

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

DONALD J. SCHMELZER

DOROTHEA M. SCHMELZER

1608 Burke Road

Baltimore, Maryland 21220

FOR JUDICIAL REVIEW OF THE DECISION OF THE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

Old Courthouse, Room 49

400 Washington Avenue

Towson, Maryland 21204

IN THE CASE OF:

DOROTHEA M. & DONALD J. SCHMELZER

(Legal Owners)

Case No. 00-455-A

For a Variance on Property Located on the N/s of Burke
Road, 930' SW of Bowleys Quarters Road

(1608 Burke Road)

15th Election District

5th Councilmanic District

ORDER

After review of the Memorandum of Petitioners Donald J. Schmelzer and Dorothea M. Schmelzer filed in the above-referenced case pursuant to the Petition for Review, and after presentation of oral argument on the aforesaid Petition for Review, and after review of the Opinion and Order of the County Board of Appeals for Baltimore County and the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner for Baltimore County in this case and based on the oral decision rendered on December 18, 2001, and findings as stated therein, it is hereby

ORDERED this 21st day of December, 2001, by the Circuit

FILED DEC 26 2001

mm

Court for Baltimore County that the Opinion and Order of the County Board of Appeals of Baltimore County in Board Case No. 00-455-A, dated June 13, 2001 be and the same is hereby REVERSED; and it is further

ORDERED that the Petitioners request for variance from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations to allow an addition with a side yard setback of 11.2 feet in lieu of the required 50 feet be and is hereby GRANTED.



LAWRENCE R. DANIELS, JUDGE

Please docket & file
& send copies

8/1/01

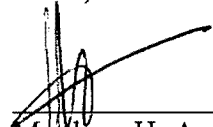
DONALD J. & DOROTHEA M. SCHMELZER * IN THE
Appellant * CIRCUIT COURT
v. * OF
MR. & MRS. ROY RACEY * BALTIMORE COUNTY
Appellee * CIVIL CASE NO. 3-C-01-6990
* ZONING CASE NO. 00-455-A
* 1608 BURKE ROAD

* * * * *

RESPONSE TO PETITION

Appellee, Mr. & Mrs. Roy Racey, by their attorneys, Matthew H. Azrael and Azrael, Gann & Franz, LLP oppose the Petition of Donald J. & Dorothea M. Schmelzer, and intend to participate in this action for judicial review.

AZRAEL, GANN & FRANZ, LLP

BY: 

Matthew H. Azrael
101 E. Chesapeake Avenue, Fifth Floor
Baltimore, MD 212986
(410) 821-6800

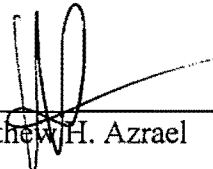
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of August, 2001, a copy of the foregoing Response to Petition was mailed, postage prepaid, first class, to the following:

John B. Gontrum, Esquire
814 Eastern Blvd.
Baltimore, MD 21221
Attorney for
Mr. & Mrs. Schmelzer

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

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



Matthew H. Azrael

F:\USERS\mb\MHA\Racey,Bill\Response to Petition.doc



AZRAEL GANN+FRANZ
ATTORNEYS AT LAW

EDWARD AZRAEL
JONATHAN A. AZRAEL
KEITH S. FRANZ
PAUL J. SCHWAR, III
JUDSON H. LIPOWITZ
SUSAN H. TERLEP
MATTHEW H. AZRAEL

H. DAVID GANN (1928-1983)

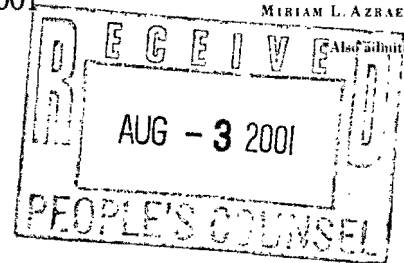
OF COUNSEL:

DANIEL J. DREGIER, JR., P.A.

MIRIAM L. AZRAEL, P.A.

Also admitted in DC

August 2, 2001



Clerk
Circuit Court for
Baltimore County
County Courts Building
401 Bosley Avenue
Baltimore, MD 21204-0754

RE: Response to Petition
Civil Case No. 3-C-01-6990

SCHMECZER

00-455-A

Dear Clerk:

Enclosed please find for filing a Response to Petition with regard to the above referenced matter.

Thank you for your assistance in this matter.

Very truly yours,

AZRAEL, GANN & FRANZ, LLP

Matthew Azrael

Matthew H. Azrael

JLB

MHA/jb
Enclosure

cc: Mr. & Mrs. Roy Racey
FAUSERS\Jmb\MHA\Racey,Bill\Clerk.Ltr.001.doc

7/20/01
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
DONALD J. SCHMELZER
DOROTHEA M. SCHMELZER
1608 Burke Road
Baltimore, Maryland 21220

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
No. 3-C-01-6990

IN THE MATTER OF
THE APPLICATION OF
DOROTHEA M. & DONALD J. SCHMELZER
FOR A VARIANCE ON PROPERTY LOCATED
ON THE NORTH SIDE BURKE ROAD, 930 -
FEET SOUTHWEST OF BOWLEYS QUARTERS
ROAD (1608 BURKE ROAD)

15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

CASE NO. 00-455-A

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(d) of the Maryland Rules of Procedure, the County Board of Appeals of Baltimore County has given notice by mail this date of the filing of the Petition for Judicial Review to every party to the proceeding before it; namely,

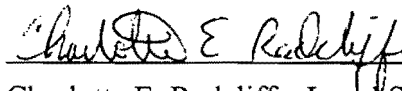
John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A.
814 Eastern Boulevard, Baltimore, MD 21221

Donald J. Schmelzer and Dorothea M. Schmelzer
1608 Burke Road, Baltimore, MD 21220

Mr. & Mrs. Roy Racey, 6606 Fairdel Avenue, Baltimore, MD 21206

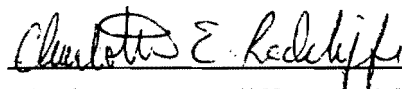
Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse,
Room 47, 400 Washington Avenue, Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Rm. 49-Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the aforementioned Notice has been mailed to: John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, *Counsel for Petitioners*; Donald J. Schmelzer and Dorothea M. Schmelzer, 1608 Burke Road, Baltimore, Maryland 21220, *Petitioners*; Mr. and Mrs. Roy Racey, 6606 Fairdel Avenue, Baltimore, MD 21206; and Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204; this 20th day of July, 2001.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

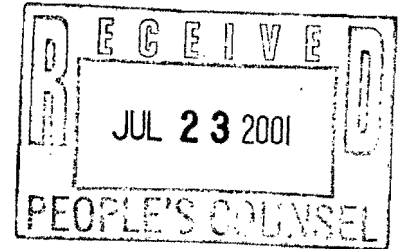


County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

CD
P/M

July 20, 2001



Mr. & Mrs. Roy Racey
6606 Fairdel Avenue
Baltimore, Maryland 21206

RE: Civil Action No. 3-C-01-6990
DONALD J. & DOROTHEA M. SCHMELZER
(Zoning Case No. 00-455-A)

Dear Mr. & Mrs. Racey:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 5, 2001, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-01-6990.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: John B. Gontrum, Esquire
Dorothea M. Schmelzer
Pat Keller /Planning Director
Lawrence E. Schmidt /ZC
People's Counsel for Baltimore County
Arnold Jablon, Director /PDM

6/13/01

IN THE MATTER OF
THE APPLICATION OF
DOROTHEA M. & DONALD J.
SCHMELZER -PETITIONERS FOR
A VARIANCE ON PROPERTY LOCATED
ON THE N/S BURKE ROAD, 930' SW OF
BOWLEYS QUARTERS ROAD
(1608 BURKE ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 00-455-A

* * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by the Protestants, Roy and Loretta Racey, resulting from a decision by the Deputy Zoning Commissioner to grant a Petition for Variance seeking relief from § 1A04.3.B.2 of the *Baltimore County Zoning Regulations* (BCZR) to allow an addition with a side yard setback of 11.2 feet in lieu of the required 50 feet. The Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law is dated June 30, 2000.

The subject property is located at 1608 Burke Road in the Bowleys Quarters section of Baltimore County, 15th Election District, 5th Councilmanic District. The property owned by the Petitioners, Donald and Dorothea Schmelzer, fronts on Galloway Creek.

The Appellants /Protestants, Mr. and Mrs. Racey, whose property is adjacent to the subject site, were represented by Matthew H. Azrael, Esquire.

The Petitioners, Mr. and Mrs. Schmelzer, owners of the subject site, represented themselves at this hearing, but noted to the Board that their attorney, John H. Dumler, Esquire, could not be in attendance this day but wished to remain as their counsel of record.

The single witness to testify at this hearing was the Petitioner, Donald Schmelzer, who appeared on his own behalf. Mr. Schmelzer testified that he had lived at 1608 Burke Road for 22

years and that he understood the need for building permits. He had gone forward with the desired construction, nevertheless, because of his father's health. His father had given the Schmelzers the money to build the small addition and wanted to see it accomplished before he died.

Further, Mr. Schmelzer said that in December 1999 he had explained the situation to the Raceys and asked if they had a problem with the construction. He indicated that they said that "they'd have to live with it," and only made a zoning complaint after the construction was completed in April 2000.

Upon receiving the violation notice from Baltimore County, the Petitioners paid their fine and received the necessary permits after the fact. They also applied for the required variance which was granted by the Deputy Zoning Commissioner.

The Petitioner explained that the existing house is only 21 feet wide and that the utility room addition is necessary because of his wife's medical condition, certified for the record by her doctor (Petitioners' Exhibit #1). He further opined that because the lots in the Bowleys Quarters area are so narrow, only 50 feet, many people need, and are routinely granted, variances to improve their properties. Mr. Schmelzer put into evidence a list and hand-drawn map signed by people in the area who might want to make changes in their own property, and therefore supported him in his variance request (Petitioners' Exhibits #2 and #3).

On cross-examination, attorney for the Appellants /Protestants, Mr. Azrael, asked Mr. Schmelzer to identify a surveyed Plat for Bowleys Quarters, which was introduced into evidence as Protestants' Exhibit #1. Mr. Azrael asked the Petitioner if all the lots faced the waterfront, if all the lots were 50 feet wide, and if all the lots are zoned R.C. 5. Mr. Schmelzer testified that all of the lots were the same.

Upon the close of the Petitioners' case, Mr. Azrael moved that the variance be denied on the basis that the Petitioners have not met their burden to show that this lot is unique under the standard set forth in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

Section 307 of the BCZR permits granting of a variance upon certain terms and conditions, which, in pertinent part in this case, allow a variance where special circumstances or conditions exist that are peculiar to the land that is the subject of the variance request, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

The burden to establish special circumstances or conditions was clarified by the Court of Special Appeals in *North v. St. Mary's County*, 99 Md.App. 502 (1994), when Judge Cathell stated:

An applicant for variance bears the burden of overcoming the assumption that the proposed use is unsuited. That is done, if at all, by satisfying fully the doctrines of the statute authorizing the variance.

Under the Court of Special Appeals decision in *Cromwell v. Ward*, *ibid.*, which sets forth the legal benchmark under which a variance may be granted, the Board of Appeals, hearing the case *de novo*, is given the task of interpreting regulations and statutes where issues are debatable in the light of the law. The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

The first prong requires that the land itself of the subject property must be unique from others in the neighborhood to qualify for a variance. The testimony and evidence offered by the Petitioner, Donald Schmelzer, himself, is uncontradicted that 1608 Burke Road is not different from the other lots in that neighborhood which borders Galloway Creek.

All of the plats and photographs introduced into evidence establish that neighboring properties all are bounded by the water, all are 50 feet wide, all are of similar topography, and all are zoned R.C. 5. All neighboring lots would need a variance to build a structure similar to that constructed without permit at 1608 Burke Road.

The Board also notes that, while we are sympathetic to the Petitioners' personal situation, the Board is charged with upholding and applying the law equally. *Cromwell v. Ward*, *ibid.*, speaks to this requisite:

It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policy makers. That is improper.

After a thorough review of the evidence and testimony before us, the Board unanimously finds as a matter of fact that the Petitioners have not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward*.

The Petitioners shall have 60 days from the date of this Order to bring the subject property into compliance with all applicable zoning laws and regulations of Baltimore County.

ORDER

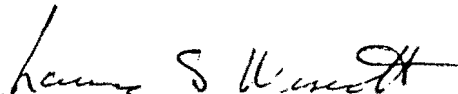
THEREFORE, IT IS THIS 13th day of June, 2000 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioner's request for variance from § 1A04.3.B.2 of the *Baltimore County Zoning Regulations* (BCZR) to allow an addition with a side yard setback of 11.2 feet in lieu of the required 50 feet be and is hereby **DENIED**; and it is further

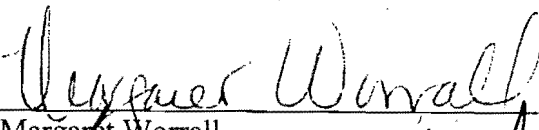
ORDERED that Petitioners shall have sixty (60) days from the date of this Order to bring the subject property into compliance with all applicable zoning laws and regulations of Baltimore County.

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*.

