IN RE: PETITION FOR VARIANCE SW Ebenezer Road, 450' SE centerline Bird River Road 15th Election District 5th Councilmanic District (6215 Ebenezer Road) Kimberly S. and Charles G Richter, Jr. Petitioners	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 01-431-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, Kimberly and Charles Richter. The Petitioners are requesting a variance for property they own at 6215 Ebenezer Road. The variance request is from Sections 1A02.3.4 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit side yard setbacks of 16 ft. and 19.5 ft. for an addition to all four sides of their existing dwelling, all in lieu of the required 25 ft. setback.

Appearing at the hearing on behalf of the variance request were Charles and Kimberly Richter, owners of the property. Appearing in opposition to the Petitioners' request were several residents from the surrounding community, namely Lori & Bryan Davenport and William & Janet Sterling. The Sterling's were represented by John Gontrum, attorney at law.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 1.185 acres, more or less, zoned RC 3. The subject property is located on the south side of Ebenezer Road, near its intersection with Bird River Road. The property is improved with an existing single-family residential dwelling wherein Mr. and Mrs. Richter reside. The Richters are desirous of adding on to their house in order to accommodate the needs of their growing family. Submitted into evidence as Petitioners' Exhibit No. 1 is a site plan of the property depicting the size and location of the improvements they wish to make to their house. The site plan also shows a 6,000 sq. ft. garage proposed to be constructed in their rear

CASE NUMBER 01-431-A
7/6/01
JC Gontrum

yard. However, the Petitioners indicated at the hearing that they have dropped their plans at this time to construct that garage. Therefore, the request before me is simply to approve additions to their existing home which will be situated 16 ft. and 19.5 ft. from the side property lines in lieu of the required 25 ft. setback.

Mr. and Mrs. Richter testified concerning the improvements they wish to make. They submitted into evidence a foot print of the improvements showing a new home which will be 58.3 ft. wide x 54 ft. deep. To the rear of the home, the Petitioners propose an additional structure that will extend beyond the home an additional 42 ft. That structure will be open and will consist of a carport and storage and a covered patio/deck and hot tub. Overall, the improvements the Petitioners wish to make to the property will be 58.3 ft. in width and 96 ft. in depth, for a total covered square foot area of 5,596.8 ft. In order to situate these improvements on their property in the fashion that they chose to design, the requested variances are necessary.

The Richters further testified that, as a result of physical limitations, they prefer to maintain their home on one level. They are not interested in constructing a second story addition to their home, but rather desire to maintain the rancher style of house that they currently enjoy. While young at this time, they intend to remain on the property indefinitely and are concerned about future physical problems they may encounter. Consequently, by keeping these improvements on one level causes the square footage of the home to be spread out on the property extending into the side yard setbacks required for this lot.

As stated previously, the property is zoned RC 3. Mr. Richter believed that the setback limitations should be dictated by the R 40 zoning which was in effect at the time his house was constructed. However, there was no testimony indicating that this property was part of an approved subdivision or record plat which would cause the R 40 regulations to apply. Therefore, the Petitioners are required to comply with the setback requirements for the new RC 3

designation for this property. Even if the Petitioners were constructing these improvements under the R 40 designation, the variances would still be necessary.

As stated previously, the residents who reside on either side of this property appeared in opposition to the Richters request. These neighbors are opposed to the size and close proximity of the improvements proposed by Mr. and Mrs. Richter. They believe that the improvements proposed by the Petitioners are excessive and out of character with the existing homes along Ebenezer Road. Furthermore, they are opposed to a variance being granted to the side yard setbacks for this property. These neighbors believe that the Richters could make the necessary improvements to their existing house to accommodate their needs and still maintain the 25 ft. side yard setbacks. The neighbors are also concerned that the additional development on the property will adversely affect the septic system and septic reserve area for the property which they indicated had failed in the past. Accordingly, they ask that the variance be denied.

After considering the testimony and evidence offered at the hearing, I find that the Petitioners have ample room on this 1.185 acre parcel of property to make the improvements they need to make to accommodate their family without infringing upon the 25 ft. side yard setbacks. The improvements made to the property, while maintaining 25 ft. side yard setbacks, might not meet the design and configuration that the Richters desire, but still can accommodate their needs. The improvements would simply be more narrow in configuration and extend out further to the rear of the property. Therefore, I believe that the variance requested to allow side yard setbacks of 16 ft. and 19.5 ft. should be denied.

As stated previously, the request for a garage in the rear yard to have a height of 30 ft. was withdrawn and, therefore, not entertained at the hearing before me.

THEREFORE, IT IS ORDERED this 6th day of July, 2001, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 1A02.3.4 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit side yard setbacks of 16 ft. and 19.5 ft. in lieu of the required 25 ft. setback, be and is hereby DENIED.

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

PETITION OF: KIMBERLY S. and CHARLES RICHTER, JR. 6215 Ebenezer Road White Marsh, Maryland 21220	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WAHINGTON AVENUE TOWSON, MARYLAND 21204	*	FOR
IN THE MATTER OF: CHARLES RICHTER, JR. RE: DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY DENYING ZONING VARIANCE PETITION ON PROPERTY LOCATED AT 6215 EBENEZER ROAD	*	BALTIMORE COUNTY
CASE NO.: 01-431-A	*	CASE NO.: 03-C-02-009747 AE

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BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * *

MEMORANDUM OPINION AND ORDER

This matter originated from a decision by the Deputy Zoning Commissioner, dated July 6, 2001, Case No. 01-431-A. The Petitioners, Kimberly S. and Charles G. Richter, Jr. were denied their Petition for Administrative Variance to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback at the subject site 6215 Ebenezer Road, 15th Election District, 5th Councilmanic District. Petitioners filed a timely appeal before the County Board of Appeals of Baltimore County, who affirmed the decision of the Deputy Zoning Commissioner. Pursuant to Maryland Rules 7-201, et seq., Petitioners filed this Petitioner for Judicial Review on September 3, 2002, for which this Court now rules upon.

Statement of Facts

A Petition for Variance was filed by the legal owners of the subject property, Kimberly Sue Richter and Charles Glenn Richter, Jr.. The variance request was from Sections 1A02.3.4 and 400.3 of the Baltimore County Zoning Regulations (BCZR), to permit side yard setbacks of 16 ft. and 19.5 ft. for an addition to all four (4) sides of their existing dwelling. The Petitioners' request, for side yard setbacks were in lieu of the required 25ft. setbacks.

This matter came before the Deputy Zoning Commissioner of Baltimore County, where both Petitioners appeared. Appearing in opposition to the Petitioners' request were Bryan and Lori Davenport and William and Janet Sterling, who reside from the surrounding community. Also appearing as legal counsel on behalf of the Sterling's was John Gontrum.

During the course of the hearing, the Petitioners testified concerning the improvements that they wanted to make. The subject property was an existing single-family dwelling, wherein the Petitioners reside. The Petitioners wished to add onto the existing property to accommodate their needs of their family. The Petitioners, further testified that, due to physical conditions, they wanted to maintain their home as a one level dwelling. As a result of the Petitioners' wishes to keep the dwelling as a one level rancher, the square footage of the home would spread outward extending into the side yard setbacks required for this lot.

In addition to oral testimony, the Petitioners submitted into evidence a site plan of the property depicting the size and location of the improvements that they wanted to make onto their existing home. Overall, the improvements the Petitioners wished to

make on the subject property would be 58.3 ft. in width and 96 ft. in depth, for a total covered square foot area of 5,596.8 ft.

The residents, who appeared opposing the Petitioners' Petition for Variance, argued that the improvements proposed were "out of character" with the existing homes along Ebenezer Road. In addition, the residence felt that the Petitioners could make improvements on the existing dwelling without infringing on the 25ft. side yard setback requirement. The neighbors also expressed concerned about the additional developments would adversely affect the septic system and septic reserve area for the property.

Considering the testimony and the evidence offered at the hearing, the Deputy Zoning Commissioner issued a Findings of Fact and Conclusions of Law, that denied the Petitioners' Petition for Variance. The Deputy Zoning Commissioner found that the Petitioners had ample room on their property to make the improvements they needed in order to accommodate their family without infringing upon the 25ft. side yard setbacks.

After a hearing on appeal, the Baltimore County Board of Appeals, unanimously, affirmed the decision of the Deputy Zoning Commissioner that denied a Petition for Variance from B.C.Z.R. 1A02.3.4 and 400.3. (Opinion, Case No.:01-431-A). Petitioners then timely filed this Petition for Judicial Review.

Standard of Review

The standard of review of the action of an administrative agency is whether a reasoning mind could have determined the conclusion which the administrative agency reached. *Nnoli v. Nnoli, 101 Md. App. 243, 646 A.2d 1021 (1994).* An order of an

administrative agency must be upheld on judicial review if it is not based upon an erroneous determination of law, and if the agency's conclusions reasonably may be based upon the facts proven; however, a reviewing court is under no constraints in reversing an administrative decision that is premised solely upon an erroneous conclusion of law. *Montgomery County v. Buckman, 333 Md. 516, 636 A.2d 448 (1994).*

A reviewing court may, and should, examine facts found by an agency, to see if there was evidence to support each fact found. If there was evidence of the fact in the record before the agency, no matter how conflicting, or how questionable the credibility of the source of the evidence, the court has no power to substitute its assessment of credibility for that made by the agency, and by doing so, reject the fact. *Comm'r, Baltimore City Police Dep't v. Cason, 34 Md. App. 487, 368 A.2d 1067 (1977), cert. denied, 280 Md. 728 (1977).* A reviewing court may, and should, examine any inference, drawn by an agency, of the existence of a fact not shown by direct proof, to see it that inference reasonably follows from other facts which are shown by direct proof. If it does, even though the agency might reasonably have been drawn a different inference, the court had no power to disagree with the facts so inferred. Id. at 508, 368 A.2d 1067. A reviewing court may, and should, examine any conclusion reached by an agency, to see whether reasoning minds could reasonably reach that conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could be so reached, then it is based upon substantial evidence, and the court has no power to reject that conclusion. Id. at 508, 368 A.2d 1067.

Legal Analysis

Prior to the commencement of this Court's proceedings, the Petitioner, failed to

submit to this Court a written memorandum in opposition of the County Board of Appeals of Baltimore County affirmation of the Deputy Zoning Commissioner's denial of Petitioner's Petition for Administrative Variance. In the alternative to a written memorandum, Petitioner presented oral testimony, wherein he presented two (2) issues to this Court.

Petitioner's first contention is that the decision of the Board of Appeals was based on a bias adverse to the Petitioner's Petition for an Administrative Variance to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback at the subject site 6215 Ebenezer Road, 15th Election District, 5th Councilmanic District.

Upon thorough review of the transcripts on the hearing before the County Board of Appeals of Baltimore County, dated May 15, 2002, this Court finds no evidence of bias by the County Board of Appeals of Baltimore County towards the Petitioner, personally; nor was there any evidence of bias against the Petitioner's request for the Petition for an Administrative Variance.

During Petitioner's argument, he contended that his allegations of bias was also supported by the Baltimore County Zoning Commissioner, Mr. Lawrence Schmidt. Assuming arguendo, Mr. Schmidt offered such an opinion, it is not part of the record in this case.

Petitioner's second contention is that the decision of the County Board of Appeals was based upon an erroneous conclusion of law. Petitioner argued that his lot is unique from the other lots in the area because it is larger (1.185 acres) than those of his neighbors.

The legal issue of "uniqueness" was correctly addressed and decided by the

County Board of Appeals. The County Board of Appeals decision of "uniqueness" is as follows (page 4-5 of County Board of Appeals' Opinion).

> Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md. App. 691 (1995), which sets forth the legal standards under which a variance may be granted, the Board of Appeals, hearing the case de novo, is given 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.
>
> After a thorough review of the evidence and testimony before us, this Board finds as a matter of fact that the Petitioner has not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward.*
>
> 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, including that of the Petitioner, is that 6215 Ebenezer Road is much the same as the other lots in that neighborhood, although it is a bit larger than some. essentially, the subject property possesses the same topography as those which adjoin it, as testified by both parties, and the existing residence meets the current side Yard setback requirements.
>
> Even assuming that this prong of uniqueness has been met (which it has not), the request would fail equally under the second prong as to practical difficulty and unreasonable hardship. Testimony before us from both the Protestant and the Petitioner supports the fact that sufficient area exists to expand to the rear of the existing structure or even possibly to the front depending on the ultimate location of the septic system. Although the Petitioner has indicated that he and his wife do not desire to add a second story, from a practical standpoint, that also is a possibility. In fact the larger size of the subject property gives the Petitioners more options for expansion than some of their neighbors have. We see as a matter of fact no practical difficulty to expanding the existing

residence to meet the needs of the Petitioner while meeting the side yard setback regulations.

As to the third prong of spirit and intent, the Petitioner's request would also fail here is that a variance from the side yard setback requirements in an area that already, by the testimony of the Petitioner, has problems meeting the setbacks regulations would clearly invade the privacy and quiet enjoyment of the adjoining property owners.

Therefore it is unanimous decision of this Board to deny a petition for Variance from BCZR 1A02.3.4 and 400.3 to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback.

Conclusion

After an extensive review of the record, dated May 15, 2002, this Court is convinced that the County Board of Appeals properly relied on the standards set forth in *Cromwell v. Ward* and the BCZR 307.1, 1A02.3.4. and 400.3.

THEREFORE, pursuant to Maryland Rule 7-209, the decision of the County Board of Appeals of Baltimore County, affirming the decision of the Deputy Zoning Commissioner of Baltimore County, Case No. 01-431-A, is hereby AFFIRMED.

4-30-04
DATE

ROBERT N. DUGAN, JUDGE
BALTIMORE COUNTY CIRCUIT COURT

cc: Board of Appeals of Baltimore County
Kimberly S. and Charles G. Richter, Jr.
John B. Gontrum, Esquire

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
CHARLES RICHTER, JR. *
6215 Ebenezer Road
White Marsh, MD 21220 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-02-009747**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
CHARLES RICHTER, JR., LEGAL OWNER *
6215 Ebenezer Road
White Marsh, MD 21220 *

CASE NO.: 01-431-A *

* * * * * * * * *

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2003 DEC 31 A 10: 24
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

Case No.: 01-431-A

April 9, 2001	Petition for Variance filed by Charles Glenn Richter, Jr. and Kimberly Sue Richter, Jr., to permit side yard setbacks of 16 ft and 19.5 ft. respectively for an addition to all four sides of the existing dwelling.

May 24	Certification of Publication
May 26	Certificate of Posting.
June 8	ZAC Comments.
June 11	Hearing held before the Zoning Commissioner
July 6	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Variance is Denied.
July 30	Amended Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. RC 3 zone classification amended to R 40 zone classification only.
August 29	Notice of Appeal filed by Charlie Richter, 6215 Ebenezer Road, Baltimore, MD 21220.
September 10	Entry of Appearance of John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, MD 21221, on behalf of William and Janet Sterling, Protestants.
May 15, 2002	Hearing held before the Board of Appeals.

Petitioner's/Appellant's Exhibits

1	Zoning Map, marked 1955 Zoning Map; Scale 1" = 200'
2	Subdivision Plat, dtd January 15, 1970
3	One page titled "SURROUNDING COMMUNITY PROPERTY WIDTHS, SIDE YARD SETBACKS, NON-CONFORMING LOTS".

The following was not marked as an Exhibit, but was submitted at the CBA hearing on May 15, 2002: One manila legal size folder marked 'Case # 01-431-A', consisting of Cases, Variances, Memos, Decisions

Protestant's Exhibits

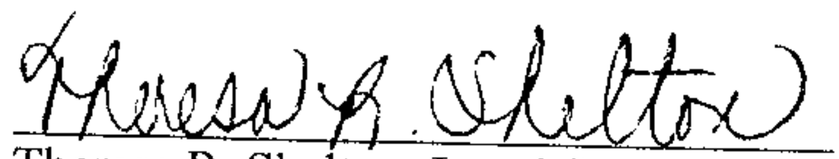
1	Plat dated 4-6-01; Scale 1" = 100' for 6215 Ebenezer Road
2	Proposed lay-out; Scale 1" = 8' for 6215 Ebenezer Road
3	Aerial photograph with house circled and marked CRKR

4A	Maryland Department of Assessments and Taxation Real Property Search for 6215 Ebenezer Road
4B	Tax Map for account number 1600000957 – marked CR

May 22	Public Deliberation concluded by the Board.
August 2	Opinion and Order issued by the Board of Appeals; Petition for Variance is DENIED.
September 3	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Charles Richter, Jr., 6215 Ebenezer Road, White Marsh, MD 21220.
October 15, 2003	Motion to Defer Dismissal filed in the Circuit Court for Baltimore County by Charles Richter, Jr.
October 21	Copy of Petition for Judicial Review RETRIEVED from the Circuit Court for Baltimore County by the Board of Appeals.
October 23	The file, which had been closed on October 8, 2002, and returned with exhibits to the Office of Permits and Development, was retrieved by the Board of Appeals.
October 24	Letter to The Honorable Suzanne Mensh, Clerk of the Court, Circuit Court for Baltimore County, from Kathleen C. Bianco, Administrator, Board of Appeals, indicating that the Board of Appeals was not notified of the Petition for Judicial Review, pursuant to Rule 7-202(d)(3) of the Maryland Rules.
November 10	Order issued by the Circuit Court for Baltimore County that the Motion to Defer Dismissal under Maryland Rule 2-507 is GRANTED and dismissal deferred for 180 days. Agency to transmit record in accordance with MR 7-206.
November 14	Certificate of Notice sent to interested parties.
December 29	Transcript of testimony filed.

December 31 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



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

c: Charles Richter, Jr.
John B. Gontrum, Esquire
People's Counsel for Baltimore Counsel

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
CHARLES RICHTER, JR. *
6215 Ebenezer Road
White Marsh, MD 21220 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-02-009747**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
CHARLES RICHTER, JR., LEGAL OWNER *
6215 Ebenezer Road
White Marsh, MD 21220 *

CASE NO.: 01-431-A *

* * * * * * * * * * * *

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

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

Charles Richter, Jr.
6215 Ebenezer Road, White Marsh, MD 21220

William and Janet Sterling
6217 Ebenezer Road, White Marsh, MD 21220

John B. Gontrum, Esquire
Whiteford Taylor And Preston, 210 W Pennsylvania Avenue,
Towson Md 21204

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

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

Theresa R. Shelton

Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204
(410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to: Charles Richter, Jr., 6215 Ebenezer Road, White Marsh, MD 21220; William and Janet Sterling, 6217 Ebenezer Road, White Marsh, MD 21220; John B. Gontrum, Esquire, Whiteford Taylor And Preston, 210 W Pennsylvania Avenue, Towson Md 21204 and Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 14th day of November, 2003.

Theresa R. Shelton

Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 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

November 14, 2003

Charles Richter, Jr.
6215 Ebenezer Road
White Marsh, MD 21220

RE: Circuit Court Civil Action No. 3-C-02-9747
Petition for Judicial Review
Charles Richter, Jr.
6215 Ebenezer Road, White Marsh, MD 21220
Case No.: 01-431-A

Dear Mr. Richter, Jr.:

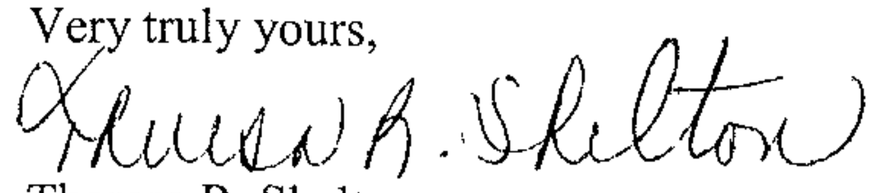
In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. This sixty days will commence from the 5th of November, 2003, the date of the ORDER DEFERRING DISMISSAL issued by the Circuit Court. This ORDER instructs the Agency to transmit the record.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,



Theresa R. Shelton
Legal Secretary

/trs
Enclosure
c: William and Janet Sterling
John B. Gontrum, Esquire
Peter Max Zimmerman / People's Counsel for Baltimore County

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on Recycled Paper

County Board of Appeals of Baltimore County

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

November 14, 2003

John B. Gontrum, Esquire
Whiteford Taylor and Preston
210 W Pennsylvania Avenue
Towson Md 21204

RE: Circuit Court Civil Action No. 3-C-02-9747
Petition for Judicial Review
Charles Richter, Jr.
6215 Ebenezer Road, White Marsh, MD 21220
Case No.: 01-431-A

Dear Mr. Gontrum:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on September 3, 2002, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. The Petition for Judicial Review was retrieved by the Board of Appeals from the Circuit Court on October 20, 2003. See letter dated October 24, 2003 to The Honorable Suzanne Mensh from Kathleen C. Bianco, Administrator, Board of Appeal (attached). 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-02-9747.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: Charles Richter, Jr.
William and Janet Sterling
Office of Peoplke's Counsel
Pat Keller, Director / Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director / PDM

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IN THE MATTER OF THE APPLICATION OF KIMBERLY S. & CHARLES G. RICHTER, JR. /PETITIONERS FOR A VARIANCE ON PROPERTY LOCATED AT 6215 EBENEZER ROAD, SW EBENEZER RD, 450' SE OF C/L BIRD RIVER ROAD	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	CASE NO. 01-431-A

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by the Petitioners, Kimberley S. And Charles G. Richter, Jr., resulting from a decision by the Deputy Zoning Commissioner dated July 6, 2001, to deny a Petition for Variance from §§ 1A02.3.4 and 400.3 of the *Baltimore County Zoning Regulations* (BCZR) to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback at the subject site 6215 Ebenezer Road, 15th Election District, 5th Councilmanic District.

The Appellant/Petitioner, Charles G. Richter, Jr., appeared before the Board *pro se*. John B. Gontrum, Esquire, appeared on behalf of Lori and Bryan Davenport and William and Janet Sterling, Protestants.

Mr. Richter was the first witness to testify before the Board in this hearing. As owner of the subject property, Mr. Richter stated that his request for variance is compatible with the neighborhood, that other neighbors had received variances at other times, and that the RC40 zoning created a situation where most lots in his neighborhood could not meet the setback requirements.

As a concession to the Protestants, however, he would amend his variance request and drop 1 foot off each side request. Therefore, he explained he wished to build 14 feet from the

Sterling side and 15 feet 6 inches from the Davenport lot line. He further explained that he has abandoned plans for an accessory structure (a 6000-square-foot garage) to the rear of the subject property.

His current proposal calls for an addition that would be 58.3 feet wide and 54 feet deep with a 42-foot carport/patio to the rear of the addition, on one level covering 5,596.8 square feet in total.

Mr. Richter opined that his request would not adversely affect the health or safety of his neighbors. He said that any additional septic capacity will be constructed with the approval of DEPRM and meet all regulations. He also stated that the one-story addition/expansion of the existing house would fit within the context of the neighborhood of mostly ranch-style houses.

It was Mr. Richter's testimony that his lot is non-conforming to the RC 40 regulations and is unique from the other lots in the area because it is larger (1.185 acres) than those of his neighbors. As evidence, Mr. Richter submitted the 200-scale zoning map (Petitioner's exhibit #1), the subdivision map, folio 21, January 15, 1970 (Petitioner's exhibit #2) showing his neighborhood, and a chart of neighboring yard setbacks (Petitioner's exhibit #3). There were no objections to this evidence.

Relative to practical difficulty, Mr. Richter stated that the rear of his lot has large trees and an underground spring which make it impractical to build in the rear. He also explained that the existing structure has a vaulted ceiling in the living room which he and his wife wish to retain. Therefore it would be difficult to add a second story rather than expanding on the first level. Mr. Richter also opined that the original footing for the existing house would not support a second story. Furthermore, while he and his wife wish to have children and enlarge their family,

they both have had injuries which make steps a problem.

On cross-examination by Mr. Gontrum, Mr. Richter indicated that the existing house is 34 feet by 40 feet and meets the setback requirements. Mr. Richter also testified that he plans to build a 42-foot carport, covered patio, storage area and hot tub in the rear of the house, but that, he opined, does not count as a "structure." He said that the carport/patio would be a simple post and beam construction that would not change the "openness" of the view from the rear of his house, an amenity that he and his wife wish to keep.

Mr. Richter also observed under cross examination that his current septic system is in the front yard and that any expansion of that system could alter the plans for an addition, depending on where the property would perk.

William Sterling testified next as a Protestant. He indicated that he lives next door to the Petitioners at 6217 Ebenezer Road and had been born in the Richters' house. He said that the existing house on the subject property is 1,652 square feet including the recently enclosed porch. It was Mr. Sterling's concern that the expanded house as proposed is too large for the lot and would dwarf the neighboring residences as well as being very close to his house.

However, Mr. Sterling does not have an objection to the Richters expanding by constructing a second floor addition or adding to the house in the front or the rear. Mr. Sterling stated that other lots in the area are similar in size and topography to 6215, but that many are smaller. His house, built in 1960, has 15-foot setbacks.

Bryan Davenport also testified as a Protestant. Mr. Davenport lives at 6213 on the other side of the subject property. His objections to the variance request are similar to those of Mr. Sterling: size and proximity. Mr. Davenport said that the RC40 side yard setbacks are important

to the integrity of the neighborhood. He also has no objection to the Richters expanding with a second floor or to the front or rear. Mr. Davenport's house is one floor covering 860 square feet.

As evidence the Protestants submitted a site plan for the proposed addition (Exhibit #1), the proposed layout of the addition (Exhibit #2), an aerial photo of the neighborhood (Exhibit #3), tax assessment information for the subject property (Exhibit #4), and a tax map showing the properties in the neighborhood (Exhibit #5). There was no objection to these exhibits.

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 requested, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691 (1995), which sets forth the legal standards 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.

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

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, including that

of the Petitioner, is that 6215 Ebenezer Road is much the same as the other lots in that neighborhood, although it is a bit larger than some. Essentially the subject property possesses the same topography as those which adjoin it, as testified by both parties, and the existing residence meets the current side yard setback requirements.

Even assuming that this prong of uniqueness had been met (which it has not), the request would fail equally under the second prong as to practical difficulty and unreasonable hardship. Testimony before us from both the Protestant and the Petitioner supports the fact that sufficient area exists to expand to the rear of the existing structure or even possibly to the front depending on the ultimate location of the septic system. Although the Petitioner has indicated that he and his wife do not desire to add a second story, from a practical standpoint, that also is a possibility. In fact the larger size of the subject property gives the Petitioners more options for expansion than some of their neighbors have. We see as a matter of fact no practical difficulty to expanding the existing residence to meet the needs of the Petitioner while meeting the side yard setback regulations.

As to the third prong of spirit and intent, the Petitioners' request would also fail here in that a variance from the side yard setback requirements in an area that already, by the testimony of the Petitioner, has problems meeting the setback regulations would clearly invade the privacy and quiet enjoyment of the adjoining property owners.

Therefore it is the unanimous decision of this Board to deny a Petition for Variance from BCZR 1A02.3.4 and 400.3 to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback.

ORDER

THEREFORE, IT IS THIS 2nd day of August, 2002 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioner's request for variance from BCZR 1A02.3.4 and 400.3 to permit side yard setbacks of 16 feet and 19.5 feet in lieu of the required 25-foot setback. 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*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Melissa Moyer Adams

Melissa Moyer Adams, Panel Chair

Margaret Worrall

Margaret Worrall

C. Lynn Barranger

C. Lynn Barranger

IN RE: PETITION FOR VARIANCE SW Ebenezer Road, 450' SE centerline Bird River Road 15th Election District 5th Councilmanic District (6215 Ebenezer Road)	*	BEFORE THE
	*	DEPUTY ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	CASE NO. 01-431-A
Kimberly S. and Charles G Richter, Jr. Petitioners	*	

* * * * * * * * * * * * * *

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

WHEREAS, this matter came before this Deputy Zoning Commissioner as a Petition for Variance filed by Kimberly and Charles Richter, owners of property located at 6215 Ebenezer Road in White Marsh. Pursuant to the public hearing held on that matter, the variance requested by the Petitioners was in fact denied by my Order dated the 6th day of July, 2001.

WHEREAS, within the body of my Order, I made a finding that the property owned by the Richter's is subject to the zoning setbacks as dictated by the RC 3 zone classification. However, after the hearing it was determined by Mr. Joe Merrey, the reviewing technician who accepted the petition for variance, that the property is actually subject to the R 40 zoning classifications which were in effect at the time that the subject lot was approved.

THEREFORE, IT IS ORDERED this 30th day of July, 2001, by the Deputy Zoning Commissioner for Baltimore County, that my decision issued on the 6th day of July, 2001 be amended to correctly indicate that the setbacks which govern the Petitioners' property shall be in accordance with the R 40 zone classification and not the RC 3 which was incorrectly stated in my decision.

Any appeal of this decision must occur within thirty (30) days from the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

7/30/01

Baltimore County
Zoning Commissioner

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

July 30, 2001

Mr. & Mrs. Charles G. Richter, Jr.
6215 Ebenezer Road
Baltimore, Maryland 21220

Re: Amended Findings of Fact for Petition for Variance
Case No. 01-431-A
Property: 6215 Ebenezer Road

Dear Mr. & Mrs. Richter:

Enclosed please find my amended decision rendered in the above-captioned case.

