

IN RE: PETITION FOR VARIANCE
SW/S Headland Road, approximately
200 ft. S of Bay Front Road
15th Election District
7th Councilmanic District
(7419 Bay Front Road)

William S. White &
Margaret J. Ludowese
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMIS SIONER
* OF BALTIMORE COUNTY
* CASE NO. 01-167-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, William S. White and Margaret J. Ludowese. The Petitioners are requesting a variance for property they own at 7419 Bay Front Road, located in the Edgemere area of Baltimore County. The variance request is from Section 102.4 of the Baltimore County Zoning Regulations, to allow a dwelling to be built on a lot containing 9,979 sq. ft. in lieu of the minimum required 20,000 sq. ft. which abuts on a 15 ft. wide private right-of-way in lieu of the 30 ft. wide public right-of-way.

Appearing at the hearing on behalf of the variance request were William White and Margaret Ludowese, owners of the property, Dwight Little, professional engineer who prepared the site plan of the property and Howard Alderman, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners request were Ron and Deborah Malvaso and Steve Waters, nearby neighbors.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.7934 acre, more or less, zoned DR 5.5. The subject property is improved with an existing single family residential dwelling which is a waterfront property, fronting on

COPIES RECEIVED FOR FILING

Date 12/27/00
By R. J. [Signature]

Old Road Bay. The Petitioners purchased the property approximately 2 ½ years ago and are desirous of subdividing the property to create one additional building lot. The Petitioners are proceeding through the minor subdivision process. The Petitioners have designed the new lot in accordance with Petitioners' Exhibit No. 1, the site plan submitted at the hearing. As shown on the site plan, there is an existing 8" sanitary sewer line which bisects this property in the fashion depicted on the site plan. The Petitioners have proposed to locate the new dwelling on the north side of this sewer line, adjacent to the property owned by Ron and Deborah Malvaso. In addition, the petitioners have only set aside 9,979 sq. ft. of lot area for this new dwelling. To proceed in the manner depicted on the site plan, two variances are necessary. One variance is necessary to permit the lot to be smaller than required and the other to allow access by way of Headland Road.

Headland Road was the subject of a previous zoning case wherein I granted a variance to allow access over that road bed. That particular right-of-way is only 15 ft. wide and is consistent with many of the other streets and rights-of-ways in this area of Baltimore County. Therefore, I have no problem granting the variance to allow access to this new lot to be by way of Headland Road. However, I do have great concerns granting a variance to allow the lot to contain 9,979 sq. ft. in lieu of the minimum 20,000 sq. ft. required. The dwelling proposed to be located on this newly created lot, in my opinion, should be situated on the south side of the existing 8" sanitary sewer line. While this will reduce the amount of rear yard that the property owners would like to have for their existing house, it will certainly lessen the impact that a proposed dwelling will have on the adjacent property owners, Mr. and Mrs. Malvaso.

The neighbors who appeared at the hearing were concerned over the drainage from the proposed dwelling, as well as the parking problems that they currently experience on Headland

Road. In addition, the Malvaso's are concerned that the new dwelling might block their water view. Requiring the new dwelling to be constructed on the south side of the sewer line should alleviate the concerns raised by these neighbors. In addition, it will cause the lot itself to be much greater than the 9,979 sq. ft. proposed. Therefore, I shall order that the Petitioners redesign their plan to show the proposed dwelling to be located on the south side of the existing sanitary sewer line, thereby causing the southern property line of the new lot to be created to be moved closer to the existing house owned by the Petitioners. The Petitioners shall be required to readjust the southern property line so that the proposed dwelling may be constructed on the south side of the sewer line and still meet the side yard setback with the southern property line. This might cause the variance from the 20,000 sq. ft. lot requirement to be eliminated, in the event moving the lot line increases the square footage of this lot above the 20,000 sq. ft. minimum. However, as a condition of approval, to allow access by way of Headland Road, I am requiring that the house be located on the south side of the existing sanitary sewer line.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioners; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioners of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioners any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. The relief requested is in harmony with the general spirit and intent of the Critical Areas

COMMUNITY DEVELOPMENT
12/16/12
[Signature]

legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management (DEPRM) has submitted recommendations (attached herewith) which describe what steps the Petitioners must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; and
2. Conserve fish, wildlife, and plant habitat; and
3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

THEREFORE, IT IS ORDERED this 27th day of December, 2000, by this Deputy Zoning Commissioner, that the Petitioners' requests for variance from Section 102.4 of the Baltimore County Zoning Regulations, to allow a dwelling to have access over a private right-of-way with a 15 ft. width in lieu of the minimum required 30 ft. width and public right-of-way, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at his time



