

IN RE: PETITION FOR VARIANCE
E/S Cool Meadow Court, 658' E
centerline of White Marsh Road
14th Election District
6th Councilmanic District
(#17 Cool Meadow Court)

Shipping Creek, LLC, *Legal Owners*
and Sierra Homes, Inc., *Contract Purchaser*
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 01-492-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, Shipping Creek, LLC and the contract purchaser, Sierra Homes, Inc. The variance request is from Sections 1B01.2.C.1.b and 504 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a rear dwelling setback of 27 ft. in lieu of 30 ft. and an open deck setback of 17 ft. in lieu of 22.5 ft. for a proposed dwelling and open deck and to amend the *Final Development Plan* for Lot #17 of the Wolf Property.

Appearing at the hearing on behalf of the variance request were Sandy Eshelman, appearing on behalf of Sierra Homes, Dwight Little, professional engineer who prepared the site plan of the property and Ron Decker, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, namely Joseph Dieter, Jackie Dieter and Linda Rosier, all of whom were represented by J. Carroll Holzer, attorney at law. There were no others in attendance at the hearing.

Testimony and evidence indicated that the property, which is the subject of this variance request, is shown as Lot #9 on the site plan submitted into evidence. The subject property is unimproved at this time. It is located at the end of Cool Meadow Court, which is a cul-de-sac road. The subject property backs up to property owned by Ronald and Linda Rosier, the

ORDER RECEIVED FOR FILING
DATE 7/24/01
BY R. J. JAMES

protestants herein. The testimony offered by the Developer indicated that as a result of the location of forest buffers around this lot, the variance request is necessary in order for the Developer to construct a home of similar size and character to other homes within the subject community. Mr. Little testified that the Developer was already granted a forest buffer variance from DEPRM, in order to construct the house as shown on the site plan. However, given the size of the home, the variance to the rear lot line is necessary.

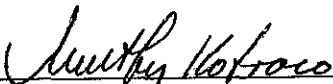
As stated previously, several residents from the surrounding community appeared in opposition to the Petitioners' request. Ms. Rosier lives directly behind the lot where this house is proposed to be constructed. She strongly opposes the granting of any variance for a house on this lot. She feels that the house in question will be situated too close to her property, given the size and mass of the houses being built in that community. She feels the house would be too tall to be situated that close to the rear property line. Furthermore, the testimony offered by the Protestants demonstrated that the Developer was aware, at the time that the Development Plan was approved for this Wolf property, that some of the lots within the subdivision were small and constructing a home on these lots would be difficult. Therefore, the citizens feel that the size and configurations of these lots were a result of a self-created hardship and that the variance request is generated by the Developer desiring to construct a large home on an otherwise small lot. Accordingly, they ask that the variance be denied.

After considering the testimony and evidence offered at the hearing, I find that the variance request should be denied. It is apparent that the Developer is attempting to construct a home that is too large for this lot, given the setback requirements of this property.

THEREFORE, IT IS ORDERED this 24th day of July, 2001, by this Deputy Zoning Commissioner, that the variance requested by Petitioners pursuant to Sections 1B01.2.C.1.b and

504 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a rear dwelling setback of 27 ft. in lieu of 30 ft. and an open deck setback of 17 ft. in lieu of 22.5 ft. for a proposed dwelling and open deck and to amend the Final Development Plan for Lot #17 of the Wolf Property, 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

ORDER RECEIVED FOR FILING
Date 7/24/01
By D.C. Jenson



Baltimore County
Zoning Commissioner

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

July 24, 2001

Ronald Decker, Esquire
Moore, Carney, Ryan & Lattanzi, LLC
411 E. Joppa Road
Baltimore, Maryland 21236

Re: Petition for Variance
Case No. 01-492-A
Property: #17 Cool Meadow Court

Dear Mr. Decker:

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,

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

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

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



Printed with Soybean Ink
on Recycled Paper

Copies to:

Sierra Homes, Inc.
c/o Sandy Eshelman, Vice-President
4208 Ebenezer Road
Baltimore, MD 21236

Dwight Little, P.E.
1045 Taylor Avenue, Suite 101
Towson, MD 21286

J. Carroll Holzer, Esquire
508 Fairmount Road
Towson, MD 21286

Mr. & Mrs. Joseph Dieter
8911 Clement Avenue
Parkville, MD 21234

Ms. Linda Rosier
4910 White Marsh Road
Baltimore, MD 21237



ORIGINAL; KEEP IN ZONING FILE

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at #17 Cool Meadow Ct.
which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1801.2.C.1. b AND 504 AND 301.1

(BCZR) TO PERMIT A REAR DWELLING SETBACK OF 27 FT. IN LIEU OF 30 FT. AND A OPEN DECK SETBACK OF 17 FT. IN LIEU OF 22 1/2 FT. FOR A PROPOSED DWELLING AND OPEN DECK. AND TO AMEND THE FINAL DEVELOPMENT PLAN FOR LOT #17 OF THE WOLF PROPERTY.

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

To be discussed at the Hearing

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

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

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

Contract Purchaser/Lessee:

Sierra Homes, Inc.
Name - Type or Print
[Signature]
Signature
4208 Ebenezer Road 410-256-1000
Address Telephone No.
Baltimore MD 21236
City State Zip Code

Attorney For Petitioner:

Ronald Decker
Name - Type or Print
[Signature]
Signature
Moore, Carney, Ryan, Lattanzi, LLC
Company
411 E. Joppa Road 410-529-4600
Address Telephone No.
Baltimore MD 21236
City State Zip Code

Legal Owner(s):

Shipping Creek, LLC
Name - Type or Print
[Signature] by James Earl, MEMBER
Signature
4208 Ebenezer Road 410-256-1000
Address Telephone No.
Baltimore MD 21236
City State Zip Code

Representative to be Contacted:

Chuck Merritt 410-296-1636
Name
1045 Taylor Ave, Suite 101
Address Telephone No.
Baltimore MD 21286
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 20 MIN +

UNAVAILABLE FOR HEARING NR
Reviewed By JL Date 5/18/01

FOR SCHEDULING.

TO BE HEARD WITH CASES FOR
LOTS 4 AND 10 OF WOLF PROP,

ORDER RECEIVED FOR FILING

Date
By

Case No 01-A92-A

REC 9/15/98

492

ZONING DESCRIPTION FOR #17 Cool Meadow Court

Beginning at a point on the east side of Cool Meadow Court which is 50' wide at the distance of 658' east of the centerline of the nearest improved intersecting street, White Marsh Road, which is 60' wide. Being lot #9, in the subdivision of Wolf Property as recorded in Baltimore County Plat Book #73, Folio #61, containing 9,775 SF or 0.2244 AC. Also known as #17 Cool Meadow Court and located in the 14th Election District, 6th Councilmanic District.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

JL 492

No.

92892

DATE 5/18/01

ACCOUNT 001 006 6150

AMOUNT \$ 100.00

RECEIVED
FROM

Summit Homes Inc.

