IN RE: PETITION FOR VARIANCE
S/S Townsend Road, 850' NW
Centerline Mace Avenue
15<sup>th</sup> Election District
5<sup>th</sup> Councilmanic District
(343 Townsend Road)

Mark Fuchslager Petitioner

- \* BEFORE THE
- DEPUTY ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* CASE NO. 00-156-A

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Mark Fuchslager. The subject property is located at 343 Townsend Road in the Essex area of Baltimore County and is zoned D.R.5.5. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a lot width of 50 ft. in lieu of the required 55 ft. and to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft. In addition, the Petitioner is requesting approval of an undersized lot per Section 304 of the Baltimore County Zoning Regulations. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence at Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the variance request were Mark Fuchslager, property owner and Vince Moskunas, professional engineer with M & H Development Engineers, Inc. There were no protestants in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request is an unimproved lot comprising a front width of 50 ft. and a depth of 200 ft. The subject property is located at 343 Townsend Road. It is also known as Lot No. 19 of the subdivision known as Back River Highlands. Mr. Fuchslager is interested in constructing a new single family dwelling on the subject property. In order to proceed with the construction of a new home on the property, a variance request is necessary. Mr. Fuchslager indicated that he has

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talked with the neighbors in the area about his plans to construct a dwelling on the property. All the neighbors support him in his request to build this new house and are happy to see a new home coming to the community. Furthermore, all of the homes located along Townsend Road are constructed on lots that are 50 ft. wide, which was the standard lot width at the time this subdivision was approved.

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:

- 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, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this day of December, 1999, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a lot width of 50 ft. in lieu of the required 55 ft. and to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft., and the request for approval of an undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

TIMOTHY M. KOTROCO

**DEPUTY ZONING COMMISSIONER** 

FOR BALTIMORE COUNTY

TMK:raj





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

Fax: 410-887-3468

December 2, 1999

Mr. Mark Fuchslager 2118 Riverview Road Baltimore, Maryland 21221

> Re: Petition for Variance Case No. 00-156-A

> > Property: 343 Townsend Road

Dear Mr. Fuchslager:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy M. Kotroco

Deputy Zoning Commissioner

Muthy 16 traco

TMK:raj Enclosure

c: Mr. Vince Moskunas
 M & H Development Engineers, Inc.
 200 E. Joppa Road, Room 101
 Towson, Maryland 21286



# Petition for Variance

I/We do solemnly declare and affirm, under the penalties of

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legain 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) 1802. 3.C. 1 to permit a lot width of 50 ft. in lieu of the required 55 ft.; Section 303.1 to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft.; to approve an undersized 10+ per Section 304, and to approve any other variances deemed heccessery by the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate

- hardship or practical difficulty)
  1. Lot size exists on recorded plat book No. 4, folio 64 dating back to 1913.
  - 2. Contiguous ownership of only 100 feet width.
  - 3. Zoning allows two (2) lots for area of property.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

	perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s):
	Mark Fuchslager
Name - Type or Print	Name - Type or Print
Signature	Signaturé
Address Telephone No.	Name - Type or Print
City State Zip Code	Signature 2118 Riverview Poad (410)574-0008 Telephone No
Attorney For Petitioner:	Address Raltimad ITD 21221
Name - Type or Print	City State Zip Code
A l	Representative to be Contacted:  M&H DEVELOPMENT GO BEV MACHE
Signature	MAH DEVELOPMENT GO BEVVAACHE ENGINEERS INC. MOSKUNAS
Gompany	Name AM.
· 2	Address ROOM 101 Telephone No.
Agiress Telephone No.	TOWSON. MD 21286
City State Zip Code	City (410)828-9060 State (W Zip Code
	OFFICE USE ONLY
· · · · · · · · · · · · · · · · · · ·	ESTIMATED LENGTH OF HEARING
Case No	UNAVAILABLE FOR HEARING Reviewed By Date
290 9115198	

### ZONING DESCRIPTION FOR #343 TOWNSEND ROAD

Beginning at a point on the south side of Townsend Road which is 50 feet wide at the distance of 850 feet northwest of Mace Avenue which is 50 feet wide. Being Lot #19, Block "F" in the subdivision of "Back River Highlands" as recorded in Baltimore County Plat Book #4, folio 64, containing 20,000 S.F. Also known as #343 Townsend Road and located in the 15th. Election District, 5th. Councilmanic District.