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

December ²⁹~~27~~, 2000

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

Re: Petition for Variance
Case No. 01-167-A
Property: SW/S Headland Road, approximately
200 ft. S of Bay Front Road

Dear Mr. Alderman:

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 Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

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

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure



Copies to:

Mr. William White
Ms. Margaret Ludowese
7419 Bayfront Road
Baltimore, MD 21219

Mr. & Mrs. Ron Malvaso
7419 A Bayfront Road
Baltimore, MD 21219

Mr. Steve Waters
7919 B Bayfront Road
Baltimore MD 21219

Dwight Little, P.E.
W. Duvall & Associates, Inc.
530 E. Joppa Road
Towson, MD 21286

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>MARGARET KAPP & RONALD KAPP -</u>	*	OF
LEGAL OWNERS /PETITIONERS FOR A	*	BALTIMORE COUNTY
SPECIAL HEARING ON PROPERTY	*	Case No. 00-167-SPH
LOCATED ON THE S/S MEREDITH ROAD,	*	
2600' W OF C/L OF WEST LIBERTY ROAD	*	
(2615 MEREDITH ROAD)	*	
7 TH ELECTION DISTRICT	*	
6 TH COUNCILMANIC DISTRICT	*	
* * * * *		

OPINION

This matter comes before the Board on an appeal from a decision of the Deputy Zoning Commissioner dated December 20, 1999. It was filed by the legal owners of the property located at 2615 Meredith Road, Ronald W. and Margaret E. Kapp. Mr. and Mrs. Kapp appeared *pro se* and were accompanied by Richard Matz, Professional Engineer. Peter Max Zimmerman, People's Counsel for Baltimore County, also participated in these proceedings.

Background

The special hearing request seeks to affirm that two density units are available to the subject property in accordance with the Deputy Zoning Commissioner's decision in Case No. 85-170-SPH. In the alternative, the special hearing request was made to approve an additional density unit because of a plat recorded prior to 1990 with a lot split by a road in accordance with Zoning Policy RSD 7 (1984) and to transfer the density unit to the south side of Meredith Road. This position was abandoned by Appellant during the hearing before the Board.

The testimony indicated that the property which is the subject of the special hearing consists of 3.992 acres of land, more or less, zoned R.C. 2. The Petitioners seeks to divide the subject 3.992 acres into two separate building lots. The property is currently approved with a single-family residential dwelling where the Kapps reside. That lot is identified as Lot #2 on the site plan submitted. Proposed Lot #3 is undeveloped at this time. Testimony indicated that the Kapps are desirous of creating an additional building lot for their daughter, where they would construct a dwelling for her.

In his decision, Deputy Zoning Commissioner Kotroco indicated that the Petitioners' request was to affirm that the property may be subdivided pursuant to then Deputy Zoning Commissioner Jean Jung's decision in Case No. 85-170-SPH. The Deputy Zoning Commissioner properly noted that that case was appealed to the Board of Appeals. The Board issued a decision on March 25, 1986, which was consented to by all parties to the matter on the same date. The Board's decision states that the Petitioners at that time sought approval to re-subdivide and realign Lot #1 of "Meredith's Range" and two other parcels contiguous thereto containing 14.63 acres so as to create three building lots as shown on the site plan prepared by the Development Design Group, which was submitted to the Deputy Zoning Commissioner. The decision recited the fact that the Deputy Zoning Commissioner granted the re-subdivision and realignment of Lot #1 and the two other parcels contiguous thereto to create three building lots in accordance with Petitioners' Exhibit No. 1.

People's Counsel filed a timely appeal to the decision of the Deputy Zoning Commissioner and also a timely appeal was filed by another interested party, Dr. Emil Kfoury and Elizabeth Kfoury, his wife. The Board's decision recites the fact that the parties had resolved the issue and there was agreement that the transfers requested in the instant Petition were justified provided that the aggregate of the four density units allowed for the combined properties would be divided by applying two units to the Anderson properties and two units Kfoury property. The Office of Planning of Baltimore County agreed to approve the division of said density units provided that both properties were included in a common development plan which was approved by Baltimore County. Based upon the agreement of the parties, the Board ordered the approval of the re-subdivision and realignment of Lot #1 of "Meredith's Range" and two other parcels contiguous thereto containing 17.3 acres so as to create two building lots. This decision was memorialized in the plat recorded on April 2, 1986 in EHK Jr. 54, Folio 69, entitled "Anderson Property" showing two lots.

