

IN THE MATTER OF
THE APPLICATION OF
DOROTHY K. AND CHERYL A.
MILLIGAN - LEGAL OWNERS /
PETITIONERS ON PROPERTY LOCATED
ON THE SE/S HATHERLEIGH ROAD,
25' SW OF OXFORD ROAD
(7116 OXFORD ROAD)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 02-519-A

* * * * *

MAJORITY OPINION

This matter comes before the Baltimore County Board of Appeals on a timely appeal brought by the Petitioners/Appellants Dorothy K. and Cheryl A. Milligan, resulting from a decision by the Deputy Zoning Commissioner dated September 10, 2002, in which a Petition for Variance was denied at the subject site, 7116 Oxford Road, 9th Election District, 4th Councilmanic District.

The Petitioners/Appellants were represented before the Board by Paul J. Hanley, Esquire. Francis X. Borgerding, Jr., Esquire, appeared on behalf of the Protestants, Stoneleigh Community Association, Inc.

The first person to testify was the Petitioner Cheryl A. Milligan. Ms. Milligan stated that she has resided for the last six years at 7116 Oxford Road in the Stoneleigh section of Baltimore County. Also living at that address are her son, aged 14, and her daughter, as well as her mother, Dorothy K. Milligan, who joins her in this Petition for Variance. Ms. Milligan noted that her mother is ill with Parkinson's disease and wheelchair bound and that her daughter is at college much of the year. Ms. Milligan was an art major in college and is employed at Towson High School in a full-time capacity as an art teacher.

Ms. Milligan testified that she had previously painted in the house at the subject site, but the strong smell of the paints and "turpenoid" created problems for her ill mother. She designed a studio as an accessory structure to the principal dwelling and hired ADR Builders to do the construction. A building permit was secured as required. She described the studio as 20 feet by 12 feet, built on concrete footings, with wood sides painted red. The building is custom built with many windows and French

doors. It was her opinion that the building is not portable and could only be relocated at great difficulty and expense, if at all. The building cost approximately \$20,000 to construct. As Petitioner's Exhibit #2 Ms. Milligan submitted the plat to accompany the Petition for Variance, prepared by architect John Hill.

Ms. Milligan also submitted a series of photographs (Petitioner's Exhibit #3) which she had taken and which showed the subject site in detail. The subject site is a corner lot bordered by Oxford Road and Hatherleigh Road. Ms. Milligan noted that photograph 1B shows the utility pole and the neighbor's rear lot with garage. It also shows the curb cuts which are original to the neighborhood and provide the access from Hatherleigh Road for her driveway, the kitchen door entrance and the art studio. She also pointed out that photographs 1A, 1B and 1C depict the six 60-foot, plus or minus, spruce trees which screen her lot from the neighbors. Photograph 3A and 3B show the Hatherleigh Road side of the house with a sidewalk and an entrance door. Photograph 6A and 6 B show the Oxford Road entrance and sidewalk.

It was Ms. Milligan's opinion, using the photographs as evidence, that from York Road all houses bordering the south side of Hatherleigh front the intersecting streets as reflected by their street addresses, with their rear yards backing to each other. There are two houses per block, according to Ms. Milligan, and none front on Hatherleigh, including her lot, which she contends fronts on Oxford Road.

Ms. Milligan stated that the accessory building is to be used by her as a personal painting studio. She would not conduct art classes there nor would she do any marketing of her paintings from the studio. She also plans to add landscaping toward Hatherleigh Road to screen the 12-foot side which faces that road.

On cross-examination by Mr. Borgerding, Ms. Milligan agreed that there are private covenants for the neighborhood, but she did not realize that she must submit her plans to the community association for approval. She also agreed that architecturally the longer portion of her house is parallel to

Hatherleigh Road while the shorter portion faces Oxford Road. She stated that the exterior door on the Hatherleigh side opens directly into the living room and the exterior door on the Oxford Road side opens into a sunroom which is open to the living room. She agreed with Mr. Borgerding that the shape of her lot could be called a "trapezoid," but she did not know if there were others similar in shape in the Stoneleigh neighborhood.

Ms. Milligan testified that she had considered other locations for the studio but felt the large trees in the rear corner were an asset and should not be removed and that a subsequent owner might wish to use the studio as a garage in the future so the proximity to the driveway and the kitchen entrance would be the best location. She opined that the studio is located in the rear portion of her lot.

The next witness for the Petitioner was John Hill. Mr. Hill is a retired architect who lives at 703 Kingston Road, also in Stoneleigh. In 1994 he published *Design Characteristics of Maryland's Traditional Settlements*, which includes the Stoneleigh neighborhood in this study. Mr. Hill's c.v was submitted as Petitioner's Exhibit #4. The Board accepted Mr. Hill as an expert in architecture and urban design.

Mr. Hill noted for the record that he is associated with the Petitioner because he is a Boy Scout leader and Ms. Milligan's son is in his troop. He stated that he prepared the site plan (Petitioner's Exhibit #2) without compensation.

He testified that the 16-inch caliber spruces on the property line between the subject site and the adjoining property at 7112 Oxford Road as well as the large spruce trees on the Hatherleigh side contribute in an important way to the desirability of the "beautifully treed" historic community of Stoneleigh.

He further opined that the studio could not be placed between 7112 and 7116 Oxford Road because the distance from house to property line is only 18 feet with a 10-foot side yard setback. In

addition that area contains a drainage swale and 6-inch to 8-inch caliber trees would have to be removed.

Mr. Hill noted that the dwelling on the subject site has two "nicely designed facades" with an entrance on each facade as well as a service entrance into the kitchen near the driveway and the studio.

He described the typical front yard setback in Stoneleigh as being 25 feet with side yard setbacks of 10 feet. Using the site plan he pointed out that the 25-foot setback on the subject site is between Oxford Road and the dwelling while the setbacks are 10 feet between the adjacent neighbor at 7112 Oxford Road on one side and Hatherleigh Road on the other. It was Mr. Hill's opinion that the side facing Oxford Road is "legitimately the front of the house."

As Petitioner's Exhibit #5 Mr. Hill submitted a copy of the Zoning Policy Manual D-6 relative to corner lots and the permitted accessory building or use. He opined that the accessory structure in question could be moved back three to five feet or turned 90 degrees and still be in the correct portion of the lot. He opined that turning the building would put the broader face toward Hatherleigh making it more obvious and would necessitate removing the trees which provide a screen. This change, he said, would constitute "a net loss in appearance." He stated that the structure is properly placed in the proper third of the lot, does not occupy more than 50% of that third, meets the required setbacks and therefore complies with the ordinance in his opinion.

As Petitioner's Exhibit #6 Mr. Hill submitted an excerpt from his publication describing Stoneleigh.

The first witness in opposition to the Petition was Stoneleigh resident James Shiffrin. He stated that he objected to the variance request because he believes that the Petitioner should abide by the association covenants. Mr. Shiffrin presented no evidence.

The next witness was James Thompson, Supervisor of Code Enforcement for the Baltimore County Department of Permits and Development Management. Mr. Thompson has been in this position

since 1995; previously he was the zoning coordinator. He stated that he was familiar with the subject property, had reviewed the zoning file and had issued the citation stating that the accessory structure in question was not in the rear yard, but in the side yard of 7116 Oxford Road. As evidence he submitted the correction notice, Citation #02-2778 (Protestant's Exhibit #1).

Mr. Thompson said that the property was inspected on September 15, 2003. He opined that determining a frontal orientation for a subdivision such as Stoneleigh is unusual; such questions most often come to his office relative to waterfront property. He stated that to make their judgment his inspectors look at the windows and doors, try to determine where the "average person" would enter, and "apply common sense." In this case the inspection showed that the Oxford Road side has a sidewalk to a door onto an enclosed porch while the Hatherleigh entrance door is in the middle of the house with windows on each side. He determined that the Hatherleigh orientation constituted the "front" of the dwelling with the rear yard therefore "behind the line of the principal dwelling" toward 7112 Oxford Road.

On cross-examination by Mr. Hanley, Mr. Thompson agreed, using Petitioner's Exhibit # 5 as reference, that any corner lot depends on the lot being divided into thirds. He added that the house is located first and then the lot is divided into thirds.

Board member Marks asked if the accessory structure must meet rear yard setbacks to which Mr. Thompson answered, "Yes." Mr. Borgerding then confirmed that Mr. Thompson's department had determined that Oxford Road was not the front in this case. Mr. Thompson agreed.

Board Member Worrall asked what effect the street address has on the determination of front and rear yards. Mr. Thompson stated, "None. We look at physical characteristics. If the house were built now, it would be given an address on Hatherleigh Road."

The next witness was Jim Leonard of 615 Kingston Road. He appeared as chairman of the

Improvements Committee of the Stoneleigh Community Association. He offered the required Rule 8 papers (Protestant's Exhibit #2) authorizing him to speak for the organization. He stated that the association is opposed to the variance request. They are concerned about a precedent being set which would allow others to build in violation of the BCZR. He submitted photographs (Protestant's Exhibits #3 A-G and #4 A-D) showing views of the subject site from Hatherleigh Road and from Oxford Road.

Mr. Leonard said it was the position of the Board of Governors that the accessory building should be placed in the 18-foot area between 7112 and 7116 Oxford Road. He opined that this location would be the least visible "public side."

On cross-examination by Mr. Hanley, Mr. Leonard stated that the important element is that the accessory structure be in compliance with the zoning regulations. He said that the association found the 60-foot trees to be valuable and would want to save them, but zoning compliance was of paramount importance.

When questioned as to mail delivery, Mr. Leonard indicated that he believed mail is delivered only to the house number designated. He agreed that he would not dispute the fact that mail is delivered to the Oxford Road side.

Donald Gerding appeared as the next witness. Mr. Gerding lives at 335 Old Trail Road. He is the zoning chairman of both the Rodgers Forge Community Association and the Greater Towson Council of Community Associations. Mr. Gerding submitted Rule 8 papers (Protestant's Exhibit #6) authorizing him to speak in that capacity.

He testified that his board had visited the subject site and voted to support Stoneleigh Community Association's opposition to the request for variance. He opined that the subject property should have a Hatherleigh Road address and the 7116 Oxford Road address is confusing. He believes that the subject property fronts on Hatherleigh Road.

Michael Gill, 7117 Oxford Road, also appeared in opposition to the variance request. Mr. Gill submitted a plat of Stoneleigh (Protestant's Exhibit #7) with the subject site circled. His lot and house are across Oxford Road from the Milligan property at the corner of Hatherleigh Road.

Mr. Gill opined that there are numerous "trapezoid-shaped" lots in the neighborhood. He stated that the subject site is similar in size and topography to many others in Stoneleigh. Further he believes that the front of his house faces Hatherleigh Road, although he stated that his street address (7117 Oxford Road) causes confusion for deliveries and such.

On cross-examination by Mr. Hanley, Mr. Gill stated that his mail is delivered to the Oxford Road side of his property where his house number is located.

Barry Miller, 7109 Oxford Road, also appeared as a neighbor in opposition to the Petitioner's request. He is an architect and real estate agent.

Mr. Miller agreed with Mr. Gill that the front of the subject property should be considered the Hatherleigh Road area. He also agreed that the size, shape and topography of this lot are not unique to 7116 Oxford Road.

Mr. Miller stated that he further objects to the accessory structure because he believes it takes up on-site parking places that causes the residents to park on the street. He acknowledged on cross-examination that the elder Ms. Milligan and the 14-year old resident do not drive and that Cheryl Milligan's daughter is away at college. He was firm, however, in his conviction that parking in that area is a problem.

The law as it relates to accessory buildings is set out in *the Baltimore County Zoning Regulations*, § 400.1 as follows:

400.1 Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any

street and shall occupy not more than 50% of such third. In no case shall they be located less than 2-1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building.

The Board reviewed all the evidence and testimony presented. A public deliberation was conducted on October 16, 2003.

The Majority find as a matter of fact that the Petitioner has offered convincing and substantial evidence that the accessory structure has been constructed in the rear third of the lot identified as 7116 Oxford Road. Further we find that this is a corner lot and the accessory structure occupies the third of the lot farthest removed from any street and does not occupy more than 50% of such third. The location of the accessory structure also meets all setback requirements.

We come to this opinion for several reasons. First the one and only address given to the subject site is 7116 Oxford Road. This side of the house has a sidewalk and an entrance into the main living quarters. This is the address and entrance where the mail and other deliveries are directed.

Secondly the plat shows clearly that the setback from Oxford Road is 25 feet, a "front yard setback" whereas the setback from the adjacent lot at 7112 and from Hatherleigh Road on the other side is a 10-foot "side yard" setback.

Thirdly, all services to the subject site including utility poles and lines come in from Hatherleigh Road. We find this to be typical of subdivisions that such services as utilities are not placed in the front of the house.

Finally the evidence and testimony presented is uncontradicted that from York Road into the subdivision all corner lot houses have entrances fronting on the intersecting side streets with driveways

off Hatherleigh Road. Only two houses, those of Ms. Milligan and Mr. Gill, also have entrances that face Hatherleigh. As Mr. Gill, a Protestant, testified, having two entrances does cause some confusion.

Accepted by the Board as an expert in architecture and urban design, we found the testimony of Mr. Hill to be persuasive. Mr. Hill noted that two "attractive facades" was typical of the design attributes when Stoneleigh was constructed as described in Petitioner's Exhibit #6. He also observed that, in his expert opinion, the Milligan accessory structure is situated on the third of the lot farthest from the streets and with the narrowest portion of the building facing the view from the street, thus mitigating the impact. He further testified, and some of the Protestant's witnesses agreed, that the preservation of large trees on the subject property is important to the neighborhood as a whole.

The majority did not find compelling the testimony of Mr. Thompson of PDM that his department determines the front of a property from its physical characteristics and using common sense. Similarly Mr. Thompson produced no evidence to support his opinion that the subject property would be given an address on Hatherleigh Road if it were to be built today.

In conclusion the majority finds that the front of the lot with the address of 7116 Oxford Road is that portion of the property on Oxford Road. We find that the accessory structure was built therefore in the rear third of that lot farthest from the road, does not occupy more than 50% of that third, and meets all setback requirements.

We find that the request for variance is moot since the Petitioner is in compliance with § 400.1 of the BCZR.

The question of compliance with the private covenants of the Stoneleigh Community Association, Inc., is not before this Board.

ORDER

THEREFORE, IT IS THIS 6th day of November, 2003 by the County Board of

Appeals of Baltimore County

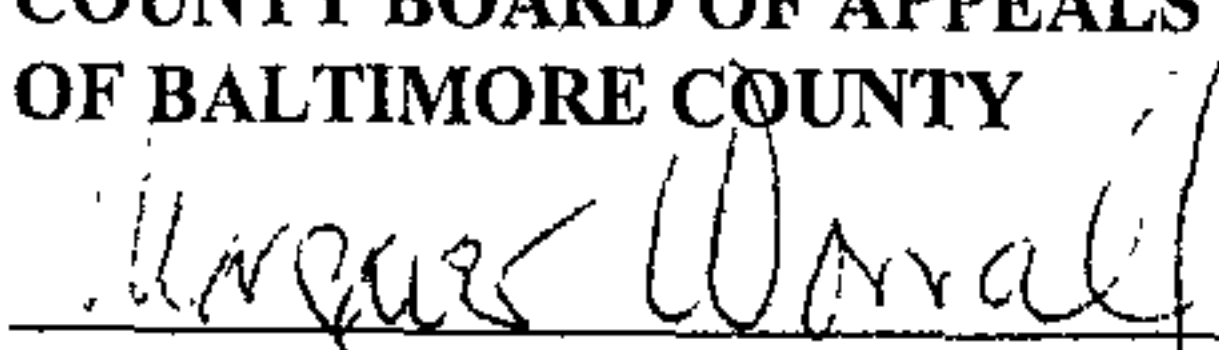
ORDERED that the request for variance in this matter is **MOOT** based upon the finding by a Majority of this Board that the front of the lot with the address of 7116 Oxford Road is that portion of the property on Oxford Road; and

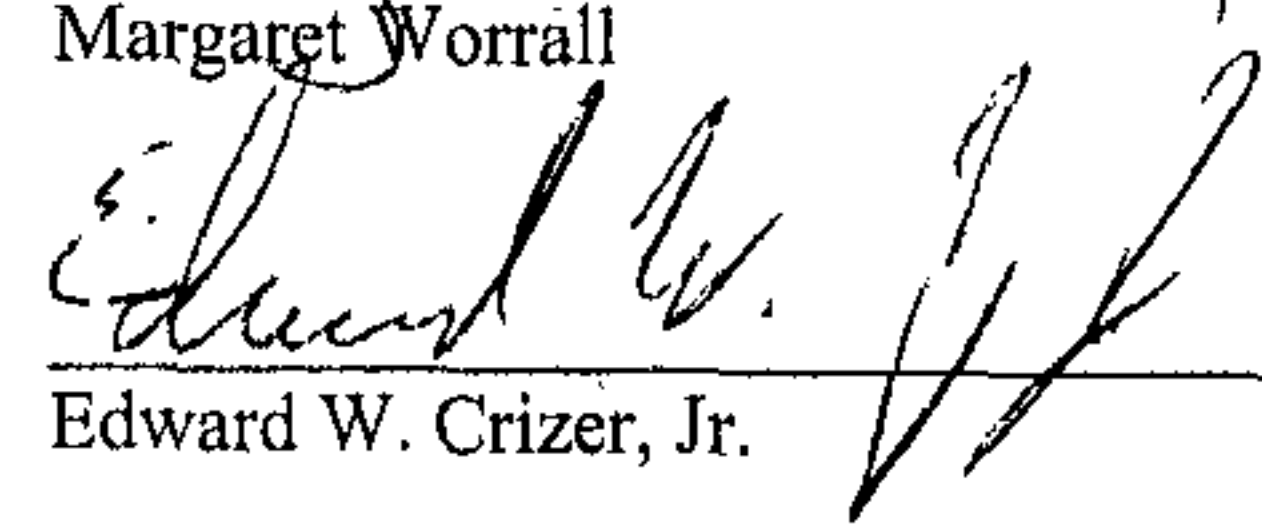
WE FURTHER FIND that the accessory structure was built therefore in the rear third of that lot farthest from the road, does not occupy more than 50% of that third, and meets all setback requirements; and

FURTHER, that Petitioner is in compliance with § 400.1 of the *Baltimore County Zoning Regulations*.

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**


Margaret Worrall


Edward W. Crizer, Jr.

IN THE MATTER OF
THE APPLICATION OF
DOROTHY K. AND CHERYL A.
MILLIGAN – LEGAL OWNERS /
PETITIONERS ON PROPERTY LOCATED
ON THE SE/S HATHERLEIGH ROAD,
25' SW OF OXFORD ROAD
(7116 OXFORD ROAD)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 02-519-A

* * * * *

DISSENTING OPINION

This Board member respectfully dissents from the Majority Opinion issued by the Board in the subject matter.

The Majority Opinion correctly states the facts of the case. It is simply an issue of applying the facts of the case to the applicable law (BCZR § 400.1) and the interpretation thereof.

While the address for the subject property is 7116 Oxford Road, that factor in and of itself is not a determining factor. While the case of *City of Baltimore v. Nancy Swinsici*, Court of Appeals of Md., 235 Md 262; 201 A.2d 368, involved interpretation of a Baltimore City ordinance, it is nonetheless instructive. That case cited a number of other cases wherein "it was said that the 'front' or 'face' of a house means that portion which contains the main entrance and which is the most attractive."

While this case comes to the Board on a "de novo" basis, nonetheless the decision that was rendered by the Deputy Zoning Commissioner (D.Z.C.) involved a site visit by the D.Z.C. and his "inspection and observation on the site..." led to the conclusion "that the front of the dwelling actually faces to Hatherleigh Road and not Oxford Road." Similarly, Mr. James Thompson, Supervisor of Code Enforcement for Baltimore County, with considerable expertise in interpreting County zoning laws, agreed with the observations of the D.Z.C. some of his observations were that the average person would enter the house using the length portion along Hatherleigh Road, and apply common sense as to the totality of the physical location of the property – looking to the placement of doors and windows. Hatherleigh Road has a sidewalk leading to the middle of the house with windows on each side; steps

leading to the front door leading to the living room; a lamppost at the Hatherleigh entrance as opposed to the Oxford entrance which enters into a sunporch.

Mr. John Hill, the architect who prepared the plat that accompanied the Petitioner's Petition for requested relief, acknowledged that depiction A of Petitioner's Exhibit #5 most clearly illustrated the Petitioner's property. Additionally, Mr. Hill acknowledged on cross-examination that Hatherleigh, in fact, would be the street that would be adjacent to the Petitioner's front yard, and Oxford would be the street that would be adjacent to the Petitioner's rear yard.

While the Majority places considerable focus on the setback provisions, this writer considers those to be informational and not instructional, as also with the placement of the utility poles and lines.

The Majority places considerable emphasis upon the testimony and expertise of Mr. John Hill. However, Mr. Hill also testified concerning other houses located on the south side of Hatherleigh Road that were between York Road and the Petitioner's property. These were located at 7117 York Road, 7118 Sheffield Road, and 7119 Sheffield Road, and the location of accessory structures on the lots at issue.

Cross-examination reflected Mr. Hill's acknowledgement that all of the houses between York Road and the Petitioner's property on Hatherleigh had their front doors face the side streets on which the length of the residence in question was situated. Mr. Hill acknowledged that the length of the Petitioner's property faced Hatherleigh Road and the width faced Oxford Road.

This writer found equally convincing the testimony of Mr. Jim Shifrin, Mr. James Leonard, Mr. Donald Gerding, and Mr. Michael Gill.

Even assuming, in arguendo, that the position of the Majority is correct, the Protestants raise the procedural issue of the Petitioner's Petition filed for review by this Board. That Petition involves an

appeal "from the Order of September 10, 2002 rendered by the Deputy Zoning Commissioner denying our request for variance from § 400.1 of the BCZR." The original request before the D.Z.C. was a variance request "to allow an accessory building to be located in the side yard in lieu of the required rear yard." The D.Z.C. denial was for a variance.

Therefore, the standard of review for the Board is that applicable for the granting of a variance. Counsel for the Petitioner has tried her case based on the requirements of a "special hearing" and not that of a variance proceeding.

Section 307.1, which governs the granting of variances in Baltimore County, states as follows:

The zoning commissioner of Baltimore County and the county board of appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the zoning commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the zoning commissioner or the county board of appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

In addition, case law needs to be applied in the consideration of the granting of a variance.

North v. St. Mary's County, 99 Md.App. 502, 638 A.2d 1175 (1994):

In the zoning context, the "unique" aspects of a variance requirement does not refer to the extent of the improvement upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, 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 restrictions. In the respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.
99 Md.App. 514

Cromwell v. Ward, 102 Md.App. 691 (1995):

The first requires a finding that the property...is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

Also see *Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md.App. 324 (1995).

Simply stated, the Petitioner is in the right church...but the wrong pew. The Majority Opinion concentrates on what constitutes the rear and side yards of the property in question. That, indeed, was the focus of the Petitioner's case. A review of the Petitioner's case-in-chief reflects no establishment of any uniqueness; and, if it could be agreed that it did, it lacks the "practical difficulty" issue because the present situation is self-imposed, and all agree that the structure can be relocated at the expense of the trees.

Had Counsel for the Protestants moved for Summary Judgement at the conclusion of Petitioner's case-in-chief, I believe that the Board would have been required to consider it because the wrong petition for relief had been filed.

In either event, this minority writer disagrees with the Majority Opinion.



Charles L. Marks

DATE: November 6, 2003

RECEIVED

OCT - 8 2003

IN THE
MATTER OF

BALTIMORE COUNTY
BOARD OF APPEALS

BEFORE THE
COUNTY

DOROTHY K. MILLIGAN

*

BOARD OF APPEALS

And

*

OF

CHERYL A. MILLIGAN,

*

BALTIMORE COUNTY

Petitioners

*

Case #: 02-519-A

* * * * *

MEMORANDUM OF LAW

Petitioners presented testimony from Petitioner Cheryl Milligan as follows: She along with her mother, Dorothy Milligan, have filed the Petition for Variance. Petitioner Dorothy Milligan is elderly and suffers from Parkinson's disease. She was unable to appear for the hearing before the Board owing to her medical conditions. The Petitioners have lived at the subject property for seven (7) years. This is a corner lot fronting on Oxford and Hatherleigh Roads in the Stoneleigh development in Baltimore County. The property address is 7116 Oxford road.

The subject property is both of the Petitioners' primary residences, where they live together with a fourteen (14) year old son and nineteen (19) year old daughter of Petitioner Cheryl Milligan. They are the grand children of Dorothy Milligan. The nineteen (19) year old daughter is away at boarding college most of the year. Petitioner's estranged husband does not reside at the address. The only two drivers in the household are Cheryl Milligan and her college age daughter. Traffic will be unaffected by the structure. The Petition for Variance involves erecting of an accessory structure on the

Petitioners residential lot in the Stoneleigh neighborhood in Baltimore County. This accessory structure will be used as an art studio by Petitioner Cheryl Milligan who holds a Masters Degree in Art, and presently teaches art in the Baltimore County Public Schools as a full time art teacher. Petitioner does not give private art lessons nor does she intend to market art from her home.

The art studio was designed by Cheryl Milligan, after she consulted with her neighbors and obtained the written endorsement of her project from sixteen neighbors. Those letters of support were introduced as Petitioners Exhibit #1. She applied and was granted a building permit by Baltimore County and immediately commenced construction. The structure was erected by a private contractor in a short time at a cost to Petitioners of \$20,000.00. It is not a moveable or portable structure as erected.

The photos of the completed accessory structure as well as the subject property are in evidence as Petitioner's Exhibits 3a thru _____. The structure as designed and erected is 20 feet by 12 feet. In order to have the least visual impact on the roads, the narrower side, (the 12 foot wide side) faces the Hatherleigh Road side of the property. The studio structure is at least 23 feet back onto the property, at the end of the driveway and curb cut installed by the original developer of Stoneleigh. The lot is a trapezoid in configuration and the area the accessory structure is located is the narrowest part of the trapezoid. The structure as erected is located on the rear of the property and the third of the lot which is furthest from the two roads as demonstrated by Petitioners Exhibit 2. That Exhibit is an enlargement of the Plat which accompanied the Petitioner for Variance filed in this case. The only way the structure could be any further from the roadway would be to cut down a number of 60 foot tall spruce trees which screen the rear corner of the property. The size

and location of those trees appear in the photographs (Petitioners Exhibit 3) and the Plat accompanying the Petition (Exhibit 2). After the accessory structure was erected and 85-90% complete a zoning complaint was filed.

Petitioner also offered testimony from the only person qualified as an expert in the case. The testimony of **John W. Hill, FAIA**, is that he is a Fellow of the American Institute of Architects, (FAIA), Founding Dean University of Maryland School of architecture, Professor Emeritus, School of Architecture at the University of Maryland. He was a member and vice chair of the Landmarks Preservation Commission, for Baltimore County and for sixteen years on the Governors consulting Committee on historic preservation; for twenty nine years he was on the City of Baltimore Design Advisory Panel advising the City on architectural and urban design proposals. In addition he wrote the book on Stoneleigh so to speak. In evidence as a Petitioners Exhibit is his publication entitled *"Modeling Future Development on the Design Characteristics of Maryland's Traditional Settlements"* Pages 57 thru 65 deal specifically with the urban design and architecture of Stoneleigh. Mr. Hill is a resident of Stoneleigh for over 20 years, resides on Kingston Road and was not a paid expert. He appeared gratis. His involvement began after the Petition for Variance was filed. His testimony was offered as an expert in the field of architecture, neighborhood planning and design. His lengthy and impressive credentials are set forth in his curriculum vitae in evidence as Petitioners Exhibit.

Mr. Hill testified, the subject property has two equally attractive fronts on the Oxford Road and Hatherleigh Road sides. The accessory structure erected by Ms. Milligan was of an attractive design and physically situated on the third of the lot furthest from the affected roads. It was further situated to have the least visual impact on the

roads, with the narrowest part facing Hatherleigh Road. The structure is not moveable or portable in appearance or by design. The only way to further situate it away from Hatherleigh Road would involve the cutting/removal of several substantial fir/spruce trees on the lot of 60 foot heights.

APPLICABLE LAW AND ARGUMENT

The law as it relates to accessory buildings is set out in the Baltimore County Zoning Code, Article 4 Special Regulations at Section 400.1 which provides as follows:

400.1 Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. ***On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third.*** In no case shall they be located less than 2 ½ feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building. (emphasis supplied)

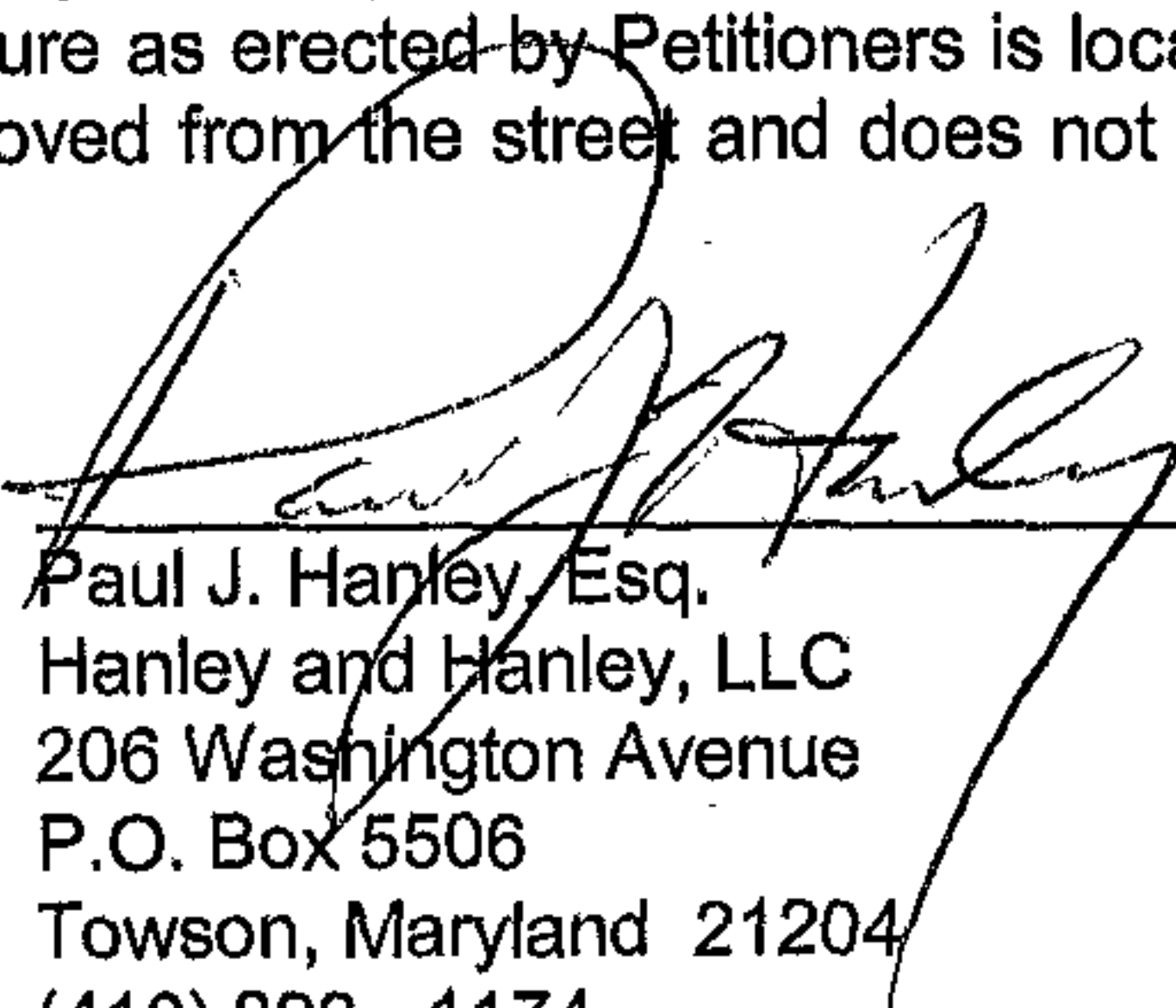
While much of the testimony offered in opposition to the Petition for Variance focused on where the accessory structure was in relation to the rear yard of the subject property, as well as which road the subject property faced upon, the front yard/rear yard determination is irrelevant here. The first sentence of Sec. 400.1 relates to rear yards of properties with are not corner lots. Corner lots are governed by the second sentence, which reads

"On corner lots they shall be locate only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third." (emphasis supplied)

The location of the rear yard of the property is not a consideration in this case. The testimony is undisputed the subject property is on the corner of Oxford and Hatherleigh Roads in Stoneleigh. Respondent's witness, Jim Thompson from the Baltimore County Zoning Code Enforcement Office testified he performed a visual inspection of the subject property immediately prior to the de novo hearing before the Board. He reviewed the applicable zoning provisions set forth above at the hearing. His testimony before the Board at the hearing was that the applicable e zoning regulation discusses rear yard, but not in relation to corner lot situations.

PROPOSED FINDING

The Petitioners do not require a variance for this accessory structure if the Board of Appeals finds that consistent with the testimony of Cheryl Milligan and John Hill and the Exhibits in evidence, that the accessory structure as erected by Petitioners is located on a corner lot in that third of the lot farthest removed from the street and does not occupy more than 50% of such third of a lot.



Paul J. Hanley, Esq.
Hanley and Hanley, LLC
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823 - 1174
Attorney for Petitioners

RE: In the matter of: Dorothy K. &
Cheryl A. Milligan
Legal Owners/Petitioners
7116 Oxford Road
9th Election District
4th Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 02-519-A

* * * * *

PROTESTANTS' MEMORANDUM

Stoneleigh Community Association, Inc., Protestant, by and through its attorney, Francis X. Borgerding, Jr., submits its Memorandum in opposition to Petitioners' requested relief in relation to the above-captioned case and says:

STATEMENT OF THE CASE

This case comes before the County Board of Appeals for Baltimore County as an appeal from the decision of the Deputy Zoning Commissioner for Baltimore County who on September 10, 2002 denied Petitioners, Dorothy K. & Cheryl A. Milligan's, request for variance from Section 400.1 of the Baltimore County Zoning Regulations to allow an accessory studio building to be located in the side yard of Petitioners' property in lieu of the rear yard. The Deputy Zoning Commissioner further ordered, pursuant to his decision, that the Petitioners be required to relocate the studio building in question and bring it into compliance with all setbacks associated with the property within 90 days of the date of his Order. It is from the Deputy Zoning Commissioner's Order that an appeal was taken by the Petitioner to this Board.

RECEIVED

OCT - 8 2003

BALTIMORE COUNTY
BOARD OF APPEALS

STATEMENT OF FACTS

The Board conducted a hearing in relation to this matter on September 17, 2003. Testifying on behalf of Petitioners were Cheryl A. Milligan and John W. Hill.

Testifying on behalf of the Protestant in opposition to Petitioners' request for relief were James Thompson, Zoning Enforcement Supervisor, Baltimore County Office of Permits and Development Management, who was subpoenaed by the Protestant, Jim Leonard, Donald Gerding, Michael Gill, Barry Miller and Jim Shifrin.

Cheryl Milligan testified that she lives at the subject property with her mother who is ill with Parkinson's disease, her daughter, who is a college student and her son, who is 14 years old. Ms. Milligan testified that she is employed as an Art teacher at Towson High School. Ms. Milligan testified that she wanted to construct an accessory structure on her property to use as an art studio, as she felt the oil painting that she performs was more suitable for an accessory building rather than in her principal residence.

Ms. Milligan indicated that her ex-husband went to Baltimore County to attempt to get a permit to construct the accessory structure. Ms. Milligan indicated that she constructed the accessory structure located on her property at the location and with the orientation where it is constructed because she did not want to disturb the trees in the rear of her lot. On cross-examination Ms. Milligan indicated that the accessory structure could be rotated and moved into an area lot which Protestant asserts is the rear of the property opposite the Hatherleigh Road side of the property. Ms. Milligan indicated that she considers the area in which the accessory structure is constructed to be the rear of her lot. Ms. Milligan indicated on cross-examination that the door on the Oxford Road side of her

primary residence opens up to the side of the sunroom located on that side of her residence. Ms. Milligan indicated that she would have been willing to move the accessory structure from its present location if someone had requested same prior to the construction, however, she contended no one contacted her in that regard. Ms. Milligan, however, did acknowledge on cross-examination that she did not submit her plans for construction of her accessory structure to the Improvement and Restrictions Committee of the Stoneleigh Community Association prior to construction.

Also, testifying on behalf of Petitioners was John Hill, an architect. Mr. Hill acknowledged that he prepared the plat that accompanied the Petitioners' Petition for requested zoning relief. Mr. Hill indicated in his opinion it would be undesirable to move the accessory structure towards what the Protestant asserts to be the rear property line of the structure as it would likely impact the trees located on the property. Mr. Hill indicated his only connection to Petitioners' requested relief was preparing the plat which he said was prepared at no charge in order to help the Petitioners. Mr. Hill indicated that in his opinion the Oxford side of Petitioners' house was the front of their house. Mr. Hill, however, testified in reference to what was marked as Petitioners' Exhibit No. 5, which is a section of the Zoning Commissioner's Policy Manual dealing with Baltimore County Zoning Regulation Section 400.1. Mr. Hill indicated in his testimony that depiction A of Petitioners' Exhibit No. 5 most closely depicted the Petitioners' property. Mr. Hill acknowledged on cross-examination that in relating depiction A of Petitioners' Exhibit No. 5 to the plat he prepared entered as Petitioners' Exhibit No. 2 that Hatherleigh, in fact, would be the street which would be adjacent to the Petitioners' front yard and Oxford would

be the street which would be adjacent to the Petitioners' rear yard. Further, Mr. Hill acknowledged that the accessory structure located on the Petitioners' property was located in the side yard of Petitioners' property when compared to depiction A on Petitioners' Exhibit No. 5. Mr. Hill testified as to homes located on the southside of Hatherleigh Road between York Road and Petitioners' property. Specifically, Mr. Hill testified about homes located at 7117 York Road, 7118 Bristol Road, 7119 Bristol Road, 7120 Sheffield Road and 7113 Sheffield Road. Mr. Hill testified about the location of accessory structures on the lots at issue. On cross-examination, however, Mr. Hill acknowledged that all of the homes between York Road and the Petitioners' property on Hatherleigh had their front doors face the side streets on which the length of the residence in question were situated. Further, Mr. Hill acknowledged that 7117 York Road, 7118 Bristol Road and 7119 Bristol Road did not have any entrance on to Hatherleigh Road on what is the width side of their property. Further, Mr. Hill testified that 7120 Sheffield Road and 7113 Sheffield Road had screened porches on the width side of the dwellings facing Hatherleigh Road. Mr. Hill further acknowledged that the length of Petitioners' property faced Hatherleigh Road and the width of Petitioners' property faced Oxford Road.

Testifying on behalf of the Protestant, out of turn, was Jim Shifrin. Mr. Shifrin testified that he lived at 907 Old Oak Road in Stoneleigh. Mr. Shifrin testified that he believed the accessory structure on the Petitioners' property should be located in the rear yard. Further, that the structure should be moved from its present location to the side yard, of the Petitioners' property.

Subpoenaed by the Protestant, to testify was James Thompson, Zoning Enforcement Supervisor of the Baltimore County Office of Permits & Development Management. Introduced through Mr. Thompson was Protestant's Exhibit No. 1 a, Zoning Citation Notice, in relation to the accessory structure which is the subject of the present hearing. Mr. Thompson indicated that in his office's point of view of the accessory structure is located in the side yard of the subject property. Mr. Thompson testified that he had personally reviewed the subject property. Mr. Thompson indicated it is his department's opinion that the front yard of Petitioners' dwelling is adjacent to Hatherleigh Road not Oxford Road. Mr. Thompson indicated that he based his opinion on the physical characteristics of the Petitioners' dwelling, including the location of what a layman would consider the front door, front windows and front walkway. Mr. Thompson testified that the mailing address of the Petitioners' property was not a major factor as to the frontal orientation of the dwelling.

On cross-examination Mr. Thompson indicated that he did not agree with opposing counsel's position that the first sentence of Section 400.1 did not apply to corner lots and, therefore, there is no requirement that accessory structures be located in the rear corner lots. Mr. Thompson rather rendered an opinion that accessory structures must be located in the rear yard of all lots, including corner lots. Further, Mr. Thompson was requested to review depiction A on Petitioners' Exhibit No. 5 and indicated that that diagram indicated an acceptable building area only in the rear yard as shown on depiction A, Petitioners' Exhibit No. 5. Mr. Thompson also indicated when comparing depiction A of Petitioners' Exhibit No. 5 to the subject property that the front yard as depicted would be adjacent to

Hatherleigh Road and the side yard would be adjacent to Oxford Road. Thus, allowing an acceptable building area pursuant to the Baltimore County Zoning Regulations of behind Petitioners' dwelling on the portion of the lot farthest removed from Hatherleigh Road.

Also testifying on behalf of the Protestant was Jim Leonard who lives at 615 Kingston Road, who is a resident of Stoneleigh and chair of the Stoneleigh Community Association's Improvements and Restrictions Committee. Mr. Leonard is an architect by occupation. Entered into evidence through Mr. Leonard were Rule 8 paperwork allowing him to testify on behalf of the Stoneleigh Community Association, Inc. indicating the Board of Stoneleigh Community Association's vote to oppose the Petitioners' requested variance to locate accessory structure in their side yard.

