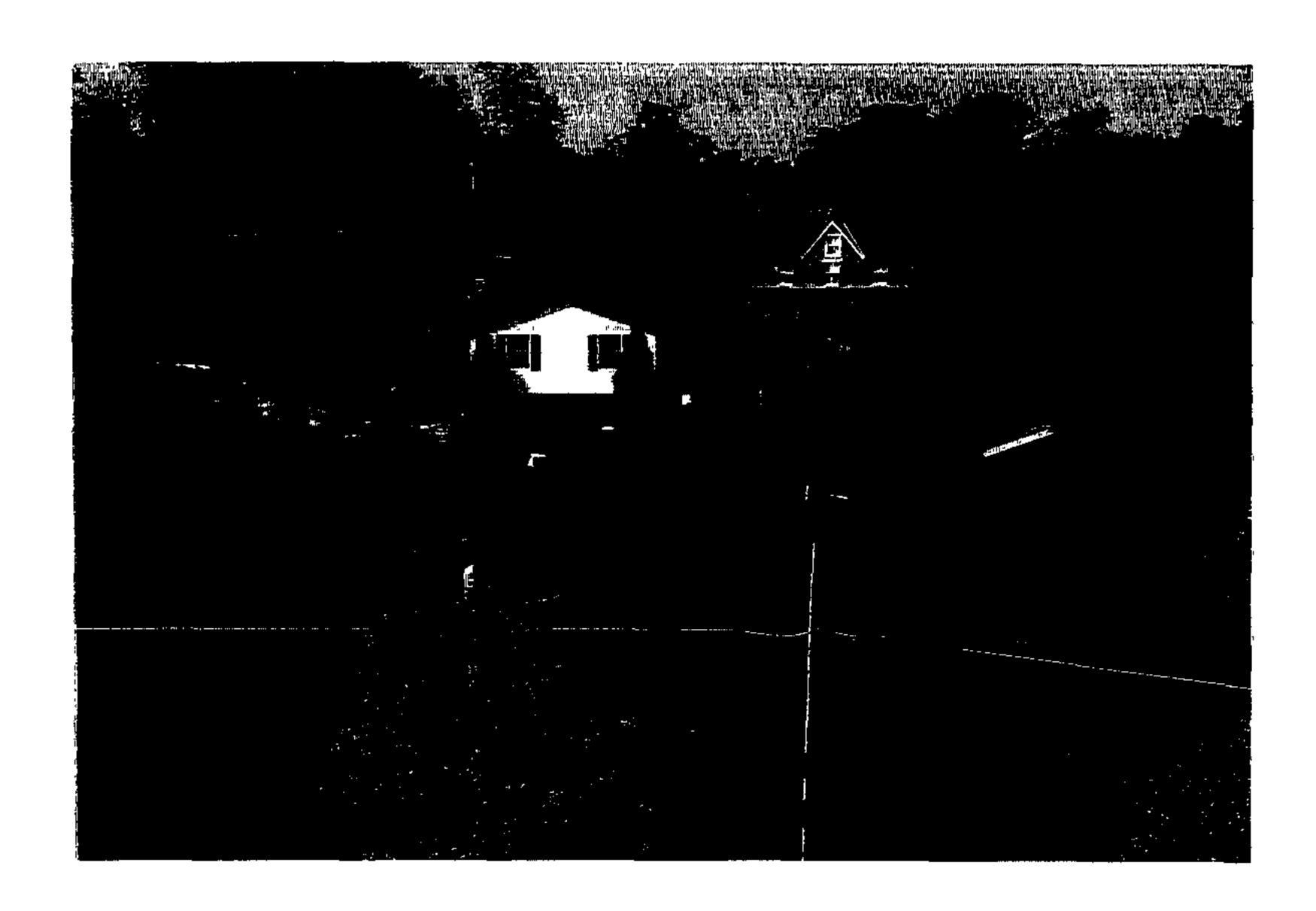


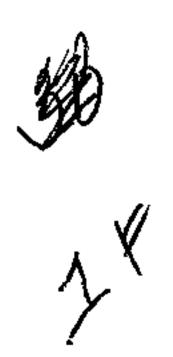


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Rolestant's Exhibit 1 Altagraph 98-23-A