FOR

RV and second FDP Agency

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PAYMENT

ACTUAL

TIME

5/18/2001

5/18/2001

09:44:06

RECEIPT # 213612

5 528 ZONING VERIFICATION

CR NO. 092892

Receipt Tot 100.00
100.00 OK .00 CA
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: #01-492-A

#17 Cool Meadow Court

E/S Cool Meadow Court, 658' E centerline White Marsh Road

14th Election District - 6th Councilmanic District

Legal Owner(s): Thomas Speil, Member, Shipping Creek LLC

Contract Purchaser: Sandy Eshelman, VP, Sierra Homes, Inc.

Variance: to permit a rear dwelling setback of 27 feet in lieu of 30 feet and a open deck setback of 17 feet in lieu of 22 1/2 feet for a proposed dwelling and open deck and to amend the final development plan for lot # 17 of the Wolf Property.

Hearing: Friday, July 13, 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.

6/26/01 June 28

0477845

CERTIFICATE OF PUBLICATION

6/28/, 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 6/28/, 2001.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 01-492-A

Petitioner/Developer: _____

SIERRA HOMES, INC.

Date of Hearing/Closing: 7-13-01

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 _____

17 COOL MEADOW COURT

The sign(s) were posted on JUNE 21, 2001

(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)



ZONING NOTICE

CASE # 01-492-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

ROOM 407, COUNTY COURTS
PLACE: BLDG., 401 BOSLEY AVENUE
DATE AND TIME: TUESDAY, JULY 15, 2001
AT 2:00 P.M.
REQUEST: VARIANCE TO PERMIT A REAR
DWELLING SETBACK OF 27 FEET IN LIEU OF
30 FEET AND A OPEN DECK SETBACK OF 17 FEET
IN LIEU OF 22 1/2 FEET FOR A PROPOSED DWELLING
AND OPEN DECK AND TO AMEND THE FINAL DEVELOP-
MENT PLAN FOR LOT "7" OF "THE WOLF PROPERTY"
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 410-338-3301
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

22 2001

RECEIVED
F. PERMANENT
ENT 100

CERTIFICATE OF POSTING

REVISED
6-21-01

RE: Case No.:

01-492-A

Petitioner/Developer:

SIERRA HOMES, INC.

Date of Hearing/Closing: JULY 13, 2001

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

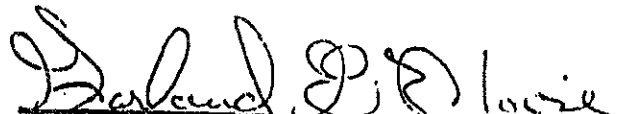
LOT #9 #15 COOE MEADOW COURT

The sign(s) were posted on

JUNE 21, 2001

(Month, Day, Year)

Sincerely,

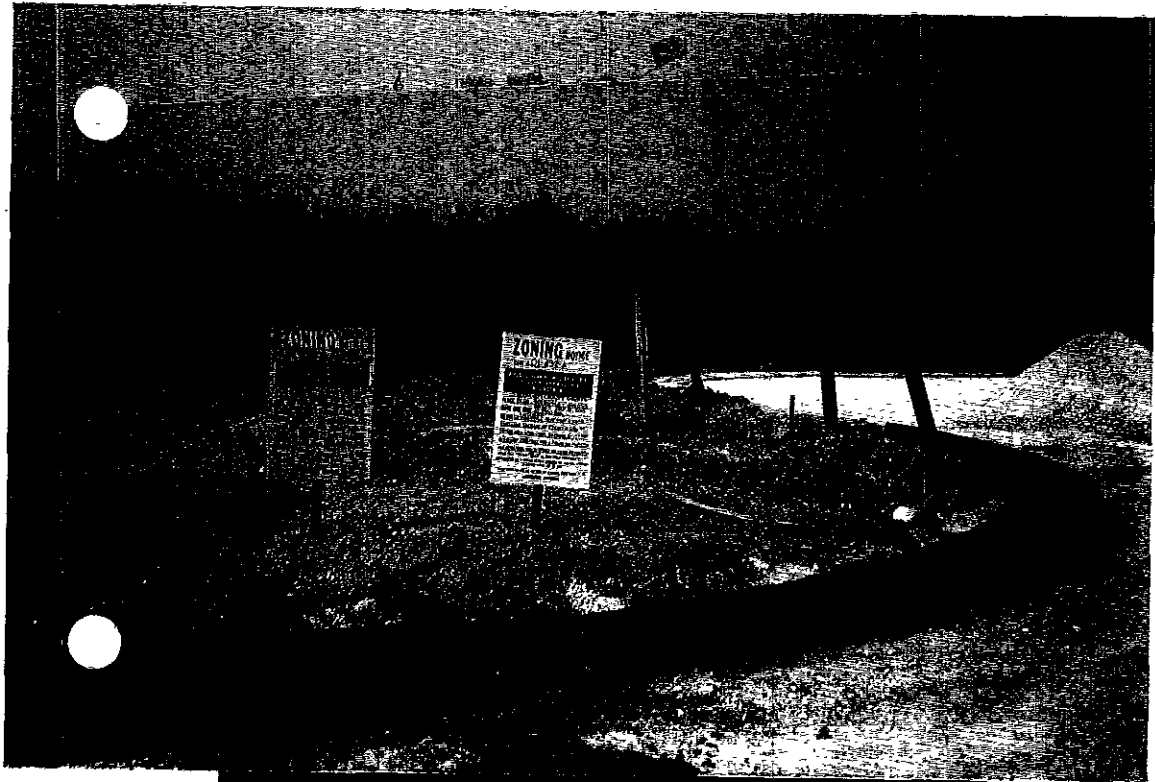

(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)



ZONING NOTICE

CASE # 01-492-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

ROOM 407, COUNTY COURTS
PLACE BLDG., 401 BOSLEY AVENUE
FRIEDAY, JULY 13, 2001
DATE AND TIME: AT 2:00 P.M.

REQUEST: VARIANCE TO PERMIT A BEAR
DWELLING SETBACK OF 27 FEET IN LIEU OF
30 FEET AND A OPEN DECK SETBACK OF 17 FEET
IN LIEU OF 22 1/2 FEET FOR A PROPOSED DWELLING

AND OPEN DECK AND TO AMEND THE FINAL DEVELOP-
MENT PLAN FOR LOT 9 AND THE NEAR PROPERTY
INFORMATION: ONE TO SEVENTEEN OR OTHER CONDITIONS ARE SOMETIME NECESSARY
TO CONSIDER HEARING CALL 410-311-1101

BY THE COMMISSIONER ONE AND FORTY DAYS OF HEARING UNDER PENALTY OF LAW
HANDSIGNED: [Signature]

2001

RE: PETITION FOR VARIANCE
17 Cool Meadow Court, E/S Cool Meadow Ct,
658' E of c/l White Marsh Rd
14th Election District, 6th Councilmanic

Legal Owner: Shipping Creek, LLC
Contract Purchaser: Sierra Homes, Inc.
Petitioner(s)

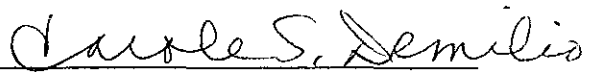
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-492-A

* * * * *

ENTRY OF APPEARANCE

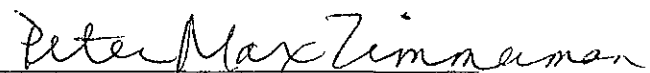
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation 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 18th day of June, 2001 a copy of the foregoing Entry of Appearance was mailed to Ronald A. Decker, Esq., Moore, Carney, Ryan, 4111 E. Joppa Road, Suite 201, Baltimore, MD 21236, attorney for Petitioner(s).