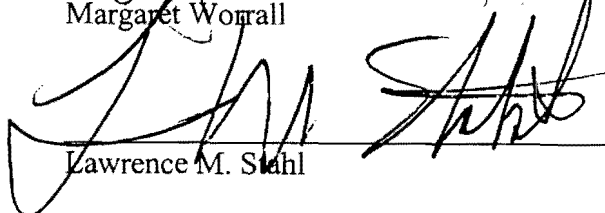
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Chairman



Margaret Worrall

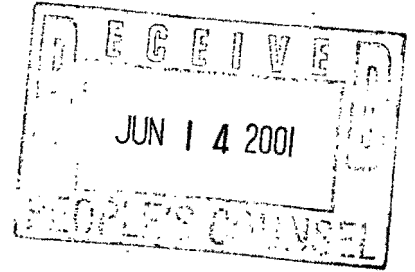


Lawrence M. Stahl



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182



June 13, 2001

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

RE: *In the Matter of: Dorothea M. & Donald J. Schmelzer*—Legal Owners
Case No. 00-455-A

Dear Mr. Azrael:

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*, 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,

Kathleen C. Bianco
Administrator

Enclosure

c: Roy and Loretta Racey
John H. Dumler, Esquire
Mr. & Mrs. Donald Schmelzer
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Rick Wisnom, Chief /Division of Code Inspections & Enforcement /PDM (CC-00-1671)
Arnold Jablon, Director /PDM



IN RE: PETITION FOR VARIANCE

N/S Burke Road, 930' SW

Bowleys Quarters Road

15th Election District

5th Councilmanic District

(1608 Burke Road)

Donald and Dorothea Schmelzer

Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

OF BALTIMORE COUNTY

*

CASE NO. 00-455-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 owners of the subject property, Donald and Dorothea Schmelzer. The Petitioners are requesting a variance for property they own at 1608 Burke Road, located in the Bowleys Quarters area of Baltimore County. The subject property is zoned RC 5. The Petitioners are requesting a variance from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a side yard setback of 11.2 ft. in lieu of the required 50 ft. The subject property is a water front lot located on Burke Road and fronting on Galloway Creek.

Appearing at the hearing on behalf of the variance request were Mr. and Mrs. Schmelzer, property owners and a neighbor, Jill Lewis. Appearing in opposition to the request were Mr. and Mrs. Roy Racey, adjacent property owners and several of their friends.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.176 acres, zoned RC 5. The subject property is improved with a single-family residential dwelling wherein the Schmelzer's have resided for the past 22 years. In addition to the single family dwelling there exists a concrete block and vinyl shed on the water side yard of the property and a 12 ft. x 18 ft. storage shed located in the side yard. At issue in this case is a 6 ft. x 24 ft. addition which was constructed on the east side of the Petitioners'

home nearest the property owned by Mr. and Mrs. Racey, the Protestants herein. The addition is situated 11.2 ft. from the common property line shared with the Racey's.

Testimony and evidence further indicated that Mr. Schmelzer constructed the small addition without the benefit of obtaining a Baltimore County building permit. He testified that he discussed the addition with Mr. Racey, his immediate neighbor, and encountered no clear opposition for its construction. At the same time, Mr. Schmelzer testified that Mr. Racey did not give his full approval of the addition. After the addition was constructed Mr. Racey called Baltimore County building inspectors who researched the issue and found that no valid building permit was obtained for the addition. Therefore, a code violation case was brought against the Petitioners. Mr. Schmelzer admitted that he intentionally failed to obtain a permit and hoped that none of his neighbors would object to the small addition.

As stated previously, the adjacent property owners, Roy and Loretta Racey, appeared in opposition to the Petitioners' variance request. In addition, many others attended the hearing, all of whom signed in on the Protestants' sign in sheet. It should be noted that none of the others, with the exception of one person, actually live in the neighborhood involved in this variance request. Those who attended the hearing along with the Protestants, Mr. and Mrs. Racey, are apparently friends of the Racey's and attended to show their support for Mr. and Mrs. Racey. Mr. Racey testified that he objects to the granting of a variance for this property and argued that the subject property is in no way unusual or unique from any other property in the neighborhood. Furthermore, he indicated that the Petitioners presented no evidence of hardship in this case. He testified that Mr. Schmelzer knowingly violated the law when he failed to obtain the proper permit for the structure and that the variance should be denied. In addition, Mrs. Racey testified that she does not like the addition itself and objects to its appearance.

It should be noted that the lot, which is the subject of this variance request, is 50 ft. in width and is approximately 160 ft. in depth. It is the typical lot that one finds in many waterfront communities in the eastern area of Baltimore County. This particular subdivision was designed at a time when side yard setbacks were required to be a minimum of 10 ft. In recent years, in an effort to protect the water front areas of Baltimore County, the Planning Office recommended to the County Council that the zoning be changed in this and other neighborhoods in eastern Baltimore County from DR 5.5 to RC 5. The RC 5 zoning mandates a side yard setback of 50 ft. None of the properties in this particular community could meet this 50 ft. side yard requirement. Bear in mind that the lots themselves are only 50 ft. in width. While the decision to change the zoning of these types of neighborhoods to RC 5 was based on good intentions, the practical result is disastrous. Not only can a property owner not build an addition onto their home, but many unimproved lots in these older neighborhoods cannot even be built upon without the benefit of a variance being granted. This RC 5 zoning puts this office in the position of having to grant variances for even the smallest of improvements.

On this particular case, as well as the many other similar cases that are heard by this office in these older water front communities in Essex and Bowleys Quarters, I tend to apply the design and development regulations that were in effect at the time that these communities were constructed. A 10 ft. side yard setback in these neighborhoods is appropriate and is what is most commonly encountered in these neighborhoods. The addition, which is the subject of this variance request, is situated 11.2 ft. from the side property line which is approximately the same distance from the property line as the Protestants' house. Other houses along Burke Road have similar setbacks. Therefore, utilizing this line of thinking, I find that the small addition situated on the west side of the Petitioners' home, which is situated 11.2 ft. from the side property line, is appropriate and a variance should be granted.

What is most troubling about this particular variance request is that the Petitioner was bold enough to construct the addition without first obtaining a building permit. That was clearly an intentional decision made by this Petitioner to skirt the law in hopes that no one would object or complain about the construction. However, the Petitioner was caught and is now facing the consequences. Therefore, while I believe it is appropriate to grant the Petitioner a variance to allow the addition to remain as constructed, I find that the matter should be referred back to Code Enforcement for full prosecution given that the Petitioner admittedly built the addition without first obtaining the proper permit. The Code Enforcement hearing officer shall determine what the appropriate fine or penalty should be for this blatant violation of the law. As for the hearing before me, the Petitioners' variance shall be granted.

THEREFORE, IT IS ORDERED this 30th day of June, 2000, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a side yard setback of 11.2 ft. in lieu of the required 50 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that this matter shall be referred back to Code Enforcement for a hearing as to the appropriate amount of a fine to be imposed upon this Petitioner.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

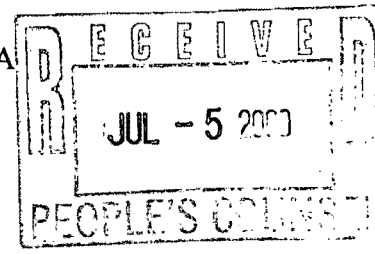
TMK:raj

6/30/00

IN RE: PETITION FOR VARIANCE
N/S Burke Road, 930' SW
Bowleys Quarters Road
15th Election District
5th Councilmanic District
(1608 Burke Road)

Donald and Dorothea Schmelzer
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 00-455-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 owners of the subject property, Donald and Dorothea Schmelzer. The Petitioners are requesting a variance for property they own at 1608 Burke Road, located in the Bowleys Quarters area of Baltimore County. The subject property is zoned RC 5. The Petitioners are requesting a variance from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a side yard setback of 11.2 ft. in lieu of the required 50 ft. The subject property is a water front lot located on Burke Road and fronting on Galloway Creek.

Appearing at the hearing on behalf of the variance request were Mr. and Mrs. Schmelzer, property owners and a neighbor, Jill Lewis. Appearing in opposition to the request were Mr. and Mrs. Roy Racey, adjacent property owners and several of their friends.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.176 acres, zoned RC 5. The subject property is improved with a single-

GRANTED wherein the Schmelzer's have resided for the past 22 years. In dwelling there exists a concrete block and vinyl shed on the water a 12 ft. x 18 ft. storage shed located in the side yard. At issue in addition which was constructed on the east side of the Petitioners'

SHOULD P.C. APPEAL?

Protestants involved?
☒ Yes ☐ No

PMZ: No protest 7/11/2000

CSD: No/CSD



Petition for Variance

to the Zoning Commissioner of Baltimore County *C. H. H. H.*

for the property located at X 1608 Burke Rd
which is presently zoned X RCS

This Petition shall be filed with the Department of Permits and 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) 1.A04.3.B.2, BCZR, TO PERMIT AN ADDITION WITHIN 11' 2" OF THE SIDE PROPERTY LINE IN LIEU OF THE REQUIRED 50 FT.

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

TO BE DETERMINED AT HEARING.

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.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

☒ Legal Owner(s):

MR. DONALD J. SCHMELZER
Name - Type or Print

Donald J. Schmelter
Signature

Dorothy M. Schmelter
Name - Type or Print

Dorothy M. Schmelter
Signature *w (410) 766-2544*

1608 Burke Rd (410) 335-3050
Address Telephone No.

BALTO. MD. 21220
City State Zip Code

Representative to be Contacted:

SAME
Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By Jim Date 5-4-00

Case No. 00-455A



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

June 8, 2000

Mr. Donald Schmelzer
1608 Burke Road
Baltimore MD 21220

Dear Mr. Schmelzer:

RE: Case Number 00-455-A , 1608 Burke Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 4, 2000.

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:ggs

Enclosures



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 15, 2000

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

RECEIVED MAY 15 2000

SUBJECT: 1608 Burke Road

INFORMATION:

Item Number: 455

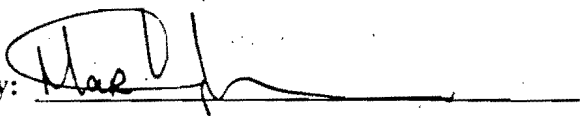
Petitioner: Donald J. and Dorothea M. Schmelzer

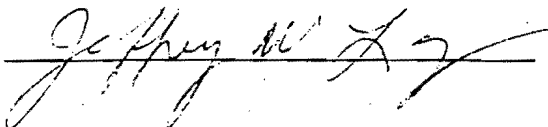
Zoning: RC 5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the request to permit an addition within 11 feet 2 inches of the side property line in lieu of the minimum required 50 feet.

Prepared by: 

Section Chief: 

AFK:MAC:



Baltimore County
Fire Department

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

May 16, 2000

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF May 15, 2000

Item No.: See Below

Dear Ms. Stephens:

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

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

447, 449, 450, 451, 452, 454, 455, 456, 459, 460, 461, 446

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: **5.15.00**

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

RE: Baltimore County
Item No. **455** **JCM**

Dear Ms. Jackson:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 15, 2000

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

RECEIVED MAY 15 2000

SUBJECT: 1608 Burke Road

INFORMATION:

Item Number: 455

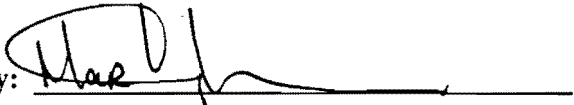
Petitioner: Donald J. and Dorothea M. Schmelzer

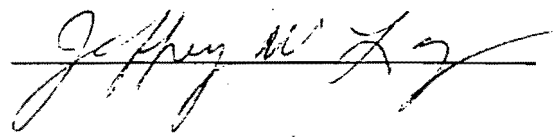
Zoning: RC 5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the request to permit an addition within 11 feet 2 inches of the side property line in lieu of the minimum required 50 feet.

Prepared by: 

Section Chief: 

AFK:MAC:



Baltimore County
Fire Department

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

May 16, 2000

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF May 15, 2000

Item No.: See Below

Dear Ms. Stephens:

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

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

447, 449, 450, 451, 452, 454, 455, 456, 459, 460, 461, 446

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: **5.15.00**

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

RE: Baltimore County
Item No. **455** **JCM**

Dear Ms. Jackson:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR VARIANCE
1608 Burke Road, N/S Burke Rd,
930' SW of Bowley's Quarters Rd
15th Election District, 5th Councilmanic

Legal Owner: Donald & Dorothea Schmelzer
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 00-455-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.

All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 22nd day of May, 2000 a copy of the foregoing Entry of Appearance was mailed to Donald J. & Dorothea M. Schmelzer, 1608 Burke Road, Baltimore, MD 21220, Petitioners.



PETER MAX ZIMMERMAN

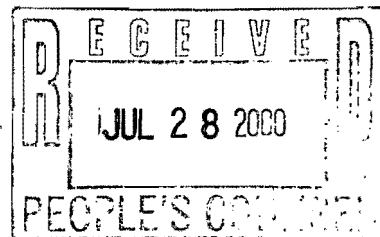


Baltimore County
Department of Permits and
Development Management

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

July 25, 2000

Mr. & Mrs. Donald J. Schmelzer
1608 Burke Road
Baltimore, Maryland 21220



Dear Mr. & Mrs. Schmelzer:

SCHMELZER
RE: Case #00-455-A, 1608 Burke Rd., 15th Election District

Please be advised that an appeal of the above-referenced case was file in this office on July 7, 2000. 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 the Board at 410-887-3180.