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,

Timothy Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Copies to:

Mr. & Mrs. Bryan Davenport
6213 Ebenezer Road
Baltimore, MD 21220

Mr. & Mrs. William Sterling
6217 Ebenezer Road
Baltimore, MD 21220

John Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

Baltimore County
Zoning Commissioner

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

July ~~5~~ 6, 2001

Mr. & Mrs. Charles G. Richter, Jr.
6215 Ebenezer Road
Baltimore, Maryland 21220

Re: Petition for Variance
Case No. 01-431-A
Property: 6215 Ebenezer Road

Dear Mr. & Mrs. Richter:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been denied 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,

Timothy Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Census 2000 For You, For Baltimore County Census 2000

Printed with Soybean Ink on Recycled Paper

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

Copies to:

Mr. & Mrs. Bryan Davenport
6213 Ebenezer Road
Baltimore, MD 21220

Mr. & Mrs. William Sterling
6217 Ebenezer Road
Baltimore, MD 21220

John Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6215 EBENEZER RD.

which is presently zoned R.C.3

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) 1A02.3.4, 400.3 AND 101; BCZR, TO PERMIT SIDEYARD SETBACKS OF 16FT AND 19.5FT RESPECTIVELY FOR AN ADDITION TO ALL FOUR SIDES OF THE EXISTING DWELLING; ~~AND A VARIANCE TO PERMIT AN ACCESSORY STRUCTURE WITH A HEIGHT OF 30FT, IN LIEU OF THE PERMITTED 15FT, AND A FOOTPRINT LARGER THAN THE PROPOSED PRINCIPAL STRUCTURE (DWELLING)~~ CR.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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):

CHARLES GLENN RICHTER, JR

Name Type or Print

Charles G. Richter, Jr.

Signature

KIMBERLY SUE RICHTER, JR.

Name Type or Print

Kimberly Sue Richter, Jr.

Signature

410-960-5929 WORK

6215 EBENEZER RD — 410-335-9520 HOME

Address — Telephone No.

BALTIMORE — MD — 21220

City — State — Zip Code

Representative to be Contacted:

SAME

Name

Address — Telephone No.

City — State — Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ____ day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 01-~~443~~ 431 A

Reviewed By DLW Date 4.9.01

Estimated Posting Date 4.22.01

220 9/15/98

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 6215 EBENEZER RD.
Address

BALTIMORE MD 21220
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty).

- 4 FAMILY MEMBERS ONLY 2 BEDROOMS, 1 BATH, SMALL KITCHEN, NO DINING-ROOM.
- BACK OF HOUSE HAS DRIVEWAY, PORCH, + TREE, MORE PRACTICAL TO EXPAND ON SIDES + FRONT
- CATHEDRAL CEILING PREVENTS ADDING 2ND FLOOR ALONG WITH WALL BEARING LOADS (EXISTING WALLS + 1ST FLOOR LAYOUT ~~AS~~ ALREADY IMPROVED AND WOULD BE IMPRACTICAL TO CHANGE.) ALSO HEALTH CONCERNS (BACK + LEG) ONE LEVEL MORE PRACTICAL
- NEIGHBORS HOUSES ARE BEYOND RC.3 ZONINGS REGULATIONS

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Charles G. Richter, Jr.
Signature

CHARLES G. RICHTER JR.
Name - Type or Print

Kimberly Sue Richter, Jr.
Signature

KIMBERLY SUE RICHTER, JR.
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 9th day of April 2001, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Charles G & Kimberly Sue Richter Jr

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

4-9-01
Date

VALERIE A. YOST
BALTIMORE COUNTY MARYLAND
NOTARY PUBLIC

Valerie A. Yost, Notary Public
Baltimore County
State of Maryland
My Commission Expires Nov. 20, 2001

Valerie A. Yost
Notary Public

My Commission Expires _____

REV 09/15/98

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 6215 EBENEZER RD.
Address

BALTIMORE MD 21220
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty).

- 4 FAMILY MEMBERS ONLY 2 BEDROOMS, 1 BATH, SMALL KITCHEN, NO DINING ROOM.
- BACK OF HOUSE HAS DRIVEWAY, PORCH, + TREE, MORE PRACTICAL TO EXPAND ON SIDES + FRONT
- CATHEDRAL CEILING PREVENTS ADDING 2ND FLOOR ALONG WITH WALL BEARING LOADS (EXISTING WALLS + 1ST FLOOR LAYOUT AS ALREADY IMPROVED AND WOULD BE IMPRACTICAL TO CHANGE.) ALSO HEALTH CONCERNS (BACK + LEG) ONE LEVEL MORE PRACTICAL
- NEIGHBORS HOUSES ARE BEYOND RC.3 ZONINGS REGULATIONS

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Charles G. Richter, Jr.
Signature

CHARLES G. RICHTER JR.
Name - Type or Print

Kimberly Sue Richter, Jr.
Signature

KIMBERLY SUE RICHTER, JR.
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 9th day of April 2001 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Charles G & Kimberly Sue Richter Jr

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

4-9-01
Date

Valerie A. Yost
Notary Public

VALERIE A. YOST
BALTIMORE COUNTY MARYLAND
NOTARY PUBLIC

Valerie A. Yost, Notary Public
Baltimore County
State of Maryland
My Commission Expires Nov. 20, 2001

My Commission Expires _____

REV 09/15/98

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6215 EBENEZER RD.

which is presently zoned R.C.3

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) 1A02.3.4, 400.3 AND 101; BCZR, TO PERMIT SIDEYARD SETBACKS OF 16 FT AND 19.5 FT RESPECTIVELY FOR AN ADDITION TO ALL FOUR SIDES OF THE EXISTING DWELLING; AND A VARIANCE TO PERMIT AN ACCESSORY STRUCTURE WITH A HEIGHT OF 30FT, IN LIEU OF THE PERMITTED 15FT, AND A FOOTPRINT LARGER THAN THE PROPOSED PRINCIPAL STRUCTURE (DWELLING)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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):

CHARLES GLENN RICHTER, JR
Name - Type or Print

Charles G. Richter, Jr.
Signature

KIMBERLY SUE RICHTER, JR.
Name - Type or Print

Kimberly Sue Richter, Jr.
Signature

410-960-5929 WORK
6215 EBENEZER RD 410-335-9520 HOME
Address — Telephone No.

BALTIMORE MD 21220
City — State — Zip Code

Representative to be Contacted:

SAME
Name

Address — Telephone No.

City — State — Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ____ day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 01-~~413~~ 431 A

Reviewed By JCM **Date** 4.09.01

Estimated Posting Date 4.22.01

REV 9/15/98

ZONING DESCRIPTION FOR 6215 Ebenezer Road

Beginning at a point on the Southwest side of Ebenezer Road which is Thirty Five (35) feet wide at the distance of Four Hundred Fifty (450) feet Southeast of the centerline of the nearest improved intersecting street Bird River Road which is Thirty (30) feet wide. Being Lot No. Two (2), in the subdivision known as Cora M. Sterling Property as recorded in Baltimore County Plat Book No. 34, Folio No. 21, containing 51,518.6 square feet and located in the 15th Election District, 5th Councilmanic District.

CB 431

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 5623

DATE 8-30-01 ACCOUNT R001 006 6150

AMOUNT $ 210.00

RECEIVED FROM: CHARLES G RICHTER JR

FOR: APPEAL CASE 01-431-A

6215 EBENEZER ROAD

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT

PAYMENT	ACTUAL	TIME
8/30/2001	8/30/2001	10:06:11

W003 CASHIER RDOS LRD DRAWER 3
RECEIPT # 204952 DFLN
Dept. 5 528 ZONING VERIFICATION
DOC NO. 005623

Recpt Tot 210.00
210.00 CK .00 CA
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 93732

DATE 4-24-01 ACCOUNT 001 006 6150

AMOUNT $ 40.00

RECEIVED FROM: WILLIAM & JANET STERLING

FOR: DEMAND FOR FORMAL HEARING
01-431-A
6215 EBENEZER RD

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PAYMENT ACTUAL TIME
4/24/2001 4/24/2001 10:43:21
REG MSC CASHIER LHIL LBW DRAWER 3
RECEIPT # 180250 OFLN
RUN 5 520 ZONING VERIFICATION
CR NO. 093732
Recpt Tot 40.00
40.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

413

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. **92815**

DATE 4-9-01

ACCOUNT 001-006-6150

AMOUNT $ 50.00

RECEIVED FROM: C. Richter — 6215 Cbeneze Rd.

FOR: (01) Pet. Cpn

01-431-A

JCM

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PAYMENT ACTUAL TIME
4/10/2001 4/09/2001 15:56:12
REG WS01 CASHIER JRTC JHR DRAWER 1
>>RECEIPT # 040600 OFLN
Dept 5 528 ZONING VERIFICATION
SR NO. 092815
Recpt Tot 50.00
.00 CK 60.00 CA
10.00- CG
Baltimore County, Maryland

CASHIER'S VALIDATION

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 # 01-431-A
6215 Ebenezer Road
S/W Ebenezer Road, 450' SE centerline Bird River Road
15th Election District
5th Councilmanic District
Legal Owner(s): Kimberly S. & Charles G. Richter, Jr.
Administrative Variance: to permit side yard setbacks of 16 feet & 19 feet respectively for an addition to all four sides of the existing dwelling.
Hearing: Monday, June 11, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
5/246 May 24 C470681

CERTIFICATE OF PUBLICATION

5/24/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/24/, 2001.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

FORMAL DEMAND FOR HEARING

CASE NUMBER: #01-431A

Address: 6215 EBENEZER RD.

Petitioner(s): CHARLES G. RICHTER & KIMBERLY SUE RICHTER, JR
OR

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We WILLIAM E. & JANET M. STERLING
Name - Type or Print

(✓) Legal Owner OR ( ) Resident of

6217 EBENEZER RD.
Address

BALTO MD 21220
City State Zip Code

410 335-4537
Telephone Number

which is located approximately 15 *feet from the property, which is the subject of the above petition,* ***do hereby formally demand that a public hearing be set in this matter.***

ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS DEMAND.

William E. Sterling 23 Apr 01
Signature Date

Janet M Sterling 23 Apr 01
Signature Date

Revised 9/18/98 - wcr/scj

APPEAL SIGN POSTING REQUEST

CASE NO. 01-431-A

KIMBERLY S. & CHARLES G. RICHTER, JR.-LO- Petitioners

SW Ebenezer Road, 450' SE c/l Bird River Road
(6215 Ebenezer Road)

15th Election District

Appealed: 8/29/01

Attachment – (Plat to accompany Petition -
Petitioner's Exhibit No.1)

APPEAL SIGN RE-POSTING REQUEST

CASE NO.: 01-431-A

KIMBERLY S. AND CHARLES G. RICHTER, JR. - LEGAL OWNERS

6215 Ebenezer Road

15th ELECTION DISTRICT

APPEALED: 8/29/01

ATTACHMENT – (Plan to accompnay Petition – Petitioner's Exhibit No. 1)

CERTIFICATE OF POSTING

RE: Case No.: 01-431-A

Petitioner/Developer:

KIMBERLY & CHARLES RICHTER, JR

Date of Hearing/Closing: 6/11/01

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

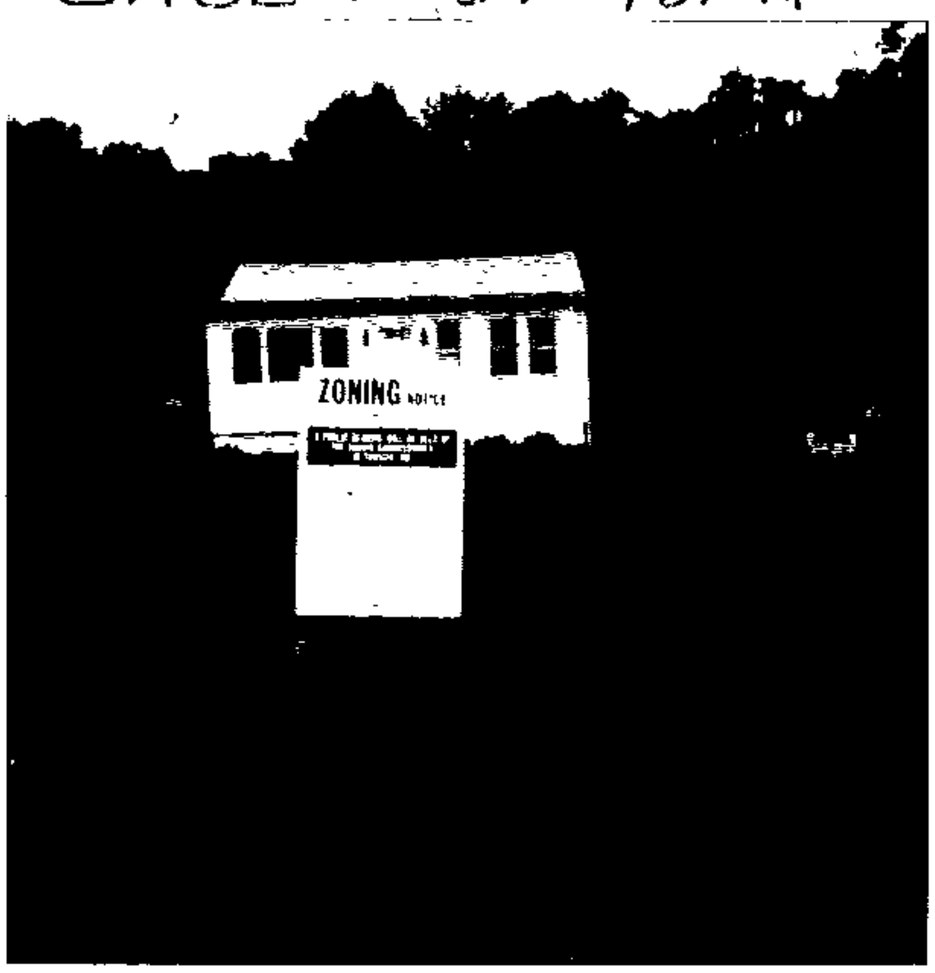
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at

6215 EBENEZER RD

The sign(s) were posted on 5/26/01
(Month, Day, Year)

CASE # 01-431-A



6215 EBENEZER RD
POSTED 6/26/01
6/26/01

Sincerely,

5/26/01
(Signature of Sign Poster and Date)

RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)

APPEAL SIGN POSTING REQUEST

CASE NO. 01-431-A

KIMBERLY S. & CHARLES G. RICHTER, JR.-LO- Petitioners

SW Ebenezer Road, 450' SE c/l Bird River Road
(6215 Ebenezer Road)

15th Election District — Appealed: 8/29/01

Attachment – (Plat to accompany Petition - Petitioner's Exhibit No.1)

**********COMPLETE AND RETURN BELOW INFORMATION**********

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Charlotte Radcliffe
Appeals Clerk

RE: Case No. [redacted] 01-431-A
Petitioner/Developer:
RICHTER

This is to certify that the necessary appeal sign(s) was posted conspicuously on

property located at 6215 EBENEZER RD.

The sign(s) was posted on 9/12/01, 2001.

By Gary C Freund
(Signature of Sign Poster)
GARY C. FREUND
(Printed Name)

5/15

APPEAL SIGN RE-POSTING REQUEST

CASE NO.: 01-431-A

KIMBERLY S. AND CHARLES G. RICHTER, JR. - LEGAL OWNERS

6215 Ebenezer Road

15th ELECTION DISTRICT APPEALED: 8/29/01

ATTACHMENT – (Plan to accompnay Petition – Petitioner's Exhibit No. 1)

**********COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF RE-POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 01-431-A

Petitioner/Developer:

Charles & Kimberly Richter Jr.

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

_____

The sign was posted on 4/1, 2002

By: Gary C Freund
(Signature of Sign Poster)

GARY C. FREUND
(Printed Name)

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: ~~[illegible]~~ 431

Petitioner: CHARLES RICHTER, JR.

Address or Location: 6215 EBENEZER RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: CHARLES G. RICHTER, JR.

Address: 6215 EBENEZER RD.
BALTIMORE, MD 21220

Telephone Number: 410-335-9520 HOME 410-960-5929 WORK

Revised 2/20/98 - SCJ

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 01- 431 -A Address 6215 EBENEZER RD.

Contact Person: J. Merry Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 4.9.01 **Posting Date:** 4.22.01 **Closing Date:** 5.7.01

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.

2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.

3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.

4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 01- 431 -A Address 6215 EBENEZER RD.

Petitioner's Name CHARLES RICHTER Telephone 410-960-5929

Posting Date: 4.22.01 **Closing Date:** 5.7.01

Wording for Sign: To Permit A VARIANCE A SIDEYARD SETBACK of 16 ft. AND 19.5 ft RESPECTIVELY FOR AN ADDITION ON ALL FOUR SIDES of THE EXISTING HOUSE, AND A VARIANCE TO PERMIT AN ACCESSORY STRUCTURE WITH A HEIGHT of 30 ft. IN LIEU of THE PERMITTED 15 ft. AND A FOOTPRINT LARGER THAN THE PROPOSED PRINCIPAL STRUCTURE (DWELLING).

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 24, 2001 Issue – Jeffersonian

Please forward billing to:
Charles G Richter Jr
6215 Ebenezer Road
Baltimore MD 21220

410 335-9520

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: 01-431-A
6215 Ebenezer Road
SW Ebenezer Road, 450' SE centerline Bird River Road
15th Election District – 5th Councilmanic District
Legal Owners: Kimberly S & Charles G Richter Jr

Administrative Variance to permit side yard setbacks of 16 feet & 19 feet respectively for an addition to all four sides of the existing dwelling.

HEARING: Monday, June 11, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDZ
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.

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

May 10, 2001

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 due to the Formal Demand for a Public Hearing by William & Janet M Sterling:

CASE NUMBER: 01-431-A
6215 Ebenezer Road
SW Ebenezer Road, 450' SE centerline Bird River Road
15th Election District – 5th Councilmanic District
Legal Owners: Kimberly S & Charles G Richter Jr

Administrative Variance to permit side yard setbacks of 16 feet & 19 feet respectively for an addition to all four sides of the existing dwelling.

HEARING: Monday, June 11, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon CDZ
Director

C: Kimberly S & Charles G Richter Jr, 6215 Ebenezer Road, Baltimore 21220
Janet & William Sterling 6217 Ebenezer Road, Baltimore 21220

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN *APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 26, 2001.***
(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.

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

*** **HEARING ROOM** – *Room 48* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF MAY 13, 2002

TUESDAY 5/14 9:30 am Case No.: 01-220-A /DELIBERATION

In the Matter of:
Mark E. Davison – Legal Owner
24 Treadwell Court

10:00 am Case No.: 01-469-A /HEARING

In the Matter of:
Angela & Thomas Neimiller – Legal Owners
19 Wagon Wheel Court

RE: VAR – To permit side yard setback of 20' ilo req'd 50' for proposed addition

---

WEDNESDAY 5/15 10:00 am Case No.: 01-431-A /HEARING

In the Matter of:
Kimberly S. and Charles G. Richter, Jr. – Legal Owners
6215 Ebenezer Road

RE: VAR – To permit side yard setbacks of 16' and 19.5' for addition to all four sides of existing dwelling ilo req'd 25'

THURSDAY 5/16 9:30 am Case No.: CBA-02-110 / DELIBERATION

In the Matter of:
Wal-Mart Real Estate, c/o Wal-Mart Stores
2399 North Point Blvd.

RE: Code Inspections and Enforcement Violation

10:00 am Case No.: CR-01-436 /HEARING

In the Matter of:
Highway Realty, Inc.; Eastrel, LLC;
David Pisanic; Patricia Franey; Marie and Donald Haga
9913, 9915, 9917, 9919, 9921 Reisterstown road
3rd Election; 3rd Councilmanic

Day #4 from 5/01/02

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c: Executive Office
Law Office
Director /PDM

People's Counsel
Planning Office
Court Info. Desk

County Council
Board Members
Court Reporter

County Board of Appeals of Baltimore County

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

May 16, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

KIMBERLY & CHARLES RICHTER, JR.
Case No. 01-431-A

Having concluded this matter on 5/15/02, public deliberation has been reassigned as follows:

DATE AND TIME : **WEDNESDAY, MAY 22, 2002 at 4:00 p.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

Kathleen C. Bianco
Administrator

c: Appellants /Petitioners : Kimberly S. & Charles G. Richter, Jr.

Counsel for Protestants : John B. Gontrum, Esquire
Protestants : Lori & Bryan Davenport
William & Janet Sterling

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Arnold Jablon, Director /PDM

FYI copy: M.W.B.

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on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

March 15, 2002

NOTICE OF ASSIGNMENT

CASE #: 01-431-A

IN THE MATTER OF: KIMBERLY S. & CHARLES G. RICHTER, JR. –Legal Owners /Petitioners
6215 Ebenezer Road
15th Election District; 5th Councilmanic District

7/06//2001 –D.Z.C.'s Order in which Petition for Administrative Variance was DENIED.
7/30/01 – D.Z.C.'s Amended Order only as to zone – corrected to R 40 zone.

ASSIGNED FOR: **WEDNESDAY, MAY 15, 2002 at 10:00 a.m.**

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

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

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellants /Petitioners : Kimberly S. & Charles G. Richter, Jr.

Counsel for Protestants : John B. Gontrum, Esquire
Protestants : Lori & Bryan Davenport
William & Janet Sterling

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Arnold Jablon, Director /PDM

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Baltimore County
Department of Permits and
Development Management

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

June 8, 2001

Kimberly S & Charles G Richter Jr
6215 Ebenezer Road
Baltimore MD 21220

Dear Mr. & Mrs. Richter:

RE: Case Number: 01-431-A, 6215 Ebenezer Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 9, 2001.

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. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 4, 2001

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

SUBJECT: Zoning Advisory Committee Meeting
For May 14, 2001
Item Nos. 427, 430, 431, 432, 440, 441,
and 442

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

RWB:HJO:jrb

cc: File

ZAC-5-14-2001-NO COMMENT ITEMS-642001.doc

File
6/11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 10, 2001

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

SUBJECT: 6215 Ebenezer Road

INFORMATION:

Item Number: 01-431

Petitioner: Charles Glenn Richter, Jr.

Zoning: RC 3

Requested Action:

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the request to permit side yard setbacks of 16 feet and 19 feet in lieu of the required 25 feet. However, this office does not and will not support a panhandle subdivision of this lot.

Prepared by: Martha Clemmer

Section Chief: Jeffrey W. Long
AFK:MAC:

Baltimore County
Fire Department

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

May 10, 2001

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 7, 2001

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:

428, 429, 430, 431, 432, 440, 441, 442

REVIEWER: LIEUTENANT JIM MEZICK, 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: 5-9-01

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

RE: Baltimore County
Item No. 431 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
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

August 31, 2001

Peter M. Zimmermann
People's Counsel
400 Washington Avenue
Towson MD 21204

Dear Mr. Zimmermann:

RE: Case No. 01-431-A, 6215 Ebenezer Road

Please be advised that an appeal of the above-referenced case was filed in this office on August 29, 2001 by Charles G Richter Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

All parties receiving this letter 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.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: Kimberly S & Charles G Richter Jr, 6215 Ebenezer Road, Baltimore 21220
John B. Gontrum, Romadka Gontrum & McLaughlin PA, 814 Eastern Boulevard, Baltimore 21221
People's Counsel

01 SEP -4 AM 9:21

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: June 17, 2004

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **Charles Richter, Jr.**
CBA No.: 01-431-A
PDM File No.: 01-431-A
Circuit Court Case No.: 03-C-02-009747

On May 4, 2004, Judge Dugan of the Circuit Court of Baltimore County issued an Memorandum Opinion and Order AFFIRMING the Board of Appeals.

No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file/exhibits that are attached herewith.

Attachment: SUBJECT FILE ATTACHED AND EXHIBITS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-02-009747

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse Room 49
400 Washington Avenue
Baltimore, MD 21204

RECEIVED
NOV 1 2 2003
BALTIMORE COUNTY
BOARD OF APPEALS

CASES, VARIANCES, MEMOS, DECISIONS

1) NORTH VS. ST. MARY'S COUNTY

2) CROMWELL VS. WARD

3) APPROVED VARIANCE IN SURROUNDING COMMUNITY AT 10411 BIRD RIVER RD. CASE # 02-036-A. CONSTRUCTION STARTED ON MAY 13, 2002.

4) BALTIMORE COUNTY INNER-OFFICE CORRESPONDENCE: APPROVALS FROM OFFICE OF PLANNING, STATE HIGHWAYS, FIRE MARSHALL, ZONING NOTE TO FILE 01-431-A FROM JOE MERREY.

5) BALTIMORE COUNTY ZONING COMMISSIONERS DECISION AND AMENDMENT TO DECISION.

CASE 01-431-A

ATTN: ARNOLD JABLON

I AM REQUESTING AN APPEAL FOR CASE 01-431-A.

CHARLIE RICHTER
6215 EBENEZER RD.
BALTIMORE, MD 21220
410-335-9520 HOME
410-960-5929 CELL
410-335-1153 FAX

RECEIVED
AUG 29 2001
DEPT OF PERMITS AND
DEVELOPMENT MANAGEMENT

Received 8-29-01
GDZ
$210.00 check
enclosed

8-21-01

8/21/01
10 cf

To: DD
8/22/01

01-431-A 6-11-01 2PM RM 407

ATTN: ARNOLD JABLON

FROM: CHARLIE RICHTER

Tape 49
Side 1
"453" - Y end
side 2.
000 - 518

I AM REQUESTING A COPY OF THE TAPE FROM HEARING.

CHARLIE RICHTER
6215 EBENEZER RD.
BALTIMORE, MD 21220

410-335-9520 HOME
410-335-1153 FAX
410-960-5929 CELL

RECEIVED
01-2898
AUG 21 2001
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

APPEAL

Petition For Administrative Variance
6215 Ebenezer Road
SW Ebenezer Road, 450' SE centerline Bird River Road
15th Election District – 5th Councilmanic District
Kimberly S & Charles G Richter Jr - Legal Owner
Case No.: 01-431-A

Petition for Administrative Variance (dated 4/9/01)
FORMAL DEMAND FOR A PUBLIC HEARING BY WM. & JANET STERLING
Zoning Description of Property

Notice of Zoning Hearing (dated 5/10/01)

Certification of Publication (The Jeffersonian issue dated 5/24/01)

Certificate of Posting (Richard E. Hoffman posted dated 5/26/01)

Entry of Appearance by People's Counsel (N/A)

Petitioner(s) Sign-In Sheet
1. One Page

Protestant(s) Sign-In Sheet
1. One Page

Citizen(s) Sign-In Sheet
(None)

Zoning Advisory Committee Comments

Petitioners' Exhibits:
1. Plat to Accompany Petition for Zoning Administrative Variance
2. Floor Plan
3. Photographs (5 sheets) (3A - 3E)
4. 6 sheets handwritten notes (Hardship, Alternatives, and Practical Difficulty)

Protestants' Exhibits:
1. Aerial View of Home and Surrounding Sites
2A - 2E (PHOTOS (5)
3A - 3C - PHOTOS (3)

Miscellaneous (Not Marked as Exhibits):
- ~~Photographs (8 Pictures~~
- Letter to Timothy Kotroco, Esquire from John B. Gontrum dated 7/3/01
- Memo to Timothy M. Kotroco, Deputy Zoning Commissioner from Joe Merrey dated 7/6/01
- Letter to Timothy Kotroco, Esquire from John B. Gontrum dated 7/23/01

Deputy Zoning Commissioner's Order (dated 7/6/01 - DENIED)
Deputy Zoning Commissioner's Amended Order (dated 7/30/01 – AMENDED)

Notice of Appeal received on August 29, 2001 from Charles G. Richter Jr

c: Kimberly S & Charles G Richter Jr, 6215 Ebenezer Road, Baltimore 21220
John B Gontrum, Romadka Gontrum & McLaughlin PA, 814 Eastern Blvd, Baltimore 21221
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

01 SEP -4 AM 9:21

Case No. 01-431-A

In the Matter of Kimberly S. & Charles G. Richter, Jr. –Legal Owners /Petitioners

VAR –To permit side yard setbacks of 16' and 19.5' for addition to all four sides of existing dwelling ilo required 25' setback.

7/06/01 –D.Z.C.'s Order in which Petition for Administratiave Variance was DENIED.
7/30/01 – Amended Order as to zone only – corrected to R 40

3/15/2002 -Notice of Assignment sent to following; assigned for hearing on Wednesday, May 15, 2002 at 10 a.m.:

Kimberly S. and Charles G. Richter, Jr.
John B. Gontrum, Esquire
Lori & Bryan Davenport
William & Janet Sterling
People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Arnold Jablon, Director /PDM

5/15/02/ - Board convened for hearing (Adams, Worrall, Barranger); concluded case this date; to be assigned for public deliberation (**no** closing memos to be filed).

5/16/02 – Notice of Deliberation; assigned for Wednesday, May 22, 2002 at 4:00 p.m. FYI copy to M.W.B.

5/22/02 – Board convened for deliberation; unanimous decision that requirements of law /regulations were not met; no evidence of uniqueness; did not meet second prong of Cromwell v. Ward; variance request denied; written Opinion /Order to be issued; appellate period to run from date of written Order.

8/02/03 – Board issued its final Opinion and Order (Adams, Worrall, Barranger) in which Petitioner's requested ✓ariance was DENIED.

10/15/03 – Hand-delivered – Copy of Motion to Defer Dismissal as filed by Charles Richter, Jr. in Circuit Court fyi copy to Board of Appeals). Mr. Richter makes certain allegations relative to the Board of Appeals in is Motion which ultimate resulted in the dismissal of his Petition for lack of prosecution. He was apparently notified of this dismissal in September 2003.

