

IN RE: PETITIONS FOR SPECIAL HEARING  
AND VARIANCE

N/S Beach Road, 1400' +/- E  
centerline of Stevens Road  
11th Election District  
5th Councilmanic District  
(11308 Beach Road)

Victoria and Joseph Kraft, Legal Owners  
and Linda Westerfield, Contract Purchaser  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 02-464-SPHA

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property, Joseph and Victoria Kraft. The variance is to permit a new single-family dwelling to have a property line setback of 17 ft. in lieu of the required 25 ft. and a special hearing to determine that density is not affected.

Appearing at the hearing on behalf of the variance request were Joseph and Victoria Kraft, owners of the property and Linda Westerfield, a nearby resident who would like to construct a home on this property. Appearing in opposition to the Petitioners' request were Daniel Dupont and Gottlieb Fleig.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 2 unimproved lots of record, identified as Lot #31 and Lot #32 of the Bird River Beach Subdivision. The subject properties are located on the north side of Beach Road in Bird River. The property owners, Joseph and Victoria Kraft, are interested in selling the subject property to Linda Westerfield. Ms. Westerfield currently lives in this community and has been a long time resident of same. She is interested in constructing a 44 ft. x 66 ft. dwelling on these 2 unimproved lots. In order to proceed with the construction of a home on this property, the side yard setback variance is necessary, given that the property is now zoned R.C.2. It should be

ORDER RECEIVED FOR FILING

Date

6/26/02

By

R. O. Peterson

noted that this community was developed and designed at a time when houses could easily be constructed on these lots without the need for variance. However, recently, the subject community has been rezoned to R.C.2, which necessitates the variance request.

As stated previously, Mr. Dupont and Mr. Fleig appeared somewhat in opposition to the Petitioners' request. Apparently, Mr. Dupont has requested his own variance for property he owns adjacent to the Petitioners' land. His variance was denied and the case was appealed to the Board of Appeals. He is awaiting a written decision from the Board at this time. He does not oppose Mr. and Mrs. Kraft and Ms. Westerfield in their request for variance, so long as the variance for his own property is granted. However, in the event his variance is denied, then he strongly opposes the Petitioners' request. He testified that both requests are basically identical and should his request be denied, then so too should his neighbors be denied.

The Office of Planning has reviewed the Petitioners' request to place a house on these 2 unimproved lots. That office has recommended approval of the Petitioners' request indicating that the house to be constructed on these 2 lots does conform to other homes within this community. Therefore, the Office of Planning recommends approval. It should also be noted that this particular Petitioner is proposing to construct one house on 2 adjacent unimproved lots. The 2 combined lots will have a road frontage of 104 ft. and a depth of 200 ft. There are other houses constructed in the neighborhood on single lots containing only about 52 ft. of road frontage. Therefore, the request in this case is for a house to be constructed on a double lot. Given the position of the Office of Planning, I find it is appropriate to approve the variance and allow the house to be constructed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to Petitioners and their property. McLean v. Soley, 270 Md. 208

(1973). To prove practical difficulty for an area variance, the Petitioners 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 Petitioners seek 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.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 26<sup>th</sup> day of June, 2002, that the Petitioners' request for variance from Section 1A01.B.3 of the Baltimore County Zoning Regulations, to permit a new single-family dwelling to have a property line setback of 17 ft. in lieu of the required 25 ft. and a special hearing to

determine that density is not affected, be and is hereby GRANTED, 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

ORDER RECEIVED FOR FILING

Date

6/26/02

By

R. O. O'Connor

IN THE MATTER OF  
THE APPLICATION OF  
JOSEPH & VICTORIA KRAFT –OWNERS;  
LINDA WESTERFIELD – C.P. FOR SPECIAL  
HEARING AND VARIANCE ON PROPERTY  
LOCATED ON THE N/S BEACH RD, 1400' +/-  
E OF C/L OF STEVENS ROAD  
(11308 BEACH ROAD)  
11<sup>TH</sup> ELECTION DISTRICT  
5<sup>TH</sup> COUNCILMANIC DISTRICT

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. 02-464-SPHA

\* \* \* \* \*

### OPINION

This matter is before the Board on an appeal from the decision of the Deputy Zoning Commissioner for special hearing and variance filed by the legal owners of the subject property, Joseph and Victoria Kraft. The variance is to permit a new single-family dwelling to have a property line setback of 17 feet in lieu of the required 25 feet and a special hearing to determine that density is not affected. At the hearing before the Board, Joseph and Victoria Kraft, Owners of the property, and Linda Westerfield, a nearby resident who would like to construct a home on the property, appeared *pro se*. Appearing in opposition to the Petitioners' request was Daniel Dupont. Mr. Dupont also appeared *pro se*.

A hearing was held on March 20, 2003. All parties participated fully. The Board held a public deliberation on April 9, 2003.

### Facts

The evidence indicated that the property which is the subject of the variance request consists of two unimproved lots of record identified as Lot #31 and Lot #32 of the Bird River Beach Subdivision. The subject properties are located on the north side of Beach Road in Bird River. The property owners, Joseph and Victoria Kraft, are interested in selling the subject property to Linda Westerfield who currently lives in the community and has been a long-time

resident. Ms. Westerfield is interested in constructing a home on the two unimproved lots. She originally indicated she would construct a home measuring 44 feet by 66 feet. However, in the hearing before the Board she indicated that she would scale back the size of the front footage so that she would need a variance of less than 17 feet.

Originally, the development of the community occurred when houses could easily be constructed on small lots without the need for a variance. However, recently the subject community has been rezoned to R.C. 2, which necessitates the variance request.

The basis of Mr. Dupont's opposition to the granting of the variances is clearly without merit. Mr. Dupont was denied a request for a variance with respect to his property line setback on the basis that the property upon which he sought to build a modular home was not unique when evaluated with respect to the other properties in the particular subdivision. He now takes the position that, since he did not receive a variance, the Petitioners herein should not receive a variance either.

### Decision

The Board has evaluated the evidence submitted in the hearing on March 20, 2003. As previously stated, the opposition of Mr. Dupont is no basis for denying a variance. Unfortunately, the Deputy Zoning Commissioner in this matter granted the variance without considering whether or not the property at issue was unique under the criteria of *Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995), wherein the Court writes:

This Board enjoys the guidance provided by the Court of Special Appeals in *Cromwell v. Ward*, 102 Md.App. 691 (1995), wherein the Court writes:

...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal

impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." Id. at 698.

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... Id. at 710.

This Board finds that the Petitioners have not established the requisite uniqueness as called for under § 307 of the *Baltimore County Zoning Regulations* and *Cromwell v. Ward*. The testimony of the Petitioners indicated that there was nothing unique about the property, and, as a matter of fact, the lots were very similar to most of the lots in the Bird River Beach Subdivision. This is the same basis upon which the variance requested by Mr. Dupont was denied.

Ms. Westerfield is not without a remedy in this matter. She can limit the size of the house she intends to build on the property and meet all the setback requirements without the need for a variance.

The Board also recognizes that there may be situations where other homeowners have built homes on undersized lots and have received variances before the Zoning Commissioner and/or Deputy Zoning Commissioner. There are cases where no one appears in opposition before the Zoning Commissioner (or Deputy Zoning Commissioner), and, unfortunately, these variances are granted without any foundation with respect to the zoning regulations. It is the duty of this Board to uphold the zoning regulations unless there is a legal basis for granting

variances within the zoning regulations and the Court cases interpreting those regulations, such as *Cromwell v. Ward*.

**ORDER**

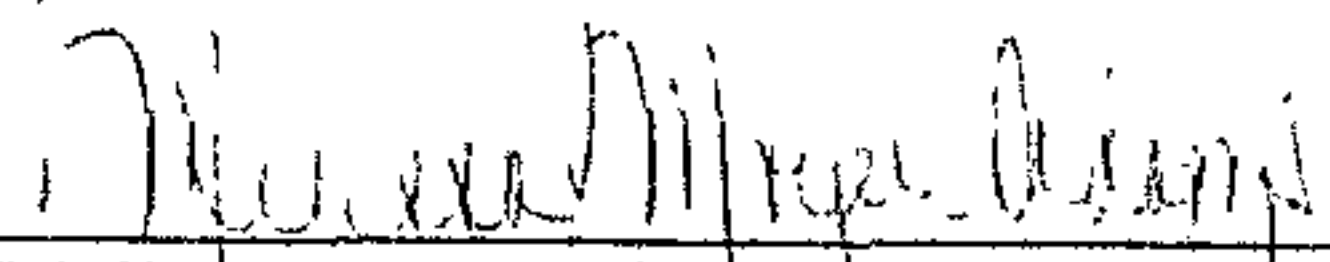
**THEREFORE, IT IS THIS** 24th day of April, 2003 by the  
County Board of Appeals of Baltimore County

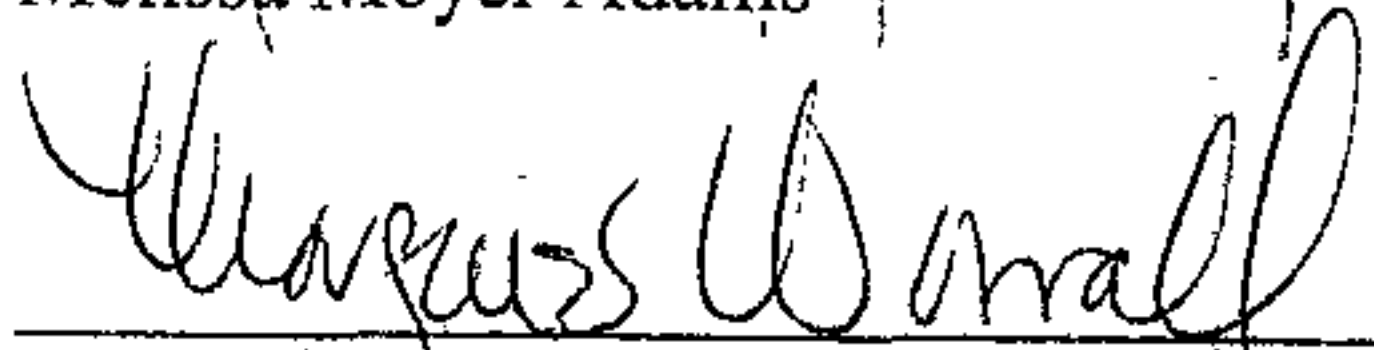
**ORDERED** that the Petitioners' request for variance to allow a property line setback of 17 feet in lieu of the required 25 feet, and other requested relief, be and is hereby **DENIED**.

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

**COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
\_\_\_\_\_  
Lawrence S. Wescott, Panel Chairman

  
\_\_\_\_\_  
Melissa Moyer Adams

  
\_\_\_\_\_  
Margaret Worrall



# County Board of Appeals of Baltimore County

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

April 24, 2003

Mr. and Mrs. Joseph Kraft  
11310 Beach Road  
White Marsh, MD 21162

RE: *In the Matter of: Joseph & Victoria Kraft – Owners;*  
*Linda Westerfield – Contract Purchaser*  
Case No. 02-464-SPHA

Dear Mr. and Mrs. Kraft:

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: Daniel Dupont  
Linda Westerfield  
Office of People's Counsel  
Pat Keller, Planning Director  
Lawrence E. Schmidt, Zoning Commissioner  
Arnold Jablon, Director /PDM

County Board

at 10:00 a.m.  
on 4/24/03  
and filed for  
the record



## ZONING DESCRIPTION FOR 11308 BEACH RD

Beginning at a point on the North side of Beach Road which is 40 feet wide at the distance of  $1400 \pm$  feet East of the centerline of the nearest improved intersecting street, Stevens Rd which is 40 feet wide. Being lot # 31432 in the subdivision Bird River Beach as recorded in Baltimore County Plat Book # 7 Folio # 187 containing 10200 SF and 10620 SF respectively and  $.23 \text{ AC} \pm$  and  $.24 \text{ AC} \pm$  respectively. Also known as 11308 Beach Rd. and located in the 11<sup>th</sup> Election District and 5<sup>th</sup> Councilmanic District

#464

**BALTIMORE COUNTY, MARYLAND**  
**OFFICE OF BUDGET & FINANCE**  
**MISCELLANEOUS RECEIPT**

No. 10400

DATE 7-22-02 ACCOUNT 001 006 1150

AMOUNT \$ 210.00

RECEIVED FROM: DANIEL DUPONT

FOR: APPEAL 02-464-17

11307 Beach Road

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S VALIDATION**

BALTIMORE COUNTY, MARYLAND  
OFFICE OF BUDGET & FINANCE  
MISCELLANEOUS RECEIPT

No. 13310

DATE 4/22/02 ACCOUNT R001 006 6150

AMOUNT \$ 150.00

RECEIVED FROM: LINDA WESTERFIELD

FOR: VAL/SPH

DISTRIBUTION  
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

| BUSINESS                           | ACTUAL    | TIME                    |
|------------------------------------|-----------|-------------------------|
| 4/23/2002                          | 4/22/2002 | 11:51:10                |
| REG 0804                           | WALKIN    | DDOL DMD DRAWER 2       |
| >> RECEIPT # 180027 4/22/2002 OFLN |           |                         |
| Dep                                | 5         | 528 ZONING VERIFICATION |
| CR NO.                             | 013310    |                         |
| Receipt Tot                        | \$150.00  |                         |
| 150.00                             | CK        | .00 CA                  |
| Baltimore County, Maryland         |           |                         |

CASHIER'S VALIDATION

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.