PETER MAX ZIMMERMAN

TO: PATUXENT PUBLISHING COMPANY
Thursday, June 28, 2001 Issue – Jeffersonian

Please forward billing to:
Sandy Eshelman VP
Sierra Homes Inc
4208 Ebenezer Road
Baltimore MD 21236

410 256-1000

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: 01-492-A
17 Cool Meadow Court
E/S Cool Meadow Court, 658' E centerline White Marsh Road
14th Election District – 6th Councilmanic District
Legal Owner: Thomas Sperl, Member, Shipping Creek LLC
Contract Purchaser: Sandy Eshelman, VP, Sierra Homes Inc

Variance to permit a rear dwelling setback of 27 feet in lieu of 30 feet and a open deck setback of 17 feet in lieu of 22 ½ feet for a proposed dwelling and open deck and to amend the final development plan for lot # 17 of the Wolf Property.

HEARING: Friday, July 13, 2001 at 2:00 p.m. in Room 407, County Courts Building,
401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL
ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S
OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT
THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 10, 2001 Issue – Jeffersonian

Please forward billing to:
Sandy Eshelman VP
Sierra Homes Inc
4208 Ebenezer Road
Baltimore MD 21236

410 256-1000

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: 01-492-A

17 Cool Meadow Court

E/S Cool Meadow Court, 658' E centerline White Marsh Road

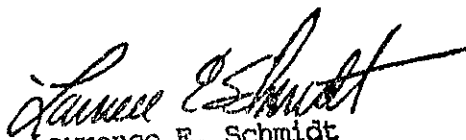
14th Election District – 6th Councilmanic District

Legal Owner: Thomas Sperl, Member, Shipping Creek LLC

Contract Purchaser: Sandy Eshelman, VP, Sierra Homes Inc

Variance to permit a rear dwelling setback of 27 feet in lieu of 30 feet and a open deck setback of 17 feet in lieu of 22 ½ feet for a proposed dwelling and open deck and to amend the final development plan for lot # 17 of the Wolf Property.

HEARING: Tuesday, July 24, 2001 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT G D Z
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

June 13, 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: 01-492-A
17 Cool Meadow Court
E/S Cool Meadow Court, 658' E centerline White Marsh Road
14th Election District – 6th Councilmanic District
Legal Owner: Thomas Sperl, Member, Shipping Creek LLC
Contract Purchaser: Sandy Eshelman, VP, Sierra Homes Inc

Variance to permit a rear dwelling setback of 27 feet in lieu of 30 feet and a open deck setback of 17 feet in lieu of 22 ½ feet for a proposed dwelling and open deck and to amend the final development plan for lot # 17 of the Wolf Property.

HEARING: Tuesday, July 24, 2001 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon G72
Director

C: Ronald Decker, Moore Carney Ryan Lattanzi LLC, 411 E Joppa Rd, Baltimore 21236
Thomas Sperl, Member, Shipping Creek LLC, 4208 Ebenezer Rd, Baltimore 21236
Sandy Eshelman VP, Sierra Homes Inc, 4208 Ebenezer Rd, Baltimore 21236
Chuck Merritt, 1045 Taylor Ave, Ste 101, Baltimore 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 9, 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
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

June 19, 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: 01-492-A

17 Cool Meadow Court

E/S Cool Meadow Court, 658' E centerline White Marsh Road

14th Election District – 6th Councilmanic District

Legal Owner: Thomas Sperl, Member, Shipping Creek LLC

Contract Purchaser: Sandy Eshelman, VP, Sierra Homes Inc

Variance to permit a rear dwelling setback of 27 feet in lieu of 30 feet and a open deck setback of 17 feet in lieu of 22 ½ feet for a proposed dwelling and open deck and to amend the final development plan for lot # 17 of the Wolf Property.

HEARING: Friday, July 13, 2001 at 2:00 p.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

C: Ronald Decker, Moore Carney Ryan Lattanzi LLC, 411 E Joppa Rd, Baltimore 21236
Thomas Sperl, Member, Shipping Creek LLC, 4208 Ebenezer Rd, Baltimore 21236
Sandy Eshelman VP, Sierra Homes Inc, 4208 Ebenezer Rd, Baltimore 21236
Chuck Merritt, 1045 Taylor Ave, Ste 101, Baltimore 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, JUNE 22, 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.

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: 492

Petitioner: Sierra Homes, Inc.

Address or Location: #17 Cool Meadow Ct.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Sierra Homes, Inc.

Address: 4208 Ebenezer Road

Baltimore MD 21236

Telephone Number: (410) 256-1000



Baltimore County
Fire Department

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

June 12, 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 June 11, 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:

460, 484, 486, 487, 488, 489, 490, 491, 492, 493, 495,
496, 497, 498, 500, and 501

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

cc: File

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



Jim
7/13

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 21, 2001

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

SUBJECT: 17 Cool Meadow Court

JUN 21

INFORMATION:

Item Number: 01-492

Petitioner: Shipping Creek, LLC.

Zoning: DR 5.5

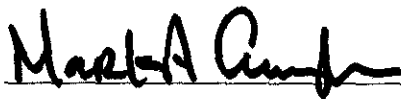
Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

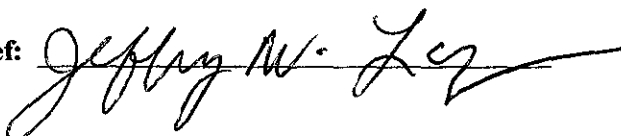
The Office of Planning does not support the request. During the review of the Wolf property concept and development plans, this office advised the developer's engineer that due to the size and configuration of the proposed lots, numerous variances would be necessary. The Office of Planning also indicated that this office would not support variances due to the fact that the developer had the option to create lots adequate in size to meet the required setbacks.

Additionally, it should be noted that the proposed deck abuts an off-site property shown on the site plan as owned by Ronald and Linda Rosier. This office brings to the attention of the Hearing Office, restriction #2 of the order dated May 10, 2000 which required screening along the common property line with Ms. Linda Rosier and restriction #3 regarding protection of the Rosier property from storm water runoff. This office supports those restrictions and would like to be updated on how the developer has complied with them.

Prepared by:



Section Chief:
AFK:MAC:





**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 6.13.01

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

RE: Baltimore County
Item No. 492

JJL

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,

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

My telephone number is _____

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

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

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

#01-492-A

NAME

ADDRESS

Dwight Little

1045 Taylor Ave, Suite 101 21286

Sandy Estelmann

4206 Ebenezer Rd. 21236

Ron Decker

4111 Jappa Rd. 21236



Case Number _____

PLEASE PRINT LEGIBLY

PROTESTANT'S SIGN-IN SHEET

[illegible]

MOORE, CARNEY, RYAN AND LATTANZI, L.L.C.