-- A review of the Board's records indicated that this file was closed in September 2002 at the conclusion of the 30-day appellate period. This office did not receive a copy of the Petition allegedly filed by Mr. Richter in Circuit Court. A review of Mr. Richter's Motion to Defer Dismissal also indicated that Counsel for Protestants, John Gontrum, had not been notified of the Motion just filed. T/C placed to Mr. Gontrum's office; left message that call was placed regarding this matter.

- A visit to Circuit Court resulted in retrieval of a copy of Mr. Richter's Petition for Judicial Review filed on September 3, 2003 in the Circuit Court. No reference is made regarding a copy sent to the Board.

10/24/03 – Letter sent this date to Suzanne Mensh, Clerk of the Court, regarding this matter in response to the allegations made by Mr. Richter in his Motion; i.e., that this office was never notified of the Petition filed by Mr. Richter; therefore no further action was taken by this office with the exception of closing the file at the conclusion of the 30-day appellate period. A copy of this letter was also sent to all parties listed in the case file.

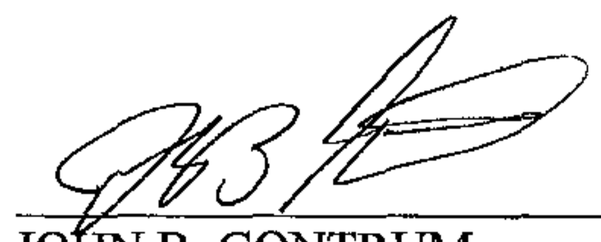
IN RE:	PETITION FOR VARIANCE SW Ebenezer Road, 450' SE centerline Bird River Road 15th Election District 5th Councilmanic District (6215 Ebenezer Road)	* * *	COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
		*	CASE NO.: 01-431-A
	Kimberly S. and Charles G. Richter, Jr. Petitioners'	* *	

****

ENTRY OF APPEARANCE

Dear Sir/Madam:

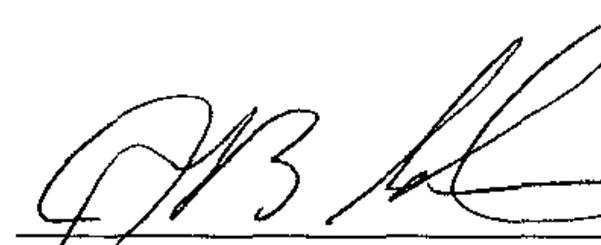
Please enter the appearance of Romadka, Gontrum & McLaughlin and John Gontrum on behalf of William and Janet Sterling in the above captioned case. Please notify me of any hearing dates.



JOHN B. GONTRUM
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221
410-686-8274

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10 day of September, 2001, a copy of the foregoing Entry of Appearance was mailed, postage prepaid to Kimberly S. and Charles G. Richter and People's Counsel.



JOHN B. GONTRUM

01 SEP 12 PM 12:14

County Board of Appeals of Baltimore County

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

October 24, 2003

The Honorable Suzanne Mensh
Clerk of the Court
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, MD 21204

RE: Circuit Court Case #03-C-02-009747
/In the Matter of Charles Richter, Jr. - Petitioner
(Reference CBA: 01-431-A)

Dear Madame Clerk:

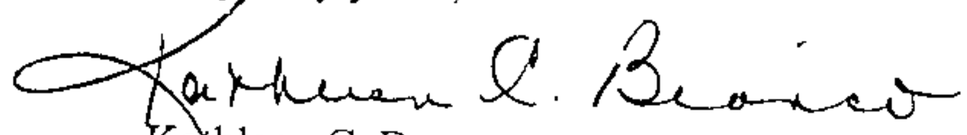
This office is in receipt of the Motion to Defer Dismissal filed by Charles Richter, Jr., in the subject case. Although this agency is not a party to the case, we wish to respond to certain allegations made by the Petitioner regarding our agency's involvement in this matter.

Pursuant to Rule 7-202(d)(3) of the *Maryland Rules*, this agency, upon receipt of a copy of a petition for judicial review of an order issued by this Board, gives written notice to all parties to our proceeding that a petition has been filed. However, in this case, we did not receive a copy of the Petition filed by Mr. Richter in September of 2002 and, therefore, did not begin the process necessary to transmit the record to the Circuit Court. In addition, no request was ever made to this agency, either orally or in writing, for preparation of the transcript.

Having received no further notice or inquiries regarding the proceeding before the Board of Appeals in this matter, our file was closed after the 30-day appellate period had passed with no further action taken.

This office is ready to provide any additional information you may require with regard to this case.

Very truly yours,



Kathleen C. Bianco
Administrator

c: Charles Richter, Jr.
John B. Gontrum, Esquire
William and Janet Sterling
Lori and Bryant Davenport
Office of People's Counsel
Pat Keller, Director /Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

Note to File:

The issue of the addition was reviewed with Carl Richards and he advised that as long as the existing structure is currently being assessed as a single family dwelling and occupied as such, then the proposed addition will not be considered a "new dwelling" for zoning purposes.

JCM
4/9/01

~~413~~

431

NOTE TO FILE:

THE PETITIONER AMENDED THE PETITION FORM SUBSEQUENT TO THE ORIGINAL FILING, BUT DID NOT SUBMIT AN AMENDED SITE PLAN CONSISTENT WITH THE AMENDED PETITION FORM.

JCM

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

TO: Timothy M. Kotroco
Deputy Zoning Commissioner

DATE: July 6, 2001

FROM: Joe Merrey
PDM, Zoning

SUBJECT: Case No. 01-431-A
Petition for Variance
Petitioner: Charles Richter
Property: 6215 Ebenezer Road

It has come to my attention this date that contrary to the Petitioners' representations on the petition form and site plan, that the correct zoning of the subject property for setback purposes is governed by the R-40 Regulations, not its current classification of RC-3. The R-40 Regulations require a minimum side yard of 20 ft., with a sum of side yards of 50 ft.. Record Plat O.T.G. 34, Folio 21, "Cora Sterling property", was vested in April of 1970 under the R-40 Regulations. If this information will in any way change your decision in this case, I would request that you amend your order accordingly. I apologize for any inconvenience this oversight has caused.

ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221
(410) 686-8274
(410) 686-0118 FAX

FACSIMILE TRANSMITTAL COVER SHEET

DATE:	JULY 3, 2001
SEND TO:	TIM KOTROCO 410-887-3468
FROM:	JOHN GONTRUM
DOCUMENT(S) BEING SENT:	LETTER DATED 07/03/01
CLIENT/FILE NO.:	STERLING 21.3017
# OF PAGES, INC. COVER:	2

Hard copy of transmitted document(s) **will NOT** follow in the mail.

MESSAGE

CONFIDENTIALITY NOTICE

WARNING: UNAUTHORIZED USE OR DISSEMINATION OF THIS TRANSMISSION MAY VIOLATE STATE AND/OR FEDERAL LAW.

This facsimile transmittal cover sheet, and any documents which may accompany it, contain information from the law firm of Romadka, Gontrum & McLaughlin, and is intended only for the use of the individual or entity to which it is addressed, and which may contain information that is privileged, confidential, and/or otherwise exempt from disclosure under applicable law. *If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this transmission to the intended recipient*, any disclosure, dissemination, distribution, copying, or other use of this communication or its substance is prohibited. If you have received this communication in error, please call us to arrange for the destruction of this communication or its return to us at our expense. Thank you.

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF:		Kimberly & Charles Richter, Jr. Case No. 01-431-A	
DATE	:	Wednesday, May 22, 2002	
BOARD /PANEL	:	Melissa Moyer Adams Margaret Worrall C. Lynn Barranger	(MMA) (MW) (LB)
RECORDED BY	:	Kathleen C Bianco /Administrator	

PURPOSE: To deliberate Case No. 01-431-A / request for variance from §§ 1A02.3.4 and 400.3 of BCZR to permit side yard setbacks of 16' and 19.5' for addition to all four sides of existing dwelling, in lieu of required 25' setback. Appeal filed from denial of requested variance by Deputy Zoning Commissioner.

Discussion:

- Reviewed Petitioner's request
- original garage request was abandoned
- Reviewed law – what is required versus what was requested.
- Petitioner indicated he would reduce by 1'; standard is the same no matter the amount of the variance
- Addition to house – 58.3' wide x 54' deep (house) plus 40+' addition to back /carport and patio
- 5,500 square feet for house on one level; cited possible future arthritis problems
- Discussed size – spread out; compared to neighboring properties; 5,500 sq ft out of character with neighborhood

Deliberation:

- Reviewed language of the statute (307.1) as well as *Cromwell v. Ward*
  -- As to uniqueness:
  - Petitioner indicated in his testimony that lots were all pretty much the same size (his may be somewhat bigger)
  - None would meet R40; were grandfathered
  - All lots are the same; not unique
  - When and how they were granted not at issue
  - Protestants' 4B – all lots similar
  - No varying topographic features; only trees but no evidence as to actual distance; trees are toward back; not at issue
  - Reviewed septic system issue

Does not meet uniqueness prong of *Cromwell V. Ward*; does not comply with law as to first prong.

-- As to second prong – practical difficulty and/or unreasonable hardship:
- Petitioner has more options then neighbors
- Parking car under cover in back – self-imposed
- Can go up with addition; not constrained to spreading out only

- No expert evidence /testimony that it had to be one floor; only possibility of future arthritis
- Could be done to lesser degree to reduce impact on neighborhood
- Hardship common to neighborhood; goes back to uniqueness issue.

Does not meet second prong of *Cromwell v. Ward*

DECISION:

- Unanimous decision of Board (Worrall, Adams, Barranger) that Petitioner has not met burden of regulations and case law, i.e., 307.1 and *Cromwell v. Ward.*

- Law does not make provisions for future health concerns

- Petition for variance is **DENIED.**

FINAL DECISION: Pursuant to testimony and evidence offered at hearing, the Board will deny Petitioner's requested variance; written Opinion and Order to be issued by the Board; appellate period to run 30 days from date of written Order.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted

Kathleen C. Bianco

Kathleen C. Bianco, Administrator
County Board of Appeals

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: October 8, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
01-431-A	***01-431-A***	Kimberly S and Charles G Richter, Jr.	6215 Ebenezer Road
01-539-A	***01-539-A***	Christopher M. Bradley Jamie Molinelli	6713 South River Drive

Attachment: SUBJECT FILE(S) ATTACHED

County Board of Appeals of Baltimore County

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

October 24, 2003

The Honorable Suzanne Mensh
Clerk of the Court
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, MD 21204

RE: Circuit Court Case #03-C-02-009747
/In the Matter of Charles Richter, Jr. - Petitioner
(Reference CBA: 01-431-A)

Dear Madame Clerk:

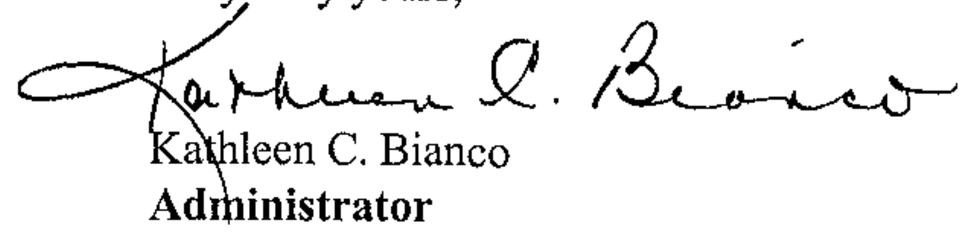
This office is in receipt of the Motion to Defer Dismissal filed by Charles Richter, Jr., in the subject case. Although this agency is not a party to the case, we wish to respond to certain allegations made by the Petitioner regarding our agency's involvement in this matter.

Pursuant to Rule 7-202(d)(3) of the *Maryland Rules*, this agency, upon receipt of a copy of a petition for judicial review of an order issued by this Board, gives written notice to all parties to our proceeding that a petition has been filed. However, in this case, we did not receive a copy of the Petition filed by Mr. Richter in September of 2002 and, therefore, did not begin the process necessary to transmit the record to the Circuit Court. In addition, no request was ever made to this agency, either orally or in writing, for preparation of the transcript.

Having received no further notice or inquiries regarding the proceeding before the Board of Appeals in this matter, our file was closed after the 30-day appellate period had passed with no further action taken.

This office is ready to provide any additional information you may require with regard to this case.

Very truly yours,



Kathleen C. Bianco
Administrator

c: Charles Richter, Jr.
John B. Gontrum, Esquire
William and Janet Sterling
Lori and Bryant Davenport
Office of People's Counsel
Pat Keller, Director /Planning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR *

* Also Admitted In the District of Columbia

July 23, 2001

Timothy Kotroco, Esq.
Deputy Zoning Commissioner
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 01-431-A
Property 6215 Ebenezer Road

Dear Mr. Kotroco:

It has come to my attention that an issue has arisen over the applicability of the R-40 setbacks to the above referenced case. In your Findings of Fact and Conclusions of Law of July 6 you indicate that no evidence was presented as to the applicability of any setback standard different from the current RC 3 zone setbacks. Assuming that is the case any finding as to the applicability of another zone would have to be based on findings that have occurred outside the hearing. Consequently, if you wish to reexamine what setbacks apply other than those of the current zone under BCZR Section 103.3, we would request a reconvening of the hearing for a presentation of evidence regarding those setbacks. It is clear that the lot in question does not comply with the stated zoning regulation standards for R 40 lots in that it is less than 150' wide at the building line. The application of Section 103.3 is very site specific and depends on various factors including the information on the subdivision plan, the location and presence of buildings, and the timing of all of the above. We believe that further testimony and evidence would need to be presented to vary the findings contained in your order.

Very truly yours,

John B. Gontrum

cc. Mr. and Mrs. Charles Richter, Jr.

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

July 3, 2001

Timothy Kotroco, Esq.
Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 01-431-A
6215 Ebenezer Road
Kimberly S. and Charles Richter

Dear Mr. Kotroco:

It has come to our attention that the Petitioners in the above-referenced case have obtained a grading/building permit within the last few days to grade an 18,000 square foot area in the rear of their property for a future "garage" of indeterminate size. Clearly, any grading such as proposed will have an enormous impact on the balance of the lot. Given the current size of the lot the construction of an accessory structure would have to be rather small, but an enlarged house such as proposed in the above-referenced case could lead to a huge "garage". The grading permit encompasses about 40% of the site and by the nature of the layout of the property it presumably would include much of the wooded area. This clearing grading information should have been presented at the hearing.

We would request that you reconvene the above-referenced variance hearing in order to determine what the ultimate plans for the property are to be in order to judge the merits of the variance request. The incremental approach adopted by Petitioners could have a severe impact on the adjoining properties and lends greater concern to the overall variance impact.

Very truly yours,

John B. Gontrum

cc. Charles and Kimberly Richter

10/27/03

Theresa:

Thought you might want to keep the attached file with your Circuit Court work – until we find out what happens with his Motion to Defer Dismissal.

I've written a letter to Suzanne Mensh in response to his allegations regarding the Board – with a copy to all parties listed in the file.

I've also left a message with John Gontrum – although I had not heard back from him as of the writing of this note.

kasi

Circuit Court for BALTIMORE Case No. 03-C-02-009747 AV

City or County

CHARLES RICHTER VS. BALTIMORE COUNTY BOARD OF APPEALS

Plaintiff Defendant

ORDER

UPON consideration ofthe papers and pleadings filed in this case it is this 5 day of November, 20 03, by this Court, ORDERED:

THAT MOTION TO DEFER DISMISSAL UNDER MARYLAND RULE 2-507 IS HEREBY ~~DISMISSED~~ GRANTED — Dismissal deferred for 180 days. Agency to transmit record in accordance with MR 7-206.

True Copy Test
SUZANNE MENSH, Clerk
Per [signature]
Assistant Clerk

[signature]

JUDGE

FILED NOV 10 2003

C-02-9747

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF: CHARLES RICHTER, JR., 6215 EBENEZER RD.
WHITE MARSH, MD 21220

ZONING FOR BALTIMORE COUNTY

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

OLD COURTHOUSE ROOM 49
400 WASHINGTON AVE.
TOWSON, MD 21204

IN THE CASE OF: CASE NO. 01-431-A
(ATTACHED)

PETITION FOR JUDICIAL REVIEW

PETITIONER, CHARLES RICHTER, JR., ~~BY ITS ATTORNEY~~, SAME, HEREBY REQUESTS JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, DATED 2ND DAY OF AUGUST, 2002, REVERSING THE HEARINGS OFFICERS DECISION THAT THE PETITIONER'S REQUEST FOR VARIANCE FROM BCZR 1A02.3.4 AND 400.3 TO PERMIT SIDE YARD SETBACKS OF 16 FEET AND 19.5 FEET

IN THE CIRCUIT COURT FOR _____ COUNTY

Petition of [Name and Address] FOR JUDICIAL REVIEW OF THE DECISION OF [Agency Name and Address] IN THE CASE OF [Case Name and Address of Parties] DECISION NO.: APPEAL NO.:	Civil Action No.:_____

PETITION FOR JUDICIAL REVIEW

PETITIONER, _____, by its attorney, _____,hereby requests judicial review of the decision of the [name of agency], dated [date], reversing the hearing officer's decision that _____ and awarding _____. Petitioner was a party to the case below.

_____
[Attorney Name]
[Address]
[Telephone]

Attorney for Petitioner

form iii-e-03

IN LIEU OF THE REQUIRED 25-FOOT SETBACK BE AND IS HEREBY DENIED AND AWARDING THAT SAID CASE BE ACCEPTED. PETITIONER WAS A PARTY TO THE CASE BELOW.

CHARLES RICHTER, JR.
6215 EBENEZER RD.
WHITE MARSH, MD 21220

CERTIFICATE OF SERVICE

I HEREBY CERTIFY ~~THAT~~ ON THIS 3RD DAY OF SEPTEMBER, 2002. A COPY OF THE FOREGOING ANSWER WAS MAILED, POSTAGE PREPAID TO JOHN B. GONTRUM, ESQUIRE.

9-3-02

Charles Richter, Jr.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Petition of [Name and Address] FOR JUDICIAL REVIEW OF THE DECISION OF [Agency Name and Address] IN THE CASE OF [Case Name and Address of Parties] DECISION NO.: APPEAL NO.:	:	Civil Action No.:_____

PETITION FOR JUDICIAL REVIEW

PETITIONER, CHARLES RICHTER, JR, by its attorney, SAME, hereby requests judicial review of the decision of the [name of agency], dated [date], reversing the hearing officer's decision that _____ and awarding _____. Petitioner was a party to the case below.

_____
[Attorney Name]
[Address]
[Telephone]

Attorney for Petitioner

form iii-e-03

01-431-A

10-15-03

RECEIVED
OCT 15 2003
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY, MARYLAND

CHARLES RICHTER, JR.

PLAINTIFF

V.

CIVIL CASE NO. 03-C-02-009747 AE

BALTIMORE COUNTY BOARD OF APPEALS

DEFENDENT

MOTION TO DEFER DISMISSAL

CHARLES RICHTER, JR., PLAINTIFF FILES THIS MOTION TO DEFER DISMISSAL UNDER MARYLAND RULE 2-507 AND FOR REASONS SAYS AS FOLLOWS:

1) APPARENTLY PER ENCLOSED CASE HISTORY THE BALTIMORE COUNTY BOARD OF APPEALS NEGLECTED RULE 7-202(e) TO FILE WITH THE CLERK A CERTIFICATE OF COMPLIANCE.

2) ALSO RULE 7-206 (a)(e) ~~(e)~~ (ENCLOSED)

3) THE CLERKS OFFICE WAS UNABLE TO PERFORM ITS DUTIES RULE 7-202 (d) AND RULE 7-206(e) DUE TO THE COUNTY BOARD OF APPEALS ACTIONS OR LACK OF.

WHEREFORE, THE PLAINTIFF HAVING SHOWN GOOD CAUSE ASKS

2003 OCT 15 A 11:45

THE COURT TO DEFER THE CONTEMPLATED DISMISSAL IN THE ABOVE-CAPTIONED CASE.

CERTIFICATE OF SERVICE

I CHARLES RICHTER, JR., PLAINTIFF HEREBY CERTIFY, THAT ON THIS 15TH DAY OF OCTOBER, 2003, A COPY OF THE FOREGOING MOTION TO DEFER DISMISSAL WAS SENT TO THE FOLLOWING PARTIES: BY HAND DELIVERY

WILLIAM & JANET SOERLING
LORI & BRYAN DAVENPORT
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

10/15/03

Case Number: 03-C-02-009747 AE
Date Filed: 09/03/2002
Status: Open/Active
Judge Assigned: To Be Assigned,
Location :

In The Matter of: Charles Richter Jr

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Case Folder ID	C02009747V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
PET	001	Richter, Charles, Jr	Party ID: 0522563		09/04/02
		Mail: 6215 Ebenezer Road Baltimore, MD 21220	09/04/02		
RES	001	County Board Of Appeals Of Baltimore County	Party ID: 0522566		09/04/02
		Mail: Old Courthouse Room 49 400 Washington Avenue Baltimore, MD 21204	09/04/02		

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	09/04/02	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review with affidavit and exhibits.	09/03/02	09/04/02	PET001	TBA			JET JET
0002000	Notice of Cont. Dismissal Lack of Pros.	09/16/03	09/16/03	000	TBA		09/16/03	PA PA

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1YRT	One Year Tickle (Jud	OPEN	*09/03/03*	365	*no*	*no*	*DAAA*	*D*	*001*	*000*

TRANSCRIPT REQUEST

Filed: 9/3/2002
RETRIEVED: October 20, 2003

***Carolyn: We just learned of this Appeal. CCT never notified us.

Case: *Kimberly and Charles Richter, Jr.*

01-431-A

Hearing date(s): Testimony Heard on:

5/15/2002

Petitioners: Charles Richter, pro se
410-960-5929 – WORK
410-335-9520 - HOME

Due Date: DECEMBER 15, 2003

THANK YOU

November 13, 2003

APPEAL

Petition For Administrative Variance
6215 Ebenezer Road
SW Ebenezer Road, 450' SE centerline Bird River Road
15th Election District – 5th Councilmanic District
Kimberly S & Charles G Richter Jr - Legal Owner
Case No.: 01-431-A

Petition for Administrative Variance (dated 4/9/01)

Zoning Description of Property

Notice of Zoning Hearing (dated 5/10/01)

Certification of Publication (The Jeffersonian issue dated 5/24/01)

Certificate of Posting (Richard E. Hoffman posted dated 5/26/01)

Entry of Appearance by People's Counsel (N/A)

Petitioner(s) Sign-In Sheet
1. One Page

Protestant(s) Sign-In Sheet
1. One Page

Citizen(s) Sign-In Sheet
(None)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat to Accompany Petition for Zoning Administrative Variance
2. Floor Plan
3. Photographs (5 sheets)
4. 6 sheets handwritten notes (Hardship, Alternatives, and Practical Difficulty)

Protestants' Exhibits:

1. Aerial View of Home and Surrounding Sites

Miscellaneous (Not Marked as Exhibits):

- Photographs (8 Pictures
- Letter to Timothy Kotroco, Esquire from John B. Gontrum dated 7/3/01
- Memo to Timothy M. Kotroco, Deputy Zoning Commissioner from Joe Merrey dated 7/6/01
- Letter to Timothy Kotroco, Esquire from John B. Gontrum dated 7/23/01

Deputy Zoning Commissioner's Order (dated 7/6/01 - DENIED)
Deputy Zoning Commissioner's Amended Order (dated 7/30/01 – AMENDED)

Notice of Appeal received on August 29, 2001 from Charles G. Richter Jr

c: Kimberly S & Charles G Richter Jr, 6215 Ebenezer Road, Baltimore 21220
John B Gontrum, Romadka Gontrum & McLaughlin PA, 814 Eastern Blvd, Baltimore 21221
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

RECEIVED MAR 0 1 1994

REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 982

SEPTEMBER TERM, 1993

JOHN C. NORTH, II, *et al.*

v.

ST. MARY'S COUNTY *et al.*

Bloom,
Cathell,
Harrell,

JJ.

Opinion by Cathell, J.

99MDApp

Filed: March 2, 1994

#CA 91-1195

4

Appellant, John C. North, II, Chairman of the Chesapeake Bay Critical Area Commission (Chairman), appeals from a decision of the Circuit Court for St. Mary's County affirming a decision of the St. Mary's County Board of Appeals, granting a variance from the provisions of the St. Mary's County Critical Area Program which prohibits the use requested, except as a variance, in the critical area buffer zone. Mr. John T. Enoch and the Board of County Commissioners of St. Mary's County are the appellees.

Appellant poses two questions:

> 1. Was there substantial evidence *before* the Board to support its decision to grant the variance?
>
> 2. Is the Board's decision supported by lawfully sufficient findings of fact and conclusions of law?

In addressing this case, it is important to recognize what it is and what it is not. Though appellant extensively refers to the public policy behind Maryland's Chesapeake Bay Critical Area legislation, this *is not* a case involving any interpretation or review of that legislation. The time for review and challenges to that legislation were: (1) when it was adopted, (2) subsequently when St. Mary's County adopted its program pursuant to the requirements of the state legislation, or (3) by a direct constitutional challenge to the state and county legislation when the case was heard below. No such challenge was made below in the case at bar. This case *is*, thus, a simple zoning variance case.

Facts

Mr. Enoch, appellee, owns a 4.3 acre parcel of land adjacent to Cuckold Creek in St. Mary's County. The parcel is within the County's critical area, *i.e.*, within 1,000 feet beyond the landward boundaries of wetlands and the heads of tides. It is partially within the County's critical area buffer.

Part of the parcel is already developed with a ranch home and outbuildings. The structure at issue here is a proposed gazebo to be built within twenty-five feet[1] from the mean high water mark of the creek. Mr. Enoch's purpose in building the gazebo, it is alleged, is to have a place to contemplate, read and enjoy the view.

The existing ranch house backs up to the waters of the creek. Attached to the rear of the house is a network of exterior decking extending twenty to thirty feet out over the steep shore, which extends twenty feet or more to the waters of the creek. The water view from the deck is unobstructed. A walkway leads from the decks down the creek bank to a pier that extends out into the creek.

The gazebo is not a permitted use under the County's program. Mr. Enoch, therefore, applied for a variance from the provisions of the code to enable him to construct the gazebo. The County's Department of Planning and Zoning informed the Board of Appeals that Mr. Enoch did not meet the requirements entitling him to a

---

[1] The record at one point refers to its location as being thirty-five feet from the creek. The original application called for the gazebo to be built within fifteen feet of the creek.

variance because there were no special circumstances existing which established that Mr. Enoch had an unwarranted hardship.

Mr. Enoch admitted at the hearing before the Board of Appeals that:

> I think that if we're not permitted to use this point for a scenic view, that it would be a deprivation of the rights of the property owner, *maybe not a great deprivation* ....
>
> ....
>
> ... The whole purpose ... is ... to be able to walk out ... and observe that view.... I have a little bench ..., a couple chairs and a table where I sit out there [the point] and read.... [T]his gazebo ... would permit a better access to this. [Emphasis added.]

Standing

Before addressing the questions raised by appellant, it is necessary to resolve an issue raised by appellee Enoch. He asserts that:

> The Commission has no standing to assert non-environmental features of the St. Mary's County program, such as "unwarranted hardship."

He argues:

> Enoch respectfully asserts that the standing conferred upon the Chairman under §8-1812 of the Natural Resources Article must be interpreted as limited to the State's interest in overseeing the resource protection program for the Bay and its tributaries; i.e. the State only has standing on variance approval issues to the extent they are based on adverse impact to water quality, wildlife or natural habitat of the adjacent shoreline. The Commission has no more standing to argue "unwarranted hardship," in the face of an undisputed finding that this gazebo will have no adverse environ-

> mental impact, than it would to argue that the variance must be denied because Enoch did not pay the County's application fee.
>
> ....
>
> In this case the Commission concedes that if the Planting Agreement is implemented at the time of the gazebo construction, the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat .... Wholly apart from environmental concerns, the State now sees itself as the dictator of what is a luxury and what is a hardship with respect to the use of Enoch's property. Gazebos, says the Commission, are luxuries that the State can deny property owners even in the absence of adverse environmental consequences. Enoch disagrees. The Court should dismiss the appeal as it contains no justifiable issue that the Commission, or its Chairman, can lawfully assert.

We found it unnecessary to address a similar issue in *The Wharf at Handy's Point, Inc. v. Department of Natural Resources*, 92 Md. App. 659 (1992), where we based our decision on a failure to exhaust administrative remedies. It is now necessary for this issue of standing to be resolved.

As we perceive the pertinent statutory provisions, the only limit on the Chairman's right, or standing, to appeal the issuance of variances is that provision found in Md. Nat. Res. Code Ann. § 8-1812(a) (1990 Repl. Vol.) where it provides that the Chairman must withdraw [the appeal] "if, within 35 days ... at least 13 members [of the Commission] indicate disapproval ...." There is no evidence that the Chairman's authority was so withdrawn.

The statutes addressing his right to appeal state:

> After the Commission has approved ... a program, the chairman ... has standing and the right and authority to ... appeal ... concerning a project approval in the Chesapeake Bay Critical Area.

Id.

> The chairman may appeal an action or decision even if the chairman was not a party to or *is not specifically aggrieved by the action or decision*.

Id. at section 8-1812(c)(emphasis added).

Additionally, COMAR 27.01.11C, the State regulations authorizing local programs to contain variance provisions, states:

> Appeals ... shall be taken in accordance with all applicable laws and procedures of each local jurisdiction for variances.... [T]he Chairman may appeal an action or decision even if the Chairman was not a party to *or is not specifically aggrieved by the action or decision*. [Emphasis added].