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For Newspaper Advertising:

Item Number or Case Number: 024645PHA

Petitioner: Linda Kristyfield / Joseph & Victoria Kraft

Address or Location: 11308 Beach Road, White Marsh Md 21162

PLEASE FORWARD ADVERTISING BILL TO:

Name: Linda Kristyfield

Address: 11307 Beach Road

White Marsh Md. 21162

Telephone Number: (410) 335-2379

#### 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: #02-484-SPHA  
11308 Beach Road  
N/S Beach Road, 1400' +/- E of centerline of Stevens Road  
11th Election District -- 5th Councilmanic District  
Legal Owner(s): Joseph Kraft  
Contract Purchaser: Linda Westfield

Variance: to permit a proposed single-family dwelling to have a property line setback of 17 feet in lieu of the required 25 feet. Special Hearing: to determine that density is not affected and to approve an undersized lot.

Hearing: Monday, June 10, 2002 at 11:00 a.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.

JT 5/8/24 May 28 6541584

## CERTIFICATE OF PUBLICATION

5/30/2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/28/2002.

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

S. Wilkins

LEGAL ADVERTISING

**APPEAL SIGN POSTING REQUEST**

CASE NO.: 02-464-~~A~~ *SPHA*

Joseph and Victoria Kraft - LEGAL OWNERS

11308 Beach Road, White Marsh, MD 21162

11th ELECTION DISTRICT

APPEALED: July 22, 2002

**ATTACHMENT** - (Plan to accompany Petition - Petitioner's Exhibit No. 1)

**APPEAL SIGN POSTING REQUEST**

CASE NO.: 02-464-A

Joseph and Victoria Kraft - LEGAL OWNERS

11308 Beach Road, White Marsh, MD 21162

11th ELECTION DISTRICT

APPEALED: July 22, 2002

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

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

**CERTIFICATE OF POSTING**

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

Attention: Kathleen Bianco  
Administrator

RE: Case No.: 02-464-A

Petitioner/Developer:

Joseph & Victoria Kraft

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

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The sign was posted on 8/21, 2002

By: Gary Freund  
(Signature of Sign Poster)

GARY FREUND  
(Printed Name)

# CERTIFICATE OF POSTING

RE: Case No.: 02-464-SPHA

Petitioner/Developer: LINDA L.

WESTERFIELD

Date of Hearing/Closing: 6/10/02

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 11308 BEACH ROAD

The sign(s) were posted on 5/25/02  
(Month, Day, Year)

Sincerely,

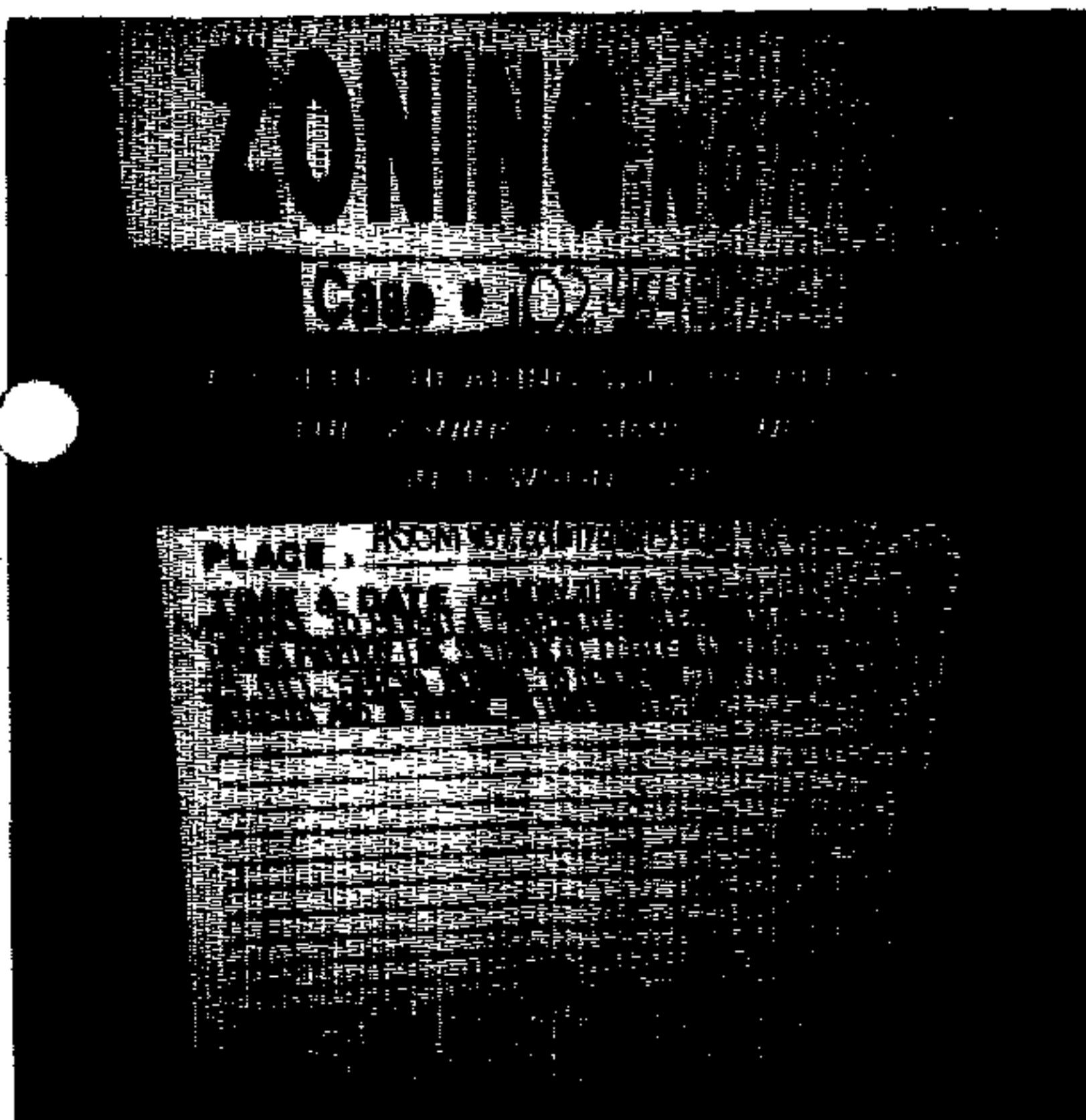
[Signature] 5/25/02  
(Signature of Sign Poster and Date)

SSG ROBERT BLACK  
(Printed Name)

1508 Leslie Rd  
(Address)

Dundalk, Maryland 21222  
(City, State, Zip Code)

(410) 282-7940  
(Telephone Number)





Baltimore County  
Department of Permits and  
Development Management

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

May 16, 2002

## 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: 02-464-SPHA  
11308 Beach Road  
N/S Beach Road, 1400' +/- E of centerline of Stevens Road  
11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owner: Joseph Kraft  
Contract Purchaser: Linda Westerfield

Variance to permit a proposed single-family dwelling to have a property line setback of 17 feet in lieu of the required 25 feet. Special Hearing to determine that density is not affected and to approve an undersized lot.

HEARING: Monday, June 10, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

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

Arnold Jablon G D Z  
Director

C: Mr. & Mrs. Joseph Kraft, 11310 Beach Road, White Marsh 21162  
Linda Westerfield, 11307 Beach Road, White Marsh 21162

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 25, 2002.**  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY  
Tuesday, May 28, 2002 Issue – Jeffersonian

Please forward billing to:  
Linda Westerfield  
11307 Beach Road  
White Marsh MD 21162

410 335-2379

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## 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: 02-464-SPHA  
11308 Beach Road  
N/S Beach Road, 1400' +/- E of centerline of Stevens Road  
11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owner: Joseph Kraft  
Contract Purchaser: Linda Westerfield

Variance to permit a proposed single-family dwelling to have a property line setback of 17 feet in lieu of the required 25 feet. Special Hearing to determine that density is not affected and to approve an undersized lot.

HEARING: Monday, June 10, 2002 at 11:00 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.



# County Board of Appeals of Baltimore County

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

**Hearing Room – Room 48**  
Old Courthouse, 400 Washington Avenue

September 20, 2002

## NOTICE OF ASSIGNMENT

**CASE #: 02-464-SPHA**

**IN THE MATTER OF: Joseph & Victoria Kraft** - Legal Owners;  
Linda Westerfield - CP 11308 Beach Road  
11<sup>th</sup> Election District; 5<sup>th</sup> Councilmanic District

6/26/02– Petition for Special Hearing and Petition for Variance GRANTED by  
Deputy Zoning Commissioner.

## REASSIGNED FOR:

**WEDNESDAY, FEBRUARY 19, 2003 at 10:00 a.m.**

## **NOTICE:**

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

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

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

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

**Kathleen C. Bianco**  
Administrator

c: Appellant /Protestant

: Daniel Dupont

Petitioners

: Joseph and Victoria Kraft  
: Linda Westerfield

Office of People's Counsel  
Pat Keller, Planning Director  
Lawrence E. Schmidt, Zoning Commissioner  
Arnold Jablon, Director /PDM

PP'd due to  
inclement weather  
(snow storm)  
Courts closed;  
go on lib.  
Jury.

go 3/20/03





February 25, 2003

Printed with Soybean Ink  
on Recycled Paper



# County Board of Appeals of Baltimore County

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

March 26, 2003

## NOTICE OF DELIBERATION

### IN THE MATTER OF:

**JOSEPH & VICTORIA KRAFT – Legal Owners**  
**Linda Westerfield – Contract Purchaser**  
**Case No-02-464-SPHA**

Having heard this matter on 3/20/03, public deliberation has been scheduled for the following date /time:

**DATE AND TIME** : **WEDNESDAY, APRIL 9, 2003 at 9:30 a.m.**  
**LOCATION** : **Hearing Room 48, Basement, Old Courthouse**

**Kathleen C. Blanco**  
**Administrator**

---

c: Appellant /Protestant : Daniel Dupont  
Legal Owner : Joseph and Victoria Kraft  
Contract Purchaser : Linda Westerfield  
  
Office of People's Counsel  
Pat Keller, Planning Director  
Lawrence E. Schmidt, Zoning Commissioner  
Arnold Jablon, Director /PDM

**FYI copy: S.M.W.**





Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
pdmlandacq@co.ba.md.us

June 7, 2002

Mr. & Mrs. Joseph Kraft  
11310 Beach Road  
White Marsh MD 21162

Dear Mr. & Mrs. Kraft:

RE: Case Number: 02-464-SPHA, 11308 Beach Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 22, 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

*W. Carl Richards, Jr.*

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

WCR: gdz

Enclosures

c: Ms. Linda Westerfield, 11307 Beach Road, White Marsh 21162  
People's Counsel

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



Sup  
6/10

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

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

**DATE:** May 7, 2002

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

MAY 9 2002

**SUBJECT:** 11308 Beach Road

### INFORMATION:

**Item Number:** 02-464

**Petitioner:** Joseph Kraft

**Zoning:** RC 2

**Requested Action:** Variance

### SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the request to allow a side yard setback of 17 feet in lieu of the minimum required 25 feet, and to approve an undersized lot.

**Prepared by:** Mark A. Coughlin

**Section Chief:** James L. Johnson

AFK/LL:MAC:



Baltimore County  
Fire Department

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

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

May 7, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF May 6, 2002

Item No.: See Below

Dear Mr. Zahner:

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.

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

460-462, 464-468, 470 & 471

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](http://www.co.ba.md.us)



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 29, 2002

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

SUBJECT: Zoning Advisory Committee Meeting  
for May 6, 2002  
Item No. 460, 461, 462, 463, (464) 465, 466, 467, 468, 469  
and 471.

