IN RE: PETITION FOR VARIANCE

N/S Summer Woods Way, 1720' E

centerline of Reisterstown Road

of Summer Woods

4th Election District

3rd Councilmanic District

(123 Summer Woods Way)

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

* CASE NO. 01-464-A

SHM Homes, Inc.

By: Jalal Moussavi, President, Legal Owners

Petitioners

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

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, SHM Homes, Inc. The variance request involves property located at 123 Summer Woods Way. The variance is from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a front yard setback of 10 ft. in lieu of the required 25 ft. and to amend the Final Development Plan.

Appearing at the hearing on behalf of the variance request were Helen Moussavi and Jalal Moussavi, representatives of SHM Homes, Inc. There were no others in attendance at the hearing.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.2 acres, more or less, zoned DR 3.5. The subject property is unimproved at this time. The lot in question is owned by SHM Homes, Inc., who intends to construct a single-family residential dwelling on the property. They have already constructed 15 similar homes in and around the surrounding community. During the process of constructing a home on this lot, the builder learned that there are underground springs situated to the rear of this property. As a result of these springs, the home has had to be moved closer to the street. As a result, the

12401 Comme

variance to allow the house to sit 10 ft. from the front yard setback in lieu of the required 25 ft. is generated.

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

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

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

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

THEREFORE, IT IS ORDERED this day of July, 2001, by this Deputy Zoning Commissioner, that the variance requested by Petitioners pursuant to Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a front yard setback of 10 ft. in lieu of the required 25 ft. and to amend the Final Development Plan, be and is hereby GRANTED,

ORDER RECEIVED FOR FILING
Date

7846/
Anasta

subject, however, to the following restriction which is a condition precedent to the relief granted herein:

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

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj



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

Fax: 410-887-3468

July 24, 2001

Mr. Helen Moussavi 725 Heston lane Bel Air, Maryland 21014

> Re: Petition for Variance Case No. 01-464-A

Property: 123 Summer Woods Way

Dear Ms. Moussavi:

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

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

Very truly yours,
Luthy llotroro

Timothy M. Kotroco

Deputy Zoning Commissioner

TMK:raj Enclosure

c: SHM Homes, Inc. c/o Jalal Moussavi 725 Heston lane Bel Air, MD 21014



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 123 Summer Woods Way
which is presently zoned Dr. 3,5