It is clear to us that the Chairman's (thus, the Commission's) right to appeal a decision of the Board is unrestricted. We, therefore, reject Enoch's claim that the Commission has no standing to assert non-environmental features of the St. Mary's County's ordinance enacted pursuant to the dictates of the Natural Resources Article.

We are concerned that the Commission initially offered no evidence, nor did anyone, of any environmental damage that might occur if this gazebo were to be built.[2] As we perceive the general

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[2] Had the applicant not asked for a continuance of the first hearing before the Board, there would have been nothing in the record from the Commission. The letter from the Commission was received between the first and second hearing. It did contain environmental objections.

thrust of the state and local legislation, the Commission was included as an unlimited litigant in order to permit it to fully guard the environmental interests it was created to protect. The local ordinance, and the state legislation, authorize the Chairman to be a full litigant. We are thus constrained to permit the Chairman to litigate all issues. As we noted in *Green v. Bair*, 77 Md. App. 144, 152 (1988), *cert. denied*, 315 Md. App. 307 (1989), quoting the trial court:

> It is not for the court to decide the wisdom, *vel non*, of the zoning code, as adopted by the Mayor and common council [of St. Mary's County], but rather to enforce it as it is written.

1.

Was there substantial evidence before the Board to support its decision to grant a variance?

The Law

We said in *Enviro-Gro Technologies v. Bockelmann*, 88 Md. App. 323, 335, *cert. denied*, 325 Md. 94 (1991):

> We, in discussing the law relative to rezoning, have stated that the courts may not substitute their judgment for that of the legislative agency, *if the issue is rendered fairly debatable*. The basic reason for the "fairly debatable" rule is that zoning matters are, first of all, legislative functions and, absent arbitrary and capricious actions, are presumptively correct if based upon substantial evidence; even if substantial evidence to the contrary exists. [Emphasis added, citations omitted.]

See also Luxmanor Citizen's Assoc., Inc. v. Burkart, 266 Md. 631, 647 (1972); *Chesapeake Ranch Club, Inc. v. Fulcher*, 48 Md. App. 223, 227-28 (1981). We also stated in *Neuman v. Mayor & City Council*, 23 Md. App. 13, 14 (1974), that "where the action of the Board is not supported by substantial evidence the board's decision cannot be said to be 'fairly debatable.' Under those circumstances the board's finding falls into the category of being arbitrary, capricious and a denial of due process of law." *See also Red Roof Inns, Inc. v. People's Counsel*, 96 Md. App. 219, 224 (1993); *County Comm'rs v. Zent*, 86 Md. App 745, 752-53 (1991).

Discussion

We first point out that in zoning law a variance, if granted (unlike a special exception),[3] permits a use which is prohibited

[3] Baltimore City's zoning code makes no distinction between special exceptions and variances. Its code treats what it calls special exceptions as if they were variances. We know of no other zoning code that fails to make the distinction between special exceptions and variances. The large number of cases arising out of Baltimore City have led to numerous cases where the distinction between the two entities has become somewhat muddled in the case law. This, we would suggest, results not from appellate rejection of the distinction but from the unique provisions of the Baltimore City statute. For this reason, it is generally inexact to rely on Baltimore City cases when a special exception is at issue in another jurisdiction, but would be appropriate when a variance is at issue.

As the Court of Appeals noted in *Dampman v. Mayor and City Council*, 231 Md. 280, 285 (1963):

> Ordinarily there is a distinction between a variance and an exception.... An exception is usually granted where a specific use is permitted by the legislative body in a given
> (continued...)

and presumed to be in conflict with the ordinance. An applicant for a variance bears the burden of overcoming the presumption that the proposed use is unsuitable. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.

Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974), also involved a set back restriction, *i.e.*, the distance between buildings. In *Anderson*, there was testimony that the property in question was unique because it was L-shaped, with the southern portion being considerably narrower than the north portion. It was contended that "there is no other way for us to locate that building." *Id.* at 33. The applicant noted that unless the variance was granted "our people wouldn't even have any view of the water." *Id.* We noted that the location of the building for which the variance was sought "was chosen to maximize the residents' view of the water ...." *Id.*

Experts testifying for the applicant noted that the property had "'intriguing natural beauty' with distinct contours and vegeta-

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[3](...continued)

> area if the zoning plan is conformed to and there is no adverse effect on the neighborhood. There is usually no necessity for showing undue hardship. On the other hand, variances are usually given only on the showing of undue hardship. In Baltimore City there appears to be no distinction between the two terms .... [Citations omitted.]

See also Montgomery County v. Merlands Club, Inc., 202 Md. 279, 288-89 (1953).

tion which should not be disturbed.... [T]he buildings are located ... to enhance the view from the bay toward the project." *Id.* at 34. The circuit court, in affirming the grant of the variances, noted that the Board had taken the position that special topographic features existed, that existing buildings on the property and the property's relation to the Chesapeake Bay entitled the applicants to consideration.

We discussed Chesapeake Beach's variance provisions noting that, unlike pure *area* (as opposed to use) variances, which are permitted if strict compliance with the regulations would result in practical difficulties *or* unreasonable hardship,[4] Chesapeake Beach's ordinance provided that area variances could only be granted if strict application of the regulations "would result in practical difficulty *and* unnecessary hardship depriving the owner of the reasonable use of land ...." *Id.* at 40. We then opined:

> Not only does it [the variance provision] express the criteria of practical difficulty and unnecessary hardship in the conjunctive, but it also independently requires that no area variance be granted unless it is shown that strict application of the regulations will deprive the applicant of the reasonable use of his land and that the grant of the variance is necessary for the reasonable use of the land. It defines the hardship which must be shown as the equivalent of a constitutional taking, and utilizes the same criteria employed by the Court of Appeals for estab-

[4] A similar provision exists in the Baltimore County Ordinance that we construed in *Red Roof Inns, Inc. v. People's Council for Baltimore County*, 96 Md. App. 219, 224 (1993), where we noted that when the language states practical difficulties *or* unreasonable hardship "satisfaction of either of the conditions may warrant a variance."

> lishing undue hardship.... [A]n area variance can be granted only if there is proof that the strict application ... would result in an unnecessary hardship which deprives the owner of the reasonable use of his land.

Id. at 41. *See also Green*, 77 Md. App. at 152.

The St. Mary's County variance provision at issue here, likewise, provides:

> [W]hen, owing to special features of the site or circumstances, the literal enforcement ... result[s] in *unwarranted hardship* ....
>
> In granting variances the county must:
>
> 1. Find that special conditions or circumstances exist that are peculiar to the land ... *and* that a literal enforcement ... would result in *unwarranted hardship;*
>
> 2. That a literal interpretation ... will deprive the land owner of rights commonly enjoyed by other properties in similar areas ...
>
> 3. That the granting of a variance will not confer upon a land owner any special privilege ...
>
> 4. That the variance request is not ... the result of actions by the land owner, nor that the request arises from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property;
>
> 5. That the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat .... [Emphasis added.]

The ordinance requires an applicant to meet all of the requirements. Thus, though it may be argued that this is an area variance and that under most zoning codes the applicant's burden would be limited to showing practical difficulty, the statute at issue here is mandatory and requires not an either/or showing but the satisfying of *all* of the requirements, *i.e.*, the showing of an "unwarranted hardship," *and* special features of the site *and* special conditions and circumstances, *and* deprivation of rights enjoyed by others in the neighborhood if the application is not granted.

Additionally, if *all* of the above is established by substantial evidence, an applicant must additionally show, also by substantial evidence, that if the variance is granted the applicant will not receive a special privilege *and* that the variance request does not result from the action of the landowner *and* that the request does not result from any condition relating to permitted or non-conforming buildings or uses on neighboring property *and* that the variance, if granted, will not have adverse environmental impact. The St. Mary's County ordinance, especially in light of the Commission's approval function, is as strict as can be imagined. We have seen none tougher.

In essence, the developmental/environmental battle must, of necessity, be fought by the developmental or County interests during the County program's adoption. If the battle *was* fought in St. ~~Mary's County, it was lost~~ or won then. Once an ordinance such as that in the case *sub judice* becomes effective, an applicant's

burden cannot generally be met by references to Thoreau's hut on Walden Pond.[5] Once these types of variance provisions are enacted, the result is generally that any project that does not cause damage to the environment will also be of such an inconsequential nature that it will not constitute an unwarranted hardship for it to be denied. Appellee Enoch, in his letter of application for a variance dated July 10, 1991, gave part of his reason for the request: "[T]his point would be an ideal location to construct a gazebo for the purpose of utilizing the beautiful view that is found on that point." He then made a general claim that "[a] strict construction of the regulation would not merely result in an inconvenience but actually create a serious and unnecessary hardship" because he had "hoped to develop[] the point."

He asserts that the land conditions are unique because "only a small portion of [the land] has buildings on it." He then claims that this situation is generally different in respect to other properties within the same zoning classification. The remainder of his application generally parrots the language of the statute in addressing the remaining requirements.

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area,

[5] The trial judge noted that under the program imposed upon St. Mary's County by the Critical Area Commission, Thoreau's hut could not have been built. He was correct.

i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

An example of uniqueness is found in the use variance case of *Frankel v. Mayor and City Council*, 223 Md. 97, 104 (1960), where the Court noted: "[H]e met the burden: the irregularity of the ... lot ... that it was located on a corner of an arterial highway and another street, that it is bounded on two sides ... by parking lots and public ... institutions, that immediately to its south are the row houses ...."

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339 (1986), quoted from the Queen Anne's County ordinance:

> Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific ... property ..., or by reason of exceptional topographic conditions or other extraordinary situation or special condition of ... property ... the literal enforcement ... would make it exceptionally difficult ... to comply ... and would cause unwarranted hardship and injustice ....

The general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court in *Ad + Soil, Inc.*

The evidence in this case relied upon by appellees is just the opposite. Mr. Enoch proffered that the neighboring properties were similarly situated, including having points of land with views. His argument was basically that his land was unique because he had not already built on the point of land and the other property owners had. In other words, his uniqueness claim was based on the existence of permitted (or probably non-conforming, the record is not clear as to which) structures and uses on adjoining properties. Mr. Enoch did not offer any evidence establishing any zoning uniqueness as to his property, and the basis upon which he attempted to argue uniqueness is expressly forbidden by section 4 of the ordinance. ("That the variance request [does] not ... arise[] from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.")

The evidence presented at the original hearing before the Board included, in part, the following testimony by appellee Enoch:

> [I]f we're not permitted to use this point for a scenic view, that it would be a deprivation of the rights of the property owner, maybe not a great deprivation, but it's uniquely there for the purpose of putting up something to observe this beautiful view....
>
> ....
>
> ... The only place to go for any kind of a view of the water is either straight ahead ... where I have my dock, or over here where we're talking about. I have my dock, I already have a view of the water there and I have a view from the house so-to-speak ... the view from the house is a view of the very end of the cove. The view from up here [the subject site] leads out to the Patuxent River ... you can see four or five hundred yards

> .... I wouldn't put a gazebo any other place that would be ... satisfactory.
>
> [COMMISSIONER]: Okay, and you want the gazebo ... as a place for retreat, a place to give you the opportunity to contemplate, to read ....
>
> MR. ENOCH: Sure ....
>
> ....
>
> MR. ENOCH: ... I think every property in that area has their homes built on those little points that stick out.

At this point the evidentiary stage of the initial hearing was concluded. The members of the Board then discussed the case.

> MR. FITZGERALD: ... This is one of those solemnly [King Solomon?] decisions ... that speaks ... to the ludicrousness of the ... critical areas thing.... At the same time ... there are conditions ... within the ordinance that we're required to uphold .... I don't feel comfortable denying the applicant outright ... I don't feel comfortable in voting against the ordinance .... *But in spite* of the fact that the applicant hasn't proven, you know, the variance, or the requirement for variance, he still has a strong case .... [Emphasis added.]

That testimony we have recounted comprises all the evidence offered by Mr. Enoch before the Board to meet his burden of satisfying the variance provision's requirements.

Also in evidence before the board was the staff report of the Department of Planning and Zoning of St. Mary's County. The staff report explicitly recommended that the requirement of a showing of special circumstances and unwarranted hardship had not been made and that if the variance was granted it might constitute a special privilege granted to this property in violation of the ordinance.

During the circuit court hearing, the judge initially noted that:

> So, it is a case of a gazebo and a fellow who wants to look at the view, is that it?

The court then asked the attorney for St. Mary's County to respond to appellant's assertions:

> THE COURT: ... [T]his record has to show, in order to get one of these variances, that not to grant it to him would cause him an unwarranted, undue hardship, and the administrative record just doesn't show that.
>
> That is what he is saying.
>
> ....
>
> [THE COUNTY ATTORNEY]: Whether it is an unwarranted hardship or not is not for me to decide. The Board of Appeals ruled that it was. They found facts to -- sufficient to conclude that Mr. Enoch would face an unwarranted hardship if he could not build his gazebo.
>
> The *only* reason for building the gazebo, I believe, is to have that view of the water. Without that, there is no reason for a gazebo.
>
> ....
>
> So, I think the whole key is unwarranted hardship.

Mr. Enoch then proffered, in part:

> So, there is a desire to use that point for aesthetic purposes to view the water....
>
> And the hardship we are talking about is a reasonable use of the property by an individual.

The applicant, Mr. Enoch, the county, and the trial judge for that matter, when discussing the reasonable use of the property

seem to restrict their considerations to just the part of the property where Enoch desires to construct the gazebo. That is incorrect. The property at issue here is the 4+ acre site already developed with a ranchhouse of approximately 1,100 square feet with extensive decking, an improved walkway, and a pier, from which expansive views are present. Thus, the property already is subject to a reasonable use.

Brief

The instant case focuses on unwarranted hardship; it is a denial of *reasonable* use that creates an unwarranted hardship. If reasonable use exists, generally an unwarranted hardship would not. In the present case, extensive reasonable use is already being made of the property. Under the appellees' theory, it would be unreasonable and an unwarranted hardship to deny Mr. Enoch anything he wants.

In a case resolved on standing issues, the Court of Appeals nevertheless stated:

> To grant a variance the Board must find from the evidence more than that the building ... would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner. The Board must find there was proof of "urgent necessity, hardship peculiar to the particular property, and a burden upon the owner not justified by the public health, safety and welfare."

Kennerly v. Mayor and City Council, 247 Md. 601, 606-07 (1967). *See also Marino v. Mayor and City Council*, 215 Md. 206 (1957) ("As a general rule, ... [variances] are granted sparingly, and under exceptional circumstances. To do otherwise would decimate zonal restrictions and

eventually destroy all zoning regulations ...."); *Carney v. City of Baltimore*, 201 Md. 130, 137 (1952).

The Court of Appeals in *Park Shopping Center, Inc. v. Lexington Park Theatre Co.*, 216 Md. 271, 276-77 (1958), in respect to the ordinance there being applied, opined:

> [T]he Zoning Ordinance for St. Mary's County ... states that the Board shall have power "[t]o authorize ... such variance ... where, *owing to special conditions*, the enforcement ... will result in *unwarranted hardship and injustice* ...." It is in language typical of a variance as distinguished from an exception....
>
> ... "The criterion for determining unnecessary hardship is whether the ... restriction when applied to the property in the setting of its environment is so unreasonable as to constitute an arbitrary and capricious interference with the basic right of private ownership." [Citations omitted.]

Variances have been rejected under more compelling circumstances than that presented by the evidence in this case. *See, e.g.*, *Ad + Soil, Inc., v. County Comm'rs*, 307 Md. 307, 340 (1986) (ignorance of set back requirements for sewage sludge facility when property purchased was not a hardship); *Burns v. Mayor and City Council*, 251 Md. 554, 558-59 (1968) (financial crisis generally not hardship, especially when same crisis applies to other property in neighborhood); *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554 (1965) (self-inflicted hardship); *Pem Constr. Co. v. Mayor and City Council*, 233 Md. 372, 378 (1964) (non-feasibility of building residential houses on subject property because of its location near a shopping center and

parking lots - "facts ... fall substantially short of ... a taking in a constitutional sense."); *Mayor & City Council v. Polakoff*, 233 Md. 1, 9 (1963) (earlier variances granted to other properties not grounds for variances); *Carney v. City of Baltimore*, 201 Md. 130, 136-37 (1952) (side yard set back for convenience, *i.e.*, to accommodate disability of wife of applicant not hardship); *Cleland v. Mayor and City Council*, 198 Md. 440, 445 (1951) (parking inconvenience for doctors not a hardship); *Gleason v. Keswick Improvement Ass'n, Inc.*, 197 Md. 46 (1951); *Easter v. Mayor and City Council*, 195 Md. 395, 400 (1950).

The only evidence presented is that appellee, Enoch, wished to read and contemplate on the point (we presume the purpose of the gazebo was to furnish shade and protection from the rain as a gazebo is not inherently necessary in the process of reading and contemplation). A desire to have a gazebo of approximately 234 square feet in which to contemplate at a particular spot when that gazebo is not permitted at that location is not evidence of an unwarranted hardship. This is especially true when appellant has an additional 178,361 square feet of property in which to contemplate, much of which is outside the buffer or already in place in the creek or near the creek.

Resolution

As we see it, there was no evidence supporting any special features peculiar to the subject site. There was no *evidence* - as opposed to a statement - of unwarranted hardship. Because the

evidence is non-existent on these points, it is immaterial that there may have been some minimal evidence of little or no environmental damage or that the variance, if granted, would not confer a special privilege on the applicant. *All of the requirements* must be met and proved by substantial evidence. They were not. As we said in *Neuman*:

> It is crystal clear that the Board acted not only without "substantial evidence", but without any evidence, to support its findings, and its decision should have been reversed by the hearing judge.

Neuman, 23 Md. App at 17. We hold, therefore, as we did in *Anderson*:

> Based on the record before us, we find that the question of whether the strict application of the ... requirement would result in an unnecessary hardship to the applicant by depriving him of the reasonable use of his land was not fairly debatable. The action of the Board of Appeals in granting the variances was arbitrary and capricious and cannot be sustained.... Accordingly, the order of the lower court affirming the grant of the variance[] ... shall be reversed.

Anderson, 22 Md. App. at 42 (citations and footnote omitted).

In light of our decision, the other issue raised by appellant need not be addressed except that we note appellant's second issue appears to have merit.

We note in concluding that administrative agencies are bound to apply the ordinances they administer. Lip service to, and defiance of, the County's ordinances because of dislike of the critical area legislation is inappropriate. Dislike for a statute is never sufficient justification to ignore it. Additionally,

while we have occasionally commented on the planning staff's functional limitations, the Board here would have been well advised to pay more attention to the recommendations of its professional staff.

JUDGMENT REVERSED; COSTS
TO BE PAID BY APPELLEES.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

#01-431-A

NAME	ADDRESS
CHARLES & KIMBERLY RICHTER, JR.	6215 EBENEZER RD

Printed with Soybean Ink
on Recycled Paper

Plat to accompany Petition for Zoning [X] Variance [ ] Special Hearing

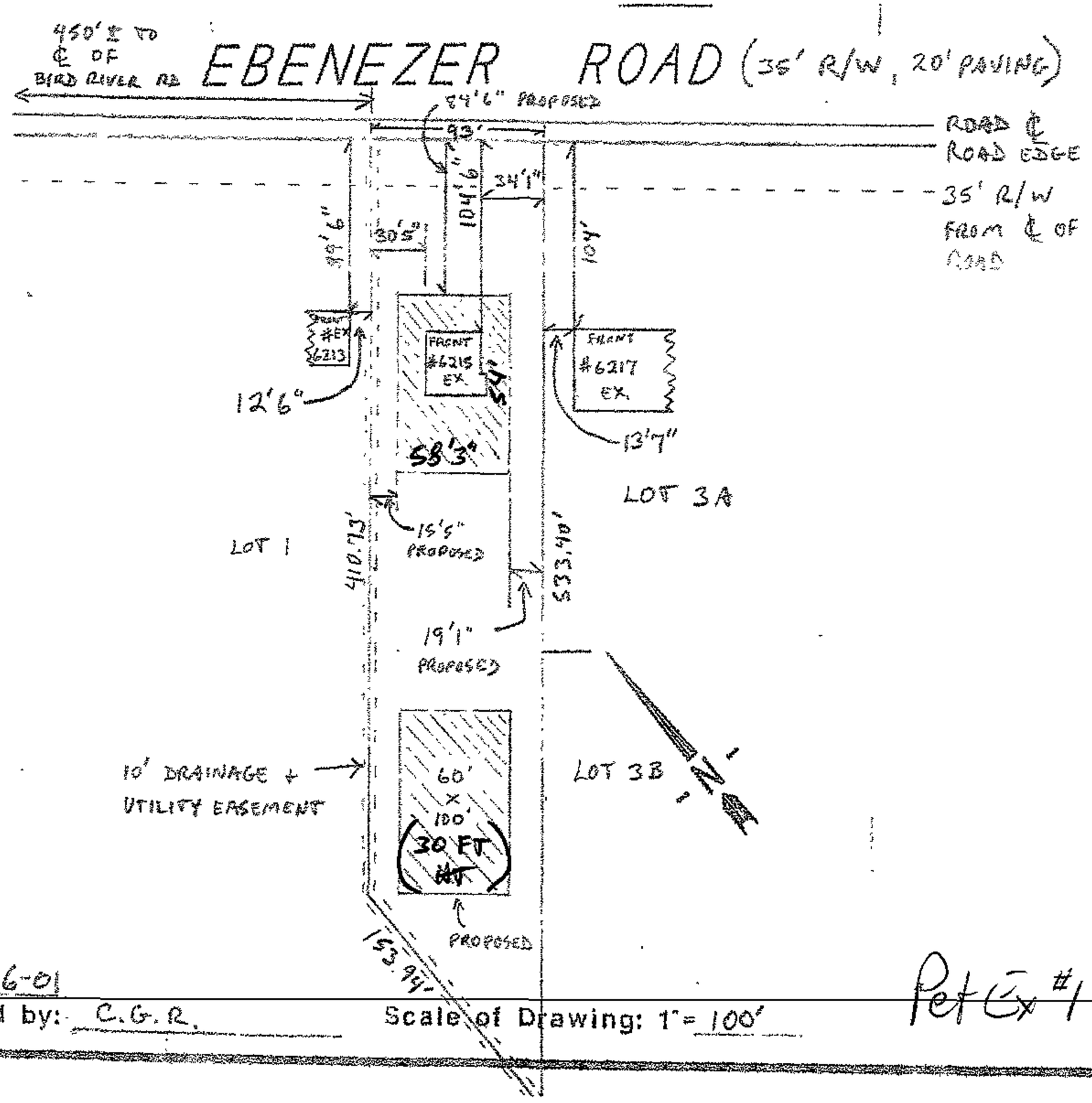
PROPERTY ADDRESS: 6215 Ebenezer Road

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Cora M Sterling Property

plat book# 34, folio# 21, lot# 2, section# _____

OWNER: Charles & Kimberly Richter, JR



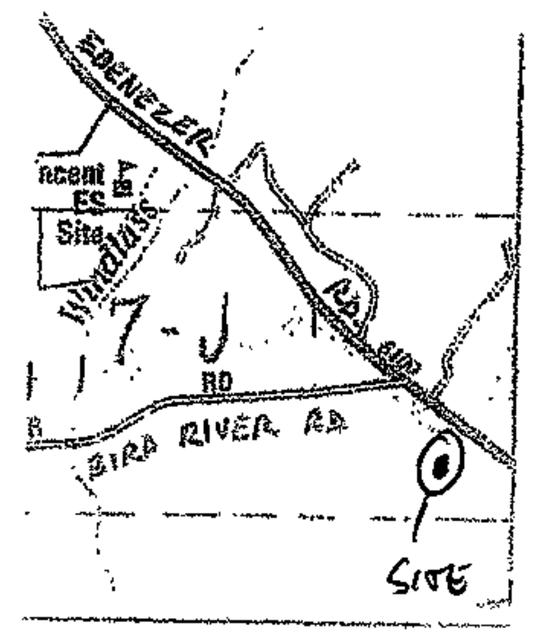
North

date: 4-6-01

prepared by: C.G.R.

Scale of Drawing: 1" = 100'

Pet Ex #1



North

Vicinity Map

scale: 1" = 2000'

LOCATION INFORMATION

Election District: 15

Councilmanic District: 5

1"=200' scale map#: NE-7J

Zoning: R.C.3

Lot size: 1.185 acreage 51618.9 square feet

	public	private
SEWER:	[ ]	[X]
WATER:	[X]	[ ]

	yes	no
Chesapeake Bay Critical Area:	[ ]	[X]

Prior Zoning Hearings:

Zoning Office USE ONLY!

reviewed by:	ITEM #:	CASE#:
JLM		

431

BOA

SURROUNDING COMMUNITY PROPRERTY WIDTHS, SIDE YARD SETBACKS, NON-CONFORMING LOTS.

ADDRESS	WIDTH	SIDE SETBACK WEST	SIDE SETBACK EAST	RC3 CONFORMING	RC3 NON-CONFORMING
6209	NA	NA	8'		YES
6211	64'	23'	14.9'		YES
6213	65'	15.6'	12.6'		YES
6215	93'	30.6'	34'		YES
6217	100'	15'	25'		YES
6219	150,	25'	59'	YES	
6221	NA	NA	NA	YES	

Appellants' ltr

THIS CONTRACT OF SALE AND PURCHASE, made this 15th day of April, nineteen hundred and ninety-six between William E. Sterling, Administrator of the Estate of Cora M. Sterling

hereinafter referred to as Seller, and Kimberly S. Headley

hereinafter referred to as Buyer.

WITNESSETH

In consideration of the mutual covenants of the parties, it is agreed as follows:

1. Seller hereby agrees to bargain and sell to Buyer, and Buyer agrees to purchase from Seller, the property situate and lying in Baltimore County, State of Maryland, known as 6215 Ebenezer Road, Baltimore, Maryland 21220

together with improvements thereon, and all rights, ways, waters, and privileges thereto belonging, or in anywise appertaining, in fee simple/~~subject to an existing annual ground rent of XXXX

The land and improvements hereinabove described, is hereinafter referred to as the "property".

2. The purchase price for the property is One hundred and five thousand ---------- ---------- Dollars ($105,000.00), payable as follows:

a. The sum of One thousand ---------- Dollars ($1,000.00) is to be paid to Seller as a deposit on account of the purchase price at the time of the execution and delivery hereof.

b. The balance in cash/by execution and delivery of a purchase money mortgage in the form attached hereto and initialled by the parties.

3. Closing on account of this transaction shall take place within sixty (60) days from the date hereof, at which time, upon payment of the unpaid purchase money, as above provided, Seller shall, at Buyer's expense, execute and deliver to Buyer a deed for the property containing covenants of special warranty, further assurances, and against encumbrances, which deed shall transfer and convey the property to the Buyer, in fee simple/~~subject to an annual ground rent of ($) payable in equal semi-annual installments on the day of and each year~~ by a good and merchantable title, free of all liens and encumbrances except those herein specifically excepted.

4. Buyer and Seller acknowledge that this conveyance will be subject to the following:

a. Use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the sub-division in which the property is located.

b. Publicly recorded easements for public utilities.

c. Any other easements or encroachments which may be observed by an inspection of the property, or which may be disclosed by a current survey of the property.

d. The present condition of the property is acknowledged by Buyer, and Buyer agrees to accept same "as is".

5. In the event that a licensed title insurance company shall, at the request and expense of Buyer, report that the title to the property is not good and merchantable, or shall report that the property is subject to any title defect, including, but not limited to, liens, encroachments, easements, restrictions or encumbrances not hereinabove specifically excepted, against which title defect the title company will not insure at its regular schedule premium, and Buyer shall report such fact to Seller prior to closing date, and shall demand that the same be cured prior to closing, Seller shall have a period of ninety (90) days from the date of such notice from Buyer, at Seller's election, to cure such defect at Seller's expense, and the date of closing hereunder shall be deferred until such time, not to exceed said ninety (90) days from the time herein fixed for closing, as Buyer shall be satisfied that the title is good and merchantable or the title defect has been cured.

6. If Seller shall be unable to convey and assign a good and merchantable title to the property, or shall be unable to convey said property free and clear of all liens and encumbrances except as hereinabove specifically excepted, the sole obligation of Seller shall be to refund to Buyer any sums paid on account of the purchase price, and thereupon this Contract and the lien, if any, of Buyer against the premises shall cease and terminate. Seller shall not be required to take any action to render title merchantable. Buyer may, nevertheless, accept such title as Seller may be able to convey, without reduction of the purchase price or any allowance against the same and without any other liability on Seller. The acceptance of a deed by Buyer shall be deemed full

7. In the event of default by Buyer hereunder, Seller may forfeit and retain all sums paid on account of the purchase price as liquidated damages, and such forfeiture shall not impair Seller's right to enforce specific performance hereof or prosecute other remedies available to Seller.

8. Taxes, existing hazard insurance premiums, metered fuel costs, ground rent, if any, water and sewer charges (including Metropolitan District charges for sewer and water, if any) and all other public charges and assessments payable on an annual basis imposed against the premises shall be apportioned as of the closing date and assumed thereafter by Buyer. Possession of the property in vacant condition shall be given to Buyer at closing. Title examination, preparation of deed, notary fees, and recording charges shall be at Buyer's expense. Cost of all documentary stamps and transfer taxes imposed on the transaction shall be divided equally between the parties hereto.