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

RWB:CEN  
Cc: file

Jim  
6/10

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *RBS / TGT*

DATE: June 6, 2002

JUN 1 2 35

SUBJECT: Zoning Item 464  
Address 11308 Beach Road (Kraft Property)

Zoning Advisory Committee Meeting of May 6, 2002

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

Reviewer: Keith Kelley

Date: May 14, 2002



**Maryland Department of Transportation**  
**State Highway Administration**

Parris N. Glendening  
Governor

John D. Porcari  
Secretary

Parker F. Williams  
Administrator

Date: 5.2.01

Mr. George Zahner  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 464

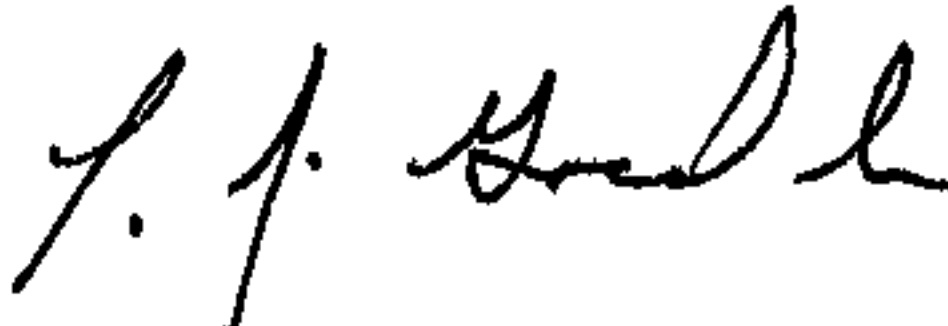
LTM

Dear Mr. Zahner:

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

RE: PETITION FOR SPECIAL HEARING  
PETITION FOR VARIANCE  
11308 Beach Road, N/S Beach Rd,  
1400' +/- E of c/l Stevens Rd  
11th Election District, 5th Councilmanic

Legal Owner: Joseph & Victoria Kraft  
Contract Purchaser: Linda Westerfield  
Petitioner(s)

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR  
\* BALTIMORE COUNTY  
\* Case No. 02-464-SPHA

\* \* \* \* \*

**ENTRY OF APPEARANCE**

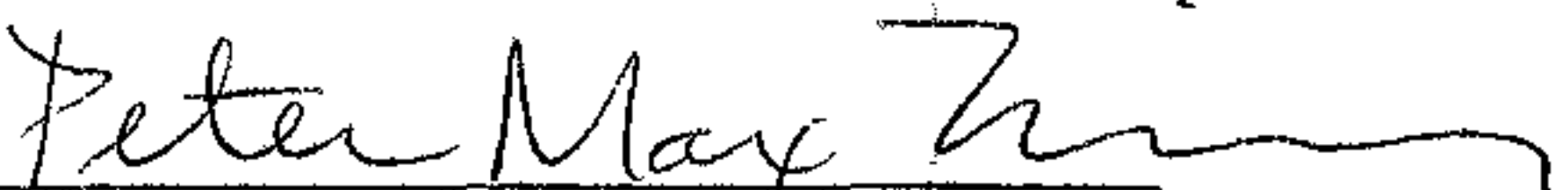
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed 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 22<sup>nd</sup> day of May, 2002 a copy of the foregoing Entry of Appearance was mailed to Legal Owners Joseph & Victoria Kraft, 11310 Beach Road, White Marsh, MD 21162, and to Contract Purchaser Linda Westerfield, 11307 Beach Road, White Marsh, MD 21162, Petitioners.

  
PETER MAX ZIMMERMAN



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

July 23, 2002

Linda Westerfield  
11307 Beach Road  
White Marsh MD 21162

Dear Ms. Westerfield:

RE: Case No. 02-464-A, 11308 Beach Road

Please be advised that an appeal of the above-referenced case was filed in this office on July 22, 2002 by Daniel Dupont. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon", with a stylized flourish at the end.

Arnold Jablon GDZ  
Director

AJ: gdz

c: Mr. & Mrs. Joseph Kraft, 11310 Beach Road, White Marsh 21162  
People's Counsel



APPEAL

02 JUL 24 AM 11:40

Petition For Variance

11308 Beach Road

N/S Beach Road, 1400' +/- E of centerline of Stevens Road

11<sup>th</sup> Election District - 5<sup>th</sup> Councilmanic District

Joseph & Victoria Kraft - Legal Owner

Linda Westerfield - Contract Purchaser

Case No.: 02-464-A

(S P H A)

- ✓ Petition for Variance (dated 04/22/02)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (dated 05/16/02)
- ✓ Certification of Publication (The Jeffersonian issue dated 05/28/02)
- ✓ Certificate of Posting (dated 05/25/02 posted SSG Robert Black)
- ✓ Entry of Appearance by People's Counsel (05/22/02)
- ✓ Petitioner(s) Sign-In Sheet (1 sheet)
- ✓ Protestant(s) Sign-In Sheet (1 sheet)
- ✓ Citizen(s) Sign-In Sheet (none)
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibits: ~~none~~ #1 - Plat
- ✓ Protestants' Exhibits: (none)
- ✓ Miscellaneous (Not Marked as Exhibits):
  - ❖ Plat To Accompany Petition for Variance
- ✓ Deputy Zoning Commissioner's Order (dated 06/26/02 - GRANTED with restriction)
- ✓ Notice of Appeal received on July 22, 2002 from Daniel Dupont

is marked #1  
Pet. Exp

c: Linda Westerfield, 11307 Beach Road, White Marsh 21162  
People's Counsel of Baltimore County, MS #2010  
Timothy Kotroco, Deputy Zoning Commissioner  
Arnold Jablon, Director of PDM

date sent: 07/23/02 gdz

\* Daniel Dupont  
1306 ~~Beach Road~~  
White Marsh, MD 21162  
APPELLANT

~~Joseph and Victoria Kraft  
11308 Beach Road  
White Marsh, MD 21162~~

~~URGENT LOT~~

Linda Westerfield  
11307 Beach Road  
White Marsh, MD 21162

Joseph and Victoria Kraft  
11310 Beach Road  
White Marsh, MD 21162

mailing  
envelope

Case No. 02-464-SPHA

Joseph and Victoria Kraft – Legal Owners; Linda Westerfield –CP

SPH – To determine that density is not affected by proposed dwelling  
VAR – To permit new SFD to have property line setback of 17' ilo  
required 25'.

6/26/02 –D.Z.C.'s decision in which SPH and VAR were GRANTED.

9/20/02 –Notice of Assignment sent to following; assigned for hearing on Wednesday, February 19, 2003 at 10 a.m.:

Daniel Dupont  
Joseph and Victoria Kraft  
Linda Westerfield  
Office of People's Counsel  
Pat Keller, Planning Director  
Lawrence E. Schmidt, Zoning Commissioner  
Arnold Jablon, Director /PDM

1/07/03 – Letter from Sidney Schlachman, Esquire – on behalf of Linda Westerfield, CP, requesting advance in hearing date (will not be representing Ms. Westerfield in appeal hearing; only in this request) – financial reasons as stated.

1/09/03 – Letter to Mr. Schlachman – no earlier dates available at this time; will proceed on 2/19/03 as scheduled; should earlier date come open, will consider if all parties are available and sufficient notice can be given.

2/18/03 – T/C with Mr. Dupont this date (from home; offices closed due to snow storm). Inquiring as to hearing scheduled for 2/19/03; advised him that a final decision had not yet been made; will attempt to keep all parties informed.

-- With closure of Circuit Court for Baltimore County for Wednesday, February 19, 2003, hearings scheduled before CBA will likewise be postponed. In addition, Baltimore County Government will be on liberal leave on 2/19/03, also affirming hazardous road conditions. New voice mail message at Board of Appeals indicating that all hearings on 2/19/03 were cancelled due to inclement weather following lead of Circuit Court. Reassignments to be made as soon as possible.

2/19/03 – Hearing scheduled for this date was POSTPONED due to inclement weather (snow storm); Circuit Court for Baltimore County was closed; liberal leave for Baltimore County Government; to be reassigned a hearing date as soon as docket will allow. Copy of internet printout indicating closure of Circuit Court and liberal leave for Baltimore County Government this date included in file. T/C to confirm this with Mr. Dupont, Ms. Kraft, and Ms. Westerfield. Indicated that earliest dates available would be utilized to reassign those cases postponed due to weather conditions.

2/25/03 – Notice of PP and Reassignment sent this date; date has opened up on Board's schedule to permit reassignment of this matter; case reassigned to Thursday, March 20, 2003 at 10:00 a.m.

3/20/03 – Board convened for hearing (Wescott, Adams, Worrall); concluded hearing; date to be scheduled for public deliberation and notice to be sent.

3/26/03 – Notice of Deliberation sent to parties; assigned for Wednesday, April 9, 2003 at 9:30 a.m. FYI copy to S.M.W.)

4/09/03 – Board convened for Deliberation (Wescott, Adams, Worrall); variance request, and any other relief requested, is DENIED; Petitioners did not meet burden under 307.1 and Cromwell. Order to be issued; 30-day appellate period to run from date of written Opinion/Order.

**BOARD OF APPEALS OF BALTIMORE COUNTY**

**MINUTES OF DELIBERATION**

**IN THE MATTER OF:**

Joseph and Victoria Kraft – Legal Owners  
Linda Westerfield – Contract Purchaser  
Case No.: 02-464-SPHA

**DATE:**

April 9, 2003

**BOARD/PANEL:**

|                     |     |
|---------------------|-----|
| Lawrence S. Wescott | LSW |
| Margaret Worrall    | MW  |
| Melissa Moyer Adams | MMA |

**RECORDED BY:**

Theresa R. Shelton / Legal Secretary

**PURPOSE:** To deliberate the Petition for Variance filed to permit a proposed single family dwelling to have a property line setback of 17' ilo the req'd 25' and a special hearing to determine that density is not affected and to approve an undersized lot.

**PANEL MEMBERS DISCUSSED THE FOLLOWING:**

**SPECIAL HEARING – UNDERSIZED LOT**

- Involved Lots 31 and 32 of Beach River Subdivision
- Owns adjacent lot
- 304 - C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

**VARIANCE**

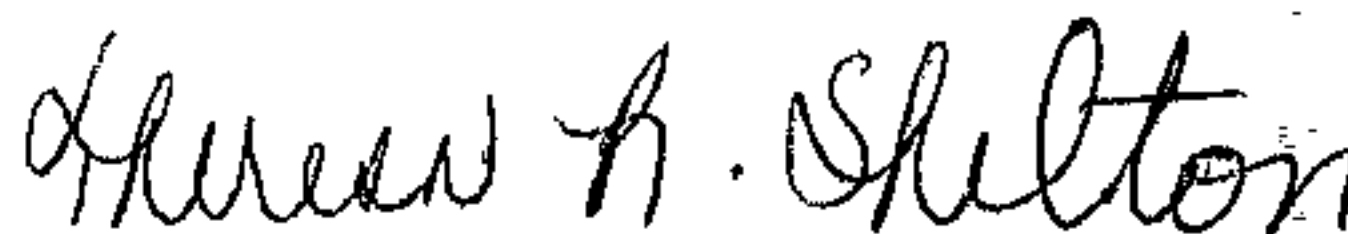
- Zoning Commissioner granted the variance without legal basis
- Cromwell vs. Ward – uniqueness of a property has to have an inherit difference
- Lots are not unique – all part of subdivision
- Second prong not met – no practical difficulty – can build a smaller house; or re-locate the garage
- House construction, size and footage

**DECISIONS BY BOARD MEMBERS:** Unanimous decision to **DENY** the Petition for Variance **AND TO deny THE Request for Special Hearing.**

**FINAL DECISION:** That the Petition for Variance filed requesting a proposed single family dwelling to have a property line setback of 17' ilo the req'd 25' and a special hearing to determine that density is not affected and to approve an undersized lot is **DENIED.**

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

Respectfully submitted,



Theresa R. Shelton  
County Board of Appeals



County Board of Appeals of Baltimore County

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

January 9, 2003

Sidney Schlachman, Esquire  
Schlachman, Belsky & Weiner, P.A.  
Sun Life Building – Tenth Floor  
20 S. Charles Street  
Baltimore, Md 21201

RE: *In the Matter of: Joseph & Victoria Kraft – Owners;*  
*Linda Westerfield – Contract Purchaser*  
Case No. 02-464-SPHA

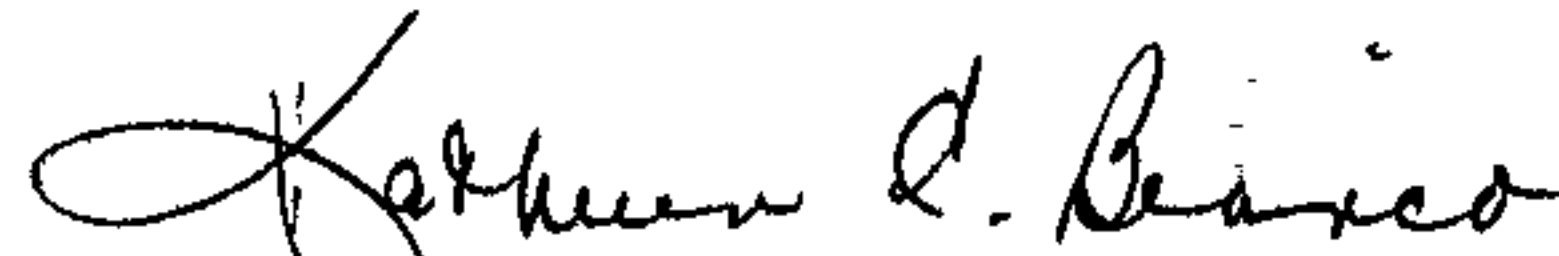
Dear Mr. Schlachman:

In response to your correspondence of January 6, 2003, there are no earlier dates available on the hearing schedule to which this matter could be reset. The Board's docket is set through June of 2003, with no open dates prior to the scheduled date of February 19, 2003.