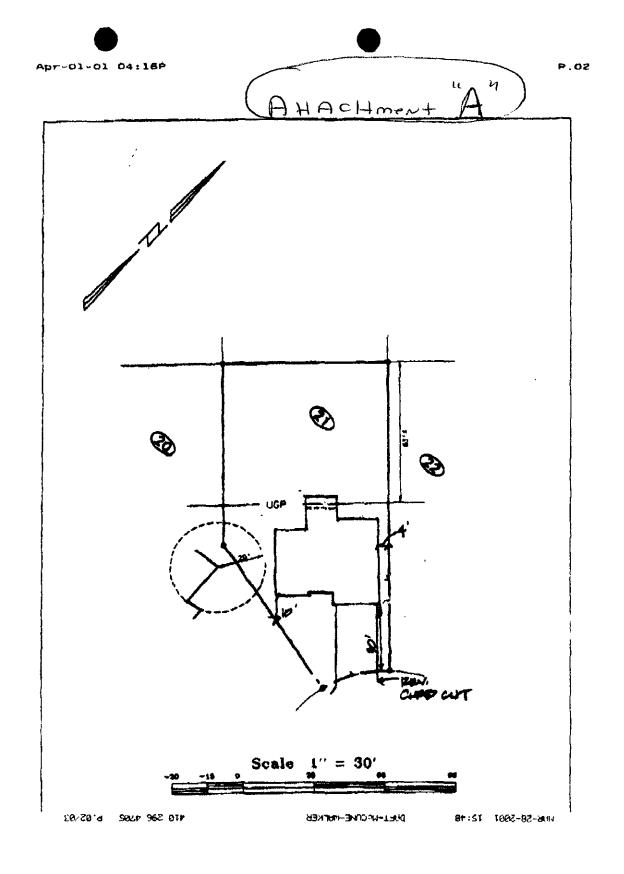
This Petition shall be filed with the Department of Permits owner(s) of the property situate in Baltimore County and which is made a part hereof, hereby petition for a Variance from Section	is described in the description and plat attached hereto and (s)
front yard setback of 10 ft, in	· lieu of the required 25 ft.
of the Zoning Regulations of Baltimore County, to the zoning lathardship or practical difficulty)	w of Baltimore County, for the following reasons: (indicate
Property is to be posted and advertised as prescribed by the zor I, or we, agree to pay expenses of above Variance, advertising, postin regulations and restrictions of Baltimore County adopted pursuant to the	g etc. and further agree to and are to be bounded by the zoning
Contract Purchaser/Lessee:	Legal Owner(s):
Name - Type or Print	SHM Homes, Inc. Name-Type or Print The transfer of the trans
Signature	Signature Helen L. Moussavi, Treesurer Stm Homes, Inc.
Address Telephone No.	Name-Type or Print Allel Common Pres. Signature JALAL MOUSSAU, Pressont
Attorney For Petitioner:	Signature SALAL MOUSSAUN, Pressioner 725 Heston Lane 41087 9677 Address Telephone No 18e 1 Hir, MD 21014 City State Zip Code
Name - Type or Print	City State Zip Code Representative to be Contacted:
Signature Sompany	Helen moussaui
ddress Telephone No.	Address Telephone No 21014
dity State Zip Code	City State Zip Code OFFICE USE ONLY
Case No. 61-464-A	UNAVAILABLE FOR HEARING

ATTACHMENT FOR PETITION OF VARIANCE – 123 Summer Woods Way, Owings Mills, 21117, LOT 21, SUMMER WOODS, (SHM HOMES, INC, Trading As Vanguard Homes

Original purchase of 123 Summer Woods Way, known as Lot 21, did not reveal the presence of underground springs, contributing to excessive underground water coming from adjoining lots onto this lot in the Summer Woods development. A trench drain (see attachment A, depicted on this site plan as UGP — Under Ground Pipe) was designed by both Herbst Benson Associates and MRA and installed by our excavator to alleviate the problem of the excess water drainage (see attachment B depicting full trench drain). Presence of this drain has reduced the building envelope of this lot now. The lot and model of home to be built are under contract to be sold under a construction permanent loan agreement. This house nor any of our other models will not fit unless a reduction of the setback from 25 feet to / 0 feet to the lot line to alot for the improved dwelling is granted. In addition, lot 21 is irregularly shaped which also contributes to the need to reduce the front footage setback.

As stated previously, the condition of the lot was undisclosed to us at the time of purchase, causing us to make remedies for the underground spring situation. Installation of the trench drain has reduced the overall building envelope and requires us to apply for this variance to the front footage setback.