The Appellants contend that the Deputy Zoning Commissioner decision of January 25, 1985 granting the three building lots was actually approved by the Board in its decision of March 25, 1986.

The Appellants further contend that an approved plan showing three lots never was recorded but that three density lots with a density of one for each lot were found to be correct by the Board.

Appellants contend that a plat recorded on September 29, 1986 in EHK Jr. 55, Folio 70, actually shows the two lots referred to by the Board in its decision of March 25, 1986. This position is contested by People's Counsel who contends that the plat recorded in EHK, Jr., 54, Folio 69, actually sets forth the correct property boundaries found by the Board to be appropriate. The Appellants urge the Board to reverse the Deputy Zoning Commissioner and find that there is an additional lot on the Kapp property and that there is one additional density unit which can be utilized by Mr. and Mrs. Kapp.

Decision

The Board finds that the plat which was recorded at EHK Jr. 54, Folio 69, refers to the re-subdivision approved by the Deputy Zoning Commissioner on 1/25/85, Case No. 85-170-SPH. This is the case that was decided with agreement of the parties by the Board on March 25, 1986 and refers to the "Anderson Property" with a gross acreage of 17.653 acres as set forth in the March 25, 1986 Board decision.

The plat referred to by the Appellants at EHK Jr. 55, Folio 70, sets forth a gross area of 20.093 acres. It refers to Emil F. Kfoury and wife.

The Kapps purchased the property known as Lot #2 from the Andersons; therefore, the property in question is part of the plat recorded at EHK Jr. 54, Folio 69. It allows two density units, one for Lot #1 and one for Lot #2. There is some confusion because of the fact that there are several "Meredith Range" plats recorded. The Board finds that the Deputy Zoning Commissioner was correct in denying the special hearing for the addition of one density unit to Lot #2 on the subject property. The Board finds that the previous decision of the County Board of Appeals, dated March 25, 1986, was correct and that no additional density units were awarded by the Board at that time. Although the Appellants have withdrawn their petition with respect to the request for an additional density unit because the lot is to be intersected by the extension of Meredith Road, the Board feels it appropriate to state that an additional density unit should not be granted because of that division of the property by Meredith Road. Section

1A01.3 of the BCZR indicates that "where land in a single ownership is crossed by existing or proposed roads, rights-of-way, or easements, the portions of land on either side of the road, right-of-way, or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record with the exception that any zoning petitions, site plan, subdivision, or record plat filed with or approved by the County between November 27, 1979 and October 1, 1990 shall not be so affected and be considered valid, provided, as to any zoning petition pending on appeal, that it be upheld on appeal. Since there was no plat approved or filed before October 1, 1990, showing the intersection and the additional density unit for Lot #1, the additional density unit cannot be awarded by this Board.

The Board feels constrained to discuss the language in the Deputy Zoning Commissioner's decision of December 20, 1999 in which he states, in the first full paragraph, page 2: "The Petitioners would have to bring this issue to the attention of the Board of Appeals by way of an appeal of this decision, in order for them to entertain whether their previous decision should be overturned." The Deputy Zoning Commissioner went on to state that, if the parties at that time were dissatisfied with the Board of Appeals decision, an appeal should have been taken to the Circuit Court during the appropriate time period from the date of that decision.

The Board is not clear as to what the Deputy Zoning Commissioner meant by the above language. Since the previous decision of the Board in Case No. 85-170-SPH was never appealed, that decision stands, and is not before this Board.

ORDER

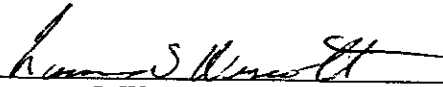
THEREFORE, IT IS THIS 19th day of January, 2001 by the County Board of Appeals of Baltimore County

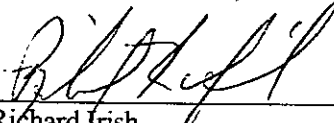
ORDERED that the Appellants' special hearing request to affirm that two density units are available to the subject property in accordance with the Deputy Zoning Commissioner's decision in Case No. 85-170-SPH, or in the alternative that a special hearing request be made to approve an additional density unit because

of a plat recorded prior to 1990 with a lot split by a road, in accordance with zoning policy RSD-7 (1984) and to transfer the density over to the south side of Meredith Road be and is hereby **DENIED**.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Richard Irish