Therefore, your request to advance the hearing date to some time before February 19<sup>th</sup> cannot be accommodated at this time, and the hearing will go forward as scheduled on February 19, 2003 at 10:00 a.m.. However, should earlier dates become available due to dismissal or postponement, with adequate time for reassignment, consideration will be given to earlier assignment of this matter, upon confirmation of the availability of all parties.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

  
Kathleen C. Bianco  
Administrator

c: Linda Westerfield  
Joseph and Victoria Kraft  
Daniel Dupont  
Office of People's Counsel



B39290 REAL PROPERTY DISPLAY BALTIMORE COUNTY

04/2002 PAGE 11

\* INTAKE SHEET VERIFICATION

ACCOUNT NO: 11 1102003750 NAME KEY: KRAFT JOSEPH F

10/23/1992

/11214/ 675 MAP PARCEL LT 31,32

W 104.20

6569

73 / 316

D 200.00

PLAT: 7/ 187

BIRD RIVER BEACH

PREMISE:

BEACH AVE

KRAFT JOSEPH F

KRAFT VICTORIA L

11310 BEACH RD

WHITE MARSH

MD 21162

AREA: 20800.000 S FCV

00000

BASE

CURRENT

LOT /BLOCK/SEC SUB

L: 10400

10400

31/ /

I: 0

0

T: 10400

10400

PR: 0

0

CB: 0

0

GEO : 82 GRID: 20 TX CL:

USE : R TOWN: 000 EX ST: 0 CO PROP CD: 04

OWNR: N ZONE: EX CL: 000 INC LIEN DT:

BPRUC: 00000 H OWN TX CRED: N REZN RL PR :

PARTIAL EX

LETTER OF INTENT DT: CC ASMT DT :

CO 000

0

AG TAX DUE UNTIL: EXP DT :

ST 000

0

FCMA: EXT EXP DT :

MU 000

0

TRANS FM: TYWONIUK LUCJAN W

09/13/1995 / 5954/ 691

F1 = PRIMARY

F4 = TRANSFERS

F7 = NAME LIST

F10= PERMITS

F2 = VALUES

F5 = TAX/NEW CONS

F8 = NOTICES

F11= APPEALS

F3 = LOCATION

F6 = ENTRY SCREEN

F14= HIST

#464

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

DATE: June 30, 2003

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

FROM: Theresa R. Shelton *TRS*  
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

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

| <b><u>BOARD OF<br/>APPEALS<br/>CASE NUMBER</u></b> | <b><u>PDM FILE NUMBER</u></b> | <b><u>NAME</u></b>           | <b><u>LOCATION</u></b>              |
|----------------------------------------------------|-------------------------------|------------------------------|-------------------------------------|
| 02-365-A                                           | 02-365-A                      | PAULA RUSH                   | 5850-A N. HAZELWOOD<br>AVENUE       |
| 03-031-A                                           | 03-031-A                      | MASON BARROW                 | 704 CLOVER AVENUE                   |
| 02-464-SPHA                                        | 02-464-SPHA                   | JOSEPH AND<br>VICTORIA KRAFT | 11308 BEACH ROAD                    |
| 03-14-XA                                           | 03-14-XA                      | ELIZABETH M.<br>NICHOLS      | 2901 LIBERTY<br>PARKWAY             |
| CBA-02-138                                         | PDM #III-453; 00-127-M        | SCHLEY PROPERTY              | CELADON ROAD /<br>BURNSIDE FARM ROA |

Attachment: SUBJECT FILE(S) / EXHIBIT(S) ATTACHED

INTER-OFFICE CORRESPONDENCE  
RECOMMENDATION FORM

TO: Director, Office of Planning & Community Conservation  
Attention: Jeffrey Long  
County Courts Building, Room 406  
401 Bosley Avenue  
Towson, MD 21204

Permit or Case No. 02-464-SP4A

FROM: Arnold Jablon, Director  
Department of Permits & Development Management

RE: Undersized Lots

Residential Processing Fee Paid  
(\$50.00)

Accepted by CTM  
Date 4/22/02

Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning and Community Conservation prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

LINDA WESTERFIELD 11307 BEACH ROAD WHITE MARSH (410) 335-2379  
Print Name of Applicant Address Telephone Number

Lot Address 11308 BEACH ROAD Election District 11 Councilmanic District 5 Square Feet 20,820

Lot Location: N E S W side/corner of STEVENS ROAD 1400+ feet from N E S W corner of STEVENS ROAD  
(street) (street)

Land Owner: JOSEPH & VICTORIA KRAFT Tax Account Number 11-02-003750

Address: 11310 BEACH ROAD Telephone Number (410) 335-5085

CHECKLIST OF MATERIALS- (to be submitted for design review by the Office of Planning and Community Conservation)

TO BE FILLED IN BY ZONING REVIEW, DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ONLY!  
PROVIDED?

|                                                                                                  | YES                                 | NO                       |
|--------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|
| 1. This Recommendation Form (3 copies)                                                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Permit Application                                                                            | <input type="checkbox"/>            | <input type="checkbox"/> |
| 3. Site Plan<br>Property (3 copies)                                                              | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Topo Map (2 copies), available in Room 206, County Office Building - (please label site clearly) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Building Elevation Drawings                                                                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Photographs (please label all photos clearly)<br>Adjoining Buildings                          | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Surrounding Neighborhood                                                                         | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6. Current Zoning Classification: <u>RC2</u>                                                     |                                     |                          |

TO BE FILLED IN BY THE OFFICE OF PLANNING ONLY!

RECOMMENDATIONS / COMMENTS:

☐ Approval ☐ Disapproval ☐ Approval conditioned on required modifications of the application to conform with the following recommendations

Signed by \_\_\_\_\_  
for the Director, Office of Planning and Community Conservation

Date \_\_\_\_\_

INTER-OFFICE CORRESPONDENCE  
RECOMMENDATION FORM

TO: Director, Office of Planning & Community Conservation  
Attention: Jeffrey Long  
County Courts Building, Room 406  
401 Bosley Avenue  
Towson, MD 21204

Permit or Case No.

02-464-SPUA

FROM: Arnold Jablon, Director  
Department of Permits & Development Management

Residential Processing Fee Paid  
(\$50.00)Accepted by: LTm  
Date 4/22/02

RE: Undersized Lots

Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning and Community Conservation prior to this office's approval of a dwelling permit.

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Lot Location: NE S W side/corner of STEVENS ROAD, 1400+ feet from NE S W corner of STEVENS ROAD  
(street) (street)

Land Owner: JOSEPH & VICTORIA KRAFT Tax Account Number 11-02-003750

Address: 11310 BEACH ROAD Telephone Number (410) 335-5085

CHECKLIST OF MATERIALS- (to be submitted for design review by the Office of Planning and Community Conservation)

TO BE FILLED IN BY ZONING REVIEW, DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ONLY!  
PROVIDED?

|                                                                                                  | YES                                 | NO                       |
|--------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|
| 1. This Recommendation Form (3 copies)                                                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Permit Application                                                                            | <input type="checkbox"/>            | <input type="checkbox"/> |
| 3. Site Plan<br>Property (3 copies)                                                              | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Topo Map (2 copies): available in Room 206, County Office Building - (please label site clearly) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Building Elevation Drawings                                                                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Photographs (please label all photos clearly)<br>Adjoining Buildings                          | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Surrounding Neighborhood                                                                         | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6. Current Zoning Classification: <u>RC2</u>                                                     |                                     |                          |

TO BE FILLED IN BY THE

## RECOMMENDATIONS / COMMENTS:



Approval



Disapproval



Approval conditioned on re

## Post-It\* Fax Note

7671

Date 5/7# of pages 1

|                       |                         |
|-----------------------|-------------------------|
| To <u>Woyd Noxley</u> | From <u>Lyn Larkham</u> |
| Co./Dept.             | Co.                     |
| Phone #               | Phone # <u>3480</u>     |
| Fax # <u>2824</u>     | Fax #                   |

Signed by

Lyn Larkham  
for the Director, Office of Planning and Community Conservation

Date

5/07/02

# SCHLACHMAN, BELSKY & WEINER, P.A.

ATTORNEYS AT LAW

SIDNEY SCHLACHMAN  
COUNSEL

HENRY L. BELSKY  
HERBERT R. WEINER  
MICHAEL MARSHALL

LINDA D. MOELLER  
STEVEN E. SUNDAY  
ROANNE HANDLER  
KIMBERLY A. ALLEY  
MICHAEL J. BELSKY  
MICHAEL E. DAVEY  
DEBORAH J. SUESS  
JEFFREY B. SCHULTZ  
NICHOLAS D. ALEXANDER  
LISA L. HARDY

SUN LIFE BUILDING - TENTH FLOOR  
20 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND 21201  
TELEPHONE (410) 685-2022  
TELEFAX (410) 783-4771



January 6, 2003

TOWSON OFFICE  
SUITE 101  
405 E. JOPPA ROAD  
TOWSON, MD 21286-5487  
TELEPHONE (410) 685-2022  
TELEFAX (410) 296-5880

UPPER MARLBORO OFFICE  
2905-A OLD LARGO ROAD  
P.O. Box 1658  
UPPER MARLBORO, MD 20773-1658  
TELEPHONE (301) 627-6360  
TELEFAX (301) 627-5911

EASTON OFFICE  
300 TALBOT STREET  
SUITE 202  
EASTON, MD 21601-3525  
TELEPHONE (410) 819-3715  
TELEFAX (410) 820-4980

Baltimore County Office of Appeals Board  
Old Courthouse, Room 49  
400 Washington Avenue  
Towson, Maryland 21204

REPLY TO

Re: Linda Westerfield  
Case No: 02-46-A  
11308 Beach Road, White Marsh, Maryland 21162

Dear Sir/Madam:

Please be advised that Linda Westerfield, the contract purchaser of the property known as 11308 Beach Road, White Marsh, Maryland has contacted this office for the limited purpose of requesting that the Baltimore County Appeals Board advance the hearing date on the appeal in the above matter.

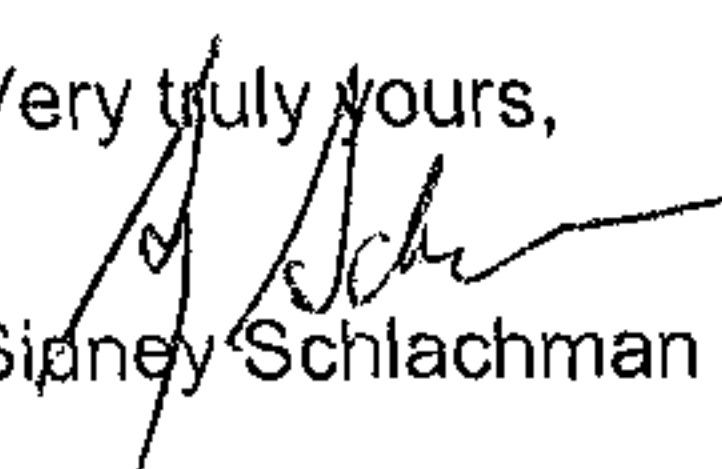
Ms. Westerfield would like to have a hearing sooner than February 19, 2003 because this matter has been pending for sometime and she wants to know what the finalization will be so she will be able to financially lock in a low rate of interest. She is the purchaser of the two lots in which she intends to build. In addition, she has advanced a substantial amount of money in this matter and cannot proceed with the building of a home until after the final decision, providing she is successful. This present date may delay the building of her home and may result in additional costs which would be a strain on her financial condition.

Therefore, I am requesting on her behalf, that the hearing date be advanced.

This is also to advise you this office is not representing Ms. Linda Westerfield in the appeal itself.