Mr. Leonard testified that after meeting with the Petitioners, the Board of Stoneleigh Community Association voted unanimously to oppose the Petitioners' requested relief. Further, Mr. Leonard testified that the Board of the Association opposed the location of the accessory structure located on the Petitioners' property. Further, the Board was concerned about the precedent of locating an accessory structure in the side yard and its impact on the surrounding neighborhood. Entered into evidence through Mr. Leonard were series of photographs labeled as Petitioners' Exhibits 3A -F and 4A-D depicting the Petitioners' property. Mr. Leonard who is an architect indicated that in his opinion that the pictures reveal that the Petitioners' dwelling, in fact, fronts on Hatherleigh Road rather than Oxford Road. In support of his opinion, Mr. Leonard cited the location of what commonly be known as the front door of the property being on Hatherleigh Road, the more detailed walkway between Hatherleigh Road and the subject dwelling, the location of more

extensive windowing adjacent to the front door, and the fireplace chimney location on the dwelling. The photographs also revealed lighting on the sidewalk between the subject dwelling on Hatherleigh Road as opposed to the Oxford Road entrance. In fact, on the light post adjacent to the walkway is the property street number 7116, as indicated on the picture. Mr. Leonard further entered into evidence an exhibit which he prepared showing how the subject accessory structure could be moved from the Petitioners' side yard to their rear yard. Additionally, Mr. Leonard testified that he physically went out to Petitioners' public sidewalk on Oxford Road and measured and confirmed the distance of 18 feet between the Petitioners' property line and principal dwelling in the area Protestants contends is the Petitioners' rear yard.

Mr. Leonard indicated on cross-examination that it would be his preference to have the accessory structure moved to the rear yard even if it impacted the trees thereon. However, Mr. Leonard indicated it would also be his preference to minimize the impact on the trees as much as possible.

Donald Gerding also testified on behalf of the Greater Towson Council Community Association, Inc. and entered paperwork indicating his ability to testify on behalf of the Association. Mr. Gerding indicated the Association's position in opposition to the Petitioners' requested variance. Mr. Gerding indicated in his childhood he was raised in a house close to Petitioners' property on Hatherleigh Road and therefore was very familiar with the area of the subject property. Mr. Gerding indicated that the Greater Towson Council Community Association, Inc.'s opposition was based on the placement of Petitioners' accessory structure on the side as opposed to its rear yard and concern about

a precedent being set.

Michael Gill, past president and Board of Directors member of the Stoneleigh Community Association, testified before the Board. Mr. Gill indicated that his mailing address is located at 7117 Oxford Road and that his property is located on Hatherleigh across Oxford Road from the subject property. Mr. Gill indicated that his occupation is that of an engineer. Mr. Gill indicated that his dwelling is similar to the Petitioners in that its length faces Hatherleigh and its width faces Oxford Road. Further, Mr. Gill believes that his dwelling fronts Hatherleigh Road. Mr. Gill's opinion in this regard is based upon the length of his dwelling facing Hatherleigh Road, what he believes is his front door facing Hatherleigh and, the physical characteristics of his house. Mr. Gill indicated his opposition to the Petitioners' requested variance. Entered into evidence through Mr. Gill was Protestant's Exhibit No. 7, which is a plat prepared in 1923 depicting the subdivision of Stoneleigh. Mr. Gill circled the Petitioners' property and also his own property. Mr. Gill noted that as the Petitioners consider their property to be trapezoid shaped. He further noted that not only his property but other properties in Stoneleigh Community are similarly shaped. Mr. Gill also testified that he does not believe Petitioners' property is unique based upon its size or topography. Also, testifying in opposition to the Petitioners' requested variance was Barry Miller, resident of 7109 Oxford Road. Mr. Miller, who is an architect, oversees construction projects for the State indicated that he does not believe that the Petitioners' accessory structure is situated on a solid foundation, which would enable it to be moved more easily. Mr. Miller testified that he believes that Petitioners' property fronts Hatherleigh Road rather than Oxford Road. Mr. Miller testified that he does

not believe the Petitioners' property is unique based upon its shape, size or topography.

ISSUES

1. Is the front yard of Petitioners' property located adjacent to Hatherleigh Road or Oxford Road.
2. Should the Board grant the Petitioners' requested variance.

ARGUMENT

1. Petitioners' front yard is on the Hatherleigh Road side of Petitioners' property and Petitioners' accessory structure is, therefore, located in the side yard of Petitioners' property.

Protestant notes that procedurally this case comes before the Board on a *de novo* appeal of the Petitioners' requested relief for a variance from Section 400.1 of the Baltimore County Zoning Regulations to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only. Protestant would therefore submit that procedurally the only decision before the Board is therefore to grant or deny Petitioners' requested variance and attach any conditions that the Board feels appropriate.

Protestant notes that the Petitioners chose not to file for a special hearing to determine the frontal orientation of their property rather Petitioners proceeded with the above-requested variance.

Assuming arguendo, the Board feels that the question of the frontal orientation of the Petitioners' dwelling is before the Board. Protestant believes that the overwhelming evidence before the Board is that the subject property fronts on Hatherleigh Road rather

than Oxford Road. Both of Petitioners' witnesses acknowledged that the length of Petitioners' dwelling fronts on Hatherleigh Road and the width of Petitioners' dwelling fronts on Oxford Road. Mr. Hill further admitted during his testimony that depiction A of Petitioners' Exhibit No. 5 closely resembles Petitioners' subject corner lot and further that if Exhibit A was compared to the subject property that the Hatherleigh Road side of Petitioners' property would, in fact, be the front yard of Petitioners' property.

Further, it is uncontradicted from the record before the Board that the door facing the Hatherleigh Road side of Petitioners' dwelling is more elaborate, decorative and opens onto Petitioners' living room while the door on the Oxford Road side of Petitioners' dwelling enters on to the side of the Petitioners' sunroom addition and is less decorative. The walkway, with stone decoration, leading to the Hatherleigh Road door is more elaborate than the Oxford Road. In addition, said walkway is lit while the Oxford Road walkway is not. The lightpost adjacent to the Hatherleigh Road side walkway also has a street number of 7116, which is the property's address. Further, unlike the side door to the sunroom on the Oxford Road side of Petitioners' dwelling door on the Hatherleigh Road has extensive windowing on both sides of said door.

The physical condition of the building establishes frontage for purposes of determining whether there has been compliance with zoning ordinance governing frontage of buildings. City of Baltimore and John Mahoney, et ux. v. Nancy Sowinski, et al., 235 Md. 262, 201 A.2d 368 (1964).

Jim Thompson testified that the physical characteristics of the Petitioner's property dictate the finding that the subject property fronts on Hatherleigh Road, rather than Oxford.

Jim Leonard, Board Member of the Stoneleigh Community Association and is an architect, entered in a series photographs and further testified that the physical characteristics of the subject property dictate a finding that the subject property fronts on Hatherleigh Road rather than Oxford.

The testimony of Donald Gerding, Michael Gill and Barry Miller also supported finding that the physical characteristics of Petitioner's property dictate a finding that the property fronts on Hatherleigh Road rather than Oxford.

B. Petitioners have not met their burden of proof before the Board to support a finding to support the granting of their variance request.

Under the law on variances in Maryland and under Baltimore County's charter and ordinance, properties peculiar characteristics or unusual circumstances related only and uniquely to that property must exist in conjunction with ordinances more severe impact on specific property because of property's uniqueness before any consideration will be given to whether requisite practical difficulty or unnecessary hardship exist for the granting of a variance. Cromwell v. Ward, 102 Md. App. 691, 651 A. 2d 524 (1995). The record before the Board is absent any probative evidence to support the finding that the Petitioner's property is unique based upon its size, shape, and topography.

Petitioner's witnesses did not testify that the Petitioner's property was unique or that the Petitioner would suffer any practical difficulty and unreasonable hardship if the Petitioner's variance was not granted. The evidence before the Board is virtually

undisputed that the accessory structure at issue could be located in the Petitioner's rear yard, however, the Petitioner decided not to locate said structure in the rear yard because of the potential impact upon trees located in the rear yard. Practical difficulty or unnecessary hardship for a zoning variance cannot be self inflicted Cromwell v. Ward, supra. The testimony of all of the Protestant's witnesses, which is uncontradicted by Petitioner's witnesses, indicates the shape of Petitioner's lot, which is generally trapezoidal is shared by other lots within the Stoneleigh Community and in fact throughout Baltimore County. In fact, Protestant's exhibit number 7 indicates that other lots within the Stoneleigh Community, including Michael Gill's lot, share the similar shape. The record before the Board also indicates that in relation to the topography of the Petitioner's property, which is basically flat, there is nothing unique compared to other properties in the Community or in Baltimore County as a whole. In addition, the size of Petitioner's property is not unique compared to other properties within the Community or in Baltimore County as a whole as indicated by the testimony and evidence before the Board.

Assuming arguendo, there was sufficient evidence for the Board to find Petitioner's property unique. There is no adequate evidence before the Board to support a finding of practical difficulty or unreasonable hardship on behalf of the Petitioner. It is clear, the necessity for the Petitioners' variance is self inflicted. Mrs. Milligan testified that she chose to locate her accessory structure on a portion of her existing driveway rather than in her rear yard because of her concern for the trees on the rear portion of her lot. The Petitioners' accessory structure can be located in the rear yard of Petitioners' lot as indicated by Protestant's Exhibit # 5, as well as the testimony of both Protestant's and

Petitioners' witnesses.

In light of the above, it is clear, based upon the record before the Board, that the Petitioners have failed to produce sufficient evidence to support the granting of Petitioners' requested variance from Section 400.1 to permit a proposed accessory building in the side yard in lieu of the required rear yard only on the subject property.

CONCLUSION

Based upon the testimony and evidence before the Board, Protestants request that the Board deny Petitioners' request for a variance from Section 400.1 to permit a proposed accessory building in the side yard in lieu of the required rear yard and further to order, as the Deputy Zoning Commissioner has previously, that the Petitioners be required to relocate the studio building in question in the rear yard of their lot, as well as bring it into compliance with the setbacks associated with this property within 90 days of the Board's Order.

Respectfully submitted,



FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR STONELEIGH COMMUNITY
ASSOCIATION, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 6th day of October, 2003, a copy of the foregoing was mailed, postage prepaid, to:

Paul J. Hanley, Esquire
206 Washington Avenue
Towson, Maryland 21204-4718



FRANCIS X. BORGERDING, JR.

9/10/62

IN RE: PETITION FOR VARIANCE
SE/S Hatherleigh Road, 25' SW
of Oxford Road
9th Election District
4th Councilmanic District
(7116 Oxford Road)

Dorothy K. & Cheryl A. Milligan
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 02-519-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, Dorothy K. and Cheryl A. Milligan. The Petitioners are requesting a variance for property they own at 7116 Oxford Road, located in the Stoneleigh area of Baltimore County. The variance request is to allow an accessory building to be located in the side yard in lieu of the required rear yard.

Appearing at the hearing on behalf of the request were Victor Puotinen, a representative of the owners of the property and resident of the home and John W. Hill, a neighborhood resident. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, all of whom signed in on the protestant's sign-in sheet.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.2086 acres of land, more or less, zoned D.R.5.5. The subject property is improved with a 1 1/2-story, single-family residential dwelling located on the northwest corner of the intersection of Oxford and Hatherleigh Roads.

At issue in this case is the existence of a one-story studio building located on the driveway area of the Petitioners' property. Mr. Puotinen, who lives at 7116 Oxford Road, applied for and obtained a valid Baltimore County building permit for the building in question. However, it was indicated on the permit application that the building itself was to be constructed

in the rear yard of the property. Upon further review and inspection by Code Enforcement, it was determined that the building in question is actually located in the side yard of the Petitioners' property and not the rear yard as represented on the building permit application. Therefore, a violation was issued by Code Enforcement asking the property owner to correct the matter by way of filing a variance petition. Mr. Puotinen, who testified at the hearing, indicated that he believes the studio building is located in the rear yard of his property and not the side yard as alleged by Code Enforcement. In support of this assertion, Mr. Puotinen indicated that the address of the dwelling within which he resides is 7116 Oxford Road and not Hatherleigh Road. He also indicated that the door which faces Oxford Road enters into his living room area of his home. Therefore, he believes the studio building in question to be located in the rear yard and not in need of a variance.

Upon my site inspection to the property and my observations of the home and its orientation on the site, I find that the front of the Petitioners' dwelling actually faces to Hatherleigh Road and not Oxford Road. As a result of this finding, the studio building in question is in fact located in the side yard of the Petitioners' property and not the rear yard as was indicated on the building permit application. Therefore, a variance is indeed necessary in order for the studio building to remain as it is presently situated.

Mr. Puotinen also testified regarding the amount of care, detail and attention that he has given to this project to ensure that the studio building in question would be an improvement, not only to his property, but also to the surrounding neighborhood. The Petitioners have invested a great deal of money in the structure itself, as was evidenced by the photographs submitted and my personal site inspection. The studio building was stick built, utilizing high quality building materials, and is attractive in its appearance. All who attended the hearing agreed on this aspect

of the case. However, the location of the studio building itself is what is at issue with the many neighbors who attended the hearing.

The testimony and evidence offered by those neighbors who appeared in opposition questioned the manner in which the studio building is situated on the Petitioners' property. These neighbors believe that the building could have been more discretely located on the property in an area where it does not affect their views. In addition, neighbors were concerned that the location of the shed would impact the parking on the Petitioners' property, thereby causing them to have to park one of their vehicles out on the public streets. Parking, as everyone indicated at the hearing, is very limited in the Stoneleigh community, and consequently, any loss of parking spaces on resident's property would have a detrimental impact on the surrounding neighborhood.

There was also concern raised at the hearing that the studio building in question, given its quality of construction and appearance, might be used as a second dwelling unit and/or as a commercial office. Apparently, Ms. Milligan, who also resides at 7116 Oxford Road, is an artist who intends to utilize the building for perfecting her craft. The neighbors were concerned that she may give art lessons within the building or utilize it as a studio from which works of art would be sold to the general public. For these reasons, the neighbors oppose the existence of the studio building and the particular location on this property.

At the close of the hearing, the neighbors availed themselves of the opportunity to meet outside of my hearing room at a community meeting, in order to attempt to resolve their differences regarding this studio building. A community association meeting was already scheduled within approximately one week from the close of the hearing before me. The parties met and discussed the issue of the studio building. However, unfortunately, they were unable to

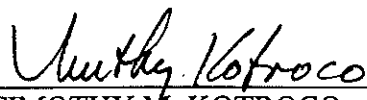
resolve their differences regarding this matter and, therefore, I am required to make a decision based on the testimony and evidence offered on the day of the hearing before me.

After considering the testimony and evidence offered, both in support and in opposition to the Petitioners' variance request, I find that the variance should be denied. The particular location of this studio building is one of preference more so than necessity. There are other areas on the Petitioners' property upon which this studio building could be situated without the need for a variance. While the rear yard of the Petitioners' property is small, there is enough room to resituate the building in question and still meet all zoning setbacks. Naturally, this would involve additional expense to the property owners, but may be their only option in the event they wish to keep the studio building on site.

THEREFORE, IT IS ORDERED, this 10th day of September, 2002, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 400.1 of the Baltimore County Zoning Regulations, to allow the accessory studio building to be located in the side yard of the Petitioners' property in lieu of the required rear yard, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petitioners shall be required to relocate the studio building in question and bring it into compliance with all setbacks associated with this property within 90 days from the date of this Order.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7116 Oxford Road Baltimore, MD 21212

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)

BCZR 400.1 - *to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only*

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

Please see attached sheet Petition 1A FOR BACKGROUND DETAILS.

THE HARDSHIP OR PRACTICAL DIFFICULTY OF LOCATING THE STRUCTURE IN THE REAR YARD IS THE INACCESSIBILITY DUE TO TREES AND PLANTINGS. ADDITIONALLY, AS A CORNER LOT, PLACING A STRUCTURE IN THE CORNER FARTHEST FROM THE STREET WOULD ENTAIL REMOVING 5 TREES FROM THE PROPERTY, 4 OF WHICH ARE 80' TALL PINE TREES. ALSO THE STRUCTURE IS COMPLETED AND MOVING IT WOULD BE A MAJOR HARDSHIP. ALSO, THERE IS NOT ENOUGH ROOM IN THE REAR YARD TO ACCOMMODATE THE ACCESSORY STRUCTURE AS REQUIRED.

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. *ORIGINAL APPLANTS.*

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:

Not Applicable

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Not Applicable

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Dorothy K. Milligan

Name - Type or Print

Signature

Cheryl A. Milligan

Name - Type or Print

Signature

7116 Oxford Road

410-769-8722

Address

Baltimore, MD

21212

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Victor G. Puotinen

Name

W- 410-727-3564

7116 Oxford Road

H- 410 769-8722

Address

Baltimore, MD 21212

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By JNP

Date 5/20/02

Case No. 02-519-A

REV 9/15/98

Petition 1A

By means of this application, we are applying for a variance for an accessory structure to be located at the end of our driveway. The following brief chronology may help to put the situation in perspective:

April 12, 2002: We applied for and received a building permit for an accessory structure in our rear yard. I (Victor Puotinen) spent the morning in the zoning and permits office to make sure it would be constructed in the proper location, as we have a corner lot in Stoneleigh and an Oxford Road address. It was determined at this time that the accessory structure could indeed be built at the end of the driveway in our rear yard given that the Oxford Road address represented the front of our house. (It is noted that if we were building a garage, the site selected is where it would have to be located. It should also be noted that, in accordance with BCZR 400.1, the structure is located in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. The size of our structure is 240 sq. ft., out of a possible 1,094 sq. ft. available for construction in accordance with these guidelines.

April 19, 2002: Signed a contract with ADR Builders to construct the accessory structure and work began immediately.

April 22, 2002: Building Inspector R. Rohlf's issued an approval for the footers during a visit to the site.

April 30, 2002: Building Inspector Rohlf's returned to the site to photograph the house and accessory structure. A neighbor on Oxford Road had raised the concern about the structure being constructed in the side yard, not the rear yard. The construction crew from ADR Builders is told that they can continue working.

May 3, 2002 (Friday): Received the correction notice for case no. 02-2778 stating accessory structure must be located in rear yard, and that "shed being constructed under permit B483635 must be relocated to rear yard, removed, or a zoning variance granted" with violations to be corrected on or before May 10, 2002. Spoke with Mr. Rohlf's who advised that his supervisor, Mr. Wisnom, upon a review of the photographs taken earlier in the week, had determined that the front of the house faces onto Hatherleigh, and not Oxford. At this stage the structure is 85% completed. Mr. Rohlf's pointed out that the notice is for a correction, and not a stop work order.

May 7, 2002 (Tuesday): Go to Permits, Zoning and Code Enforcement offices – obtain paperwork for this variance request. A meeting date is set for May 20, 2002 at 3:00pm with a Zoning Commissioner as the first available date to discuss this matter. Mr. Rohlf's was advised of this pending meeting date, and he advised that he would process extension of the "cure" date for the violations from May 10, 2002 to May 21, 2002.

Therefore, we seek a variance to complete the construction of this accessory structure at the end of our driveway in what is now our side yard.

**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/neighborhood 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: 02-519-A

Petitioner: MILLIGAN

Address or Location: 7116 OXFORD ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: VICTOR G. PUOTINEN

Address: 7116 OXFORD ROAD

BALTIMORE, MD 21212

Telephone Number: 410-727-3564 (W) 410-769-8722 (H)

**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: #02-519-A
7116 Oxford Road
S/east side of Hatherleigh Rd.,
25 feet southwest of Oxford Rd.
9th Election District
4th Councilmanic District
Legal Owner(s): Dorothy K.
Milligan and Cheryl A. Milligan
Variance: to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.
Hearing: Friday, July 12, 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.

6/24/02 June 27 0547182

CERTIFICATE OF PUBLICATION

6/28/, 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 6/27/, 2002.

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

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 17877

DATE 10/9/02 ACCOUNT 001 006 6150

AMOUNT \$ 210.00

RECEIVED FROM: DOROTHY + CHERYL MILLIGAN

FOR: APPEAL

7116 OXFORD ROAD 02-519-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME
10/09/2002 10/09/2002 01:11:03
REG. 0002 MATL JENA JET 10/09/2002 2
RECEIPT # 2002 10/09/2002 10/09/2002
DEPT 5 528 ZORING VERIFICATION
CR 01 0171077

Receipt for \$210.00
210.00 00 00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 13366

DATE 5/20/02 ACCOUNT A-001-006-6150

AMOUNT \$ 50.00

RECEIVED FROM: Victor Puotinen

FOR: Variance - 7116 Oxford Road

02-519-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME
5/21/2002 5/20/2002 16:05:33
REG 0806 WALKIN KATH KIM DAWER 4
>> RECEIPT 1479248 5/21/2002 OFLN
DEPT 5 520 ZIMING VERIFICATION
CR # 01336

Receipt Int. \$50.00
50.00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No. 02-519-A

Petitioner/Developer:

Dorothy K. Milligan and Cheryl A. Milligan

Hearing Date: 07/12/02

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

Attention: Mr. George Zahner

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at **7116 Oxford Rd.**

The sign(s) were posted on **06/24/02.**

Sincerely,



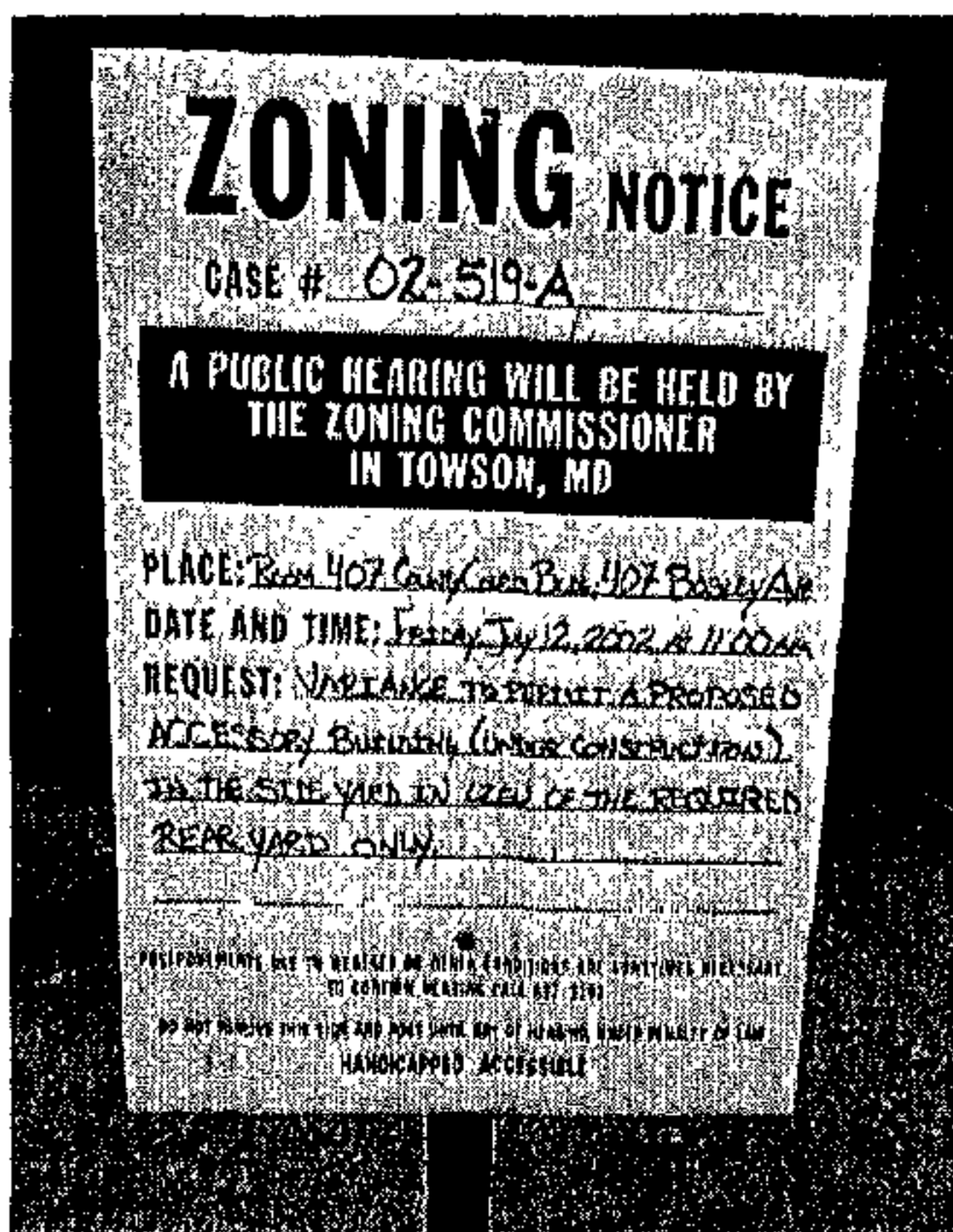
Thomas J. Hoff

Thomas J. Hoff, Inc.

406 West Pennsylvania Avenue

Towson, MD. 21204

410-296-3668



2709

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-519-A

Dorothy K and Cheryl A. Milligan - LEGAL OWNERS

7116 Oxford Road, Baltimore ~~21219~~

21212

9th ELECTION DISTRICT

APPEALED: 10/8/02

ATTACHMENT – (Plat)

*******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.: 02-519-A

Petitioner/Developer:

Milligan

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

The sign was posted on 10/24, 2002

By:

Gary Freund

(Signature of Sign Poster)

GARY FREUND

(Printed Name)

TO: PATUXENT PUBLISHING COMPANY
June 27, 2002 Issue – Jeffersonian

Please forward billing to:
Victor G. Puotinen
7116 Oxford Road
Baltimore, MD 21212

410-727-3564

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: 02-519-A

7116 Oxford Road

S/east side of Hatherleigh Road, 25 feet southwest of Oxford Road

9th Election District – 4th Councilmanic District

Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Variance to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.

HEARING: Friday, July 12, 2002 at 11:00 a.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.



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 6, 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: 02-519-A

7116 Oxford Road

S/east side of Hatherleigh Road, 25 feet southwest of Oxford Road

9th Election District – 4th Councilmanic District

Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Variance to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.

HEARING: Friday, July 12, 2002 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

C: Dorothy K. Milligan and Cheryl A. Milligan, 7116 Oxford Road, Baltimore 21212
Victor G. Puotinen, 7116 Oxford Road, Baltimore 21212

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY JUNE 27, 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.

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



Printed with Soybean Ink
on Recycled Paper



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

July 5, 2002

Ms. Dorothy K Milligan
Ms. Cheryl A Milligan
7116 Oxford Road
Baltimore MD 21212

Dear Ms's Milligan:

RE: Case Number: 02-5195-A, 7116 Oxford Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 20, 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. G D Z
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Victor G Puotinen, 7116 Oxford Road, Baltimore 21212
People's Counsel

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



Printed with Soybean Ink
on Recycled Paper



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 5.28.02

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

RE: Baltimore County
Item No. 519 JHP

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,

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

My telephone number is _____

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

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



Baltimore County
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 30, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF June 3, 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:

511-519 521-523

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
7/12

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 10, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For June 10, 2002
Item Nos. 511, 512, 513, 514, 516, 517,
518, 519, 520, 521, 522, and 523

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

RWB:HJO:jrb

cc: File

Simp
7/12

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

JUL 3 2002

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

DATE: July 2, 2002

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

SUBJECT: Zoning Advisory Petition(s): Case(s) 02-519, 02-521, 02-541, 02542, 02-560, 02-571, & 02-573

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

Prepared by:

Mark A. Cunningham

Section Chief:

Dyann Johnson

AFK/LL:MAC

Jim
7/12

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *RBS /TGT*

DATE: July 15, 2002

Zoning Petitions

Zoning Advisory Committee Meeting of June 3, 2002

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

511-514, 516, 517, 519-525, 527, 529-531, 533



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

October 9, 2002

Mr. W. Orville Wright
813 Chumleigh Road
Baltimore MD 21212

Dear Mr. Wright:

RE: Case No. 02-519-A, 7116 Oxford Road

Please be advised that an appeal of the above-referenced case was filed in this office on October 8, 2002 by Dorothy K and Cheryl A Milligan. 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".

Arnold Jablon
Director

AJ: gdz

c: H. R. Ely, 812 Chumleigh Road, Baltimore 21212
Barry L Milke, 7109 Oxford Road, Baltimore 21212
Brenda Bodian, 803 Chumleigh Road, Baltimore 21212
Michael Gill, 7117 Oxford Road, Baltimore 21212
Jim Shifrin, 907 Old Oak Road, Baltimore 21212
Victor Puotinen, 7116 Oxford Road, Baltimore 21212
John W Hill, 703 Kingston Road, Baltimore 21212
Dorothy & Cheryl Milligan, 7116 Oxford Road, Baltimore 21212
People's Counsel

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



Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition for Variance
7116 Oxford Road
SE/S Hatherleigh Road, 25' SW of Oxford Road
9th Election District – 4th Councilmanic District
Dorothy K & Cheryl A Milligan - Legal Owner
Case No.: 02-519-A

- ✓ Petition for Variance (dated 05/20/02)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (dated 06/06/02)
- ✓ Certification of Publication (The Jeffersonian issue dated 06/27/02)
- ✓ Certificate of Posting (dated 06/24/02 posted Thomas J Hoff)
- ✓ Entry of Appearance by People's Counsel (dated 06/03/02)
- ✓ 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:

- ✓ 1. Photographs (5 pictures)
- ✓ 2. Photographs (3 large pictures)
- ✓ 3. Letter to Mr. Arnold Jablon, Director from Kelly Buedel dated 06/26/02
 - ✓ Letter to Mr. Arnold Jablon, Director from Elizabeth S Henn dated 06/26/02
 - ✓ Letter to Mr. Arnold Jablon from Jim Gisriel dated 06/27/02
 - ✓ Letter to Mr. Arnold Jablon from Patrick J Bollinger dated 06/27/02
 - ✓ Letter to Arnold Jablon Director from David W Cooke dated 06/26/02
 - ✓ Letter to Mr. Arnold Jablon from Thomas J Gisriel Esquire dated 06/27/02
 - ✓ Letter to Mr. Arnold Jablon, Director from Ann Bollinger dated 06/26/02
 - ✓ Letter to Mr. Arnold Jablon, Director from Geoffrey Boyd dated 06/27/02
 - ✓ Letter to Mr. Arnold Jablon from Anna D Jeffers, Esquire dated 06/27/02
 - ✓ Letter to Mr. Arnold Jablon, Director from Margaret Grady Kidder dated 06/26/02
 - ✓ Letter to Mr. Arnold Jablon, Director from William J Toohey dated 06/27/02
- ✓ Letter to Arnold Jablon Director from Rosemary Frisino Toohey dated 06/27/02
- ✓ Letter to Arnold Jablon from Francis Key Kidder dated 06/27/02
- ✓ Letter to Mr. Arnold Jablon, Director from Stanley Meros dated 06/27/02
- ✓ Letter to Mr. Arnold Jablon, Director from Denise Kuruc dated 06/27/02
- ✓ Letter to Arnold Jablon, Director from Sanjay & Jean-Marie Trivedi dated 06/27/02
- ✓ Letter to Arnold Jablon from Barbara & Edward Palm dated 06/27/02
- ✓ Letter to Mr. Arnold Jablon, Director from Linda K Boyd dated 06/28/02

✓ Protestants' Exhibits: (None)

✓ Miscellaneous (Not Marked as Exhibits):

- ❖ Plat to Accompany Petition for Zoning Variance

✓ Deputy Zoning Commissioner's Order (dated 09/10/02 - DENIED)

* ✓ Notice of Appeal received on October 8, 2002 from Dorothy K & Cheryl A Milligan

c: James H. Thompson, Code Enforcement (Enforcement Case No. 02-2778)
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

date sent 10/09/02 gdz

* Dorothy K. Milligan
7116 Oxford Road
Baltimore, MD 21212

Francis X. Borgerding, Jr., Esquire
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

Counsel for Protestants

* Cheryl A. Milligan
7116 Oxford Road
Baltimore, MD 21212

* Paul J. Hanley, Esquire
HANLEY AND HANLEY, LLC
206 Washington Avenue
Towson, MD 21204

Counsel for Petitioners

Victor G. Puotinen
7116 Oxford Road
Baltimore, MD 21212

Added to file:
JIM LEONARD
615 KINGSTON ROAD
BALTIMORE, MD 21212

Michael Gill
7117 Oxford Road
Baltimore, MD 21212

DONALD GERDING
335 OLD TRAIL
BALTIMORE MD 21212
ADDED 1/23/2003

Barry ~~Miller~~ Miller
7109 Oxford Road
Baltimore, MD 21212

Corrected per
t/c from Barry Miller
12-30-02

CONRAD J PONITATOWSKI
GREATER TOWSON COUNCIL OF
COMMUNITY ASSOCIATIONS
PO BOX 5421
TOWSON MD 21285-5421
ADDED 1/23/2003

H.R. Ely
812 Chumleigh Road
Baltimore, MD 21212

Brenda Bodian
803 Chumleigh Road
Baltimore, MD 21212

Per t/c - added to file 11/04/02 -
(testified at DZC hearing)

Jim Shifrin
907 Old Oak Road
Baltimore, MD 21212

WALTER ORVILLE WRIGHT
813 CHUMLEIGH ROAD
BALTIMORE MD 21212

See Mr. 11/13/03
Mr. D. Gerding
335 Old Trail
Baltimore, MD 21212

Case No. 02-519-A

In the Matter of: Dorothy K. & Cheryl A. Milligan – Legal Owners
/Petitioners

VAR --To allow the accessory studio building to be located in the side
yard of Petitioners' property ilo required rear yard.

9/10/02 --D.Z.C.'s Order in which Petition for Variance was DENIED.

11/21/02 – Letter from Jim Leonard – requesting that name be added to mailing list:
615 Kingston Road Baltimore, MD 21212 410-377-6573

1/22/03 – Note from W.O. Wright - requesting notice of hearing:
813 Chumleigh Road Baltimore, MD 21212 410-377-0010

3/12/03 -Notice of Assignment sent to following; assigned for hearing on Thursday, May 29, 2003 at 10 a.m.:

Dorothy K. and Cheryl A. Milligan
Representative to be Contacted: Victor Puotinen
Michael Gill
Barry Miller
H.R. Ely
Brenda Bodian
Jim Shifrin
Walter Orville Wright
Jim Leonard
Conrad J. Poniatowski
Donald Gerding
People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement /PDM [Enf. Case #02-2778]
Arnold Jablon, Director /PDM

5/06/03 – Entry of Appearance filed by Paul J. Hanley, Esquire, on behalf of Dorothy and Cheryl Milligan;
requested postponement from assigned 5/29/03 hearing date; will be in Circuit Court for Baltimore County
all day on that date.

5/07/03 – Upon conversation with Messrs. Gerding and Leonard; and People's Counsel, postponement granted;
notice of reassignment to be sent to all parties; possible reassignment to August /September date.

5/23/03 – Notice of Reassignment sent to parties; case reassigned to Tuesday, August 5, 2003 at 10:00 a.m.

6/18/03 – Letter from Paul J. Hanley, Esquire, counsel for Appellants /Petitioners; conflict in Circuit Court for
Baltimore County (**sits as Juvenile Master – sitting all day on 8/05/03; sits as Juvenile Master
on Tuesday and Thursday**).

6/24/03 – Notice of PP and Reassignment sent to parties; case reassigned to Wednesday, September 17, 2003 at
10:00 a.m.

9/17/03 – Board convened for hearing (Marks, Crizer, Worrall); Francis X. Borgerding, Jr., appeared on behalf of
Protestants; Paul Hanley, Esquire, on behalf of Petitioners; hearing concluded; memos due from counsel on
Monday, 10/06/03; deliberation tentative for 10/16/03 – pending confirmation from Mr. Marks; when
confirmed with panel members, notice of deliberation will be sent to all parties.

9/24/03 – Notice of Deliberation sent to parties; public deliberation assigned for Thursday, October 16, 2003 at 9:00
a.m. FYI copy to 5-7-3.

Page 2

10/06/03 – Request from P. Hanley for two-day extension for filing of memos in this matter. He had attempted to reach F. Borgerding; to secure agreement for extension but was unable to do so. Filed written request via FAX.

-- T/C to Mr. Borgerding's office; spoke with Beverly; she will hold their Memo until Tuesday for confirmation of filing date, allowing time to reach Mr. Borgerding.

-- Left message for Mr. Hanley on voice mail.

10/07/03 – T/C from Paul Hanley – had voice mail message from Frank Borgerding who has no objection to two-day extension. Spoke with Beverly; advised her that memos would be due on 10/08/03 and that written confirmation would follow.

-- Letter to Messrs. Borgerding and Hanley; Mr. Hanley's request is granted; memos are due no later than 4:00 p.m. on Wednesday, October 8, 2003. Copy to counsel via FAX and USPS this date.

10/08/03 – Protestants' Memorandum filed by Frank Borgerding, Jr., Esquire, on behalf of Stoneleigh Community Assn., Inc., Protestant. Copy by hand this date to Crizer and Marks.

-- Memorandum of Law filed by Paul J. Hanley, Esquire, on behalf of Petitioners Cheryl and Dorothy Milligan.

10/09/03 – Copies of above memos mailed to Worrall; copy of Petitioners' to Marks; copy hand-delivered to Mr. Crizer.

10/16/03 – Board convened for public deliberation; concluded same; majority decision (Worrall and Crizer)– granted structure at existing location without variance – Oxford is front; therefore shed exists in the rear yard; Marks dissented – would deny request for shed in side yard. Majority Opinion/Order to be issued (3), as well as dissenting opinion by Mr. Marks. Appellate period to run from date of written order.

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: May 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 519
Legal Owner/Petitioner Cheryl & Dorothy Milligan
Contract Purchaser: N/A
Property Address: 7116 Oxford Rd.
Location Description: S/E side of Hatherleigh Rd., 25 ft. S/W of Oxford Rd.

VIIOLATION INFORMATION: Case No. 02-2778
Defendants: Cheryl & Dorothy Milligan

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME	ADDRESS
Barry Miller	7109 Oxford Rd. Baltimore, Md. 21212

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

- X 1. Complaint letter/memo/email/fax (if applicable)
- X 2. Complaint Intake Form/Code Enforcement Officer's report and notes
- ☐ 3. State Tax Assessment printout
- ☐ 4. State Tax Parcel Map (if applicable)
- ☐ 5. MVA Registration printout (if applicable)
- ☐ 6. Deed (if applicable)
- ☐ 7. Lease-Residential or Commercial (if applicable)
- ☐ 8. Photographs including dates taken
- X 9. Correction Notice/Code Violation Notice
- ☐ 10. Citation and Proof of Service (if applicable)
- ☐ 11. Certified Mail Receipt (if applicable)
- ☐ 12. Final Order of the Code Official/Hearing Officer (if applicable)
- ☐ 13. Office of Budget & Finance Billing Notice/Property Lien Sheet (if applicable)
- ☐ 14. Complete Chronology of Events, beginning with the first complaint through the Billing Notice/Property Lien Sheet (if applicable).

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/rr
C: Code Enforcement Officer

ENFORCEMENT REPORT

DATE: 5, 2, 02 INTAKE BY: ADL CASE #: 02-2778 INSPEC: ADL

COMPLAINT LOCATION: 7116 OXFORD rd.

ZIP CODE: 21212 DIST: 9

COMPLAINANT NAME: BARRY MILLER PHONE #: (H) 410 (W) 767 4446

ADDRESS: _____ ZIP CODE: _____

PROBLEM: Accessory structure in side yard.

IS THIS A RENTAL UNIT? YES _____ NO ✓

IF YES, IS THIS SECTION 8? YES _____ NO _____

OWNER/TENANT INFORMATION: Cheryl & Dorothy Mullican

TAX ACCOUNT #: 09 19 273450 ZONING: _____

INSPECTION: Permit B483635 issued 4-25-02
with plot plan showing acc. structure (shed) in
rear yard. However, the front of the
house appears to be facing Hatherluch Rd

REINSPECTION: which would put the shed in the
side yard. A correction notice will be issued
today 5-3-02 requiring the shed be moved
to the rear yard (new plot plan must be

REINSPECTION: submitted) Remove shed or obtain
a zoning variance to permit shed in
side yard.

Recheck 5-10-02

REINSPECTION: Spoke to owners husband 5-3-02 @ 9 AM
and explained situation - says he will apply
for variance.