Lynn Barranger



County Board of Appeals of Baltimore County

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

TO WGR
for file

January 19, 2001

Mr. and Mrs. Ronald Kapp
2615 Meredith Road
White Hall, MD 21161

RE: In the Matter of Margaret Kapp & Ronald Kapp
- Legal Owners /Petitioners Case No. 00-167-SPH

Dear Mr. and Mrs. Kapp:

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 of Procedure*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Richard E. Matz, P.E. /Colbert Matz Rosenfelt Inc.
Dr. & Mrs. Richard McQuaid
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Z.C.
✓ Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7419 Bay Front Road
which is presently zoned DR 5.5

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) 102.4 To allow a dwelling to

be built on a 9,979 sq ft lot abutting on a 15 ft wide private right-of-way in lieu of the minimum required 20,000 sq ft lot & 30 ft wide public right-of-way over which the public has an easement of travel res-
-pectively.

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

Because minimum R/W width of 30' does not exist, and proposed lot is under 20,000 sf, the lot cannot be created.

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

Case No.

01-167-A

Legal Owner(s):

William S. White

Name - Type or Print

Signature

Margaret J. Ludowese

Name - Type or Print

Signature

7419 Bay Front Road

Address

410 477-6915

Telephone No.

Baltimore

MD

21219

State

Zip Code

Representative to be Contacted:

Chuck Merritt c/o W. Duvall & Associates, Inc.

Name

530 E. Joppa Road

410 583-9571

Address

Telephone No.

Towson

MD 21286

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

1 1/2 hrs

UNAVAILABLE FOR HEARING

Reviewed By

Date

10-17-00

W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners



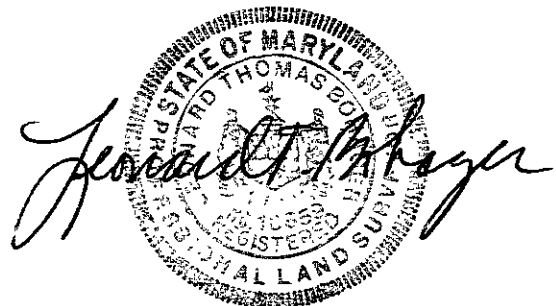
530 East Joppa Road
Towson, Maryland 21286

Telephone: (410) 583-9571
Fax: (410) 583-1513

September 27, 2000

ZONING DESCRIPTION FOR #7419 BAY FRONT ROAD

Beginning at a point located on Headland Road (A 20' Private R/W) 212 feet south of
The south side of Bay Front Road, 30 feet wide; said Beginning Point being 400 feet
Southeast of Lincoln Avenue; Thence (1) S 06 degrees 30 minutes 01 seconds W
359.66 feet (2) N 83 degrees 20 minutes 10 seconds W 98.51 feet (3) N 06 degrees
30 minutes 01 seconds E 342.00 feet (4) N 86 degrees 29 minutes 43 seconds E
100.03 feet To the place of beginning as recorded in Deed 14185/368. Containing
0.7934 acres Also known as 7419 Bay Front Drive and located in the 15th Election
District, Councilmanic District # 7.



167

01-167-A

01-167A

BALTIMORE COUNTY, MARYLA.
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

01-1677-A

No.

86897

DATE 10-17-00

ACCOUNT

R-001-6150

AMOUNT \$

50.00

RECEIVED FROM:

Libra White

FOR:

Resident of Harwood Hill Rd.
1419 Bay Forest Rd.

DISTRIBUTION
 WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PAYMENT

AMOUNT

TIME

10/17/2000 10/17/2000 11:06:57

RTI 4903

CASHIER LITL LHM DRUMER

3

Dept 5

528 ZONING CERTIFICATION

Receipt #

146362

0114

TX NO.

086897

Receipt tot

50.00

50.00 TX

00 120

Baltimore County, Maryland

CASHIER'S VALIDATION

01-1677-A

CERTIFICATE OF POSTING

**RE: CASE # 01-167-A
PETITIONER/DEVELOPER
(William S. White)
DATE OF Hearing
(12-4-00)**

**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
SIGNS(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT**

7419 Bay Front Road Baltimore , Maryland 21219_____

THE SIGN(S) WERE POSTED ON_____ 11-15-00_____
(MONTH, DAY, YEAR)

SINCERELY,


(SIGNATURE OF SIGN POSTER & DATE)

_____ THOMAS P. OGLE SR. _____

_____ 325 NICHOLSON ROAD _____

_____ BALTIMORE, MARYLAND 21221 _____

_____ 410-687-8405 _____
(TELEPHONE NUMBER)

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 proposed [REDACTED] as follows:

711 Bay Front Road
SW/S Headland Road, Approximately 200 feet
S of Bay Front Road.

16th Election District & 7th Councilmanic District
Legal Owner(s): Margaret J. Lidovase & William S. White
Variance: to approve a 9,979-square foot lot abutting a 15-foot private right-of-way in lieu of the required 30-foot wide public right-of-way.
Hearing: Monday, December 4, 2000 at 9:00 a.m. in Room 407, County Courts Building, 401 Rosley 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) 887-4388.
(2) For information concerning the file and/or Hearing, Contact the Zoning Review Office at: (410) 887-3391.
11/18/00 Nov. 18
0434071

CERTIFICATE OF PUBLICATION

TOWSON, MD, 11/16/, 2000

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/16/, 2000.

THE JEFFERSONIAN,

J. Jeffersonian

LEGAL ADVERTISING

RE: PETITION FOR VARIANCE
7419 Bay Front Road, SW/S Headland Rd,
appx. 200' S of Bay Front Rd
15th Election District, 7th Councilmanic

Legal Owner: William White and Margaret Ludowese
Petitioner(s)

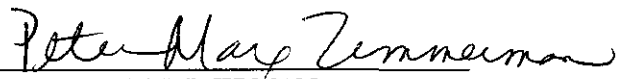
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-167-A

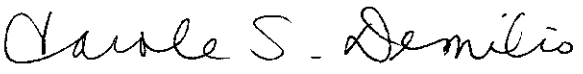
* * * * *

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 13th day of November, 2000 a copy of the foregoing Entry of Appearance was mailed to Chuck Merritt, W. Duvall & Assoc., Inc., 530 E. Joppa Road, Towson, MD 21286, representative for Petitioners.


PETER MAX ZIMMERMAN



7419 Bay Front Road



Baltimore County
Department of Permits and
Development Management

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

November 3, 2000

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: 01-167-A
7419 Bay Front Road
SW/S Headland Road, Approximately 200 feet S of Bay Front Road
15th Election District – 7th Councilmanic District
Legal Owners: Margaret J. Ludowese & William S. White

Variance to approve a 9,979-square foot lot abutting a 15-foot private right-of-way in lieu of the required 30-foot wide public right-of-way.

HEARING: Monday, December 4, 2000 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script that reads "Arnold Jablon". Below the signature, the initials "GDZ" are printed.

Arnold Jablon
Director

C: Chuck Merritt, W. Duvall & Associates, Inc., 530 E. Joppa Road, Towson 21286
Margaret J. Ludowese, William S. White, 7419 Bay Front Road, Baltimore 21219

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, NOVEMBER 17, 2000.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, November 16, 2000 Issue – Jeffersonian

Please forward billing to:
William S. White
7419 Bay Front Road
Baltimore, MD 21219

410 477-6915

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: 01-167-A

7419 Bay Front Road

SW/S Headland Road, Approximately 200 feet S of Bay Front Road

15th Election District – 7th Councilmanic District

Legal Owners: Margaret J. Ludowese & William S. White

Variance to approve a 9,979-square foot lot abutting a 15-foot private right-of-way in lieu of the required 30-foot wide public right-of-way.

HEARING: Monday, December 4, 2000 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt
G.D.Z.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, 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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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.

For Newspaper Advertising:

Item Number or Case Number: 01-167 A
Petitioner: WILLIAM S. WHITE
Address or Location: 7419 BAY FRONT ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: WILLIAM S. WHITE
Address: 7419 BAY FRONT ROAD
BALTO. MD 21219
Telephone Number: (410) 477-6915

Revised 2/20/98 - SCJ

01-167-A



Baltimore County
Department of Permits and
Development Management

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

December 1, 2000

Chuck Merritt
W. Duvall & Associates, Inc.
530 E. Joppa Road
Towson, MD 21286

Dear Mr. Merritt:

RE: Case Number: 01-167-A, 7419 Bay Front Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 17, 2000.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. 602
Supervisor, Zoning Review

WCR:gdz

Enclosures

C: Margaret J. Ludowese, William S. White, 7419 Bay Front Road, Baltimore 21219
People's Counsel



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: November 24, 2000

FROM: *RWB* Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 13, 2000
Item Nos. 167, 168, 169, 170, 171, 172,
174, 176, and 177

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

RWB:HJO:jrb

cc: File



Baltimore County
Fire Department

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

November 3, 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 November 6, 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:

177, 173, 172, 170, 169, 175, and 167

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

cc: File

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

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon
FROM: R. Bruce Seeley *MRBS*
DATE: November 15, 2000
SUBJECT: Zoning Item #167
7419 Bay Front Road

Zoning Advisory Committee Meeting of November 6, 2000

- ☐ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- ☐ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.
- ☒ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
 - ☐ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
 - ☐ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
 - ☒ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Reviewer: Keith Kelley

Date: November 14, 2000

COPIES RECEIVED FOR FILING
DATE 12/14/00
BY J.P. [Signature]

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Chmura
Department of Permits and
Development Management

DATE: July 21, 2000

FROM: Mark A. Cunningham
Development Review Section
Office of Planning

PROJECT NAME White Property

PROJECT NO.: 00075 M

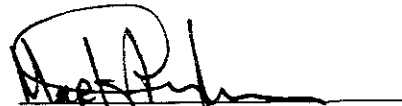
The Office of Planning has reviewed the above referenced project and offers the following comments:

The Office of Planning opposes the proposed panhandle subdivision. Panhandle lots are not a matter of right. Section 26-266 of the Baltimore County Code states: "Panhandle lots may only be permitted to achieve better use of irregularly shaped parcels, avoid development in environmentally sensitive areas, and to provide access to interior lots where a public road is neither desirable or feasible. Panhandle lots may be permitted only where such lots would not be detrimental to adjacent properties and would not conflict with efforts to provide for public safety and general welfare." This office has determined that the subject lot is not irregularly shaped, neither are there any environmental issues associated with said lot. Furthermore, per Bill 51 - 99: "Each lot shall include an in-fee strip of land providing access to the local street."

If the subdivision is ultimately approved, the following must be provided:

1. Show the profile for the proposed panhandle.
2. Panhandle serving more than one lot shall have a use in common and maintenance covenant recorded with the plat.
3. Place the following note on the plan: "The panhandle shall be paved prior to the issuance of the occupancy permit of the proposed dwelling."
4. Indicate the location of the mailbox and paved trash collection area.
5. The indicated zoning classification for the subject site is incomplete.
6. Provide appropriate building envelope and dimension setbacks for the proposed lot.

7. If the property was the subject of a zoning hearing, list the case number, decision, and any conditions or indicate if there is no zoning case history.



Mark A. Cunningham

MAC: kma

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: John Sullivan
Department of Permits and
Development Management

DATE: October 13, 2000

FROM: Mark A. Cunningham
Development Review Section
Office of Planning

PROJECT NAME White Property

PROJECT NO.: 00075 M

The Office of Planning has reviewed the above referenced project and offers the following comments:

1. Per Section 26-266 (Bill 51-99) of the Baltimore County Code, each lot shall include an in-fee strip of land providing access to the local street. Panhandles fee strips shall be a minimum of twenty (20) feet in width to serve one lot and a minimum of twelve (12) feet in width per lot where two lots are involve.

Subsection (2) of said section mentioned above states that the "The hearing office may approve access to the local or collector street through an existing right-of-way instead of an in-fee strip, in cases where such a right-of-way has been established prior to the submittal of the development plan."

The proposed subdivision will result in the creation of two lots. Lot 1 can seek relief of the requirement of Section 26-266 through Subsection (2).

2. Provide appropriate building envelope and dimension setbacks for both lots.


Mark A. Cunningham

MAC: kma

sent
12/4

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 15, 2000

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

SUBJECT: 7419 Bay Front Road

14

INFORMATION:

Item Number: 01-167

Petitioner: William S. ~~Smith~~ ^{WHITE}

Zoning: DR 5.5

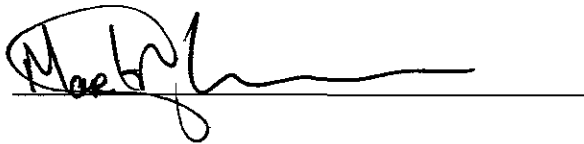
Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not support the request to approve a 9,979 square foot lot abutting a private 15 foot right-of-way in lieu of the minimum required 20,000 square foot lot and a 30 foot public right-of-way. This office has determined that a 9,979 square foot lot and the improvement of the same would be inconsistent with the development pattern of the area.

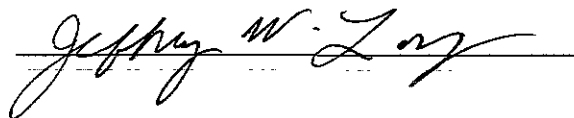
As of October 13, 2000, the Office of Planning conducted two reviews of the subject minor subdivision (White Property - 00075M) and forwarded all comments to PDM. Copies of these comments are attached.