Item # 464



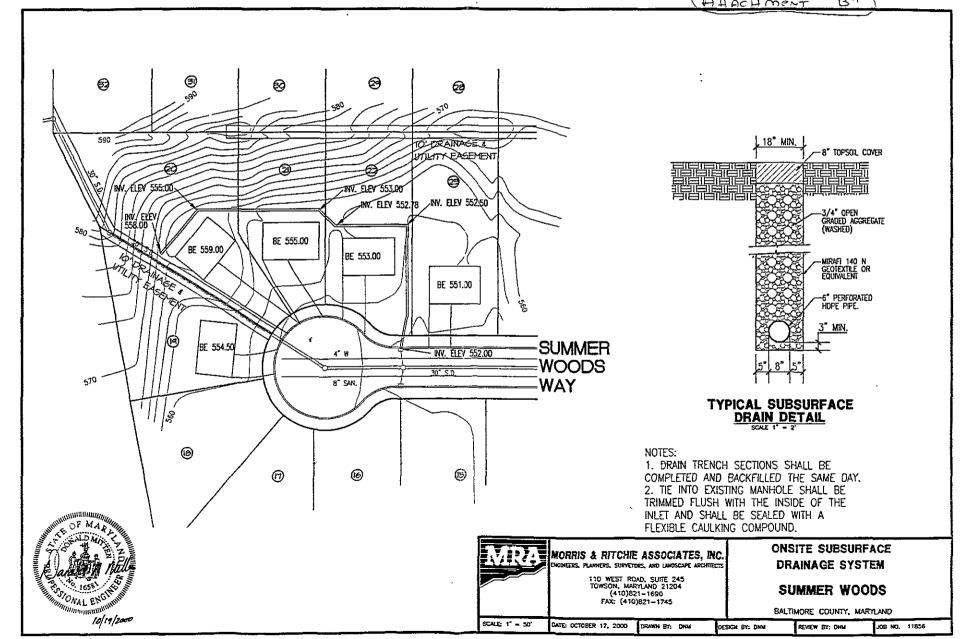
Item # 464

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MHGRAUDNAV

04/03/5001 15:46 4103262753

AHACHMENT "B"



Description

To Accompany Petition for Zoning Waiver

0.200 Acre Parcel

123 Summer Woods Way

Lot 21, Plat B, Summer Woods

North Side of Summer Woods Way

Fourth Election District, Baltimore County, Maryland

DMW

Dafr-McCunerWalker, Inc.

200 East Pennsylvania Avenue Tounon. Maryland 21,286 http://www.dmrv.com 410 296 3333 Fax 410 296 4705

A Team of Land Planners,
Landscape Archisects,
Colf Course Archisects,
Engineers, Surveyors &
Environmensal Professionals

Beginning at a point on the northwest side of Summer Woods Way, a variable width right-of-way, at a distance of 1,817 feet more or less northeasterly, southeasterly and southwesterly along the centerline of Summer Woods Way from the centerline intersection with Reisterstown Road, a variable width right-of-way. Being Lot 21 in the subdivision of Plat B, Summer Woods as recorded in Baltimore County Plat Book 68, Folio 100, containing 0.200 acres of land, more or less. Also known as 123 Summer Woods Way, and located in the Fourth Election District, and Third Councilmanic District.

THIS DISCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 23, 2001

Project No. 94097.K (L94097.K)



Item #464

Dago 1 of 1

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 <u>Iowson</u>. Maryland on the property identified herein as follows:

Case: #01-464-A
123 Summerwoods Way,
1/20 E centerline Relsterstown
Road of Summer Woods
4th Election District
3rd Councilmante District
Legal Owner(s): Jalal
Moussan, President,
SHM Homes, Inc.
Varlance: to permit a front
yard setback of 10 test in
lieu of the required 25 feet
and to amend the Final Development Plan,
Hearing: Friday, July 13,
2001 at 11:00 a.m. in
Room 407, Gounty Courts
Building, 401 Bosley Ave.

Building, 401 Bosley Ave.

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) 8873391.
6/264 June 28 C477665

CERTIFICATE OF PUBLICATION

628,2001
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 628,2001.
The Jeffersonian Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
North County News MULLIN ST
LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: CASE # 01-464-A
PETITIONER/DEVELOPER
Jalal Moussan, President of SHM
Homes, Inc.
DATE OF HEARING
July 13, 2001 11:00 AM

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT COUNTY OFFICE BUILDING, ROOM 111 111 WEST CHESAPEAKE AVE. TOWSON, MARYLAND 21204