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 02-2778	Property No. 09 19 273450	Zoning
Name(s): CHERYL & DOROTHY MILLIGAN		
Address: 7116 OFFORD RD 21212		
Violation Location: SAME		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCZR 400.1
ACCESSORY STRUCTURE
MUST BE LOCATED IN THE
REAR YARD.
SHED BEING CONSTRUCTED UNDER
PERMIT B483635 MUST BE
RELOCATED TO REAR YARD,
REMOVED, OR A ZONING
VARIANCE GRANTED.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 5-10-02	Date Issued: 5-3-02
--------------------------	------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name RICHARD ROHLFS

INSPECTOR: RD ROLFF

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:
-----------------	--------------

INSPECTOR: _____

AGENCY



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B483635 CONTROL #: MR DIST: 02 PREC: 01
DATE ISSUED: 04/25/2002 TAX ACCOUNT #: 0919273450 CLASS: 04

PLANS: CONST 0 PLOT 0 R PLAN 0 DATA 0 ELEC YES PLUM YES
LOCATION: 7116 OXFORD RD
SUBDIVISION: STONELEIGH

OWNERS INFORMATION

NAME: MILLIGAN, CHERYL AND DOROTHY
ADDR: 7116 OXFORD RD., 21212

Victor Poulina
W 410 727 3564
Cell 339 7504

TENANT

CONTR: ADR BUILDERS, LTD
ENGR:
SELLR:
WORK:

CONSTRUCT 10'X20'X15' 200SF SHED ON REAR OF
PROPERTY. INCLUDES WASH SINK AND ELECTRIC.
THIS PERMIT CANCELS B481857 WORDING CHANGE.
PERMIT EXPIRES 4/12/03.

BLDG. CODE:

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD AND SHED
EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: OTHER - RESIDENTIAL

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 0088.00 X 0000.00

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 3' / 26'

SIDE STR SETB:

REAR SETB: 3'

09R INSPECTOR COPY



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

BUILDING PERMIT

PERMIT # B481857 CONTROL #: MR DIST: 09 PREC: BUILDINGS ENGINEER
DATE ISSUED: 04/12/2002 TAX ACCOUNT #: 0919273450 CLASS:

PLANS: CONST PLOT 1 R PLAT DATA ELEC NO PLUM NO
LOCATION: 7116 OXFORD RD
SUBDIVISION: STONELEIGH

OWNERS INFORMATION

NAME: MILLIGAN, D & MILLIGAN, C
ADDR: 7116 OXFORD RD

TENANT:

CONTR: ADR BUILDERS

ENGR:

SELLR:

WORK: CONSTRUCT 10X20X15' MAX SHED IN REAR YARD
200SF (LOCATED IN REAR 1/2 OF REAR FURTHEREST
REMOVED FROM HATHERLEIGH RD)

CANCEL to B 483635

BLDG. CODE:

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & SHED

EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

USE:

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 3

SIDE STR SETB: 26

REAR SETB: 3

09R INSPECTOR COPY

May 3, 2002

Barry L. Miller
7109 Oxford Road
Baltimore, Maryland 21212

Mr. Carl Richard, Supervisor
Baltimore County Zoning Enforcement Office
Room 111
111 Chesapeake Ave
Towson, Maryland 21204

Re: Building Permit 481857, dated 04/12/02, followed by
Building Permit 483635, dated 04/25/02

Property Address: 7116 Oxford Road, "Stoneleigh"
Baltimore, Maryland 21212

Zoning Classification: DR 5.5

Dear Mr. Richards:

As a neighbor, it has come to my attention that a building permit has been issued for the construction in the rear yard of a "shed" of 10' x 20' x 15' in height by Baltimore County. The original building permit was issued on April 12th. On April 25th that permit was voided when a replacement permit was issued which allowed for the inclusion of a sink in the "shed".

The zoning question not asked by the Baltimore County Department of Zoning when these permits were filed was if this was a corner lot and where was the front door to the house. Although the address is 7116 Oxford Road, that address is a function of the U.S. Postal Service mail delivery. By the Baltimore County Zoning regulations and subsequent case law the front door to a home in Baltimore County is defined as the entrance to the property which enters into the living room. In this dwelling, the front of the house faces northward to Hatherleigh Road, the front door is on Hatherleigh Road, and the Living room faces Hatherleigh Road.

Page 2 of 2

This fact then means that the building permit information was not correct and the shed is not the rear yard, but in the side yard. I am requesting at this time an investigation of the permit and the facts relevant to the pursuit of this construction in that all information must be accurate and in compliance with the Baltimore County zoning law. I am also expecting that the building permit rules be enforced.

Please contact me in writing at the above address with regard to the resolution of this matter. My office number is 410-767-4446.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Barry L. Miller", with a long horizontal flourish extending to the right.

Barry L. Miller, RA, NCARB

cc: Ms Paula Haupt, County Executive's Office
Mr. Richard Rohlf, Baltimore County Construction Permits

May 5, 2002

Baltimore County
Code Inspections and Enforcements
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Citation/Case No. 02-2778
7116 Oxford Road

To Whom It May Concern:

The purpose of this letter is to affirm that Victor G. Puotinen of 7116 Oxford Road, Baltimore, MD 21212, is authorized to act on our behalf on all matters pertaining to the above referenced citation dated May 3, 2002 and the building permit No. B483635 dated April 12, 2002.

1. Victor Puotinen is my son-in-law and resides with us at the aforementioned address. I am a retired librarian with Parkinson's, and thus would find it difficult to file further applications or attend meetings; accordingly, Victor is authorized to act on my behalf.

Signed by:

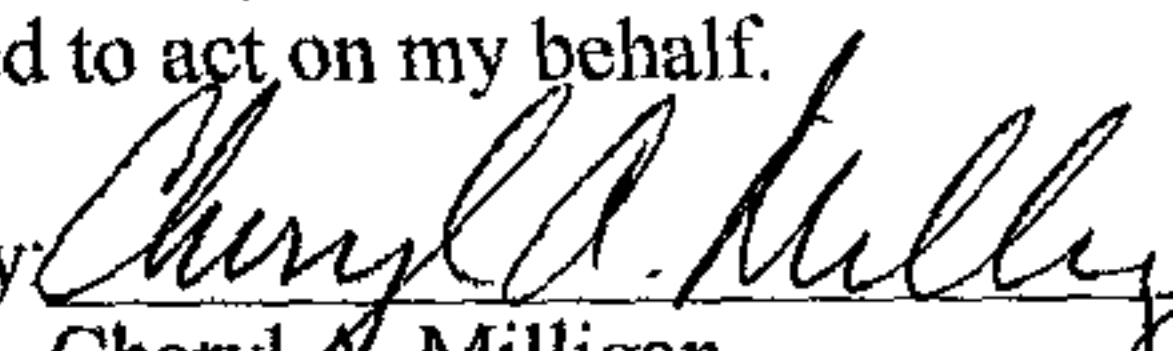

Dorothy K. Milligan

Date:

5/5/02

2. Victor G. Puotinen is my husband and resides with us at the aforementioned address. I am a Baltimore County school teacher, who has to be at work from 7:00 am until 3:30 pm weekdays. As such, I would not be able to file any further applications or attend meetings during the day, as necessary, in the matter referenced above. Accordingly, Victor is authorized to act on my behalf.

Signed by:


Cheryl A. Milligan

Date:

5/5/02

We trust that this letter will be self-explanatory and serve the intended purpose of rectifying the pending issues concerning the accessory structure under construction on our property.

Sincerely yours,


Cheryl A. Milligan
7116 Oxford Road
Baltimore, MD 21212


Dorothy K. Milligan
7116 Oxford Road
Baltimore, MD 21212

02-519-A



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

D9

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 02-2778	Property No. 09 19 273450	Zoning:
Name(s): CHERYL & DOROTHY MILLIGAN		
Address: 7116 OFFORD RD	21212	
Violation Location: SAME		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCZR 400.1
ACCESSORY STRUCTURE
MUST BE LOCATED IN THE
REAR YARD.
SHED BEING CONSTRUCTED UNDER
PERMIT B483635 MUST BE
RELOCATED TO REAR YARD,
REMOVED, OR A ZONING
VARIANCE OBTAINED.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 5-10-02	Date Issued: 5-3-02
--------------------------	------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: RICHARD ROWLES

INSPECTOR:

RD ROWLES

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:
-----------------	--------------

INSPECTOR:

VIOLATION SITE

02-519-A

TO THE PERSON(S) CHARGED:

1. It is important that you read this document carefully, as it charges you with commission of a crime.
2. If you fail to correct the violations noted by the date dictated, you could be penalized by a fine, or imprisonment, or both.
3. A lawyer can give important assistance to you; (a) on how to correct the violation(s) in order to avoid trial, or, if you failed to correct the violation(s) noted, assistance can be provided to determine whether there are any defenses to the charge, against you or any circumstances helpful to you that should be brought to the court. A lawyer can help you by developing and presenting information which qualifies how you can correct the violation(s) cited.
4. You have been ordered to correct the violation(s) cited on the flow of this notice by a certain date. Failure to comply with the deadline stated is a misdemeanor. A conviction for each violation subjects you to potential fines of \$200, \$500, or \$1000 per day, or 60 days or less on the violation, or 60 days in jail, or both.
5. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
6. Upon correction of these violations, contact the inspector for a reinspection. If you have any questions contact the inspector promptly.

02-519-A

Case No: 02-2778

Notes: 05/02/02 PERMIT B483635 ISSUED 04/25/02 WITH PLOT PLAN SHOWING ACC.
STRUCTURE (SHED) IN REAR YD. HOWEVER, THE FRONT OF THE HOUSE APPEARS TO BE FACIN
G HATHERLIEGH RD. WHICH WOULD PUT THE SHED IN THE SIDE YD. A CORR. NO. WILL BE
ISSUED TODAY 05/03/02 REQUIRING THE SHED BE MOVED TO THE REAR YD. (NEW PLOT PLA
N MUST BE SUBMITTED), REMOVE SHED OR OBTAIN A ZONING VARIANCE TO PERMIT SHED IN
SIDE YD. SPOKE TO OWNER'S HUSBAND 05/03/02 @ 9AM & EXPLAINED SITUATION- SAYS HE
WILL APPLY FOR VARIANCE. P/U 05/10/02. R.ROHLFS/KH.*** HEARING DATE 6/5/02 P/
U 6/4/02. R. ROHLFS/NS***
06/10/02 ZONING HEARING ITEM # 02-519 A.MR. MILLER NOTIFIED BY VOICE MAIL 6/10/
02 AT 3PM. EXT. P/U 07/31/02. R.ROHLFS/KH.***
****07/05/02 REC'D LETTER FROM VICTOR PUOTINEN GAVE TO R. ROHLFS TO UPDATE. LR
S*** 07/30/02 VARIANCE CASE HEARD BY ZONING COMM.-DECISION PENDING. CALLE
D COMPL. 3:45 PM. P/U 08/23/02. R.ROHLFS/KH.***
08/23/02 NO DECISION BY ZONING COMM. P/U 09/27/02. LEFT MESSAGE W/COMPL. R.ROHL
FS/KH.***
**10/09/02 REC'D ZONING PETION FOR VARIANCE APPEAL FILED 10/08/02. GAVE TO JHT
.LRS**

Enter=Continue F12=Cancel

Case No: 02-2778

Notes: 11/20/02 P/U 01/08/03. R.ROHLFS/KH.***	1
/10/03 VARRIANCE APPEAL HAS NOT BEEN RULED UPON. P/U 2/7/03 R.R./J.B.***	0
2/12/03 CASE WENT TO APPEAL-NO RESULTS YET. P/U 03/12/03. R.ROHLFS/KH.***	0
3/12/03 ZONING APPEAL SCHEDULED FOR 05/19/03. P/U 05/23/03. R.ROHLFS/KH.***	
03/17/03 REC'D NOTICE OF ASSIGNMENT SCHEDULED FOR 05/29/03 AT 10AM. GAVE TO JHT. LRS	0
5/27/03 APPEAL TO BE HEARD ON 05/29/03. P/U 06/06/03. R.ROHLFS/KH***	6
/4/03 ZONING APPEAL HAS BEEN RESCHEDULED TO 8/15/03 P/U 8/18/03 R.ROHLFS/J.B.***	
06/23/03 RECEIVED LETTER ON 06/18/03 FROM PAUL J HANLEY'S ESO, REQUESTING THAT THE BOARD RE-SCHEDULE THE 08/05/03 HEARING BECAUSE CONFLICT WITH A PRIOR SET CIRCUIT COURT CASE. JHT/LRS	*
06/30/03 NOTICE OF POSTPONEMENT, 09/17/03 AT 10AM. GAVE TO JHT, LRS*	*
8/15/03, 2ND COMPL - CAB PARKING AT NIGHT, CAN CHECK WHEN YOU GO OUT ON /18/03, MSK/CO*	8

Enter=Continue F12=Cancel

TIME: 12:55:42
DATE: 09/09/2003

AUTOMATED PERMIT TRACKING SYSTEM
GENERAL PERMIT APPLICATION DATA

PANEL BP1003M
LAST UPDATE 03/21/2003
DAS 08:28:47

PERMIT #: B481857 PROPERTY ADDRESS
RECEIPT #: A448497 7116 OXFORD RD
CONTROL #: MR SUBDIV: STONELION
XREF #: B481857 TAX ACCOUNT #: 0919273450 DISTRICT/PRECINCT 09 01

OWNERS INFORMATION (LAST, FIRST)

FEE: 65.00 NAME: MILLIGAN, D & MILLIGAN, C
PAID: 65.00 ADDR: 7116 OXFORD RD
PAID BY: APPL

DATES

APPLICANT INFORMATION

APPLIED: 04/12/2002 NAME: VICTOR PUOTINEN

ISSUED: 04/12/2002 COMPANY:

CANCEL: 03/21/2003 ADDR1: 7116 OXFORD RD

ADDR2: BALTIMORE MD 21212

INSPECTOR: 09R PHONE #: 410.769.8732 LICENSE #: 8097

NOTES: DAS/CM CANCELLED BY B483635

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 12:55:49 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/12/2002
DATE: 09/09/2003 BUILDING DETAIL 1 PDM 08:52:28

PERMIT # B481857 PLANS: CONST PLOT 1 DRC#
TENANT FLAT DATA EL 2 PL 2
BUILDING CODE: CONTR: ADR BUILDERS
IMPRV 1 ENGR:
USE 1 SELLR:

FOUNDATION BASE WORK: CONSTRUCT 10X20X15' MAX SHED IN REAR YARD
200SFT (LOCATED IN REAR 1/2 OF REAR FURTHEREST
CONSTRUC FUEL SEWAGE WATER REMOVED FROM HATHERLEIGH RD)

2 1E 1E

CENTRAL AIR

ESTIMATED COST

20000.00 PROPOSED USE: SFD & SHED

OWNERSHIP: 1 EXISTING USE: SFD

RESIDENTIAL CAT: 1

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:

1 FAMILY BEDROOMS:

PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1005M

TIME: 12:55:57 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/12/2002
DATE: 09/09/2003 BUILDING DETAIL 2 PDM 08:52:28

PERMIT #: B481857 BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR: 200 SIZE:
WIDTH: 10 FRONT STREET:
DEPTH: 20 SIDE STREET:
HEIGHT: 15MAX FRONT SETB: NC
STORIES: 1 SIDE SETB: 3
KITCHENS: SIDE STR SETB: 26.
REAR SETB: 3

LOT NOS: 48, 48
CORNER LOT:

ZONING INFORMATION

DISTRICT:

BLOCK:

ASSESSMENTS

PETITION:

SECTION:

LAND:

DATE:

LIBER:

IMPROVEMENTS:

TOTAL ASS.:

CLASS:
PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:
ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
PANEL BP1034M
TIME: 12:56:08 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/25/2003
DATE: 09/09/2003 INSPECTIONS DETAIL SCREEN BIF 08:14:00

PERMIT #: B481857 CONTROL #:

TYPE OF INSPECTION	DATE INSPECTED	CODE	COMMENTS
FT	04/22/2002	01	RR
CANCELLED	03/24/2003	01	RR

PAGE 01 OF 01

ENTER - GENERAL PERMIT PF7 - NEXT PAGE ?
PF2 - APPROVALS PF8 - GENERAL SCREEN W/NEXT DETAIL CLEAR - MENU
PANEL BP1003M
TIME: 12:56:55 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/25/2002
DATE: 09/09/2003 GENERAL PERMIT APPLICATION DATA PLC 08:55:32

PERMIT #: B483635 PROPERTY ADDRESS
RECEIPT #: A451291 7116 OXFORD RD
CONTROL #: MR SUBDIV: STONELEIGH
XREF #: B483635 TAX ACCOUNT #: 0919273450 DISTRICT/PRECINCT 09 01
OWNERS INFORMATION (LAST, FIRST)

FEE: 5.00 NAME: MILLIGAN, CHERYL AND DOROTHY
PAID: 5.00 ADDR: 7116 OXFORD RD., 21212
PAID BY: APPL

DATES	APPLICANT INFORMATION
APPLIED: 04/25/2002	NAME: JANE STOKES
ISSUED: 04/25/2002	COMPANY: ADR BUILDERS
OCCPNCY:	ADDR1: 1850 YORK RD
	ADDR2: 21093

INSPECTOR: 09R PHONE #: 410-561-0221 LICENSE #: 8097
NOTES: KRA/VLC

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY
PANEL BP1004M
TIME: 12:57:04 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/25/2002
DATE: 09/09/2003 BUILDING DETAIL 1 PLC 09:02:13

PERMIT # B483635 DRG#
PLANS: CONST 0 PLOT 0 PLAT 0 DATA 0 EL 1 PL 1
TENANT
BUILDING CODE: CONTR: ADR BUILDERS, LTD
IMPRV 1 ENGR:
USE 07 SELLR:

FOUNDATION BASE WORK: CONSTRUCT 10'X20'X15' 2006F SHED ON REAR OF
PROPERTY. INCLUDES WASH SINK AND ELECTRIC.
CONSTRUC FUEL SEWAGE WATER THIS PERMIT CANCELS B481857--WORDING CHANGE.
1E 1E PERMIT EXPIRES 4/12/03.

CENTRAL AIR
ESTIMATED COST
20,000.00 PROPOSED USE: SFD AND SHED
OWNERSHIP: 1 EXISTING : SFD
RESIDENTIAL CAT: 1

1 FAMILY BEDROOMS:

PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
PANEL BP1005M
TIME: 12:57:21 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/25/2002
DATE: 09/09/2003 BUILDING DETAIL 2 PLC 09:02:13

PERMIT #: B483635 BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR: 200 SIZE: 0088.00 X 0000.00
WIDTH: 10' FRONT STREET:
DEPTH: 20' SIDE STREET:
HEIGHT: 15' FRONT SETB: NC
STORIES: SIDE SETB: 3'/26'
SIDE STR SETB:
REAR SETB: 3'
LOT NOS: 48
CORNER LOT:

ZONING INFORMATION

DISTRICT: BLOCK:
PETITION: SECTION:
DATE: LIBER: ~~006~~ 7
MAP: FOLIO: 087
CLASS: 04

ASSESSMENTS

LAND: 0062270.00
IMPROVEMENTS: 0131300.00
TOTAL ASS.:

PLANNING INFORMATION

MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU
*** NO INSPECTIONS FOUND FOR THIS PERMIT *** PANEL BP1003M
TIME: 12:57:36 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 04/25/2002
DATE: 09/09/2003 GENERAL PERMIT APPLICATION DATA PLC 08:55:32

PERMIT #: B483635 PROPERTY ADDRESS
RECEIPT #: A451291 7116 OXFORD RD
CONTROL #: MR SUBDIV: STONELEIGH
XREF #: B483635 TAX ACCOUNT #: 0919273450 DISTRICT/PRECINCT 09 01

OWNERS INFORMATION (LAST, FIRST)

FEF: 5.00 NAME: MILLIGAN, CHERYL AND DOROTHY
PAID: 5.00 ADDR: 7116 OXFORD RD., 21212
PAID BY: APPL

DATES

APPLICANT INFORMATION

APPLIED: 04/25/2002 NAME: JANE STOKES
ISSUED: 04/25/2002 COMPANY: ADR BUILDERS
OCCPNY: ADDR1: 1850 YORK RD

ADDR2: 21093

INSPECTOR: 09R PHONE #: 410-561-0221 LICENSE #: 8097
NOTES: KRA/VLC

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY



Baltimore County
Zoning Commissioner

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

October 1, 2002

Mr. John W. Hill
703 Kingston Road
Baltimore, Maryland 21212-1939

Re: 7116 Oxford Road

Dear Mr. Hill:

I read with interest your letter dated September 17, 2002. Kindly accept this letter as a response thereto. You have asked me to advise you as to where the Petitioner might locate the shed in question on their property. Before doing so, I must first correct you regarding your misunderstanding of the Baltimore county Zoning Regulations. In paragraph 4 of your letter, you attempt to apply the setback requirements for principal dwellings in residential zones, to accessory buildings, such as the shed built by Mr. Puotinen. I should also point out that the section you attempt to reference in your letter is also incorrect.

The section of the Baltimore County Zoning Regulations that does apply to Mr. Puotinen's shed is section 400, entitled "Accessory Buildings in Residence Zones". I refer you to that section for a better understanding of the setback requirements applicable to this case. I am returning to you the site plan that you submitted to me along with your letter. You should now be able to properly locate the shed in question on the Milligan's property, in accordance with the dictates of section 400. If you continue to struggle with this matter, please let me know and I will have a member of my staff assist you.

Lastly, in response to your "aside", the County has no responsibility for the issuance of the permit for this property. The clerk in the Office of Permits was merely relying on the assertions of Mr. Puotinen regarding the placement of the shed and the orientation of the house at 7116 Oxford Road. Since it was determined that the house faces Hatherleigh Road and not Oxford Road, Mr. Puotinen's representations in his permit application were untrue. Consequently, the County has no responsibility. I trust that this letter addresses the issues raised in your correspondence.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

cc: Dorothy K. and Cheryl A. Milligan
Mr. David Hudson & Mr. Barry Miller

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



Printed with Soybean Ink
on Recycled Paper



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B483635 CONTROL #: MR DIST: 09 PREC: 01
DATE ISSUED: 04/25/2002 TAX ACCOUNT #: 0919273450 CLASS: 04

PLANS: CONST 0 PLOT 0 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 7116 OXFORD RD
SUBDIVISION: STONELEIGH

OWNERS INFORMATION

NAME: MILLIGAN, CHERYL AND DOROTHY
ADDR: 7116 OXFORD RD., 21212

TENANT:

CONTRACTOR: ADR BUILDERS, LTD

ENGNR:

SELLR:

WORK: CONSTRUCT 10'X20'X15'=200SF SHED ON REAR OF
PROPERTY. INCLUDES WASH SINK AND ELECTRIC.
THIS PERMIT CANCELS B481857-WORDING CHANGE.
PERMIT EXPIRES 4/12/03.

BLDG. CODE:

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD AND SHED
EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONTRUCTION

USE: OTHER - RESIDENTIAL

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 0088.00 X 0000.00

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 3'/26'

SIDE STR SETB:

REAR SETB: 3'



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B481857 CONTROL #: MR DIST: 09 PREC: 01
DATE ISSUED: 04/12/2002 TAX ACCOUNT #: 0919273450 CLASS:

PLANS: CONST PLOT 1 R FLAT DATA ELEC NO PLUM NO
LOCATION: 7116 OXFORD RD
SUBDIVISION: STONELEIGH

OWNERS INFORMATION

NAME: MILLIGAN, D & MILLIGAN, C
ADDR: 7116 OXFORD RD

TENANT:

CONTR: ADR BUILDERS

ENGR:

SELLR:

WORK: CONSTRUCT 10X20X15' MAX SHED IN REAR YARD
200SFT (LOCATED IN REAR 1/2 OF REAR FURTHEREST,
REMOVED FROM HATHERLEIGH RD)

BLDG. CODE:

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & SHED

EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONTRUCTION
USE:

FOUNDATION:

SEWAGE: PUBLIC EXIST

BASEMENT:

WATER: PUBL

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 3

SIDE STR SETB: 24.

REAR SETB: 3

**BALTIMORE COUNTY
BUILDING INSPECTION**
410-881-3953

[Signature]
Part of Building Inspector

Approved () Disapproved ()

REMARKS:

[Signature]
4/22/02
DATE

[Signature]
BUILDING INSPECTOR

02-519-A



[Signature]
DIRECTOR

BUILDING PERMIT

John R. Ring
BUILDINGS ENGINEER

PERMIT #: B481857 CONTROL #: MR DIST: 09 PREC: 01
DATE ISSUED: 04/12/2002 TAX ACCOUNT #: 0919273450 CLASS:

PLANS: CONST PLOT 1 R PLAT DATA ELEC NO PLUM NO
LOCATION: 7116 OXFORD RD
SUBDIVISION: STONELEIGH

OWNERS INFORMATION

NAME: MILLIGAN, D & MILLIGAN, C
ADDR: 7116 OXFORD RD

TENANT:

CONTR: ADR BUILDERS

ENGR :

SELLR:

WORK: CONSTRUCT 10X20X15' MAX SHED IN REAR YARD
200SFT (LOCATED IN REAR 1/2 OF REAR FURTHEREST
REMOVED FROM HATHERLEIGH RD)

BLDG. CODE:

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & SHED

EXISTING USE: SFD

TYPE OF IMPRV: NEW BULDING CONSTRUCTION

USE :

FOUNDATION:

SEWAGE: PUBLIC EXIST'

BASEMENT:

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE:

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: 3

SIDE STR SETB: 26.

REAR SETB: 3

02-519-A

RE: PETITION FOR VARIANCE
7116 Oxford Road, SE/S Hatherleigh Rd,
25' SW of Oxford Rd
9th Election District, 4th Councilmanic

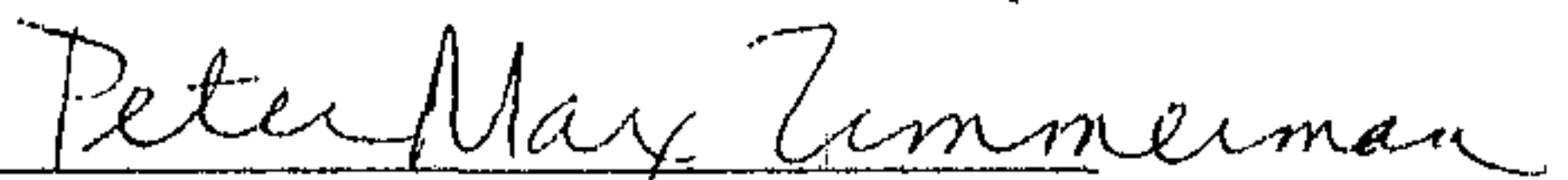
Legal Owner: Dorothy K. and Cheryl A. Milligan
Petitioner(s)

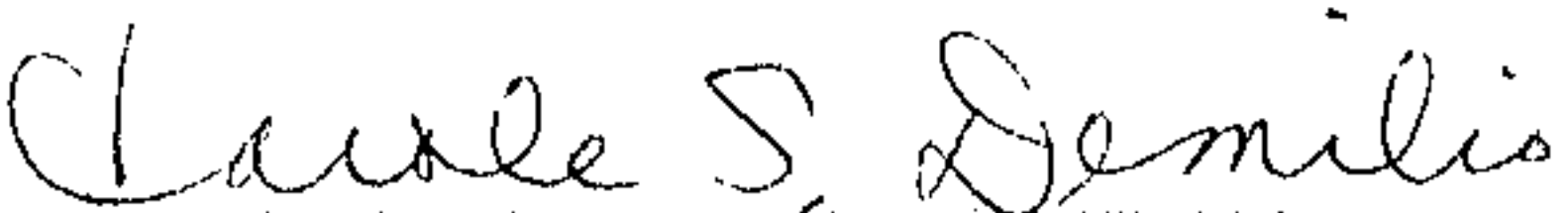
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-519-A

* * * * *

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 3rd day of June, 2002 a copy of the foregoing Entry of Appearance was mailed to Dorothy K. and Cheryl A. Milligan, 7116 Oxford Road, Baltimore, MD 21212, Petitioners.


PETER MAX ZIMMERMAN



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

March 12, 2003

*pp'd in new
date to be
assigned
(poss 8/5 or
8/28)*

NOTICE OF ASSIGNMENT

CASE #: 02-519-A

IN THE MATTER OF: DOROTHY K. & CHERYL A. MILLIGAN

-Legal Owners /Petitioners 7116 Oxford Road
9th Election District; 4th Councilmanic District

9/10/02 -D.Z.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR:

THURSDAY, MAY 29, 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: Appellants /Petitioners : Dorothy K. and Cheryl A. Milligan
Representative to be Contacted: Victor Puotinen

Michael Gill
Barry Miller
H.R. Ely
Brenda Bodian
Jim Shifrin
Walter Orville Wright
Jim Leonard
Conrad J. Poniatowski
Donald Gerding

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement /PDM [Enf. Case #02-2778]
Arnold Jablon, Director /PDM





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

June 24, 2003

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-519-A

IN THE MATTER OF: DOROTHY K. & CHERYL A. MILLIGAN

-Legal Owners /Petitioners 7116 Oxford Road
9th Election District; 4th Councilmanic District

9/10/02 –D.Z.C.'s Order in which Petition for Variance was DENIED.

which was reassigned to 8/05/03 has been **POSTPONED** at the request of Counsel for Appellants /Petitioners due to Circuit Court conflict on the reassigned date; and has been

REASSIGNED TO: WEDNESDAY, SEPTEMBER 17, 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: Counsel for Appellants /Petitioner: : Paul J. Hanley Esquire
Appellants /Petitioners : Dorothy K. and Cheryl A. Milligan
Victor Puotinen

Michael Gill
Barry Miller
H.R. Ely
Brenda Bodian
Jim Shifrin
Walter Orville Wright
Jim Leonard
Conrad J. Poniatowski
Donald Gerding

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement /PDM [Enf. Case #02-2778]
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

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

September 24, 2003

NOTICE OF DELIBERATION

IN THE MATTER OF:

DOROTHY K. & CHERYL A. MILLIGAN –Legal Owners /Petitioners
Case No. 02-519-A

Having heard this matter on 9/17/03, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **THURSDAY, OCTOBER 16, 2003 at 9:00 a.m.**

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

Wednesday Oct. 8, 2003

NOTE: Closing briefs are due on ~~Monday, October 6, 2003~~

(Four copies to be filed [Original and three (3) photocopies])

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioner:
Appellants /Pctitioners
Victor Puotinen

: Paul J. Hanley Esquire
: Dorothy K. and Cheryl A. Milligan

Francis X. Borgerding, Jr., Esquire
Michael Gill
Barry Miller
H.R. Ely
Brenda Bodian
Jim Shifrin
Walter Orville Wright
Jim Leonard
Conrad J. Poniatowski
Donald Gerding

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement /PDM [**Enf. Case #02-2778**]
Timothy M. Kotroco, Director /PDM

Copy to: 5-7-3



BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Dorothy K. and Cheryl A. Milligan
Case No.: 02-519-A

DATE: October 16, 2003

BOARD/PANEL: Charles L. Marks CLM
Margaret Worrall MW
Edward W. Crizer, Jr. EWC

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate Petition for Variance filed to permit a proposed accessory building in the side yard, ilo of the req'd rear yard.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- ✓ What is the rear and what is the side yard of this property; expert testimony was not clear on this issue
- ✓ Corner lot; trapezoid configuration; front and side yard setbacks
- ✓ Front contains main entrance and is the most attractive looking as determined by the upper courts
- ✓ Front is Oxford – 25' setback – if Oxford is the front, then the shed is in the rear
- ✓ Exceptions are given on corner lots; placement of 1/3 discussed
- ✓ Section 400.1
- ✓ Legal address
- ✓ Driveway comes into service area
- ✓ If shed is moved, trees would have to be removed
- ✓ Lot is irregularly shaped, but is not unique to this area / to be unique it has to be the only one
- ✓ DIFFERENCE OF INTERPRETATION

DECISIONS BY BOARD MEMBERS:

CLM - To Deny Petitioner's request for structure in the side yard.

MW - To GRANT Petitioner's request for structure due to the decision that Oxford is considered the front of the property, then the shed already exists in the rear yard.

EWC - To GRANT Petitioner's request for structure due to the decision that Oxford is considered the front of the property, then the shed already exists in the rear yard.



FINAL DECISION: Majority Decision to GRANT Petitioner's request for structure due to the interpretation that Oxford is considered the front of the property, therefore the shed already exists in the rear yard.

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

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

DATE: January 2, 2004

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

FROM: Theresa R. Shelton *tr*
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.

<u>BOARD OF APPEALS CASE NUMBER</u>	<u>PDM FILE NUMBER</u>	<u>NAME</u>	<u>LOCATION</u>
03-537-XA	03-537-XA	BETTY HENNINGER	4 MARLYN AVENUE
03-172-A	03-172-A	JOHN AND KAREN KOTRLA	5008 TARTAN HILL ROAD
03-311-A	03-311-A	TIMOTHY AND NIKKI DEMSKI	2820 MUNSTER ROAD
02-519-A	02-519-A	DOROTHY AND CHERYL MILLIGAN	7116 OXFORD ROAD

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

LAW OFFICES
HANLEY AND HANLEY, LLC
206 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 823-1174
(410) 823-6229 FACSIMILE

RECEIVED

MAY 06 2003

**BALTIMORE COUNTY
BOARD OF APPEALS**

DANIEL J. HANLEY
email: dhanley@magnus.net

PATRICK D. HANLEY
email: phanley@magnus.net

May 6, 2003

CLAUDE A. HANLEY
(1898-1976)

OF COUNSEL
PAUL J. HANLEY

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

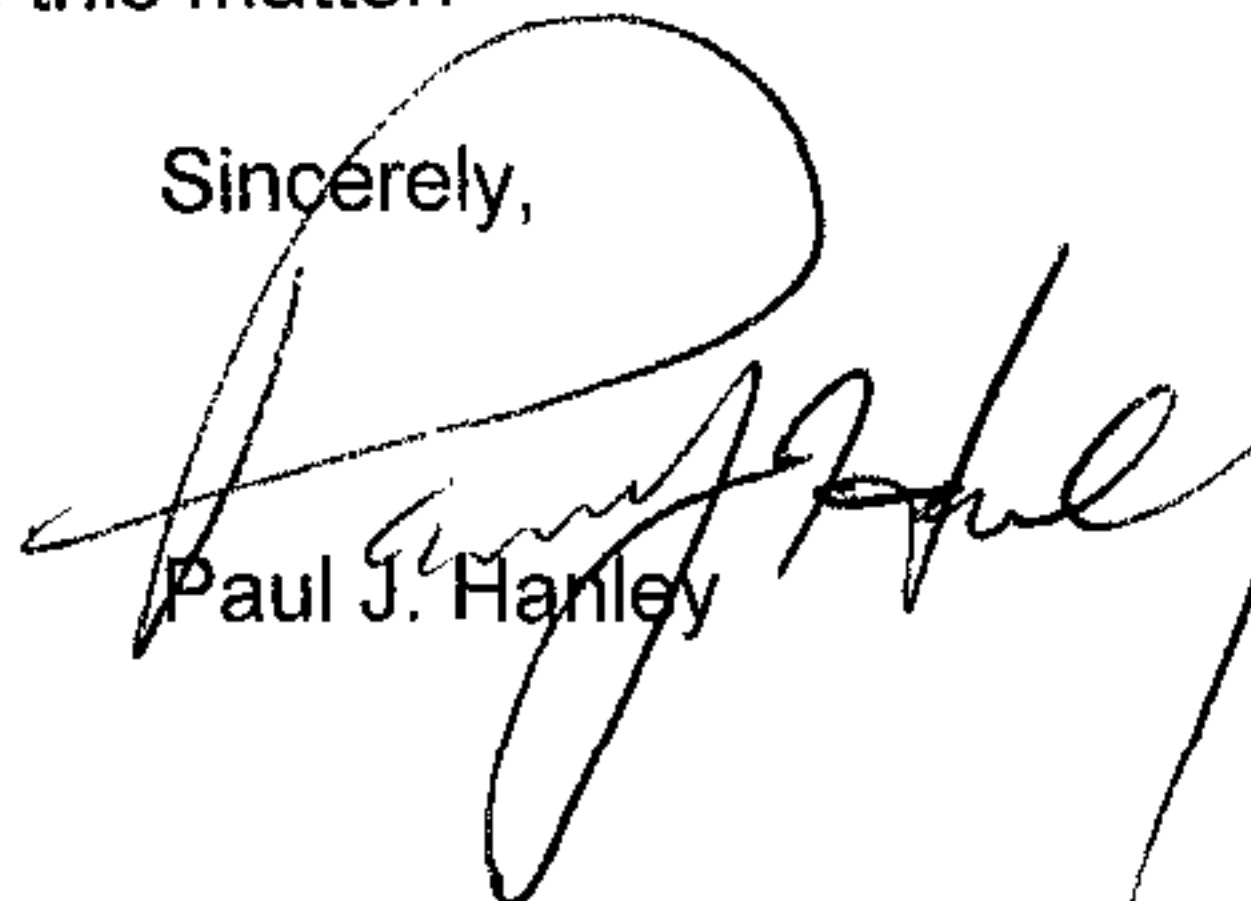
**Re: In the Matter of: Dorothy K & Chery A. Milligan
Legal Owners/Petitioners 7116 Oxford Road
9th Election District; 4th Councilmanic District
Case No.: 02-519-A
Hearing Date: Thursday, May 29, 2003 @ 10:00 a.m.**

Dear Sir/Madam:

Enclosed herewith please find Entry of Appearance and Request for Postponement in reference to the above captioned case.

Kindly accept same for filing in this matter.

Sincerely,



Paul J. Hanley

PJH/dib

Enclosure(s)

cc: Cheryl A. Milligan
Dorothy K. Milligan
Peter Zimmerman, Esquire of People's Counsel for Baltimore County
Lawrence E. Schmidt/Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement/PDM
Arnold Jablon, Director/PDM

poss 8/05 or 8/28

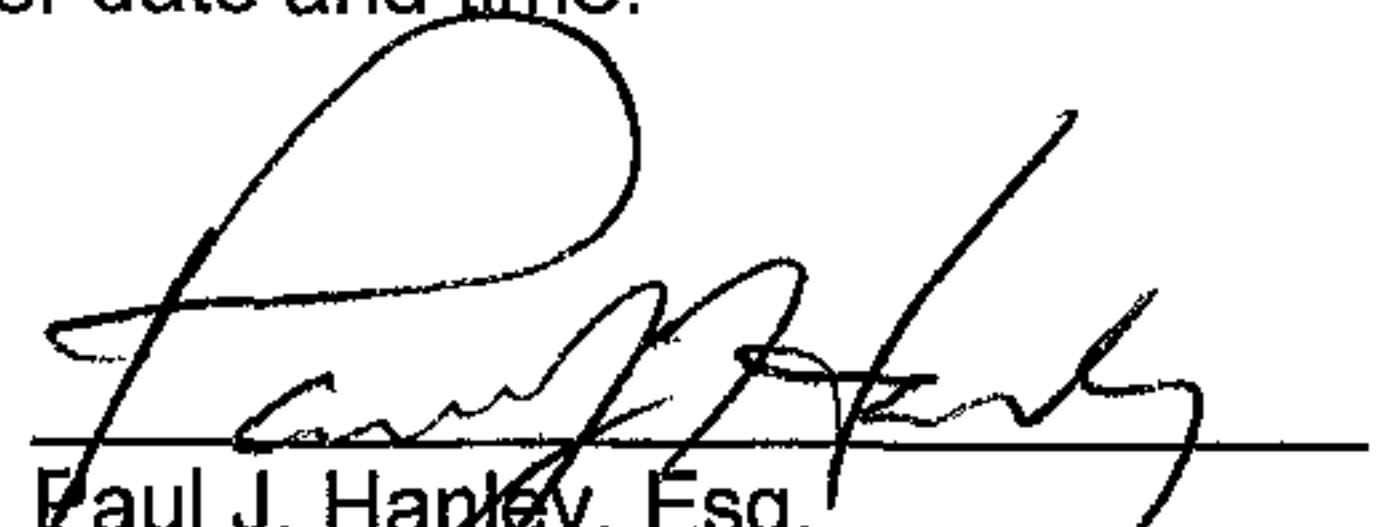
IN THE	*	BEFORE THE
MATTER OF	*	COUNTY
DOROTHY K. MILLIGAN	*	BOARD OF APPEALS
And	*	OF
CHERYL A. MILLIGAN,	*	BALTIMORE COUNTY
Petitioners	*	Case #: 02-519-A

* * * * *

**ENTRY OF APPEARANCE AND
REQUEST FOR POSTPONEMENT**

Dear Mr./Madam Clerk:

1. Please enter the appearance of Paul J. Hanley, as counsel for legal owners/Petitioners, Dorothy K. Milligan and Cheryl A. Milligan, in the above captioned case.
2. This matter is presently set for hearing on **Thursday, May 29, 2003 at 10:00 a.m.** before the Board of Appeals;
3. The undersigned is scheduled to appear all day in the Circuit Court for Baltimore County.
4. It is respectfully requested the Board of Appeals postpone the hearing set for Thursday, May 29, 2003 and reschedule same to a later date and time.