J. Tilghman Downey, Jr.

M&H DEVELOPMENT ENGINEERS, INC. 200 E. JOPPA ROAD ROOM 101 TOWSON, MD 21286 (410)828-9060

0-0156-A

## **CERTIFICATE OF PUBLICATION**

TOWSON, MD,
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 ofsuccessive
weeks, the first publication appearing on/1 /9,
THE JEFFERSONIAN,
LEGAL ADVERTISING

The Zoning Commissioner of Baltoner County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in <u>Towson</u>, <u>Maryland</u> on the property identified herein as follows:

Case: #60-156-A...
343 Towsend Road 850' NW centerline Mace Avenue

Case: #80-156-A:
343 Towsend Road, 850' NW centerline Mace Avenue
15th Election District. 5th Councilmanic District
Legal Owner(s) Mark Fuchslager
Variance: to permit a lot width of 50' feet in lieu of the required 55 feet, to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft.; to approve an undersized lot and to approve any other variances deemed necessary by the Zoning Commissioner.

Hearing: Wednesday, December 1, 1999 at 9:00 a.m. in Room 407, County Courts Bidg., 401 Bosley Avanue.

LAWRENCE E SCHMIDT
Zoning Gommissioner for Baltimore County.

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/11/674 Nov. 9

BALTIMORE COUNTY, MARYLAND OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No. 073223	PAID RECEIPT PROCESS ACTUAL TIME
DATE 10 /13/99 ACCOUNT	12001-6150	14/18/1999 10/18/1999 09:29:05 REG 4503 CASHIER PAES PEN BRANER 3 Dent 5 528 ZUNING VERIFICATION
AMOUNT \$	50,00	Receipt # 102722 - OTLH CR NO. 073223
FROM: My. Fuchsla	ger.	Recot Jet 50.00 100.00 CK .00 Ch Baltimore County, Maryland
FOR: (66 0/0 Z)	ining variance	
a crukersize	o 1st	
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTON	MER Itary #156	CASHIER'S VALIDATION

#### CERTIFICATE OF POSTING

RE: CASE # 00-156-A
PETITIONER/DEVELOPER
[Mark Fuchslager]
DATE OF Hearing
[Dec. 1, 1999]

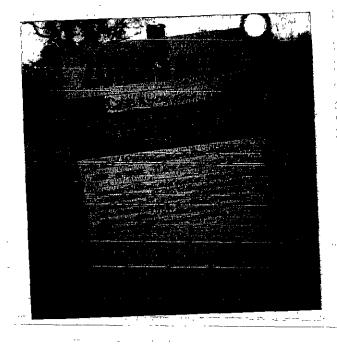
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Ave. Towson, Maryland 21204

ATTENTION: MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 343 Townsend Road Baltimore, Maryland 21221\_\_\_

The sign(s) were posted on	11-15-9	9		
	(Month, Day	, Year		



Sincerely,
(Signature of Sign Poster & Date)
Thomas P. Ogle, Sr
325 Nicholson Road
Baltimore, Maryland 21221
(410)-687-8405 (Telephone Number)

## DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

## ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

## OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

RE: PETITION FOR VARIANCE
343 Townsend Road, S/S Townsend Rd,
850' NW c/I Mace Ave
15th Election District, 5th Councilmanic

Legal Owner: Mark Fuchslager Petitioner(s)

- BEFORE THE
- \* ZONING COMMISSIONER
- \* FOR
- \* BALTIMORE COUNTY
- \* Case No. 00-156-A

\* \* \* \* \* \* \* \* \* \* \*

#### **ENTRY OF APPEARANCE**

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

arole S. Demelio

May Timmerman

**CAROLE S. DEMILIO** 

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 1999 a copy of the foregoing Entry of Appearance was mailed to Bernadette Moskumas, M & H Development Eng., Inc., 200 E. Joppa Road, Room 101, Towson, MD 21286, representative for Petitioners.

PETER MAX ZIMMERMAN

TO: PATUXENT PUBLISHING COMPANY
November 9, 1999 Issue - Jeffersonian

Please forward billing to:

Mr. Mark Fuchslager 2118 Riverview Road Baltimore, MD 21221 410-574-0008

#### NOTICE OF ZONING 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: 00-156-A
343 Towsend Road
S/S Towsend Road, 850' NW centerline Mace Avenue
15th Election District - 5th Councilmanic District
Legal Owner(s): Mark Fuchslager

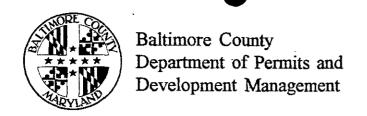
<u>VARIANCE:</u> to permit a lot width of 50 feet in lieu of the required 55 feet; to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft.; to approve an undersized lot and to approve any other variances deemed necessary by the Zoning Commissioner.

HEARING: WEDNESDAY, DECEMBER 1, 1999 at 9:00 A.M. IN ROOM 407 COUNTY COURTS
BUILDING, 401 BOSLEY AVENUE.