ATTENTION: GEORGE ZAHNER

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

ZONNG NOTICE

CASE S. OLASIA

A PUBLIC HEARING WILL BE HELD BY
THE ZONNO COMPLISATION
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01-464-A

6/23/01

POSTED ON June 26, 2001

LOCATION

123 Summerwood Way N/S Summerwood Way 1720' E. centerline Reisterstown Road and Summerwoods

DATE June 26, 2001

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD SUITE 100 320EAST TOWSONTOWN BLVD TOWSON, MARYLAND 21286 410-823-4470 PHONE 410-823-4473 FAX

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:
Item Number or Case Number: 01-464-A
Petitioner: Helen Moussavi, SHM Homes, Inc.
Address or Location: 123 Summer Woods WAY OWINGS MILLS, MO 21117
PLEASE FORWARD ADVERTISING BILL TO:
Name: SHm Homes, Inc
Address: 125 Heston Lane
B=1 A1-1 mp 21014
Telephone Number: 410 8796772

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY

Thursday, June 28, 2001 Issue - Jeffersonian

Please forward billing to:

SHM Homes Inc Jalal Moussan 725 Heston Lane Bel Air MD 21014

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: 01-464-A 123 Summerwoods Way

N/S Summerwoods Way, 1720' E centerline Reisterstown Road of Summer Woods

4th Election District – 3rd Councilmanic District

Legal Owner: Jalal Moussan, President, SHM Homes Inc

<u>Variance</u> to permit a front yard setback of 10 feet in lieu of the required 25 feet and to amend the Final Development Plan.

HEARING:

Friday, July 13, 2001 at 11:00 a.m. in Room 407, County Courts Building,

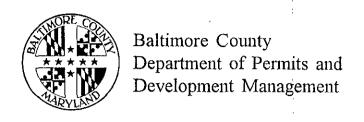
401 Bosley Avenue

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALL

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.



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

Fax: 410-887-5708

June 6, 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:

CASE NUMBER: 01-464-A 123 Summerwoods Way

N/S Summerwoods Way, 1720' E centerline Reisterstown Road of Summer Woods

4th Election District – 3rd Councilmanic District

Legal Owner: Jalal Moussan, President, SHM Homes Inc.

<u>Variance</u> to permit a front yard setback of 10 feet in lieu of the required 25 feet and to amend the Final Development Plan.

HEARING: Friday, July 13, 2001 at 11:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue

Arnold Jablon Director

C: Jalal Moussan, President, SHM Homes Inc 725 Heston Lane, Bel Air 21014 Helen Moussan, 725 Heston Lane Bel Air 21014

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JUNE 28, 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.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: June 4, 2001

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01-464, 01-473, 01-474, 16-477, & 01-479

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Section Chief:

AFK/JL:MAC

ZONING HEARING FILE INTERNAL CHECKLIST

Zoning Case No. 01-464-A

Date Completed/Initials	
6-1-01 6-5-01	PREPARE HEARING FILE (put case number on all papers; hole punch and place appropriately; put label and case number on folder; complete information on stamp or front of folder)
6-1-01	DETERMINE HEARING DATE (schedule within 45 days of filing; post and advertise at least 15 days prior to hearing)
6-5-0/	TYPE HEARING NOTICE AND ADVERTISING NOTICE (type according to sample, taking billing information for advertising from advertising form in file; make appropriate copies; mail original and copies of hearing notice; place original advertising notice in Patuxent's box; file copies of both notices in hearing file; update ZAC in computer for hearing date, time and place)
	UPDATE ZONING COMMISSIONER'S HEARING CALENDAR (keep original in "red" folder; mail copy to zoning commissioner's office)
and the second s	COMPLETE FILE (write hearing date, time, and room on front of hearing folder, file in numerical order in cabinet next to copier until it is pulled for sending to zoning commissioner's office)
	POSTPONEMENTS (type postponement letter; make appropriate copies; mail original and copies; send copy to zoning commissioner; file copy in hearing file; update hearing calendar and ZAC in computer)
The state of the s	RESCHEDULING (determine hearing date; type letter confirming new date; make appropriate copies; mail original and copies; file copy in hearing file; update hearing calendar and ZAC in computer; refile hearing folder)
	INDEX CARDS (prepare index cards, according to sample; file cards in cabinet)
	ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)
	COMMENTS (check off agency comments received on front of hearing file; make copies; type comments letter; mail original to petitioner; file copy in hearing file)
	FILES TO ZONING COMMISSIONER'S OFFICE (pull the files for the following week every Friday and administrative files on Tuesday; verify that checklist on front of hearing file has been completed; secure all papers under clips in file; send files for hearings to zoning commissioner's office by noon on Friday and files for administrative on Tuesday morning)