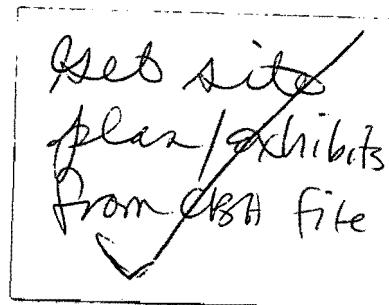
NOTE: The subject property will be posted with the date, time, and location of the appeal hearing. If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

Sincerely,

Arnold Jablen
Director

AJ:kew

c: People's Counsel
Roy Racey, 1606 Burke Rd., Baltimore, MD. 21220



APPEAL

Petition for Variance
N/S Burke Road, 930' SW Bowleys Quarters Road
1608 Burke Road
15th Election District - 5th Councilmanic District
Donald J. Schmelzer and Dorothea M. Schmelzer, Owners,
00-455-A

Petition for Variance

Description of Property

Notice of Hearing (dated 5/18/00)

Certification of Publication (dated 5/25/00)

Certificate of Posting (dated 5/26/00)

Entry of Appearance by People's Counsel (NOT IN FILE)

Petitioner(s) Sign-In Sheet and Protestant(s) Sign-In Sheet

Zoning Advisory Committee Comments - 5 Comment Letters

Petitioners' Exhibits: 1 - Map location information
2 - Photos of property
3 - Letter to Neighbors of Burke Rd. and Hearing
4 - Letter from Dr. George E. Lowe

Protestants' Exhibits: 1 - Copy of Baltimore County Uniform Code Violation Code
2 - Printout of Permits and License Permit List
3 - Copy of Building Permit and Photo
4 - Sketch of Property Layout
5-8 - Photos

Misc. (Not Marked as Exhibits): 1 - Property Evaluation Sheet

Timothy M. Kotroco, Deputy Zoning Commissioner's Order dated June 30, 2000 (Granted)

Notice of Appeal received on 3/29/00, from Roy Racey, 1606 Burke Rd., Baltimore, MD. 21220

c: Mr. & Mrs. Donald J. Schmelzer, 1608 Burke Rd., Baltimore, MD. 21220
Roy Racey and Lorretta Racey, 1606 Burke Rd., Baltimore, MD. 21220
People's Counsel of Baltimore County, MS #2010
Jill Lewis, 1610 Burke Rd., Balto., MD. 21220
Lee H. Weaver, 8104 Duvall Ave., Balto., MD. 21237
Janice Wolfe, 15 Morning Ct., Balto. MD. 21237
Alfrieda Racey, 6606 Fairdel Ave., Balto., MD. 21206
Erwin L. Koerber, Minnie Koerber and Edward Koerber, 5009 Hazelwood Ave.,
Balto. MD. 21237
Susan Koerber, 35 Fullerton Heights Ave., Balto., MD. 21236
Evelyn McKenny, 5210 Sweet Air Rd., Cockeysville, MD. 21013
Carl Maynard, President, B.R.N.P.C.A., 1546 Denton Rd., Balto., MD. 21221
Leroy Sennett, 1716 Beachwood Ave., Balto., MD 21221
Gloria Besus, 814 Cedar Ave., Balto., MD. 21221

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

PM2

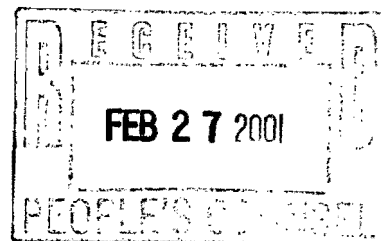
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: Peter Max Zimmerman
People's Counsel

DATE: February 23, 2001

FROM: Patricia M. Farr, Supervisor *pmf*
DEPRM-Environmental Impact Review

SUBJECT: Schmelzer Property
1608 Burke Road



I have received a copy of your memo to Bruce Seeley in regards to the above referenced property. After consulting with staff, I have determined that the owners are in compliance with Chesapeake Bay Critical Area Regulations. A permit was applied for on 7/13/2000 and approved on 8/8/2000 for a 6' x 24' addition. A copy of our correspondence with the owner is enclosed which will explain the details of permit approval.

If you have any further questions regarding this matter, please call Mr. Keith Kelley at 410-887-3980.

attachment

J:\keith\schmelzer



Baltimore County
Department of Environmental Protection
and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

July 31, 2000

Mr. Donald Schmelzer
1608 Burke Rd.
Baltimore, MD 21220

RE: Permit Application #B421832
6' x 24' addition

Dear Mr. Schmelzer:

Environmental Impact Review (EIR) has reviewed the above referenced permit application for constructing a 6' x 24' addition and has placed this application on hold because the structure will exceed allowable impervious surface limits and is proposed within the 100 foot buffer to tidal waters. A Critical Area Administrative Variance would be required to exceed existing impervious surfaces. The variance process takes about two (2) months with no guarantee of approval. To avoid the variance process, an equal amount of existing impervious area must be removed as the proposed 144 square foot addition. This mitigation is separate from the BMA mitigation which will be discussed below in detail.

The lot is within a Buffer Management Area (BMA) in the Chesapeake Bay Critical Area (CBCA). The BMA Program, which applies to heavily developed shoreline areas of the CBCA, was developed to eliminate the need for variances for many buffer disturbances and to provide more expeditious review of building permit applications. While certain structures are permitted within the 100 foot buffer, BMA regulations specify that adequate mitigation must be provided to offset the proposed impacts to the buffer. If mitigation cannot be reasonably accomplished onsite, a fee may be paid in lieu of providing part or all of the required mitigation. However, every attempt must be made to provide this mitigation onsite in accordance with the goals and objectives of the BMA Program. Mitigative options in this case are to plant four (4) native, deciduous, 5-6 foot tall trees from the enclosed list, pay a fee-in-lieu of \$172.80, remove 144 square feet of existing impervious area, or a combination of the 3 options. This mitigation must be performed by release of the building permit.

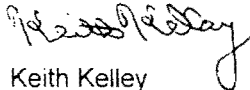
The BMA Program was approved on January 3, 1998 by the State's CBCA Commission. The success of this program and our ability to continue to provide expeditious permit review depends upon compliance with policy provisions and proper implementation of mitigation requirements. Please be advised that EIR staff and/or State CBCA officials will visit your property to determine compliance with this policy.

While the individual impact of the addition may be minimal, the cumulative impact of all the structures existing and proposed in the buffer throughout Baltimore County's waterfront is very significant. It is for this reason that mitigation, such as that indicated above, is required by CBCA Regulations. Each resident of the Chesapeake Bay's watershed, especially those residing directly on the Bay, must do their part toward protecting and enhancing the Bay so that it may continue to provide its vast array of economical and recreational benefits.

Mr. Donald Schmelzer
July 31, 2000
Page 2

Call me and let me know the mitigation option(s) that you choose. If you have any questions regarding these requirements or if we can be of assistance, please contact me at 887-3980.

Sincerely,



Keith Kelley
Natural Resource Specialist
Environmental Impact Review

Enclosure

I/We have read and do hereby agree to implement the above requirements to bring my/our property into compliance with Chesapeake Bay Critical Area Regulations.

Signature

Date

Signature

Date

Printed Name

Printed Name

Kdk#10/schmelzer

* Owner will remove ~~that~~ of existing impervious areas!
10/8/00: Reinspection reveals that a 3' x 50' (150') section of
side walk has been removed. OK to sign off on
permit application.
KKelley

BALTIMORE COUNTY, MARYLAND

INTEROFFICE MEMORANDUM

TO: R. BRUCE SEELEY, DEPRM

FROM: PETER MAX ZIMMERMAN, PEOPLE'S COUNSEL

PMZ

SUBJECT: PETITION FOR VARIANCE, N/S BURKE ROAD, 930' SW OF BOWLEYS
QUARTERS ROAD, 15TH ELECTION DISTRICT, 5TH COUNCILMANIC.
1608 BURKE ROAD - DONALD & DOROTHEA SCHMELZER,
PETITIONERS, CASE NO. 00-455-A

DATE: FEBRUARY 14, 2001

On April 17, 2001, there is a County Board of Appeals hearing scheduled on the appeal of the Zoning Commissioner decision in Schmelzer, attached. It involves a waterfront lot fronting on Galloway Creek in the Chesapeake Bay Critical Area. The controversy is about an addition to a house. Besides the zoning issues, the file indicates some concerns about additional construction in the Chesapeake Bay area both as to distance from the water and impermeable surface coverage. A copy of the site plan is also attached.

In addition to the existing house, please note that there are already two sheds on the property and a new enclosed porch. The history of these is unclear.

Would you kindly review this situation from the point of view of the Chesapeake Bay Critical Area law? Thank you for your cooperation.

PMZ/caf
Attachments

cc: Patricia Farr, DEPRM

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

ACTIVE VIOLATION CASE DOCUMENTS

00-455.A

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: May 18, 2000

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 00-455a
Legal Owner/Petitioner: Donald Schmelzer
Contract Purchaser:
Property Address: 1608 Burke Rd. Balto. Md. 21220
Location Description: Bowleys Quarters

VIOLATION INFORMATION: Case No. 00-1671
Defendants:

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME	ADDRESS
Ray Racey	1606 Burke Rd. Balto., Md. 21220

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

- x 1. 3-Complaint letter/memo/email/fax (if applicable)
- x 2. Complaint Intake Form/Code Enforcement Officer's report and notes
- x 3. State Tax Assessment printout
- 4. State Tax Parcel Map (if applicable)
- 5. MVA Registration printout (if applicable)
- 6. Deed (if applicable)
- 7. Lease-Residential or Commercial (if applicable)
- x 8. Photographs including dates taken
- x 9. Correction Notice/Code Violation Notice
- 10. Citation and Proof of Service (if applicable)
- x 11. Certified Mail Receipt (if applicable)
- x 15. Petitioners application for permit
- x 16. Testimonial of when construction took place.

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/JK/klh
C: Jake Kemp, Code Enforcement Officer

①

*2nd
Complaint*

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE



TO: John M. Altmeyer, Supervisor
Bureau of Code Inspection

FROM: Vincent J. Gardina
Councilman, Fifth District

SUBJ: 1608 Burke Road, 21220

DATE: April 11, 2000

I have received the attached information regarding a possible code violation at the above address.

I would appreciate your review and an update as to the current status. Thank you for your assistance and I am looking forward to hearing from you soon.

VG:st
Attachment

To the Honorable Vincent J. Gardina

April 8, 2000

Please take a minute to read my letter. This is the first time I ever got this upset to write to your office or any office. My name is Roy Racey and after moving four times, finally reached my goal of living on the water at 1606 Burke Road in Bowleys Quarters. With an under size lot I believed EPA restrictions would not allow home expansion without careful consideration. My neighbor Donald Schmelzer at 1608 Burke Road, who's lot is even smaller said he was going to build an addition directly out the side of his house toward me. When he started building (March 2000) I checked with the county to find no permit has been issued. I became concerned and told him nicely he needs a building permit. Donald's response was, its none of your damn business and I'm gonna do it anyway. This guy is sneaky, obsessed, inconsiderate and not at all popular on my street. At the same time he is telling me (the new guy) his property line is 2 or 3 feet into my yard. His addition is finished on the outside (see photo). I don't know if he could have got a permit but doubt it because EPA says you can't cover more than 25% of your land. My anger came to a point of no return so I called the surveyor first (1500.00 \$). The stakes prove Donald was wrong. Than, I called EPA who transferred this matter to Building Inspection. Jake Kemp, building inspector said write a letter to say I would testify that the addition was less than one year old. That's done (see copy) so all I ask of you is please make Building Inspection, EPA and Code Enforcement nail this idiot and check every possible code violation. If they say tear it down that would be great and a good example of County laws, which we all live by. I respect your position in this matter. Please advise me personally of any developments.

Sincerely
Roy Racey
1606 Burke Road
Baltimore, MD 21220

410 335 3486

P.S. Permission to access thru my property granted. (THEIR DOGS)

Donald Schmelzer site plans are not accurate at all.

Jake Kemp
Building Inspection
410 887 3953

John Russo
EPA
410 887 3980

TO BUILDING INSPECTIONS (Jake Kemp)
111 W. Chesapeake Avenue
Towson, Maryland 21204

4-6-00

The people listed below will testify at a hearing or court of law that the house addition built onto 1608 BURKE RD was constructed during March and April 2000. The owner Donald Schmelzer had no permits or EPA approval to proceed.

Rev. W. Racy 335-3486
Loretta Racy
Joseph Appel 335-0693
Christine Appel same as above
Amanda Appel " "
Buzzy Orr
Ann Wolfe 806-3835
Joe A. Miller 692-2777

①

3rd
Complaint

4/14/00
ERW



To Arnold Jablon

April 12, 2000

00-1671 *offer*
Build

Dear Sir , my name is Roy Racey and I live at 1606 Burke Road in Bowleys Quarters. My house and my neighbor's are waterfront, flood zone A. Our lots are undersize so when I moved here two years ago, it was said any addition to a house would be tough under your guidelines. My neighbor Donald Schmelzer (1608 BURKE ROAD) just finished his addition. No building permit, NO NOTHING! He said it was none of my damn business. This addition on the side of his house is two feet off the ground, in the buffer zone, and 25% of the land had already been covered. I am so angry that I am having a privacy fence installed. Can the good people in your department tell this guy what he can and cannot do. Tear it down if it's not to code. I told Jake Kemp of Building Inspection about it. Please Sir, be tough on this jerk or he will do it again. My first letter was sent to County Council Vincent J. Gardina. I respect your position in this matter. Please advise me personally of any developments.