ATTORNEYS AT LAW

4111 E. JOPPA ROAD, SUITE 201
BALTIMORE, MARYLAND 21236

(410) 529-4600

FAX (410) 529-6146

E SCOTT MOORE
(1926-1992)

PARALEGAL STAFF

SHARON L. WARDROPE
SALLY J. DRIBNACK

ROBERT E. CARNEY, JR.
RICHARDE LATTANZI
RONALD A. DECKER
ROBERT J. BRANNAN
JUDITH L. HARCLERODE

LISA M. L. EISEMANN

June 20, 2001

Mr. Arnold Jablon, Director
Baltimore County Department of
Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Attn: George Zahner

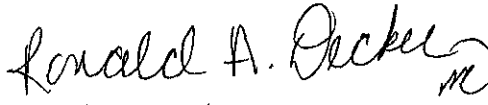
Re: Case Nos.: 01-492-A and 01-493-A
8 Cool Meadow Court
17 Cool Meadow Court

Dear Mr. Zahner:

This will confirm my telephone conversation with you regarding hearings in the captioned case. I requested earlier dates, and asserted that my clients would have the property posted by Friday, June 22, if an earlier hearing date could be granted. As a result, you graciously changed the hearings to Friday, July 13, at 2:00 p.m.

Thank you for your kind consideration.

Very truly yours,


Ronald A. Decker

RAD/mc
cc: Sandy Eshelman, Vice President
Sierra Homes, Inc.
Chuck Merfitt
Thomas Sperl



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

July 17, 2001
#7266

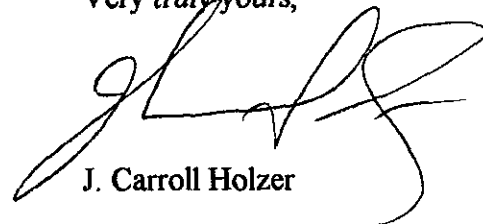
Timothy Kotroco
Deputy Zoning Commissioner
for Baltimore County
401 Bosley Avenue
Towson, MD 21204

Re: Protestants Exhibits 1 thru 4
Case No. 01-492A and 01-493A

Dear Mr. Kotroco:

Enclosed please find the copy of Protestants Exhibits one through four submitted in the above captioned case. Copies are also being forwarded to Mt. Decker as promised.

Very truly yours,



J. Carroll Holzer

cc: Ronald A. Decker

18

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
N/S White Marsh Road		
E Grapevine Lane	*	HEARING OFFICER
14th Election District		
6th Councilmanic District	*	OF BALTIMORE COUNTY
(Wolf Property)		
	*	Case No. XIV-252
G H Development		
Petitioner	*	

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County as a requested approval of a Development Plan prepared by W. Duvall & Associates, Inc. for the development of the subject parcel of property with 24 single-family residential homes. The subject property contains 11.702 acres and is zoned D.R.5.5. It is located on the north side of White Marsh Road east of its intersection with Grapevine Lane in the Fullerton area of Baltimore County. The subject property is known as the Wolf Property, the owners being Charlotte and Margaret Wolf. The property is proposed to be developed by G. H. Development.

Appearing at the hearing on behalf of the Development Plan approval request were Dwight Little, professional engineer with W. Duvall & Associates, the firm that prepared the Development Plan of the property and Rob Hoffman, attorney at law, representing the Petitioner. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, David Bauer and Mitch Kellman (Zoning) and Stephany Wright (Land Acquisition), all from the Office of Permits & Development Management; Allison Cauthorn and R. Bruce Seeley from the Department of Environmental Protection and Resource Management; Lynn Lanham from the Office of Planning; and Jan Cook from the Department of Recreation & Parks, who was represented at the hearing by Amanda Conn, attorney with the Baltimore County Office of Law. In addition, several citizens from the surrounding community also attended the hearing: Linda Rosier, Joseph Dieter, Marlene Wheeler, Kathleen Waxman and Jackie Dieter.

ORDER RECEIVED FOR FILING

Date

5/10/00

By

J. L. [Signature]

Prot 1

As to the history of the project, a Concept Plan Conference was held on October 4, 1999, followed by a Community Input Meeting held at the Perry Hall Elementary School on November 22, 1999. A Development Plan Conference followed on April 5, 2000 and a Hearing Officer's Hearing was held on April 27, 2000 in Room 106 of the County Office Building.

At the Hearing Officer's hearing held before me, I attempt to determine what, if any, issues or comments remain unresolved. Amanda Conn, attorney at law, representing the Department of Recreation and Parks, identified an issue concerning the interpretation of the Open Space Manual and the newly enacted Adequate Facilities Legislation (Bill No. 110-99). The issue raised by Ms. Conn on behalf of the Department of Recreation and Parks was whether the Developer has met the dictates of the Open Space Manual relative to the amount of active open space provided on the Development Plan. The issue raised by Ms. Conn was based in most part upon an interpretation of the language of the law itself and not necessarily testimony and evidence. However, Mr. Jan Cook, a representative of the Department of Recreation and Parks, appeared and testified relative to this issue.

Mr. Cook admitted that the issue raised by his office is somewhat confusing. The confusion results by virtue of the language contained in the Open Space Manual and Bill No. 110-99. The applicable law requires that the Developer must set aside total open space area of 24,000 sq. ft., which is calculated based on 1,000 sq. ft. of area per residential lot. Herein, the Developer proposes 24 residential lots. Breaking that open space down further, 650 sq. ft. of that 1,000 sq. ft. requirement is to be set aside as active open space with the remaining 350 sq. ft. being dedicated to passive open space. Therefore, the total requirement imposed upon this developer for active versus passive open space is 15,600 sq. ft. active (650 sq. ft. x 24 lots) and 8,400 sq. ft. passive (350 sq. ft. x 24 lots). This appears to be fairly simple mathematics, however, the confusion lies in several sections of the Open Space Manual and Bill No. 110-99.

Section 26-498 (c)(2)(i) requires that the amount of active local open space shall be no less than 20,000 sq. ft. parcels. Furthermore, Section (c)(1) of the Local Open Space Manual also states this 20,000 sq. ft. requirement. The required amount of open space to be provided by this

Developer, as calculated in the paragraph above, only mandates that the Developer be required to provide 15,600 sq. ft. of active open space. Therefore, the provisions of Bill No. 110-99 and the Local Open Space Manual contradict one another.

To further add to this confusion, Mr. Cook admitted in his testimony that the calculations contained within his comments dated April 5, 2000, which comments were made for the Development Plan Conference, clearly identify the amount of open space required which is consistent with that represented on the Development Plan submitted before me. Prior to the date of this Hearing Officer's hearing, Mr. Cook indicated in his comments that the calculations for open space were figured correctly by the Developer. However, on the date of the hearing before me at 11:00 a.m. in the morning, Mr. Cook testified that his position and the position of his office had changed and that the Developer should meet the 20,000 sq. ft. threshold as provided for elsewhere in the Open Space Manual and Bill No. 110-99.