Prepared by:



Section Chief:

AFK:MAC:





Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 11.2.00

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

RE: Baltimore County
Item No. 167

JJS

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

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Dwight Little

William White

Margaret Ludowese

Howard L. Alderman Jr Esq

//

W. Durrall + Assoc.

530 E. Joppa Rd 21286

7419 Bayfront Rd.

7419 BAYFRONT RD.

Levin & Gunn PA Nottingham Centre

8th Floor 502 Washington Ave

Towson MD 21204



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

Bob Mariano & Dora

ADDRESS

7449 A BAYFRONT Rd



PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

Steve Waters

7919-B Bayfront Rd



IN RE: PETITION FOR VARIANCE
S/S Bay Front Road, 300' E of
the c/l of Lincoln Avenue
(7419-A & 7419-B Bay Front Road)
15th Election District
7th Councilmanic District

John D. Koelbel
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* Case No. 97-254-A

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 7419-A and 7419-B Bay Front Road, located in the vicinity of Lodge Farm Road in Edgemere. The Petition was filed by the owner of the property, John D. Koelbel. The Petitioner seeks relief from Section 102.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit proposed Lot 2 (7419-A Bay Front Road), containing 10,280 sq.ft., to utilize as access an existing 20-foot wide private road (Headland Road), a proposed 15-foot wide private ingress, egress and utility easement, and an existing 20-foot wide use-in-common road (Bay Front Road) in lieu of the required public right-of-way of at least 30 feet in width. In addition, the Petitioner seeks relief from Section 102.4 of the B.C.Z.R. to permit proposed Lot 1 (7419-B Bay Front Road), containing 10,774 sq.ft., to utilize the existing 20-foot wide use-in-common road (Bay Front Road) in lieu of the required public right-of-way of at least 30 feet in width. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were John D. Koelbel, owner of the property, and Bruce E. Doak, Professional Engineer

Ref Ex # 2

with Gerhold, Cross & Etzel, who prepared the site plan for this property. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an unimproved rectangular shaped parcel of land containing a combined area of 0.481 acres, more or less, zoned D.R. 5.5. The width of the property fronts on the south side of Bay Front Road, while the length of the property runs adjacent to a private road, known as Headland Road, on the east side. The Petitioner is desirous of subdividing the property to create two separate lots, each of which will be developed with a single family dwelling. Proposed Lot 1 will encompass the front portion of the site, while proposed Lot 2 will be located to the rear of the property. Testimony revealed that the property is located in an older subdivision known as Lodge Forest, and that many of the roads in this community are only 20 feet wide. Today's zoning regulations require access to property be provided from a minimum 30-foot wide public right-of-way. Inasmuch as Bay Front Road is only 20 feet wide, the relief requested is necessary in order to develop the property as proposed. Furthermore, the public utilities serving the homes along Bay Front Road are located within the roadbed. Thus, a 15-foot wide private ingress, egress and utility easement is proposed for Lot 2. Given the site constraints associated with this property, the relief requested is necessary in order to proceed as proposed.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the

public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact

that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

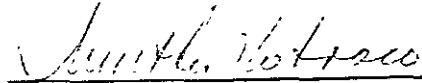
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of January, 1997 that the Petition for Variance seeking relief from Section 102.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit proposed Lot 2 (7419-A Bay Front Road), containing 10,280 sq.ft., to utilize as access an existing 20-foot wide private road (Headland Road), a proposed 15-foot wide private ingress, egress and utility easement, and an existing 20-foot wide use-in-common road (Bay Front Road) in lieu of the required public right-of-way of at least 30 feet in width; and, from Section 102.4 of the B.C.Z.R. to permit proposed Lot 1 (7419-B Bay Front Road), containing 10,774 sq.ft., to utilize the existing 20-foot wide use-in-common road (Bay Front Road) in lieu of the required public right-of-way of at least 30 feet in width, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their 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 relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated December 30, 1996, attached hereto and made a part hereof.



TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

December 30, 1996 /

FROM: R. Bruce Seeley *ABS/gp*
DEPRM

SUBJECT: Zoning Item #254 - Malan Property
7419 A & B Bay Front Road
Zoning Advisory Committee Meeting of December 23, 1996

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Environmental Impact Review

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

RBS:KK:sp

MALAN/DEPRM/TXTSBP



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

Photos
#01-167-A





PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

A-NW A-NE
A-SW A-SE

REVISIONS				SCALE	LOCATION	SHEET
	BY	DATE				
	JSB	6/27/82		1" = 200'	LODGE FOREST	S.E. 88th
DATE OF PHOTOGRAPHY						
DEC. 1954						

Topography Contained By Photogrammetric Methods
AERIAL SURVEY CORP. LANSING-MICH.