Sincerely
Roy Racey
1606 Burke Road
410 335 3486

P S. Permission to access through my property granted. (Their dogs)

Donald Schmelzer site plans are not accurate.

Jake Kemp
Building Inspection
410 887 3953

John Russo
EPA
410 887 3980

Dear Sir

While walking my dog I've noticed an addition being constructed at a waterfront home. I have lived in the area 20 years and know permits are required especially in flood zones. There wasn't a variance sign or permit posted. I don't like to make trouble but the house in question is in Bowleys Quarters at 1608 Burke Road.

1st
Anon. Complaint
to Depm forwarded
to Bldg. Insp

God Bless

Ms Anonymous

NCF

CO-1671

NO BUILDING PERMIT
ON FILE

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
DIVISION OF INSPECTION AND ENFORCEMENT
INSPECTION REQUEST

CO
R

DUTY CALL JR

DATE RECEIVED: 3-31-00

SC # _____

Complainant Information

Name: ANONYMUS

Address: _____

Telephone: Home: () _____ Work: () _____

Site Information

Location: DON SCHMELZER BOWLEYS QUARTERS
1608 BURKE ROAD (CBLA) Election District: 15

Description: 9x20
AN ADDITION WAS BUILT ON THE HOUSE AT THIS
LOCATION WITHOUT A PERMIT (ADDITION IS YELLOW AND
HAS JUST BEEN DONE

Inspector Comments

Inspection Date: _____

Action Taken: 4/3 FAX TO BLDG INSP -

Completion Date: _____

Inspector: ROY LIST X 3980

Post-It Fax Note 7671

To <u>ERROL ECKER</u>	Date <u>4/3/00</u>	# of pages <u>1</u>
Co/Dept <u>BLDG INSP</u>	From <u>ROY LIST</u>	
Phone # _____	Co. <u>DEPRM</u>	
Fax # <u>8081</u>	Phone # <u>3980</u>	
	Fax # <u>4804</u>	

C DE ENFORCEMENT / POR

DATE: 4/5/00 INTAKE BY: TR CASE #: 00-167 INSPEC: JKE

COMPLAINT
LOCATION: 1606 Burke Rd

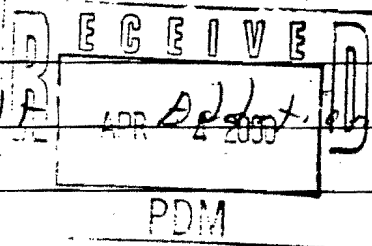
ZIP CODE: 3330 DIST: 15

COMPLAINANT
NAME: Ray W. Racey

PHONE #: (H) 335-3486 (W)

ADDRESS: 1606 Burke Rd ZIP CODE: 21220

PROBLEM: Neighbor built addition w/o permit



OWNER/TENANT
INFORMATION: ITS FILE

TAX ACCOUNT #: _____ ZONING: _____

INSPECTION: 4/5/00 Initial Insp. reveals no apparent con-
dition. Addition in ? appears to be existing. Complaint
taken anonymously thru Ray List. (Depm) Let
message for Ray 4/6/00 re status.

REINSPECTION: 4/7/00 Spoke w/ Resident at 1606 Burke Rd
He said that he would mail a letter confirming
when addition in question was built.

4/10/00 Rec'd letter from Mr. Racey (See Attached)
Called Mr. Racey 5:50 P.M. to update - I would send notice.

REINSPECTION: 4/12/00 Mailed VN# 116486 + Also Updated Mar
at Cardina's office + she
Re-check 4/24/00 told me to make further updates
4/27/00 Spoke w/ Mr. Schmeltzer he told me
he has a zoning appl. date on 5/4/00.

REINSPECTION: Re-check 5/24/00

Real Property
InformationMaryland Department of Assessments and Taxation
Real Property System[\[Go Back\]](#)

BALTIMORE COUNTY

[\[Start Over\]](#)

DISTRICT: 15 ACCT NO: 1516350602

Owner InformationOwner Name: SCHMELZER DONALD JOSEPH
SCHMELZER DOROTHEA MAY

Use: RESIDENTIAL

Mailing Address: 1608 BURKE RD
BALTIMORE MD 21220-4421

Principal Residence: YES

Transferred

From: NEUMANN, MAY A

Date: 12.06.1978 Price: \$7,500

Deed Reference: 1). 5966 680
2)

Special Tax Recapture:

* NONE *

Tax Exempt: NO

Location Information [\[View Map\]](#)

Premises Address:

1608 BURKE RD

Zoning: Legal Description:

SS GALLOWAY CREEK

BOWLEYS QUARTERS

Map Grid Parcel Subdiv Sect Block Lot Group Plat No: 1
98 4 4 173 82 Plat Ref: 7/12

Special Tax Areas

Town:

Ad Valorem:

Primary Structure Data

Year Built:

1924

Enclosed Area: Property Land Area: County Use:

1,733 SF

7,700.00 SF

34

Value Information

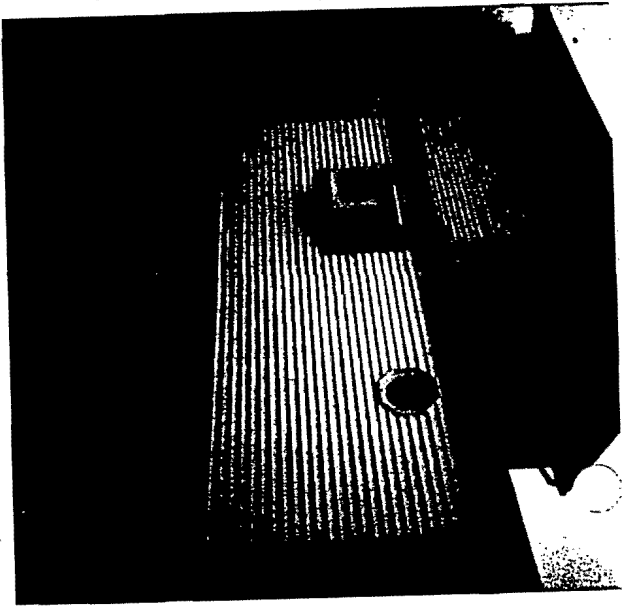
Base Value Current Value Phase-in Value Phase-in Assessments

	As Of 01/01/2000	As Of 07/01/2000	As Of 07/01/1999	As Of 07/01/2000
Land:	99,500	109,500		
Impts:	109,700	111,200		
Total:	209,200	220,700	213,040	83,660
Pref Land:	0	0	0	0

Partial Exempt Assessments

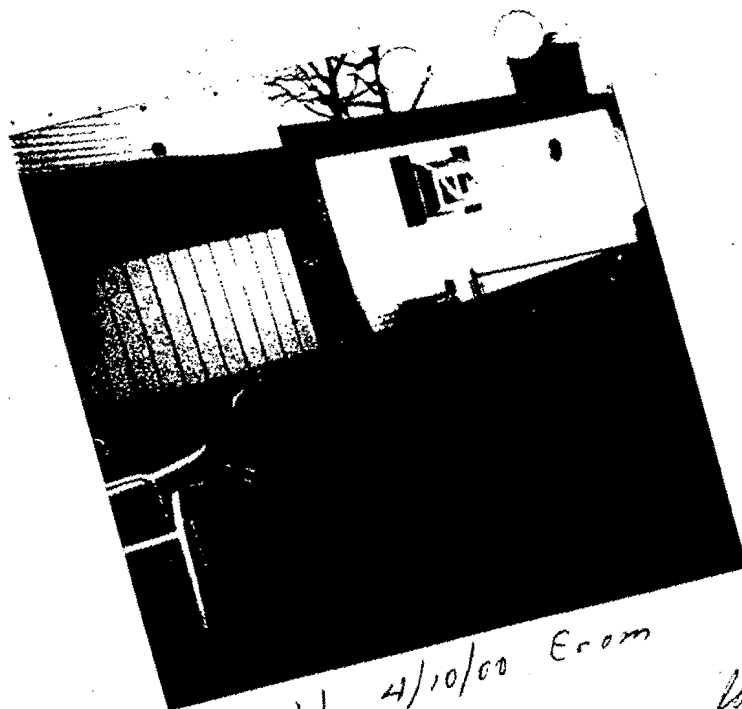
	Code	07/01/1999	07/01/2000
County	000	0	0
State	000	0	0
Municipal	000	0	0

7,700
35,500
15,000
FLOOD
ZONE
A



1608 BURKE Rd.
DONALD SCHMELZER
BUILT MARCH/APRIL 2020





Rec'd 4/10/00 From
Mr. Lacey

[Signature]

1146



Baltimore County
Department of Permits and
Development Management

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

Code Enforcement: 410-887-3351 Extension _____ Plumbing Inspection: 410-887-
Building Inspection: 410-887-3953 Any? Call Me Electrical Inspection: 410-887-
8-8:30 A.M. or 3-4 P.M. M-F

BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

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

Violation Notice No.

116486

Case No.:

00-1671

Election District 15R Permit No. _____

Name (s) Donald Joseph Schmelzer

Address 1608 Burke Rd Balto. Md 21220

Location of Violation (if different than address) Same

Vehicle License No.: _____ Vehicle ID: _____

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:

§§ _____
§§ _____

Zoning Regulations:

§§ _____
§§ _____

Building Code (BOCA):

§§ _____
§§ _____

Livability Code (18-66):

§§ _____
§§ _____

Investment Property Act (7-66):

§§ _____

Electrical Code (NEC):

§§ _____

Plumbing Code (NSPC):

§§ _____

Dwelling (CABO):

§§ 11-1 Permit requi

Other: §§ _____

COMMENTS OR OTHER VIOLATIONS:

Permit required for Add. tio.
(approx. 8'x20') recently construct.
Obtain necessary permits or
remove structure.
Subject to \$1000.00 plus \$200.00/Day
it not brought into compliance.

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

DATE ISSUED: _____ INSPECTOR: _____

STOP WORK NOTICE

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

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN: 4/24/00

DATE ISSUED: 4/10/00 INSPECTOR: Jim Kemp

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

AGENCY

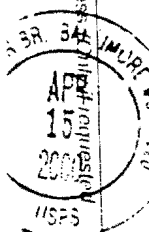
1995

US Postal Service Receipt for Certified Mail No Insurance Coverage Provided. Do not use for International Mail (See reverse)	
Sent to	Donald J. Schmelzer
Street & Number	1608 Burke Rd.
Post Office, State, & ZIP Code	Balto. Md. 21220
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to	
Signature & Date Delivered	

2479 506 671

we can return this are does not title number, and the date		I also wish to receive the following sections (for an extra fee): 1. ☐ Addressee's Address 2. ☐ Restricted Delivery Consult postmaster for fee.	
4a. Article Number	2479 506 671	4b. Service Type	☒ Certified
		☐ Registered	☐ Insured
		☐ Express Mail	☐ COD
7. Date of Delivery	4-15-00	Return Receipt for Merchandise	
8. Addressee's Address (if different from above and fee is paid)			

Thank you for using Return Receipt Service.



APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 4-17

OE: KRA
HISTORIC DISTRICT

PERMIT #: B
RECEIPT #: A
CONTROL #: MR
XREF #:

PROPERTY ADDRESS 1608 Burke Rd. YES ☒
SUITE/SPACE/FLOOR _____
SUBDIV: Bowleys Quarters DO NOT KNOW ☐
TAX ACCOUNT #: 15-16-350602 DISTRICT/PRECINCT

FEE: 60.45
PAID: 65.00
PAID BY: Appl.
INSPECTOR:

OWNER'S INFORMATION (LAST, FIRST) 15
NAME: Schmelzer, Donald Joseph + Dorothea May
ADDR: 1608 Burke Rd.
21220-4421

APPLICANT INFORMATION

NAME: Donald Schmelzer
COMPANY: _____
STREET: 1608 Burke Rd.
CITY, ST, ZIP: Balto., MD 21220
PHONE #: 410-335-3050 MHIC LICENSE #: _____
APPLICANT SIGNATURE: Donald J. Schmelzer DRCH# _____
PLANS: CONST _____ PLOT 4 PLAT _____ DATA _____ EL 1 PL 2
TENANT: _____
CONTR: Owner
ENGR: _____
SELLR: _____

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

BUILDING 1 or 2 FAM.