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

June 5, 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 21, 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:

461, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 477, 478, 479, 482, 483,

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

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: June 5, 2001

Department of Permits & Development Mgmt.

FROM:

Dop

Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For May 29, 2001

Item Nos. 461, 463, 464, 465, 466, 467, 469, 470, 472, 473, 474, 475, 478, 480,

483, and 006

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

RWB:HJO:jrb

cc: File





RE: PETITION FOR VARIANCE
123 Summer Woods Way, N/S Summer Woods Way,
1720' E of c/l Reisterstown Rd
4th Election District, 3rd Councilmanic

Legal Owner: SHM Homes, Inc. Petitioner(s)

BEFORE THE

- * ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * Case No. 01-464-A

* * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel Old Courthouse, Room 47

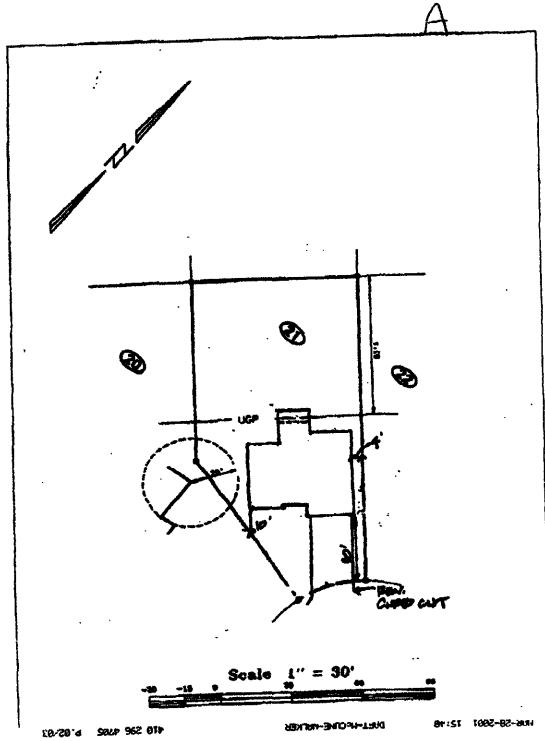
400 Washington Avenue

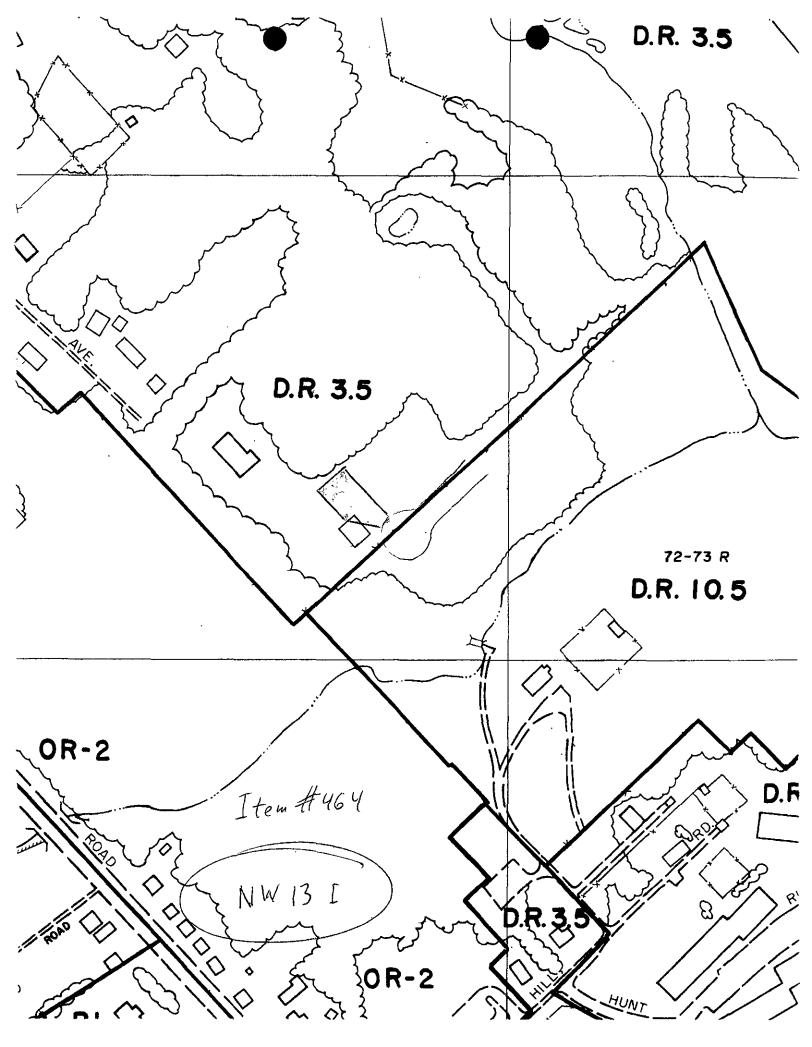
Towson, MD 21204 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of June, 2001 a copy of the foregoing Entry of Appearance was mailed to Legal Owner SHM Homes, Inc., 725 Heston Lane, Bel Air, MD 21014, Petitioner.

PETER MAX ZIMMERMAN