Testimony further revealed that the reason for the confusion over this issue was apparently caused by an amendment that was made to Bill No. 110-99 by the County Council on the night that the bill was passed. Apparently, the portion of the bill dealing with open space requirements was adjusted on the night the bill was passed to reduce a threshold requirement of 30 residential lots down to 20 or fewer residential lots. While that particular adjustment was reduced by the County Council, no adjustments were made to the method by which the calculations of open space was performed on a per lot basis. This was one possible explanation as to how this interpretational problem evolved.

Mr. Cook further testified, that in some instances a developer may be entitled under the act to pay a fee into the Local Open Space Revenue Account instead of dedicating the requisite amount of open space on a development plan. Mr. Cook testified that the practice of his office is to simply multiply the number of lots for a development containing 20 or fewer dwelling units by the amount of active open space per lot to reach the fee that is to be paid into the Open Space Revenue Account. No regard is given by Recreation and Parks to the threshold minimum of 20,000 sq. ft. of open space when a fee is being paid into the Open Space Revenue Account in

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Date 5/10/00
By J.R. [Signature]

lieu of actually providing the open space on site.

Therefore, having considered the testimony and evidence presented at the hearing, the language of the Open Space Manual and Bill No. 110-99, and the arguments of counsel made at the hearing before me, I find that the amount of open space shown on Developer's Exhibit No. 1, the Development Plan of the Wolf Property, is appropriate and does comply with the regulations of the Department of Recreation and Parks. Therefore, this issue is not sufficient to warrant a denial of the Development Plan.

There were no other issues raised by any County agency at the hearing before me. However, other issues were raised by some of the residents who attended the hearing. A common concern raised by several of the citizens in attendance related to a box culvert situated near the southwest corner of the Developer's property, just a few feet offsite of this development. The box culvert allows a small stream to pass under White Marsh Road. The box culvert is 20 ft. in width measured between the two concrete abutments. The citizens in attendance were concerned that while White Marsh Road is proposed to be widened to a 40 ft. right-of-way, the box culvert would remain at 20 ft., thereby causing an extreme bottle neck at that location. Plans to widen the culvert have been established in connection with the development of the Dorn Property, also known as Glen Arbor North. The developer in that case is required to set aside 50% of the funds necessary to widen the box culvert consistent with the road widenings proposed for White Marsh Road. Furthermore, Baltimore County will be supplying the remaining 50% of the cost of this widening. The Developer herein is not required to participate in the cost of widening the box culvert, given that the box culvert is offsite from this Developer's property. In any event, the concern raised by the citizens is in the process of being addressed by Baltimore County and the Developer of the Dorn Property. Therefore, it is not sufficient to warrant that this Development Plan be denied. The developer can only be made to perform road improvements along property that they actually own. To order otherwise would cause the Developer to have to trespass onto lands of others in order to perform such improvements.

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1993 5/14/00
By J.P. Jannett

In addition to the issue raised concerning the box culvert, Ms. Linda Rosier identified several areas of concern during the preliminary phase of the hearing, which the Developer had agreed to resolve. It is not necessary to delve into detail about these issues, given that they were resolved during the informal portion of the Hearing Officer's Hearing. The Developer agreed to meet Ms. Rosier's concerns and, therefore, conditions and restrictions shall be imposed at the end of this Order which will address those issues raised by Ms. Rosier.

Lastly, an issue involving storm water runoff was raised by others in attendance. The concern raised by the citizens was based on a development that is occurring on the opposite side of White Marsh Road from the subject property. That project is being developed by Nottingham Properties for 105 single-family residential dwellings. Presently, there is occurring a great deal of excavation and grading, as well as road improvements to White Marsh Road. The citizens in attendance are experiencing a tremendous amount of problems with that development relative to runoff and erosion and are concerned that the same will occur once this property is developed. All agreed that this developer should not be held accountable for the problems occurring on another project. However, the citizens were distrustful that the sediment control measures and storm water management practices proposed for this Development would actually work, given the experiences they are having with the property being developed across the street. These citizens concerns are very legitimate. However, they are speculative as to whether or not it will actually occur once this property begins to be developed. It is not appropriate to punish this developer for problems occurring with another developer's property. In addition, whether this developer will have any erosion problems is speculative and therefore is not sufficient to warrant that the Development Plan be denied at this time. Should runoff problems occur with this development, the citizens would have to contact the appropriate sediment control inspectors for Baltimore County for redress.

There were no other issues raised by those in attendance that warranted the taking of testimony and evidence. Therefore, the Development Plan submitted into evidence as Developer's Exhibit No. 1 shall be approved.

Pursuant to the Zoning and Development Plan Regulations of Baltimore County as contained within the Baltimore County Zoning Regulations and Subtitle 26 of the Baltimore County Code, the advertising, posting of the property and public hearing held thereon, the Development Plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 10th day of May, 2000, that the Development Plan submitted into evidence as Developer's Exhibit No. 1, be and it is hereby GRANTED, subject to the following conditions and restrictions:

- 1) The Petitioner may apply for their building permit and be granted same upon receipt of this Order; however, Petitioner is 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Developer shall be required to provide screening along their common property line with Ms. Linda Rosier. The screening shall be a mix of a 6 ft. high wooden privacy fence along with appropriate evergreen shrubs. The Developer shall submit a plan to Mr. Avery Harden, Landscape Architect for Baltimore County, depicting the fence and landscape shrubbery for Mr. Harden's review and approval. Furthermore, Ms. Linda Rosier shall also be able to participate and comment on the type of screening to be provided on the Developer's property line.
- 3) There shall be no storm water runoff generated onto Ms. Rosier's property by virtue of the development on the subject site. Ms. Rosier indicated at the hearing that she does not receive any runoff or drainage from the Developer's property at this time. Therefore, there shall be no grading taking place on the Developer's property that would cause water to drain onto Ms. Rosier's property. The Developer shall be required to install appropriate silt fencing and other sediment and stormwater control measures to assure that no runoff adversely affects any residents in the surrounding neighborhood or the White Marsh Run which is located to the rear of the site. In addition to any other appropriate sanctions imposed by the Department of Environmental Protection and Resource Management, the Office of Permits and Development Management shall be permitted to suspend all active permits on the site until such time as any breach of sediment or storm water management procedures are remedied.
- 4) Any damage done to Ms. Rosier's property by this Developer or any of his contractors or subcontractors shall be remedied immediately. In the event that said

damage is not corrected immediately, the Department of Permits and Development Management shall be permitted to suspend all active permits on the subject property until such time as the damage is corrected.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

CACEN RECEIVED FOR FILING
Date 5/12/00
By R. J. [Signature]