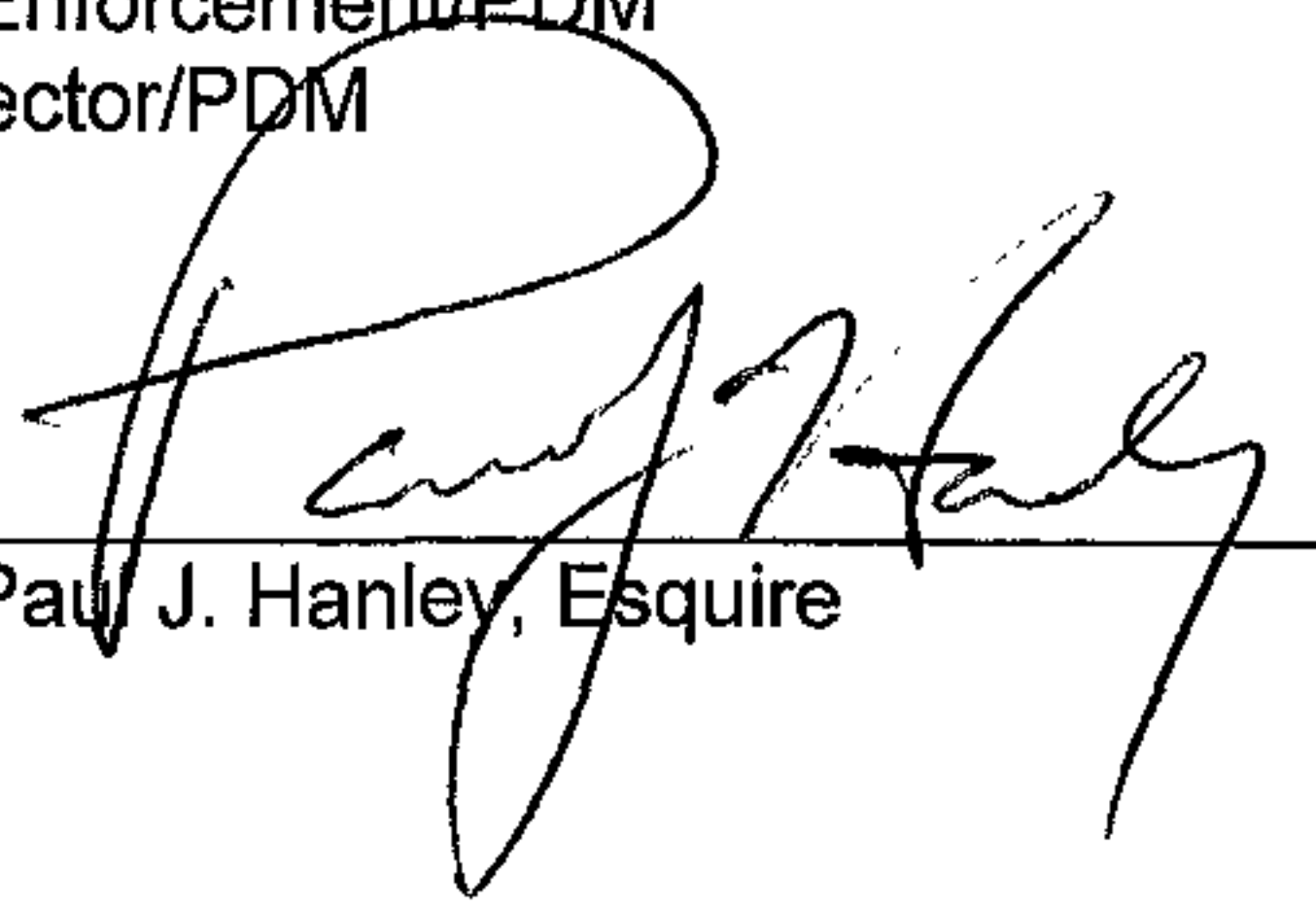

 Paul J. Hanley, Esq.
Hanley and Hanley, LLC
 206 Washington Avenue
 P.O. Box 5506

Towson, Maryland 21204
(410) 823 - 1174
Attorney for Petitioners

CERTIFICATE OF MAILING

I HEREBY certify that on this 6 day of May, 2003, a copy of the
aforegoing was mailed, first class, postage prepaid to:

Peter Zimmerman, Esquire
People's Counsel for Baltimore County
Lawrence E. Schmidt/Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement/PDM
Arnold Jablon, Director/PDM



Paul J. Hanley, Esquire



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

March 12, 2003

NOTICE OF ASSIGNMENT

CASE #: 02-519-A

IN THE MATTER OF: DOROTHY K. & CHERYL A. MILLIGAN

-Legal Owners /Petitioners 7116 Oxford Road
9th Election District; 4th Councilmanic District

9/10/02 –D.Z.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR:

THURSDAY, MAY 29, 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: Appellants /Petitioners : Dorothy K. and Cheryl A. Milligan
Representative to be Contacted: Victor Puotinen

Michael Gill
Barry Miller
H.R. Ely
Brenda Bodian
Jim Shifrin
Walter Orville Wright
Jim Leonard
Conrad J. Poniatowski
Donald Gerding

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Code Enforcement /PDM [Enf. Case #02-2778]
Arnold Jablon, Director /PDM

IN THE	*	BEFORE THE
MATTER OF	*	COUNTY
DOROTHY K. MILLIGAN	*	BOARD OF APPEALS
And	*	OF
CHERYL A. MILLIGAN,	*	BALTIMORE COUNTY
Petitioners	*	Case #: 02-519-A

* * * * *

ORDER

THIS Board of Appeals having read and considered Petitioners' Request for Postponement, it is this _____ day of _____, 2003, by the County Board of Appeals,

ORDERED, that same be and is hereby GRANTED.

LYDIA AND MATTHEW KIMBALL
800 CHUMLEIGH ROAD
BALTIMORE, MARYLAND
410.377.4209

Mr. Arnold Jablon
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

July 8, 2002

Re: CASE NO. 02-519-A
7116 Oxford Road

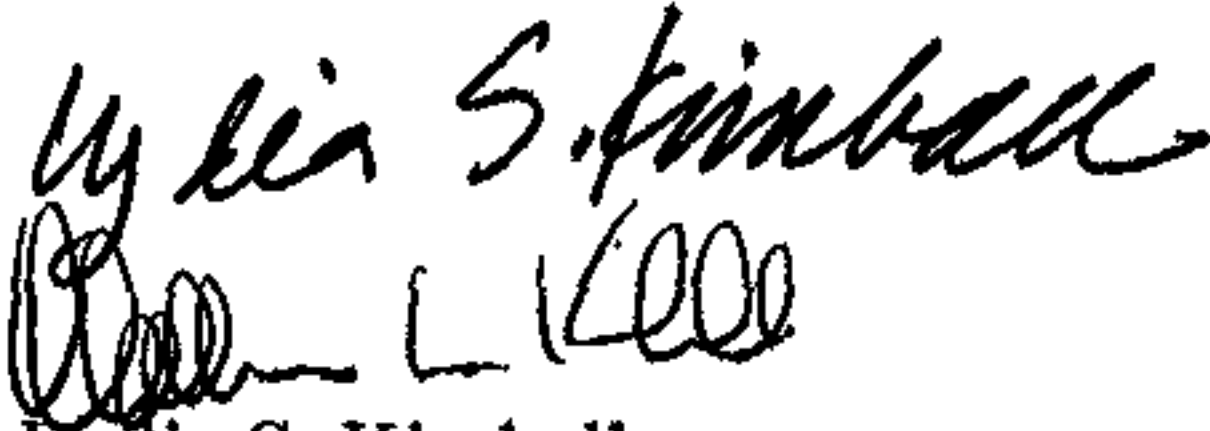
Dear Mr. Jablon:

As Stoneleigh residents, we are opposed to the petition for a zoning variance at the above address. The Puotinens are good neighbors and fine members of the community, but we cannot support their request.

We feel strongly that this variance is at odds with the standards of the neighborhood and feel that it establishes an unwelcome precedent for construction. Such a zoning change could encourage future site build-out to a degree not in keeping with the neighborhood. While we do not necessarily object to the shed itself, we do oppose the variance.

Please do not approve this request for zoning variance.

Very truly yours,



Lydia S. Kimball
Matthew L. Kimball

RECEIVED
FEB 20 2003
BALTIMORE COUNTY
BOARD OF APPEALS

LAW OFFICES
HANLEY AND HANLEY, LLC
208 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 823-1174
(410) 823-6229 FACSIMILE

DANIEL J. HANLEY
email: danhanley@comcast.net

PATRICK D. HANLEY
email: pathanley@comcast.net

10/8/2003

CLAUDE A. HANLEY
(1898-1976)

OF COUNSEL
PAUL J. HANLEY

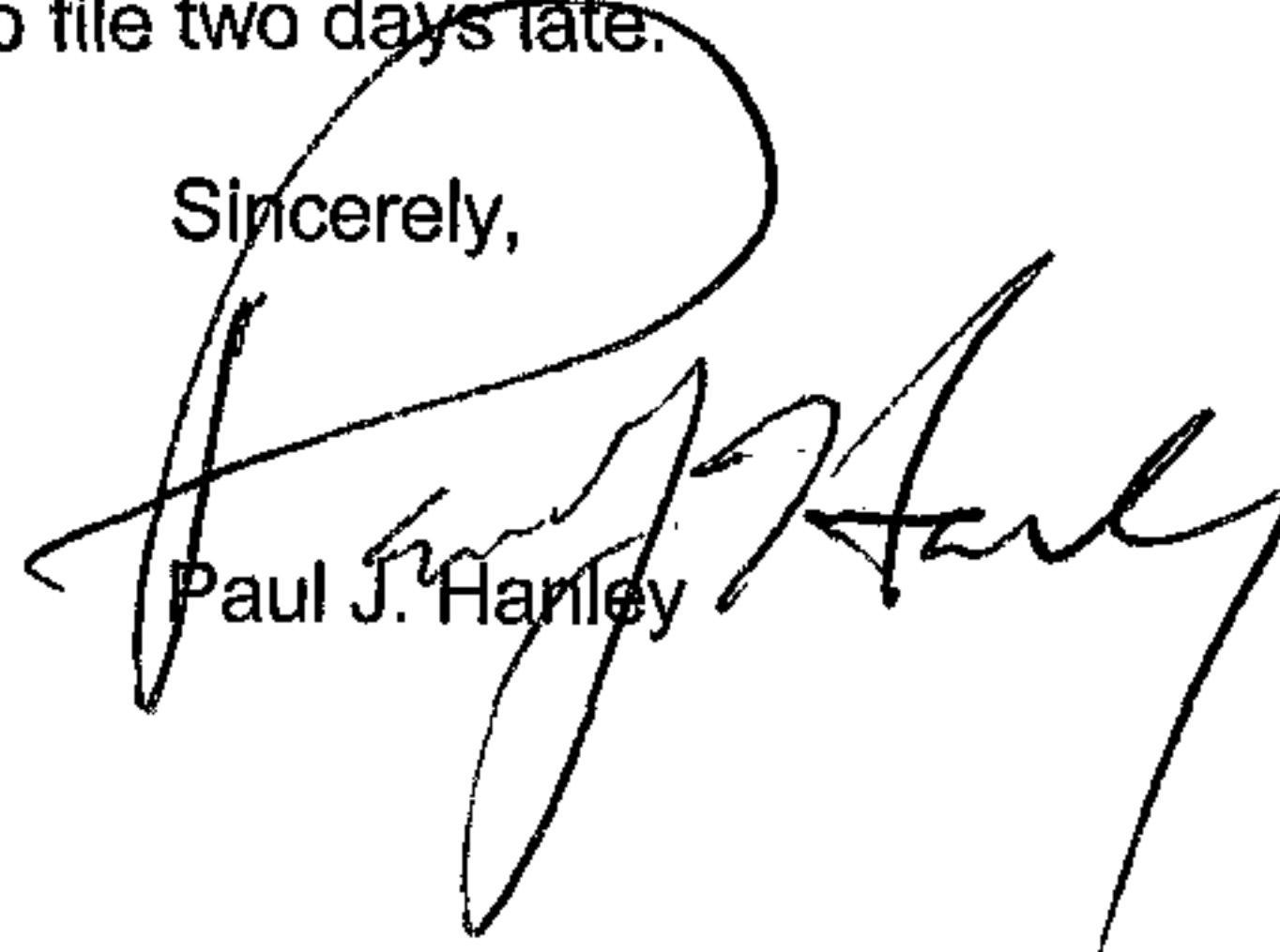
Francis X. Borgerding, Jr., Esquire
Mercantile Towson Building
401 Washington Avenue
Suite 600
Towson, Maryland 21204

Re: In the Matter of: Dorothy K & Cheryl A. Milligan
Case No.: 02-519-A.

Dear Frank:

Enclosed is my Memorandum filed with the Board prior to 4 p.m. today. Thank you for consenting to the extension of time to file two days late.

Sincerely,


Paul J. Hanley

PJH/dib

✓ Enclosure(s)

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

RECEIVED

OCT -9 2003

BALTIMORE COUNTY
BOARD OF APPEALS

John W. Hill, FAIA, Architect
Professor Emeritus, School of Architecture, University of Maryland
B.A., B.Arch., Rice University; M.Arch., Univ. of Pennsylvania
Registered architect, Maryland and National Council of Architectural Registration Boards

703 Kingston Road, Govans Station
Baltimore, MD 21212-1939
Tel./FAX 410 377 9018
e.mail Johnwhill@aol.com

Architect, Founding Dean (1967-'82), Acting Dean (1990-'91), School of Architecture, University of Maryland, College Park, MD. Professor, University of Maryland, 1967-98, with prior academic appointments at Louisiana State University and University of Kentucky. Visiting Professor or Lecturer, Peking University (Beijing, China); Morgan State University; The Catholic University of America; Johns Hopkins University; Smithsonian Institution; UCLA; University of Oregon; Yale University; Hampton Institute; University of Utah; Tsinghua University (Beijing, China); Tong Ji University (Shanghai, China); University of South China, (Guangzhou, China); Nanjing University; Guilin Planning Agency (China). Numerous consultancies, including Villanova University (during an architect selection process), City of Baltimore; town of Sykesville, MD; World Bank; Calvert and Cecil Counties, MD, and private clients.

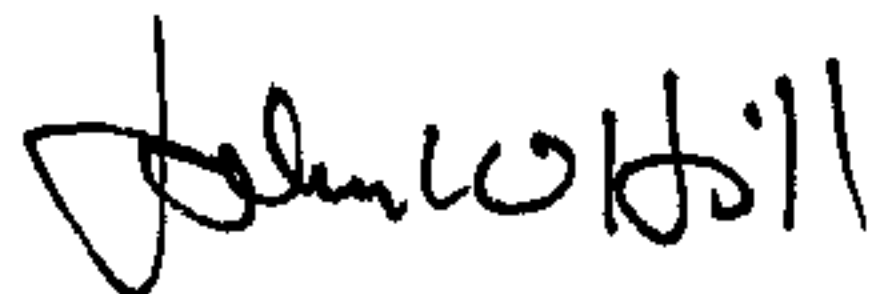
Member, *Landmarks Preservation Commission*, Baltimore County; member for sixteen years of the *Governor's Consulting Committee on Historic Preservation*, which reviewed nominations from Maryland for the National Register of Historic Places; member for twenty-nine years of the City of Baltimore *Design Advisory Panel* which reviewed and advised the City government on architectural and urban design proposals.

At the School of Architecture, University of Maryland, was an instructor in the subjects of architectural design, neighborhood planning and design, ex-urban growth management and real-estate development economics. (Appointed *Professor Emeritus* September, 1998.)

Research interests: morphological studies of towns and neighborhoods, and the conservation and preservation of rural and small town cultural landscapes. Recent publications: *The Economics of the New Urbanism, Case Studies from Regional Investigations*, in *Defining the Urban Condition*, the proceedings of the European Conference of the Association of Collegiate Schools of Architecture, Lisbon, 1995; *Roman Classicism on the Riverbank: Two Unspoiled Colonial Planned Villages in Maryland and Their Lessons for Contemporary Design*, in *Where Rivers Run Through*, the proceedings of the national convention of the Canadian Society of Landscape Architects, 1995; *Village Zoning: A Strategy for Protecting the Historic Rural Landscape*, in *Making Towns: Principles and Techniques*, School of Architecture, Univ. of Md., 1994; *Modeling Future Development on the Design Characteristics of Maryland's Traditional Settlement Patterns* (with Larry Duket and Mike Nortrup), Maryland Office of Planning, Baltimore, 1994. Authored *George Washington Watched Here*, with Catherine Mahan and Ferd Johns, published in *Landscape Architecture*, Jan. 1981. (This article describes efforts to protect the view across the Potomac River from Mount Vernon.)

Continuously involved in architectural practice from 1960-present at different times in Texas, Louisiana, Kentucky and Maryland. Completed commissions include authorship of an RFP for the stabilization of historic buildings located at the former *Bainbridge Naval Training Center*, Port Deposit, MD (for the Bainbridge Development Corporation, 2001-02); *Warfield: Illustrative Plan and Design Guidelines* (preparation of overlay zoning ordinance, development regulations and design guidelines for the Warfield Annex, town of Sykesville, Maryland, 1999-2000); private residences, family and elderly housing, church design, institutional and commercial office and retail projects. Construction observation agent for landowner (Prince George's County) during construction of the Capitol Centre (now USAir Center); project architect for three major buildings at Rice University. Honors include advancement to *Fellow of the American Institute of Architects* (1979), citations from the Governors of Maryland and Kentucky, The Maryland House of Delegates, and several small towns in Maryland. Design honors include local, regional and national design awards for residential design and family and elderly housing.

John W. Hill, FAIA
June 6, 2002



7/12/02
George - place in file
for r/c

Jim
7/12

Elizabeth and Chris Hansen
702 Chumleigh Road
Baltimore, MD, 21212

RECEIVED

JUL 12 2002

02-2206

DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

Mr. Arnold Jablon
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 9, 2002

Re: CASE NO. 02-519-A
7116 Oxford Road

Dear Mr. Jablon,

As members of the Stoneleigh Community, we are in opposition to the zoning variance for 7116 Oxford Road. We feel that the placement and design of the building under discussion is at odds with the community, and we are concerned that once the variance is in place, this type of construction could continue at this location.

The Puotinens are good neighbors but we can not support the variance for their construction.

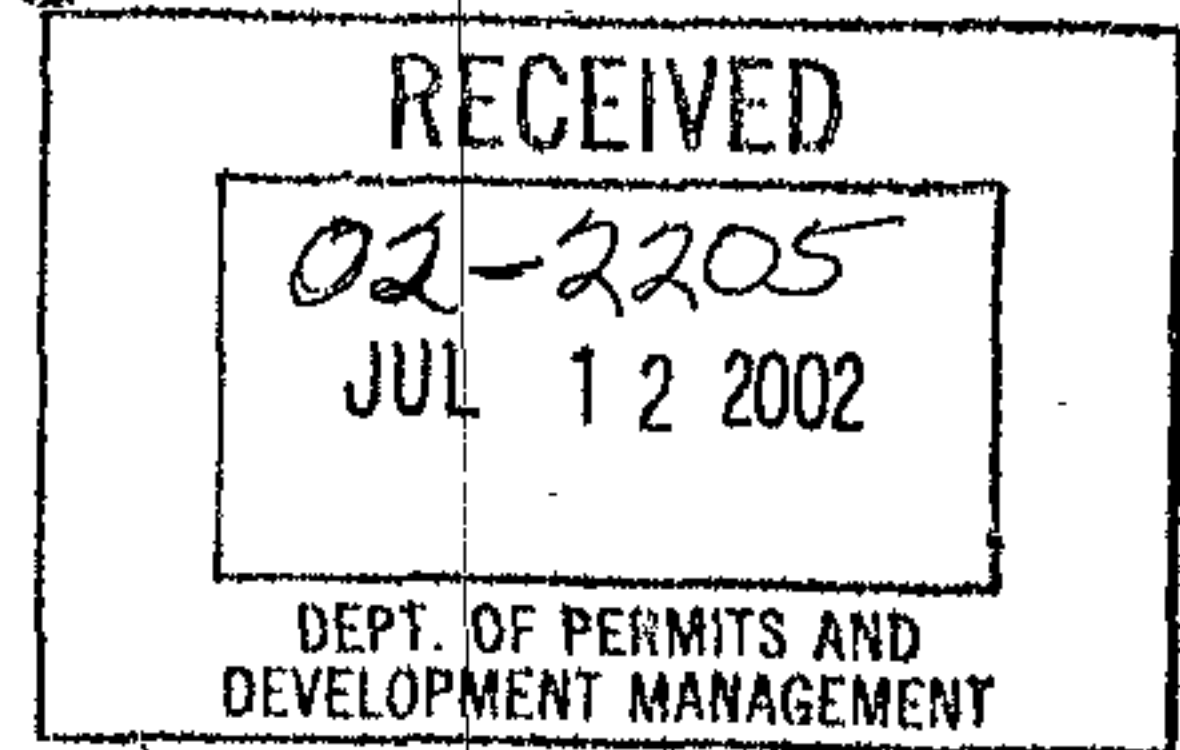
Thank you for your attention to this matter.

Sincerely,

Elizabeth Hansen
Chris Hansen

Elizabeth and Chris Hansen

LYDIA AND MATTHEW KIMBALL
800 CHUMLEIGH ROAD
BALTIMORE, MARYLAND
410.377.4209



Mr. Arnold Jablon
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

July 8, 2002

Re: CASE NO. 02-519-A
7116 Oxford Road

Dear Mr. Jablon:

As Stoneleigh residents, we are opposed to the petition for a zoning variance at the above address. The Puotinen's are good neighbors and fine members of the community, but we cannot support their request.

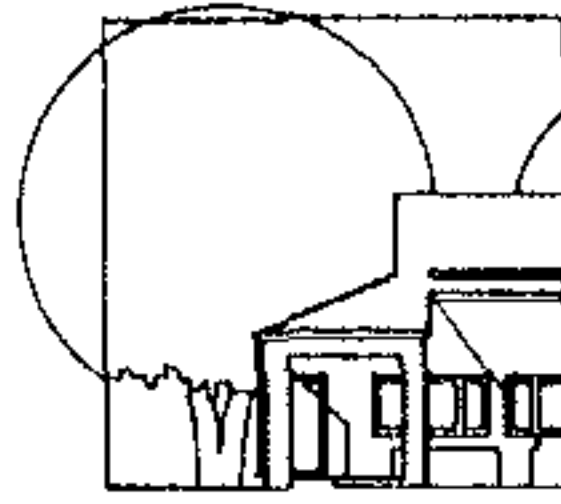
We feel strongly that this variance is at odds with the standards of the neighborhood and feel that it establishes an unwelcome precedent for construction. Such a zoning change could encourage future site build-out to a degree not in keeping with the neighborhood. While we do not necessarily object to the shed itself, we do oppose the variance.

Please do not approve this request for zoning variance.

Very truly yours,

Two handwritten signatures in dark ink. The first signature is "Lydia S. Kimball" and the second is "Matthew L. Kimball".

Lydia S. Kimball
Matthew L. Kimball



John W. Hill, FAIA
ARCHITECT

JUN 27 1992

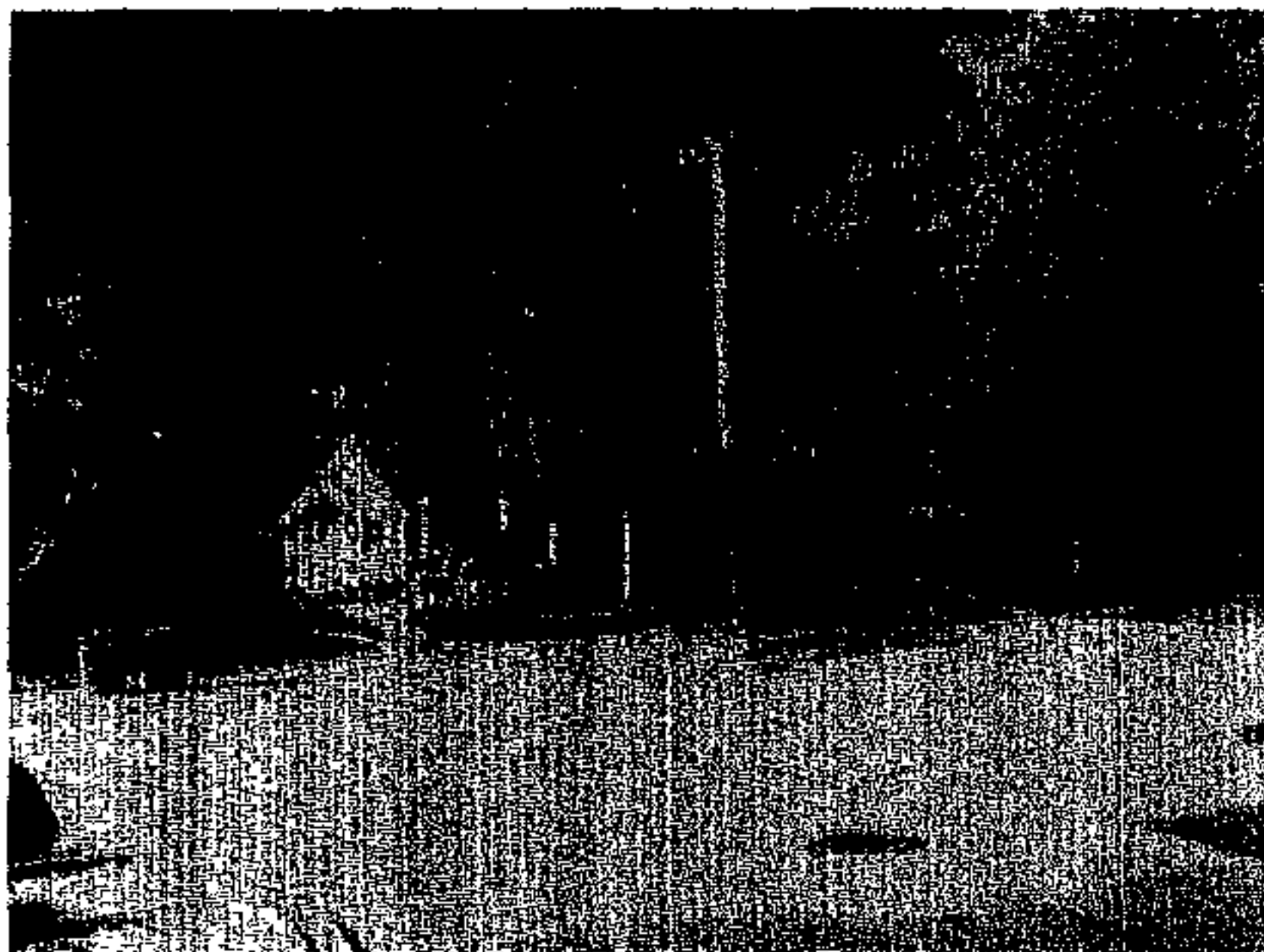
Sept
7/12

June 25, 2002

Mr. Lawrence Schmidt
Zoning Commissioner, Baltimore County
Baltimore County Courthouse
401 Bosley Ave.
Towson, MD 21204

Dear Mr. Schmidt:

I am writing to support the appeal of Dorothy K. and Cheryl A. Milligan, of 7116 Oxford Road, for a variance to permit them to complete the small 'studio' auxiliary building which is under construction on the west end of their lot. As you know from other documentation, a building permit was originally granted for construction of this project, but a question raised by a citizen resulted in the scheduling of a variance hearing.



As you can see from the photo at the left, the Milligans' auxiliary building is located on Hatherleigh Road, facing north at the west end of their lot. (Their address is at the east end, at 7116 Oxford Road.) This location places their auxiliary building on the south end of their existing driveway, adjacent the driveway into the rear of the lot just to the west, which fronts on Sheffield Road. In the photo, the Milligans' auxiliary building is situated just beyond the car.

The driveways and auxiliary buildings of the two back-to-back properties are thus grouped, with their driveways entering from Hatherleigh Road.

In my opinion, this location of the Milligans' auxiliary building is in keeping with the conventions and urban design rules of Stoneleigh, and meets Baltimore County requirements for such structures. Moreover, I feel that the structure contributes to the streetscape in a positive way, and when finished with appropriate landscape treatment, will constitute a picturesque and charming feature along Hatherleigh Road.

In addition to having lived in Stoneleigh for over ten years, I studied Stoneleigh extensively in

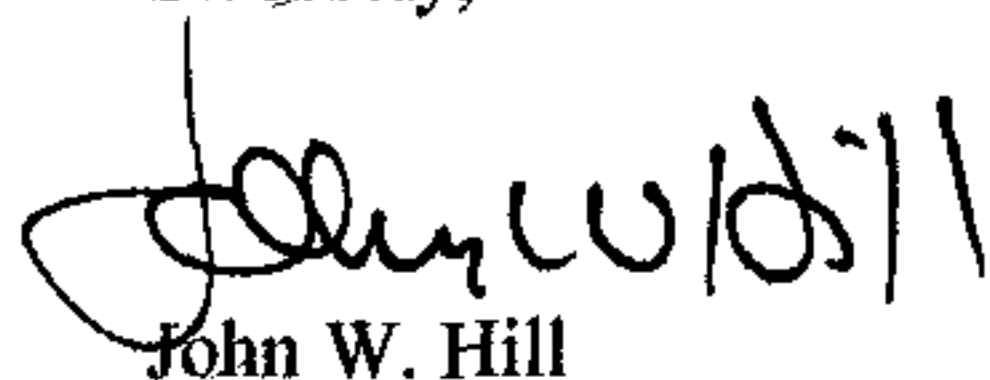
703 Kingston Road
Govans Station
Baltimore, Maryland 21212-1939
Tel./Fax 410-377-9018

connection with a publication I authored for the Maryland Office of Planning in 1994, entitled *Modeling Future Development on the Design Characteristics of Maryland's Traditional Settlements*, in which Stoneleigh is described in *Section Four of Chapter Three* as a fine example of a metropolitan suburb. In that section, the urban design and dimensional characteristics of the layout of Stoneleigh are documented in detail.

I have attached a brief *Curriculum Vitae* indicating my broader background and research interests.

Thank you for your consideration of these comments.

Sincerely,


John W. Hill

NOTARY

Mary Catherine Seltzer
MY COMMISSION EXPIRES 2/1/04

COPY TO: ARNOLD TABLON, DIRECTOR
DEVELOPMENT PROCESSING

BARTON ASSOCIATES, INC.
7003 COPELEIGH ROAD
BALTIMORE, MD 21212
410-377-3352

7/3/02
WCR
file

SW
7/12

June 28, 2002

Mr. Arnold Jablon
Director of Permits and Development
111 West Chesapeake Ave.
Towson, MD 21204

Re: Variance Case No. 02-519-A

Dear Mr. Jablon,

I am a registered Architect, specializing in residential renovation. I have been a resident of Stoneleigh for twelve years. I am writing today to express my displeasure with the shed recently constructed at 7116 Oxford Road. I find it's prominent location offensive. The structure, in spite of the fact that it has been "dressed up" with shutters, is very inconsistent with the architecture of the neighborhood.

I frequently enter the neighborhood via Oxford Road from Stevenson Lane. This structure sits opposite the intersection with Oxford and Hatherleigh, so it is difficult to ignore. Although the address is Oxford Rd, the front door of this home is on Hatherleigh. Therefore, the shed effectively is in a very visible side yard.

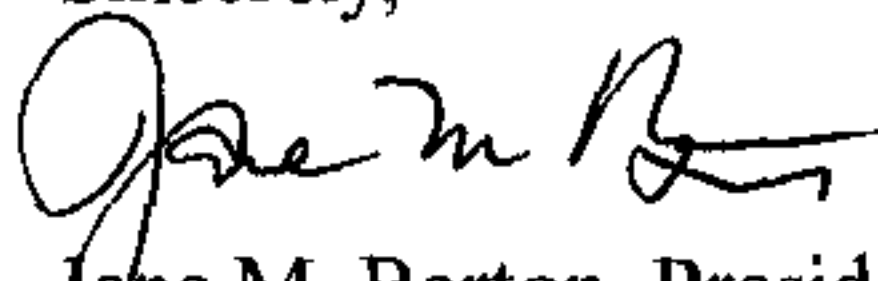
I believe the shed sits on the existing driveway. It is supported by little corner blocks and is constructed of T-111 siding (grooved plywood). The homes and garages in this neighborhood are predominately brick and/or stone construction, with a few clapboard additions, dormers, etc..

My understanding of the intent of the law is that, by requiring sheds to be behind the rear wall of the house, in the rear yard, they will be generally out of view. This is surely not the case here.

I realize at this point the structure is complete. However, I believe that it is not in compliance with the law. I respectfully request that the shed be moved to a less visible location.

Thank you.

Sincerely,


Jane M. Barton, President
Barton Associates, Inc.

RECEIVED
02-2037
JUL 1 2002
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

Stoneleigh Community Association, Inc.
707 Kingston Road

July 3, 2002

Mr. Timothy Kotroco
Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue
Room 405
Towson, MD 21204

RE: **Variance Case Number: 02-519-A**
7116 Oxford Road

Dear Mr. Kotroco,

This letter is being submitted to express the Stoneleigh Board of Governors objection to the variance being sought by the resident of 7116 Oxford Road. The resident has recently built an accessory structure in the front yard of the property. This is a clear violation of the Baltimore County Zoning Ordinance Section 400 that permits accessory structures only in the rear yard of residence zones. It is the longstanding policy of the board to require all homeowners to be in full compliance with all Baltimore County zoning and building codes. It is our understanding that the variance may only be granted if the resident can demonstrate three conditions:

1. Unique and unusual circumstances.

Board response: There are no unique or unusual physical conditions on the property that would prevent the homeowner to place the accessory structure in the rear yard.

2. Compliance would present an undue hardship.

Board Response: Moving the accessory structure to the rear yard does not impose an undue hardship. The cost of having the structure moved should not be a factor in this decision. It is the price the homeowner must pay to be in compliance.

3. Variance request would not be detrimental to the community.

Board Response: Granting the variance request is detrimental to the community because it establishes a precedent that all other neighborhood residents may refer to when pursuing a similar variance. Currently, there are no accessory structures located in a similar front yard location elsewhere in the community.

In closing, I wish to reiterate the Stoneleigh Board of Governors objection to the variance request. Our community does not have a program of covenants and restrictions. We ask community residents to submit plans to our Restrictions and Improvements committee. We do this to help the homeowners go through this process as smoothly as possible. The homeowner at 7116 Oxford did not submit any plans to the committee or the Board. We rely on the Baltimore County zoning and building ordinances for development controls and we wish to see these laws upheld and enforced.

Sincerely,


Dave Hudson,

President Stoneleigh Community Association

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor



Peta N. Richkus
Secretary

Richard F. Pecora
Deputy Secretary

MARYLAND DEPARTMENT OF GENERAL SERVICES

FACILITIES OPERATIONS & MAINTENANCE • FACILITIES PLANNING, DESIGN & CONSTRUCTION
FINANCE & ADMINISTRATION • PROCUREMENT & LOGISTICS • REAL ESTATE

MARYLAND STATE AGENCY FOR SURPLUS PROPERTY

July 12, 2002

Commissioner

Baltimore County Zoning Board
Room 407
Circuit Court Building
407 Bosley Avenue
Towson, Maryland 21204

Variance Petition Case: No 02-519-A
7116 Oxford Road
"Stoneleigh" Subdivision
Baltimore, Maryland 21212

Dear Members of the Board:

As a Stoneleigh owner at 7109 Oxford Road since 1983, I take exception to the variance petition before you today for the subject property at 7116 Oxford Road, in its current form, and respectfully ask the Board to deny the requested variance for the construction of a "shed" in the side yard of this corner lot property.

Like all of the original lots in Stoneleigh, as per the 1923 subdivision as recorded with the Baltimore County, 7116 Oxford Road contains two 25' wide lots (the minimum width of a lot in Stoneleigh by deed covenant) whose 50' combined width, face Oxford Road. Hence the mailing address of 7116 Oxford. In fact, the depth of the lots run parallel and adjacent to Hatherleigh Road. Constructed on these lots is a 1½ story ranch house whose length runs along Hatherleigh Road. The front door opens into the living room of the house from Hatherleigh Road. That door location by Baltimore County Zoning law establishes the front yard of this house. In placing the house on the property, the original contractor maintained the 35' setback on Oxford Road at the eastern end of the house. All houses on Oxford are set back at least 35'. He maintained a 10' setback at the rear of the house (its southern side) adjacent to the house at 7114 Oxford Road. There is, essentially, no rear backyard to this house. As the Oxford Road side yard and the front yard along Hatherleigh are fixed and in essence untouchable, and the rear yard is only 10' in depth, it was logical for the current property owners to elect to place a shed on their western side, in their other side yard. Hence the reason for the variance request.

Had the corner question been asked at the time of permit application for the shed, or offered by the owner's contractor to get the zoning sign-off, we would still be here today in this hearing. The location of the shed in a side yard warrants variance consideration by the Zoning Board. I would point out that the shed is not "under construction", but is "complete" and in use. As per the permit application, it appears to be 10' by 20' in size. It is of frame construction sitting on concrete piers and located in the driveway of the subject property. Its 10' depth faces Hatherleigh (east/west) and 20' length parallel to Oxford (north/south). In essence, it is the size of a large car parking space. My objection to the shed's random placement on the driveway is that it reduces the remaining driveway area which properly held the owners three cars and now holds one. Access to the driveway is very restricted by the placement of a BGE utility pole and the existence of a large pine tree on the owner's property at the entrance to the driveway. Attached are photographs documenting the fact that only a compact car such as the Honda Civic as shown in the photo will now fit in the owner's driveway, leaving their other two

cars out on the street for their Stoneleigh neighbors to deal with. The adjoining photos not only show the parking of their other car on Oxford but the continued parking of it illegally in the wrong southbound direction against the northbound curb of Oxford Road. This has become consistent behavior on the part of the owners since the driveway was consumed by the shed several months ago. The fact of the matter, is that their cars no longer fit in their driveway since the shed was constructed.

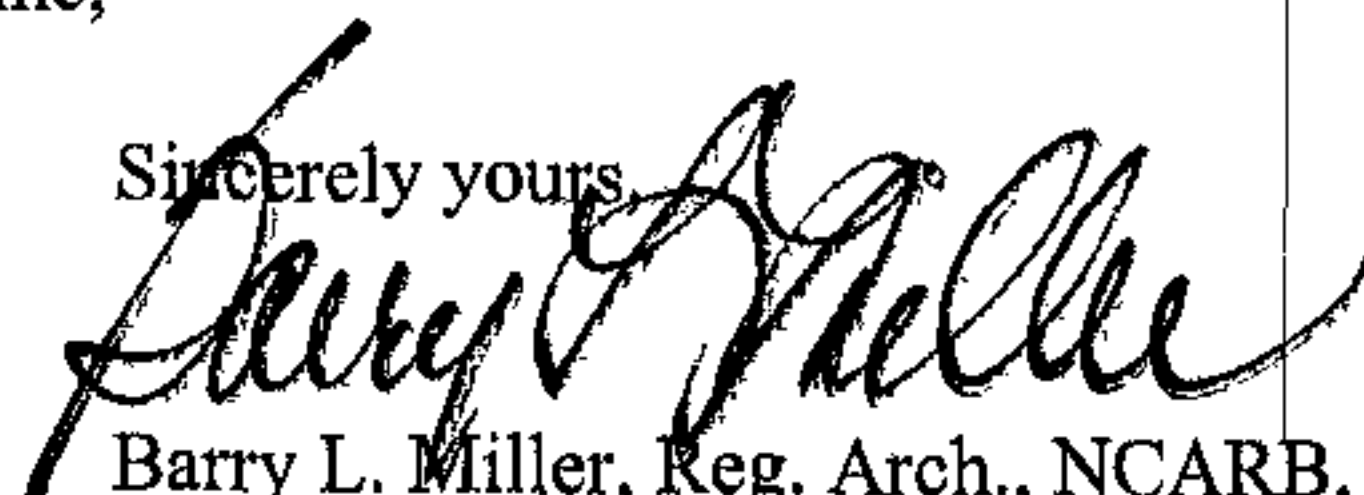
Had this issue of a corner lot location been addressed as part of the application process, the orientation of the shed would have been rotated 90 degrees to allow for the parking of all of the owner's vehicles on their property. I particularly find it objectionable that the owners elected not to move the small child's play house that they brought to the property upon purchase. Given its small size it could have easily been moved to the rear of the house to make room for the placement of the shed in an east /west orientation leaving the driveway area untouched (see photo with the Honda). I am requesting the Board specify that the shed be rotated out of the way to clear the driveway as a term of approval of this variance. I realize that this will incur costs to the owner, but had the process been properly adhered to, these costs would have been included in the original shed placement.

I also find it disconcerting that an modification to the original permit was made in include a sink in the shed. When I questioned Mr. Rohlf, the Baltimore County Building inspector for this permit, he indicated to me that the Owner wished to use the shed for her ceramics hobby and needed a sink by which she could clean up after "pulling pots." My question to him was, that if that was the actual case, then why was 4" PVC schedule 40 sanitary line used for a sink instead of a 2" diameter, one would need the 4" if one intended to install a toilet. He did not know that answer. My second objection to this variance is that in no way is this shed to be used as a "cottage" for family members, particularly the owner's mother, a co-owner of the property, and a dwelling. The shed, in fact, has plumbing hook-up to the water and sanitary lines of the house and could easily be adapted to include a toilet. It has electricity to run the potting wheel. It is not so far fetched for me to project to the Board that at some future time this shed could be modified to provide a private, caring area for a elderly mother, without even applying for a permit. I am specifically requesting the Board to place in writing that the occupancy of this of this shed is prohibited. I am also asking the Board to Speciaify that this shed structure never be allowed to be connected to the main house.