9. The property is to be held at the risk of the Seller except as to damages arising from accidental fire or other insurable casualty until legal title has passed or possession given; it is also understood and agreed that Seller shall immediately have all of the insurance policies on the property so endorsed as to protect all parties hereto, as their interests may appear, and continue said insurance in force during the life of this Contract.

10. ~~The Seller hereby recognizes as the broker negotiating this Contract and agrees to pay said broker a brokerage fee for services rendered according to percent (%) of the sales price plus one-half of the amount of the existing annual ground rent, if any, and Buyer agrees to indemnify Seller for any disbursement to satisfy any claim by any other broker employed by Buyer.~~

11. The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives and assigns.

12. This Contract contains the final and entire Agreement between the parties hereto, and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written or attached in Rider signed by both parties. Time is of the essence of this Agreement.

WITNESS the hands and seals of the parties hereto the day and year first above written.

TEST:

Charles G. Richter, Jr. ..... William E. Sterling ..... (SEAL)
William E. Sterling
(Administrator of Estate of Cora M. Sterling)

..... (SEAL)

..... (SEAL)

SELLERS

Carol M. Sterling ..... Kimberly S. Headley 4-18-96 ..... (SEAL)
Kimberly S. Headley

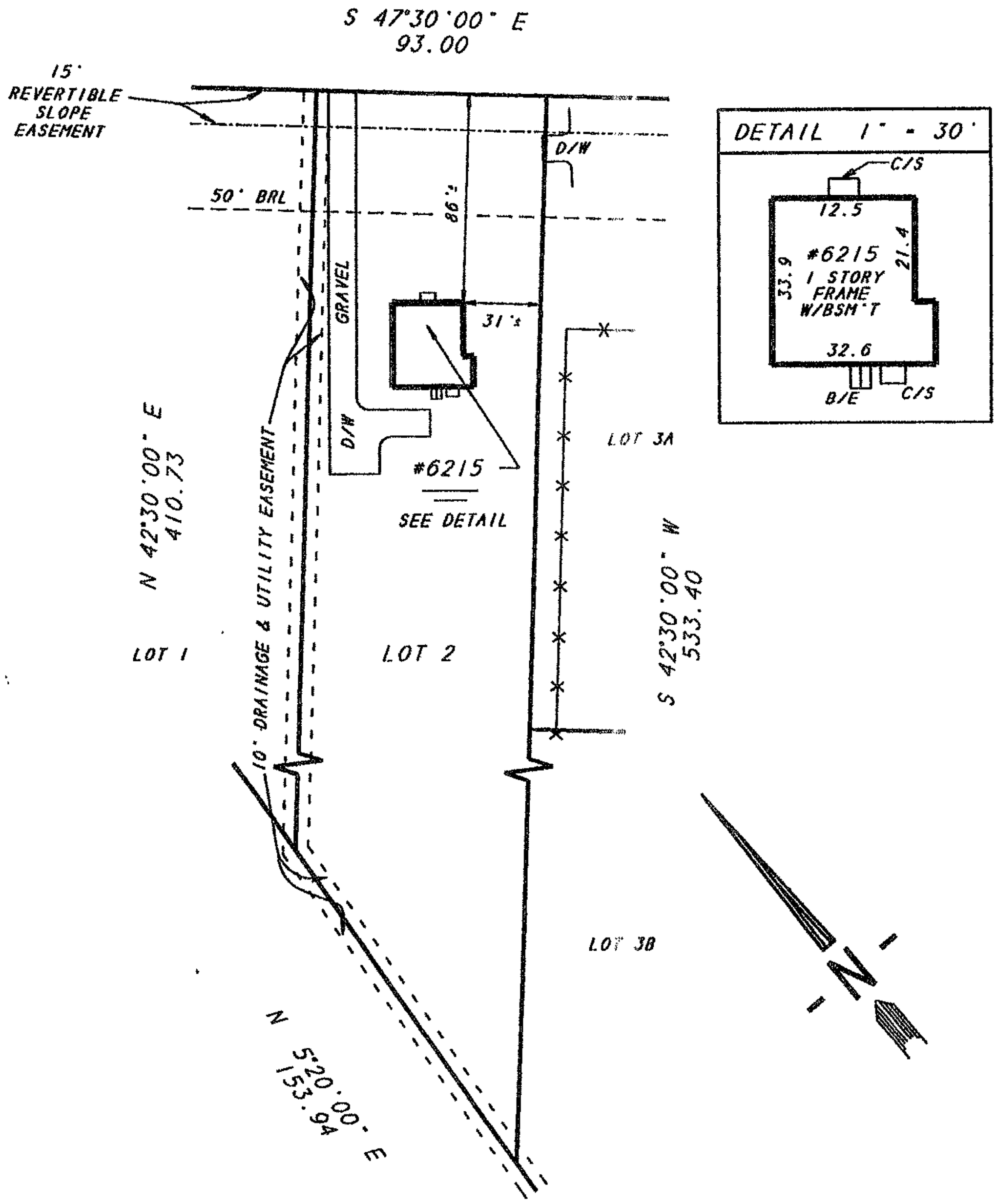
..... (SEAL)

..... (SEAL)

BUYERS

DULEY
AND
ASSOCIATES, INC.
P.O. BOX 1431
UPPER MARLBORO, MD.
20773-1431
PHONE : 301-888-1111
FAX : 301-888-1114

EBENEZER ROAD



LOCATION SURVEY OF:

#6215 EBENEZER ROAD

LOT 2

SUBDIVISION OF

CORA M STERLING PROPERTY

BOOK WPC 463 PAGE 337

BALTIMORE COUNTY, MD

SCALE 1"=60' DATE: 5-14-06

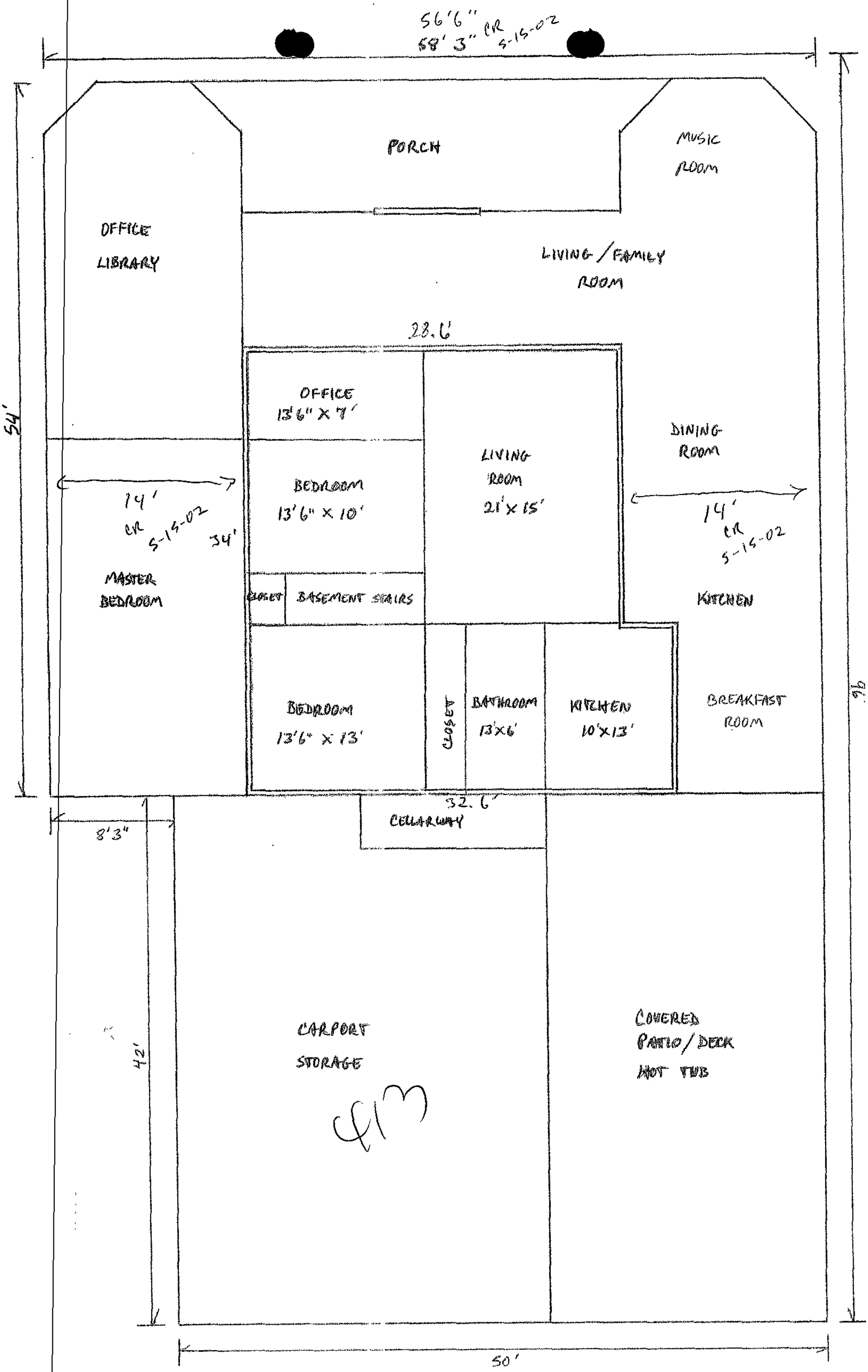
STATE OF MARYLAND
CLYDE VERNON KEEL
NO. 10977
REGISTERED
PROFESSIONAL LAND SURVEYOR

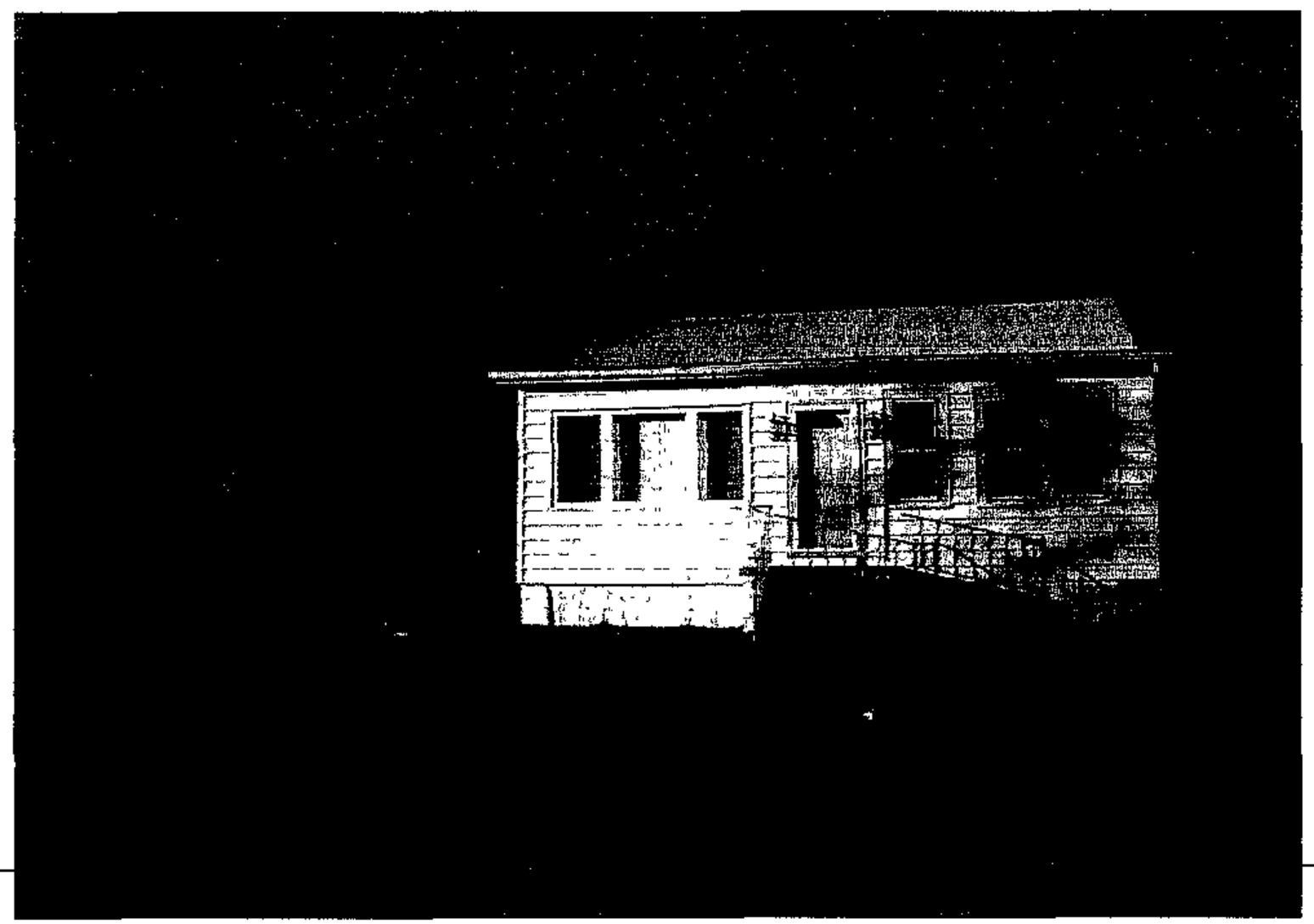
STERLING

CASE # 604-96973

SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT THE POSITION OF THE EXISTING VISIBLE IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN CAREFULLY ESTABLISHED BY ACCEPTED METHODS AND THAT THE IMPROVEMENTS APPEAR TO BE IN FLOOD ZONE C. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF ANY FENCE, BUILDING OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES. BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. THE LEVEL OF ACCURACY FOR THIS DRAWING IS 1'±. NO TITLE REPORT WAS FURNISHED


56'6"
58' 3" CR 5-15-02
PORCH
MUSIC ROOM
OFFICE
LIBRARY
LIVING / FAMILY ROOM
28.6'
OFFICE
13'6" X 7'
54'
DINING ROOM
LIVING ROOM
21' X 15'
BEDROOM
13'6" X 10'
14'
CR 5-15-02
34'
14'
CR 5-15-02
MASTER BEDROOM
CLOSET
BASEMENT STAIRS
KITCHEN
BEDROOM
13'6" X 13'
CLOSET
BATHROOM
13'X6'
KITCHEN
10'X13'
BREAKFAST ROOM
96'
32.6'
CELLARWAY
8'3"
CARPORT
STORAGE
COVERED PATIO / DECK
HOT TUB
42'
50'
EXISTING
PROPOSED
SCALE 1" = 8'
6215 EBENEZER RD.
Pet Ex #2

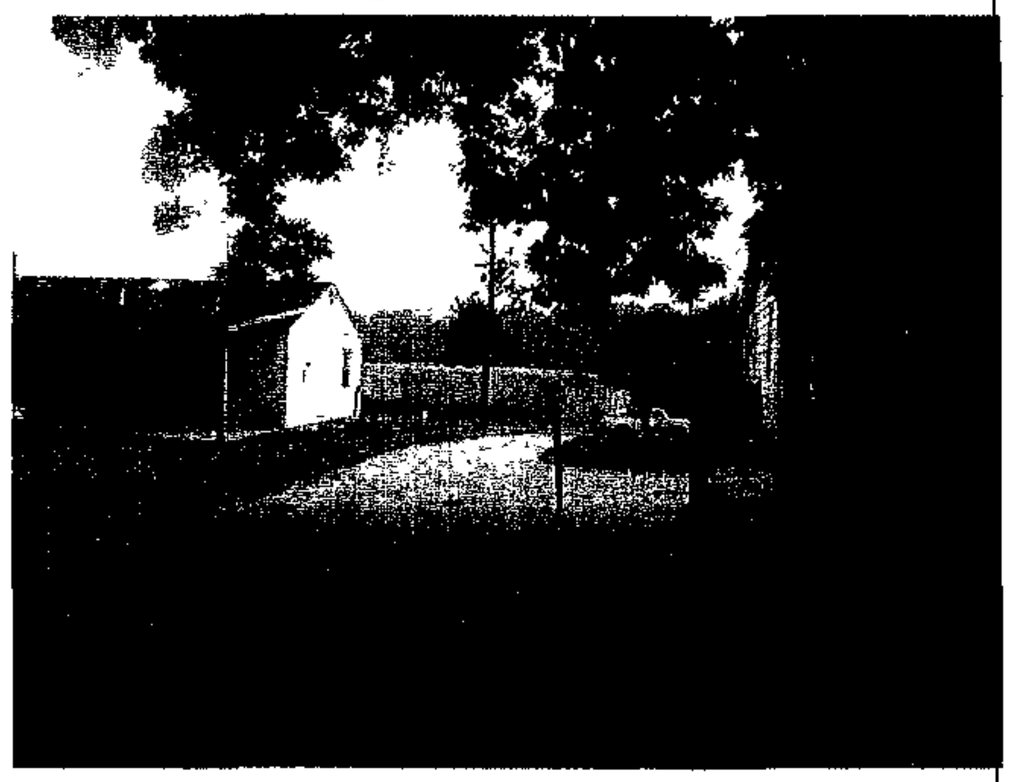


~~413~~ 431

Pet Ex 3A

431

Ref 28



Pet Ex 3c

Pet Ex 30

Pet Ex 3E

Pet Ex #4

HARDSHIP-

- 4 FAMILY MEMBERS ONLY TWO BEDROOMS, ONE BATH, SMALL KITCHEN, TWO CLOSETS.
- WIFE AND I HAVE PHYSICAL INJURIES TO LEGS, KNEES, BACK, + NECK HAVING EVERYTHING ON ONE FLOOR IS BETTER NOW AND WOULD BE IN THE FUTURE
- BEFORE WE PURCHASED THE PROPERTY WE HAD DISCUSSIONS AT LENGTH WITH MR. STERLING AS TO FUTURE PLANS WITH THE PROPERTY. IN THOSE CONVERSATIONS MR. STERLINGS MAIN CONCERN WAS WITH THE REMOVAL OF TREES. I TOLD HIM THAT I WOULD LIKE TO BUILD A GARAGE TOWARDS THE REAR OF THE PROPERTY IN THE WOODED AREA AND WOULD ONLY REMOVE ENOUGH TREES TO SQUEZE THE STRUCTURE IN. HE STATED THAT SEEMED REASONABLE, AND WE PURCHASED THE PROPERTY. NOW HE DENIES THE CONVERSATION ABOUT THE GARAGE EVER TOOK PLACE. OVER THE YEARS (APPROX. FIVE) WE HAD SEVERAL DISCUSSIONS ABOUT ME ADDING ON TO THE HOUSE. I TALKED ABOUT GOING OUT FIFTEEN FOOT ON EACH SIDE, MR. STERLINGS COMMENTS WERE HE KNOWS I'M GOING TO HAVE TO ADD ON WITH ONE CHILD AND ONE ON THE WAY, HE NEVER MENTIONED HE WAS OPPOSED TO ME ADDING OF FIFTEEN FOOT ON EACH SIDE. WE WOULD HAVE NEVER PURCHASED THE PROPERTY IF THERE WOULD HAVE BEEN RESISTANCE TO OUR FUTURE PLANS. MR. STERLINGS RECENT OPPOSITION HAS CAUSED GREAT HARDSHIP SINCE MY WIFE AND I HAVE ALREADY COMMITED FINANCIALLY TO PAST IMPROVEMENTS AND THIS EXPANSION MAINLY DUE TO THE COMPLETE LACK OF ANY OPPOSITION TO PLANS PREVIOUSLY DISCUSSED WITH MR. STERLING AND OUR OTHER NEIGHBORS. MR. STERLING

HAS OFFERED TO PURCHASE THE PROPERTY BACK FOR WHAT WE PAID FOR IT, AND SAYS HE SHOULD HAVE NEVER SOLD IT. IT SEEMS HE STILL THINKS OF IT AS HIS OWN.

PRACTICAL DIFFICULTY

- REAR OF HOUSE DRIVEWAY, PORCH, TREE, + UNDERGROUND SPRING AROUND TREE.
- IMPRACTICAL TO BUILD IN WET AREA BY TREE
- TREE IS UNIQUE WE DONT WANT TO REMOVE DUTCH OAK WITH LARGE VINE GROWING THROUGHOUT.
- LIVING ROOM CATHEDRAL CEILING PREVENTS GOING UP (2ND FLOOR)
- EXISTING WALL + FIRST FLOOR LAYOUT ALREADY IMPROVED AND WOULD BE IMPRACTICAL TO CHANGE
- FOUNDATION IS POURED WALL (10" x 8') WITH NO FOOTER QUESTIONABLE FOR ADDING 2ND FLOOR ALONG WITH WHERE BEARING WALLS WOULD INTERFERE WITH EXISTING WALLS.
- NEIGHBORS HOMES 6209, 6211, 6213, 6217, 6219, 6202 DUE NOT MEET THE PREVIOUS R40 ZONING OR CURRENT RC3 ZONING REGULATIONS.
- REAR OF HOUSE HAS FEELING OF OPENNESS WITH EXISTING NEIGHBORS REAR AREAS, GOING BACK WOULD CLOSE OFF THIS FEELING.

ALTERNATIVES

(1) - 20' EASTSIDE SETBACK MEETS R40

- REDUCE EASTSIDE ADDITION TOO 14'
- STILL NEED WESTSIDE SETBACK VARIANCE FOR 14' ADDITION.

(2) - STAYING WITHIN R40 ZONING ALLOWS A 43' x 348' (14964 SQFT.) STRUCTURE WHICH COULD BE BUILT.

- 6215 TO FENCE 33' 9½"
- FENCE TO 6217 15' 3"

- 6217 EXISTING SQ FT. 27' x 61' = 1647 SQ FT.
- 6215 EXISTNG SQ FT. 34' x 28'6" + 4' x 13' = 1021 SQ FT.

6215 PROPOSED SQ FT. 54' x 58'3" = 3145.5 SQ FT.

1498.5 MORE THAN 6217

- DEED ACREAGE 1.158 ACRES

B.C. ACREAGE 1.090 ACRES

ACTUAL SQ. FT 43,902.05 = 1.008 ACRES

		PROP. WIDTH	SIDE SETBACK WEST	SIDE SETBACK EAST
6209	NEUTRAL	?	?	8'
6211	NEUTRAL	64'	23'	14'9"
6213	?	65'	15'5"	12'6"
6215	FOR	93'	30'5"	34'1"
6217	AGAINST	139'	13'7"	65.5"
6219	?	150'	25'	59'
6221	NEUTRAL	MEETS RC3 FOR WIDTH AND ACREAGE		
6202	NEUTRAL	?	?	24'
6224	NEUTRAL	MEETS RC3 FOR WIDTH AND ACREAGE		

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

Account Identifier: **District** - 15 **Account Number** - 1519710460

Owner Information

Owner Name:	RICHTER CHARLES,JR RICHTER KIMBERLY	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	6215 EBENEZER RD BALTIMORE MD 21220-1515	**Deed Reference:**	1) /12581/ 340 2)

Location & Structure Information

Premises Address
6215 EBENEZER RD

Zoning

Legal Description
1.008 AC
6215 EBENEZER RD
STERLING PROPERTY

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:	
83	9	125				2	82	Plat Ref:	34/ 21

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1933	776 SF	1.09 AC	04

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2000	Phase-in Assessments As Of 07/01/2001	As Of 07/01/2002
Land:	45,400	45,400		
Improvements:	46,440	53,060		
Total:	91,840	98,460	96,252	98,460
Preferential Land:	0	0	0	0

Transfer Information

Seller:	HEADLEY KIMBERLY	**Date:**	12/31/1997	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/12581/ 340	**Deed2:**	
Seller:	STERLING CORA M	**Date:**	06/14/1996	**Price:**	$105,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/11642/ 330	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2001	07/01/2002
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

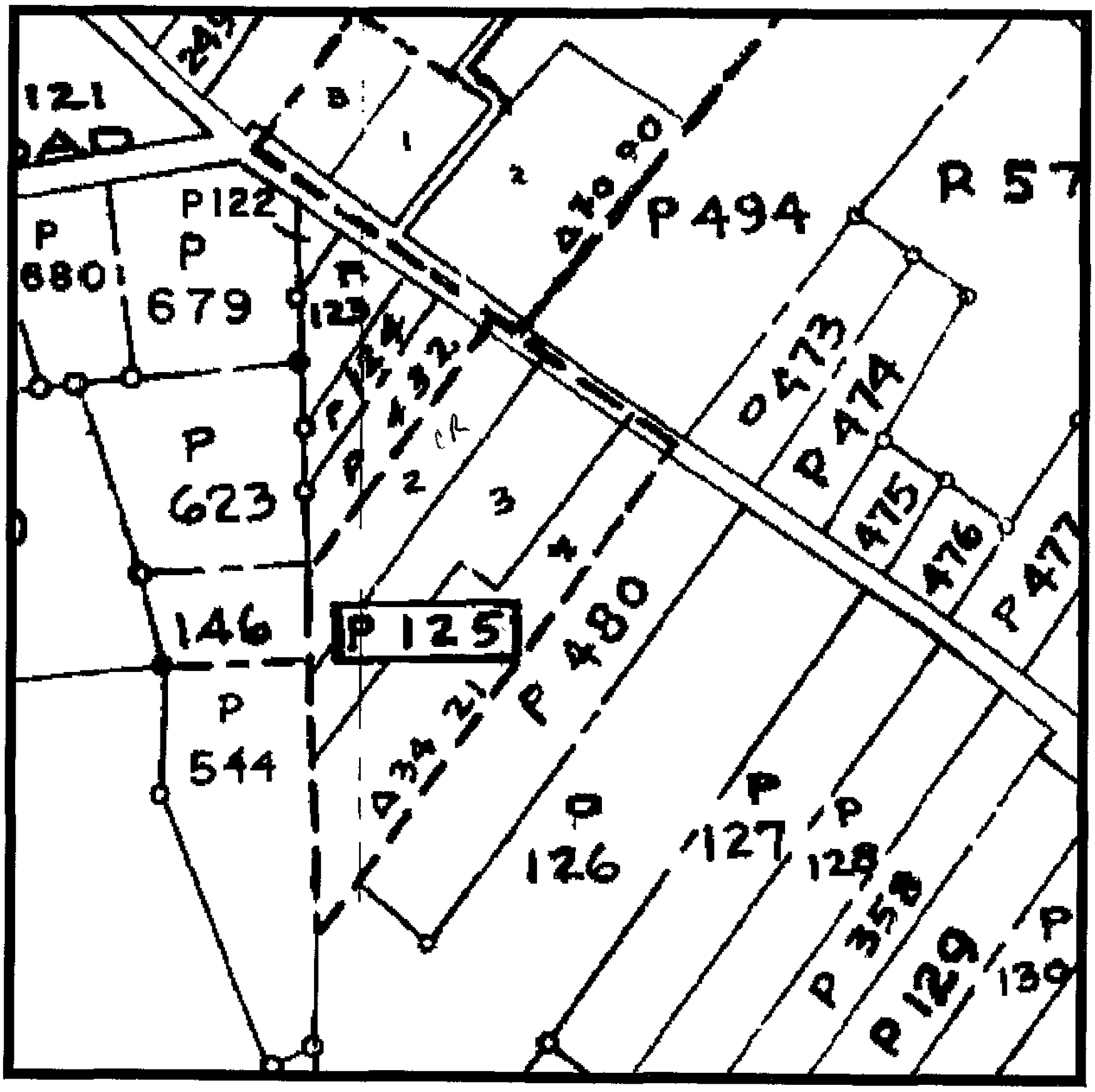
* NONE *

Proof 4/10

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 15 **Account Number** - 1600000957



Property maps provided courtesy of the Maryland Department of Planning ©2001.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us

DWOT 4B

EXHIBITS

APPELLANTS

RICHTER

01-431-A

MAY 15, 2002

Ap 1 ZONING MAP 1 : 200

Ap 2 SUBDIVISION PLAT JAN 15, '70 LIBER 34 FOLIO 21

Ap 3 PG 89 OF RICHTER TAX

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

Photographs
#01-431-A

PROT. EXHIBITS
2A-2E (5 Photos)
3A-3C (3 Photos)