County Board of Appeals of Baltimore County

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

Kotroco -
410-887-4386

August 7, 2000

Mr. Joseph M. Dieter
8911 Clement Avenue
Baltimore, MD 21234

RE: In the Matter of Wolf Property /PDM XIV-252
Case No. CBA-00-124

Dear Mr. Dieter:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

Enclosure

c: David and Jacqueline Dieter
Linda Rosier
Robert A. Hoffman, Esquire
GH Development
Marlene Wheeler
Kathleen Waxman
Office of People's Counsel
Pat Keller, Director /Planning
Lawrence E. Schmidt /Zoning Commissioner
Donald Rascoe /PDM
Arnold Jablon, Director /PDM
Amanda S. Conn, Assistant County Attorney
Virginia W. Barnhart, County Attorney

Prot. 2

IN THE MATTER OF
WOLF PROPERTY /XIV-252
GH DEVELOPMENT - DEVELOPER
N/S OF WHITE MARSH ROAD, E OF
GRAPEVINE LANE
14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY

RE: DEVELOPMENT PLAN APPROVAL * CASE NO. CBA-00-124

* * * * *

OPINION

This case comes to the Board of Appeals based on a decision of the Hearing Officer, Timothy Kotroco (Deputy Zoning Commissioner) in which approval of a development plan was granted for development of the subject property with 24 single-family residential homes. Public hearing was held by the Hearing Officer on April 27, 2000, subsequent to the Development Plan Conference held on April 5, 2000. The Hearing Officer's decision was rendered on May 10, 2000, and a timely appeal was filed by the Appellants on May 26, 2000.

The Board heard the case on June 28, 2000. The Developer was represented by Robert A. Hoffman, Esquire. The Appellants, Mr. Joseph M. Dieter, Mr. David Dieter, and Jacqueline Dieter, along with Linda Rosier, appeared *pro se* at the Board's hearing. The Board Chairman outlined how the case would proceed and, in light of the Appellants appearing *pro se*, Mr. Hoffman agreed to initiate the proceedings and to relate how the Developer had attempted to work in concert with the Appellants to resolve many of their concerns and issues. The Appellants were also given the opportunity to present their arguments on appeal to the Board, and all of them did so, either by way of reading their previously filed letters to the Board and/or explaining their positions so that the Board was fully conversant with their objections to the Development Plan.

A review of the Board's file clearly indicates that a Concept Plan Conference was held on

October 12, 1999, and various comments were received from the requisite County agencies. The Developer, at that time, was proposing 26 single-family dwellings on 11.8 (+/-) acres zoned D.R. 5.5. The White Marsh Run is situated along the northern boundary of the site, with an open field along the frontage and woods associated with the stream system. A present dwelling on the site would be razed.

The property was posted and a well-attended Community Input Meeting was held on November 22, 1999. The file indicates that all of the Appellants in this case were in attendance at that meeting, which was held at the Perry Hall Elementary School. Ms. Linda Rosier wrote on April 27, 2000 her specific objections to the plan and also offered them at the time of the Hearing Officer's hearing. She was concerned with the planning of a privacy fence and its location on the property line, and also the associated planting of evergreens. Her concern was that she did not want people coming on to her property and unduly trespassing on her land. She was also concerned about drainage. Apparently significant problems have resulted from two previously approved Baltimore County projects, and of concern was a panhandle lot on the proposed development site protruding into the wetlands.

Mr. Joseph M. Dieter expressed concern over traffic and the road system being too narrow for the local traffic. There is a box culvert located near the southwest corner of the Developer's property just a few feet off site of the proposed development. That culvert, which is approximately 20 feet in width measured between the two concrete abutments, permits the small stream to pass under White Marsh Road. The citizens were concerned that, with the proposed widening of White Marsh Road to a 40-foot right-of-way, the box culvert would remain at 20 feet, causing a bottleneck at that particular location. The issue of traffic safety was of particular concern.

Mr. David Dieter and Jacqueline Dieter also expressed concern over the runoff problems, experienced erosion, and undermining of the main sewer line. They also expressed concerns of public safety and health relative to the fact that, in their opinion, the sewer main was already being exposed.

The Board members have individually reviewed the entire file, which came to us from the Department of Permits & Development Management, along with the Order and Opinion that was issued by the Hearing Officer. The various comments made by all of the responding County agencies have also been examined in depth; and the tape of the Hearing Officer's hearing was also accessible to the Board members.

Many of the issues which were raised by Ms. Rosier have already been resolved in conversations with the Developer, and her primary concern relative to the privacy fence issue was taken into consideration under Condition #2 imposed by the Hearing Officer concerning the screening along the common property line of the Developer and Ms. Rosier. The Order requires that a mix of a 6-foot-high wooden privacy fence with appropriate evergreen shrubs be established in accordance with Baltimore County's landscaping requirements, and that Ms. Rosier would be able to participate and comment on the type of screening to be provided on the Developer's property line. Since the vegetative screening would be on Ms. Rosier's side of the fence, it would be her responsibility to maintain proper watering and conditioning of the vegetation once it has been planted. The Hearing Officer also imposed Condition #3 relative to stormwater runoff, and the Board is convinced that this should alleviate her concerns relative to any runoff or damage on her property from the Developer's projected plans. This item was also covered in Condition #4 of the Hearing Officer's Order.

The Hearing Officer, in his Opinion and Order, indicates that all of the County requirements have been established; and, under the *Baltimore County Code*, the Hearing Officer is required to approve the Development Plan and appropriately did so as Developer's Exhibit No. 1. The comments made by the other Appellants are also noted specifically in the Hearing Officer's Opinion and Order, and the Hearing Officer was not unsympathetic to their plight. However, a number of the issues raised have been occurring due to development on other properties, and as the Hearing Officer indicated, it is not appropriate for him to punish this particular Developer for problem situations which occur on another Developer's property. In the event that other developments are causing problems, the Appellants are provided recourse to the appropriate County Governmental agencies to remedy the situation, and as the Hearing Officer indicated, appropriate sediment control is available for redress by way of physical inspection on the part of the County.

The Hearing Officer also notes in his Opinion and Order that, while White Marsh Road is proposed to be widened to a 40-foot right-of-way, plans to widen the culvert have also been established in connection with the development of the Dorn Property (known as "Glen Arbor North"), and that particular Developer is required to set aside 50 percent of the funds necessary to widen the box culvert, again consistent with the road widening proposed for White Marsh Road.

The Board is not unsympathetic with the plight of the Appellants in this case since the area in question is the subject of extensive development. However, development taking place is in accordance with the zoning regulations and will be appropriately monitored by Baltimore County officials. This Board, in its appellate jurisdiction, cannot substitute its judgement for that of the Hearing Officer, and its authority is specifically limited to that under *Baltimore County Code*, Section 26-209(d), which states:

In a proceeding under this section, the board may:

- (1) Remand the case to the hearing officer;
- (2) Affirm the decision of the hearing officer; or
- (3) Reverse or modify the decision if a finding, conclusion, or decision of the hearing officer:
 - (a) Exceeds the statutory authority or jurisdiction of the hearing officer;
 - (b) Results from an unlawful procedure;
 - (c) Is affected by any other error of law;
 - (d) Is unsupported by competent, material and substantial evidence in light of the entire record as submitted; or
 - (e) Is arbitrary or capricious.