Thanking you for your cooperation in this matter, I am

Very truly yours,

  
Sidney Schlachman

SS/bh  
cc: Linda Westerfield

**RECEIVED**

JAN 07 2003

BALTIMORE COUNTY  
BOARD OF APPEALS

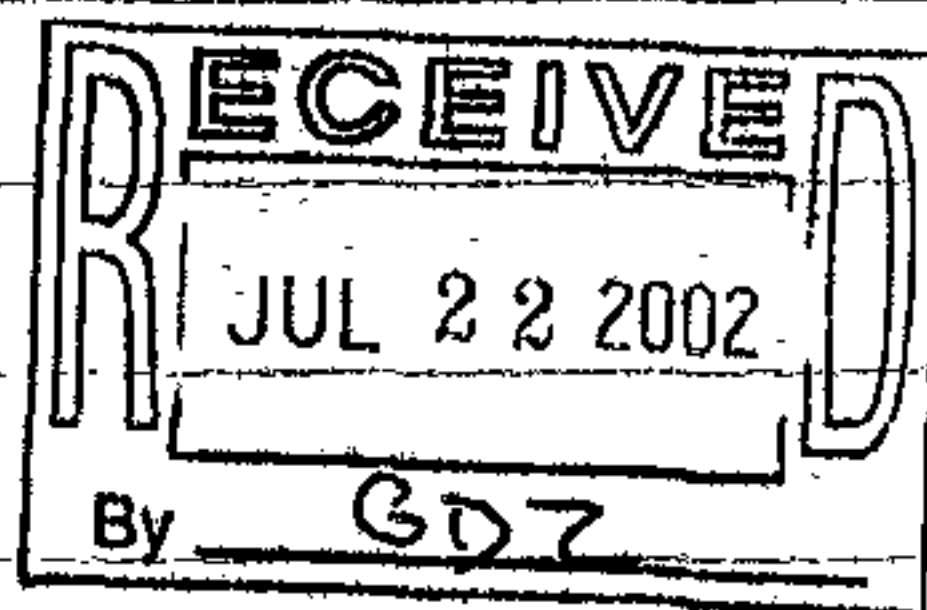
2#

To Director Mr A JABLON  
Baltimore County  
I DANIEL DUPONT would like  
to FILE AN APPEAL ON CASE  
NO-02-464-A  
I DO NOT LIKE DECISION MADE  
ON PROPERTY 11308 BEACH RD

Thank you

DANIEL DUPONT  
11306 BEACH RD  
WHITE MARSH MD 21162

410-679 8833



Daniel H. DuPont  
11306 Beach Road  
White Marsh, MD 21162  
6 June 2002

Reference Petition for Variance 02464SPHA  
11308/10 Beach Road, White Marsh, MD 21162  
11<sup>th</sup> Election District—5<sup>th</sup> Councilmanic District

Baltimore county government, Zoning Commissioner  
Office of Planning and Zoning, Suite 113 Courthouse  
400 Washington Avenue, Towson, MD 21204

Dear Sir or Madam:

As the immediate neighbor of the above referenced property, please enter my following feelings in the respective reference variance to build a house on an undersized lot immediately adjoining my property.

First and foremost let me state for the record that I am for ALL neighbors in this community to have full enjoyment and appreciation of their property. This being the case, I am for (definitely not against) the owners of the above referenced property (Mr. and Mrs. Kraft) and the prospective new owners across the road from the reference property to have the variance granted based on the following criteria:

If the zoning Commissioner will decide that I also may build a house on my lot at 11304 Beach Road. This zoning matter of me being permitted to build a house on an undersized lot (case No. 01-313-A) is still before the County Board of Appeals as an official, written decision has not been presented to me at this time.

The variance requests are almost identical except that the Kraft property is entirely wooded and thusly is good for the local wild life and the adjoining Bird River water shed. Also, another distinction is that the Krafts own adjoining land of at least one acre. This means that the criteria so forcibly used by the Deputy People's Counsel in my variance: BCZR 304.1.C "The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations {B.C. X. R., 1955; Bill no. 47, 1992} disqualifies this above reference variance. I owning a less than 1 acre of adjoining land qualified under my variance to improve an undersized lot while this referenced variance does not qualify since the Krafts own sufficient adjoining property to build a house on their property. Instead, the Krafts are trying to subdivide their land holdings and build on an undersized lot (s?). The original purpose of this land requirement was to keep wooded areas in communities from disappearing and developers from overcrowding. This variance is doing just that as mine did not.

Bottom line: If the Baltimore County Board of Appeals and/or Zoning Commissioner will permit me to build a house on my property, I in turn am all for the neighbors building on the above referenced property. However, if I am ultimately not permitted to improve my property then in all fairness no one else in the community should be allowed to similarly improve their property. The decision is up to the zoning board in that they not be prejudice against any neighbor (including me) by not permitting me to do that they allow other neighbors to do.

In closing, I must reiterate that **I want all neighbors in the community to enjoy and be able to make improvements to their property that will be a betterment to the community as a whole.**

Sincerely,

Daniel H. DuPont



JUN 7 2002  
GDZ

Daniel H. DuPont  
11306 Beach Road  
White Marsh, MD 21162  
6 June 2002

Reference Petition for Variance 02464SPHA  
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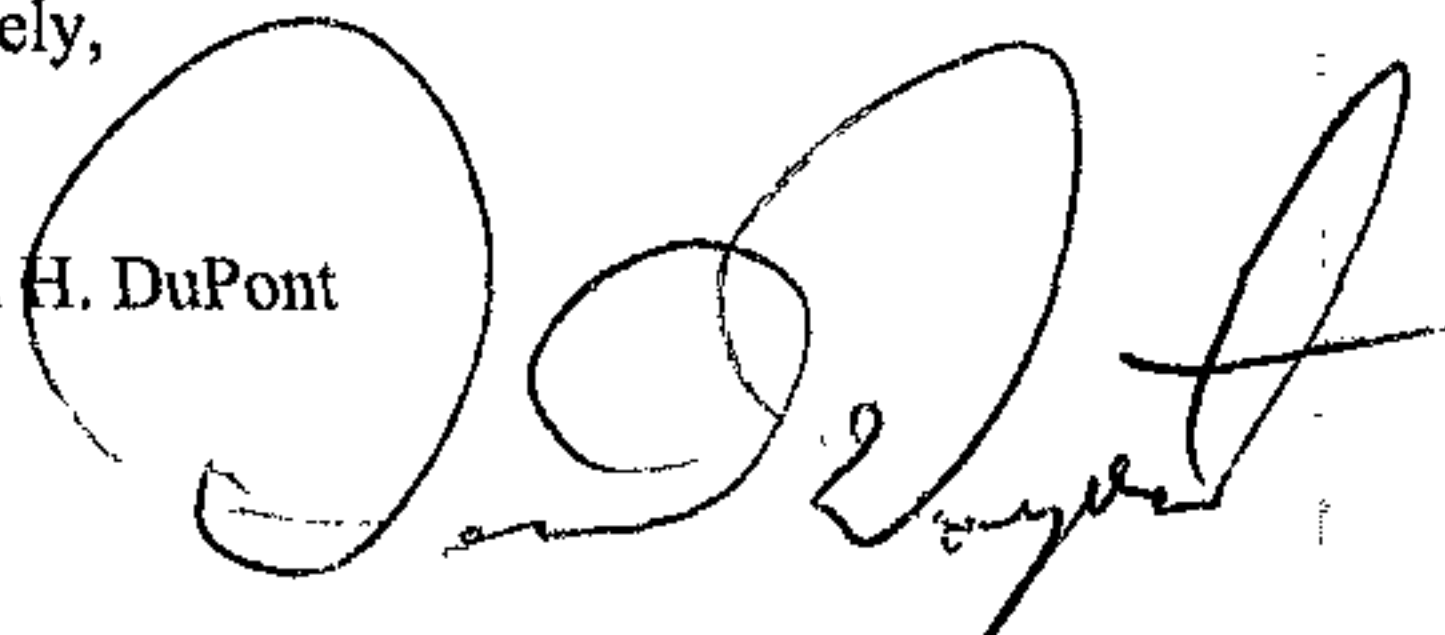
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Sincerely,

Daniel H. DuPont



JUN - 7 2002

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

#02-46A-SPHA  
6/10/02

Petitioners

NAME

ADDRESS

Linda Westfield  
Joseph J. Kraft  
Victoria S. Kraft

11307 Beach Road  
11310 Beach Rd.  
11310 Beach Rd.





# PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

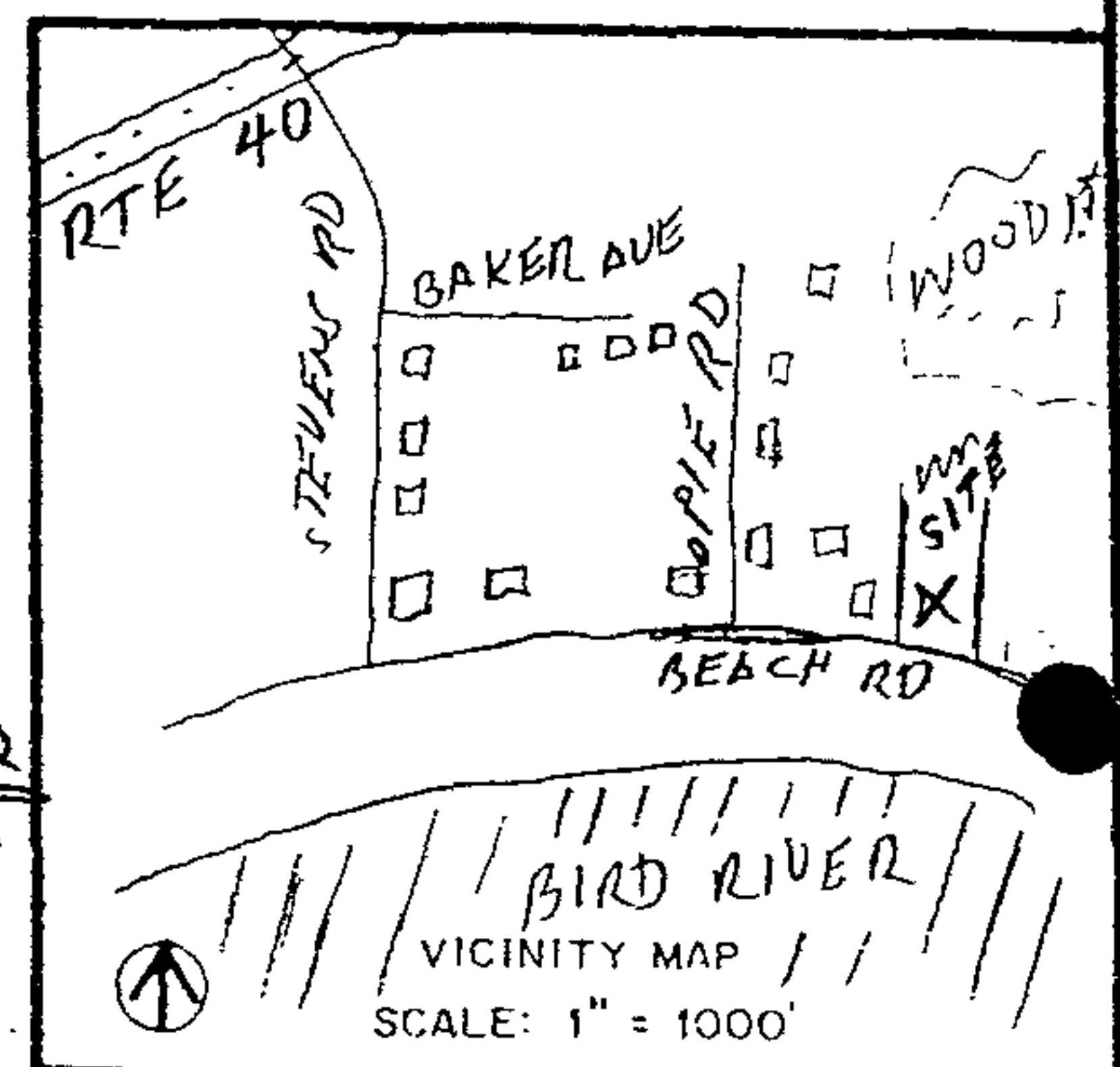
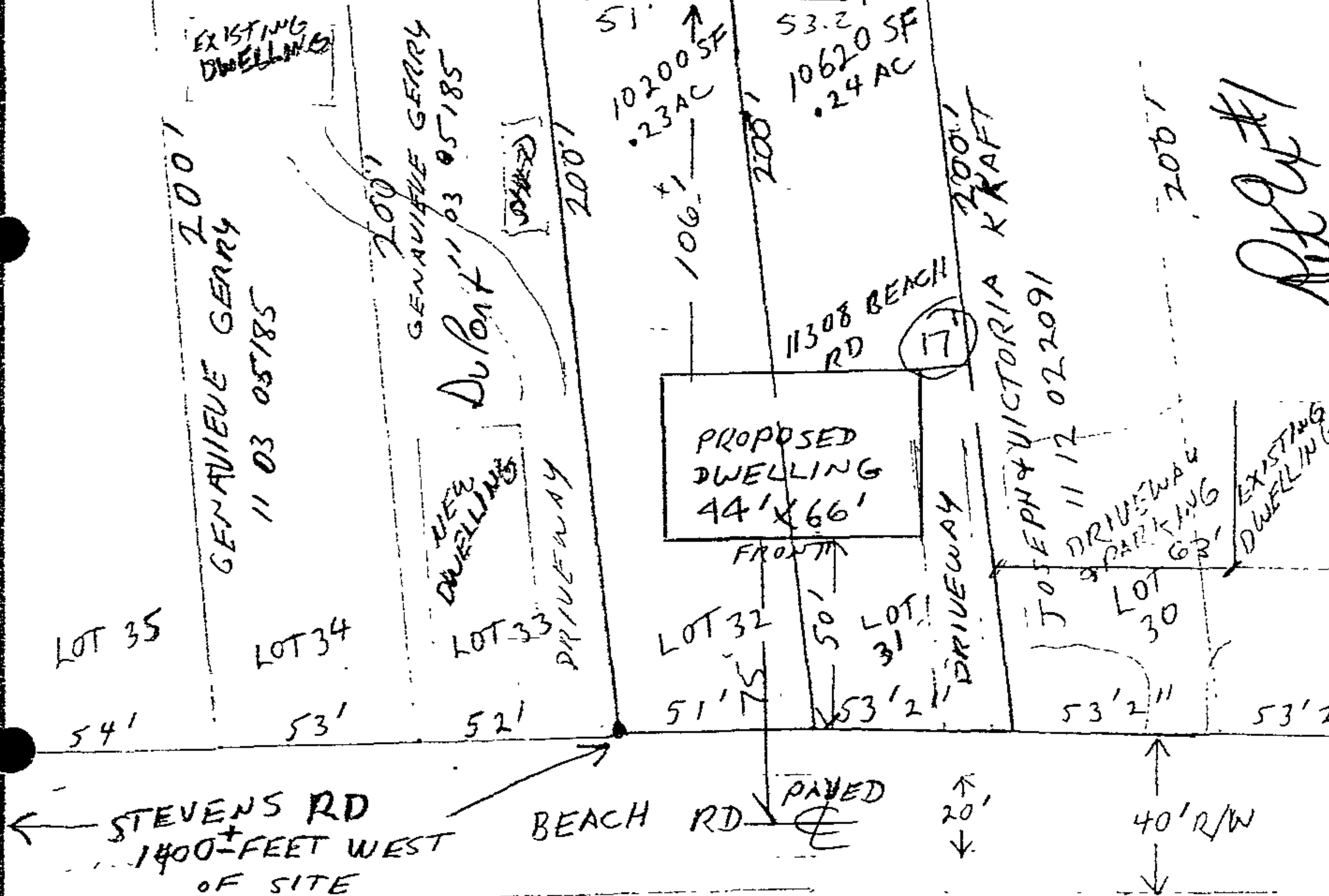
PROPERTY ADDRESS 11308 BEACH ROAD