Finally, I believe that the modification to the permit was part of the planned process orchestrated by the owner in conjunction with the contractor. If this had intended to really be a shed it could have been purchased at Home Depot. Its construction quality, choice of casement window size, the choice of trim, even the color of the siding indicate that this project was not without substantial cost to the owners. They even chose to paint the shed a dark New England red to hide its size and complement their brick home. Given the documented behavior on the part of the owner in the stagging of their permit request and its subsequent plumbing modification, I believe that there is a strong possibility that the openness of the design of this shed is in fact conducive to the operation of ceramic classes and as potential use of the shed for commercial sale of ceramics. It has an inviting architectural character. The apparent lack of concern for the cars remaining near the shed on the driveway only provides more safety if the shed where to be used for ceramics classes for children and that's why the elimination of two parking spaces was not objectionable to the owners. Therefore, I am also formally requesting that the Board specify that the use of this shed must comply with the provisions of the DR 5.5 Stoneleigh Zoning in that the shed can not be used for ceramics classes, the retail sale of any of the owner's or any other individual's or clubs clay or artistic work from the premises at 7116 Oxford Road, as that activity would constitute a commercial operation and that is strictly prohibited in the residentially zoned Stoneleigh community.

Members of the Board, I thank you for you time,

Sincerely yours,



Barry L. Miller, Reg. Arch., NCARB,
Board Of Public Works Capital Projects Team Leader

Stoneleigh Community Association

707 Kingston Road

RECEIVED

APR 29 2003

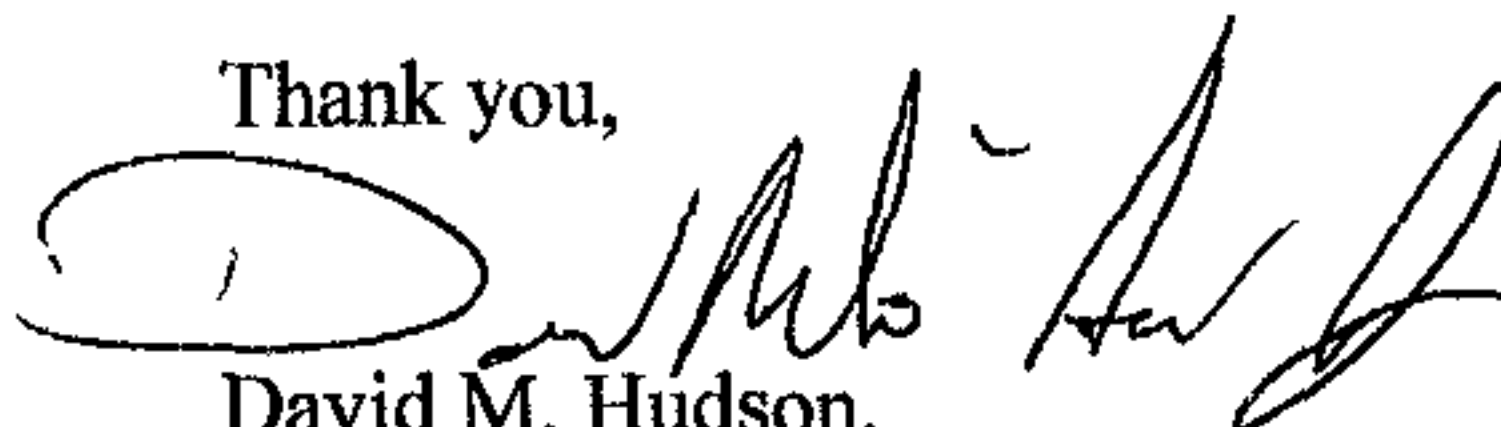
ZONING COMMISSIONER

Mr. Kotroco,

I have been informed that the letters of objection to the variance case#: 02-519-A concerning the shed structure at 7116 Oxford road have been lost. I am resubmitting my original letter stating the Stoneleigh Community Association's position opposing any variance that would allow the structure to remain.

It was, and continues to be, the stance of the Board of Governors that due to the lack of any covenants and restrictions we rely on the county to uphold the county zoning and building ordinances.

Thank you,

 4/20/03
David M. Hudson,
2002 Stoneleigh Community President

July 3, 2002

Mr. Timothy Kotroco
Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue
Room 405
Towson, MD 21204

RECEIVED

APR 29 2003

ZONING COMMISSIONER

RE: **Variance Case Number: 02-519-A**
7116 Oxford Road

Dear Mr. Kotroco,

This letter is being submitted to express the Stoneleigh Board of Governors objection to the variance being sought by the resident of 7116 Oxford Road. The resident has recently built an accessory structure in the front yard of the property. This is a clear violation of the Baltimore County Zoning Ordinance Section 400 that permits accessory structures only in the rear yard of residence zones. It is the longstanding policy of the board to require all homeowners to be in full compliance with all Baltimore County zoning and building codes. It is our understanding that the variance may only be granted if the resident can demonstrate three conditions:

1. Unique and unusual circumstances.

Board response: There are no unique or unusual physical conditions on the property that would prevent the homeowner to place the accessory structure in the rear yard.

2. Compliance would present an undue hardship.

Board Response: Moving the accessory structure to the rear yard does not impose an undue hardship. The cost of having the structure moved should not be a factor in this decision. It is the price the homeowner must pay to be in compliance.

3. Variance request would not be detrimental to the community.

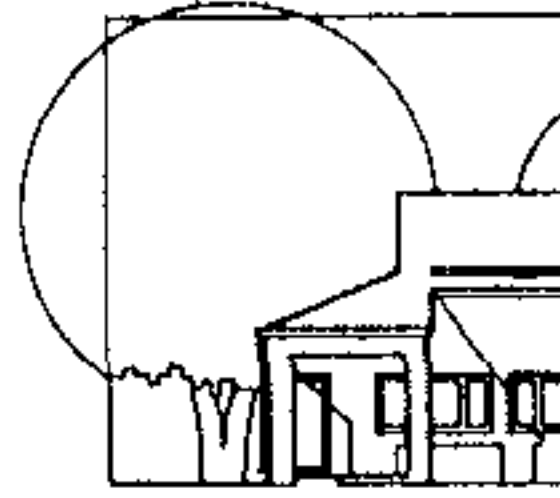
Board Response: Granting the variance request is detrimental to the community because it establishes a precedent that all other neighborhood residents may refer to when pursuing a similar variance. Currently, there are no accessory structures located in a similar front yard location elsewhere in the community.

In closing, I wish to reiterate the Stoneleigh Board of Governors objection to the variance request. Our community does not have a program of covenants and restrictions. We rely on the Baltimore County zoning and building ordinances for development controls and we wish to see these laws upheld and enforced.

Sincerely,


Dave Hudson

President Stoneleigh Community Assn. 2002



John W. Hill, FAIA
ARCHITECT

SEP 20 2002

September 17th, 2002

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
Suite 405, County Courts Building
Towson, MD 21204

Dear Mr. Kotroco:

Thank you for sending me a copy of your letter to Mr. Victor G. Puotinen dated 10 September. As a resident and published scholar of Stoneleigh, I care very much about the preservation of its urban standards.

I was surprised at your decision to deny the petition for a variance. To quote your finding, "While the rear yard of the Petitioners' property is small, there is enough room to resituate (sic) the building in question and still meet all zoning setbacks." Your decision also opines that the "front of the Petitioners' dwelling actually faces to Hatherleigh Road and not Oxford Road".

A copy of the required plat filed with the Mss Miligans' petition for a variance is enclosed for your convenience. If I understand your opinion correctly, the rear yard of the property would be the portion of their lot which lies between 7116 and 7112 Oxford Road. The required setback, there, is 10 feet, as also shown on the original plat for the property.

In § IB0 1 and 2.2, the Baltimore County Zoning Ordinance for Zone DR 5.5 requires the following set backs: minimum side yards, 10 feet; minimum front yard, 25 feet; minimum rear yard 30 feet. Buildings are required to be set back 25 feet from all adjacent collector street rights-of-way.

The petitioners' residence conforms to these standards if the west end of the property is assumed to be the rear yard, the south side of the property is assumed to be a side yard, and the north and east portions are assumed to be 'front yards' facing a collector street. Consequently, their assumption that the auxiliary building in question is in the rear yard of the property. This assumption is supported by the fact that parking has been accommodated in this portion of the site from the time of construction of the house, and that that is where a garage building would have been constructed, had one been constructed at the time the house was constructed. Their

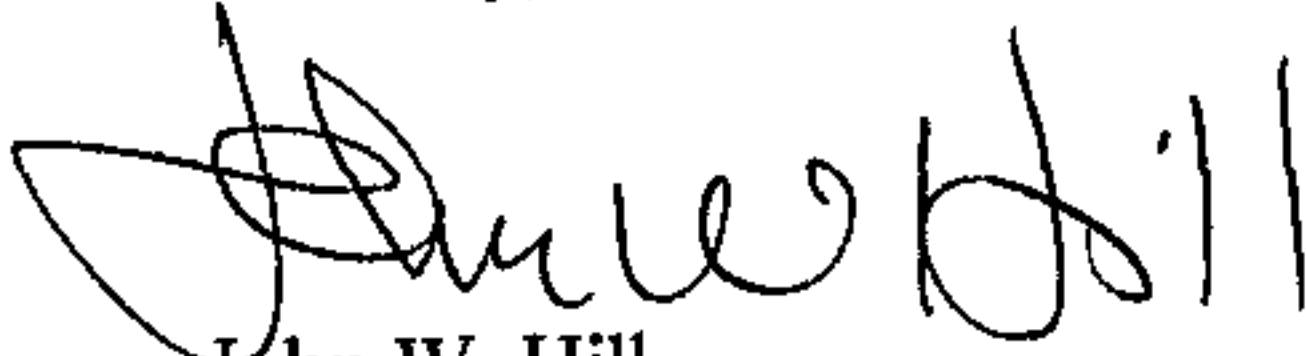
703 Kingston Road
Govans Station
Baltimore, Maryland 21212-1939
Tel./Fax 410-377-9018

assumption is also supported by implication in the fact that a building permit was issued for the structure to be located where shown. The events leading to your hearing, as you know, were precipitated by the complaint and objection of a resident of the community, when the building was nearing completion. An aside: if the building permit was issued in error, what is the County's accountability?

If it is not too much of an imposition on your time, I would appreciate your giving me your opinion as to where the existing studio building might have been located in order to conform with your decision. Perhaps you can mark up a Xerox of my enclosed plat.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Hill". The signature is fluid and cursive, with the first name "John" and last name "Hill" clearly distinguishable.

John W. Hill

Professor Emeritus, University of Maryland at College Park

cc: Mss Dorothy K. and Cheryl A. Milligan

Mr. David Hudson

Mr. Barry Miller

Smi
7/12

Stoneleigh Community Association, Inc.
707 Kingston Road

August 12, 2002

Mr. Timothy Kotroco
Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue
Room 405
Towson, MD 21204

AUG 13 2002

RE: **Variance Case Number: 02-519-A**
7116 Oxford Road

Dear Mr. Kotroco,

This letter is being submitted to express the Stoneleigh Board of Governors continued opposition to the variance being sought by Mr. Victor Poitien of 7116 Oxford Road. The board met with Mr. Poitien on July 15 to discuss the variance. After our meeting we thanked him for his time and consider him to be a fine individual and neighbor. We respect the effort that he has made to build an attractive shed given its high visibility location. However, despite its good looks the placement of the structure is unacceptable given its front yard position which is both illegal and not in keeping with the design character of the community.

As I stated in my previous letter, our community does not have a program of covenants and restrictions. We rely on the Baltimore County zoning and building ordinances for development controls and we wish to see these laws upheld and enforced.

Sincerely,

David Hudson

David Hudson
President

Cc: Mr. Victor Poitien

August 26, 2002

AUG 30 2002

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
Baltimore County -- Courts Building
Suite 405, Zoning Commissioner's Office
401 Bosley Avenue
Towson, MD 21204

RE: Variance Case No. 02-519-A
7116 Oxford Road, Baltimore 21212

Dear Mr. Kotroco:

We have received a copy of the August 12th letter from David Hudson, President of the Stoneleigh Board of Governors, and, following our recent conversation, I am compelled to respond to the inaccurate information that has bedeviled us throughout this variance process.

I would like to take the opportunity to recap the facts of the situation. We had first obtained a building permit for the shed structure in question on April 12, 2002, and the location of the shed structure, as approved by the Baltimore County Permits Office, was determined to be our back yard, given our address on Oxford Road and that the shed would be located at the end of our existing driveway at the back of our house. I spent approximately three hours with the zoning and permit offices that morning, to ensure that the shed would be correctly placed as our home is on a corner lot. A modification of the permit was issued on April 25, 2002, to include electricity and water for a sink, after our contractors, ADR Builders, noticed that I had omitted these options when I first applied for the permit.

On April 22, 2002, Building Inspector R. Rohlf issued an approval for the footers and the location of the structure during a visit to the construction site, and work proceeded. However, on Friday, May 3, 2002, when the structure was approximately 85% completed, we received a correction notice from the Building Inspector's Office. I called Mr. Rohlf that afternoon, who told me that he had received "numerous complaints from the neighborhood association" about the structure. I called David Hudson, President of the Stoneleigh Board of Governors, on Saturday, May 4th, who stated that he had received no complaints from residents about the project. He asked if I had a building permit, and when I replied that I had, his response was that he saw no problem with it. As I subsequently learned from the files in the Code Inspection and Enforcement Department the following Monday, May 6th, the only complainant was from a neighborhood resident, a Mr. Barry Miller, who had voiced his concern for the proper location of the structure. Mr. Miller's hypothesis was that the front of our house should be viewed to be Hatherleigh Road, not Oxford, (as our address indicates) because a door enters our living room from Hatherleigh Road. As described during the variance hearing, we also have a door on Oxford Road that opens into our living room as well.

Upon receipt of the corrections notice, our options were to 1) move the structure to our "back" yard, which is not feasible because the newly defined back yard is only 10' wide, and the structure, as approved and constructed, is 12' x 20'; 2) remove it, which was not an option as we had already invested approximately \$20 thousand in the construction of the structure; or 3) to seek a variance for the structure to remain in place. Accordingly, we filed the necessary paperwork to seek a variance for the approved project.

We then contracted with an approved sign-posting firm (Thomas J. Hoff, Inc.) and the required variance sign was posted on our property on June 24, 2002. (Around this time, I imagine, some

neighbors became concerned, because, as was made apparent at my subsequent meeting with the Stoneleigh Board of Governors on July 18, 2002, several members of the Board of Governors were under the misapprehension that we had built the structure and were trying to gain approval after the fact.) When the variance sign was posted, many neighbors enquired about the rationale, and when I explained the facts to them, many asked how they could help. Since the Variance Hearing was set for 11:00am on Friday, July 12, 2002, many of these individuals could not be in attendance at the hearing due to work requirements. I checked with the Zoning Office and was informed that concerned citizens of Baltimore County could write in and state their support or opposition to the project, as long as their letter was notarized. An acquaintance of mine from work is a notary, and he offered to come to our house to provide the necessary notarization of letters from interested Baltimore County residents. This meeting was held on June 27, 2002, and all of our neighbors with direct line of sight of the structure were invited, among others. All told, eighteen letters of support were notarized that night, including several from uninvited neighbors who had heard about our situation, and came forward to express their support. Additional letters were also sent to Mr. Arnold Jablon by concerned neighbors, independent of this meeting.

Two days before the Variance Hearing, I received a call from Jim Leonard, the architect associated with the Stoneleigh Board of Governors, who called to advise us that the Board now objected to the placement of the structure and their intent to send a letter stating such to your office. I asked him why, at this late date, did the Board of Governors now decide to raise an objection to the variance request, and was told that the objection could be raised until the day of the hearing, which I readily understood. (What I failed to understand was why when, on May 4th, after asking David Hudson if there were any objections, and being told there were none, why the Board was now raising an objection, some ten weeks later.) Mr. Leonard was unfamiliar with the details of the prior permit approvals and building inspector visits, and when I advised him of the history of the building and zoning approvals to date, he said that the position of the Stoneleigh Board would warrant further scrutiny.

I then spoke with David Hudson on July 10th, who confirmed that the Board had already sent their letter of objection to the Zoning Commissioner's Office sometime before the Fourth of July. I enquired why we had not received a copy of the letter, and he advised me that his printer was out of ink and he couldn't make a copy. (For your information, we finally received a copy of this letter on July 16, 2002.) I would like to point out that at no time, from my initial phone call to David Hudson on May 4th until the phone call from Jim Leonard was received on July 10th, did anyone from the Board of Governors or the adjunct committees contact us for information or clarification as to the scope and intent of the structure. Mr. Hudson said we should seek a postponement of the hearing date of July 12th, so that I could address the Stoneleigh Board of Governors, which would further review and discuss the structure and its impact on the neighborhood. I phoned the Zoning Office on July 11th, but the file had already been forwarded to the Court House for the Hearing on the following day, and I was unable to request a postponement of the hearing.

Thus, I went to the hearing on July 12th, and was surprised at the mistaken information voiced by the six opponents at the hearing. To be told that we were going to use the structure as a residence for Dorothy Milligan, my mother-in-law, could not be further from the truth as the shed structure is unheated and uninsulated, and she has resided in our home since 1996 after her husband passed away. And to further learn from the opponents that the intent of the structure was so that my wife, Cheryl Milligan, could hold ceramics classes was puzzling, as Cheryl paints, and the sink in the structure is so that she can wash her brushes afterwards in the shed instead of having to carry them into the house to be cleaned. Another objection raised was that the structure has taken up much of our driveway parking and that our cars would intrude onto the sidewalk, which is also patently untrue, as we can safely park both the Volvo station wagon and Volkswagen station

July 14, 2002

Mr. Tim Kotroco
Baltimore County Assistant Zoning Commissioner
County Courts Building Room 405
401 Bosley Avenue
Towson, Maryland 21204

JUL 17 2002

Dear Mr. Kotroco,

I am writing to request that you rescind my original letter of support for case # 02-519-A. After careful consideration and an accurate update of information, I feel I was mislead by the property owner. I am opposed to the variance requested by 7116 Oxford Road. Thank you very much for your consideration. Please feel free to call if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stanley C. Meros', written in a cursive style.

Stanley C. Meros
7115 Oxford Road
Baltimore, MD 21212
410-494-4560

Jim Gisriel
709 Chumleigh Road
Baltimore, Maryland 21212-1608
(410) 321-5447

June 27, 2002

Mr. Arnold Jablon
Department of Permits and Development Management
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet southwest of Oxford Road
9th Election District – 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Variance to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.

HEARING: Friday, July 12, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Dear Mr. Jablon:

I would like to offer this letter of support that I have no objections to the accessory building under construction in the side yard of the Milligan's house. Please grant the Milligan's the necessary variance.

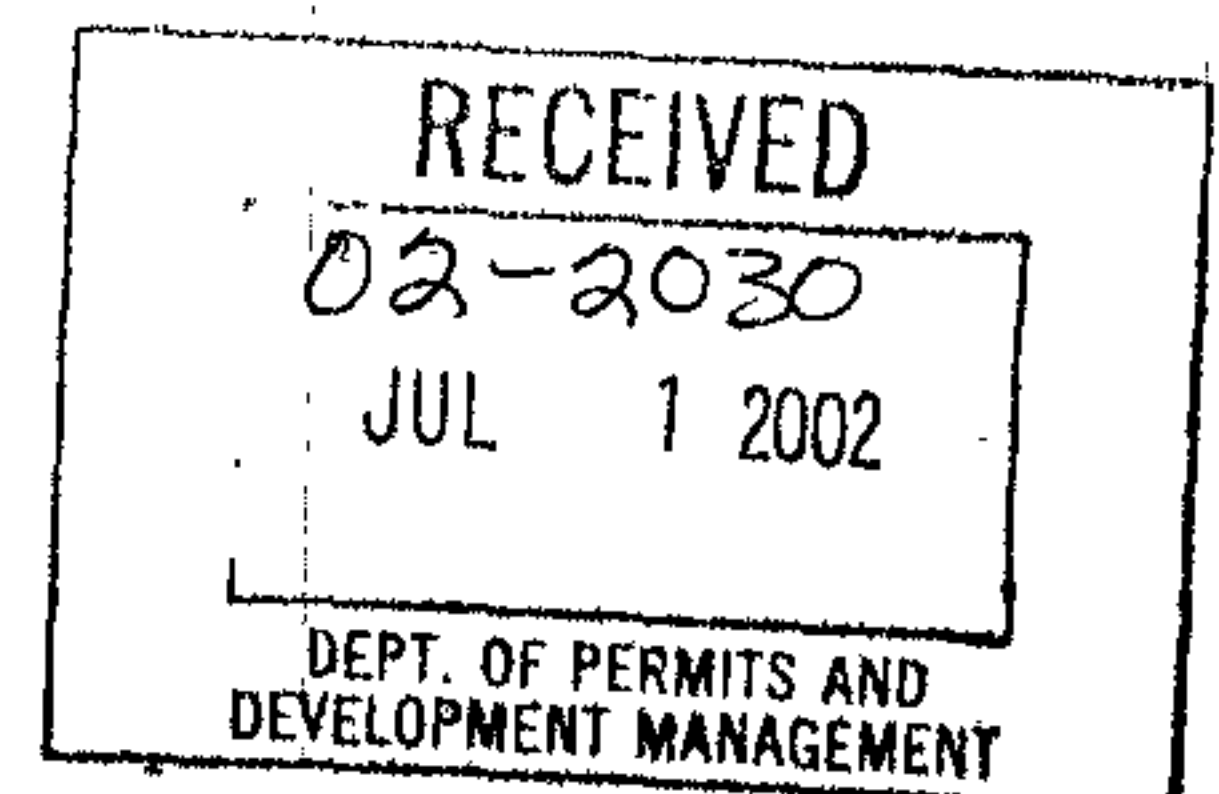
Very truly yours,

Jim Gisriel
Jim Gisriel

Mark J. Potter
Mark J. Potter

NOTARY

My Commission expires 5/1/06



June 27, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

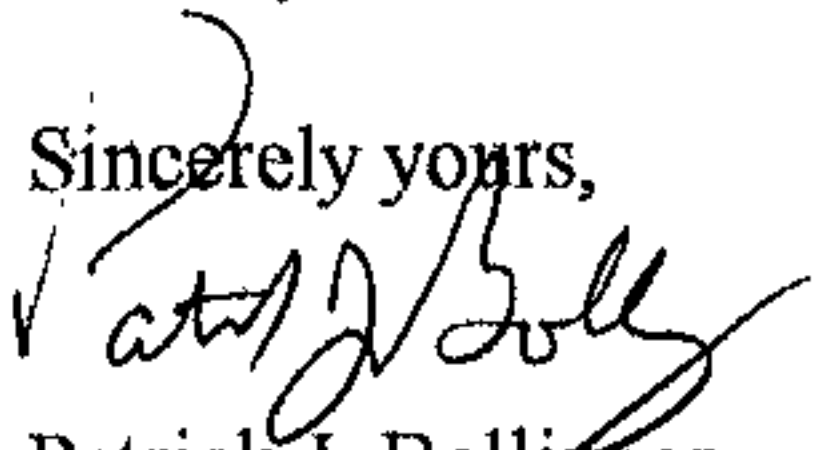
RE: Case No. 02-519-A
7116 Oxford Road
Legal Owners: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon,

It's come to my attention that Dorothy and Cheryl Milligan have a zoning hearing scheduled for Friday, July 12, 2002, but I will not be able to attend. I do however, fully support the Milligans in their effort to improve their property and our neighborhood, and think that the variance should be granted.

Thank you for your attention to my letter.

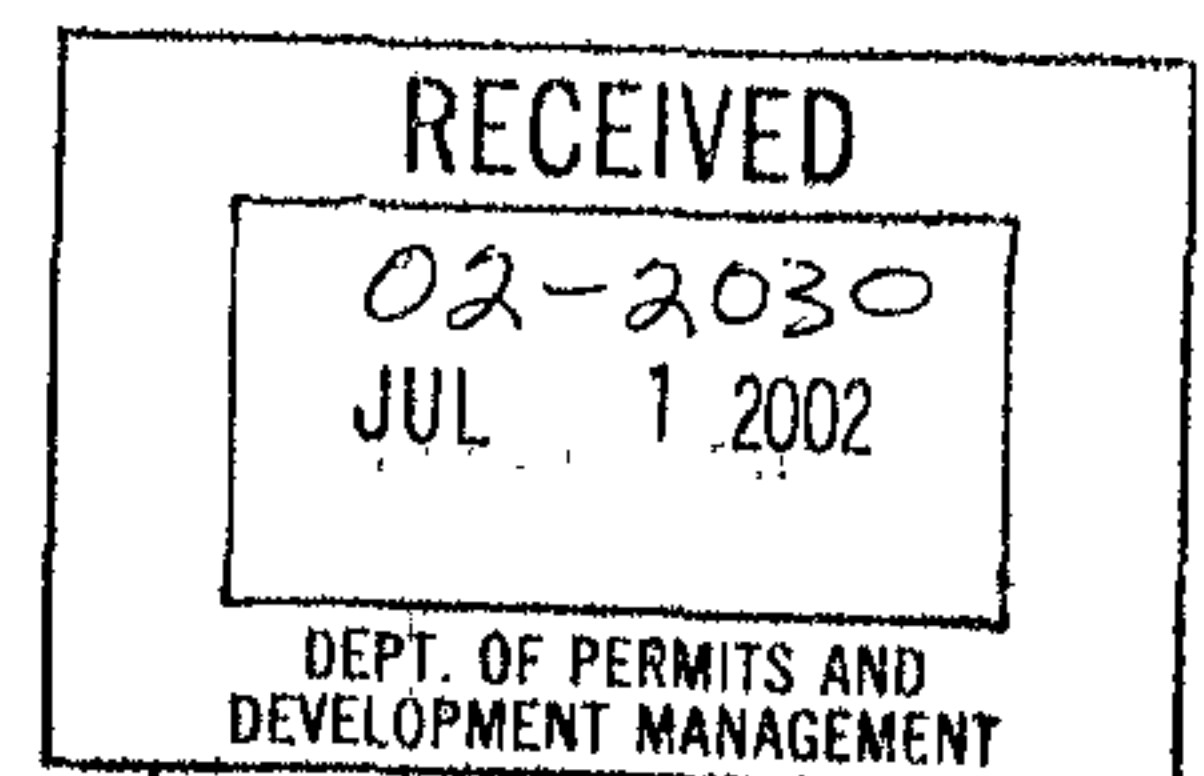
Sincerely yours,


Patrick J. Bollinger
7108 Oxford Road
Baltimore, MD 21212


MARK T. POTTER

Notarized by:

My commission expires 5/1/06



616 Hatherleigh Road
Baltimore, Maryland 21212

June 26, 2002

Arnold Jablon
Director
Baltimore County Department of Permits and Development Management
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: CASE NUMBER: 02-5190A
7116 Oxford Road
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Mr. Jablon:

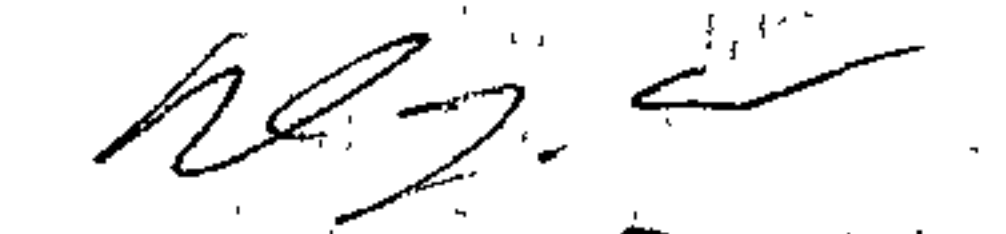
We are writing in support of Dorothy and Cheryl Milligan's application for a variance to permit construction of an accessory building on their property. Our house is directly across Hatherleigh Road from their property, and therefore we have the fullest view of the accessory building of any property in the neighborhood. We find the design of the building to be very attractive. In addition, both the design and scale of the building are completely consonant with those of the most attractive accessory buildings in existence in the neighborhood. The siting of the building is appropriate for the placement and positioning of the house on the property. We have no objections whatsoever to its construction. We were also appreciative of the fact that Ms. Milligan sought our prior approval, unnecessarily, we thought, for its construction.

In summary, we are in complete support of the variance to permit completion of the proposed accessory building on the proposed site.

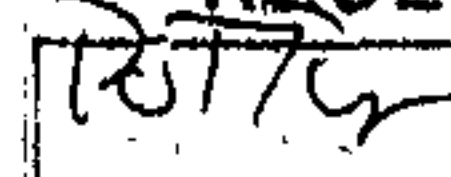
Most Sincerely,


David W. Cooke


Sara K. Cooke


Mark J. Potter

My Commission Expires

RECEIVED	
	
JUL 1 2002	02-2030
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT	

Thomas J. Gisriel
709 Chumleigh Road
Baltimore, Maryland 21212-1608
(410) 321-5447

June 27, 2002

Mr. Arnold Jablon
Department of Permits and Development Management
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet southwest of Oxford Road
9th Election District – 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

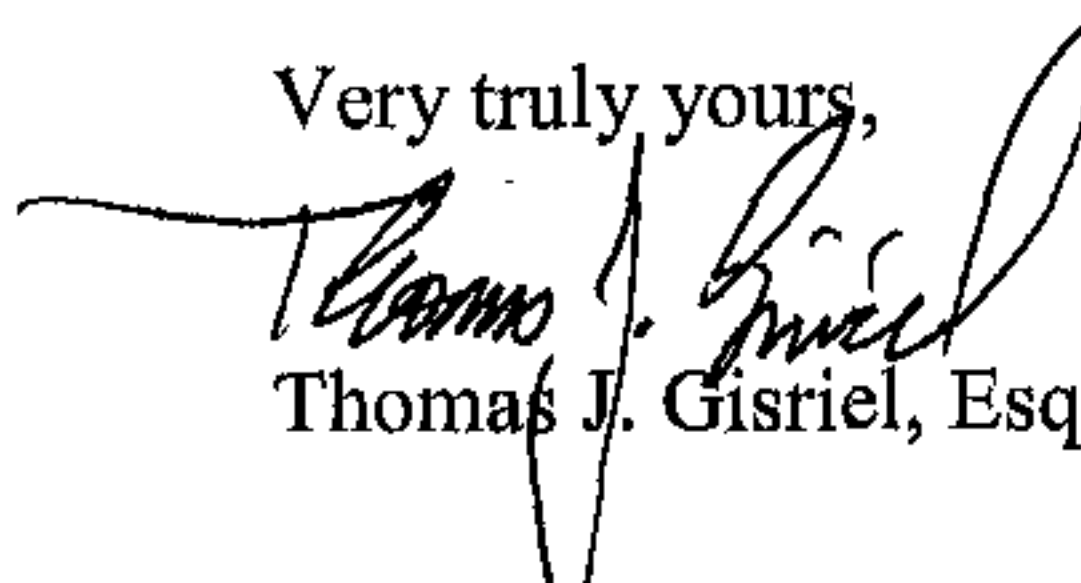
Variance to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.

HEARING: Friday, July 12, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

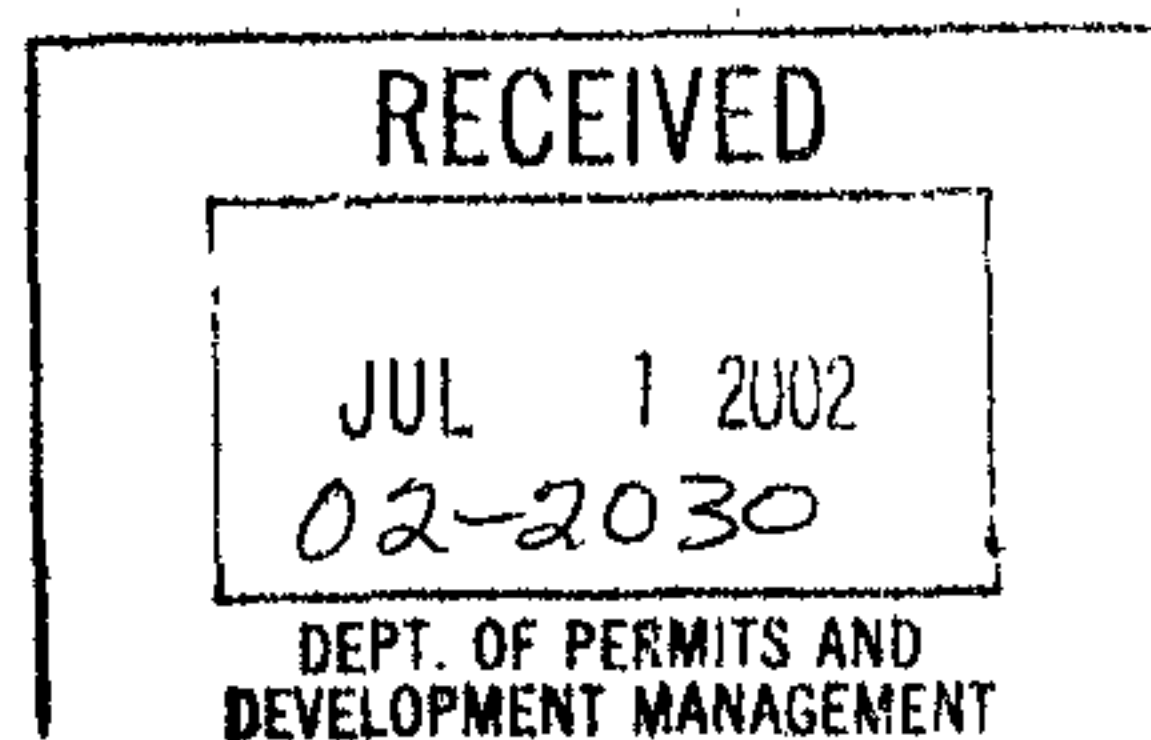
Dear Mr. Jablon:

I would like to offer this letter of support that I have no objections to the accessory building under construction in the side yard of the Milligan's house. Please grant the Milligan's the necessary variance.

Very truly yours,


Thomas J. Gisriel, Esq.

NOTARY



June 27, 2002
Arnold A. Kenner
My Commission expires 2/19/03.

Anna D. Jeffers
709 Chumleigh Road
Baltimore, Maryland 21212-1608
(410) 321-5447

June 27, 2002

Mr. Arnold Jablon
Department of Permits and Development Management
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet southwest of Oxford Road
9th Election District – 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Variance to permit a proposed accessory building (under construction) in the side yard in lieu of the required rear yard only.

HEARING: Friday, July 12, 2002 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Dear Mr. Jablon:

I would like to offer this letter of support that I have no objections to the accessory building under construction in the side yard of the Milligan's house. Please grant the Milligan's the necessary variance.

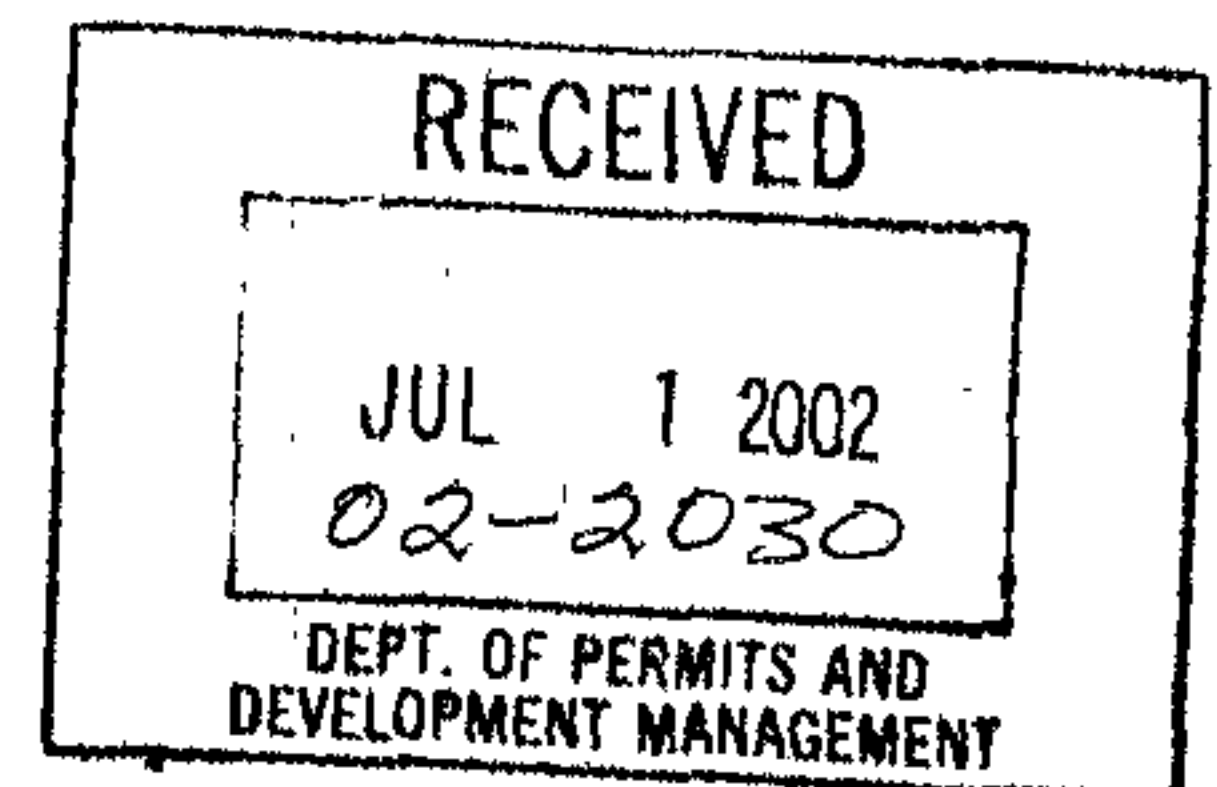
Very truly yours,

Anna D. Jeffers
Anna D. Jeffers, Esq.

NOTARY

Mark J. Potter
MARK J. POTTER

My commission expires 5/1/06



June 27, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

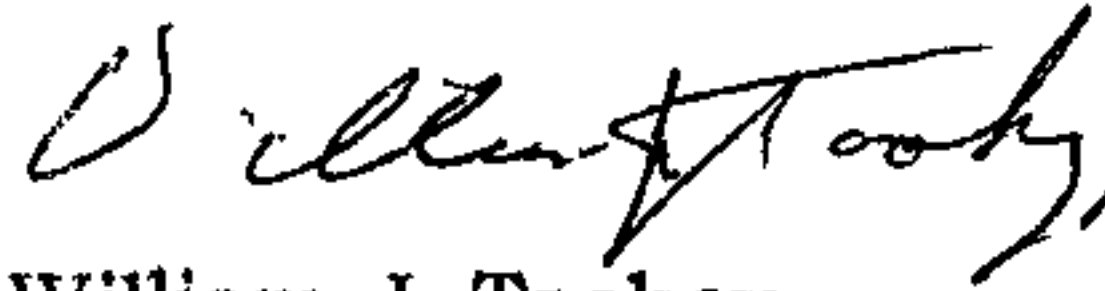
Dear Mr. Jablon:

I am writing regarding Dorothy and Cheryl Milligan and the public zoning hearing scheduled for a variance for the shed that they're building at the back of their property. According to the sign, it's for Friday, July 12, 2002 at 11:00 am.

I can't make it to the meeting, but please take this letter as my support for the Milligan's accessory structure, as a Stoneleigh neighbor who appreciates all that they have been able to do on their property. I live a little more than a block away from the Milligans and I think that this project is charming and in keeping with our neighborhood. I like what they're doing and want them to continue.

Please let me know if you have any questions.

Sincerely yours,


William J. Toohey
500 Hatherleigh Road
Baltimore, MD 21212


MARK POTTER

Notarized by:

My Commission Expires

RECEIVED
JUL 2 2002
02-2060
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

Rosemary Frisino Toohey
500 Hatherleigh Road
Baltimore, Maryland 21212
June 27, 2002

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

Dear Mr. Jablon:

This is in reference to CASE NUMBER: 02-519-A
7116 Oxford Road
Legal Owners: Dorothy K. Milligan
and Cheryl A. Milligan

My husband and I have lived in the Stoneleigh community since 1986. Over the years we have seen many alterations to properties in our area, not all of them with favorable results.

I walk past the Milligan property almost every day and I find the little building they've constructed there most charming! When the landscaping is complete, I believe it will be nothing but a positive addition to the property. In no way would I see it as a detriment to community property values.

Sincerely,

Rosemary Frisino Toohey
Rosemary Frisino Toohey
410-821-1907

MARK J. POTTE
MARK J. POTTE

My commission expires 5/1/06

RECEIVED
JUL 2 2002
02-2060
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

June 27, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon:

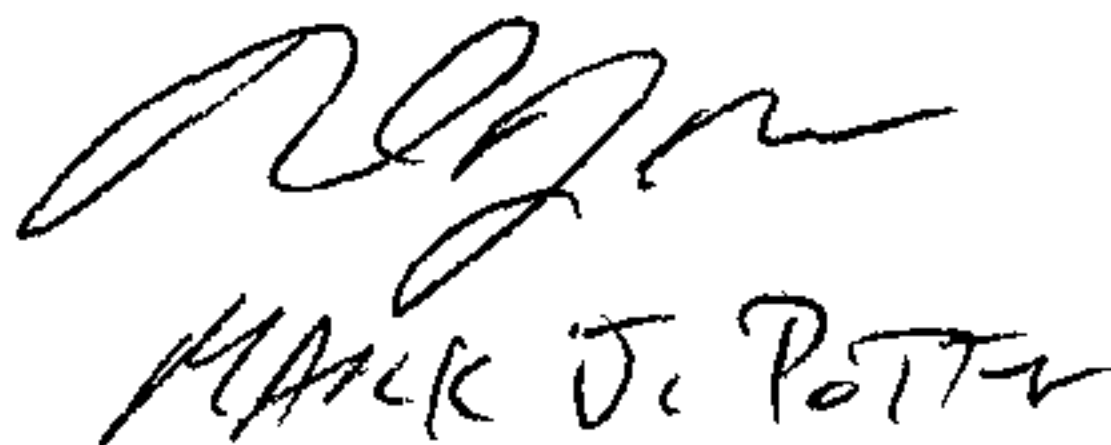
I wish to state my support for a variance to permit construction of a proposed accessory building under construction at the above address. An examination of the layout of this dwelling on the lot upon which it is located would reveal that the current location of the proposed outbuilding is the only available location on the lot.