Plat to accompany Petition for Zoning Variance	e Special Hearing
PROPERTY ADDRESS: 123 Jummer Words Way see pages 5 & 6 of the	CHECKLIST for additional required information
Subdivision name: Symmer Woods plat book# 68, tollo# 180, lot# 21, section#	
•	Sig. Chiunglan
OWNER: SHM Homes, Inc.	SITE
Drainage and Utility Easement	
149.00	
Orainage and Utility Easement N 46*28'41" E 359.00" 22.00027021	PLAT B
2200027019 2200027020 2200027021	PLAT A PLAT B
20 21 5 (22)	
9 360 Ac : 3 200 Ac.: 7 3.245 Ac.:	apri huy mi
Vacant Quacant Vacant	Vicinity Map
Z 1123	scale: 1'=1000'
220002702) 220002702)	LOCATION INFORMATION
Inc = SHM Homes, Inc.	Election District: 4
- Local Open	Councilmanic District: 3
Local Open Space 1.145 Ac.± 1.19 Space Space	1'-200' scale map#: N.W. 13-I
1:145 Ac.± 000 Uling Case 10.25' L-10 Cs.	Zoning: D. R 3.5
	Lot size: 0.2 8,7/2 acreage square feet
Forest Buffer and 0.237 Ac = \$127	
crest Conservation Easement R=25.00'	SEWER:
7 1.001 Ac.±	WATER: 📑
\$ 36.33.09" \ 108.52' \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	Chesapeake Bay Critical Area:
	Prior Zoning Hearings:
North 18 /136 136 136 136	
North 1 To 100	Zoning Office USE ONLY! reviewed by: ITEM #: CASE#:
prepared by: OAC+ mccone Scale of Drawing: 1 = 50	reviewed by: ITEM #: CASE#:
WALKER Inc.	BR 464 01-464-A

Pot Cx#1

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

Photographs A

Printed with Soybean Ink