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME BIRD RIVER BEACH

PLAT BOOK # 7 FOLIO # 187 LOT # 31/32 SECTION #       

OWNER JOSEPH & VICTORIA KRAFT



## LOCATION INFORMATION

ELECTION DISTRICT 11

COUNCILMANIC DISTRICT 5

1" = 200' SCALE MAP # NE 9J

ZONING RC 2

LOT SIZE: 478 ± ACRES 20820 ± SQUARE FEET

|       | PUBLIC                              | PRIVATE                  |
|-------|-------------------------------------|--------------------------|
| SEWER | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| WATER | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

|                              | YES                                 | NO                                  |
|------------------------------|-------------------------------------|-------------------------------------|
| CHESAPEAKE BAY CRITICAL AREA | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 100 YEAR FLOOD PLAIN         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| HISTORIC PROPERTY/ BUILDING  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| PRIOR ZONING HEARING         | <u>NONE</u>                         |                                     |

ZONING OFFICE USE ONLY

REVIEWED BY        ITEM #        CASE #       

LTM 464

GROSS AREA = 1.59 AC  
KRAFT PROP.

LOTS 32 & 31 = 0.48 AC

NET AREA = 1.11 AC  
KRAFT PROP.

1. PUBLIC WATER & SEWER - LOC. IN ROADWAY

2. THERE ARE NO STREAMS OR WATER DRAINAGE SYSTEMS ON OR WITHIN 50 FT OF SUBJECT SITE

3. ELEVATION 47 FEET

SCALE OF DRAWING: 1" = 50'

PREPARED BY PAT CURRY

Pet Ex #1

# PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

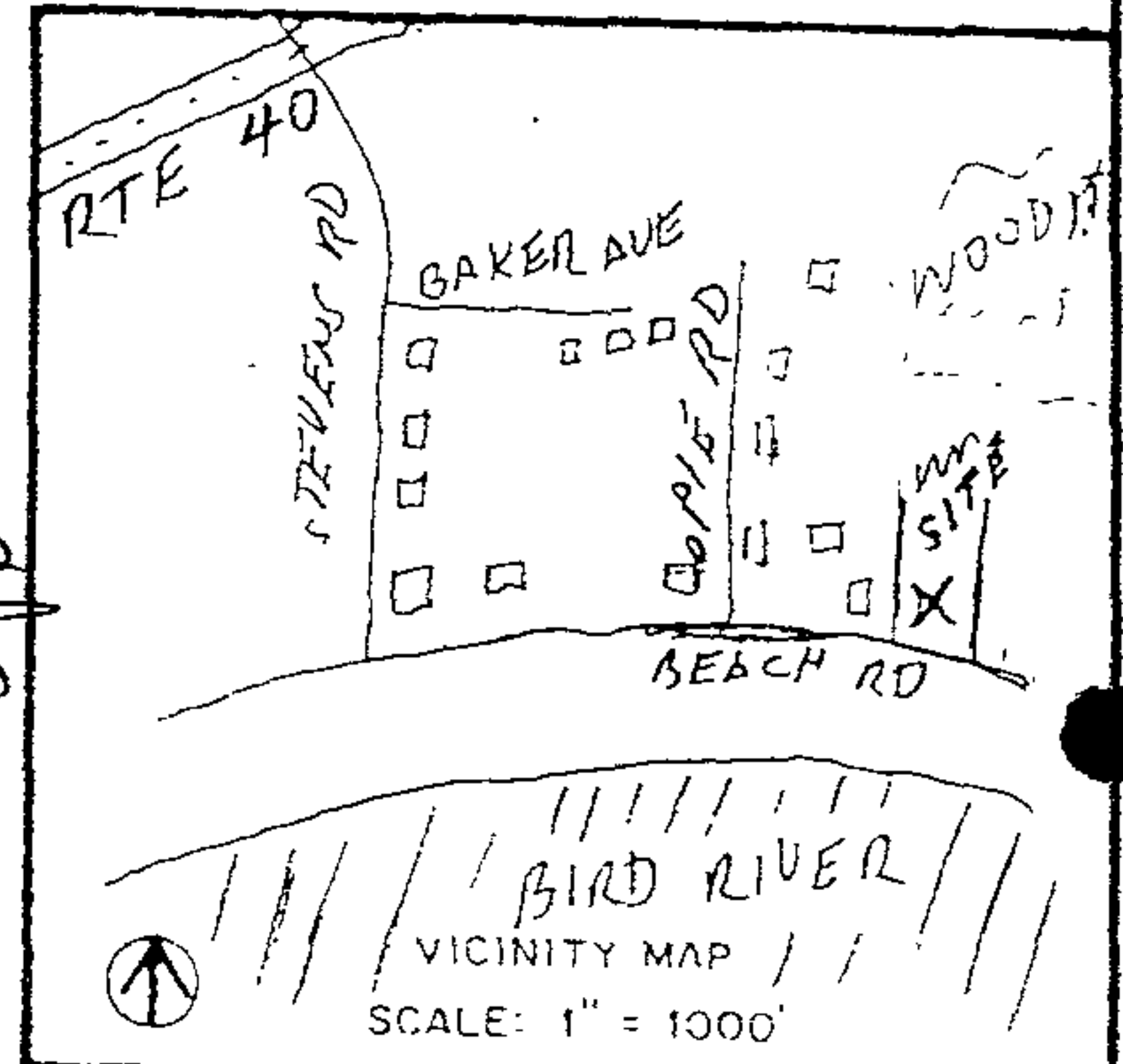
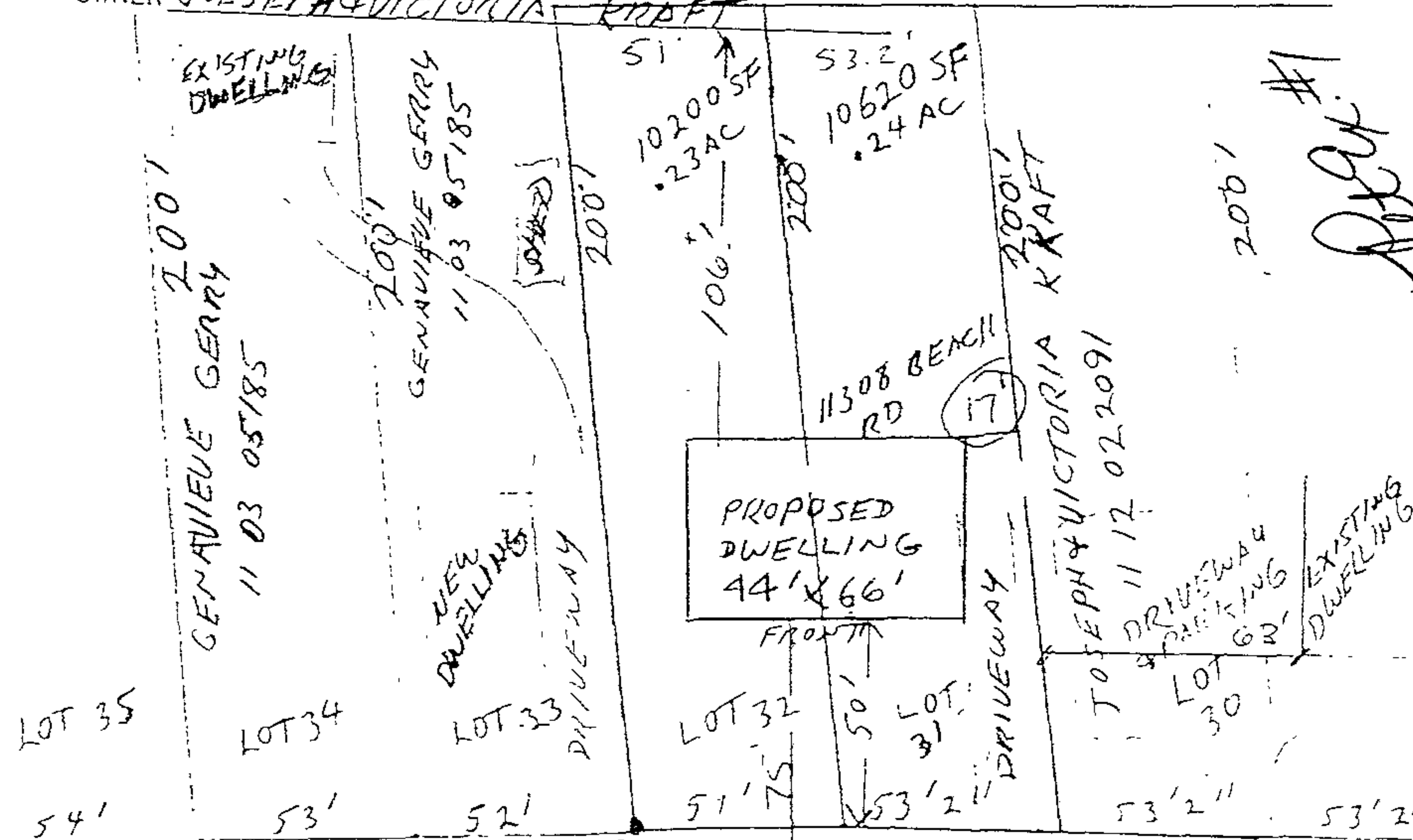
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LOT SIZE 478 ± 20820 ±  
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|       | PUBLIC                              | PRIVATE                  |
|-------|-------------------------------------|--------------------------|
| SEWER | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| WATER | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

|                              | YES                                 | NO                                  |
|------------------------------|-------------------------------------|-------------------------------------|
| CHESAPEAKE BAY CRITICAL AREA | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 100 YEAR FLOOD PLAIN         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| HISTORIC PROPERTY/ BUILDING  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| PRIOR ZONING HEARING         | <u>NONE</u>                         |                                     |

## ZONING OFFICE USE ONLY

REVIEWED BY LT/M ITEM # 464 CASE #       

GROSS AREA = 1.59 AC  
KRAFT PROP.