I support the Milligans in their efforts to improve their property with an accessory structure at the end of their driveway.

Sincerely yours,



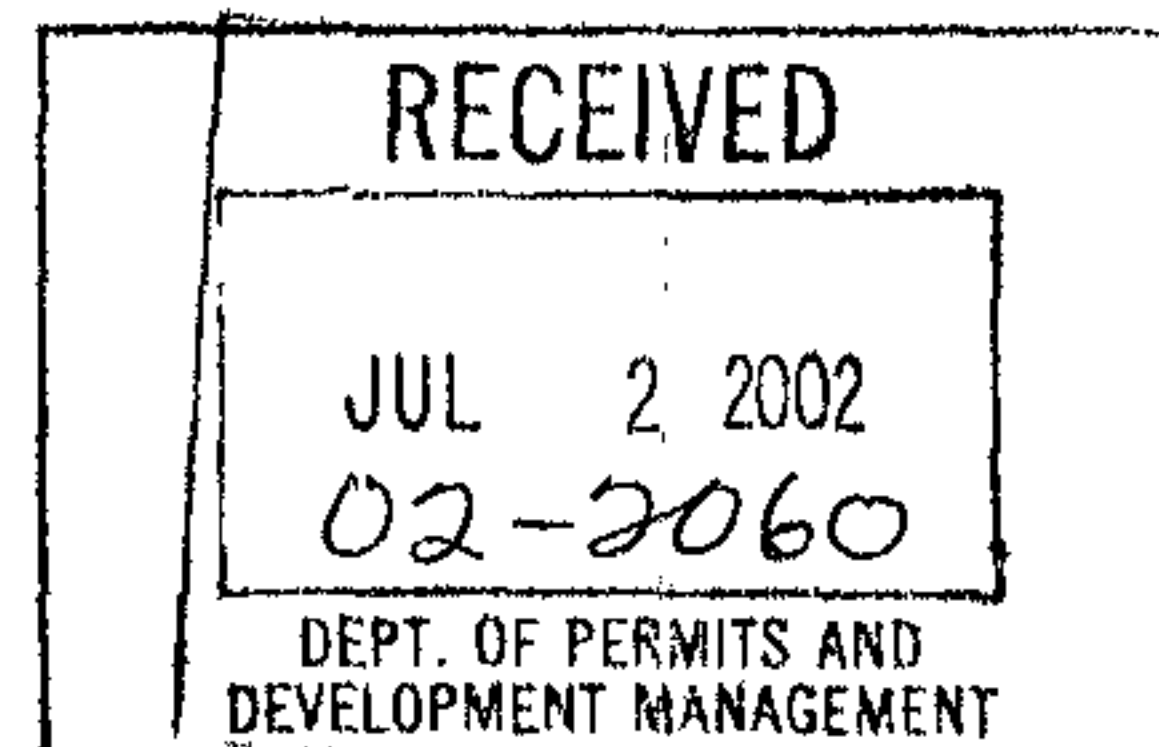
Stanley Meros
7115 Oxford Road
Baltimore, Maryland



MARK J. POTTER

My Commission Expires 5/1/06

Notarized by:



Sanjay and Jean-Marie Trivedi
618 Hatherleigh Road
Baltimore, MD 21212

Baltimore County Department of Permits and Development Management
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Attn: Arnold Jablon, Director

June 27, 2002

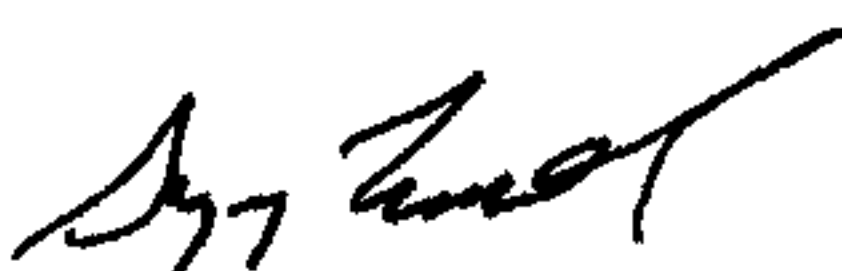
Dear Mr. Jablon:

Our neighbors at 7116 Oxford Road, Cheryl Milligan and Victor Puotinen, are in the process of constructing an accessory building on their property. The new construction is visible from our front door. Cheryl and Victor have taken care to craft this structure in a tasteful manner and one that is complementary to their home. We appreciate their consideration in creating a building that easily blends into our neighborhood, yet also serves their particular needs.

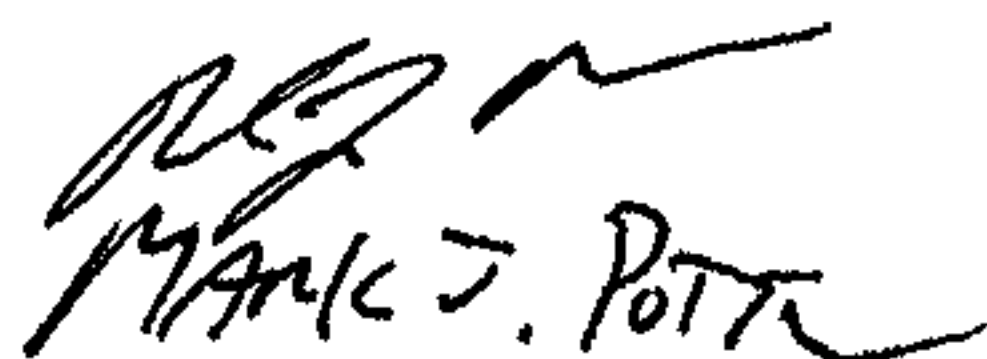
We would like to take this opportunity to show our public support of Cheryl and Victor's new building (in progress). Please note their case number and identifying information below.

Case number 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 southwest of Oxford Road
9th Election District—4th Councilmanic District
Legal owner: Dorothy K. Milligan and Cheryl A. Milligan

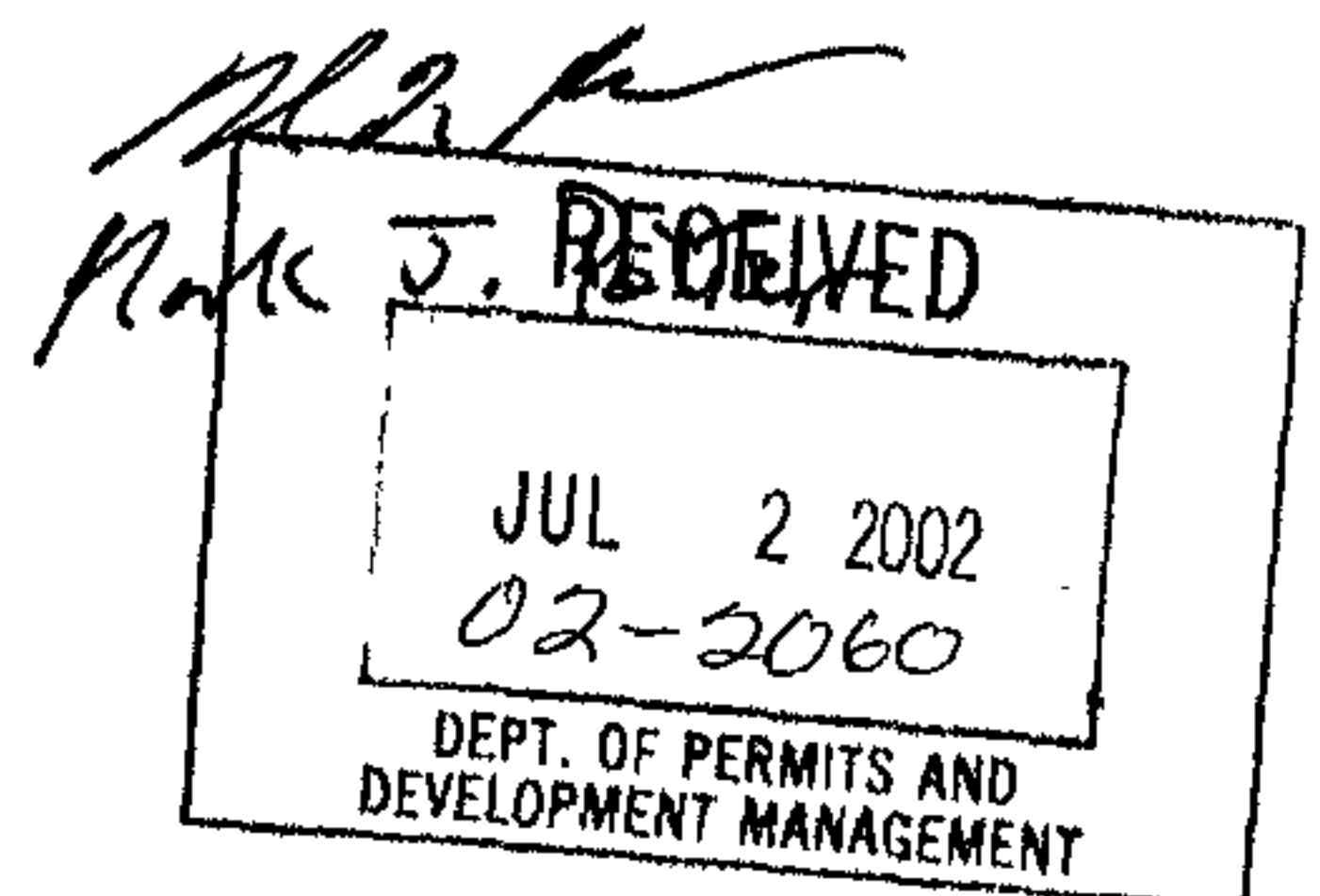
Sincerely,


Sanjay Trivedi


Jean-Marie Trivedi


Mark J. Potts

My commission expires 5/1/06



June 28, 2002

Mr. Arnold Jablon
Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet sw of Oxford Road
9th Election District - 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon:

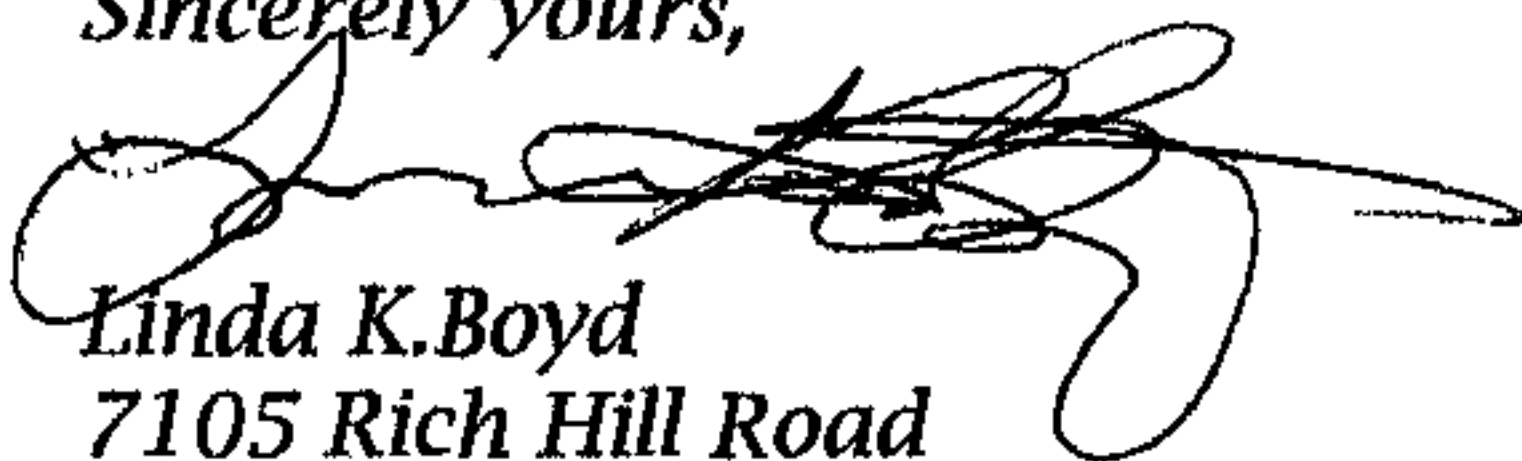
Although I cannot make it to the hearing on Friday, July 12, 2002, concerning the variance requested by Dorothy and Cheryl Milligan for the accessory structure that they are trying to finish, I want to express my complete support for the erection of this outbuilding.

I have lived in Stoneleigh for over twenty-three years and have observed the completion of many additions and outbuildings. The outbuilding in question is tasteful and unobtrusive, and blends well with the surroundings.

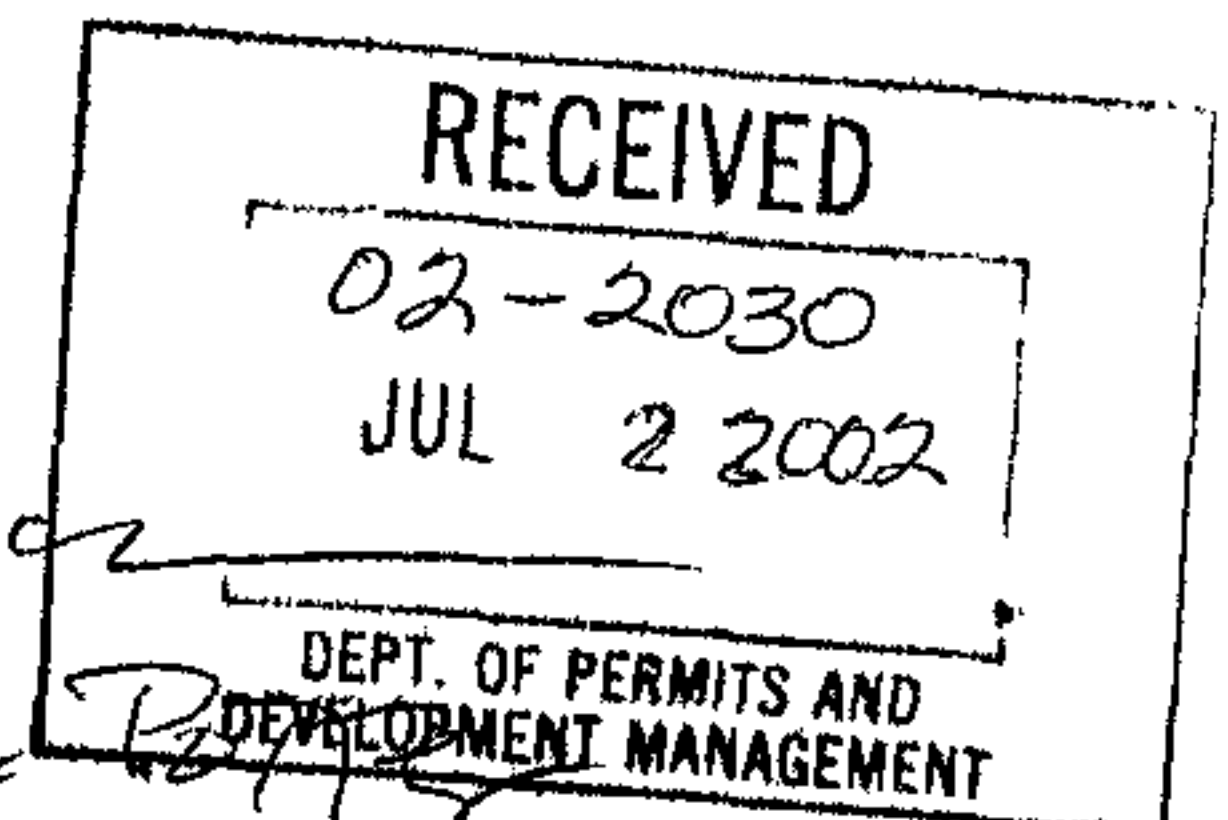
I am in total agreement with that they are doing and strongly believe that they should be allowed to proceed without any further delay.

Thank you for your attention to this matter.

Sincerely yours,


Linda K. Boyd
7105 Rich Hill Road


MARK J. BOYD



My permission expires 5/1/06

Edward S Palm
Barbara Berry-Palm
1801 Rambling Ridge Lane Apt 301
Baltimore MD 21209

Thursday, June 27, 2002

Mr. Arnold Jablon
Baltimore County Department of Permits
and Development Management
Development Processing
County Office Building
111 West Chesapeake Ave
Towson, MD 21204

Case # - 02-519-A

Dear Mr. Jablon,

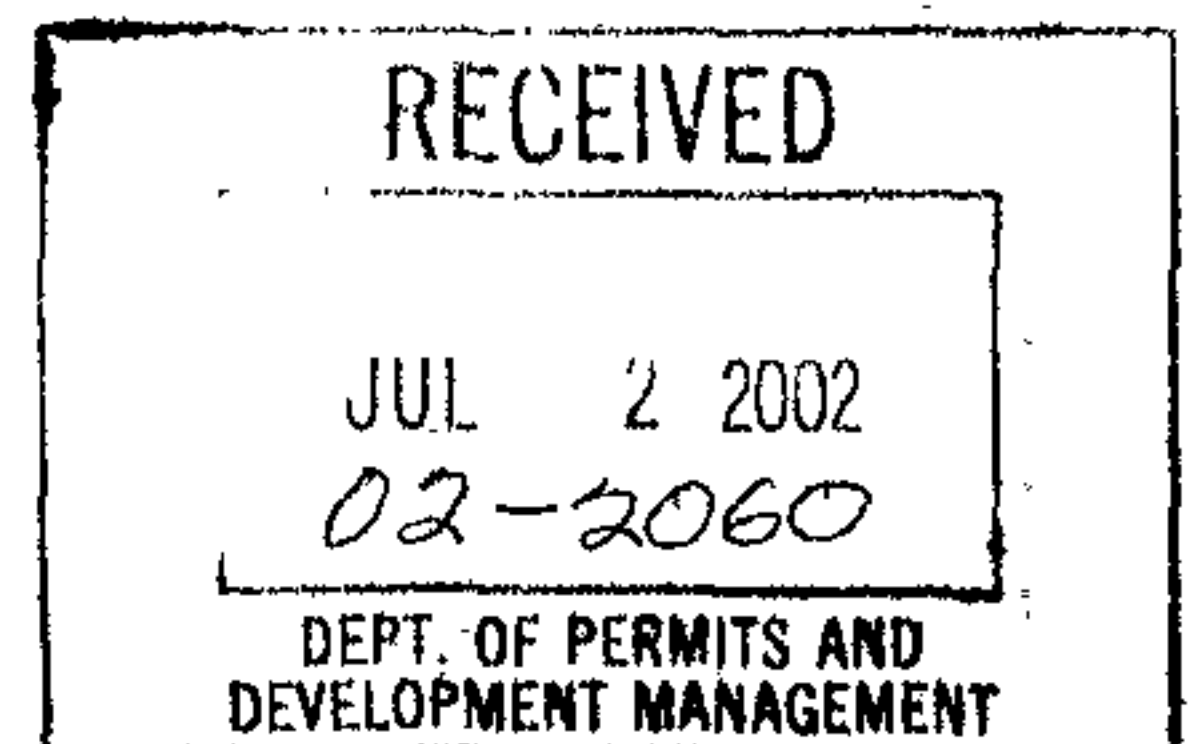
We are writing this letter to express our support for the addition proposed by Dorothy K. Milligan, Cheryl Milligan and Victor Puotinen, owners of the property at 7116 Oxford Road, Baltimore, MD 21212. We visit with these property owners frequently, and we feel that this addition to their home would fit in nicely with the current architecture and landscaping arrangement on this property without detracting from the appearance of the neighborhood, or blocking the view of any neighbors.

Sincerely,
Barbara Berry-Palm
Edward Palm

Mark J. Porter
MARK J. PORTER

Barbara Berry-Palm
Edward Palm

my commission expires 5/1/06



June 27, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

57

RE: Case No. 02-519-A
7116 Oxford Road
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon:

I am writing regarding Dorothy and Cheryl Milligan and the public zoning hearing scheduled for a variance for the shed that they're building at the back of their property. According to the sign, it's for Friday, July 12, 2002 at 11:00 am.

I can't make it to the meeting, but please take this letter as my support for the Milligan's accessory structure. I think that this project is charming and in keeping with the neighborhood. I like what they're doing and want them to continue.

Please let me know if you have any questions.

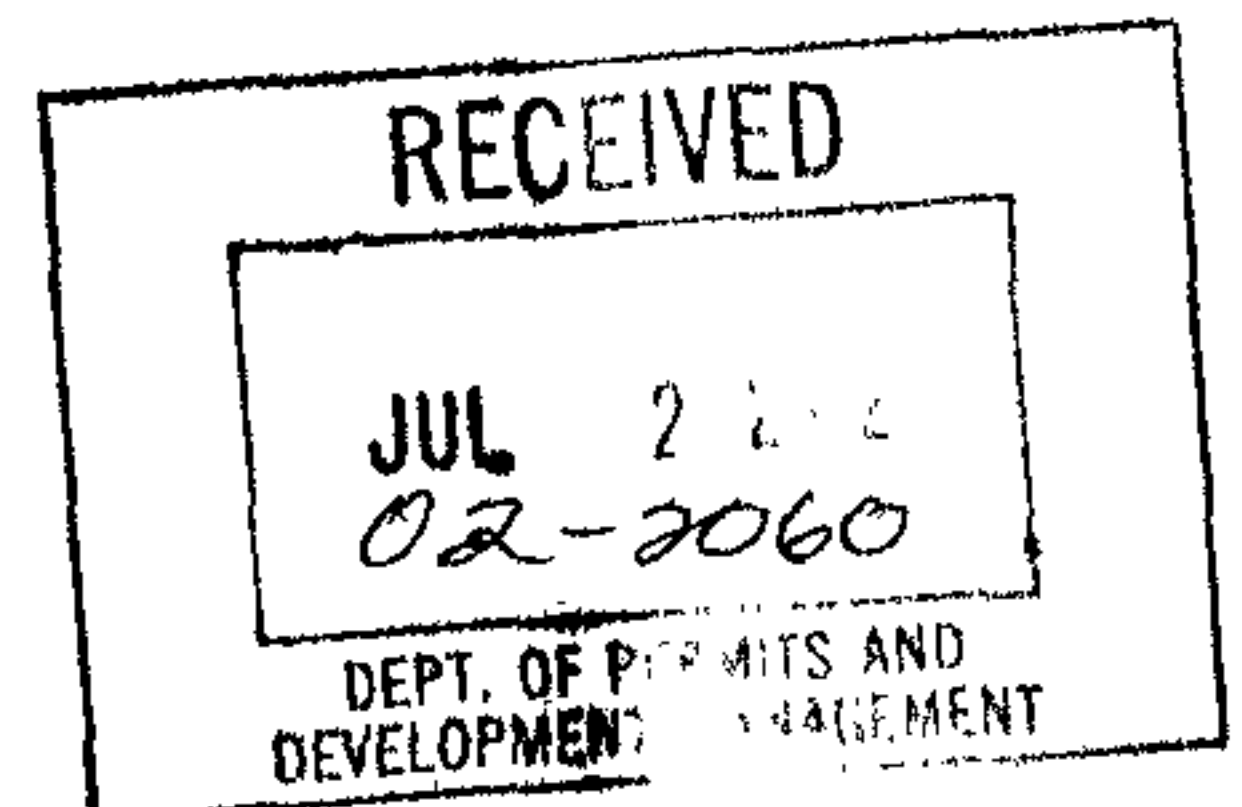
Sincerely yours,

Denise Kuruc

Denise Kuruc
902 Elm Ridge Avenue
Baltimore, MD 21229

Notarized by:

M. J. Potter
Mark J. Potter



My Commission Expires 5/1/06

Francis Key Kidder
314 Alabama Road
Baltimore, MD 21204

June 27, 2002

Arnold Jablon
Baltimore County Department of Permits & Development Management
111 W. Chesapeake Ave.
Towson, MD 21204

Re: Case Number 02-519-A
7116 Oxford Rd.
Legal Owner: Dorothy K. Milligan, Cheryl A. Milligan

Mr. Jablon:

My purpose in writing is to declare my support for a variance to permit construction of a "shed" at 7116 Oxford Rd. in Stoneleigh.

As a longstanding friend of Cheryl Milligan, I can attest that she is a good and considerate neighbor, devoted wife and mother, and an artist of surpassing skill.

I think you may agree that the artistic temperament is often best incubated and developed in a private space – albeit modest in this case – and because so many of Ms. Milligan's works are in the public domain, it would serve to benefit the greater good.

It is a structure whose appearance and positioning will only enhance the neighborhood.

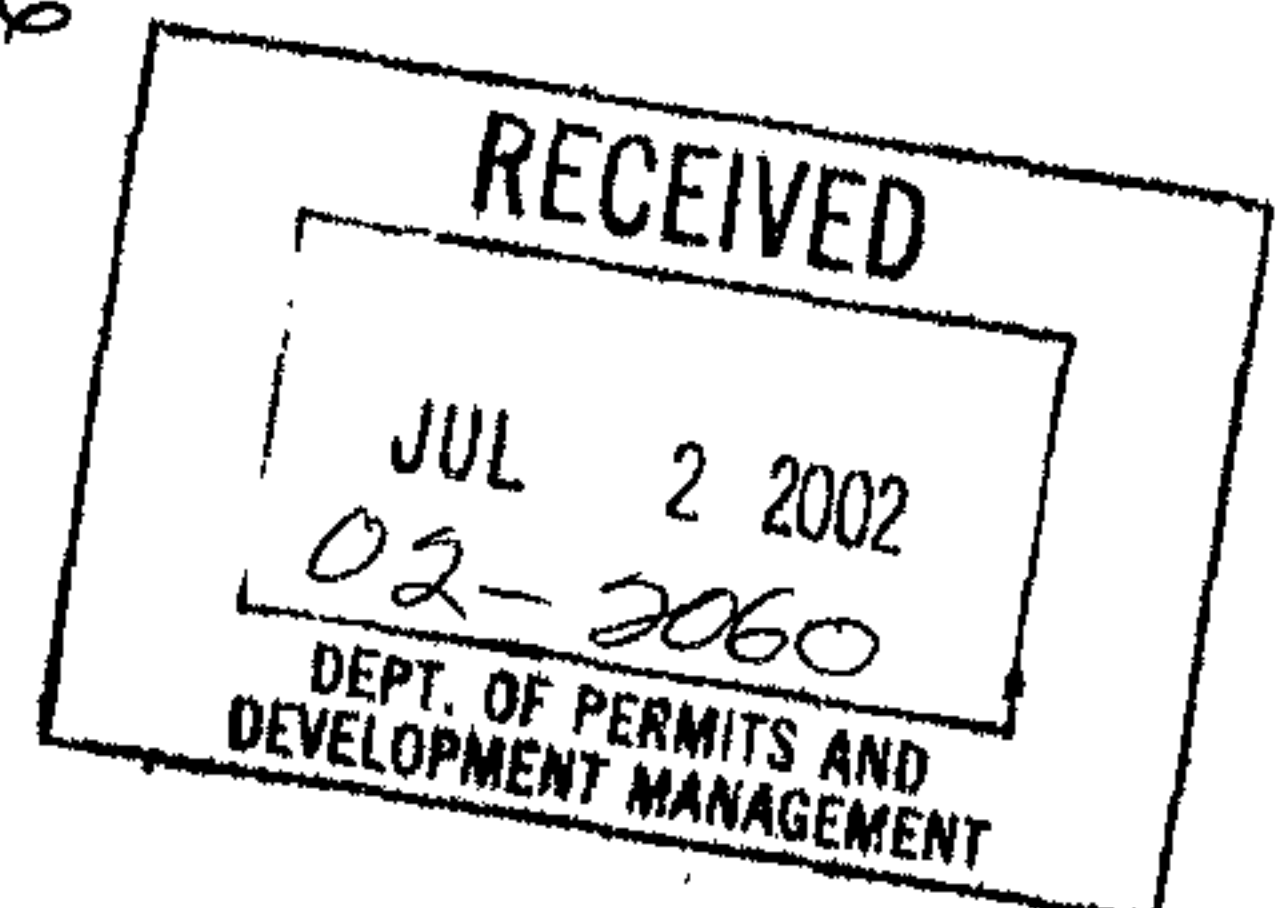
Sincerely,

Mark J. Potter
Mark J. Potter

Francis Key Kidder

Francis Key Kidder

My commission expires 5/6/06



Margaret Key Kidder
314 Alabama Road
Baltimore, MD 21204

June 26, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

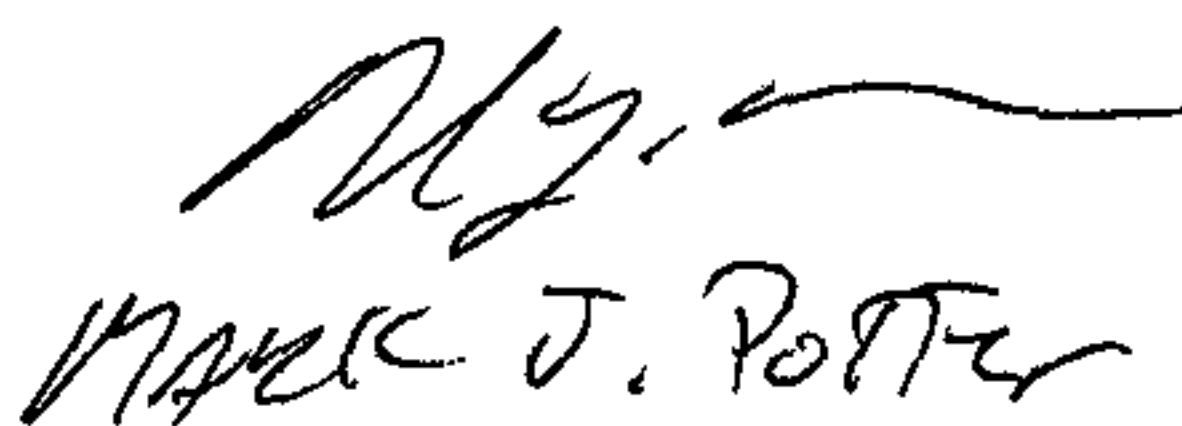
Dear Mr. Jablon:

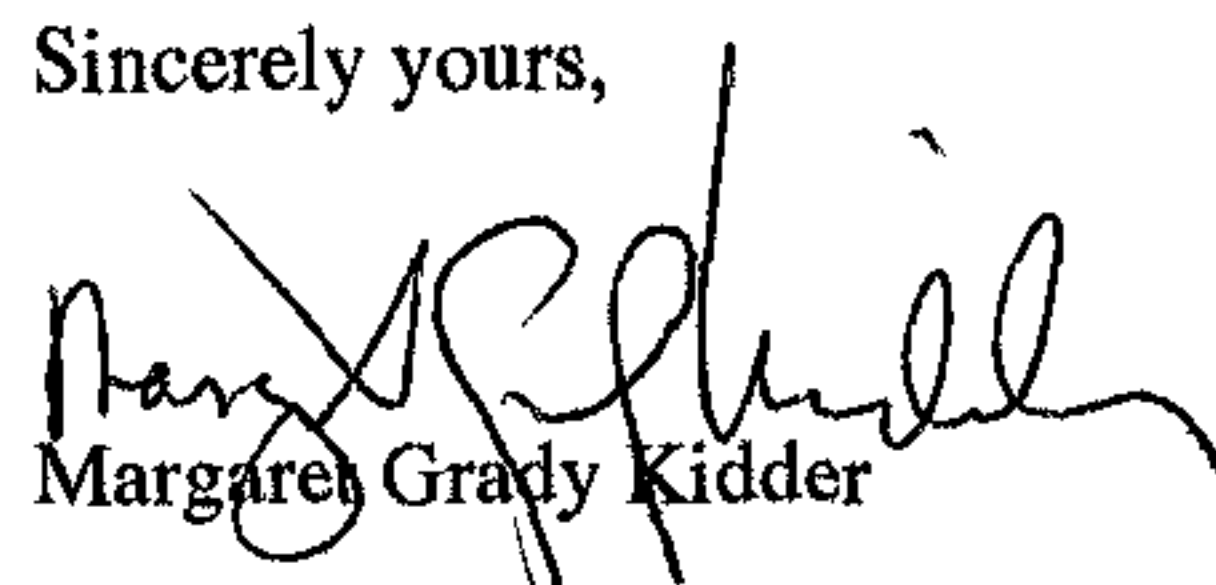
This is to announce my support for a variance to permit construction of a proposed accessory building under construction at the above address.

I wholeheartedly support the Milligans in their efforts to improve their property with an accessory structure at the end of their driveway.

The structure, if allowed to go forward, would be a marvelous addition to the architectural character of the neighborhood.

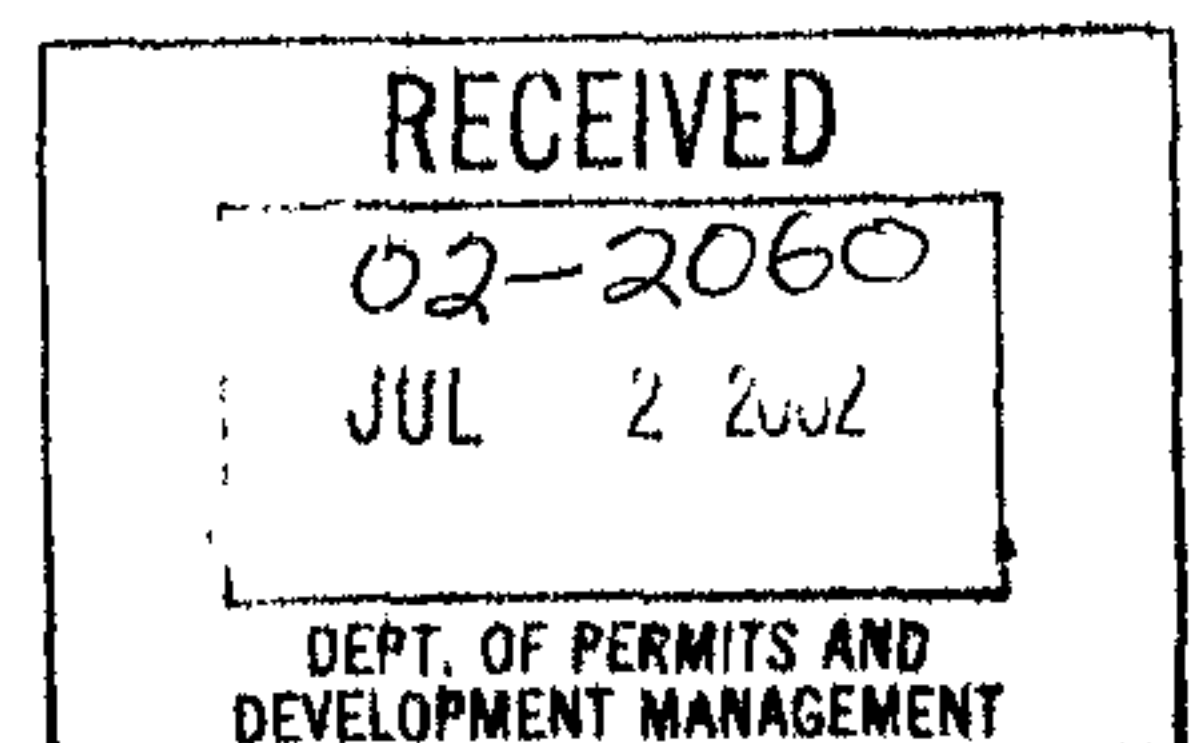
Sincerely yours,


Mark J. Potter


Margaret Grady Kidder

My Commission Expires 5/1/02

Notarized by:



June 26, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet sw of Oxford Road
9th Election District – 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon:

It has come to my attention that Dorothy and Cheryl Milligan have a public zoning hearing scheduled for Friday, July 12, 2002 at 11:00 am. Unfortunately, I will have to be at work at that time, but I am writing to you now to voice my support for the Milligan's accessory structure, as I believe it enhances their home and therefore, the neighborhood as a whole.

I wholeheartedly support the Milligans in their efforts to improve their property with an accessory structure at the end of their driveway.

Sincerely yours,

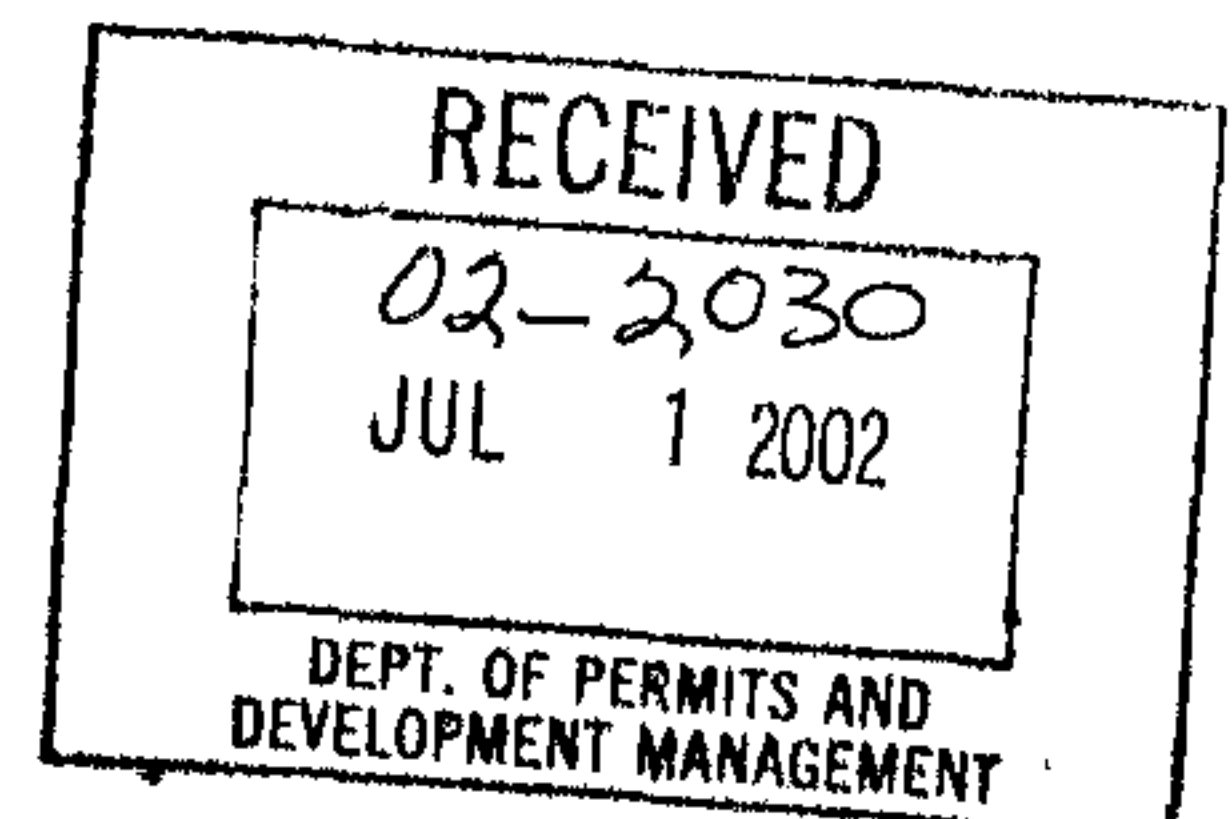
Elizabeth S. Henn

Elizabeth S. Henn
7846 Ellenham Rd
Baltimore, Md. 21204

Mark J. Potter

Notarized by:

My commission expires 5/1/06



*Post. # 8
i.d. only*

**Baltimore County Court of Appeals
Towson, Maryland 21286**

September 16, 2003

To whom it may concern,

This letter is to assure that the hearing officer is aware that our original letters of support, for the shed located at 7116 Hatherleigh Road, were retracted. Each of us sent a letter rescinding our support shortly after the original hearing when Community Board members approached us pointing out the discrepancy in information. The owners of the shed grossly misled us. The owners told us they had checked with their immediate neighbors and had approval, also had approval from the Community Association and had received the proper permits. We all signed a form letter that the owners had prepared at a cookout. It was bad judgment on our part and we apologize for the inconvenience. Thank you and if you have any further questions please don't hesitate to call.