CODE CODE _____
BOCA CODE ☒

TYPE OF IMPROVEMENT

1. NEW BLDG CONST
2. ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

TYPE OF USE

RESIDENTIAL

01. ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY
(ENTER NO UNITS) _____
05. SWIMMING POOL
06. GARAGE
07. OTHER

TYPE FOUNDATION

1. SLAB
2. BLOCK
3. CONCRETE

BASEMENT

1. FULL
2. PARTIAL
3. NONE

NON-RESIDENTIAL

08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. CHURCH, OTHER RELIGIOUS BUILDING
10. FENCE (LENGTH _____ HEIGHT _____)
11. INDUSTRIAL, STORAGE BUILDING
12. PARKING GARAGE
13. SERVICE STATION, REPAIR GARAGE
14. HOSPITAL, INSTITUTIONAL, NURSING HOME
15. OFFICE, BANK, PROFESSIONAL
16. PUBLIC UTILITY
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. SIGN
19. STORE _____ MERCANTILE _____ RESTAURANT _____
SPECIFY TYPE _____
20. SWIMMING POOL
SPECIFY TYPE _____

Violation # 116486
DESCRIBE PROPOSED WORK: Construct Addition On Side of E. SFD. To Be Used As Utility Room and Dining Room Extension with 3' x 6' = 18' ft. Cover. Overall = 6' x 28' x 8' 6" = 168 sq ft.

16

TO BUILDING INSPECTIONS (Jake Kemp)
111 W. Chesapeake Avenue
Towson, Maryland 21204

4-6-00

The people listed below will testify at a hearing or court of law that the house addition built onto 1608 BURKE RD was constructed during March and April 2000. The owner Donald Schmelzer had no permits or EPA approval to proceed.

Testimonial of
when Add. was built

Joe W. Gacy 335-3486
Linda Gacy
Joseph Appel 335-5603
Christine Appel same as above
Amanda Appel " "
Joe W. Gacy
Joe W. Gacy 866-3835
Joe W. Gacy 682-2777

BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 4-17-00

OEA: KRA
HISTORIC DISTRICT/F

PERMIT #: B
RECEIPT #: A
CONTROL #: MR.
XREF #:

PROPERTY ADDRESS: 1608 Burke Rd.
SUITE/SPACE/FLOOR: YES ☐ NO ☒
SUBDIV: Bawleys Quarters DO NOT KNOW
TAX ACCOUNT #: 15-16-350602 DISTRICT/PRECINCT: 15
OWNER'S INFORMATION (LAST, FIRST):
NAME: Schmelzer, Donald Joseph & Dorothea May
ADDR: 1608 Burke Rd. 21220-4421

FEE: 60. + 5.
PAID: 65.
PAID BY: Appl.
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

BUILDING 1 or 2 FAM.

CODE CODE
BOCA CODE ☒

TYPE OF IMPROVEMENT

1. NEW BLDG CONST
2. ☒ ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

TYPE OF USE

RESIDENTIAL

01. ☒ ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY (ENTER NO UNITS)
05. SWIMMING POOL
06. GARAGE
07. OTHER

TYPE FOUNDATION

1. SLAB
2. BLOCK
3. ☒ CONCRETE

BASEMENT

1. FULL
2. PARTIAL
3. ☒ NONE

NON-RESIDENTIAL

08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. CHURCH, OTHER RELIGIOUS BUILDING
10. FENCE (LENGTH HEIGHT)
11. INDUSTRIAL, STORAGE BUILDING
12. PARKING GARAGE
13. SERVICE STATION, REPAIR GARAGE
14. HOSPITAL, INSTITUTIONAL, NURSING HOME
15. OFFICE, BANK, PROFESSIONAL
16. PUBLIC UTILITY
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. SIGN
19. STORE MERCANTILE RESTAURANT SPECIFY TYPE
20. SWIMMING POOL SPECIFY TYPE
21. TANK, TOWER
22. TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. OTHER

TYPE OF CONSTRUCTION

1. MASONRY
2. ☒ WOOD FRAME
3. STRUCTURE STEEL
4. REINF. CONCRETE

TYPE OF HEATING FUEL

1. GAS
2. OIL
3. ELECTRICITY
4. COAL

TYPE OF SEWAGE DISPOSAL

1. PUBLIC SEWER EXISTS PROPOSED
2. ☒ PRIVATE SYSTEM SEPTIC EXISTS PROPOSED
- PRIVY EXISTS PROPOSED

CENTRAL AIR: 1. 2. ☒

ESTIMATED COST: \$4000

OF MATERIALS AND LABOR

PROPOSED USE: SED + Addition

EXISTING USE: SED

OWNERSHIP

1. ☒ PRIVATELY OWNED
2. PUBLICLY OWNED
3. SALE
4. RENTAL

RESIDENTIAL CATEGORY: 1. ☒ DETACHED

2. SEMI-DET. 3. GROUP 4. TOWNHOUSE 5. MIDRISE

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS: 6. MIRISE

1 FAMILY BEDROOMS

GARBAGE DISPOSAL: 1. Y 2. N

POWDER ROOMS

BATHROOMS

KITCHENS

CLASS

LIBER

FOLIO

Plot - 1

APPROVAL SIGNATURES

DATE

BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR 168 SIZE 50' Wide
WIDTH 6' FRONT STREET
DEPTH 28' SIDE STREET
HEIGHT 8'6" FRONT SETBK NC
STORIES 1 SIDE SETBK 12' 1/2" NC
LOT # 173 SIDE STR SETBK
CORNER LOT REAR SETBK NC
1. Y 2. N ZONING RC-5

BLD INSP :
BLD PLAN :
FIRE :
SEDI CFI :
ZONING : 111 4/26/00 F. L. L. ter
PUB SERV :
ENVRMNT 46 C B C H - OK To File
PERMITS :

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

RECEIPT #: A 454699
CONTROL #: MR
XREF #: 40.0750
FEE: 45.00
PAID: 45.00
PAID BY: DUNEL
INSPECTOR: BN

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

BUILDING 1 or 2 FAM.
CODE CODE
BOCA CODE

TYPE OF IMPROVEMENT

1. NEW BLDG CONST
2. ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

TYPE OF USE

RESIDENTIAL

01. ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY
(ENTER NO UNITS)
05. SWIMMING POOL
06. GARAGE
07. OTHER

TYPE FOUNDATION

1. SLAB
2. BLOCK
3. CONCRETE

BASEMENT

1. FULL
2. PARTIAL
3. NONE

TYPE OF CONSTRUCTION

1. MASONRY
2. WOOD FRAME
3. STRUCTURE STEEL
4. REINF. CONCRETE

TYPE OF HEATING FUEL

1. GAS 3. ELECTRICITY
2. OIL 4. COAL

TYPE OF SEWAGE DISPOSAL

1. PUBLIC SEWER EXISTS PROPOSED
2. PRIVATE SYSTEM EXISTS PROPOSED
SEPTIC EXISTS PROPOSED
PRIVY EXISTS PROPOSED

CENTRAL AIR: 1. YES 2. NO

ESTIMATED COST: \$10,200

OF MATERIALS AND LABOR

PROPOSED USE: SAME AND ADDITION

EXISTING USE: OLD

OWNERSHIP

1. PRIVATELY OWNED 2. PUBLICLY OWNED

RESIDENTIAL CATEGORY: 1. DETACHED 2. SEMI-DET. 3. GROUP 4. TOWNHSE 5. MIDRISE

#EFF: 1 #BED: 2 #3BED: 3 TOT BED: 3 TOT APTS: 3 6. HIRISE

1 FAMILY BEDROOMS

GARBAGE DISPOSAL 1. YES 2. NO

POWDER ROOMS

BATHROOMS

KITCHENS

CLASS

LIBER

FOLIO 12

BUILDING SIZE

FLOOR 20.8

WIDTH 8'

DEPTH 26'

HEIGHT 8.5

TORIES 1

OT #'S 173

RNER LOT

YES 2. NO

LOT SIZE AND SETBACKS

SIZE 50' X 149' 159

FRONT STREET

SIDE STREET

FRONT SETBK (MC) 113

SIDE SETBK N/C

SIDE STR SETBK 100

REAR SETBK N/C

APPROVAL SIGNATURES

DATE

BLD INSP: 1/25/90

BLD PLAN: 1/25/90

FIRE: 1/25/90

SEDI CTL: 1/25/90

ZONING: 1/25/90

PUB SERV: 1/25/90

ENVRMNT: 1/25/90

PLANNING: 1/25/90

PROPERTY ADDRESS 1608 BURKE RD

SUBDIV:

TAX ACCOUNT #: 15-16-350602

DISTRICT/PRECINCT

OWNER'S INFORMATION (LAST, FIRST)

NAME: SCHMELZER DONALD

ADDR: 1608 BURKE RD

21220

APPLICANT INFORMATION

NAME: DONALD SCHMELZER

COMPANY:

ADDR1: 1608 BURKE RD

ADDR2: Bowling Green Md. 21220

PHONE #: 335-3050 MHIC LICENSE #: 12744

APPLICANT

SIGNATURE: D. Schmelter TRACT:

BLOCK:

PLANS: CONST 0 PLOT 9 PLAT 2 DATA 0

EL 2 PL 2

TENANT

CONTR: PATIO ENCLOSURE 224 sq ft over NW

ENGR:

SELLR:

Alan Burrell
760-1919

DESCRIBE PROPOSED WORK:

On large elev. certification is not req'd.
oper
existing 6' x 8' porch to
8' x 26' and enclosure to be
used as sun room on front of
existing water front property
8' x 26' x 8.5 = 208 sq ft

NON-RESIDENTIAL

08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY

09. CHURCH, OTHER RELIGIOUS BUILDING

10. FENCE (LENGTH HEIGHT)

11. INDUSTRIAL, STORAGE BUILDING

12. PARKING GARAGE

13. SERVICE STATION, REPAIR GARAGE

14. HOSPITAL, INSTITUTIONAL, NURSING HOME

15. OFFICE, BANK, PROFESSIONAL

16. PUBLIC UTILITY

17. SCHOOL, COLLEGE, OTHER EDUCATIONAL

18. SIGN

19. STORE MERCANTILE RESTAURANT

20. SWIMMING POOL

SPECIFY TYPE

21. TANK, TOWER

22. TRANSIENT HOTEL, MOTEL (NO. UNITS)

23. OTHER



COUNTY COUNCIL OF BALTIMORE COUNTY

COURT HOUSE, TOWSON, MARYLAND 21204

VINCE GARDINA
COUNCILMAN, FIFTH DISTRICT

COUNCIL OFFICE:
887-3384

August 7, 2000

Roy and Loretta Racey
1606 Burke Road
Baltimore, MD 21220

Dear Mr. and Mrs. Racey:

I have reviewed your letter and the zoning decision regarding 1608 Burke Road and I also, totally disagree with the final decision.

Please be advised that I will ask Virginia Barnhart, the County Attorney, to review this case for compliance to the law and I will also ask Arnold F. Pat Keller, Director of the Office of Planning to review the case and make suggestions for possible stringent changes to the law.

I will be in touch with you when I receive responses from the above mentioned departments. Thank you for contacting me with your concerns.

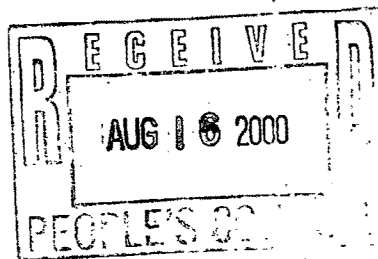
Sincerely,

A handwritten signature in cursive script that reads "Vince".

Vince Gardina
Councilman, Fifth District

VG:st





SCHMELZER
00-455-A

TO PETE

8-15-00

PLEASE READ THE LATEST ON MY CASE
AND IF POSSIBLE MAKE RECOMMENDATIONS TO
MY APPEAL. I HAVE MUCH MORE INFORMATION
AND ANY ADVICE WOULD BE DEEPLY
APPRECIATED. THE BUILDING PERMIT HAS JUST
BEEN ISSUED AFTER IMPERVIOUS SURFACE
WAS REMOVED (#B421832)

ROY RACEY

Roy Racey

H 410-335-3486

W 410-944-7501

July 10, 2000

To the Honorable Vincent J. Gardina,

I write to you once more to vent my frustration with Baltimore County Zoning. The public hearing after the fact was on June 13, 2000. My family and I protested the petition for variance for the addition built with no permits onto my neighbor's waterfront house (1608 Burke Rd.).

First, what would you do if your neighbor started building, you ask him to get necessary permits, and he says, "It's none of your damn business?" What would you do if he said he owned three feet of your yard? What if you called building inspection, which posts a stop work order and it was ignored? Your neighbor finds out that you were the one who reported him, and his daughter comes over to cuss you and your wife out. This is all true, but there isn't any law against him being a jerk.

The same thing happened at the public hearing (case 00455A). I bought the Baltimore County Zoning Regulations manual, and recited the laws from your Zoning Hearing Checklist. The petitioner proved not one law. Donald Schmeltzer had a doctor's excuse of his wife's back. He said that he needed a larger laundry room (24' x 6') to accommodate her condition. He said that his dying father gave him the money to build this room.

My case advisor is the director of zoning of another Maryland county. It appears variances are not considered on a case-by-case basis. They are granted in all RC 5 zones. The 14 people supporting me at the hearing now believe and will spread the word that Baltimore County Zoning encourages unlawful building. RC 5 zoning grants variances for even the smallest of improvements. The setback laws of RC 5 zoning must have provisions for existing properties or the opinion of the commissioner will always be challenged. How do you protect the Bay by using old setback laws that were changed to protect the Bay? Why are people told to rebuild on their existing foundation, then allowed to expand years later. This addition was in the 100 ft. Buffer Zone and more than 25% of his land was already covered. It just doesn't matter. Appeal is now pending.