BIRD RIVER

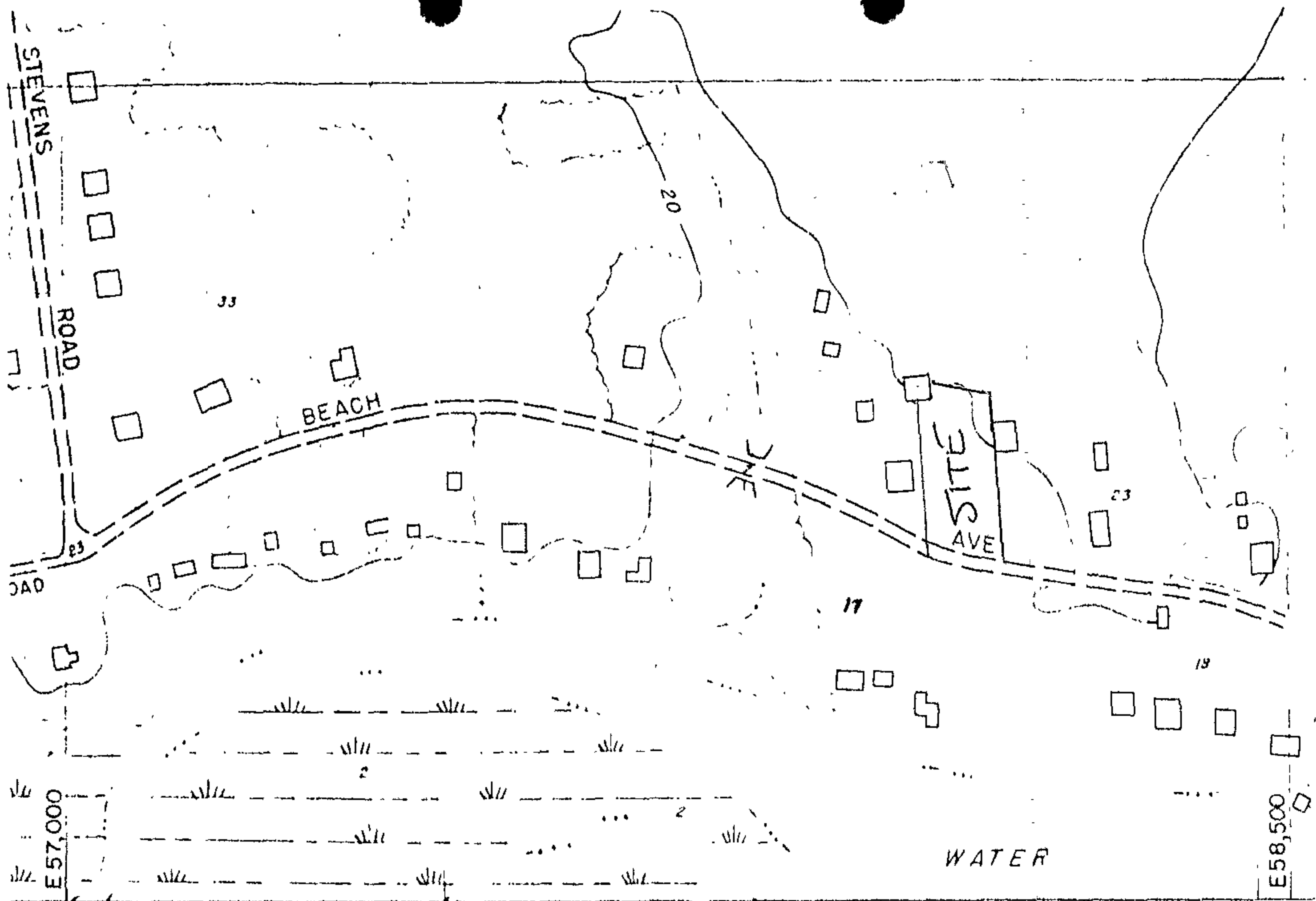
1. PUBLIC WATER & SEWER LOC. IN ROADWAY

2. THERE ARE NO STREAMS OR WATER DRAINAGE SYSTEMS ON OR WITHIN 50 FT OF SUBJECT SITE

3. ELEVATION 47 FEET

SCALE OF DRAWING: 1" = 50'

PREPARED BY PAT CURRY



ET N.E. 8-J)

REVISION

B

# METRIC MAP OF METROPOLITAN AREA

Topography Compi  
AERO SERVICE CO

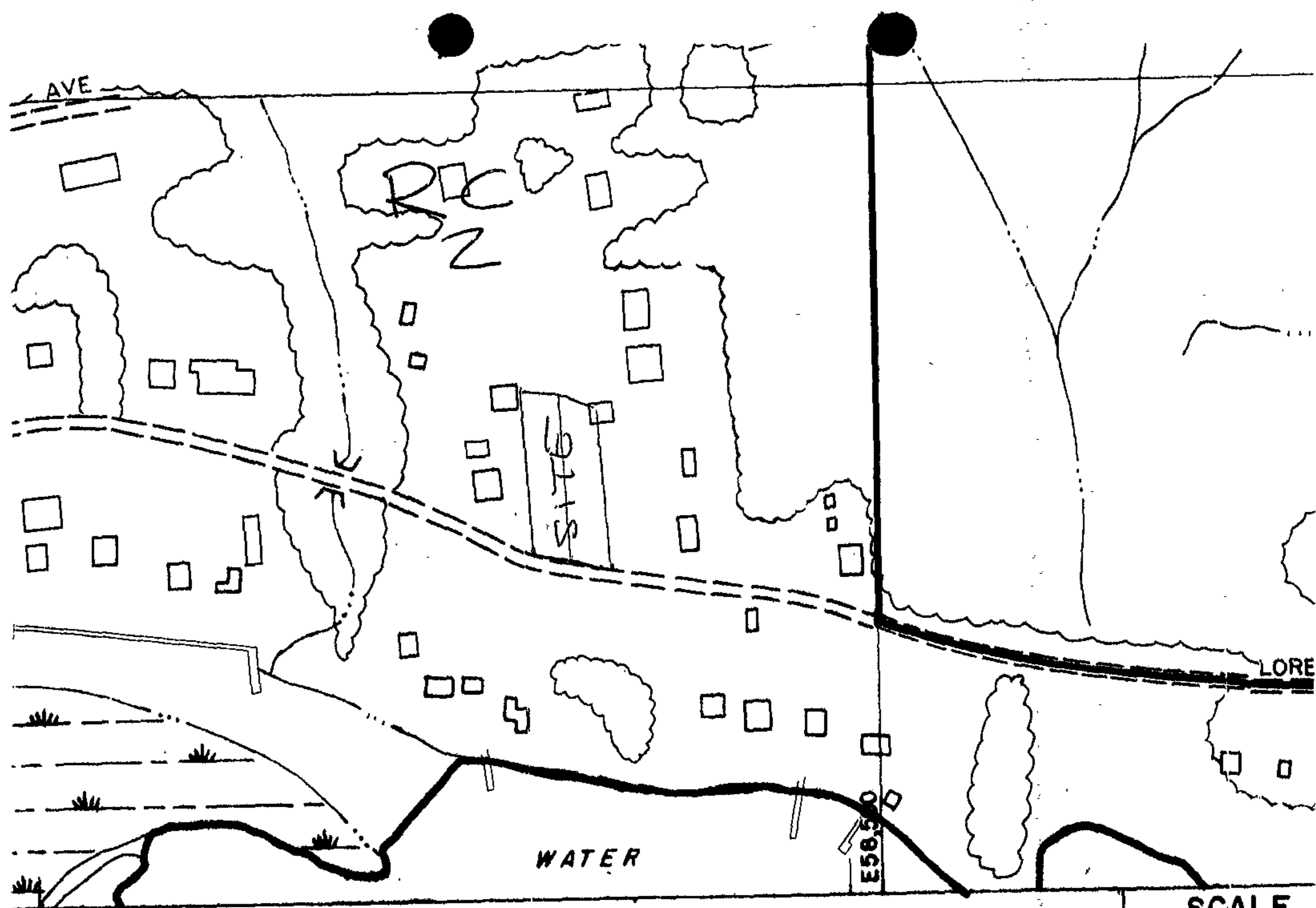
NE 11"=200'

FLOODPLAIN C  
FIRM MAP # 295

LLOYD MOXLEY

OFFICIAL ZONING MAP 200' SCALE

(NE 9J)



# TY D ZONING MAP

LE  
9)  
1"=200'

SCALE  
1" = 200'

DATE  
OF  
PHOTOGRAPH  
JANUARY  
1986

4/6/86



11308 BEACH ROAD  
NE 9 J  
11th DIST

R.C. 2

AVE

SITE

LORELEY

WATER

E5850

Item #4604

SCALE

Unfiled  
3/20/03Petitioners

- ✓ 1. Subdivision plat
- ✓ 2. Photos

- A. 11308 Brad Rd - wooded
- B. 11308 & 11304 Brad Rd boundary
- C. Dupont's garage w/ apr.
- D. Dupont property w/ modular house
- E. Dupont " close to boundary
- F. 11308 Subject property
- G. Neighboring houses
- H. Dupont additional dwelling
- I. Dupont property
- J. Subject property

3. Variance request - not to scale

4. Current conditions

5. Dupont variance shown

6. Speculative/cumulative result if Dupont got his variance

7. letter 2/14/03 to CBA from Kraft

✓ 8. Photos

A. across street - new house - Dec.

B. new house 3 yrs. ago

C. new house ~~in~~ 4 yrs. ago

Protestants

- ✓ 1. Subdivision plat

Per. #7

February 14, 2003

Your Honor,

At our last hearing on June 10, 2002, we spent the most part of the meeting hearing all about Daniel Dupont's Case No. 01-313-A than we did about Linda Westerfield's variance, which what we were here for. All about how Daniel's case was as he puts, "almost identical to Linda's variance and he was definitely not against her building a house there as long as the zoning commissioner will decide that he also may build another house next to the one on his other lot."

What I see is that Daniel is using us to try to get what he wants and it's not even close to what he has now, much less his plans to put a fourth building on the same size lots that Linda will have.

One of the last things my family and I wanted to do was to put these 2 lots up for sale, for we enjoyed the privacy the lots gave us. It was only for the fact that our eldest daughter just completed four years of college and she was getting married in June so we had no choice financially but to sell the two lots.

When we put the lots up for sale we had no idea what the price should be. By Baltimore County regulations, even though it's two lots, I was sure there could only be one house put in, but with Daniel's variance still pending, if he was approved for another house then we could go for a variance to have two houses built and the value would increase. After hearing Daniel's variance was denied we sold the lots to Linda at the price for one building lot.

Before Daniel's appeal hearing he went around the neighborhood with a pre-written letter for signatures. The letter stated that he wants to put a house on his lot and I have no problem with that. In the years since he's owned the property it was the first time he ever came over and was actually neighborly. He explained how he was living in an apartment paying rent until his house was done. Daniel stated he wanted to put another house in for his brother to live in and how he had a friend that was interested in purchasing the lots we had for sale to build a house on. I had every intention of signing his letter but I wanted to find out more information on what his intentions were. He would come over everyday asking if I had signed the letter yet. Then by the fifth day after I hadn't signed the letter Daniel got very irritated and said that if I didn't sign the letter that whoever bought my lots, he was going to give them a tough time when they go to build, which more or less brings us to where we are here today.

Joseph F. Kraft  
11310 Beach Road  
White Marsh, MD. 21162





County Board of Appeals of Baltimore County

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

SAR  
S

March 26, 2003

NOTICE OF DELIBERATION

IN THE MATTER OF:

JOSEPH & VICTORIA KRAFT – Legal Owners  
Linda Westerfield – Contract Purchaser  
Case No-02-464-SPHA

Having heard this matter on 3/20/03, public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, APRIL 9, 2003 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

Kathleen C. Bianco  
Administrator

c: Appellant /Protestant : Daniel Dupont  
Legal Owner : Joseph and Victoria Kraft  
Contract Purchaser : Linda Westerfield  
Office of People's Counsel  
Pat Keller, Planning Director  
Lawrence E. Schmidt, Zoning Commissioner  
Arnold Jablon, Director /PDM