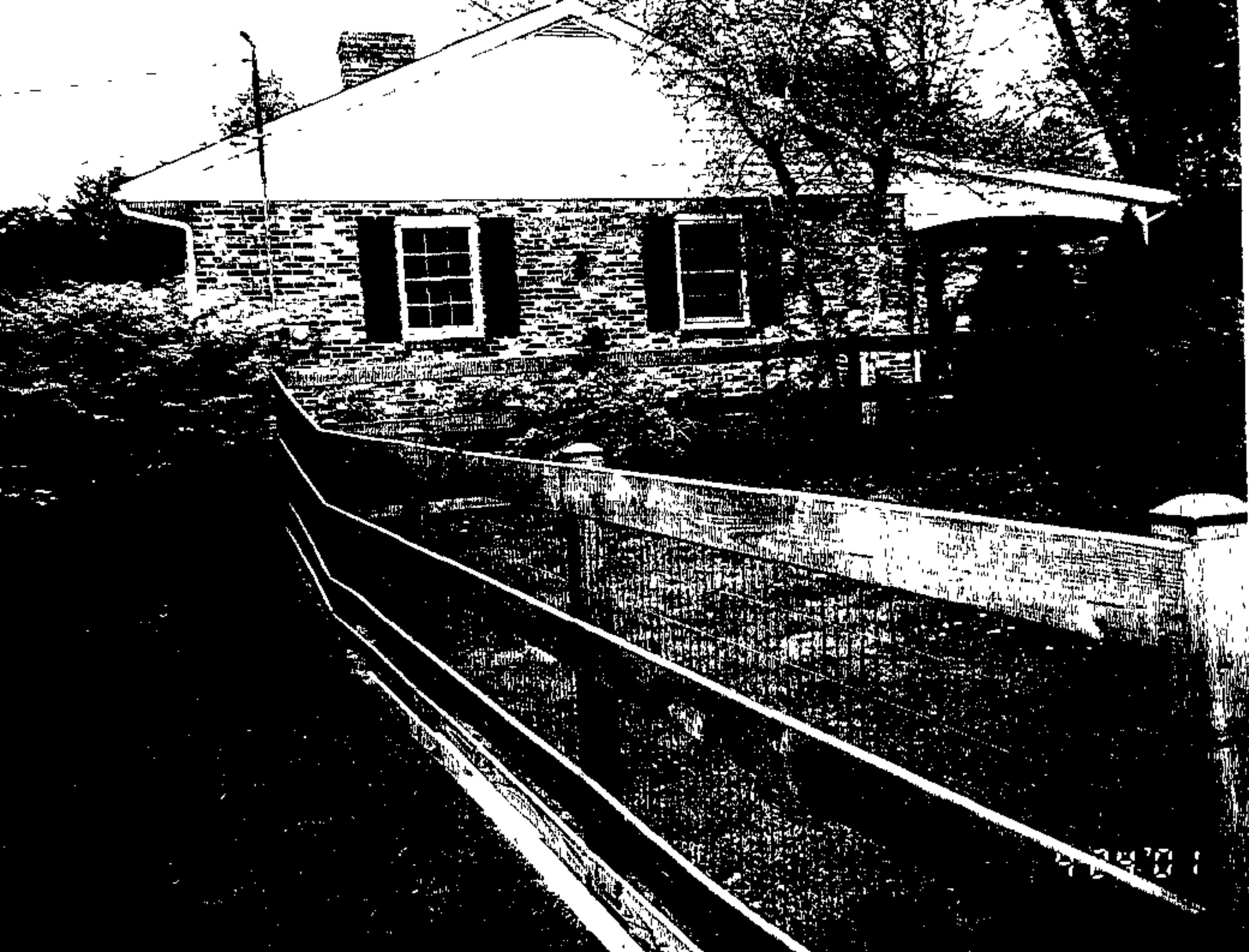
Printed with Soybean Ink

Part 2B - rear of subject house from northeast

Prot
2 C rlm of subject house
- from north west

2 P.M.

- reflect hose on left
- reflector's hose on right



25. Pink

Curve is 33' 9½" long from house

- from Alley house to Curve is 15' 3"

10.62h

IN THE MATTER OF	* BEFORE THE
THE APPLICATION OF	* COUNTY BOARD OF APPEALS
KIMBERLY S. & CHARLES G. RICHTER	* OF
JR., /PETITIONERS FOR A VARIANCE	* BALTIMORE COUNTY
ON PROPERTY LOCATED AT 6215	* CASE NO. 01-431-A
EBENEZER RD., 450' SE of C/L	* May 15, 2002
BIRD RIVER ROAD	*
15th ELECTION DISTRICT	*
5th COUNCILMANIC DISTRICT	*

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 at 10 o'clock a.m., May 15, 2002.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

ORIGINAL

1 BOARD MEMBERS:
2
3 MELISSA MOYER ADAMS, Panel Chair
4 MARGARET WORRALL
5 C. LYNN BARRANGER
6
7
8 APPEARANCES:
9 CHARLES G RICHTER, JR, Pro Se
10 JOHN B. GONTRUM, Esquire
11 On behalf of Protestants
12
13
14
15
16
17
18
19
20
21

1 P R O C E E D I N G S
2 * * * * *
3 THE CHAIRMAN: Good morning, everyone. We're
4 here in the matter of Case No. 01-431-A, in the matter of
5 Kimberly and Charles Richter, Jr. legal owners and
6 petitioners, address is 6215 Ebenezer Road, in the 5th
7 Election District, 5th Councilmanic District.
8 This is an appeal from the July 6, 2001, Deputy
9 Zoning Commissioner's decision in which a petition for
10 administrative variance was denied, and then on 7-30-01,
11 the Deputy Zoning Commissioner's amended order only as to
12 zone - corrected to R-40. Do you want to start by
13 introducing yourself?
14 MR. RICHTER: My name is Charlie Richter, 6215
15 Ebenezer Road, and I'm the owner/petitioner.
16 MR. GONTRUM: My name is John Gontrum. I'm an
17 attorney with law offices at 814 Eastern Boulevard, on
18 behalf of the neighbors Mr. and Mrs. William Sterling.
19 THE CHAIRMAN: Who will be the protestants?
20 MR. GONTRUM: Yes.
21 THE CHAIRMAN: Are we going to have any opening

1 statement from either side? Mr. Gontrum, did you plan on
2 any opening?
3 MR. GONTRUM: As far as I know, this is Mr.
4 Richter's case. I will let him proceed as he sees fit.
5 MR. RICHTER: I wanted to submit this to the
6 Board.
7 THE CHAIRMAN: What is that?
8 MR. RICHTER: It has the request for what I am
9 requesting now. This is new.
10 THE CHAIRMAN: Has Mr. Gontrum seen it? Mr.
11 Gontrum, do you have any objection?
12 MR. GONTRUM: I understand what Mr. Richter is
13 proposing is really more in the nature of legal decisions
14 that he's giving, so I don't know that it's evidence as
15 much as it is a legal sort of draft of opinions that he
16 has in here, and I think matters from your file, which you
17 should have in your file, dealing with comments from
18 county agencies -- and I just briefly looked at it -- and
19 copies of the zoning regulations, and things like that.
20 So this is more, to me, in the sense of argument
21 than it is evidence.

1 Obviously, if the Boards wants it as part of
2 their file, I don't see anything that would be unusual.
3 I think he does have his argument in the back as
4 to the practical difficulty or unreasonable hardship, and
5 he's got some factual information here that I haven't had
6 a chance to look at.
7 THE CHAIRMAN: So perhaps we should allow you the
8 opportunity to look at that?
9 MR. GONTRUM: I would appreciate it.
10 THE CHAIRMAN: How about --
11 MR. RICHTER: Sure. That's fine.
12 THE CHAIRMAN: -- we take a couple minutes?
13 MR. RICHTER: It's basically the same thing from
14 the hearing, with just a few additions.
15 THE CHAIRMAN: He wants to make sure.
16 MR. GONTRUM: If you don't mind, if you want to
17 take a few moments to let me look at it?
18 MR. RICHTER: You can have this copy.
19 THE CHAIRMAN: We won't take it until he looks at
20 it. We just have some rules that we need to go by.
21 MR. RICHTER: I know.

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1 THE CHAIRMAN: We'll let you have a few minutes.
2 We are going to recess, and then we'll come back.
3 (A recess was taken.)
4 THE CHAIRMAN: Are we ready?
5 MR. GONTRUM: Yes, I am. I have had the
6 opportunity -- I thank the Board for giving me the
7 opportunity to go through this at some length.
8 I appreciate Mr. Richter's candor in calling to
9 my attention the material at the end of the submittal.
10 As I go through it, I think most of the submittal
11 from like pages two through eighty-five, I find really to
12 be either case law, or it's material that is from
13 Baltimore County records, like the zoning regulations.
14 It's comments on this case that the Board should
15 already have in their file and from their policy manual,
16 and also, I guess, from the original subdivision back in
17 1970.
18 Some of the county comments -- all of this, to
19 me, most all of this would be in the nature of
20 argumentation as opposed to probative evidence having to
21 do with the variance itself, but I would have no problem

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1 if the Board wanted to include this as part of this file
2 as opposed to evidentiary, that it be probative, although
3 I guess you could submit case law as part of argument,
4 and I have no real problem with that.
5 My issues really come with pages eighty-six
6 through ninety-one of the submittal where Mr. Richter
7 states as the leading request for new zoning
8 classification, an alternate request for relief,
9 surrounding community impact, surrounding community
10 property with setbacks, special circumstances and
11 conditions of 6215 Ebenezer Road land use and structure,
12 practical difficulty/unreasonable hardship, these pages,
13 to me, would be more appropriately brought in as
14 testimony, I think, than as generalized statements for the
15 Board to accept as a matter of fact, and I would ask
16 perhaps those be excluded from any submittal at this time,
17 pending Mr. Richter's testimony.
18 THE CHAIRMAN: I believe that the Board feels
19 very much like you do, Mr. Gontrum.
20 We'll take the first packet of information as
21 perhaps argument, and maybe he would want to wait until

Page 8

1 the end of his presentation to submit it as his closing
2 argument.
3 MR. GONTRUM: It's up to Mr. Richter when he
4 wants to submit it.
5 MR. RICHTER: It was my understanding, basically,
6 this is like the other case never existed, like the
7 decision from Mr. Kotroco that's here never existed, so I
8 am approaching it as a new hearing, basically.
9 THE CHAIRMAN: Correct. But what Mr. Gontrum is
10 saying, that the material that he's objecting to as coming
11 in as either argument or as part of your file, there needs
12 to be no basically no testimony on your part or evidence
13 presented in order for you to submit that.
14 The Board suggests that you can either submit
15 it --
16 MR. RICHTER: I feel it should be submitted as
17 evidence, because it's from the prior cases.
18 THE CHAIRMAN: That's not evidence.
19 MR. RICHTER: I feel --
20 THE CHAIRMAN: Excuse me. As to pages eighty-six
21 to ninety that Mr. Gontrum objected to as submitting as

Page 9

1 argument, he believes it should be done as testimony.
2 We agree, as to those pages, you will need to use
3 them during your case in chief.
4 MR. RICHTER: That's what it's basically for. I
5 understand.
6 THE CHAIRMAN: So we'll let it go like that for
7 now. Are there any preliminary matters at all?
8 MR. GONTRUM: At this point, I'm not aware of any
9 preliminary issues.
10 I think Mr. Richter pointed out it's de novo, and
11 he can put on his case.
12 THE CHAIRMAN: Mr. Richter?
13 MR. RICHTER: Basically --
14 THE CHAIRMAN: First -- I don't mean to interrupt
15 you -- but are you going to testify? Because you need to
16 be sworn in.
17 MR. RICHTER: To who?
18 THE CHAIRMAN: To the case.
19 MR. RICHTER: To the Board?
20 THE CHAIRMAN: Yes. If you would be testifying,
21 you need to be sworn in so that we know that the testimony

1 you are giving is the truth.
2 MR. RICHTER: Okay.
3 C H A R L E S G. R I C H T E R, J R.,
4 having been called as a witness, was duly sworn and
5 testified as follows:
6 THE CHAIRMAN: State your name and address,
7 please.
8 THE WITNESS: Charles Richter, 6215 Ebenezer
9 Road.
10 THE CHAIRMAN: Do you have any other witnesses
11 today, Mr. Richter?
12 THE WITNESS: No.
13 THE CHAIRMAN: So it's just going to be yourself?
14 THE WITNESS: Yes.
15 THE CHAIRMAN: All right. Do you want him to
16 stay there at the table?
17 MR. GONTRUM: Wherever he feels comfortable.
18 THE CHAIRMAN: Would you rather testify from
19 there, or the stand?
20 THE WITNESS: I'm fine from here.
21 THE CHAIRMAN: Okay.

1 THE WITNESS: Basically, my neighbors are in
2 opposition to my variance request, and without getting
3 into accusations and so forth, I feel that, you know, my
4 request is not out of context with what's in the
5 neighborhood, with the style of the neighborhood, so
6 forth, as he's put forth.
7 Basically, I mean, many of the requirements, you
8 know, throughout in the cases like North versus St. Mary's
9 County, Cromwell versus Ward, there's also an approved
10 variance right around the corner from me, Case No.
11 02-036-A, where it was side yard setbacks and front, and
12 that was granted basically due to the fact there was, one
13 reason, there was no opposition to it.
14 And I guess Mr. Schmidt felt that, you know,
15 special circumstances and --
16 THE CHAIRMAN: Excuse me. I'm sorry. Are you
17 referring to another case at this point?
18 THE WITNESS: Yes.
19 THE CHAIRMAN: You said "Mr. Schmidt"?
20 THE WITNESS: Larry Schmidt, the Zoning
21 Commissioner, he's the one that approved it. Case No.

1 02-036-A basically just refers to Section 307.1 of the
2 Baltimore County zoning regulations.
3 And, you know, it provided where it wouldn't
4 adversely affect the health and general welfare of the
5 surrounding community, so forth.
6 And I feel my request falls under the same. And
7 the pretense as far as health and safety that was brought
8 up at the previous hearing was basically false testimony
9 that was given by Mr. Sterling.
10 And I guess I'd like to refer to that case, since
11 I can't start over at this moment, and clean things up.
12 As far as case No. 01-431-A, in which, if you would like
13 this package, you can also look at -- actually, you have
14 that one. It's actually page three, I believe --
15 MS. WORRALL: If I could interrupt you for just a
16 minute, you're absolutely correct that this is a de novo
17 hearing.
18 That means that we don't know any of the facts.
19 Even if we read the file, we want to hear it again from
20 you.
21 Could you start -- wait a minute -- could you

1 start first by explaining what you're asking for? I am
2 really unclear.
3 THE WITNESS: What I was asking for, originally,
4 it was a setback of sixteen foot and nineteen foot for the
5 side yard setbacks.
6 The zoning in the area was R.C. 3. But when the
7 record plat was created in 1970, it was R-40, so R-40
8 zoning is vested in the plat in those properties.
9 MS. WORRALL: What's been required under R-40?
10 THE WITNESS: The required setback is a minimum
11 of twenty, total of fifty, so you can have twenty and
12 thirty, but you couldn't go under twenty foot.
13 THE CHAIRMAN: That's R-40?
14 THE WITNESS: Right, which is currently,
15 basically, D.R. 1 is basically the same thing for current.
16 I had six pages of testimony and they had an aerial
17 photograph and, I mean, even their aerial photograph
18 clearly shows the properties on both sides of me and down
19 the street make full use of their lot widths, even though
20 the lot widths are all smaller. None of them meet the
21 R-40.

Page 14

1 R-40 requires the minimum road frontage of 150
2 foot. We are talking about widths varying from a hundred
3 foot to Mr. Sterling's lot.
4 My lot is ninety-three foot. The Davenport lot
5 at 6213 is sixty-five foot, at 6213, and it gets smaller
6 as it goes down towards Bird River Road.
7 All these houses are over the current setbacks of
8 R-40. In particular, I think Mr. Davenport's is
9 approximately twelve-foot, six, from my property line, and
10 Mr. Sterling's is fourteen-foot, nine, from my property
11 line.
12 And even with my additions, I'd still be further
13 away from the property line than they currently are.
14 Once D.R. 40 was presented to me by Joe Merry
15 before the hearing, I told Mr. Kotroco that during the
16 hearing.
17 THE CHAIRMAN: Who is Joe Merry?
18 THE WITNESS: Joe Merry works in Baltimore County
19 zoning. He's one of the zoning personnel.
20 And he sent a letter to Mr. Kotrocco stating that
21 it needed to be amended from R.C. 3 to D.R. 40, which is

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1 vested in the original plat.
2 So then Mr. Kotrocco amended his decision to the
3 zoning only which allowed me, if I dropped one foot off my
4 addition -- this was brought up at the hearing as an
5 alternative -- on Mr. Sterling's side from fifteen foot to
6 fourteen foot, I fall under the D.R. 20 for that side, so
7 I was originally requesting a variance for the Davenport
8 side of fourteen foot, is where I would only need a
9 variance.
10 THE CHAIRMAN: I don't mean to interrupt, but
11 what you're saying is that you are already agreeable to
12 dropping the foot where it was necessary on Mr. Sterling's
13 side?
14 THE WITNESS: Right. And dropping a foot on the
15 other side.
16 THE CHAIRMAN: That would not present even the
17 need for a variance?
18 THE WITNESS: Well, Mr. Kotrocco stated it would
19 still need a variance in his statement, but his statement
20 wasn't true fact.
21 I didn't need a variance for the one side, and I

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1 only needed it for the other side, and that was presented
2 as an alternative at that time.
3 THE CHAIRMAN: It remains an alternative today?
4 THE WITNESS: Yes, it remains an alternative
5 today.
6 THE CHAIRMAN: Excuse me.
7 MS. WORRALL: How much is the variance on the
8 side you're asking for, on the side where you would need a
9 variance?
10 THE WITNESS: It was originally sixteen foot, but
11 I am asking today for fifteen, just to make sure.
12 MS. WORRALL: So that's a variance of five feet?
13 Am I understanding correctly?
14 THE WITNESS: No. That's a variance -- that's
15 relief of fifteen-foot, six.
16 In other words, I'm asking for a fifteen-foot
17 side yard setback on the west side of the property between
18 6213 and 6215.
19 That would allow me to do a fourteen-foot
20 addition which would match the other side addition. I am
21 trying to create a U-shaped rancher.

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1 MS. WORRALL: I'm sorry, but I'm still confused.
2 MS. BARRANGER: We need to have all the facts
3 clear. If you need a fifteen-foot variance on the west
4 side, you have to say "in lieu of."
5 THE WITNESS: Oh. In lieu of thirty-foot from
6 R-40, which would be the combination which would total
7 fifty-foot. Twenty-foot and thirty.
8 MS. WORRALL: That's by dropping off a foot on
9 each side?
10 THE WITNESS: By going from a fifty-eight foot
11 rancher --
12 MS. WORRALL: And amending your variance?
13 THE WITNESS: Right. No. I amended it.
14 I dropped it down on both sides -- fourteen-foot is fine
15 with me.
16 I dropped it down on both sides in order to
17 present the one side as being clear due to the R-40, and
18 the other side is the only side that would need a variance
19 I would be asking relief from.
20 MS. WORRALL: At this point, you're only asking
21 for a variance on the west side?

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1 THE WITNESS: Correct.
2 MS. BARRANGER: And no other variance for your
3 front or rear setback?
4 THE WITNESS: No.
5 THE CHAIRMAN: My one question, I thought you
6 said D.R. 40 was twenty-foot -- you're saying thirty?
7 THE WITNESS: No side can be under twenty-foot
8 and a maximum or a minimum of fifty-foot total.
9 And with the way the property is laid out, it's
10 ninety-three foot wide. The house is twenty and a half
11 feet.
12 And it's like -- the side on the Sterlings is
13 like thirty-foot, one inch, approximately, and the other
14 side is thirty-foot, six inches, approximately.
15 So the twenty-foot, I can go out fourteen-foot,
16 and that leaves twenty-foot, a little bit better than
17 twenty-foot, on Mr. Sterling's side.
18 And if I wanted to match the other side to make
19 the house symmetrical, like a rancher, then it would be
20 thirty and a half feet minus fourteen, which would
21 actually be sixteen-foot, six inches.

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1 But I was asking for fifteen-foot just to keep it
2 clear, and actually to follow along with -- basically, the
3 lot was originally thought of by the county, in 1970 when
4 the record plat was created, they refer to that lot as
5 R-20, which would be a hundred-foot minimum width and
6 fifteen-foot side yard setbacks.
7 MS. WORRALL: But we are not --
8 THE WITNESS: That's history. I was going -- I
9 mean, I was planning on requesting that D.R. 20 zoning
10 that's in the old permit and development files.
11 THE CHAIRMAN: But you didn't do that?
12 THE WITNESS: I didn't do that for --
13 THE CHAIRMAN: Today?
14 THE WITNESS: Well, I wanted -- yeah, that's
15 something I wanted to do today, but that's part of what he
16 doesn't want admitted.
17 MS. BARRANGER: You could, instead of
18 submitting --
19 THE WITNESS: I can testify to that. Can I
20 present it so you can read it, or can I read it to you?
21 MS. BARRANGER: Why don't you present the facts

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1 out of it, instead of reading it to us?
2 (Handing to Board)
3 MS. WORRALL: Are you suggesting that the zoning
4 is not -- R-40 is --
5 THE WITNESS: Right. Because after that, I
6 happened to find an old permit and development file.
7 Nobody could find what I was looking for, and
8 they said, oh, District 15 has never been archived, it's
9 over here in this cabinet.
10 And we pulled this file up and found it said
11 three residential lots, R-20 and R-40. The two lots that
12 look like R-20 are my lot and the other side of Mr.
13 Sterling's lot.
14 There was a property swap for lot number four.
15 If you look on the plat, in order -- because that was a
16 proposed structure there, the other structures were
17 already existing -- there was a proposed structure that
18 had not been built yet. And the county, they did a
19 property swap in order to make it 150 foot right to --
20 THE CHAIRMAN: That was the only lot that met the
21 R-40 regulations, your lot?

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1 THE WITNESS: No. 6219. But that was proposed
2 at the time. It wasn't built.
3 THE CHAIRMAN: Do you have the plat?
4 THE WITNESS: Yes.
5 THE CHAIRMAN: Has Mr. Gontrum seen the plat?
6 MR. GONTRUM: Yes.
7 THE WITNESS: This is my lot. There is Mr.
8 Sterling's lot. This is 3A, and Mr. Sterling's lot, 3B.
9 THE CHAIRMAN: This is Mr. Sterling?
10 THE WITNESS: This is Mr. Sterling.
11 THE CHAIRMAN: Mr. Sterling has two lots?
12 THE WITNESS: Yes.
13 THE CHAIRMAN: Where are you?
14 THE WITNESS: I'm right here. This is the
15 Davenports and --
16 THE CHAIRMAN: Excuse me. In order for this to
17 go on the record, she has to hear you. Please speak up.
18 THE WITNESS: This house was existing. This
19 house was existing. And this house was existing in '70.
20 This house was created in '60.
21 THE CHAIRMAN: Again, referring to 6217?

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1 THE WITNESS: Created in -- 6213 was built in
2 '65.
3 VOICE: '63.
4 THE WITNESS: Okay. I'm going by the tax maps.
5 MS. WORRALL: This has to be your testimony.
6 THE WITNESS: 6215 was built in '33, 1933. At
7 the time of this record plat, this lot, this lot here, and
8 this lot, were the ones that were cut out.
9 This coincides pretty much with R-20. This is
10 smaller than R-20.
11 MR. GONTRUM: 6215, you're saying, conforms to
12 R-20?
13 THE WITNESS: Actually, it's a little smaller
14 than R-20. Lot 3B, Mr. Sterling's other lot, 6217, is
15 even smaller than that.
16 And this was a straight line at one time, and
17 they swapped this property here for this property here in
18 order to make this 150-foot wide to meet the R-40
19 regulation, because this was a proposed structure, and was
20 not built at the time of this plat.
21 So the PDM file, I feel, is what reflects what

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1 the board of engineers, the planning board, so on, was
2 creating at this time.
3 MS. BARRANGER: Your lot is 6215. Today, what is
4 the zoning today?
5 THE WITNESS: R-40. This area is R.C. 3, but
6 because this is done in 1970, the R-40 is vested from the
7 recordation of the plat.
8 MS. WORRALL: So are you arguing then that you
9 should not be bound by the R-40?
10 THE WITNESS: That's my -- this is the only
11 thing, and it doesn't state on this plat anything about
12 zoning.
13 If you go to the zoning maps, it says R-40 for
14 this whole area. R.C. 3 for this area. The only thing
15 that says R-20 is the permit and development file used to
16 create this plat.
17 Since there was no variances ever requested for
18 this, there is nothing in the files for a variance. I
19 looked through all the zoning departments, looked through
20 them all back into the twenties and so forth.
21 So even though the lots were undersized, there

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1 was no zoning variance.
2 MS. WORRALL: What's the zoning on your property
3 today?
4 THE WITNESS: It's R-40.
5 THE CHAIRMAN: He's asking to amend --
6 THE WITNESS: I was asking to amend it, because
7 it really conforms --
8 THE CHAIRMAN: You can't do that today.
9 MS. WORRALL: That's not under the variance
10 request. There's a separate process for having the zoning
11 changed, which is another whole set of rules.
12 THE WITNESS: That's why the next page,
13 eighty-seven --
14 MS. WORRALL: Excuse me. That wouldn't be done
15 here.
16 THE WITNESS: I'm just saying it never made it to
17 the zoning maps probably because there was never a
18 variance in the first place.
19 THE CHAIRMAN: What is on the zoning maps?
20 THE WITNESS: R-40.
21 MS. WORRALL: That's what we have to deal with.

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1 You might make a request, but it would have to be under a
2 different format.
3 MR. GONTRUM: Did you want to put this in?
4 THE WITNESS: That's fine. Most of the time,
5 usually with something like this, there is a little
6 cutout, but it never made it there.
7 MS. BARRANGER: We are going to submit the one
8 inch to 200 foot scale zoning map as Appellant 1, and we
9 are going to submit a subdivision map, Folio 21, and
10 that's going to be Appellant's 2, and that's dated January
11 15, 1970.
12 MR. GONTRUM: Liber 34, Folio 21?
13 MS. BARRANGER: Yes.
14 THE CHAIRMAN: You can still use them. Okay?
15 MR. GONTRUM: As a policy of order, may I ask the
16 status of these pages? This is what I objected to. He
17 was testifying from them, and --
18 THE CHAIRMAN: I believe that Ms. Barranger asked
19 him to read it to us.
20 MS. BARRANGER: No. To testify to us.
21 THE WITNESS: I presented it, and you accepted

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1 it. Right?
2 MS. WORRALL: We looked at the page to see what
3 you were talking about.
4 THE WITNESS: Basically, page eighty-six with the
5 R-20 issues, since that's not really part of this --
6 MS. BARRANGER: You need to talk so that
7 evidence is put in, because we're not accepting these
8 pages.
9 THE WITNESS: I'd like to submit, as evidence,
10 page eighty-seven.
11 That's the alternate request for relief that we
12 were just discussing prior to the R-20.
13 MS. WORRALL: Which is?
14 THE WITNESS: Which is currently with D.R. 40 I
15 meet the side yard setbacks on one side and it's
16 requesting a variance relief on the west side of
17 fifteen-foot to allow a fourteen-foot addition on that
18 side.
19 MS. WORRALL: And no variance on the other side?
20 THE WITNESS: No variance on the 6217 side.
21 MR. GONTRUM: The only issue that I have is -- I

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1 think I understand the alternative request for relief --
2 and as I understand it, there are actually two variances
3 then he would be seeking.
4 One variance would be from the side yard setback
5 on the east side -- or excuse me -- on the west side,
6 would be a fifteen-foot variance on the west side in lieu
7 of the required twenty, and then the other variance that
8 he would be seeking is the sum of the side yard where he's
9 asking for a setback of thirty-five feet in lieu of the
10 required fifty feet?
11 THE WITNESS: No. That's not what I am asking
12 at all.
13 MR. GONTRUM: Okay.
14 THE CHAIRMAN: Do you want to testify?
15 THE WITNESS: Okay. 6215 Ebenezer Road, east, a
16 twenty-foot side yard setback meets vested R-40 zoning and
17 allows a fourteen-foot addition to this side.
18 Due to this, a west side yard setback back of
19 fifteen-foot is the only side which relief is needed.
20 This would provide space for a fourteen-foot
21 addition to the west side creating a fifty-six and a half

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1 foot rancher on a ninety-three foot wide lot in comparison
2 to 6217 Ebenezer Road as originally a one-hundred foot
3 wide lot with a sixty-foot rancher.
4 THE CHAIRMAN: We are not interested in what
5 somebody else has. That isn't the issue. We are only
6 interested in what you have.
7 THE WITNESS: Special circumstances.
8 THE CHAIRMAN: Which is --
9 THE WITNESS: Well, special circumstances and
10 existing structures in the neighborhood, so on. As far as
11 uniqueness of the property, that doesn't --
12 MS. BARRANGER: It's uniqueness of your property.
13 THE WITNESS: My property. If I can submit --
14 MS. WORRALL: Before you get to that, what you're
15 asking, you want a fourteen-foot addition on each side?
16 THE WITNESS: Right.
17 MS. WORRALL: And on the east side, you won't
18 need a variance because you can meet the twenty-foot
19 setbacks?
20 THE WITNESS: Correct.
21 MS. WORRALL: On the west side, you need a

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1 fifteen-foot variance so the sum --
2 THE WITNESS: Correct.
3 MS. WORRALL: -- is fifty feet. I think I've got
4 it.
5 MR. GONTRUM: The second variance -- in other
6 words, the combined setbacks on both sides ultimately will
7 only be thirty-five feet, twenty on the east side and
8 fifteen feet on other west side.
9 It will be thirty-five, and under R-40, you have
10 the fifty-foot sum of the side yard?
11 THE WITNESS: So fifty-foot minimum, obviously,
12 you know, if you go short on one side, it's going to
13 create that also, but it's still only a variance for one
14 side.
15 MS. WORRALL: You were about to make another
16 statement?
17 THE WITNESS: If I could testify on the rest of
18 these pages, page 87 has already been testified, so on.
19 Pages eighty-eight through ninety-one, as far as
20 community impact in the surrounding structures, as far as
21 as health, safety, general welfare, spirit and intent, in

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1 reference to 307.1, health, safety, general welfare,
2 spirit and intent, health issues, it was brought up at the
3 first hearing as far as the septic system and the septic
4 system reserve at that time.
5 In order to do any addition, I have to perc
6 test --
7 THE CHAIRMAN: I'm sorry?
8 THE WITNESS: In order to do any work to my
9 structure, my house at all, add on to anything, I have to
10 perc test, per DEPRM.
11 DEPRM, because of increasing the square footage,
12 you know, it could lead to more -- people moving in at a
13 little later date, if I move out, they want to make sure
14 the septic system and septic reserve can handle more
15 people.
16 So, basically, the septic system will be brought
17 to current standards, environmental standards, per DEPRM,
18 before additional work is done.
19 6215 Ebenezer Road property -- this is referring
20 to other properties now -- will be the only property in
21 the immediate vicinity with a properly functioning septic