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Director's Office County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 410-887-3353 Fax: 410-887-5708

November 3, 1999

#### NOTICE OF ZONING 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: 00-156-A

343 Towsend Road

S/S Towsend Road, 850' NW centerline Mace Avenue 15th Election District - 5th Councilmanic District

Legal Owner(s): Mark Fuchslager

<u>VARIANCE:</u> to permit a lot width of 50 feet in lieu of the required 55 feet; to permit a front yard setback of 30 ft. in lieu of the required front yard average of 40 ft.; to approve an undersized lot and to approve any other variances deemed necessary by the Zoning Commissioner.

HEARING: WEDNESDAY, DECEMBER 1, 1999 at 9:00 A.M. IN ROOM 407 COUNTY COURTS BUILDING, 401 BOSLEY AVENUE.

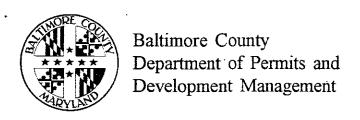
Arnold Jablon Director

cc:

Mark Fuchslager
M & H Development

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY NOVEMBER 16, 1999.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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

November 30, 1999

Ms. Bernadette Moskunas M & H Development Engineers, Inc. 200 E. Joppa Road, Rm 101 Towson, MD 21286

Dear Ms. Moskunas:

RE: 00-156-A, 343 Townsend Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on 10/18/99.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Sincerely,

W. Carl Richards, Jr. Zoning Supervisor

Zoning Review

WCR:rsj

**Enclosures** 

c: Mark Fuchslager





For You, For Baltimore County



Census 2000



### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: November 16, 1999

Department of Permits & Development

Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for November 8, 1999 Item Nos. 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166,

167, 168, 169 & 170

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comment.

RWB:HJO:cab

cc: File

ZAC11089.NOC

Sim 12/1

## BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

15

Date: November 12, 1999

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

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

Office of Planning

**SUBJECT:** Zoning Advisory Petitions

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

Item No(s): 155, 156, 160, and 179

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

AFK/JL

INTER-OFFICE CORRESPONDENCE RECOMMENDATION FORM Director, Office of lanning & Community Conservat TO: Permit Number Attn: Ervin McDaniel County Courts-Bidg, Rm 406 Case # 00-156-A 401 Bosley Av Towson, MD 21204 Amoid Jabion, Director, Department of Permits & Development Management FROM: Undersized Lots RE: Pursuant to Section 304.2(Baltimore County Zoning Regulations) effective June 25, 1992; this office is requesting recommendations and comments from the Office of Planning & Community Conservation prior to this office's approval of a dwelling permit. MINIMUM APPLICANT SUPPLIED INFORMATION: Me NO E JOANA 20,000 **Council District Election District** ROAD 850 test from HES W corner of **Tax Account Mumber** Ap 828-9060 2122 CHECKLIST OF MATERIALS: to be submitted for design review by the Office of Planning & Community Conservation Residential Processing Fee Paid Codes 030 & 080 (\$85) 1. This Recommendation Form (3 copies) 2. Permit Application 3. Site Plea Property (3 copies) Topo Map (available in Rm 206 C.O.B.) (2 copies) 4. Building Elevation Drawings 5. Photographs (piease label all photos clearly) Adjoining Buildings Surrounding Neighborhood TO BE FILLED IN BY THE OFFICE OF PLANNING & COMMENTTY CONSERVATION ONLY!! RECOMMENDATIONS/COMMENTS:

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

berton Director. Office of Planning & Community Conservation

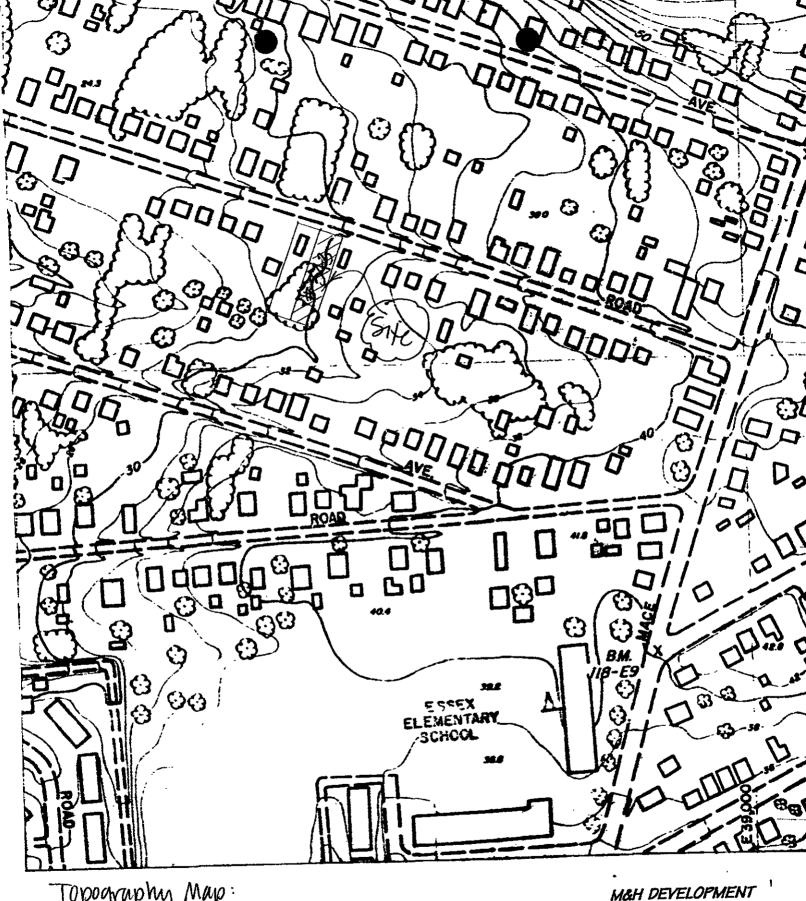
# FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2 DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT County Office Building