**Ann L. Bollinger
7108 Oxford Road
Baltimore, MD 21212
410-847-9191**

Ann Bollinger

**Kelly O'C. Buedel
7115 Wardman Road
Baltimore, MD 21212
410-321-9570**

Kelly O'C. Buedel

**Stanley C. Meros
7115 Oxford Road
Baltimore, MD 21212
410-494-4560**

Stanley Meros

November, 20, 2002

Chairman
County Board of Appeals
Old Court House
Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
NOV 21 2002

**BALTIMORE COUNTY
BOARD OF APPEALS**

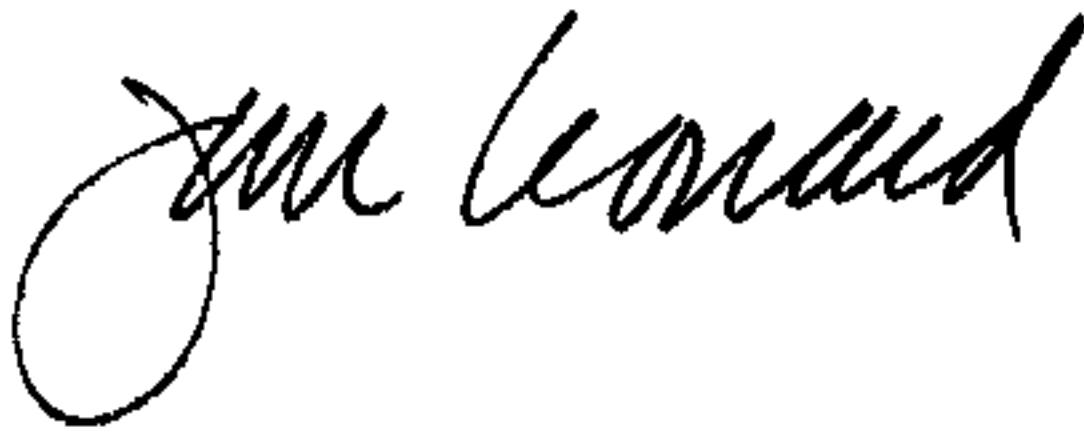
RE: CASE NUMBER 02-519-A
7116 Oxford Road

Dear Sir,

Please put my name on the mailing list informing me of the appeal date for the above referenced Variance Case Number. I am a member of the Stoneleigh Board of Governors and chair of the Improvements and Restrictions Committee. In the past, the board has issued letters to the Zoning Hearing Officer requesting that the variance sought by the homeowner be disapproved.

Thank you for your assistance.

Sincerely,



Jim Leonard
615 Kingston Road
Baltimore, MD 21212
Home Phone: 410 377 6573

*Added to file
11-21-2002*

02-519-A
7/12/02

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

VICTOR PUOTINEN

7116 OXFORD RD BALTO 21212

John W. Hill

703 Kingstons Rd Balt. 21212



02-519 AT
~~7116 Offered at~~

02-2778

Get file for Ham

EXHIBITS

see no error in these findings.³ Accordingly, the court correctly directed Ms. Droney to transfer the home in its 1992 Order; the court's finding of contempt in the 1994 Order, based on Ms. Droney's failure to comply, was not an abuse of discretion.

III.

[13] Ms. Droney contends that even if the court did not err in finding that the term "real estate" encompassed the home, the court lacked the statutory authority to order her to transfer her interest in property, either as part of a divorce decree or in the enforcement thereof. Under Md.Fam.Law Code Ann., § 8-202(a) (1991), the court may determine ownership of disputed property when the court grants an absolute divorce, but the statute expressly denies the court the power to transfer property, other than money, as part of an award. See also, *Kline v. Kline*, 93 Md.App. 696, 703, 614 A.2d 984 (1992). At the same time, the court can merge the terms of a deed, agreement, or settlement made between the parties during the divorce as a part of the divorce decree. Md.Fam. Law Code Ann., § 8-105(a); *Goldberg v. Goldberg*, 290 Md. 204, 210 n. 6, 428 A.2d 469 (1981). Once the terms are so merged, the court has the power to enforce those terms using the contempt power. Md.Fam.Law Code Ann., § 8-105(a);

3. In addition, our decision finds logical support in the area of lawful warrantless searches of vehicles under the Fourth Amendment of the United States Constitution. In *California v. Carney*, 471 U.S. 386, 105 S.Ct. 2066, 85 L.Ed.2d 406 (1985), the Supreme Court held that the mobile home in question was sufficiently mobile that it fell within the "automobile exception" to the prohibition on warrantless searches, even if it was being used primarily as a residence and not as a means of transportation. *Id.* at 393, 105 S.Ct. at 2070. The Court suggested, however, that the same home, on blocks and connected to utility lines in a mobile home park, would not have been subject to a warrantless search, because the critical element of mobility would be lacking. *Id.* at 394 n. 3, 105 S.Ct. at 2071 n. 3. See also, *Doering v. State*, 313 Md. 384, 398-99, 545 A.2d 1281 (1988) (interpreting *Carney*, defendant's bus, which had been converted into lodging, was subject to warrantless search as it had all of its tires fully inflated, had all its windows intact, had all its lights in apparently functional condition, and was near a road).

Md.Rule 2-648; *Mendelson v. Mendelson*, 75 Md.App. 486, 497-98, 541 A.2d 1331 (1988).

Ms. Droney relies on the case of *McAlear v. McAlear*, 298 Md. 320, 469 A.2d 1256 (1984) for the proposition that contempt may not be used to enforce a "property disposition award." In *McAlear*, the divorced wife sought to have her ex-husband held in contempt for his failure to pay the monetary award specified in the judgment of absolute divorce. The Court held that, unlike alimony, a monetary award in a divorce case constitutes a "debt," and as the Maryland Constitution, Art. III, § 38 forbids incarceration for the failure to pay a debt, contempt was not an available method of enforcement. *Id.* at 349-52, 469 A.2d 1256.

Ms. Droney's reliance on *McAlear* is inapposite. The Court did not consider Fam.Law, § 8-105(a), and we find nothing in *McAlear* that approaches the question of whether a court may use contempt to enforce the lawful terms of its own orders. Given the clear statutory authority to merge the terms of an agreement into a judgment of divorce and to enforce such terms with contempt, the court did not err in seeking to enforce the terms of the Judgment by ordering Ms. Droney to transfer her ownership of the Property to Mr. Droney.

AFFIRMED. COSTS TO BE PAID BY APPELLANT.

651 A.2d 424

David CROMWELL, et al.

v.

Arthur Thomas WARD, III

No. 617, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Decided Jan. 4, 1995.

The Circuit Court, Baltimore County, Lawrence Daniels, J., affirmed order of board of appeals granting height variance

for accessory building already built by owner. Appeal was taken. The Court of Special Appeals, Cathell, J., held that: (1) no variance was appropriate where property was not shown to be unusual or unique from surrounding properties before variance based on practical difficulty or unreasonable hardship was sought; (2) landowner's self-created hardship arising from construction of accessory building before variance was sought was not grounds for grant; and (3) approval of building permit for accessory building did not support grant of variance sought.

Reversed.

1. Zoning and Planning ⇐461

City was not estopped from refusing to grant variance from height restriction on auxiliary building merely because owner submitted and obtained construction permit, at least where owner's plan's elevation schematics contained neither elevation dimensions nor scale and elevation was not stated; while zoning inspectors might have been able to extrapolate dimensions from other schematics, they were not required to do so in light of owner's affirmative statement in application of compliance with zoning requirements. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

2. Zoning and Planning ⇐496

Under law on variances in Maryland and under Baltimore County's charter and ordinance, property's peculiar characteristics or unusual circumstances relating only and uniquely to that property must exist in conjunction with ordinance's more severe impact on specific property because of property's uniqueness before any consideration will be given to whether requisite practical difficulty or unnecessary hardship exists. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

3. Zoning and Planning ⇐497

Practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted. Code

1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

4. Zoning and Planning ⇐496

Mistake of county official cannot be the "practical difficulty" unique to subject property required to authorize grant of variance. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

5. Zoning and Planning ⇐503

Granting of variance from height restrictions on auxiliary building was arbitrary and illegal where subject site was not in any way peculiar, unusual or unique when compared to other properties in neighborhood and thus was not disproportionately affected by height restriction; self-created hardship arising from owner's failure to disclose height dimensions in applying for permit and construction of building in nonconformity were self-imposed or created hardships that could not support variance. Code 1957, Art. 66B, § 7.03; Baltimore, Md., Zoning Ordinance § 307.

Michael Paul Smith (Thomas G. Bodie and Bodie, Nagle, Dolina, Smith & Hobbs, P.A., on the brief), Towson, for appellants.

Newton A. Williams (Nolan, Plunhoff & Williams, Chtd., on the brief), Towson, for appellee.

Argued before WENNER, CATHELL and MURPHY, JJ.

CATHELL, Judge.

Appellant, David Cromwell, appeals from the judgment of the Circuit Court for Baltimore County (Daniels, J., presiding) affirming the order of the Board of Appeals granting a height variance for an accessory building already built by appellee, Arthur Thomas Ward, III. Appellant poses the following questions:

I. Whether the self-imposed or self-created hardship discussed in the Maryland case law on variances

requires an intentional act, such as ignoring or flaunting [sic] the zoning regulations.

- II. Does the record before the Honorable Lawrence Daniels support a finding that had the accessory building been built in accordance with the height regulations of Baltimore County, the accessory building would necessarily require a different pitch from all other buildings on the property?
- III. Can a difference in roof pitches between an accessory building and a home constitute a "practical difficulty or unreasonable hardship" within the meaning of § 307 of the Baltimore County Zoning Regulations?

While those questions are limited, appellant expands in his arguments supporting the questions and argues that

[t]he restrictions of the applicable ordinance, *taken in conjunction with the unique circumstances affecting the property*, must be the proximate cause of the hardship [Emphasis added.]

and

Section 307.1 requires that variances only be granted in cases where special circumstances or conditions exist *that are peculiar to the land or structure* which is the subject of the variance request. . . . [Emphasis added.]

and

Mr. Ward's property *is not unique* from the others in the Ruxton area. [Emphasis added.]

Although somewhat indirectly, appellant has pointed out an important aspect of the nature of the *variance* process, *i.e.*, it is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is—in and of itself—unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and

the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or¹ unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance.

What we have recently observed in Baltimore County, and in other jurisdictions as well, and what occurred in the case at bar, is a reversal of the required process. Instead of first determining whether the subject property is unusual or unique, the zoning authorities are first determining whether a practical difficulty or unreasonable hardship exists. That determination is then used to create a unique and unusual situation as to the subject property because surrounding properties do not experience the hardship or difficulty.

In the case *sub judice*, appellee's act of constructing a building of such a height as to produce a roof pitched at the angle he desired caused the roof to extend above the fifteen-foot height limit. This fact alone was found by the Board (and affirmed by the trial court) to make the property's problems unique. Simply stated, the variance that is desired (and the difficulties that would exist if it is not granted) cannot be the source of the first prong of the variance process—an inherent uniqueness of the subject property not shared by surrounding properties.

1. Some ordinances use the conjunctive, "and," creating a requirement that both practical difficulty "and" unreasonable hardship exist. Because hardship is the most severe standard, this means that it is the standard used regardless of whether an area or use variance is sought. Some ordinances use the disjunctive, "or," to separate the two standards. These jurisdictions construe the ordinance to require the unreasonable hardship standard to be used when "use" variances are sought, because use variances are believed to be more disruptive of zoning goals and purposes, but require the lesser "practical difficulty" standard when "area" variances are sought.

The Facts

Appellee's contractor, Donald S. Huber and Company, Inc. (Huber), prepared plans for a garage, wine cellar, and storage area on appellee's property. Using these plans, Huber, on appellee's behalf, applied for a building permit, noting on the application that it was to construct a two story "garage and wine cellar;" "[second] story to be used as storage, [first] floor for garage and wine testing room. Cellar will be for wine." The application indicates that some prior height indication was marked over on the application for a permit and a new mark was made indicating the anticipated height of the structure to be fourteen feet. Huber admitted that he had little experience with the zoning requirements for accessory buildings and was unaware of the height limitations. The County's automated tracking system, in creating its general permit application data on the subject property, noted: "Height: 14'" and "Stories: 2+ CELL."

The plans presented to the County included a "Left Side Elevation" but no height is shown on the elevation plan. Neither, as far as we have been able to find, does the plan contain a scale from which the "Left Side elevation" can be determined. The plans also include a "Front Elevation" from which actual proposed heights are also conspicuously, almost suspiciously, absent given that all other dimensions appear to be included on the plans.

We have, however, extrapolated from a horizontal distance indicated on the lower right-hand corner of the "Second Floor Plan" that fourteen feet five and one-half inches equals slightly over three and one-half inches on our ruler. It would appear that the front elevation plan indicates five and one-fourth inches on our ruler or approximately twenty-one and one-half feet in height. When measured in similar fashion, the left side elevation indicates a similar height. Thus, if the other measurements are correct, a method existed in which, even absent a scale, rough height elevations might have been discernable, though we are at a loss to understand why the

elevations were not given in feet and why the plans contained no scale.²

After receiving a building permit, appellee proceeded to construct the building that violated the fifteen foot height requirement. During the building process, inspections were made of footings, foundations, framing, and electrical service. Final occupancy was then given. Later, the building was discovered to be twenty-one feet in height.³ Appellee then successfully applied for an after the fact variance. Appellant appealed to the Board of Appeals and it, in a two to one decision, granted the variance that the circuit court ultimately affirmed.

The Law

The State Zoning Enabling Act was first passed in 1927 by Chapter 705 of the Acts of 1927. It has since been codified as Article 66B of the Annotated Code of Maryland (1957, 1988 Repl.Vol., 1994 Cum.Supp.). While it was generally believed that local subdivisions did not have to enact zoning regulations (and some did not), if enacted, they normally had to conform to the provisions of Article 66B.

Baltimore County, however, is a charter county and is exempt from many of the provisions in Md.Code Art. 66B. See Md.Code Art. 66B § 7.03 which provides "Except as provided in [sections not pertinent here] . . . this article does not apply to the chartered counties of Maryland." Nevertheless, the language of Art. 66B relating to variances is virtually identical to the provisions of the Baltimore County ordinance.

2. Appellee, several times in his brief, states that the plans "clearly" show the height of the building. We are tempted to respond with a short rejoinder. We resist. The heights shown on the plans are not clearly shown—they are not shown at all—but must be computed, as we have done, without the benefit of a scale by a difficult reference to dimensions that are given for horizontal distances.
3. As we have said, the application, building permit and the county data indicated that its height was to be fourteen feet.

The Article 66B provision that provides for variance authority in local zoning ordinances is section 1.00(j). As relevant to an area variance, this section defines a variance under Art. 66B as follows:

[M]odification only of density, bulk, or area requirements in the zoning ordinance ... where *owing to conditions peculiar to the property, and not the result of any action taken by the applicant*, a literal enforcement ... would result in either, as specified by the local governing body in a zoning ordinance, unnecessary hardship or practical difficulty. [Emphasis added.]

The Baltimore County Zoning Ordinance in section 307, "Variances," provides, in relevant part, that variances from the ordinances provision, *i.e.*, height, may be granted

only in cases where special circumstances or conditions exist *that are peculiar to the land or structure* which is the subject of the variance request *and* where strict compliance ... would result in practical difficulty or unreasonable hardship. [Emphasis added.]

Accordingly, we shall, in our discussion of cases, refer extensively to cases under the provisions relating to Art. 66B as well as cases under the Baltimore County provisions.

The Baltimore County ordinance requires "conditions ... peculiar to the land ... and ... practical difficulty" Both must exist. But the terms "practical difficulty" and "unreasonable hardship" are stated in the ordinance disjunctively. Thus, at least as to variances other than use variances,⁴ if the property is found to be unique, the practical difficulty standard would then apply. We address practical difficulty at some length hereafter. 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

4. It is not clear that section 307, "Variances," would even permit any use variances except perhaps as to signs or parking, as the section is framed primarily in terms of "area" variance requests.

uniqueness of *that* piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when that uniqueness is first established that we then concern ourselves with the practical difficulties (or unnecessary hardships in use variance cases).

Because we have discerned that some of the confusion in this and other jurisdictions may have arisen because of a tendency to intermingle the concepts of special exceptions/conditional uses⁵ (where normally an applicant has an easier burden) and variances, we shall first discuss the cases (local as well as foreign) and treatises in which the terms are distinguished. We shall then discuss our cases and certain of those elsewhere in which the proper (and, on occasion, improper) applications of variance law have been applied. The Baltimore County statute will then be restated and applied to the facts and circumstances of the case *sub judice*.

Special Exceptions (and Conditional Uses) and Variance—Distinguished

The treatise writers define the concept as:

A variance is an authorization for [that] ... which is prohibited by a zoning ordinance....

... [T]he difference between the two [variances and special exceptions] ... is of practical significance....

"... [T]he variance and exception are designed to meet two entirely different needs. The variance contemplates a departure from the terms of the ordinance in order to preclude confiscation of property, while the exception

5. Matters relating to area issues are intended to be, and usually are, addressed as special exceptions. Matters relating to "use" issues are intended to be, and usually are, addressed as conditional uses. The terms, however, are, with some frequency, intermixed. Because both concepts envision that they are permitted so long as certain conditions are met, the indiscriminate use of the two terms has created little difficulty. In a pure sense, however, "conditional uses" refer to uses while exceptions normally apply to area, *i.e.*, yard, height, and density matters. In either event, conditional uses and special exceptions are permitted uses, so long as the conditions set out in the ordinance are met.

contemplates a permitted use ... [once] the prescribed conditions therefor are met."

... [A] variance is "authority ... to use his property in a manner forbidden ...," while an exception "allows him to put his property to a use which the enactment expressly permits."

... [T]he standards for ... exceptions are usually less stringent than in the case of variances. A Maryland court summarized this difference and the reason for it.

"A special exception ... is one which is controlled and ... permissible in a given zone. It is granted ... upon a finding conditions of the zoning ordinance are satisfied. A variance is authorized ... where the literal enforcement of its terms would result in unnecessary hardships."

3 Robert M. Anderson, *American Law of Zoning* § 18.02-03 (2d ed. 1977) (footnotes omitted) (quoting in part *Stacy v. Montgomery County*, 239 Md. 189, 193, 210 A.2d 540 (1965)). See also *Schultz v. Pritts*, 291 Md. 1, 11, 432 A.2d 1319 (1981); *People's Counsel v. Mangione*, 85 Md.App. 738, 748, 584 A.2d 1318 (1991).

A distinction commonly is made between [special] exceptions ... and variances.... An "exception" ... is a dispensation permissible where a board ... finds existing those facts ... specified in the ordinance as sufficient.... "... But zoning ordinances usually provide for another kind of dispensation, ... by which a variance ... may be authorized ... where a literal enforcement ... would result in unnecessary hardship."

8 Eugene McQuillin, *Municipal Corporations* § 25.160 (3d ed. rev. 1991) (footnotes omitted).

The general rule is that variances and exceptions are to be granted sparingly, only in rare instances and under peculiar and exceptional circumstances.... A variance should be strictly construed....

Id. § 25.162 (footnotes omitted). See also 5 Norman Williams, Jr. et al., *American Land Planning Law* § 133.01 (1985 rev.); 3 Arden H. Rathkopf, *The Law of Zoning and Planning*

§ 38.01 (4th ed. 1981); 3 E.C. Yokley, *Zoning Law and Practice* § 21-6 (4th ed. 1979); 3 Robert M. Anderson, *American Law of Zoning* § 14.55 (1968); Anderson, *supra* § 18.30 (2d ed.).

Maryland courts, and courts elsewhere, have generally made the same distinction.

There is a marked distinction between "variance" and "special exception" in Montgomery County. A special exception ... is expressly permissible.... [A zoning board has authority to grant] variances from the strict application of this chapter when by reason of exceptional narrowness, shallowness, or shape of specific parcels of property ... or by reason of exceptional topographical conditions or other extraordinary situations ... of specific parcels of property, the strict application ... would result in ... unusual practical difficulties to, or exceptional or undue hardship....

Stacy, 239 Md. at 193, 210 A.2d 540.

Judge Hammond for the Court of Appeals noted in *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 288-91, 96 A.2d 261 (1953):

It is the common practice to join an application for an exception with an application for a variance, leaving it to the Board to decide on which ground it will grant the application. As a result, many cases discuss exceptions and variances without differentiation, yet the two do differ, and one important distinction is that where a specific use is permitted by the legislative body in a given area ... the application can be granted without a showing of hardship or other conditions which are necessary for the allowance of a variance....

... There is a distinction between ... the ordinance provisions ... in those cases [Baltimore City cases] and the facts and the ordinance provision in this case....

See also our case of *Martin Marietta Aggregates v. Citizens*, 41 Md.App. 26, 34-35, 395 A.2d 179 (1978).

A conditional use is not a variance. The primary difference between the two is that a conditional use is not an exceptional⁶ use. A conditional use is a desirable use which is attended with detrimental effects which require that certain conditions be met.... While a variance is a departure from the terms of an ordinance, a conditional use is a permitted use ... so long as ... conditions are met. Therefore, conditional use grants cannot be encompassed within the ... statutory authority to grant variances.

Eberhart v. Indiana Waste Systems, Inc., 452 N.E.2d 455, 459 (Ind.App. 3 Dist.1983) (citations omitted).

In a case affirming the granting of a special exception, the court in *Ash v. Rush County Bd. of Zoning Appeals*, 464 N.E.2d 347, 350 (Ind.App. 1 Dist.1984), opined:

A great deal of confusion has been generated ... because of the parties' failure to distinguish among rezoning amendments, variances, and special exceptions.... A variance involves a deviation ... from the legislated zoning classification.... A special exception involves a use which is permitted ... once certain statutory criteria have been satisfied. [Citations omitted.]

See also *Lindquist v. Board of Adjustment*, 490 So.2d 16, 18 (Ala.Civ.App.1986) ("Thus a special exception is not truly an exception to the zoning regulations at all") and ("a special exception may not be used as a substitute for a variance in order to avoid the ... burden of proving ... hardship"); *Wolfner v. Board of Adjustment*, 672 S.W.2d 147, 150 (Mo. App.1984) ("an exception is legislatively permitted whereas a variance is legislatively prohibited, but may be allowed for special reasons"); *Urban Farms, Inc. v. Franklin Lakes*, 179 N.J.Super. 203, 431 A.2d 163, 167 (A.D.), cert. denied, 87 N.J. 428, 434 A.2d 1099 (1981) (special exception and variance defined—case decided on zoning estoppel basis); *A.J. Grosek & Associates v. Zoning Hearing Bd.*, 69 Pa.Cmwlth. 38, 450

6. Exceptional is used here in its generic sense.

A.2d 263, 265 (1982); *Bell v. City Council*, 224 Va. 490, 297 S.E.2d 810, 813-14 (1982).

VARIANCE—

The First Step—Uniqueness or Peculiarity of the Subject Property

The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. See, e.g., A. Rathkopf, 3 *The Law of Zoning and Planning* § 38 (1979).

Doorack v. Board of Adjustment, 709 S.W.2d 140, 143 (Mo. App.1986). See also *McMorrow v. Board of Adjustment*, 765 S.W.2d 700, 701-02 (Mo.App.1989); *Taylor v. Board of Zoning Adjustment*, 738 S.W.2d 141, 144 (Mo.App.1987).

The requirement of uniqueness of the subject property, as we have indicated, is specifically set out for noncharter counties in the State enabling legislation, Md.Code Article 66B, and it is also set out in the Baltimore County ordinance applicable here. Additionally, it has been a necessary prerequisite almost since the inclusion of variance practice in zoning laws—and, before that, it was a part of Maryland case law. That case law is in accord generally with the case law elsewhere as we shall later discuss.

Early on, prior to the State specifically empowering local governments to delegate the granting of variances to zoning boards, the Maryland Court of Appeals found that the delegation of power to an administrative board to grant variances from the terms of a zoning "type" ordinance was improper because

the board of zoning appeals is in effect given the power to set aside or annul the ordinance ... with no more definite standard or guide than that such action may only be taken when there are "practical difficulties or unnecessary hardships".... [U]nder our system of written constitutions it is essential that they accomplish those ... objects in conformity with the restrictions, rules, and limitations which the law itself provides and not in disregard of them.... For such

phrases as "practical difficulties," "unnecessary hardships," "substantial justice," are too general and indefinite to furnish such a guide, or to mark the limits or control the exercise of the power conferred....

Jack Lewis, Inc. v. Mayor and City Council of Baltimore, 164 Md. 146, 151, 164 A. 220, appeal dismissed, 290 U.S. 585, 54 S.Ct. 56, 78 L.Ed. 517 (1933) (though it questioned the variance provisions under which the appellant sought a variance to operate a funeral home, it upheld the restriction prohibiting the funeral home in the first instance). In *Sugar v. North Baltimore Methodist Protestant Church*, 164 Md. 487, 165 A. 703 (1933), the Court likewise found the board's powers to grant special exceptions to permit a confectionery store where otherwise prohibited to be invalid for the same reasons.

In moving towards an acceptance of variance procedures, the Court noted that the "increasing need for garages in the cities was one of the main reasons for the rapid spread of zoning in this country." *Heath v. Mayor and City Council of Baltimore*, 187 Md. 296, 300, 49 A.2d 799 (1946). By the time of its decision in *Heath*, the Court had accepted the inevitable need for formal variance and special exception provisions, noting that "[c]haos would result if [a building engineer] were allowed to make exceptions or variances in his own discretion." 187 Md. at 301, 49 A.2d 799. The Court further pointed to the special exception powers of the Board of Zoning Appeals as a legally acceptable alternative. The Court also observed that, in response to its decisions in *Jack Lewis* and *Sugar*, the city had amended the Baltimore City ordinance to incorporate additional standards to guide the Board. The Court then correctly defined an exception as "a dispensation permissible where the Board ... finds ... those facts ... specified in the ordinance...." *Id.* 187 Md. at 303, 49 A.2d 799.

It was then that the court, for the first time that we can discern, combined exceptions and variances when discussing conformity to the rules in regard to the grant of either. This is the first instance where the two concepts were intermingled with respect to the Baltimore City ordinance. To a certain extent, this intermingling has, from time to time, created some

confusion in the cases arising out of Baltimore City. Because of the proportionately larger number of cases arising out of that jurisdiction, that confusion can be seen in subsequent cases arising from other jurisdictions. This intermingling increased over the years and, during this time, Baltimore City amended its ordinance and eventually became subject to an ordinance that does not distinguish between variances and exceptions except as to the title of their respective sections. In other words, Baltimore City, by the terms of its ordinance, applies the same standards to both variances and special exceptions; this standard is the one used elsewhere for variances. Thus, the Baltimore City special exceptions procedure is one only by title. For all practical purposes, it is also a variance procedure.

Caution should always be used therefore when a court is concerned with special exceptions, as reliance on the cases from Baltimore City may well lead one to rely on inapposite zoning concepts and cases. Judge Marbury, for the Court of Appeals, noticed this unusual circumstance in *Dampman v. Mayor and City Council of Baltimore*, 231 Md. 280, 285, 189 A.2d 631 (1963) ("In Baltimore City there appears to be no distinction between the two terms....").⁷ We also attempted to indicate the problem in *North v. St. Mary's County*, 99 Md.App. 502, 510, 638 A.2d 1175 (1994), in footnote 3:

Baltimore City's zoning code makes no distinction between special exceptions and variances. Its code treats special exceptions as if they were variances.... [I]t is generally inexact to rely on Baltimore City cases when a special exception is at issue in another jurisdiction, but would be appropriate when a variance is at issue.

In any event, as to variances, the Court of Appeals, applying the uniqueness standard, stated:

7. Another typical Baltimore City case in that regard is *Easter v. Mayor and City Council of Baltimore*, 195 Md. 395, 400, 73 A.2d 491 (1950), where the Court noted "facts to justify an exception ... [show] that the hardship affects the particular premises and is not common to other property in the neighborhood." This is a variance standard.

[I]t was incumbent upon the Marinos to have shown ... (ii) that the difficulties or hardships *were peculiar to the property in question in contrast with those of other property owners in the same district*, and (iii) that the hardship was not the result of the applicants' own actions.

Marino v. Mayor and City Council of Baltimore, 215 Md. 206, 218, 137 A.2d 198 (1957) (emphasis added). *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 214 A.2d 810 (1965), also involved the completion of structural improvements in violation of an ordinance and a subsequent request for an after the fact variance. The Court opined:

The only evidence before the Board as to hardship or injustice involving the property was the fact that repairs and alteration work had been substantially completed before an application for either a variance or a building permit had been made and that what had been done could not be undone without financial hardship to appellees....

240 Md. at 554, 214 A.2d 810. The Court first quoted from 2 Rathkopf, *The Law of Zoning and Planning*, § 48-1, and then noted:

"Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions ... hardship arises.... The restrictions of the ordinance, taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of the hardship.... [T]he hardship, arising as a result of the act of the owner ... will be regarded as having been self-created, barring relief...."

The instant case fits squarely within the above general rule.... [I]f the appellees had used proper diligence ... and then made accurate measurements ... [the resultant hardship could have been avoided]. The hardship ... was entirely self-created....

Id. at 554-55, 214 A.2d 810 (emphasis added). Had Ward's contractor, Huber, in the case at bar, checked the ordinance's height limitation, the situation that now exists could easily have been avoided. See also *Burns v. Mayor and City*

Council of Baltimore, 251 Md. 554, 559, 248 A.2d 103 (1968); *Pem Constr. Co. v. Mayor and City Council of Baltimore*, 233 Md. 372, 378, 196 A.2d 879 (1964) ("[There was] no evidence of any limitation ... by ... size of yards, irregularity of shape of land or buildings, topography, grade or accessibility"....); *Mayor and City Council v. Saperio*, 230 Md. 291, 186 A.2d 884 (1962); *Frankel v. Mayor and City Council of Baltimore*, 223 Md. 97, 104, 162 A.2d 447 (1960) ("It was incumbent ... to show that the hardship ... affected his particular premises and was not ... common to other property in the neighborhood.... [H]e met the burden...."); *Park Shopping Center, Inc. v. Lexington Park Theatre Co., Inc.*, 216 Md. 271, 277-78, 139 A.2d 843 (1958).

Secs. 14(b), 14(d) and 16 ... have been held not to authorize a granting for the mere convenience to the owner but to require a showing of urgent necessity, hardship peculiar to the particular property....

Mayor and City Council v. Polakoff, 233 Md. 1, 9, 194 A.2d 819 (1963).

The Court in *Kennerly v. Mayor and City Council of Baltimore*, 247 Md. 601, 606-07, 233 A.2d 800 (1967), dismissed an appeal of the grant of a height variance for lack of standing, but, in doing so, nevertheless opined:

Our dismissal of the appeal is not to be taken as showing that if the appeal properly was here we would affirm the Board. To grant a variance the Board must find from the evidence more than that the building allowed would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner. The Board must find there was proof of "*urgent necessity, hardship peculiar to the particular property*...." ... Specific reasons, specific bases to support the finding must be revealed by the evidence before the Board. [Emphasis added, citation omitted.]

In *McLean v. Soley*, 270 Md. 208, 210, 310 A.2d 783 (1973), one of the few reported Maryland appellate cases approving of a variance, the applicant for an area variance in connection

with an application to build forty units asserted that it was his desire to retain the "present trees and natural growth, terrain, and topography which provides excellent drainage and natural screening and beauty." There was evidence that, if the applicant destroyed the existing trees, he could have built 330 units without needing a variance. It was established that a number of attractive trees along the western boundary would have to be destroyed absent a variance. The Court noted that "there was considerable evidence to show the natural beauty of these trees and their importance to the ecology." 270 Md. at 211, 310 A.2d 783. The Court, seeming to acknowledge that it was making a detour from Maryland variance law, opined:

Given the unique facts of this case, we think those criteria are met by this evidence: That the construction of the buildings in strict compliance with the sideyard requirements would result in the destruction of the trees; that the preservation of trees in the construction of the first section had contributed to full occupancy ... that the benefits of retaining the trees would accrue to the general public; that greater density would result from strict compliance....

....
Concededly, this is a close case, but it is nevertheless sufficient....

Id. at 215, 310 A.2d 783. We would have to agree that it is a close case. The opinion does not make mention that the practical difficulty resulted from the fact that the uniqueness of the property caused the ordinance to have a different impact on it than on adjoining property. Also, there was no evidence that the neighboring properties were in any way different than the subject property. If the presence of trees on a particular lot was unique, that might have been a basis, but the court did not make that connection. Thus, this case, coupled with *Loyola Federal Savings & Loan Assoc. v. Buschman*, 227 Md. 243, 176 A.2d 355 (1961), and *Frankel v. Mayor & City Council of Baltimore*, 223 Md. 97, 162 A.2d 447 (1960), is among the affirmances of variances that we perceive to be, at best, extremely close calls and, as we shall indicate, exceedingly rare.

The Court in the sludge storage case of *AD + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 513 A.2d 893 (1986), reiterated the standards applicable to variances when it affirmed a trial court's affirmance of a zoning agency's denial of an area and other variances. The variances were necessary to satisfy the requirements for a conditional use permit to operate the sludge storage and distribution operation. The Court of Appeals noted that the trial court, in affirming the agency's denial of a variance, agreed that "the only hardships facing Ad + Soil were of its own making." 307 Md. at 317, 513 A.2d 893. After addressing the important preemption issues therein raised, the Court directed its attention to the area variances sought and, referring to the Board's findings, stated that, in Queen Anne's County, the Board's authority to grant variances was limited to a situation where "there are exceptional or extraordinary circumstances or special conditions applying to the property in question ... that do not apply generally to other properties ... in the ... district." *Id.* at 340, 513 A.2d 893. The Court concluded:

The board declined to grant the variances, concluding that Ad + Soil's "hardship" was self-inflicted, and, in any event, that it was not the result of exceptional or extraordinary characteristics of the land itself and therefore not the kind of hardship cognizable under the Zoning Ordinance....

We think the Board's decisions ... reflect no error of law.

Id. at 340-41, 513 A.2d 893 (emphasis added).

In *Red Roof Inns, Inc. v. People's Counsel*, 96 Md.App. 219, 224, 624 A.2d 1281 (1993), after noting the standard of review, we said:

In reviewing the zoning authority's decision, the court must consider all of the evidence in the administrative record. The reviewing court's role, however, is confined to determining the legality of the procedure employed and whether the decision was fairly debatable in light of the evidence adduced before the zoning authority.

The role of this Court "is essentially to repeat the task for the circuit court; that is, to be certain the circuit court did not err in its review." [Citations omitted.]

We then discussed the legal standards to utilize in respect to variances construing the same statute that applies in the case at bar, saying that variances may be granted "where special circumstances or conditions exist *that are peculiar to the land* ... and where strict compliance ... would result in practical difficulty...." *Id.* (emphasis added). We noted that, in regards to area variances, we were only concerned that the conditions peculiar to the land in question presented practical difficulties. In concluding that the Board had not acted wrongly in denying the variance at issue (a sign variance), we noted: "Zoning matters, including sign variance requests, depend upon the unique facts and circumstances of a *particular location* and must be analyzed individually." *Id.* at 227-28, 624 A.2d 1281 (emphasis added).

In *North v. St. Mary's County*, 99 Md.App. at 512, 638 A.2d 1175, we held that the ordinance there required a finding that "special conditions or circumstances exist that are peculiar to the land...." We there stated that, in the zoning context, the term "unique" has a customized meaning:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

.....
In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Ap-

peals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339, 513 A.2d 893 (1986), quoted from the Queen Anne's County ordinance:

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

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

Id. at 514-15, 638 A.2d 1175.

One indication of the general rule that variances are rarely appropriate is that, in our review of the reported Maryland cases since the creation of the state zoning enabling act in 1927, we have found only five reported Maryland cases in which the grant of a variance has been affirmed or the denial of a variance has been reversed. The cases are *McLean, supra*; *Stacy, supra*; *Sapero, supra*; *Loyola Federal Savings & Loan Assoc., supra* (a Baltimore County case); and *Frankel, supra*. All of these cases were decided over a twelve-year period and the last of them was decided more than twenty-one years ago. Three of them, *Frankel*, *Loyola*, and *McLean* appear to be somewhat at odds with accepted Maryland law. *McLean* was described by the Court as a "[c]oncededly ... close case...." *Frankel* has caused some confusion in that it has later been viewed by some as lowering the standards for the granting of variances. *Mayor and City Council of Baltimore v. Borinsky*, 239 Md. 611, 212 A.2d 508 (1965), involved one of the same issues that was presented in *Frankel*, *i.e.*, whether a zoning restriction so compromised the use of property as to constitute an unconstitutional taking absent the granting of a variance—a variance *Frankel* was granted. The Court noted that the trial court had found *Frankel* controlling. The Court of Appeals disagreed. The Court acknowledged

that Borinsky had the "same expert witness," "he was asked the same general questions ... and gave the same answers," and that the "economic suicide" present in *Frankel* was "doubly true in this instance." *Id.* 239 Md. at 624, 212 A.2d 508. The Court, nevertheless, made a factual distinction and declined to apply *Frankel*. Judge Barnes opined in dissent that, based on what the Court had done in *Frankel*, the facts for variances were stronger in *Borinsky*. *Sapero* and *Stacy* met traditional standards for the granting of variances. *Frankel*, *Loyola*, and *McLean* were anomalous cases.

In any event, nowhere in those five cases, or any others, has the Court of Appeals ever changed the Maryland rule relating to uniqueness and peculiarity of the subject property.

Cases from other jurisdictions are generally in accord.

The Supreme Court of Nebraska in *Bowman v. City of York*, 240 Neb. 201, 482 N.W.2d 537 (1992), reversed the grant of a variance for a structure after, pursuant to the variance, the structure was constructed. Citing an earlier Nebraska case, *Frank v. Russell*, 160 Neb. 354, 70 N.W.2d 306 (1955), and noting that the Nebraska statute had been made more specific in light of *Frank*, the court said 482 N.W.2d at 545: "[A] variance [may be granted] ... only if strict application of the regulation, because of the unusual physical characteristics of the property existing at the time of the enactment, [of the zoning ordinance] 'would result in peculiar and exceptional practical difficulties ... or exceptional ... hardships....'"

In *Shafer v. Zoning Bd. of Appeals*, 24 Mass.App. 966, 511 N.E.2d 635 (1987), the property owner had conveyed away several parcels from a larger tract leaving a parcel, the size of which was prohibited under the ordinance. The Board granted him a variance, the trial court reversed it, and the appellate court affirmed the trial court. The appellate court reiterated the trial court's finding:

There was no evidence ... regarding "soil conditions, shape or topography of [the property] ... especially affecting [the property] but not affecting generally the zoning district in which it is located".... The ... argument that

the insufficient width ... constitutes a special circumstance of "shape" is unpersuasive, particularly as the deficiency is one which they themselves produced through subdivision of the land they originally owned at a time when the 125 foot width requirement pertained.

511 N.E.2d at 636-37 (citation omitted). See also *VanLandschoot v. City of Mendota Heights*, 336 N.W.2d 503, 509 (Minn.1983) ("the plight of respondent was not due to circumstances 'unique to his property.' ... [S]ome of the problems were the result of illegal acts of respondent's predecessor in title, of which respondent was aware....")

In *St. Clair v. Skagit County*, 43 Wash.App. 122, 715 P.2d 165 (1986), a landowner applied for a variance of a lot width requirement on the grounds that the county had given him a permit to install a trailer on her fifty-foot wide lot even though the ordinance mandated a width of at least seventy feet. The zoning board, approving the variance, determined that she had applied for the permit in good faith. The Skagit County ordinance, as does the instant statute, provided that a variance had to be "because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings...." 715 P.2d at 167. The code also required that an application for a variance include a narration that "special conditions and circumstances exist ... peculiar to the land...." *Id.* The court then noted that the applicant had done there what Ward attempts to do in the case *sub judice*:

[The appellant] relied primarily upon the fact that the County issued a building permit ... and that she acted in good faith....

Id. at 168. The court responded: "Reasons for a variance must be reasons pertaining to the property itself.... Evidence of hardship or difficulty that will support a variance must relate to the land itself and not to the owner-applicant." *Id.* (citation omitted). The court added that "the 75-foot width and aggregation requirements do not put a burden on [appellant's] property which does not apply to other properties in the vicinity...." *Id.* at 169. In the case *sub judice*, the

Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood.

In *Walkingstick v. Board of Adjustment*, 706 P.2d 899 (Okla.1985), the zoning board, having failed to comply with notice requirements, granted a permit for an oil drilling well. Amoco had expended considerable sums before the board's omission was discovered. The relevant part of the ordinance involved was similar to the one in the instant case. After the court noted that the hardships alleged were not peculiar to the subject site, it stated the general rule that "a hardship created by the owner . . . constitutes no valid basis for a variance. . . . [D]eprivation of an advantage does not constitute an unnecessary hardship." 706 P.2d at 904. It concluded:

The need to expose tools to the ravages of the environment may be peculiar to Amoco. But, the language of section 44-107(2) [as does the language in the Baltimore County ordinance] clearly refers to conditions peculiar to the property, *not to activities peculiar to the owner of such property.* *Id.* at 904-05 (emphasis added).

In a decision somewhat difficult to understand, which carried the variance limitations to the extreme and predated the 1992 case of *Lucas v. South Carolina Coastal Council*, — U.S. —, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992), but had facts similar to *Lucas*, the Supreme Court of Delaware in *Baker v. Connell*, 488 A.2d 1303 (Del.Supr.1985), upheld a trial court's reversal of the grant of a variance even though the ordinance limited the use of applicant's entire lot to open space only. The zoning board had found that the property was unique because the entire property was zoned open space and *nothing* could be constructed there. The board permitted a variance to allow two semi-detached dwellings. The trial court reversed on the grounds that the 0-1 zoning did not make the property unique. The trial court noted that a need for a variance arises only when the plight of the property is unique in that it cannot reasonably be put to a conforming use. The trial court found that there was no evidence that the

property could not conform to open space land. The appellate court affirmed, stating:

[F]inancial return . . . alone, never justifies a variance. As to the unique character of the land, the mere fact that it sits entirely within the 0-1 zone does not make it unique. There is no evidence that this lot is the only one of its type in Rehoboth. Nor does it become unique because it adjoins the R-2 zone containing multi-family units.