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1 system crating a positive health impact upon the
2 community.
3 MR. GONTRUM: I object, as a matter of knowledge
4 of the other septic systems.
5 I have no problem that he has to provide a septic
6 system in compliance before putting on an addition, but I
7 would object to the other comment.
8 THE CHAIRMAN: Well, only if he knows.
9 THE WITNESS: I know personally and through
10 discussions with Mr. Sterling, so on, as to gray water
11 issues.
12 THE CHAIRMAN: Excuse me. How do you know? Did
13 you personally --
14 THE WITNESS: I have seen it, and I do have
15 pictures. I don't have them with me here today.
16 THE CHAIRMAN: I think what we are going to do --
17 THE WITNESS: -- which I am --
18 THE CHAIRMAN: -- we are just going to sustain
19 the objection as to other septic systems. Just let's deal
20 with yours.
21 THE WITNESS: It was already written here. From

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1 a safety issue, the property is and will remain as safe or
2 unsafe as any property in the area currently. Just
3 talking residential property.
4 General welfare of the community includes at
5 present both small and large ranch-style structures,
6 commercial properties, Verizon switching station,
7 contractors, farms, automotive garages, welding and
8 fabrication shops, small engine repair, et cetera.
9 The 6215 Ebenezer Road proposed rancher will not
10 have an adverse affect on the general welfare of this
11 community.
12 Spirit and intent. The ranch style structure of
13 the proposed addition to the existing dwelling at 6215
14 Ebenezer Road maintains in strict harmony the spirit and
15 intent of the general area.
16 It's mostly ranch-style houses you, you know,
17 ranges small to large, I guess anywhere from basically 700
18 square feet to 3500 square foot. That would be page
19 eighty-eight.
20 Page eighty-nine is just a comparison as far as
21 side yard setbacks, and states which lots along that

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1 street from 6209 to 6221 are conforming or nonconforming
2 to the R.C. 3 or R-40 standards.
3 If you look at 6215, you can see I have the most
4 side yard setbacks of any of the properties along there
5 other than the one that does meet R-40 and is conforming,
6 6219, and 6221 is ten to thirteen acres, so they are
7 definitely conforming.
8 Page ninety, special circumstances and conditions
9 of 6215 Ebenezer Road land structure is dealing with the
10 uniqueness of the property lead.
11 The lot is non-conforming to the vested R-40
12 zoning and current area R.C. 3 zoning due to its width of
13 ninety-three feet in lieu of the required 150 foot. This
14 makes strict compliance with Baltimore County zoning
15 regulations difficult and unreasonable, and deprives the
16 owner of rights commonly enjoyed by other property owners
17 in the area.
18 The structure at 6215 Ebenezer Road in comparison
19 to surrounding structures is unique in that it does not
20 proportionally match the structure to lot width ratio of
21 other properties in the immediate vicinity, and there's a

1 surrounding community property widths, side yard setbacks
2 chart, non-conforming lots chart, to verify that.
3 Those measurements are approximate. I'd say they
4 are plus or minus six inches, at best.
5 MR. GONTRUM: The only objection I would have to
6 the chart, I presume what Mr. Richter is doing is
7 testifying, and asking this chart be accepted.
8 I don't mean to presume, but there is a relevancy
9 issue of what the other lots are to this particular
10 request and what is unique about this lot by saying what
11 other neighbors have done, whether with or without, or
12 what time it was all done, whether in the 1950s or sixties
13 or last year, what have you, and I am somewhat concerned
14 as to the relevancy of this.
15 THE WITNESS: The only thing that basically shows
16 is how much larger my current side yard setbacks are in
17 relation to the other properties.
18 MR. GONTRUM: I know the Board typically accepts
19 things like that and gives them the weight to which they
20 are due.
21 So I am just suggesting there's an issue of

1 relevancy, but if he's testifying he's measured it, they
2 are approximate --
3 THE WITNESS: That's where the approximate part
4 comes in.
5 THE CHAIRMAN: I think we'll take it and give it
6 the weight. We'll accept it.
7 MR. GONTRUM: So this will be Petitioner's 3, the
8 chart?
9 MS. BARRANGER: Appellant's No. 3.
10 THE WITNESS: So you've accepted eighty-seven
11 now as far as testimony?
12 MS. WORRALL: In terms of testimony --
13 MR. GONTRUM: The only paper he testified to is
14 page eighty-nine, which is the chart.
15 THE WITNESS: Well, I just testified to --
16 THE CHAIRMAN: He also testified to what he read
17 on page eighty-eight.
18 MR. GONTRUM: He testified to it, but I don't
19 know that you have to --
20 THE WITNESS: And page eighty-seven.
21 THE CHAIRMAN: Right. And the chart is mentioned

1 on page eighty-nine.
2 MS. WORRALL: Submitted as Appellant's No. 3.
3 MR. GONTRUM: Actually, yes. Right.
4 THE WITNESS: Testifying to page ninety-one,
5 practical difficulty and unreasonable hardship.
6 Strict compliance with Baltimore County zoning
7 regulations with undersized lot results in practical
8 difficulty and/or unreasonable hardship.
9 This is another comparison which in this context
10 should be okay for practical difficulty. Am I correct on
11 that?
12 THE CHAIRMAN I don't know what you are --
13 THE WITNESS: The neighbors' homes at 6209, 6211,
14 6213, 6217, do not meet vested R 40 zone or current R.C. 3
15 zoning.
16 Basically, the rear end of the house has my
17 parking area, patio, unique tree, and underground spring
18 around that tree, making it impractical to go back with
19 the house,to build off back of my house.
20 The tree is unique, and we don't want to remove
21 it. It's a Dutch oak with mysteria vines going through

1 it.
2 THE CHAIRMAN: Did you say a natural spring?
3 THE WITNESS: Yes. The water comes up around the
4 tree, just creates a wet area where. If you dig a footer
5 or foundation, it would prove to be basically impossible
6 to do, unless you shore up the soil, so forth.
7 The living room has been remodeled with a vaulted
8 ceiling which would also be impractical to change.
9 The existing wall and first floor layout is
10 already improved and would also be impractical to change
11 in relation to going up with the house.
12 The foundation is poured wall, approximately ten
13 foot in width and eight-foot deep with no footer.
14 Questionable support for second floor along with where
15 bearing walls would interfere with existing walls.
16 The back of the house where the parking is and so
17 forth has a feeling of openness with rear yard layout of
18 adjacent neighbors homes.
19 Adding onto the back of the house would inhibit
20 this feeling, I believe.
21 Currently, I have four family members dealing

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1 with only two bedrooms, one bath, small kitchen, two
2 closets. We are completely out of room and need to
3 expand.
4 As far as from a ranch style, along with meeting
5 what's currently in the neighborhood, as far as the houses
6 that are there, there's not really any second floor
7 properties other than like a small sloped attic space.
8 Currently, my wife and I both have had serious
9 injuries to legs, knees, back and neck, and having
10 everything on one floor is more practical now and for the
11 future, so we're not having to climb stairs.
12 Also, I testified to the case 02-036-A, where the
13 side yard setbacks were granted. There was no opposition
14 to that, and I believe that's why it went right through.
15 I don't feel that basically your neighbors should
16 have that huge an amount of say in what you want to do
17 with your own property.
18 It's not like I was trying to build some type of
19 commercial building or a bowling alley or rifle range or
20 something of that intent.
21 This is just an addition to an existing

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1 structure.
2 THE CHAIRMAN: That would be as to your argument?
3 THE WITNESS: Right.
4 THE CHAIRMAN: Are you done with your testimony?
5 THE WITNESS: I believe so.
6 THE CHAIRMAN: Mr. Gontrum?
7 MR. GONTRUM: Thank you.
8 CROSS EXAMINATION
9 BY MR. GONTRUM:
10 Q. Mr. Richter, I want to get out of the file what
11 it is you filed for, so that we can understand.
12 I think your zoning file is what I had in mind,
13 so maybe we can look at the exhibits filed with previous
14 case.
15 Now, I show you what was marked as Petitioner's
16 Exhibit 1 that you filed before the Zoning Commissioner
17 and ask if this is the site plan you prepared for the
18 zoning variance?
19 A. Correct.
20 Q. Now, is what is depicted on this site plan true
21 and accurate?

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1 A. No. It's changed since then. I reduced the size
2 of the structure to fifty-six and a half feet from
3 fifty-eight, three.
4 Q. Before I get into your alternative proposal, I'm
5 asking, are the structures as they exist and the setbacks
6 as they exist accurate?
7 A. Yes.
8 Q. So the remaining existing conditions is accurate?
9 A. Correct.
10 Q. Now, this shows a structure proposed --
11 MR. GONTRUM: And I would ask if I could get this
12 marked. This would be Protestants' Exhibit A, or 1, for
13 identification.
14 THE CHAIRMAN: No. 1.
15 MR. GONTRUM: Although it seems a little odd for
16 me to be entering in his site plan.
17 THE CHAIRMAN: I was just about to ask --
18 MR. GONTRUM: I'm not sure it makes a whole lot
19 of shucks in the way we are going about it.
20 Q. Sir, you show here an existing structure that is,
21 I gather, somewhere about thirty-feet by thirty-two feet,

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1 approximately?
2 A. Actually, on this paper --
3 Q. How big is your existing structure?
4 A. Twenty-eight foot, six -- I believe thirty-foot.
5 Thirty-four foot deep --
6 THE CHAIRMAN: You have to speak up, sir.
7 Q. So that's current, so approximately thirty-four
8 by thirty?
9 A. Thirty.
10 Q. Now, am I correct then that your current
11 structure meets the side yard setbacks? In other words,
12 you have more than fifty-foot combined side yard setbacks,
13 and you're more than twenty feet from any one side yard?
14 A. Correct.
15 Q. Now, your proposal, as I understand it today --
16 and correct me if I'm wrong -- is that you wish to go out
17 towards the Sterling property located to the east
18 approximately another fourteen feet?
19 A. Right. It was originally fifteen feet and now it
20 would be fourteen-foot from here and the other existing
21 structure.

1 Q. I would ask you then -- with the Board's
2 permission -- included in the Board's file from the Zoning
3 Commissioner was a layout plan of the house that Mr.
4 Richter provided to the Board -- excuse me -- to the
5 Zoning Commissioner at the first hearing, and I would ask,
6 with the Board's permission, if he would translate the
7 measurements he's got here so the Board can appreciate
8 what he's proposing on this particular plan. Would that
9 be all right for him to write on it?
10 THE CHAIRMAN: Yes.
11 Q. If you would write on this plan which is in the
12 Board's file the measurements you have on the existing
13 house, first.
14 A. (Indicating.)
15 Q. Now, if you would suggest to the Board what you
16 are proposing, how far out you're proposing to come out
17 now at this hearing on the side yard?
18 A. Okay. This would be fourteen-foot.
19 Q. Okay.
20 A. In lieu of fifteen-foot.
21 Q. Now, is it fourteen feet from --

1 A. From this part of the structure, from the
2 twenty-eight foot. Not from the kitchen out.
3 Q. Then on the west side, how far are you coming?
4 A. Fourteen-foot, drop down from fifteen. That
5 would make this fifty-six, six, I believe.
6 Q. Now, would you do me a favor? Would you initial
7 it and date it with respect to the measurements?
8 A. (Indicating.)
9 MR. GONTRUM: Now, you have done that on what I
10 will asking be identified as Protestants' No. 2.
11 Q. Now, on this exhibit, No. 1, and on No. 2, you're
12 proposing that your house be enlarged in all four
13 directions, is that not correct?
14 A. That's not correct. It's three directions.
15 Q. Okay.
16 A. This is one of the discrepancies that Mr. Kotroco
17 didn't address.
18 Q. To the rear of the house --
19 A. To the rear of the house, the carport and covered
20 patio does not count as square footage of the structure,
21 per zoning, per permits and development, per planning, so

1 forth.
2 This structure, fifty-six and a half feet by
3 fifty-four would be approximately 3,050 square feet.
4 Q. 3,050 square feet?
5 A. Yes.
6 Q. So you're going to increase or go closer to
7 Ebenezer Road and add onto that?
8 A. Yes.
9 Q. You haven't dimensioned that, but you would still
10 meet --
11 A. That would still meet the zoning setback for the
12 fifty-foot minimum building restriction line.
13 Q. So you're going to go to the front and you're
14 going to go to either side --
15 A. Right.
16 Q. -- as you've described. And now, on the rear of
17 the building, you're going to build a carport and a
18 covered patio and deck, so everything is going to be under
19 roof, is that correct?
20 A. Correct.
21 Q. Both the carport and the patio and the deck are

1 going to be under roof?
2 A. Correct.
3 Q. That addition is going to be forty-two feet to
4 the rear?
5 A. That, I don't know yet, because with the other
6 things changing, it might be a little bit shallower.
7 Instead of three cars, it might only two cars.
8 Q. Under roof, you're approximately going to have a
9 ninety-six feet deep structure, is that correct?
10 A. Uh-huh. Approximately. Of course, this will be
11 open.
12 Q. The covered patio? You're referring to the
13 covered patio?
14 A. Right. So, basically, the rear openness of the
15 housing and so forth basically fall in line.
16 Q. Petitioner's Exhibit 1, just for clarification,
17 that you had filed and which is now identified as
18 Protestants' 1, it showed a structure on the rear of the
19 property,and you are no longer pursuing that?
20 A. Right. Unfortunately, when Joe Merry wrote up
21 the petition with me at the zoning office, he did not

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1 inform me of the side yard setbacks of a secondary
2 structure which would be two and a half feet, three foot,
3 by building code.
4 At the time, he said, because the building wasn't
5 going to be that big at the time, he said leave it on
6 there, because I was trying to get the same setback for
7 the whole property, and that's why I dropped it after
8 that, because I can basically put up a structure now and
9 basically wherever in the back, as long as it's two and a
10 half or three feet from the building line.
11 Q. I want to clarify, as a practical result of your
12 modification today, what you're really doing is changing
13 the width of your house from fifty-eight foot, three
14 inches, to fifty-six foot, six inches?
15 A. That was at the hearing before too.
16 THE CHAIRMAN: Say that, again.
17 MR. GONTRUM: I mean, the practical result of
18 what Mr. Richter is proposing and in modifying his
19 variance requests took it from a fifty-eight feet, three
20 inch width home to a fifty-six foot, six inch width home,
21 which is a little bit less than two feet difference.

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1 Now, he's asking for --
2 THE WITNESS: I also asked for that at the
3 previous hearing.
4 MR. GONTRUM: That's Protestants' Exhibit 1, his
5 site plan. Protestants' No. 2 is his layout of what it is
6 he's proposing.
7 Q. Now, do you currently have a cathedral ceiling in
8 your home?
9 A. Yes.
10 Q. You do?
11 A. Yes. Vaulted. Because it's -- cathedral is both
12 sides. Vaulted is one.
13 Q. You currently have a vaulted ceiling in your
14 home?
15 A. Yes.
16 Q. You don't wish to change that?
17 A. No.
18 Q. If you add on, if you add onto the front and the
19 two sides --
20 THE WITNESS: I like to object to this. I'd like
21 to object to this whole line of --

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1 MS. BARRANGER: He's allowed to question you.
2 THE CHAIRMAN: This is cross-examination.
3 THE WITNESS: Okay. But it really has no
4 relevance as far as side yard setbacks though.
5 THE CHAIRMAN: I didn't even hear his next
6 question. We need for one person to speak at a time.
7 Q. If you add onto the side and to the front of your
8 home with new rooms, will you be building foundations and
9 footers to support those sides?
10 A. Yes. I know what you're getting at. The
11 existing footers, but, yes.
12 Q. Am I correct in assuming the carport storage
13 would be a concrete slab?
14 A. Yes.
15 Q. And you have a concrete slab and then posts and
16 beam for the roof construction?
17 A. Correct.
18 Q. And the covered patio deck. You have a hot tub
19 in here?
20 A. That was basically -- this was just basically my
21 drawing. And then zoning, zoning said about, you know,

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1 about -- and it wouldn't be a deck. It would be a patio.
2 Q. It's going to be ground level?
3 A. Ground level.
4 Q. So this is going to be ground level as well?
5 A. Right.
6 Q. Not an elevated deck type thing?
7 A. No. I'm not thinking that at this time.
8 Q. Would it also be post construction?
9 A. It would be the same construction along the line
10 as the carport.
11 Q. I believe that, as part of the prior hearing, we
12 submitted an aerial photograph.
13 I show you, Mr. Richter, the aerial photograph
14 that we submitted at the prior hearing, and I would ask if
15 the house that is circled -- and I think it's marked --
16 A. That's my initials.
17 Q. -- does that photo still accurately represent the
18 houses that are there today?
19 A. Yes.
20 Q. As they exist today?
21 A. Yes.

1 Q. Does it accurately reflect generally the general
2 neighborhood as it exists today? Have there been any real
3 changes?
4 A. Not to this section from Bird River to the Myers'
5 property, you know. As far as the surrounding community,
6 you have across the street, down the street, you know, a
7 lot of other homes.
8 And a lot of them, you know -- I mean, my
9 structure really isn't going to be, or my proposed
10 structure really isn't going to be any different than a
11 lot of the bigger ranchers down in the hollow.
12 It's not going to be too much bigger than Mr.
13 Sterling's, specially since he enclosed his rear porch
14 with an eleven by thirty-nine foot enclosure, and then
15 added a patio on top of that.
16 Q. Well, now, okay. So you're saying your 3,000
17 square foot house proposal is in line with these
18 existing --
19 A. It's in line with his. It's a little bit larger
20 than his.
21 MR. GONTRUM: I would submit this as Protestants'

1 No. 3.
2 MS. BARRANGER: Protestants No. 3.
3 Q. Now, I think you testified -- and I want to make
4 sure -- that a lot of the lots in the area are undersized
5 vis-a-vis the R.C. 3 current classification?
6 A. And the old R-40.
7 Q. So they're all approximately, except for the one
8 you needed, that was fifteen acres --
9 A. In that line of properties, the Myers' property
10 and --
11 Q. They are on smaller lots?
12 A. Across the street, they are on, I think, one and
13 a half to three to five-acre lots.
14 Also keep in mind directly across the street is a
15 sixty-by-sixty structure for the Verizon switching station
16 Q. Mr. Richter, let me show you something I pulled
17 off the internet, and ask you if you can identify this as
18 being a record of what the state would have insofar as the
19 tax map description of your property or tax record of your
20 property, rather?
21 A. Yes.

1 Q. Now, this indicates that your property is
2 identified for tax purposes as Parcel 125 on map
3 eighty-three, Lot No. 2 two, is that correct?
4 A. Yes.
5 Q. I show you a drawing, also pulled from the tax
6 map on this, and I would ask if you can identify your lot
7 as Lot No. 2 of Parcel 125?
8 A. Sure.
9 Q. Are you familiar with this as a record of the
10 State of Maryland?
11 A. Yes.
12 Q. Could you do me a favor and perhaps write on
13 there your initials where your property is located?
14 A. (Indicating.)
15 MR. GONTRUM: I would ask this be submitted as
16 Protestants' Exhibit, I guess No. 4A and B, indicating the
17 Mr. Richter's house vis-a-vis its location, and then the
18 accompanying tax maps showing the surrounding parcel.
19 THE WITNESS: I'd like to add something to that.
20 Lot No. 3 on there --
21 THE CHAIRMAN: Wait a minute. This is

1 cross-examination. You respond to the questions Mr.
2 Gontrum asks.
3 Q. Now, you mentioned, I believe, that one of the
4 reasons you didn't wish to go back with your improvement,
5 in other words, build onto the rear of your house, was
6 because of the presence of a large tree?
7 A. Yes.
8 Q. And a spring?
9 A. Uh-huh.
10 Q. But as I read your site plan, you are adding onto
11 the back forty-two feet for the carport and the deck?
12 A. Right.
13 Q. So the addition to your house that you don't want
14 to go beyond the forty-two feet --
15 A No. It's a concrete patio versus footers for
16 holding a structure where people live in, not just a
17 simple roof with post and beam construction.
18 Q. So --
19 A. Not to mention that's where I park my vehicle,
20 and I don't what to change that, nor do I want to change
21 the openness, and so forth.

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1 I mean, it's -- as you walk out the door, it's
2 nice. It's all open across the back.
3 Q. Your septic system currently is in your front
4 yard?
5 A. Correct.
6 Q. And I think you indicated that you had to bring
7 your septic system up to snuff to add on, is that correct?
8 A. Yeah. Here's just verifying the date of May
9 31st, as my perc tests.
10 Q. You're having the property perc'd in another two
11 weeks?
12 A. Right, and I am perc'ing in probably about three
13 or four locations.
14 Q. Where are you perc'ing, as a matter of curiosity?
15 A. Perc'ing in the front, perc'ing on the side where
16 the driveway is. I might, if it perc's there, I might put
17 it under the driveway. It has to be fifteen-foot from the
18 property line.
19 Q. Correct me if I am wrong, if it's fifteen feet
20 from the property line --
21 A. Talking behind the house.

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1 Q. Oh, behind the house?
2 A. Yes. Not on the side. Behind -- past the tree.
3 Q. Okay.
4 A. As far as septic and drain fields back into the
5 hill, we are talking about doing a couple perc's up in the
6 back up in the woods, because the soil might be a little
7 bit better up there, because it's kind of sandy once it
8 gets back there, but also still going to perc throughout
9 the front and, you know, we'll see what we've got.
10 Basically, I am anywhere from 6000 to $20,000
11 that would be spent, whether it will be gravity fed drain
12 field system to a sewage ejector pump system to a small
13 wastewater treatment facility.
14 Q. Do you know how big your system is going to be?
15 A. Size-wise?
16 Q. Yes.
17 A. Currently, I have a 1500-gallon tank.
18 Q. I'm talking about the drain field.
19 A. The drain field would be somewhere around the
20 standard fifty foot. It depends on how it perc's. Of
21 course, that all reflects on what is done with this

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1 property also, you know, but it's one step at a time.
2 MR. GONTRUM: I have no further questions.
3 THE CHAIRMAN: Did you say you were finished, Mr.
4 Gontrum?
5 MR. GONTRUM: Yes.
6 THE CHAIRMAN: Mr. Richter, you have an
7 opportunity now to respond, to rebut, but it must be based
8 on his questions to you.
9 THE WITNESS: Basically, I feel I've met many of
10 the requirements as far as uniqueness and special
11 circumstances.
12 THE CHAIRMAN: Excuse me. That's argument. What
13 we mean is to respond to questions asked by Mr. Gontrum.
14 THE WITNESS: No. I don't have anything.
15 THE CHAIRMAN: Now, I guess we are into Mr.
16 Gontrum's case.
17 MR. GONTRUM: I will call Mr. Sterling. Mr.
18 Sterling, would go up and get sworn in, please.
19 WILLIAM E. STERLING,
20 having been called as a witness, was duly sworn, and
21 testified as follows.

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1 DIRECT EXAMINATION
2 BY MR. GONTRUM:
3 Q. Mr. Sterling, would you state your name and
4 address for the record, please.
5 A. William E. Sterling, 6217 Ebenezer Road.
6 Q. Mr. Sterling, how long have you lived in your
7 house?
8 A. I have lived in my house for -- since 1960, which
9 would be forty-two years. I was born in the house that
10 Mr. Richter lives in right now, so I have been on that
11 property for sixty-nine years.
12 Q. How big is your house, currently?
13 A. My house is 1652 square feet, including the porch
14 that was recently enclosed.
15 Q. If Mr. Richter's request is granted to build a
16 rancher of 3,050 square feet, plus the carport and the
17 deck, do you believe it will be in conformance with the
18 character of the neighborhood?
19 A. No I don't.
20 Q. Why?
21 A. Because it's much too large for the size lot that

1 it's on. It would dwarf the other houses alongside of it.
2 There's nothing on that side of the road that
3 would approach anything more than 1652 square feet.
4 Q. Do you have any objection if Mr. Richter adds a
5 second story to his home?
6 A. I have no objection to that. I have no objection
7 to his building on the back of the house, or the front of
8 the house. I only object to his side yard setbacks.
9 Q. How, since 1970 in the immediate area, do you
10 know how many new homes have been built?
11 A. 1970? In the immediate area, that's when the
12 courthouse was built, in 1970. On our side of the road, I
13 don't think any housing were built after 1970.
14 Q. And on the other side of the road?
15 A. Maybe the house down in the hollow behind the
16 phone company building, that might have been built after
17 1970. I'm not sure of that.
18 Q. Are there other lots in the immediate area that
19 are substantially similar in nature to Mr. Richter's lot
20 and size?
21 A. Well, several of them are smaller, but the thing

1 is coming up from Bird River Road, the first house is
2 1609, that's a bungalow built in 1940.
3 That had been a garage behind 6211 Ebenezer Road
4 and was converted by a daughter into a small house, and
5 then was added onto in the early forties.
6 So those houses are extremely close together
7 necessity. They were family.
8 Going up to our properties, 6215 Ebenezer Road
9 where Mr. Richter lives now, that was my mother's home,
10 and to the east side of that, a home was built for my
11 daughter on that extremely small lot, the sixty-five foot
12 lot, and on the other side was my house.
13 And at the time my house was built in 1960, the
14 side yard setbacks were required to be fifteen feet. The
15 county later discovered that wasn't enough room because of
16 sewage systems and stuff, and they changed that to the
17 R-40 classification which was, in effect, when the Mark
18 Courthouse was built.
19 MR. GONTRUM: Thank you. I have no further
20 questions.
21 THE CHAIRMAN: Thank you. Do you have any
1 questions, Mr. Richter?
2 MR. RICHTER: No, I don't.
3 THE CHAIRMAN: Thank you. You may be excused.
4 MR. GONTRUM: Mr. Davenport.
5 B R Y A N D A V E N P O R T,
6 having been called as a witness, was duly sworn and
7 testified as follows:
8 DIRECT EXAMINATION
9 BY MR. GONTRUM:
10 Q. Mr. Davenport, would you state your name and
11 address for the record, please, sir.
12 A. Sure. Bryan Wilson Davenport, 6213 Ebenezer
13 Road.
14 Q. When did you purchase your property?
15 A. Two years ago.
16 Q. Could you speak up?
17 A. I'm sorry. I'm a soft talker. Two years ago.
18 Q. I am a bad hearer, so we have to meet somewhere
19 in the middle.
20 A. I will meet you in the middle.
21 Q. Before that, how long had you been familiar with

1 the property?
2 A. Well, since I obviously have been dating my wife,
3 it's been eighteen years I have been in that area. I grew
4 up a mile from there. We moved there roughly is 1970,
5 '71.
6 Q. Do you remember when the Richters purchased their
7 house?
8 A. I do.
9 Q. When was that?
10 A. I guess it's probably been six years ago, five to
11 six years ago.
12 Q. Now, do you have any objection to the variance
13 that Mr. and Mrs. Richter are seeking?
14 A. I do.
15 Q. What is that?
16 A. I just feel that we need to maintain what we
17 consider the R-40. I don't have a problem one with him
18 building in the back, building in the front. Building up,
19 I have no objection.
20 The only objection I would have is giving him
21 closer to my side of the house. We came from Aero Acres

(phonetic), which the houses were close and, you know, it would be right back to living in Aero Acres.

We moved where we moved now, one, to get close to family, but, two because it's still considered a rural area.

And if he gets the setbacks, which the way I am looking at it, he's looking for an R-20 anyway you look at it, which would put him fifteen-foot to the property line, you know, and we would be extremely close again.

And with all that land, what they have there, you know, to the front, to the back, and then fifteen feet to the side, anyone can build a reasonable house to house four people.

Q. How big is your house?

A. Roughly 860 square feet.

Q. Is it on two floors? On one floor?

A. One floor.

MR. GONTRUM: I have no further questions.

THE CHAIRMAN: Mr. Richter?

MR. RICHTER: I do, yes.

CROSS EXAMINATION

BY MR. RICHTER:

Q. Mr. Davenport --

A. Yes.

Q. -- how close are you to your neighbor at 6211?

A. Don't know.

Q. Approximately? Much closer?

A. I'm sure, you know, you have measured.

Q. I mean, a lot closer than your house is to mine, correct?

A. I would say the distance between houses -- between 6211 was it?

Q. Yes.

A. -- and ours, probably in the thirty, thirty-five foot range.

Q. It's actually less than that, but I'm not going to look it up. How close or how wide is your driveway from your house to the property line?

A. You said twelve-six?

Q. Right. And even with my addition, I'd still be further away. A fourteen-foot addition, I'd be sixteen foot away from the property line, which would still leave

sixteen and twelve, which would still -- it would be twenty-eight foot away. So, basically, do you feel you're in Aero Acres with your neighbor at 6211?

A. I wish they were further away. There is nothing we can do.

MR. RICHTER: No further questions.

MR. GONTRUM: I have no nothing further.

THE CHAIRMAN: You may be excused.

MR. GONTRUM: That would be the protestants' case.

THE CHAIRMAN: Okay. Now, at this time, Mr. Richter, what we do is we may have closing argument.

You have already alluded to a packet of information, and we have addressed it, and Mr. Gontrum has agreed that there is case law.

That can come in as closing argument, so what we are asking, I guess, do you want to submit that packet as your closing argument?

MR. RICHTER: What about pages eighty-seven on? I feel that's a big part of the whole thing. It goes along with the cases. It reflects subjects directly out

of the cases, the record from the zoning regulations, so forth.