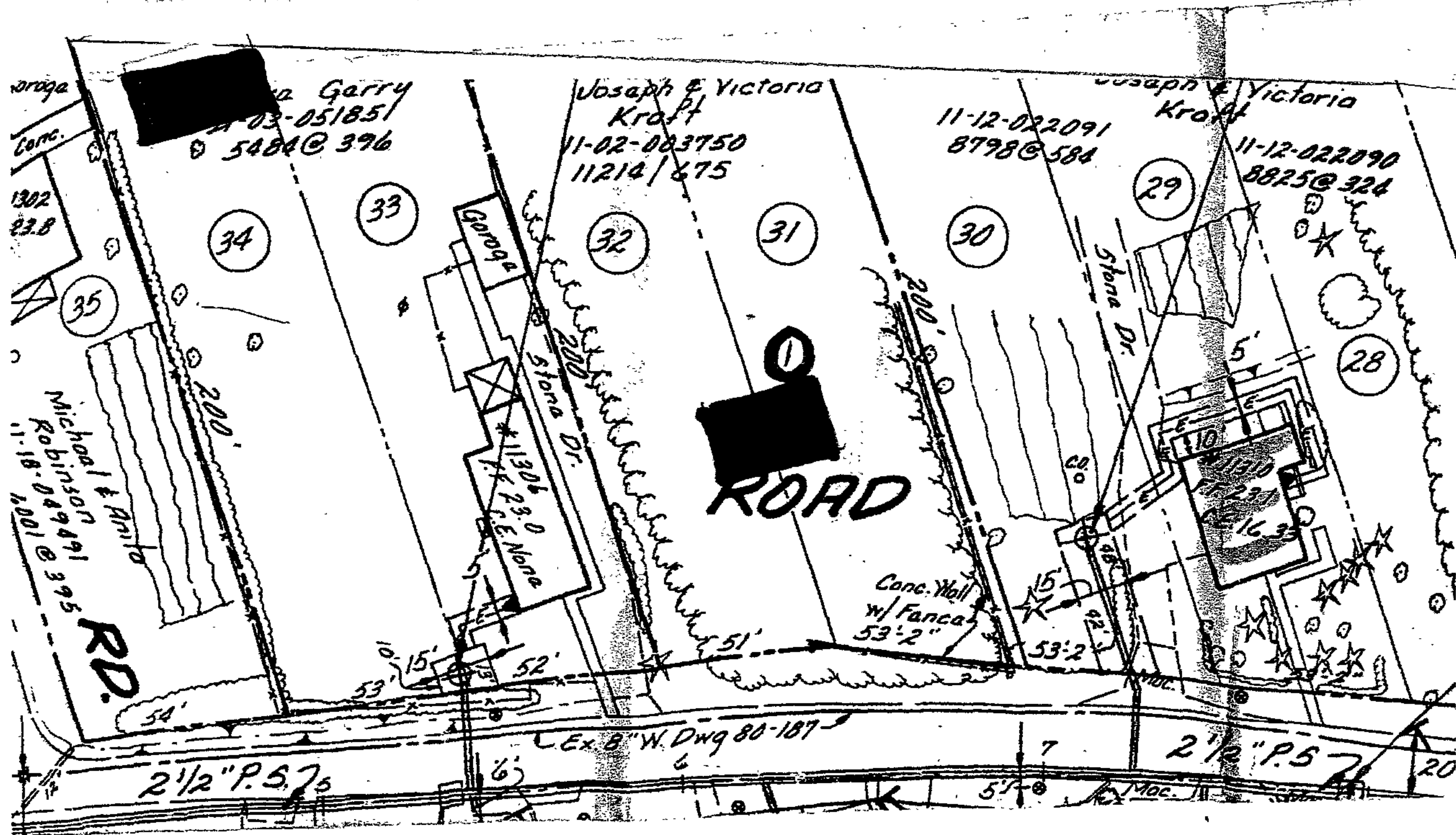
FYI copy: S.M.W.

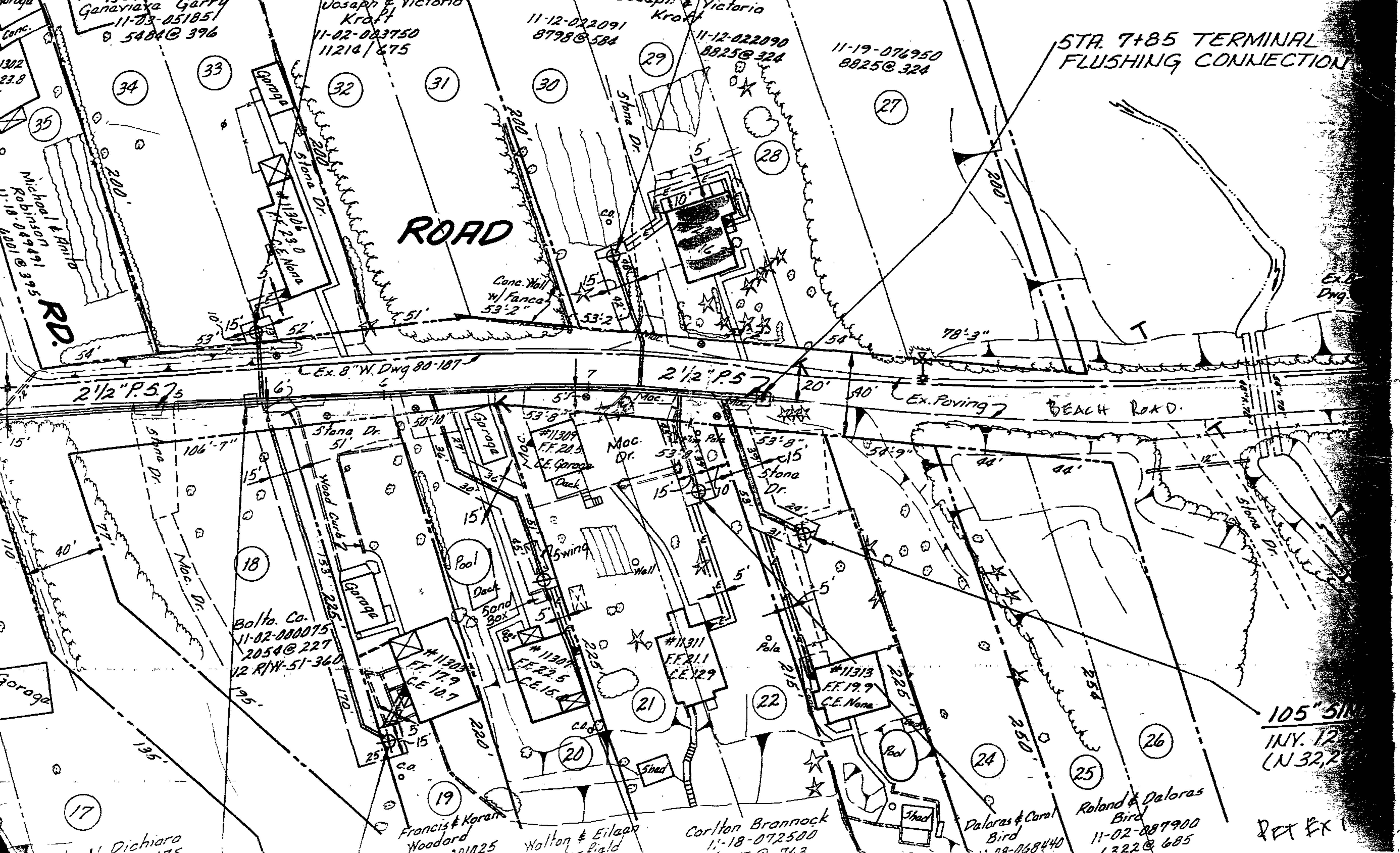
What Linda's Variance is asking For

Per. # 3

2

① single house



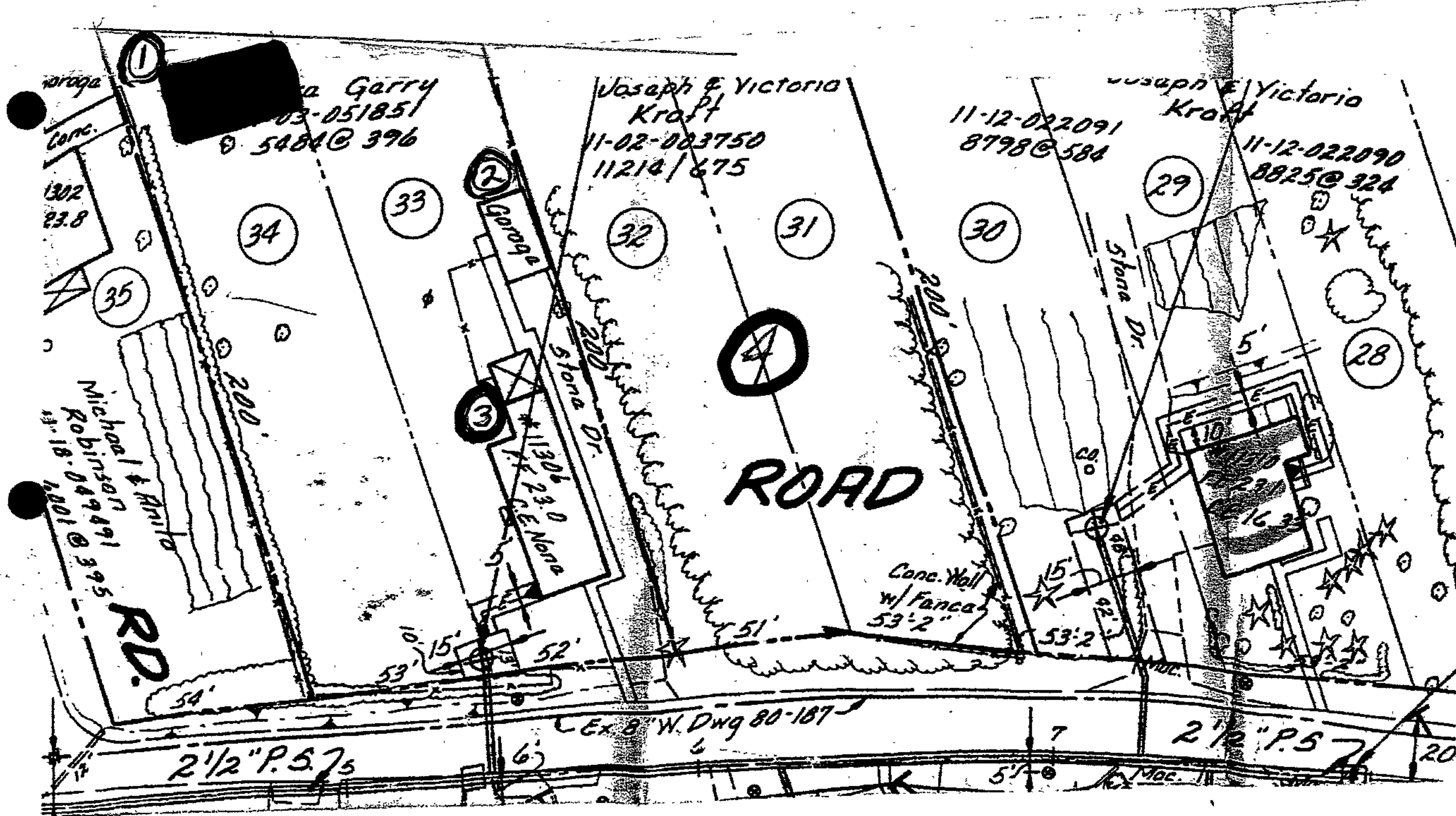


# What's There Now

①

Ref. Per. #4

- ① Pole Barn with Living quarters
- ② Garage - being converted into house
- ③ House put on site less than a year ago
- ④ empty lot's







Jos. Victoria Frost

02-44-5000

Ref. times 2A-2I } 13 photos  
8A-8C }

House put  
up 3 months  
ago



RT IN  
3 yrs ago



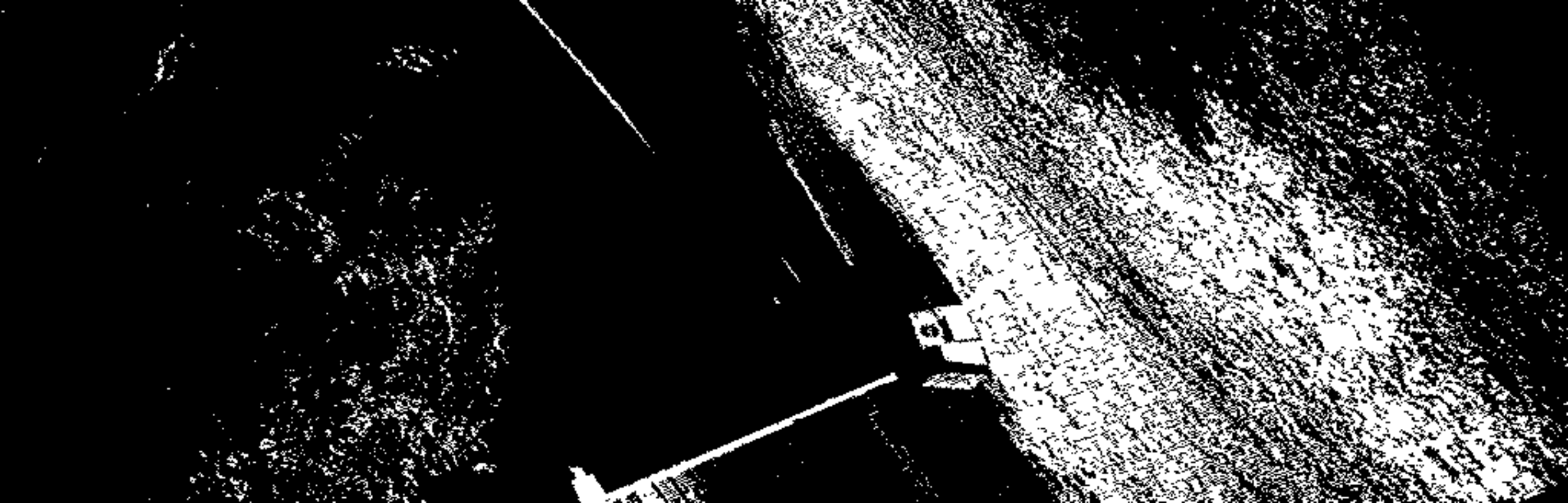














STANLEY & WEAVER  
11203 ROAD









ZONING APPEAL  
PUBLIC HEARING  
DATE: 10/10/2007  
TIME: 1:00 PM  
LOCATION: 1000 1st St. N.  
SUITE 100  
DULUTH, GA 30091

AND TO DETERMINE THAT DENSITY IS NOT  
AFFECTED "