My wife and I heard you speak at the Bowleys Quarters Improvement Association about SB 509. Before you spoke, we heard from the yahoos and liars. I am not sure that Baltimore County can control what a builder does after acquired land is sold off. Zoning has no control over existing waterfront properties because all variances are granted. I shall speak at the Bowleys Quarters Improvement Association and to the writers of the Avenue paper about my public hearing. A doctor's excuse against county law will let you build whatever you want. Please respond if possible.

Very Sincerely,

Roy W. Racey

Loretta M. Racey

1606 Burke Rd.
Balto. MD 21220
(410) 335-3486

We decided against writing a letter to the Board on this case. To be comprehensive on the issues, it appears we would have to raise the nonconforming use status. Under that theory the proposed additions look to be w/i the permitted 25% allowed for expansion. Rather than present obstacles for Protestants who now has counsel & since Petitioner did not raise nonconforming use, our office sees no public interest need to write a letter to C.B.A.

CSD

4-12-01

Also - protestant did not raise objections to sheds which may also be nonconforming

00-455A

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

ROY RACEY

1606 BURKE Rd. 21220

LORETTA RACEY

1606 BURKE Rd 21220

LEE H. WEAVER

8104 DUVAL AVE 21237

Amanda Appel

1030 Chester Rd 21220

JANICE WOLFE

15 MORNING CT 21237

PAUL BARTH

4100 TAYLOR AVE. 21236

ALFRIEDA RACEY

6606 FAIRDEL AVE. 21206

MINNIE KOERBER

5009 Hazelwood Ave. 21237

ERWIN L. KOEABER

5009 HAZELWOOD AVE. 21237

Susan Koerber

35 FULLERTON HTS. AVE. 21236

EDWARD KOERBER

35 FULLERTON HEIGHTS AVE 21236

Evelyn McKenny

OPF REALTY
5210 Sweet Air Rd. Cockeysville 21013

00-455-A

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Don SCHMEIZER

1608 Burke Rd.

Dorothea Schmeizer

1608 Burke Rd.

Jill Lewis

1610 Burke Rd.



**Real Property
Information****Maryland Department of Assessments and Taxation
Real Property System**[\[Go Back\]](#)**BALTIMORE COUNTY**[\[Start Over\]](#)**DISTRICT: 15 ACCT NO: 1516350602****Owner Information****Owner Name:** SCHMELZER DONALD JOSEPH
SCHMELZER DOROTHEA MAY**Use:** RESIDENTIAL**Mailing Address:** 1608 BURKE RD
BALTIMORE MD 21220-4421**Principal Residence:** YES**Transferred****From:** SCHMELZER DONALD JOSEPH**Date:** 05/22/2000**Price:** \$0**Deed Reference:** 1) /14480/ 209
2)**Special Tax Recapture:**

* NONE *

Tax Exempt: NO**Location Information** [\[View Map\]](#)**Premises Address:**
1608 BURKE RD**Zoning:****Legal Description:**

SS GALLOWAY CREEK

1608 BURKE RD

BOWLEYS QUARTERS

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:	
98	4	4				173	82	Plat Ref: 7/ 12	1

Special Tax Areas**Town:****Ad Valorem:****Tax Class:****Primary Structure Data****Year Built:**

1924

Enclosed Area:

1,733 SF

Property Land Area:

7,700.00 SF

County Use:

34

Value Information

	Base Value	Current Value	Phase-In Value	Phase-in Assessments	
		As Of	As Of	As Of	As Of
		01/01/2000	07/01/2001	07/01/2000	07/01/2001
Land:	99,500	109,500			
Impts:	109,700	111,220			
Total:	209,200	220,720	216,880	85,210	86,750
Pref Land:	0	0	0	0	0

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
STAMATIOS PAPASTEFANOU, ET UX	*	COUNTY BOARD OF APPEALS
-PETITIONERS FOR ZONING		
VARIANCE ON PROPERTY LOCATED	*	OF
ON THE NORTHEAST CORNER COCO		
AND AVERY ROADS (8428 COCO RD)*	*	BALTIMORE COUNTY
14TH ELECTION DISTRICT		
7TH COUNCILMANIC DISTRICT	*	CASE NO. 99-57-A

* * * * *

O P I N I O N

This case comes before the County Board of Appeals of Baltimore County based on an appeal by the Petitioners of a decision of the Deputy Zoning Commissioner in which a Petition for Administrative Variance from Section 400.1 was denied by his Opinion and Order dated January 12, 1999. A public hearing before this Board was held on June 24, 1999. A public deliberation was held on August 31, 1999.

Ms. Papastefanou, the Petitioner, was represented by himself with assistance from Ms. Catherine Agelakis, the Petitioner's daughter, in presenting the case and assisting with translations. An opportunity with discussion was given to the possible need for an attorney. The Petitioner declined and wished to go forward. Also participating in these proceedings was Peter Max Zimmerman, People's Counsel for Baltimore County.

Opening statements were made by Ms. Agelakis as to why relief was being sought by the Petitioner from Section 400.1 of the Baltimore County Zoning Regulations (BCZR) to permit an accessory building in the side yard in lieu of the required rear yard location. The original attached garage was converted to a family room, the rear yard has an existing above-ground pool and small

GREATER TIMONIUM COMMUNITY COUNCIL, INC.

9B RIDGELY RD., BOX 276, TIMONIUM, MD. 21093

PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM WEB: [HTTP://GTCC.HYPERMART.NET/GTCC.HTML](http://GTCC.HYPERMART.NET/GTCC.HTML)

March 27, 2001

Lawrence Schmidt
Zoning Commissioner, Baltimore County
401 Bosley Ave.
Towson, 21204

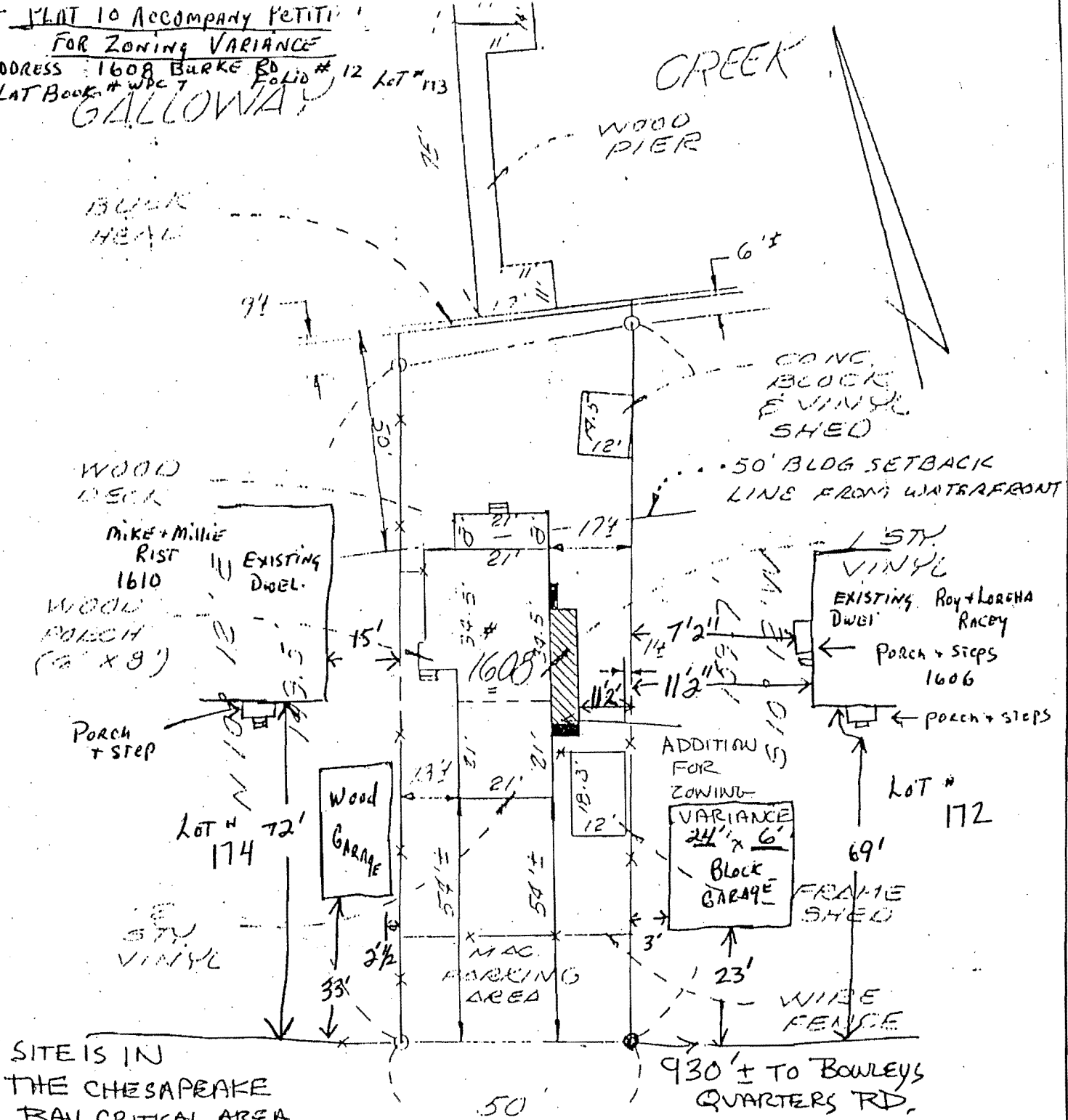
Re: Case #01-229-XA--Special Exception for Class B Child Care with Variances.

Dear Commissioner Schmidt:

The following is in reply to your email of March 23, 2001 concerning your order on the above case on March 12, 2001. I, an individual citizen and as President of GTCC, present the following:

1. My letter, dated March 22, 2001, hand delivered by me to your office, stated how we were not aware of the scheduled second hearing on February 27, 2001. I appeared for the scheduled January 23, 2001 hearing. At the hearing time, 11:00am, I and Mr. Pope were told by Robin of your office, the hearing was postponed by the petitioner the day before. I reviewed the file, left my letter for the file, and asked to be notified when the rescheduled hearing will be set. I received no notice of the rescheduled hearing.
2. Your assumption in #2 of your email that we knew about the original scheduled date of January 23, 2001 by looking at signs or a newspaper (Jeffersonian) **is incorrect**. We receive, in advance, from the the zoning division of the Department of Permits and Development Management, the monthly zoning case schedules for the County as a whole, and revisions thereto as occurs. Thus, that is how we knew of this case. In that this case was requested for postponement the day before the hearing scheduled, we did not receive thereafter any revisions of the advance schedule for the new hearing date. We did receive revisions during that period but this case was not listed for the reschedule date. Probably a people problem, however, we were and are interested in zoning cases within the County.
3. This subject, Child Care Centers, not family day care operations which are allowed by "right" under the zoning laws of the County, affects all residential zoned properties in the Baltimore County, not just by area, region, district, or any other criteria that may be determined. Therefore, when you assume we have no "standing" to participate in zoning decisions not within 1000 feet of the property under consideration in an administrative variance case, denies the citizen the right to express his opinion on the merits of the case, pro or con, that come before your office.

PLAT TO Accompany PETITION
FOR ZONING VARIANCE
ADDRESS: 1608 BURKE RD
PLAT BOOK # WPC 7 FOLIO # 12 LOT # 113
GALLOWAY



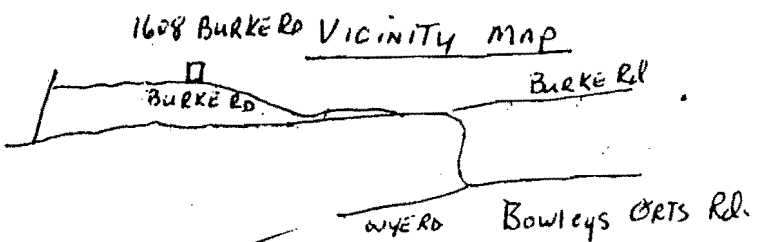
SITE IS IN
THE CHESAPEAKE
BAY CRITICAL AREA
AND WITHIN THE
100 YEAR FLOOD-
PLAIN ZONE A-10
ELEV. = 7 FT. ±
NOTE:

N 73° 49' W
BURKE RD.
20' FT. OF PAVING

SCALE 1" = 30'

1) BEING LOT 173 PLAT NO. 1, AS SHOWN ON PLAT OF
BOWLEY'S QUARTERS COMPANY OF BALTO. CO. RECORDED
IN BALTO. CO. IN PLAT BOOK NO. WPC. 7, FOLIO 12.
2) THIS PROPERTY LIES IN ZONE 'A-10' (AREAS OF 100
YEAR FLOOD, BASE FLOOD ELEVATIONS AND FLOOD HAZARD
FACTORS DETERMINED) AS SHOWN ON FIRM MAP
NO 240010 04418, DATED MARCH 2, 1981.

PLAN FOR ZONING VARIANCE



Location Information

Councilmanic District 5
Election District 15
1'-200 SCALE MAP N.E. 1 L
Lot Size .176 AC
Sq Feet 7700 SQ. FT.
SEWER Private
WATER Public
Prior Zoning Hearings NONE

455

00-455-A



Baltimore County
Department of Permits and
Development Management

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

Code Enforcement: 410-887-3351 Extension _____ Plumbing Inspection: 410-887-3620
Building Inspection: 410-887-3953 *Any ? Call Me* Electrical Inspection: 410-887-3960

8-8:30 A.M. or 3-4 P.M. M-F

BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

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

Violation Notice No.