Moreover, with respect to factual matters, the scope of review is quite narrow and deferential, similar to the standard articulated by Maryland's Court of Special Appeals in People's Counsel v. Margione, 85 Md.App. 738 (1991), namely, "...whether a reasoning mind reasonably could have reached the factual conclusion that the agency reached...this need not and must not be either judicial fact finding or a substitution of judicial judgment for agency judgment."

In this particular hearing, the Board, having heard the case presented by the Appellants and reviewing the complete documentation in its file and also the Opinion and Order of the Hearing Officer, can find no appropriate grounds for denying the Plan; and, accordingly, hereby affirms the Hearing Officer.

ORDER

IT IS THEREFORE THIS 7th day of August, 2000 by the County Board of Appeals of Baltimore County

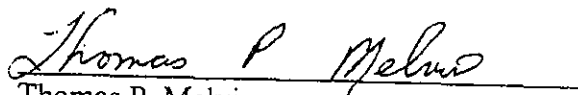
ORDERED that the Decision of the Hearing Officer dated May 10, 2000 approving the development plan of the Wolf Property be and the same is hereby **AFFIRMED**.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence M. Stahl, Chairman


Charles L. Marks


Thomas P. Melvin

Linda C. Rosier
4910 White Marsh Road
Fullerton, Maryland 21237

I have many reasons to appeal the Wolf Property Development Plan. I feel that house #9 should not be allowed where the one plan calls for it. Variances were needed to place it there - a wetland variance and a forrest buffer variance. Another plan should be considered so that this area would remain safe. That area and the stream have suffered enough from run-off and erosion. To place a house that close would be hazardous to the stream and surrounding areas which are already in need of repair. Baltimore County has verified this by placing White Marsh Run as top priority to be repaired. Development will not help the stream and surrounding areas - even if some trees were planted, it would still suffer. I've lost at least 10 feet of ground in the last 4 years due to erosion. Residents all along the stream are having trouble with erosion and property damage due to developments that are being built near their homes. The sewer lines in White Marsh Run are also being disturbed because of these problems and Baltimore County has also verified this. There should be limited development on the stream-side of White Marsh Road with a building moritorium until the stream is repaired. If these areas need to be developed, at least do not give variances to put homes in protected areas. White Marsh Run can't handle anymore disturbances. I beg you to reconsider house #9.

The road is not capable of handling more development traffic. It is still narrow and unsafe in certain areas with very little sight distance and a dead-end. One obstruction in the road and hundreds could be trapped like in the storm of 5-13-00. No more developments should be allowed until something is done about the bridge (culvert) which is entirely too small. If the county continues to approve these developments, we must have "No Parking" signs on both sides of White Marsh Road and "Stop" signs on the roads coming out of a development. If parking is allowed on White Marsh Road, the road is reduced

Prot 3

Linda C. Rosier
4910 White Marsh Road
Fullerton, Maryland 21237

in size and will not meet the requirements for safety. If there are no "Stop" signs, residents in the developments will pull out onto White Marsh Road without stopping and collide with oncoming traffic.

In the order, Item #2, which mandates that screening be placed along the property line, it doesn't state where the fence and shrubbery will start and stop. I feel this needs to be in writing. Mr. Kotroco stated at the hearing that this screening will be in perpetuity. I feel this needs to be in writing also.

I hope the Board reconsiders what was presented here today as well as the feelings of the residents of White Marsh Road along with the others in attendance for our support. Most of us have lived here for many years and it is very sad to watch the gradual destruction of our neighborhood. We care very much about our neighborhood and want to keep it as nice as possible. We also care very much about our stream and its' surrounding areas. We need to preserve and save it. Thank you.

Mrs. Linda Rosier
6-28-2000

30 days to deliberate
in public

+
15 days for in
writing
We will be
notified.



Baltimore County
Department of Environmental Protection
and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

January 12, 2000

Mr. G. Dwight Little, P.E.
W. Duvall & Associates, Inc.
530 E. Joppa Road
Towson, MD 21204

RE: Wolf Property Forest Buffer
Variance Request

Dear Mr. Little:

A request for a variance from Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains was received by this Department on December 16, 1999. This request proposes approximately 7,300 square feet of permanent impact to the Forest Buffer Easement (FBE), including impacts to the 25 foot wetland buffer enforced by Maryland Department of the Environment, for lot fill and storm water management (SWM) construction. Additionally, a reduced setback of 25 feet in lieu of the required 35 feet is requested for proposed lot 9 and 30 feet in lieu of the 35 on proposed lot 3.

This Department has reviewed your request, and has determined that a practical difficulty/unreasonable hardship has not been adequately demonstrated in your request. It appears that alternate layouts involving relocation of the road and SWM pond could eliminate any proposed impacts to the Forest Buffer. It does appear that ample opportunity exists onsite for performing mitigative measures to offset the potential for impacts to water quality and aquatic resources as a result of this proposal. However, mitigation is the least favorable option behind avoidance and minimization of impacts to natural resources. Therefore, the variance is incomplete as submitted. Please perform additional alternatives analysis of significantly different layouts to avoid impacts to the Forest Buffer as much as possible.

If you have any questions regarding this correspondence, please contact Ms. Patricia Farr or Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Patricia M. Farr, Program Supervisor
Environmental Impact Review

Wlffbvl.dot12/gs

Census 2000

For You, For Baltimore County

Census 2000



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on Recycled Paper

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Post 4



Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

February 10, 2000

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

RE: Wolf Property Forest Buffer
Variance Request
(Revised 2/8/00)

Dear Mr. Little:

A revised request for a variance from the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains was received by this Department on February 8, 2000 for consideration. This revised request proposes approximately 4,500 square feet of permanent impact to the Forest Buffer Easement (FBE), including impacts to the 25 foot wetland buffer enforced by Maryland Department of the Environment, for lot development and storm water management (SWM) construction. Additionally, a reduced setback of 25 feet in lieu of the required 35 feet is requested for proposed lots 4, 5 and 9 as well as a 30 foot setback in lieu of the 35 feet required on proposed lot 3. This revised application is based on a revised development design that realigned the access road and changed the dimensions of several lots to minimize impacts to the FBE beyond those impacts originally proposed.

This Department has reviewed your revised request, which provided additional documentation of various layouts and the practical difficulties associated with each. Consequently, this Department has determined that a practical difficulty/unreasonable hardship does exist, and that performing mitigative measures can minimize the potential for impacts to water quality and aquatic resources as a result of this proposal. However, additional mitigation beyond that proposed in your original variance request and as agreed during your February 8, 2000 meeting with Department staff, will be required. Therefore, we will grant this request in accordance with Section 14-334 of the Baltimore County Code, with the following conditions:

1. The following note must appear on all plans submitted for this project:
"A variance was granted by the Baltimore County Department of Environmental Protection and Resource Management from Regulations for the Protection of

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Water Quality, Streams, Wetlands and Floodplains. The Forest Buffer Easement and building setback shown hereon are reflective of the fact that this variance was granted. Conditions were placed on this variance to reduce water quality impacts."