111 W. Chesapeake Avenue Towson, Maryland 21204

The application for your proposed Building Permit Application has been accepted
for filing by on
A sign indicating the proposed Building must be posted on the property for fifteen (15) days before a decision can be rendered. The cost of filing is \$50.00 and posting \$35.00; total \$85.00.
In the absence of a request for public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing.
*SUGGESTED POSTING DATE D (15 Days Before C)
DATE POSTED
HEARING REQUESTED-YESNODATE
CLOSING DAY (LAST DAY FOR HEARING DEMAND) C (B-3 Work Days)
TENTATIVE DECISION DATE B (A + 30 Days)
*Usually within 15 days of filing
CERTIFICATE OF POSTING
District
Location of property:
Posted by: Date of Posting: Signature
Number of Signs:



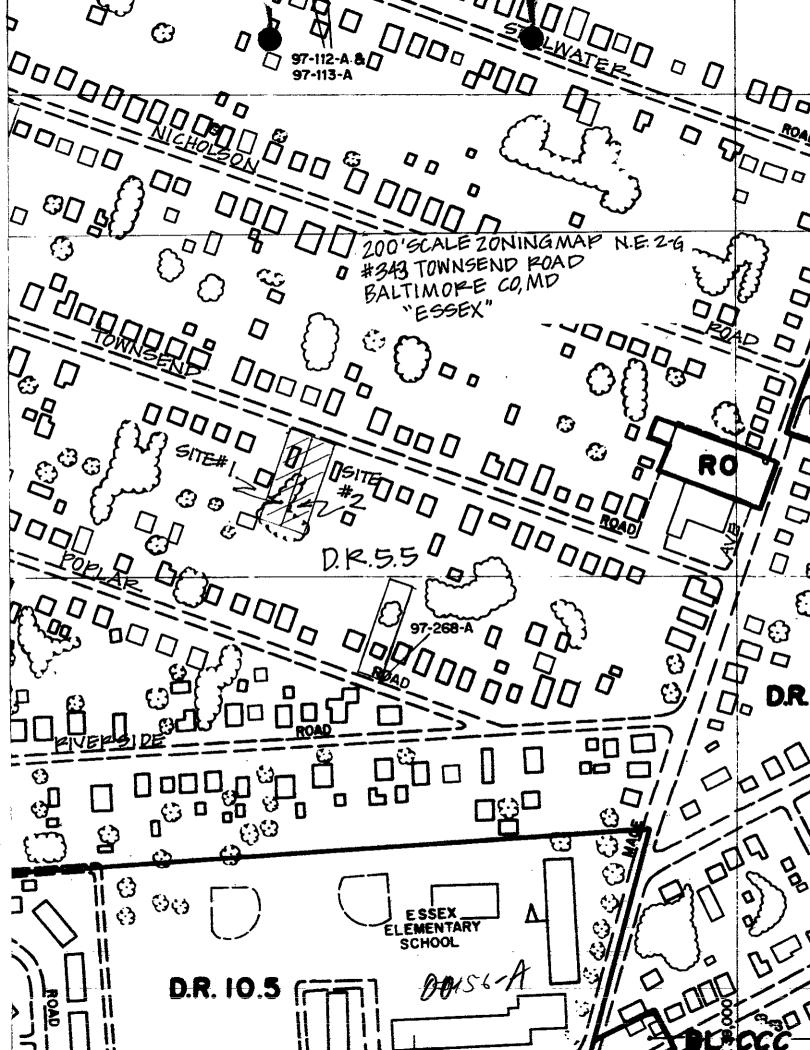
#343 Townsund Poad



Topography Map: Scall: 1"=200" #343 Townsand Poad Undersic lot application

M&H DEVELOPMENT ENGINEERS, INC. 200 E. JOPPA ROAD ROOM 101 TOWSON, MD 21286 (410)828-9060

00156-A



Baltimore County Zoning Commissioner Office of Planning Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204

Photographs #00-156-A

Printed with Soybean Ink