116486

Case No.:

00-1671

Election District *15R* Permit No. _____

Name (s) *Donald Joseph Schmelzer*

Address *1606 Burke Rd Balto. Md 21220*

Location of Violation (If different than address) *Same*

Vehicle License No.: _____ Vehicle ID: _____

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:

§§ _____

§§ _____

Zoning Regulations:

§§ _____

§§ _____

Building Code (BOCA):

§§ _____

§§ _____

Livability Code (18-66):

§§ _____

§§ _____

Investment Property Act (7-66):

§§ _____

Electrical Code (NEC):

§§ _____

Plumbing Code (NSPC):

§§ _____

Dwelling (CABQ):

§§ *111.1 Permit required*

Other: §§ _____

COMMENTS OR OTHER VIOLATIONS:

*Permit required for Addition
(approx. 8'x50') recently constructed.
Obtain necessary permits or
remove structure.
Subject to \$1000.00 plus \$200.00/Day
if not brought into compliance.*

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

DATE ISSUED: _____ INSPECTOR: _____

STOP WORK NOTICE

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

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN: *4/24/00*

DATE ISSUED: *4/10/00* INSPECTOR: *Jim Kemp*

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

DEFENDANT

Prot. Ex 1

Prot Gx #2

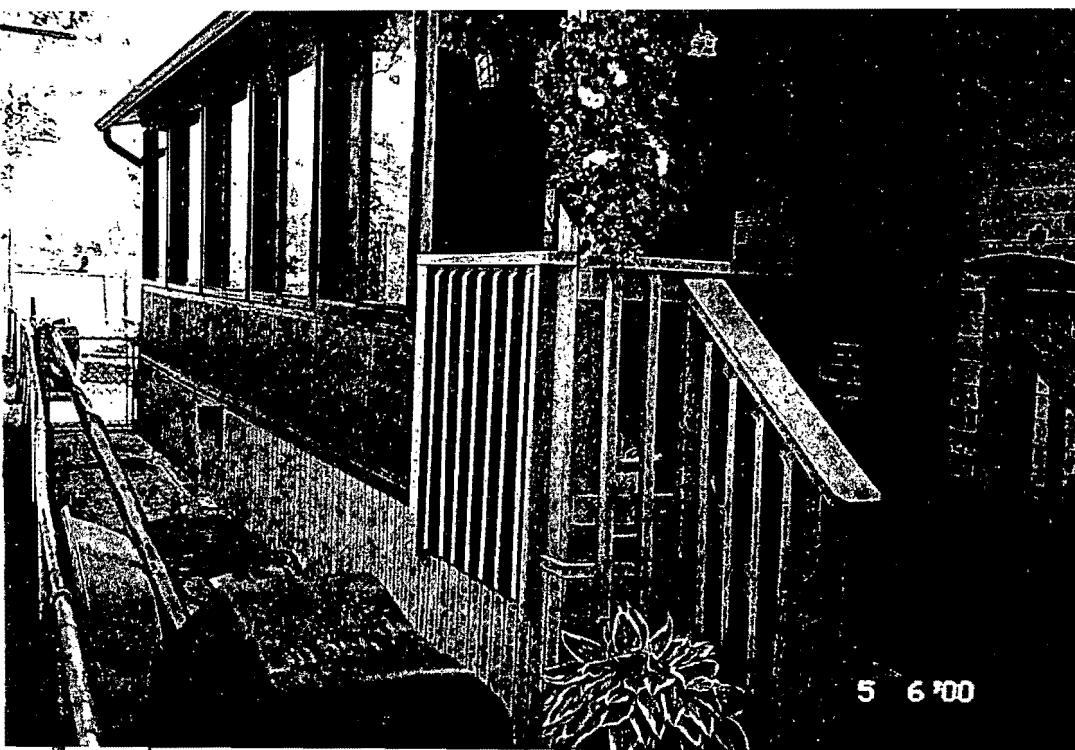
#2 EXHIBIT

DATE PRINTED 06/11/95
TIME PRINTED 08:02:18
PERMIT NO CONTROL NO

BALTIMORE COUNTY MARYLAND - PERMITS & LICENSE
PERMIT LIST - ADDRESS SEQUENCE

PAGE NO 1725
DP. NO. BPO014

PERMIT NO	CONTROL NO	ADDRESS	PERMIT NO	CONTROL NO	ADDRESS
B107938	WF	1404 BURKE RD	E055553	055553	1323 BURLEIGH RD
E024290	024290	1404 BURKE RD	B030837	MR	1329 BURLEIGH RD
E029311	029311	1404 BURKE RD	E007310	007310	2407 BURLWOOD RD
P023346	023346	1404 BURKE RD	E012985	012985	2407 BURLWOOD RD
P028390	028390	1404 BURKE RD	B052679	SI-6438	3609 BURMONT AVE
B002137	WF	1426 BURKE RD	B061249	C-1153-90	3609 BURMONT AVE
B126172	WF	1430 BURKE RD	B068503	FD-90	3609 BURMONT AVE
B102202	MR	1508 BURKE RD	E052684	052684	3609 BURMONT AVE
B116279	MR	1508 BURKE RD	E062813	062813	3609 BURMONT AVE
E104871	104871	1508 BURKE RD	E153077	153077	3700 BURMONT AVE
B122087	WF	1514 BURKE RD	E155396	155396	3700 BURMONT AVE
B044295	MR	1608 BURKE RD	B152200	RA	3700 BURMONT RD
B024745	MR	1610 BURKE RD	E072940	072940	3 BURNBRAE RD
B117009	MR	1610 BURKE RD	P072868	072868	3 BURNBRAE RD
B117060	RA	1610 BURKE RD	E058009	058009	6 BURNBRAE RD
E046100	046100	1610 BURKE RD	B138257	MR	3210 BURNBROOK LANE
B064308	WF	1616 BURKE RD	E151072	151072	3302 BURNBROOK LANE
B111793	RA	1620 BURKE RD	B113765	NR	1516 BURNFIELD RD
B114841	NR	1620 BURKE RD	E118358	118358	1516 BURNFIELD RD
B146981	NR	1620 BURKE RD	P118750	118750	1516 BURNFIELD RD
B148143	WF	1620 BURKE RD	P118814	118814	1516 BURNFIELD RD
E155156	155156	1620 BURKE RD	E017562	017562	1522 BURNFIELD RD
P154389	154389	1620 BURKE RD	E038607	038607	1523 BURNFIELD RD
B055790	RS	1621 BURKE RD	E078153	078153	1617 BURNFIELD RD
B055792	MR	1621 BURKE RD	B094614	MR	1717 BURNHAM RD
E050236	050236	1621 BURKE RD	B156100	RS	1719 BURNHAM RD
P005141	005141	1621 BURKE RD	E173377	173377	1722 BURNHAM RD
B033569	MR	19300 BURKE RD	P174917	174917	1722 BURNHAM RD
E038999	038999	19300 BURKE RD	P179473	179473	1734 BURNHAM RD
P038794	038794	19300 BURKE RD	E108940	108940	1736 BURNHAM RD
B073484	MR	19320 BURKE RD	P108928	108928	1736 BURNHAM RD
E080074	080074	19320 BURKE RD	E156638	156638	1739 BURNHAM RD
P079875	079875	19320 BURKE RD	E181297	181297	200 BURNING TREE RD
B090035	NR	19422 BURKE RD	E026058	026058	202 BURNING TREE RD
E111749	111749	19422 BURKE RD	E172609	172609	203 BURNING TREE RD
P102428	102428	19422 BURKE RD	E079102	079102	214 BURNING TREE RD
B009861	RS	19617 BURKE RD	B126595	MR	215 BURNING TREE RD
B061730	MR	19629 BURKE RD	B052135	MR	221 BURNING TREE RD
P135282	135282	63 BURKELEIGH RD	P105865	105865	3207 BURNING WELL RD
P095271	095271	51 BURKESHIRE RD	E142355	142355	3211 BURNING WELL RD
E041744	041744	61 BURKESHIRE RD	B026785	MR	8312 BURNING WOOD RD
E012079		68 BURKESHIRE RD	P034616	034616	8312 BURNING WOOD RD
E162151	162151	7548 BURKESHIRE RD	B159547	MR	8315 BURNING WOOD RD
E055117	055117	57 BURKLEIGH RD	B097314	MR	214 BURNINGTREE RD
E076064	076064	65 BURKLEIGH RD	E099456	099456	214 BURNINGTREE RD
E088871	088871	51 BURKSHIRE RD	P099097	099097	214 BURNINGTREE RD
E114470	114470	59 BURKSHIRE RD	B067451	MR	226 BURNINGTREE RD
E088843	088843	1303 BURLEIGH RD	E039730	039730	8312 BURNINGWOOD RD
E079999	079999	1305 BURLEIGH RD	E055578	055578	8312 BURNINGWOOD RD
E056352	056352	1313 BURLEIGH RD	P176671	176671	8202 BURNLEY RD
E056617	056617	1313 BURLEIGH RD	B077818	MR	8211 BURNLEY RD
P056377	056377	1313 BURLEIGH RD	E031507	031507	8211 BURNLEY RD
E139611	139611	1315 BURLEIGH RD	P032504	032504	8211 BURNLEY RD
B109397	MR	1318 BURLEIGH RD	E160717	160717	8213 BURNLEY RD
E055136	055136	1322 BURLEIGH RD			



LAND

John R. Ring
BUILDINGS ENGINEER

PREC: 08
CLASS: 34

UM NO

5 6'00

OWNERS INFORMATION

NAME: SCHMELZER, DONALD
ADDR: 1608 BURKE RD. 21220

TENANT:

CONTR: PATIO ENCLOSURES-224 8TH AVE. NW, GLEN DURN. 21061

ENGR:

SELLR:

WORK: ENLARGE EXISTING OPEN 6'X8' PORCH TO 8'X26' AND
ENCLOSE WITH ALUMINUM, TO BE USED AS SUN ROOM,
ON FRONT OF EXISTING WATERFRONT DWELLING.
8'X26'X8' = 208 SF.

BLDG. CODE: 1 AND 2 FAM. CODE

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

ESTIMATED \$ PROPOSED USE: SAME AND ADDITION
10,200.00 EXISTING USE: SFD

TYPE OF IMPRV: ADDITION

USE: ONE FAMILY

FOUNDATION: SLAB

SEWAGE: PRIV. EXISTS

BASEMENT: NONE

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 050/050X149/159

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC/NC

SIDE STR SETB:

REAR SETB: NC

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

EXHIBIT #4
 Plot #

ARCHIVES

BO 43295

M H

51691

SEM

LEGAL PAD

SEM

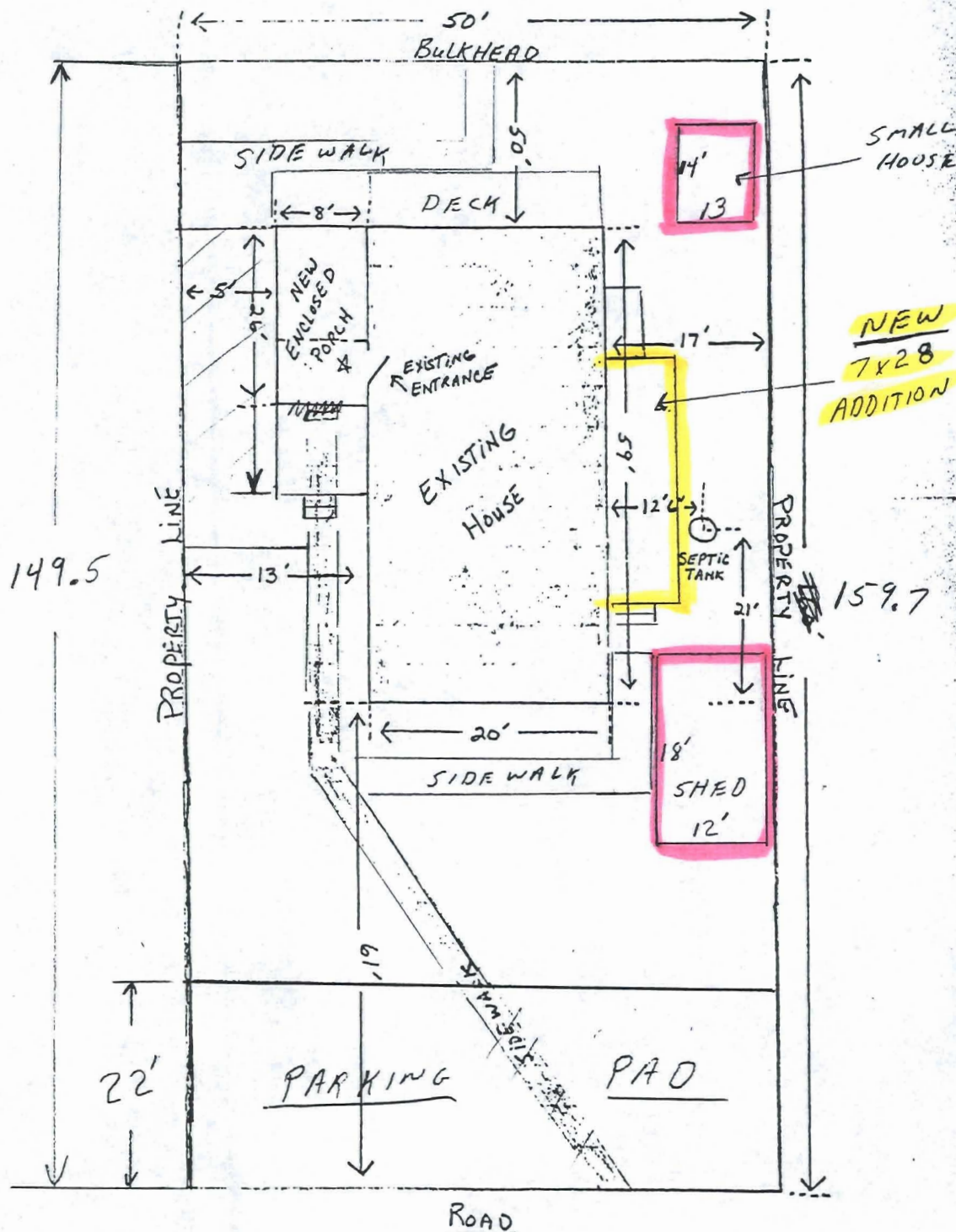
LOT# 0173

BOOK Folio
 07-012

PLAT
 001

PROPERTY #
 15-16-350602

1608
 BURKE
 ROAD



EXISTING PORCH NOW 6'x8'