THE CHAIRMAN: What we'll do is take it in and consider it, giving it the weight we think it deserves.

MR. RICHTER: Excuse me?

THE CHAIRMAN: We'll give it the weight that we think it deserves.

MR. RICHTER: Okay.

THE CHAIRMAN: Mr. Gontrum, would you care to do closing argument orally, or would you like to have a chance to submit?

MR. GONTRUM: With all due respect, I think I have no problem doing it orally, if that's all right with the Board?

THE CHAIRMAN: It's fine with us.

MR. GONTRUM: I didn't know if Mr. Richter, if you had anything else you wanted to say, or wanted to add?

MR. RICHTER: I have closing argument after him.

THE CHAIRMAN: You go first, so what you're saying is you're submitting your file now. Are you going to add to it, orally?

1 MR. RICHTER: I can.
2 THE CHAIRMAN: Which would be your closing
3 argument, so this is it.
4 MR. RICHTER: Yes.
5 THE CHAIRMAN: Now, Mr. Gontrum, I'm sorry, I
6 didn't mean to interrupt.
7 MR. GONTRUM: That's all right. I'm usually
8 disorganized anyway, as the Board is well aware.
9 Mr. and Mrs. Richter submitted to you in the
10 file, I guess, the case most on point is Cromwell versus
11 Ward, and you couple that case with the previous case law,
12 most of which actually arose out of Baltimore County,
13 McLean versus Solely, Anderson and Loyola Federal, and we
14 really end up with, as I understand it, four things that
15 Mr. Richter has to show.
16 He has to show there is something that is
17 basically unique or that is peculiar to his land or
18 structure within the context of the R-40 zoning, and we'll
19 concede it's the R-40 setback that applied to this case
20 instead of the R.C. 3.
21 I don't think that is an issue. We didn't appeal

1 from that portion of Mr. Kotroco's order. We don't have
2 an issue really applying the R-40 with it.
3 I think when you look at whether or not there is
4 special circumstances or conditions, you look at what is
5 it that makes this lot different from all the rest, and
6 the bottom line is that there really isn't too much -- and
7 Mr. Richter would concede -- that the other lots in the
8 area are pretty much the same.
9 If anything, his lot may be a little tad bigger,
10 if you look at Protestants' No. 4, the tax map, and some
11 of the other lots that are immediately around it.
12 What's even more interesting is, if you look at
13 Mr. Richter's current house, it meets all current
14 requirements of the zone.
15 He bought it meeting all current requirements
16 with respect to setbacks of the R-40 zone, and the only
17 issue he had is that instead of being 150-foot wide, it is
18 only ninety-three feet, but the house as he bought it when
19 he bought it was more than sixty foot with combined side
20 yard setbacks about thirty feet from each side, which
21 actually allows him under that to add on ten feet

1 approximately to one side or the other of his house,
2 should he decide to do so.
3 More importantly, perhaps, the house is so
4 situated on the lot that he could go front or back a
5 considerable distance and, of course, his plan is taking
6 advantage of that because he's seeking to add onto the
7 front of the house and go out further towards Ebenezer
8 Road and he's seeking a forty-two foot structural addition
9 to the rear of the house.
10 Now, we can debate whether what he wishes to
11 build to the rear is a building or whether it's a
12 structure. It's clearly a structure and would clearly
13 require a building permit in Baltimore County to do it.
14 It doesn't have walls yet, although the carport, I guess,
15 could have some kind of abutment around it, but it does
16 qualify certainly as a structure which would require a
17 building permit because it's all under roof.
18 It clearly shows he has ample room in the back to
19 go back forty-two feet and, indeed, Mr. Richter testified
20 not only would he be interested in doing that, but at some
21 point in the future he would be interested in putting on a

1 detached building, a second story building, even further
2 to the rear.
3 He eliminated the plans at this point for the
4 structure that's depicted on the variance drawing, but he
5 indicated that he investigated and found out he only
6 needed to go within three foot of the side yard with it,
7 and, indeed, could build an accessory even further back.
8 So when you look at what is unique about the
9 property to drive the need for the variance, there really
10 isn't anything.
11 What really is different and is driving the
12 variance is Mr. Richter's desire for this particular
13 configuration of this particular structure, and, of
14 course, then, even assuming for a moment that there was
15 something unique, you take a look at the other standards
16 that are now the three standards for practical difficulty
17 that would be enunciated in McLean and Anderson and Loyola
18 Federal, and you basically have a tough time, I think,
19 coming up with what is it that would make this particular
20 variance or what there is that makes this a practical
21 difficulty.

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1 Clearly, if he's going up on the side and in the
2 front, he's going to be putting in new footers and new
3 bearing walls. Clearly, he could go up.
4 I mean, his desire to basically build three sides
5 on there, three sides of the home plus the carport and
6 deck, strikes me that he's going or has the ability to go
7 up, at least to the front, he can go out, I think, ten
8 feet one side without a variance, and if he's going to be
9 putting up new bearing walls for that, I don't understand
10 why he can't go up, if he wishes to, or just go to the
11 rear and put up some kind of bearing walls.
12 At least, he's got forty-two feet back there he
13 can play with before he hits the tree or the spring.
14 So I would suggest that there is no really
15 practical difficulty. But what's really sort of
16 interesting, when you say or read the variance, if the
17 variance is granted, it should be the least amount
18 necessary to do substantial justice to all parties.
19 Cripes. He's going to have the biggest house on the block
20 by over twice.
21 If you look at the topo and look at the tax map,

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1 Mr. Sterling's house is going to be less than half the
2 size of the proposed house.
3 On the other side there, the folks on that side,
4 their house is pretty much the same size or smaller than
5 the current house that he has.
6 So it's certainly not going to be in keeping with
7 the neighborhood. It's going to be rather large and,
8 frankly, I don't know how much of us would want to have
9 that house or a structure that's ninety-some feet long
10 located that close to the property line.
11 If you look at your structures in some of the
12 older residential neighborhoods, like townhouses and
13 duplexes in the old residential neighborhoods, not too
14 many of them are ninety-some feet worth of roof insofar as
15 depth.
16 So if you're going to have a structure that big
17 under roof, typically, you have it separated fairly
18 substantially from the other people's property line, and I
19 would suggest to you that what he's seeking insofar as
20 relief certainly doesn't do much justice to the neighbors
21 who would basically be walking out and looking at a rather

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1 substantial wall and roof line.
2 I don't think it's in harmony with the intent of
3 the zoning regulations either under the R-40 which is
4 pretty close to the D.R. 1 or with respect to the R-40 or
5 with respect to the R.C. 3.
6 It's a big structure. It's a big house. He's
7 asking for a substantial variance. It's alright to say,
8 Well, I'm going to cut back on this one side, but when you
9 look at the practical effect, we are looking at not
10 diminishing at all the impact of that long wall
11 surrounding the property.
12 And regarding showing there are alternative ways
13 of doing it, there is nothing that is particularly unique
14 that drives their design as opposed to another design that
15 would accomplish a fairly substantial house on this
16 property.
17 If Mr. Richter built a two-story home within the
18 setbacks that's permitted by law, he would probably build
19 a forty-by-forty home, two stories, and have 3200 square
20 feet.
21 I don't understand quite why it has to be this

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1 way. I think it certainly conflicts with the intent of
2 the zoning regulations and I don't think that the Court of
3 Appeals' decision on this matter, that this variance
4 request is in conformance with their interpretation of the
5 strict scrutiny that variances require. Thank you.
6 THE CHAIRMAN: Thank you, Mr. Gontrum. Mr.
7 Richter, you now have the opportunity to respond.
8 MR. RICHTER: Basically, when I bought the house,
9 Mr. Sterling was concerned about -- or before we bought
10 the house -- was concerned about how many trees I might
11 cut down.
12 I told him I wanted to build a garage in the
13 back, and only cut down enough trees to put the garage in.
14 And throughout the years, out of respect -- he used to
15 live there, it was his mother's property -- I pretty much
16 talked to him about everything that I wanted to do
17 throughout the years that I have been there.
18 He never objected to anything that we have talked
19 about, other than saying, you know, basically, I know you
20 have got a growing family and you need to expand. And
21 that was it.

1 So, basically, I felt there was no opposition in
2 the neighborhood to what I wanted to do.
3 So I needed a variance to do what I wanted to do,
4 so I got the variance. And as soon as the sign went up,
5 that evening, Mr. Sterling accused me of starting a war,
6 and, basically, I guess it's been a battle ever since.
7 As far as, you know, the intent, the rest of the
8 property are ranchers. I don't think a two-story
9 structure in the middle of all those ranchers would fit
10 with the spirit and intent of the neighborhood, you know,
11 that currently exists.
12 Basically, it doesn't matter what I want to do to
13 the back or front or other one side, because I don't need
14 a variance to do it. I don't need Mr. Sterling's
15 approval. I don't need Mr. Gontrum's approval.
16 I am asking for a fourteen-foot addition on the
17 side of my house. The structure, as far as being
18 ninety-six foot long, Mr. Sterling actually said he would
19 prefer me going out the back of my house so he doesn't
20 have to see my two vehicles sitting there, didn't have to
21 see his son-in-law's and daughter's shed, kind of look

1 cluttered to him, he'd rather see the side of my house and
2 woods, or he'd rather see all woods.
3 I suggested to him at that time, well, you know,
4 maybe you should be the one that's looking elsewhere or do
5 something else if he just wanted to be surrounded by
6 trees.
7 I feel that if he would have been honest and up
8 front with me from the very beginning, we would never have
9 bought the property.
10 You know, unfortunately, right now with septic
11 issues and all brought up, the investment, monetary
12 investment I have to make to correct things that are wrong
13 with the property, does not allow me at this time to
14 really move onto another property, and, therefore, I am
15 going to proceed with whatever additions are allowed and
16 stay there for, at this time, I don't know, it could be,
17 you know, indefinite.
18 As far as the uniqueness of the property and all,
19 I'm assuming that you are all are going to go through the
20 paperwork I presented, the cases I presented, and so
21 forth, because that basically speaks for itself.

1 I feel certainly it could be twisted to either
2 sides' favorability. It's an unfortunate situation that I
3 am in, you know, and there shouldn't be this kind of
4 oppression in a free country, you know, with something as
5 simple as this.
6 It's just putting an addition on our house, and I
7 feel very strongly that Mr. Sterling and the Davenports
8 are overstepping their bounds in this. Thank you.
9 MR. GONTRUM: For the record, I have also been
10 asked to represent the Davenports as well, as protestants,
11 so just to amend the fact they were here as a party and
12 asked me to represent them as well, and I previously only
13 indicated I represented Mr. Sterling.
14 THE CHAIRMAN: Okay. We want to explain that
15 there is a public deliberation that occurs in the matters
16 that we hear and, essentially, that will occur at a
17 different date that we'll get from our administrative
18 staff, and she will notify all the parties of that date.
19 At that time, we basically sit around and we
20 discuss our feelings, our opinions, I should say, and our
21 conclusion after hearing the evidence and the testimony

1 and argument presented today, and that is discussed among
2 ourselves.
3 There's no input allowed, although everyone may
4 attend and sit and listen, but there will be no input
5 allowed from anybody else. It's just us.
6 And with that, unless there is anything else, we
7 will close this hearing for today. Is there anything
8 else, Mr. Gontrum?
9 MR. GONTRUM: No. Thank you.
10 THE CHAIRMAN: Mr. Richter?
11 MR. RICHTER: No.
12 THE CHAIRMAN: Thank you very much.
13 (Hearing concluded.)
14 * * * * *
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16
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Witness	Direct	Cross	Redirect	Recross
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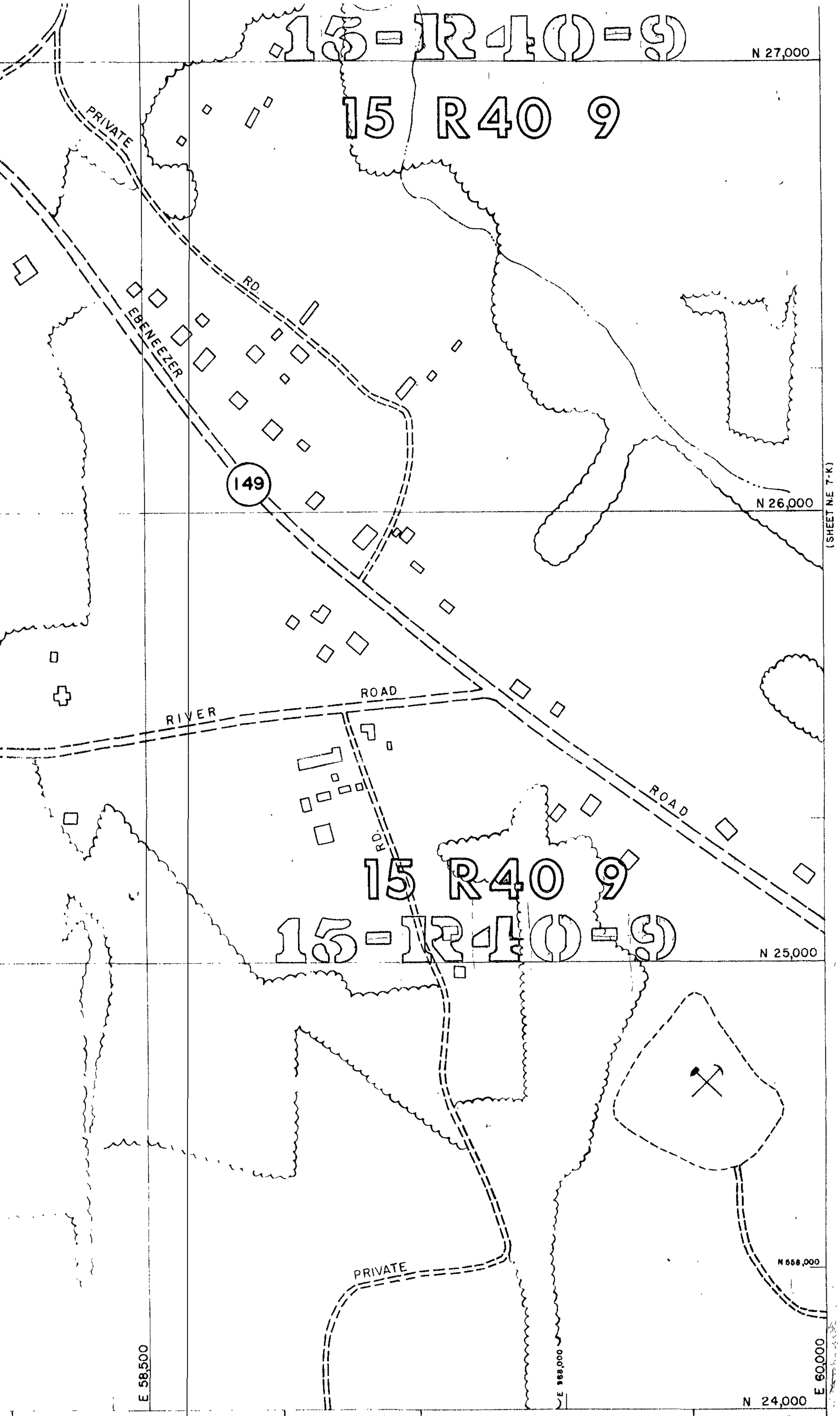
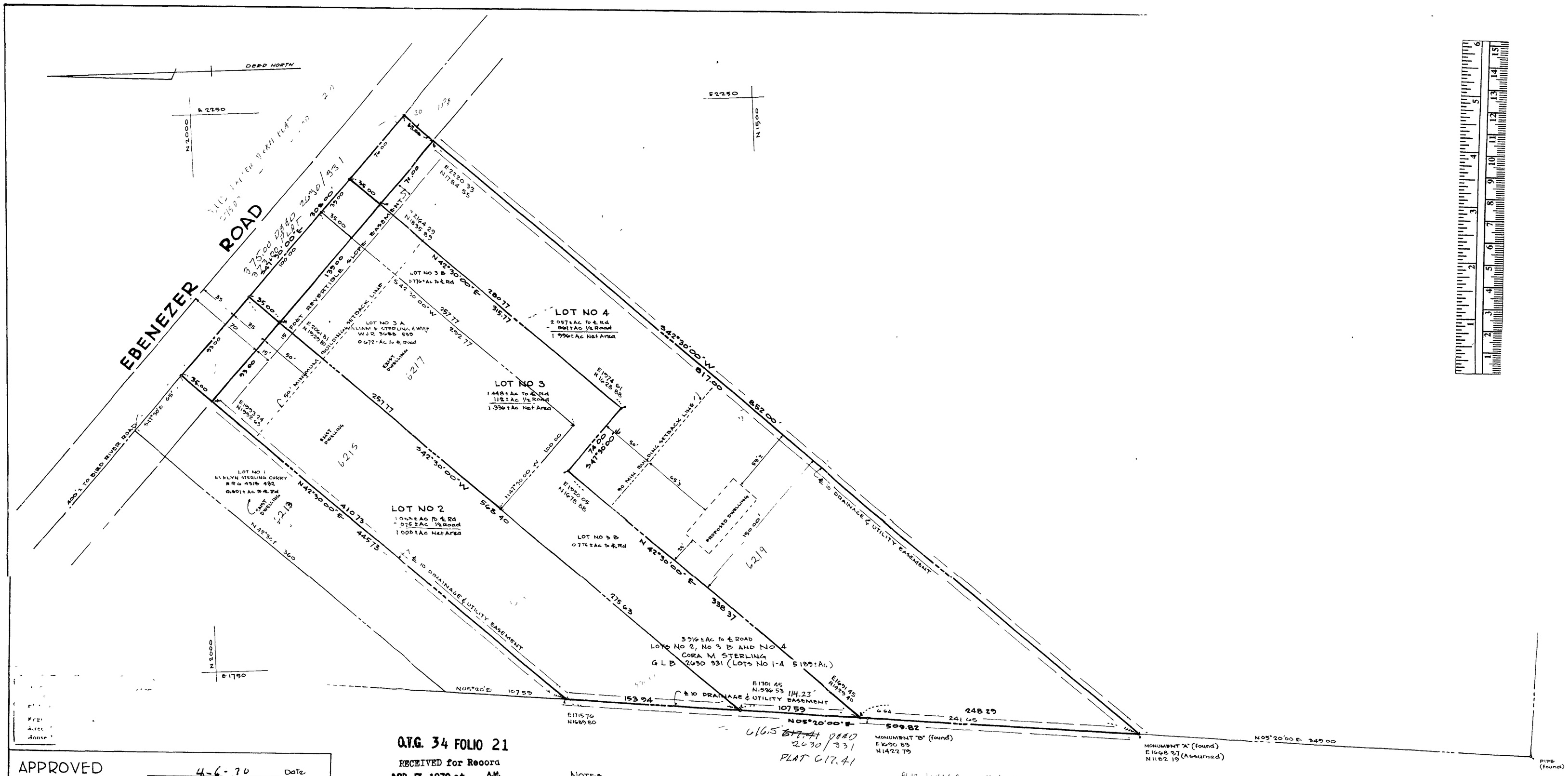


REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200'	COWENTON	N.E.
1955 Zoning				

APP #1



O.T.G. 34 FOLIO 21

RECEIVED for Record
APR 7 1970 at A.M. P.M.
same day recorded in liber O.T.G. No. ____ folio ____
One of the ____ Records of Baltimore County and examined, per

Clerk

APPROVED 4-6-70 Date
BALTIMORE COUNTY HEALTH DEPARTMENT
Deputy State and County Health Officer

APPROVED 4/7/70 Date
BALTIMORE COUNTY PLANNING BOARD
George E. Gavrelis
Director, Baltimore County Planning Board

APPROVED 4/7/70 Date
BALTIMORE COUNTY HIGHWAYS DEPARTMENT
Roads Engineer, Baltimore County Highways Department

NOTES

1. The streets and/or roads shown hereon and the mention thereof in deeds are for the purposes of description only, and the same are not intended to be dedicated to public use, the fee simple title to the beds thereof is expressly reserved in the Grantors of the deed to which this plat is attached, their heirs and assigns.
2. Coordinates shown hereon are based on assumed coordinates for MONUMENT "A" and deed bearing between MONUMENTS "A" & "B"

OWNER'S CERTIFICATE

The requirements of Chapter 1016 of the Acts of 1945 as far as they relate to the making of this plat and to the setting of markers have been complied with

OWNER OF LOTS NO 2, 3 B & 4 SHOWN HEREON

OWNER OF LOT NO 3 A SHOWN HEREON

PROFESSIONAL ENGINEER AND LAND SURVEYOR ANDREW H. KNECHT No 670 REGISTERED STATE OF MARYLAND

Jan 15, 1970

SUBDIVISION OF CORA M STERLING PROPERTY ON EBENEZER ROAD
ELECTION DISTRICT NO. 15, BALTIMORE COUNTY, MARYLAND

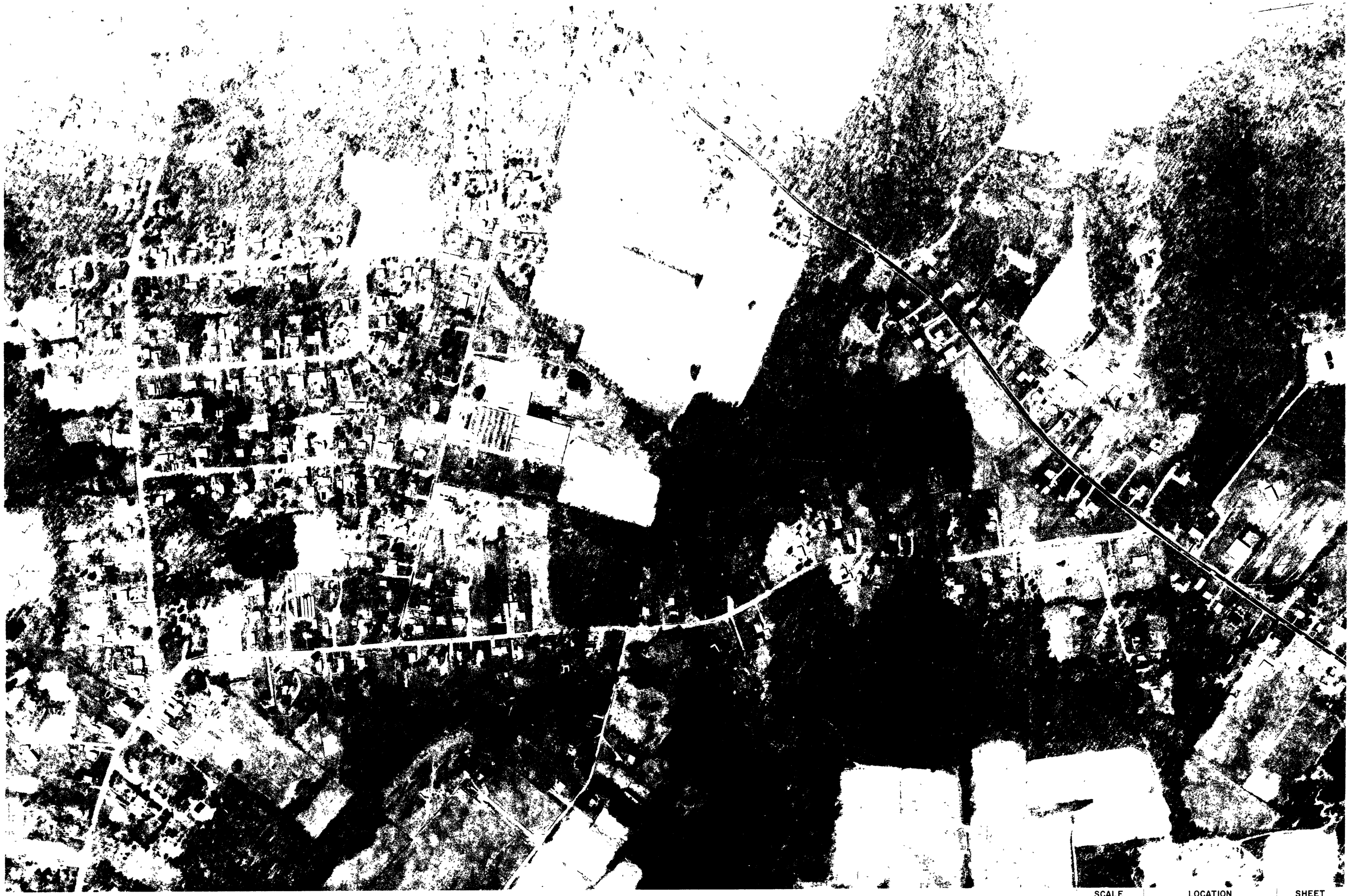
KNECHT AND HUMAN, INC
LANDSCAPE ARCHITECTS & LAND PLANNERS
15 OLD PHOENIX RD., COCKEYSVILLE, MD 21030

SCALE 1" = 50'
JANUARY 15, 1970

MSA SSU 1236-4908

34-21

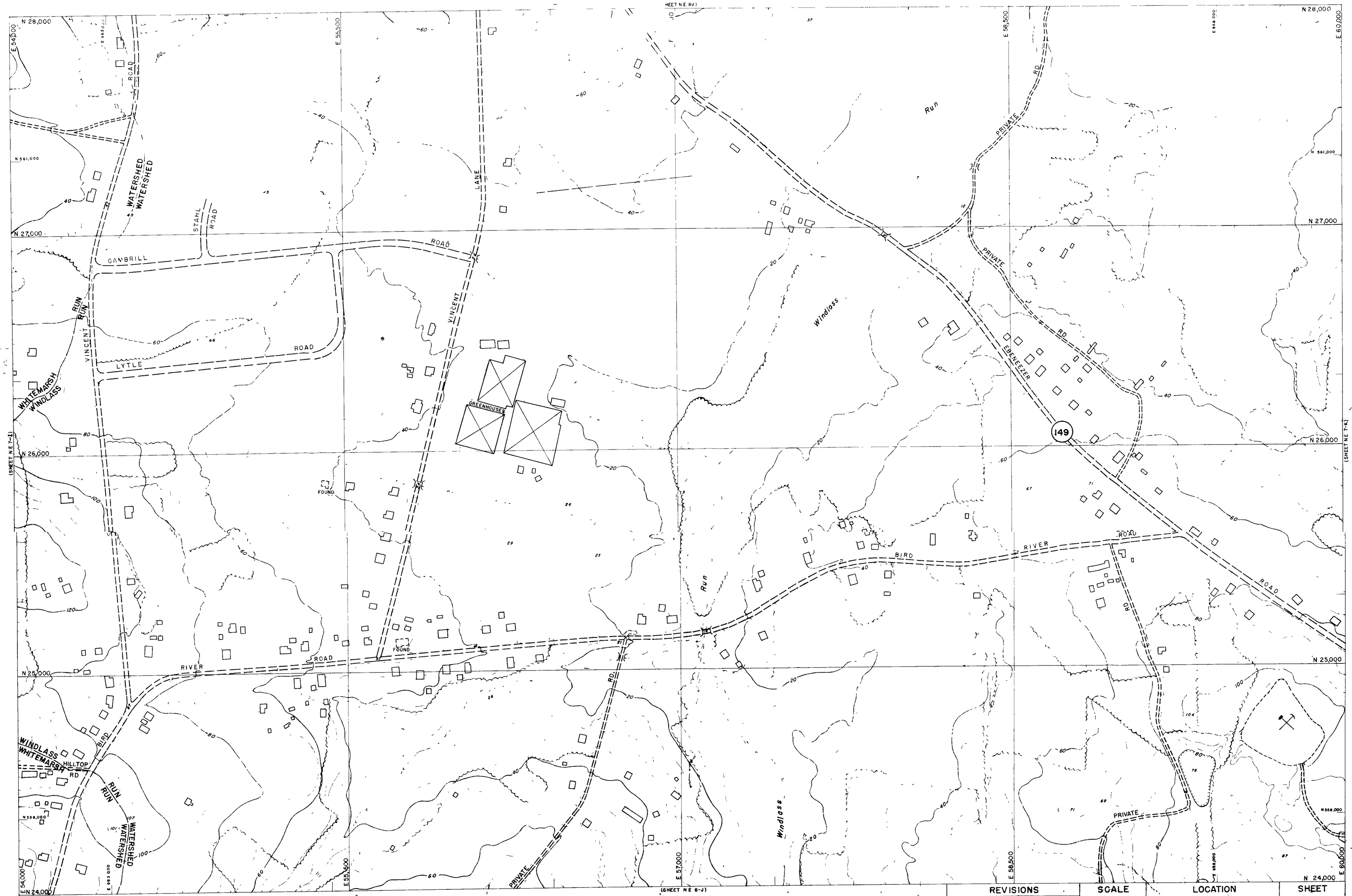
Appellants #2



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE	LOCATION	SHEET
1" = 200'±	COWENTON VICINITY	NE 7-J
DATE OF PHOTOGRAPHY JANUARY 1986	~~FB~~ 431	

PREPARED BY AIR PHOTOGRAPHICS, INC
MARTINSBURG, W V 25401



M-SE MM-SW

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	COWENTON VICINITY	NE 7-J
			DATE OF PHOTOGRAPHY APRIL 1953		

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

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Case Number 01-431-A

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PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
William Sterling	6217 EBENEZER RD	BALTO MD	21220
Janet Sterling	6217 Ebenezer Rd.	Balto. Md	21220
Lori Davenport	6213 Ebenezer Rd.	Balto Md.	21220
Bryan W Davenport	"		"
John Gortrum			

Revised 4/17/00