2. A permanent fence shall be installed along the limit of the FBE on all residential lots containing FBE prior to issuance of any building permits for these lots.
3. The entire FBE shall be permanently posted at 75 foot intervals with "Forest Buffer - Do Not Disturb" signs prior to issuance of any building permits.
4. The FBE shall be expanded on lots 1 and 5 as proposed on the plan accompanying your variance application resulting in an additional 5,775 square feet of FBE.
5. The Forest Buffer planting area must be enlarged as shown on the attached plan to provide approximately 4,300 square feet of afforestation beyond that required to meet Forest Conservation requirements.
6. Documentation of approval by Maryland Department of the Environment to impact the 25 foot buffer to non-tidal wetlands must be provided to this Department prior to my signature of the record plat for this development.
7. A Forest Buffer Protection Plan (FBPP), including the FBE mitigation requirements, shall be approved prior to grading plan approval. This plan may be combined with the final forest conservation plan for this project.
8. A FBPP security shall be posted prior to grading permit approval. This security shall be equal to \$0.25 per square foot of required planting area. Release of this security will be in accordance with the attached policy
9. The FBPP shall be implemented within one year of grading permit issuance.
10. It shall be the responsibility of the developer to obtain permission from future lot owners to plant and maintain the mitigation plantings required as a condition of this variance approval.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

861
23
538
1161
1000
191

I/we agree to the conditions specified herein to bring my/our property into compliance with Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Property Owners' Signature

Date

Property Owners' Printed Names

Contract Purchaser's Signature

Date

Contract Purchaser's Printed Name

I/we agree to the conditions specified herein to bring my/our property into compliance with Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

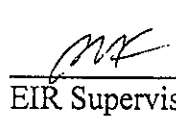
Property Owners' Signature Date

Property Owners' Printed Names

Contract Purchaser's Signature Date

Contract Purchaser's Printed Name

 2/10
Deputy Director

 2/9/00
EIR Supervisor

 2/9/00
EIR Reviewer

ZONING HEARING FILE INTERNAL CHECKLIST

Zoning Case No. 01-492-A

Date Completed/Initials

6-8-01

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 on front of folder)

6-11-01

DETERMINE HEARING DATE (schedule within 45 days of filing; post and advertise at least 15 days prior to hearing)

6-12-01

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)

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)

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)

GDZ

ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)

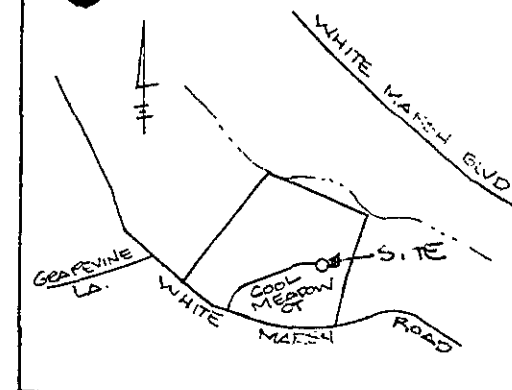
COMMENTS (check off agency comments received on front of hearing file; make copies; type comments letter; mail original to petitioner; file copy in hearing file)

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)

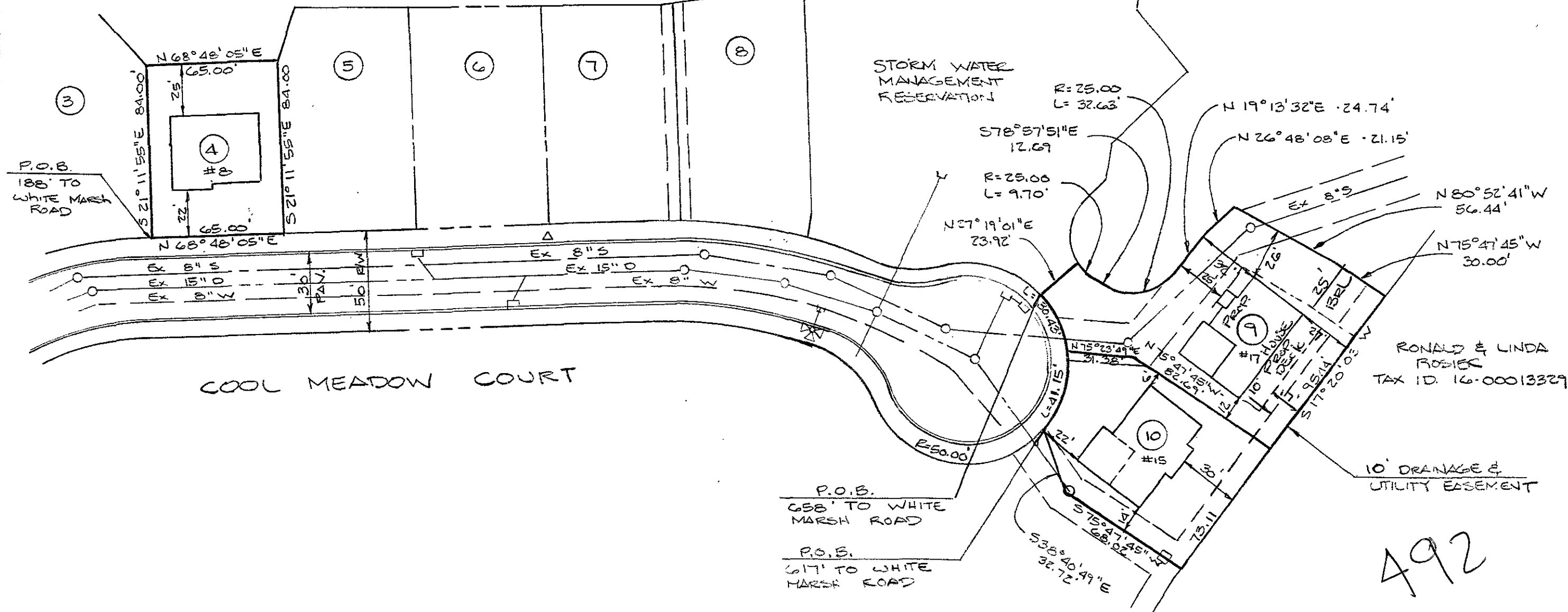
NOTE

1. THIS SITE IS NOT LOCATED IN THE CHEATLE FAY LOTICAL AREA.
2. THESE LOTS DO NOT LIE WITHIN A 100 YEAR FLOODPLAIN
3. THE SITE IS ZONED OR S.S, MAP NE B.G
4. THIS SITE HAS NO PRIOR ZONING HISTORY.

BALTIMORE COUNTY RECREATIONAL GREENWAY RESERVATION AND FOREST BUFFER ELEMENT



VICINITY MAP
SCALE 1"=1000'



OWNER
SHIPPING CREEK LLC
4208 EBENEZER ROAD
BALTIMORE MD 21236

PLAN TO ACCOMPANY ZONING VARIANCE
LOT 9 #17 COOL MEADOW COURT
14th ELECTION DIST. 6th COUNCILMANIC DIST.
SCALE 1"=50' BALTO. CO. MARYLAND
SUBDIVISION: WOLF PROPERTY
SM T3/C1

492