NEW PORCH 8'x26' = 208 sq'

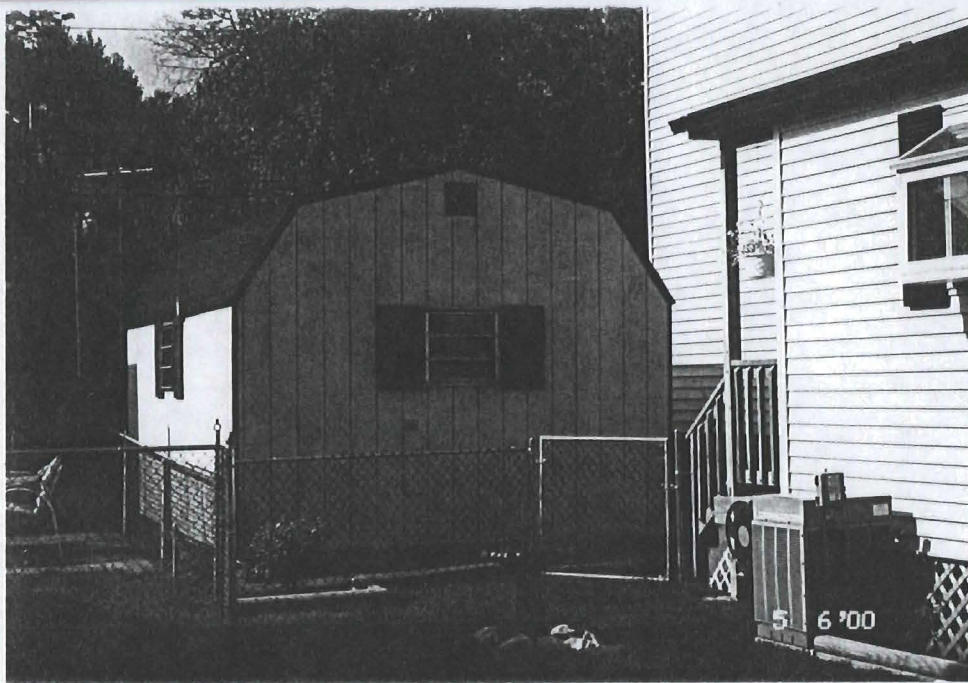
* SEASONAL PORCH - ONLY FOR SUMMER USE
 WOOD DECK WITH
 ALUMINUM FRAME &
 ALUMINUM WINDOWS

EXISTING HOUSE 20' x 59'

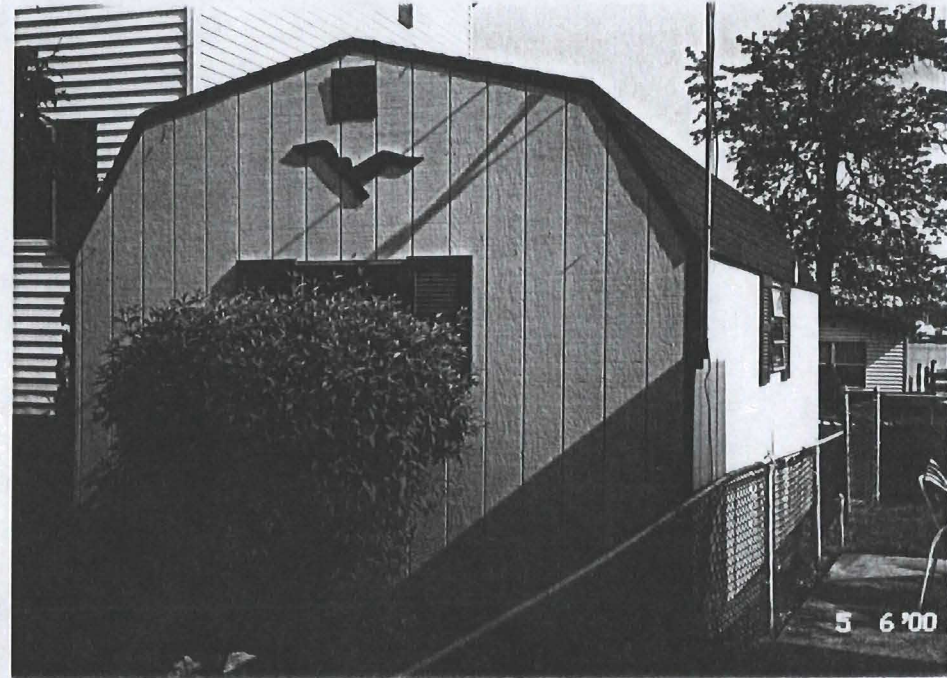
PROPERTY LOT 50' x 160'

4 270
 IMPROVISED

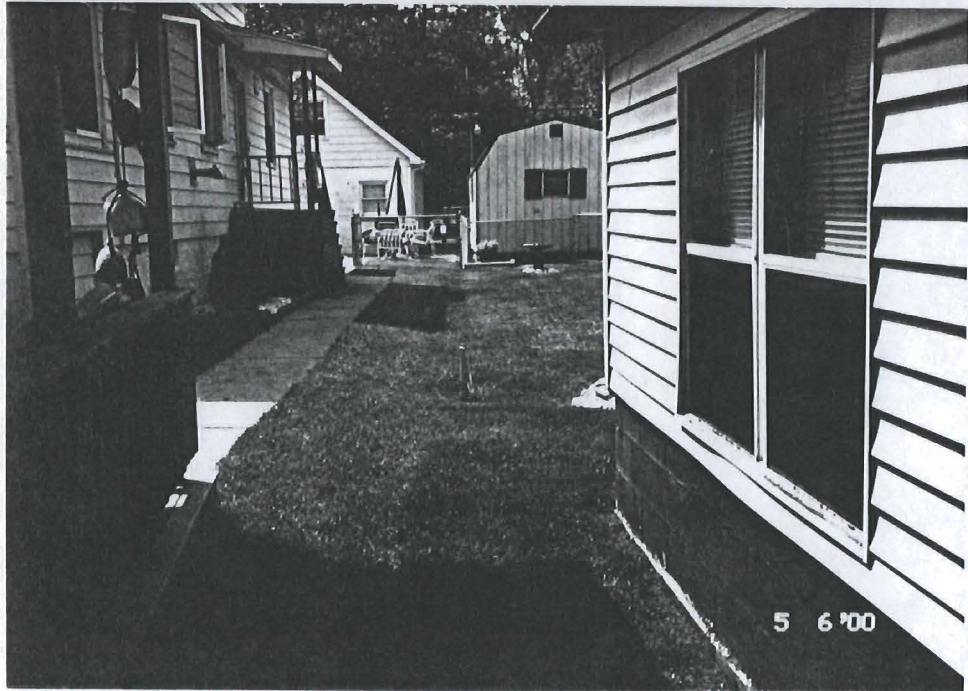
5



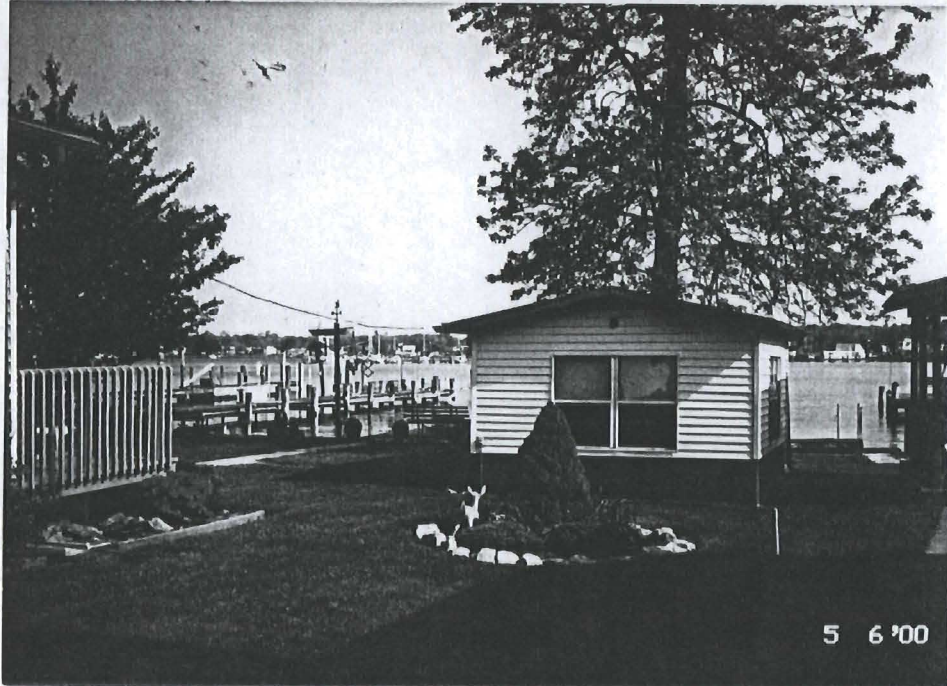
6



8

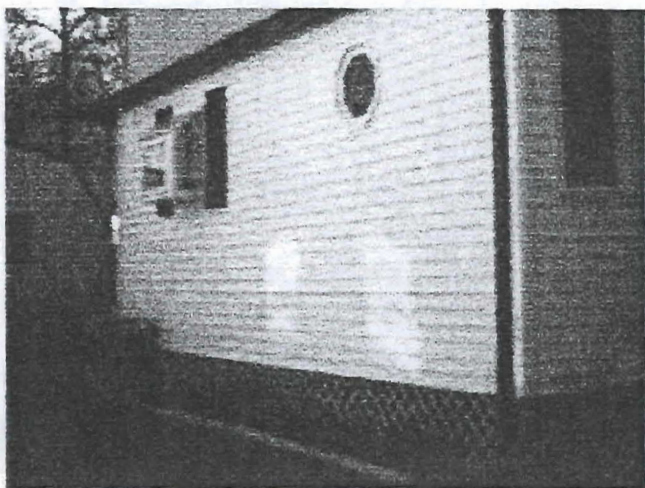


7



Prot. Ex. 5-8

Pet Ex 2A



20



Pct Ex 3

June 07, 2000

Allen & Donna Himes
1607 Burke Rd
Baltimore, Md. 21220

Dear Neighbors of Burke Rd,

On Tuesday, June 13, 2000, Don & Tammy Schmelzer will be going to a hearing to apply for their permit for their new addition. Due to the fact that the hearing is during the day, alot of us can not make it to show our support for them. What I am asking you to do is sign this letter stating that you support their new addition and would like to see them get their permit. Hopefully the Hearing Officer will take our signatures into consideration.

Dear Hearing Officer,

By signing below, we the neighbors of Burke Rd fully support Don & Tammy Schmelzer, and hope to see them receive their permit.

Donna Himes	1607 Burke Rd	8 yrs at residency
Allen Himes	1607 Burke Rd	8 yrs at residency
Cokie Co	1605 Burke Rd.	6 YRS.
Nancy Steinert	1602 Burke Rd	12 yrs
	1626 Bowley Sts Rd	18 yrs
Christie	1604 BURKE RD.	2 1/2 YRS.
Phil & Robert Sen	1612 Burke Rd	7 YRS.
Ernest Yang	1621 BURKE RD.	14 yrs

OVERLEA PERSONAL PHYSICIANS



GEORGE E. LOWE, M.D.
FERNANDO J. FERRO, M.D.

MICHAEL D. MARTIN, M.D.
MARION C. KOWALEWSKI

5/22/00

To whom it may concern:

Due to her medical conditions (Sciatica
and Fibromyalgia, my patient, Dorothea Schaefer,
is in quite a lot of chronic pain. This is
exacerbated by bending and twisting. Unfortunately,
her household chores include laundry.
Because of the cramped laundry room at her
house, she necessarily bends and twists too much
for her disease. If at all possible, her laundry room
should be enlarged to accommodate her disability.

Thank you,

Fernando J. Ferro

Ref # 4