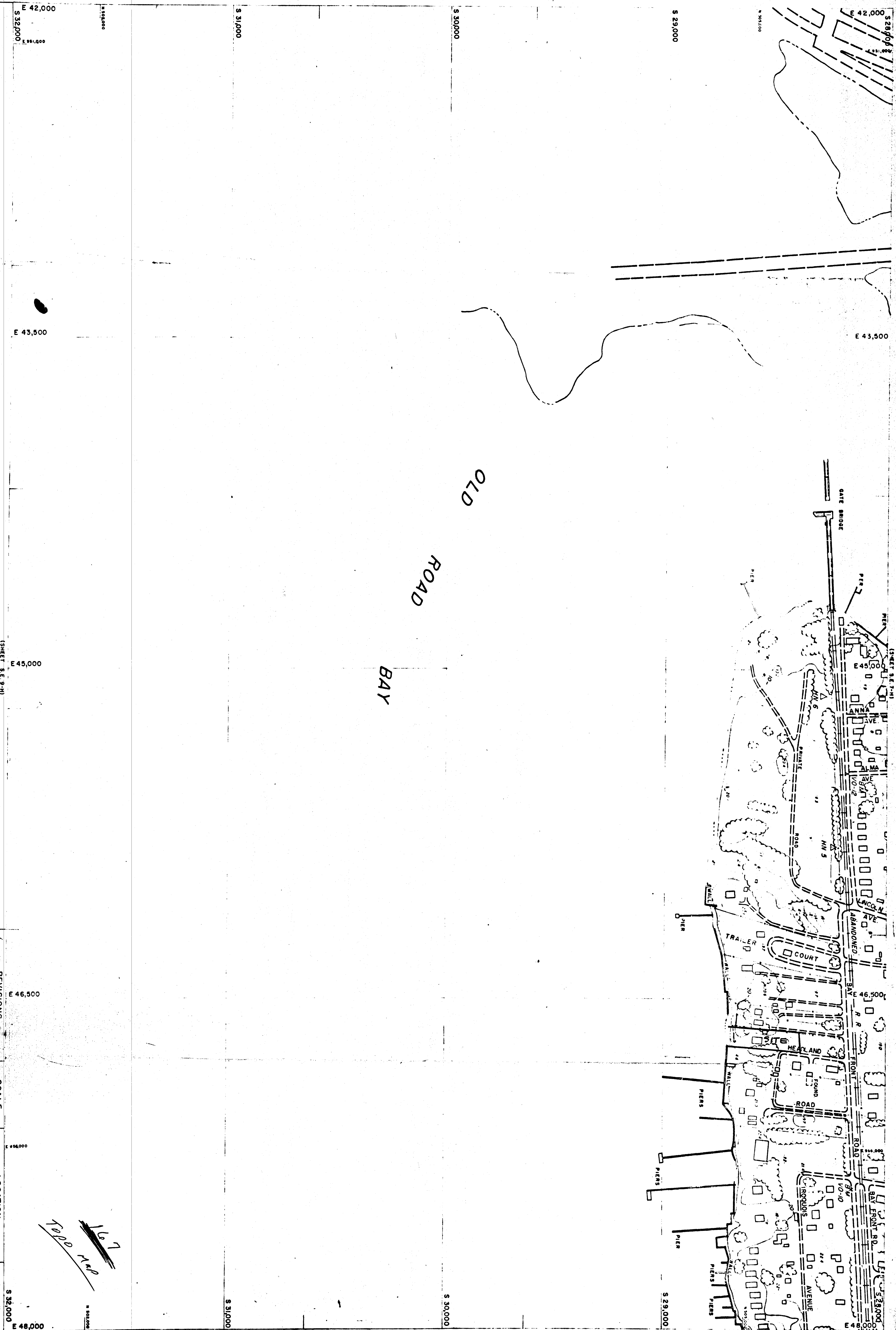
46,500

1

E 36,000

S 32,000

E 46,000



(SHEET S.E. 8-1)



A-NW A-NE
A-SW A-SE
1996 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE 1" = 200' ±	LOCATION LODGE FOREST	SHEET S.E. 8-H
DATE OF PHOTOGRAPHY JANUARY 1986		

Revised Map
1996

SE 8-H
01-167-A