488 A.2d at 1309. Whether this Delaware opinion remains viable in light of *Lucas* and *Dolan v. City of Tigard*, — U.S. —, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), is doubtful.

The case of *Xanthos v. Board of Adjustment*, 685 P.2d 1032 (Utah 1984), involved a factual scenario similar to the case *sub judice*. The Xanthoses received notice that they were in violation of the city zoning code. The building of a duplex by the Xanthoses caused a pre-existing dwelling to lose frontage on a public street and to violate set-back and parking requirements. The Xanthoses requested variances in reference to the violations. The court initially noted that, "in order to justify a variance . . . the applicant [must] show . . . that there are special conditions with regard to the property. . . ." 685 P.2d at 1035-36. The court continued:

What must be shown . . . is that the property itself contains some special circumstance that relates to the hardship complained of. . . .

. . . The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself. Simply having an old building on land upon which a new building has been constructed does not constitute special circumstances.

. . . .

Hardship is not demonstrated by economic loss alone. It must be tied to the special circumstances, none of which have been proven here. Every person requesting a variance can indicate some economic loss. To allow a variance anytime any economic loss is alleged would make a mockery of the zoning program. Further, the Xanthos[es] brought

their losses upon themselves. The application affirmatively alleged ... that no dwelling existed...^[8]

Id. at 1036-37 (footnotes omitted).

[1] The Xanthoses also argued, in a fashion similar to the argument in the case *sub judice*, that the city should be estopped because the plot plan submitted to the city showed the dwelling and the fact that the city failed to realize it misled them to their detriment. The court noted, in rejecting the Xanthoses' argument: "[T]o hold that the city should have been put on notice ... in the face of an affirmative statement that no such dwelling existed, would put a premium on prevarication ... and ... shift the burden of proof in variance cases to the city. None of these results is acceptable." *Id.* at 1038. In the case at bar, appellants' application for the permit contained a clear statement that he would comply with the zoning requirements. His plan's elevation schematics contained neither elevation dimensions nor scale. While the zoning inspectors might have been able to extrapolate dimensions from other schematics, they certainly were not required to do so in light of appellants' affirmative statement of compliance.

See also *Chambers v. Smithfield City*, 714 P.2d 1133, 1135 (Utah 1986), where the court stated: "[T]here is no evidence of special conditions attached to the property itself which do not also attach to other property in the vicinity. The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself." (Footnote omitted.) In a case involving the conversion of a garage into a dwelling, the Supreme Court of Virginia in *Prince William County Bd. of Zoning Appeals v. Bond*, 225 Va. 177, 300 S.E.2d 781 (1983), reversed a trial court decision reversing a zoning board's denial of a variance. The court noted that the conversion was underway when the Bonds discovered a need and applied for a variance. It opined that,

8. The application and plans in the case *sub judice* were, at best, vague and unclear as to the height of the structure.

in order to grant a variance, the hardship allegedly created by the ordinance must "not [be] shared generally by other properties in the same zoning district and the same vicinity." 300 S.E.2d at 783. It then held: "The limitation imposed by the zoning ordinance is one shared by all property owners in the A-1 district." *Id.*

The court in *Richardson v. Town of Salisbury*, 123 N.H. 93, 455 A.2d 1059, 1061 (1983), noted:

We have defined unnecessary hardship as follows:

"A hardship exists only if due to special conditions *unique* to a *particular parcel of land*, the ordinance unduly restricts the use.... The hardship must relate to the special character of the land rather than to the personal circumstances of the landowner." [Emphasis added.]

See also *Margate Motel, Inc. v. Gilford*, 130 N.H. 91, 534 A.2d 717 (1987); *Ryan v. City of Manchester Zoning Bd. of Adjustment*, 123 N.H. 170, 459 A.2d 244 (1983).

In *Sibley v. Inhabitants of the Town of Wells*, 462 A.2d 27, 30-31 (1983), the Supreme Judicial Court of Maine upheld the denial of a variance, holding:

[T]he need for a variance [must be] due to the unique circumstances of the property and not to the general conditions in the neighborhood;

... [T]he hardship [must] not [be] the result of action taken by the appellant or a prior owner.

... However, the mere fact that the lot is substandard is not a unique circumstance; all the undeveloped lots in that neighborhood are of substandard size....

... However, when a landowner purchases land with actual or constructive knowledge of the zoning restrictions, he may not be granted a variance on the grounds of undue hardship.

See also *Williams v. Salem Township*, 92 Pa.Cmwlth. 634, 500 A.2d 933 (1985) *alloc. denied*, 516 Pa. 615, 531 A.2d 781 (1987);

Hersh v. Zoning Hearing Bd. of Marlborough Township, 90 Pa.Cmwlth. 15, 493 A.2d 807 (1985); *Serban v. Zoning Hearing Bd. of the City of Bethlehem*, 84 Pa.Cmwlth. 558, 480 A.2d 362 (1984) (burden sustained); *Davis v. Zoning Bd. of Adjustment*, 78 Pa.Cmwlth. 645, 468 A.2d 1183 (1983) (burden sustained); *Malakoff v. Zoning Bd. of Adjustment*, 72 Pa.Cmwlth. 109, 456 A.2d 1110 (1983); *Immordino v. Zoning Hearing Bd.*, 65 Pa.Cmwlth. 79, 441 A.2d 818, 821 (1982) ("[P]roperty owner must sustain the heavy burden of proving that the zoning ordinance imposes an unnecessary hardship which is unique to his particular property....") (Emphasis added.)

A prerequisite to the granting of a hardship zoning variance is the presence of an exceptional and unique hardship to the individual landowner, *unique to that parcel* and not shared by other property owners in the area.... Indialantic's zoning restrictions are common difficulties shared by all other oceanfront lot owners in the area, and are therefore not the unique hardship required to support a variance.

Town of Indialantic v. Nance, 400 So.2d 37, 40 (Fla.App. 5th Dist.1981), *aff'd*, 419 So.2d 1041 (1982) (citation omitted). See also *Fort Lauderdale Bd. of Adjustment v. Nash*, 425 So.2d 578, 579 (Fla.App. 4th Dist.1983); *City of Naples v. Clam Court Marina Trust*, 413 So.2d 475, 477 (Fla.App. 2d Dist. 1982); *Lakeshore Property Owners Ass'n v. City of New Orleans Zoning Bd. of Appeals and Adjustments*, 481 So.2d 162, 168 (La.App. 4th Cir.1985), *cert. denied*, 494 So.2d 674 (1986).

We mentioned earlier that there are very few Maryland cases upholding the grant of a variance (or the reversal of a denial). We likewise note that this is also the case in foreign jurisdictions. We mentioned two cases from Pennsylvania above where this occurred. We now discuss several others.

A minimum lot area variance was affirmed in *Russell v. District of Columbia Bd. of Zoning Adjustment*, 402 A.2d 1231 (D.C.App.1979), where, due to the size of the lot, no viable economical use of the property could be had without the

variance. It was determined that the lot was the only lot in the area that had been subdivided into smaller lots prior to the adoption of the zoning ordinance. The Supreme Court of New Hampshire reversed the denial of a variance in *U-Haul Co. of New Hampshire & Vermont, Inc. v. City of Concord*, 122 N.H. 910, 451 A.2d 1315, 1317 (1982), saying: "The location and characteristics of the property involved create greater security requirements ... than ... other property in the area because the parcel ... is less central ... less populated and ... less serviced by law enforcement patrols. This hardship arises from the uniqueness of the building and the land itself." In *Atwood v. City of Portland*, 55 Or.App. 215, 637 P.2d 1302 (1981), *cert. denied*, 292 Or. 722, 644 P.2d 1131 (1982), application for a variance was granted and affirmed on appeal in part because the site was a steep and rocky slope, the former site of a landfill. See also *Higgins v. Township of Radnor*, 13 Pa.Cmwlth. 195, 318 A.2d 761, 763 (1974).

The treatise writers also are in accord with the rule that variances should only be granted when the uniqueness or peculiarity of a subject property is not shared by neighboring property and where the uniqueness of that property results in an extraordinary impact upon it by the operation of the statute, thus creating undue difficulty (or unnecessary hardship in respect to use variances).

It is *fundamental* that the difficulties or hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions to *particular property* and not general in character.... [I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion. If the hardship is common to the whole neighborhood, it may be ground for an exception or special use permit [if the statute so provides].... [T]he hardship [in order to justify a variance, however,] ... must relate to the particular property of the applicant....

McQuillin, *supra* § 25.167 (emphasis added, footnotes omitted).

[I]t is held that a variance may be granted only for hardship which relates specifically to the applicant's land. Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size.

Anderson, *supra* § 14.55 (1968).

It follows that the unnecessary hardship ... must relate to the land, not to the applicant-owner. Hardship which is merely personal to the current owner of real property will not justify the granting of a variance....

In each case [where the variance was denied], the hardship results from an error on the part of the landowner, not from an unduly severe impact of the regulations upon the land in question....

....

Reviewing a wide variety of variance applications based upon reasons personal to the applicant, the courts have consistently held that such personal difficulties do not constitute unnecessary hardship.

Anderson, *supra* § 18.30 (2d ed.) (footnotes omitted).

The most important part of [the] law of variances depends upon a distinction between two kinds of hardship. In one type of case, hardship in developing a given lot ... arises from circumstances peculiar to that lot ...; and in that case the appropriate remedy is ... a variance.... In the other types of cases, the hardship ... may arise because of conditions which are general in the neighborhood; ... it is often held that the appropriate remedy is a change in the zoning.... [T]he courts have usually (but not always) held that variances are inappropriate in that situation.

Williams, *supra* § 142.

The great strengthening of the criteria for granting variances, ... has thus been particularly evident in the number of cases emphasizing the requirement that hardship must arise from circumstances unique to the particular lot in question.... Moreover, the courts have again emphasized that a variance granted to take care of some hardship

personal to the applicant is not a unique hardship resulting from circumstances peculiar to the piece of land.

Id. § 142.06. See also Rathkopf, *supra* § 38.04; Yokley, *supra* § 21-6. ("The burden of proof is on the applicant to establish that his land is uniquely affected resulting in unnecessary hardship.").

Yokley quotes from *Taxpayers Association v. Board of Zoning Appeals*, 301 N.Y. 215, 93 N.E.2d 645, 647 (1950):

[T]he record does not show that the property suffers a unique or singular disadvantage, not common to other property in the district, through the operation of the zoning ordinance. Here, the hardship, if any, is general and characteristic of the entire area, and the remedy lies in a revision of the zoning ordinance through legislative action, not by the granting of a variance to a single property owner.

Yokley, *supra* § 21-6.

[2] We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been—a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists. Before applying the facts of the instant case to the law and, thus, resolving the case *sub judice*, we must touch upon two other aspects of the process, *i.e.*, the self-inflicted injury and the zoning authorities' acquiescence in issuing a building permit based on plans that left unclear the elevation of the structure and the subsequent inspection.

Self-Inflicted Hardship

[3] We have before referred to *Marino v. Mayor and City Council of Baltimore*, 215 Md. 206, 137 A.2d 198. There, the Court said, "it was incumbent [on the applicant] to [show] ... that the hardship was not the result of the applicants' own actions." *Id.* at 218, 137 A.2d 198. The Court of Appeals

noted in *AD + Soil, Inc. v. County Comm'rs*, 307 Md. at 340, 513 A.2d 893:

The essence of AD + Soil's argument ... is that the setback requirements ... would cause ... unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements.... The Board declined to grant the variances, concluding that Ad + Soil's "hardship" was self-inflicted ... and therefore not the kind of hardship cognizable under the Zoning Ordinance.

The Court affirmed the Board. Foreign jurisdictions are generally in accord. See *Pollard v. Zoning Bd. of Appeals*, 186 Conn. 32, 438 A.2d 1186, 1190 (1982) ("[S]elf-inflicted or self-created hardship ... is never considered proper grounds for a variance." ... "[W]here the applicant ... creates a nonconformity, the board lacks power to grant a variance.") (citations omitted); *Volkman v. City of Kirkwood*, 624 S.W.2d 58 (Mo.App.1981); *Matter of Schrader*, 660 P.2d 135 (Okla. 1983); *Ex Parte La Quinta Motor Inns, Inc. v. Greenville County Bd. of Zoning Appeals*, 279 S.C. 598, 310 S.E.2d 438 (App.1983); *McClurkin v. Board of Zoning Appeals*, 565 S.W.2d 495 (Tenn.1977); *Steele v. Fluvanna County Bd. of Zoning Appeals*, 246 Va. 502, 436 S.E.2d 453, 456 (1993) ("[T]he hardship, if any, was self-inflicted. The placement of the improvements ... was within the control of the Garretts and their contractor, Raintree."). See also *Shafer, supra*; *VanLandschoot, supra*; *Walkingstick, supra*; *Xanthos, supra*; *St. Clair, supra*. Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

The Granting of the Permit

In *Francis v. MacGill*, 196 Md. 77, 75 A.2d 91 (1950), a property owner sought equitable injunctive relief. The facts

were that while the enactment of a zoning ordinance was pending, the property owner obtained a building permit to construct that which would not be permitted after the enactment of the ordinance. After the ordinance was enacted, the owner constructed, pursuant to the permit, a building that had become prohibited by reason of the passage of the ordinance. The Court noted:

"Adoption of zoning ordinance *ipso facto* revokes permit for construction ... where no construction has begun."

... They completely ignored the Zoning Regulations, and they were engaged in an unlawful act.

196 Md. at 85, 75 A.2d 91 (citation omitted). The Court affirmed the revocation of the building permit.

The Court noted, pursuant to a timely appeal, in *Mayor and City Council of Baltimore v. Shapiro*, 187 Md. 623, 634, 51 A.2d 273 (1947), overruled on other grounds in *Nutter v. Non-Profit Housing Co.*, 230 Md. 6, 185 A.2d 360 (1962), where the ordinance was changed prior to commencement of construction under a permit, and where the change made that use, which was previously permitted, prohibited, that the "mere issuance of a permit ... does not create a vested right, or estop⁹ the municipal authorities from revoking it." In a case for the issuance of a mandatory injunction that involved an attempt to obtain a permit for what was alleged would be a nonconforming use the court opined in *Board of County Comm'rs v. Snyder*, 186 Md. 342, 347, 46 A.2d 689 (1946): "No permit was issued, and if it had been, it would have conferred no vested right, nor would it have created an estoppel."

In the mandamus case of *County Comm'rs v. Ward*, 186 Md. 330, 340, 46 A.2d 684 (1946), the Court held:

The Board ..., as an administrative body, was bound to follow the regulations it adopted, in the exercise of ...

9. The applicability of the "doctrine of zoning estoppel" has still not been accepted (or rejected) by the Court of Appeals in spite of the opportunity presenting itself to that Court as recently as our case of *Offen v. County Council*, 96 Md.App. 526, 625 A.2d 424 (1993), *rev'd in part*, 334 Md. 499, 639 A.2d 1070 (1994).

delegated legislative power. The fact that it might have rezoned ... does not alter its obligation to adhere to existing regulations....

In the case of *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), a case seeking injunctive relief by way of a restraining order, a city officer mistakenly issued a building permit for an ice factory when the statute prohibited ice factories. The Court there held:

A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law.... [T]he ordinance forbade the officials ... to grant the permit which the plaintiff asked and obtained....

... [I]t was therefore unlawful for the officers ... to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued ... does not ... prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality.... *Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.*

So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act ... it is not estopped by the unauthorized or wrongful act of its officer ... in issuing a permit that is forbidden by the explicit terms of an ordinance.... *Valentine v. Rds. Directors*, 146 Md. 199, 206 [126 A. 147] [(1924)].... [Citations omitted, emphasis added.]

164 Md. at 227-28, 164 A. 743.

The Court cited *Lipsitz* in *Inlet Associates v. Assateague House Condominium Assoc.*, 313 Md. 413, 545 A.2d 1296 (1988), a case seeking specific performance and injunctive relief, and also cited *City of Hagerstown v. Long Meadow*

Shopping Center, 264 Md. 481, 287 A.2d 242 (1972), a case of a timely appeal of the denial of a building permit. In *Inlet Associates*, the Court opined that "[c]onsequently, [e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority." 313 Md. at 437, 545 A.2d 1296. The Court added: "[T]he doctrine of equitable estoppel 'cannot be ... invoked to defeat the ... enforcement of ... ordinances, because of an error or mistake committed by one of its officers ... which has been relied on by the third party to his detriment.'" *Id.*

[4] Accordingly, it appears clear that the mistake of a county official cannot be the "practical difficulty" unique to the subject property required in order to authorize the grant of the variance sought and obtained by Ward.

The authorities elsewhere are in accord.

The master also erred in finding that unnecessary hardship resulted from the plaintiffs' reliance upon representations by the selectmen. This finding disregards the principal that hardship relates to the special character of the land, not to the circumstances of the owner.

Richardson, 455 A.2d at 1062.

[R]elator argues the Board should be estopped from denying the height variance because a city building inspector visited the premises several times and observed the construction taking place but made no complaint....

In any case there is no authority on the part of a building inspector to grant a variance....

Katz v. Board of Zoning Adjustments, 232 So.2d 546, 548 (La.App. 4th Cir.1970). See also *Klanke v. Zoning Bd. of Adjustment*, 83 Pa.Cmwlth. 441, 477 A.2d 907, 909 (1984), and *Walkingstick, supra*; *Xanthos, supra*; and *St. Clair, supra*.

Resolution

We resolve here only the issue of the granting of the variance sought and applied for by Ward.

[5] There was no evidence submitted to the Board that the subject site was in any way peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties. In essence, the impact would be the same. The first step of the variance process was thus not met. Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct. There was, however, no such evidence presented. Therefore, the Board's granting of the variance was arbitrary and illegal.

It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper. We shall reverse.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.

651 A.2d 442

RICHARD F. KLINE, INC.

v.

SIGNET BANK/MARYLAND.

No. 618, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Jan. 4, 1995.

After general contractor filed for bankruptcy, subcontractor sued construction lender to recover total sums unpaid under subcontractor's contract with contractor. The Circuit Court, Frederick County, G. Edward Dwyer, J., entered summary judgment in favor of lender, and subcontractor appealed. The Court of Special Appeals, Wenner, J., held that lender had not been unjustly enriched.

Affirmed.

1. Appeal and Error $\S$ 863

When reviewing grant of motion for summary judgment, appellate court must determine whether trial court was legally correct in granting motion.

2. Implied and Constructive Contracts $\S$ 3

Claim of unjust enrichment requires trial court to determine whether contract between parties should be implied as matter of law, i.e., whether quasi-contract exists.

3. Judgment $\S$ 181(19)

When facts are undisputed, whether quasi-contract exists is question of law that may be decided on motion for summary judgment.

4. Implied and Constructive Contracts $\S$ 3

Construction lender was not unjustly enriched even though subcontractor could not obtain mechanics' lien or sue for breach of contract because general contractor had filed for

Per,
#4

John W. Hill, FAIA, Architect
Professor Emeritus, School of Architecture, University of Maryland
B.A., B.Arch., Rice University; M.Arch., Univ. of Pennsylvania
Registered architect, Maryland and National Council of Architectural Registration Boards

703 Kingston Road, Govans Station
Baltimore, MD 21212-1939
Tel./FAX 410 377 9018
e.mail Johnwhill@aol.com

Architect, Founding Dean (1967-'82), Acting Dean (1990-'91), School of Architecture, University of Maryland, College Park, MD. Professor, University of Maryland, 1967-98, with prior academic appointments at Louisiana State University and University of Kentucky. Visiting Professor or Lecturer, Peking University (Beijing, China); Morgan State University; The Catholic University of America; Johns Hopkins University; Smithsonian Institution; UCLA; University of Oregon; Yale University; Hampton Institute; University of Utah; Tsinghua University (Beijing, China); Tong Ji University (Shanghai, China); University of South China, (Guangzhou, China); Nanjing University; Guilin Planning Agency (China). Numerous consultancies, including Villanova University (during an architect selection process), City of Baltimore; town of Sykesville, MD; World Bank; Calvert and Cecil Counties, MD, and private clients.

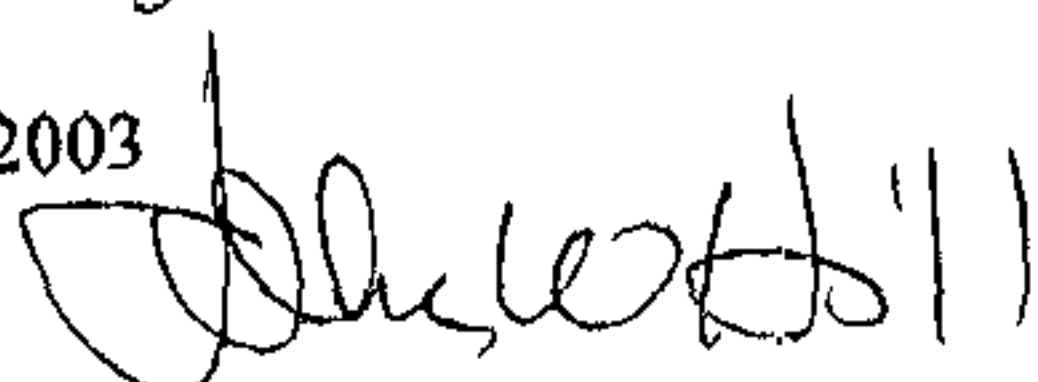
Member and Vice Chair, *Landmarks Preservation Commission*, Baltimore County; member for sixteen years of the *Governor's Consulting Committee on Historic Preservation*, which reviewed nominations from Maryland for the National Register of Historic Places; member for twenty-nine years of the City of Baltimore *Design Advisory Panel* which reviewed and advised the City government on architectural and urban design proposals. Member of the Board, CADRE Corporation, the Center for Architectural Design and Research, Univ. of MD. *Architectural Advisor* to the Mount Vernon Ladies' Association, owners and operators of the Mount Vernon Estate in Virginia.

At the School of Architecture, University of Maryland, was an instructor in the subjects of architectural design, neighborhood planning and design, ex-urban growth management and real-estate development economics. (Appointed *Professor Emeritus* September, 1998.)

Research interests: morphological studies of towns and neighborhoods, and the conservation and preservation of rural and small town cultural landscapes. Recent publications: *The Economics of the New Urbanism, Case Studies from Regional Investigations*, in Defining the Urban Condition, the proceedings of the European Conference of the Association of Collegiate Schools of Architecture, Lisbon, 1995; *Roman Classicism on the Riverbank: Two Unspoiled Colonial Planned Villages in Maryland and Their Lessons for Contemporary Design*, in Where Rivers Run Through, the proceedings of the national convention of the Canadian Society of Landscape Architects, 1995; *Village Zoning: A Strategy for Protecting the Historic Rural Landscape*, in Making Towns: Principles and Techniques, School of Architecture, Univ. of Md., 1994; *Modeling Future Development on the Design Characteristics of Maryland's Traditional Settlement Patterns* (with Larry Duket and Mike Nortrup), Maryland Office of Planning, Baltimore, 1994. Authored *George Washington Watched Here*, with Catherine Mahan and Ferd Johns, published in Landscape Architecture, Jan. 1981. (This article describes efforts to protect the view across the Potomac River from Mount Vernon.)

Continuously involved in architectural practice from 1960-present at different times in Texas, Louisiana, Kentucky and Maryland. Completed commissions include authorship of an RFP for the stabilization of historic buildings located at the former *Bainbridge Naval Training Center*, Port Deposit, MD (for the Bainbridge Development Corporation, 2001-02); *Warfield: Illustrative Plan and Design Guidelines* (preparation of overlay zoning ordinance, development regulations and design guidelines for the Warfield Annex, town of Sykesville, Maryland, (1999-2000); private residences, family and elderly housing, church design, institutional and commercial office and retail projects. Construction observation agent for landowner (Prince George's County) during construction of the Capitol Centre (now USAir Center); project architect for three major buildings at Rice University. Honors include advancement to *Fellow of the American Institute of Architects* (1979), citations from the Governors of Maryland and Kentucky, The Maryland House of Delegates, and several small towns in Maryland. Design honors include local, regional and national design awards for residential design and family and elderly housing.

John W. Hill, FAIA / Sept. 2003

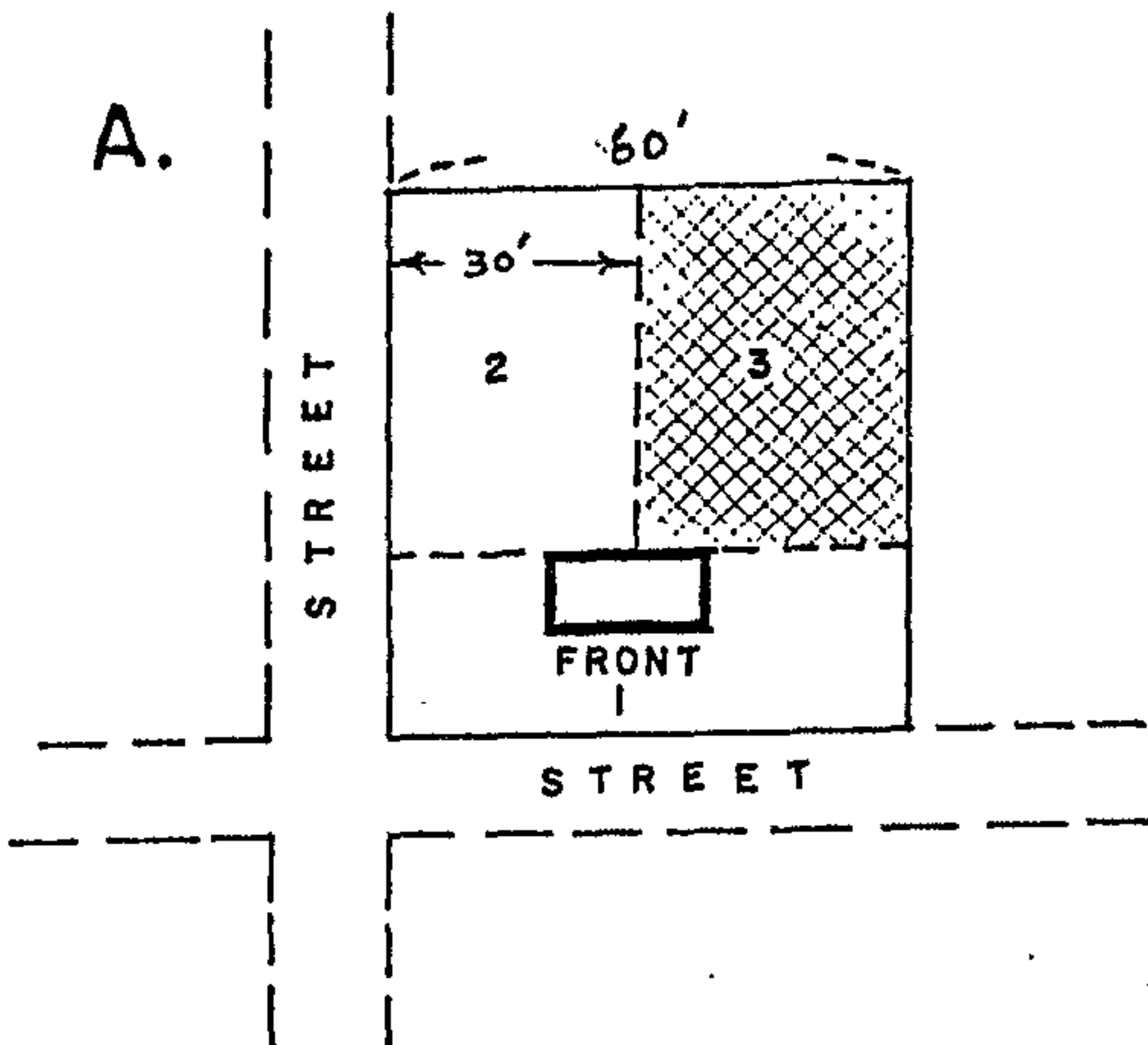


Pet. #125

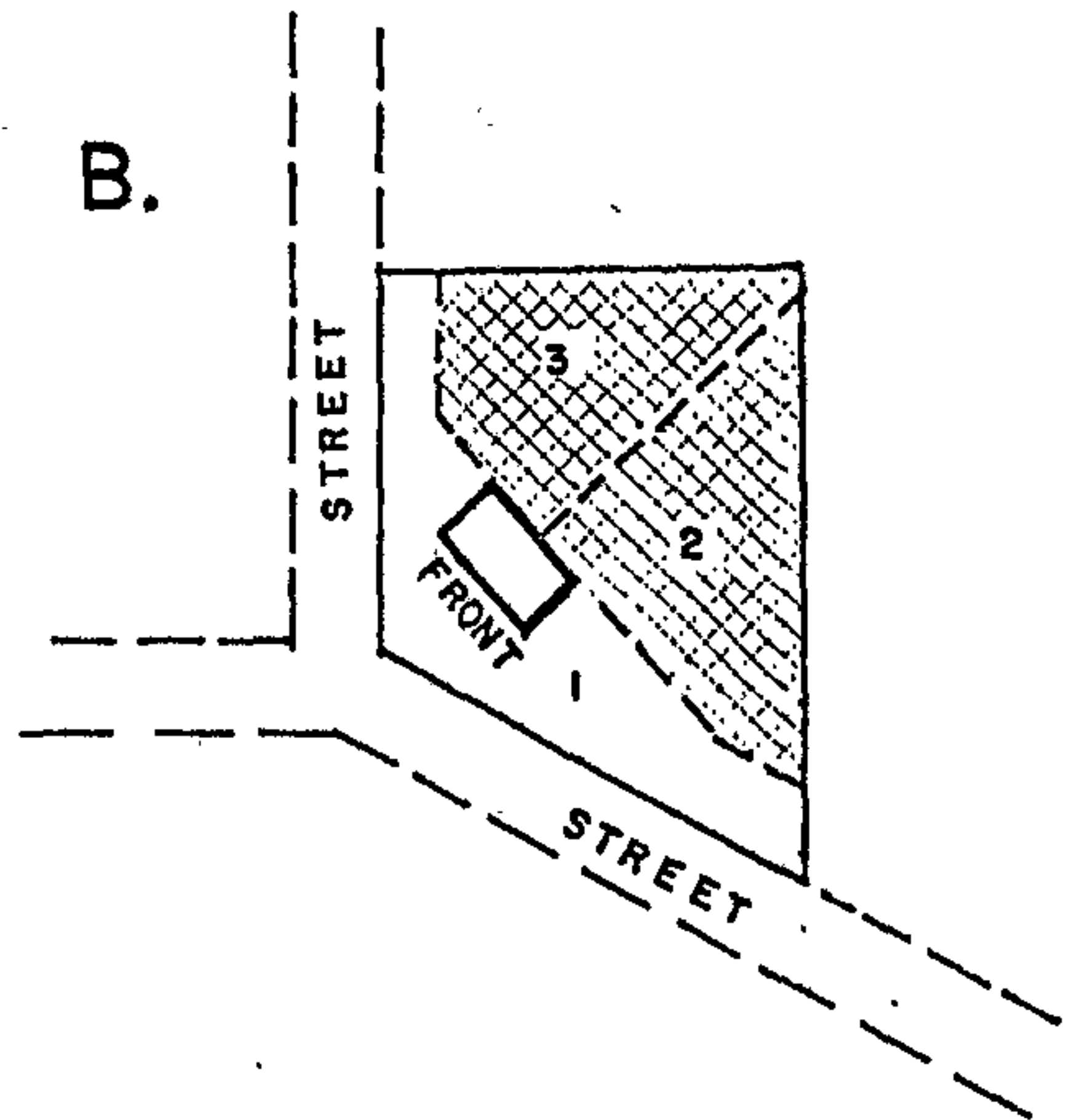
D-6 CORNER LOTS — PERMITTED ACCESSORY BUILDING OR USE LOCATION

"Section 400.1- Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2½ feet from any side or rear lot lines....."

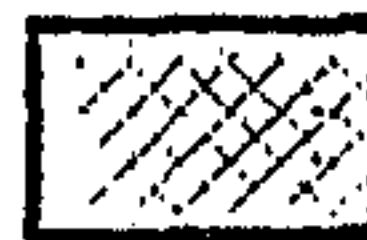
A.



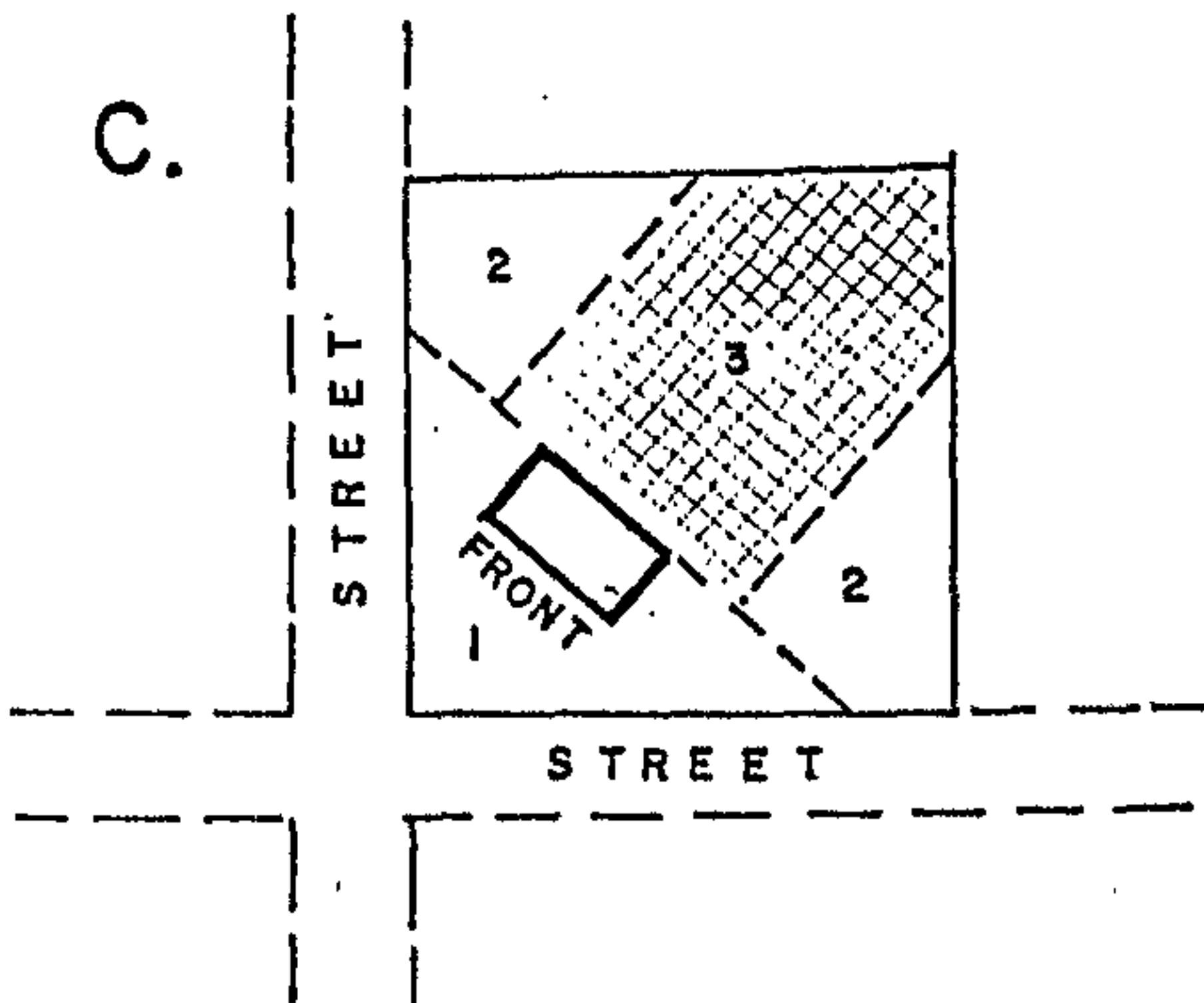
B.



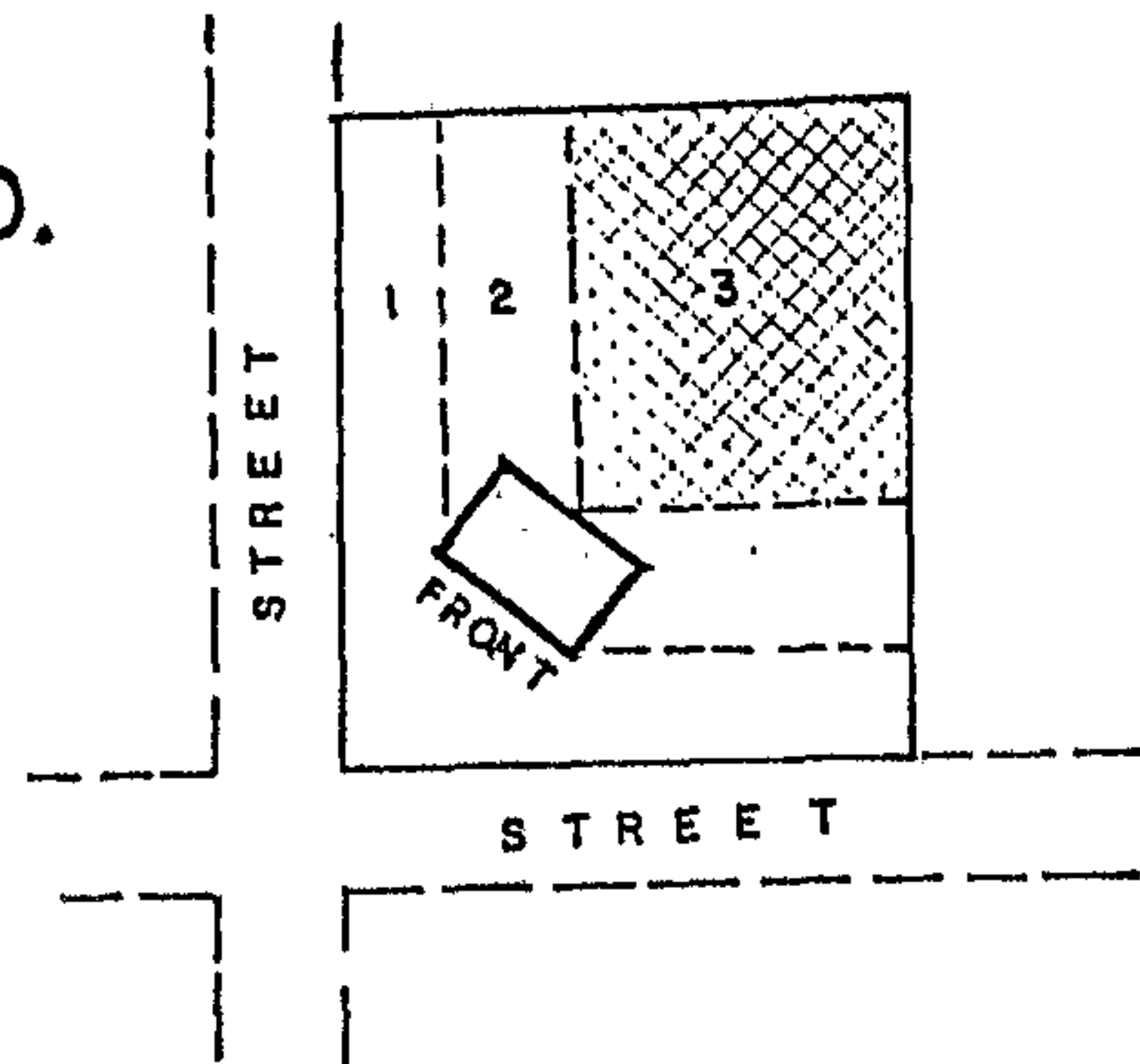
Permitted Location



C.



D.



Page #6

Managing Maryland's Growth

Modeling Future Development on the Design Characteristics of Maryland's Traditional Settlements

- *Enhancing Community Character*
- *Preserving the Historic Rural Landscape*
- *Protecting Scenic Values*
- *Establishing Design Policies*
- *Preparing Regulatory Controls*

The Maryland Economic Growth,
Resource Protection, and Planning Act of 1992

Maryland Office of Planning
School of Architecture, University of Maryland

HC

Section Four: A Metropolitan Suburb

STONELEIGH is the only metropolitan suburb considered here. Laid out in sections between 1923 and 1954, it comprises an archetypal traditional "edge city" suburb. Until it was demolished in 1954, Stoneleigh House, designed in about 1853 by John Niernsee for the Brown family, stood in the midst of the site. In 1923, the Stoneleigh Corporation laid out the first section of the community, on a part of the Brown property. The first streets were planned as a grid, except for Stoneleigh Road, which followed the curving path of the existing Stoneleigh House approach drive.

Stoneleigh's second phase, platted in 1927, followed the gridded pattern. The final phase, platted in 1954, and occupying the site of newly-demolished Stoneleigh House, was laid out in gently curving streets and three short cul-de-sacs.

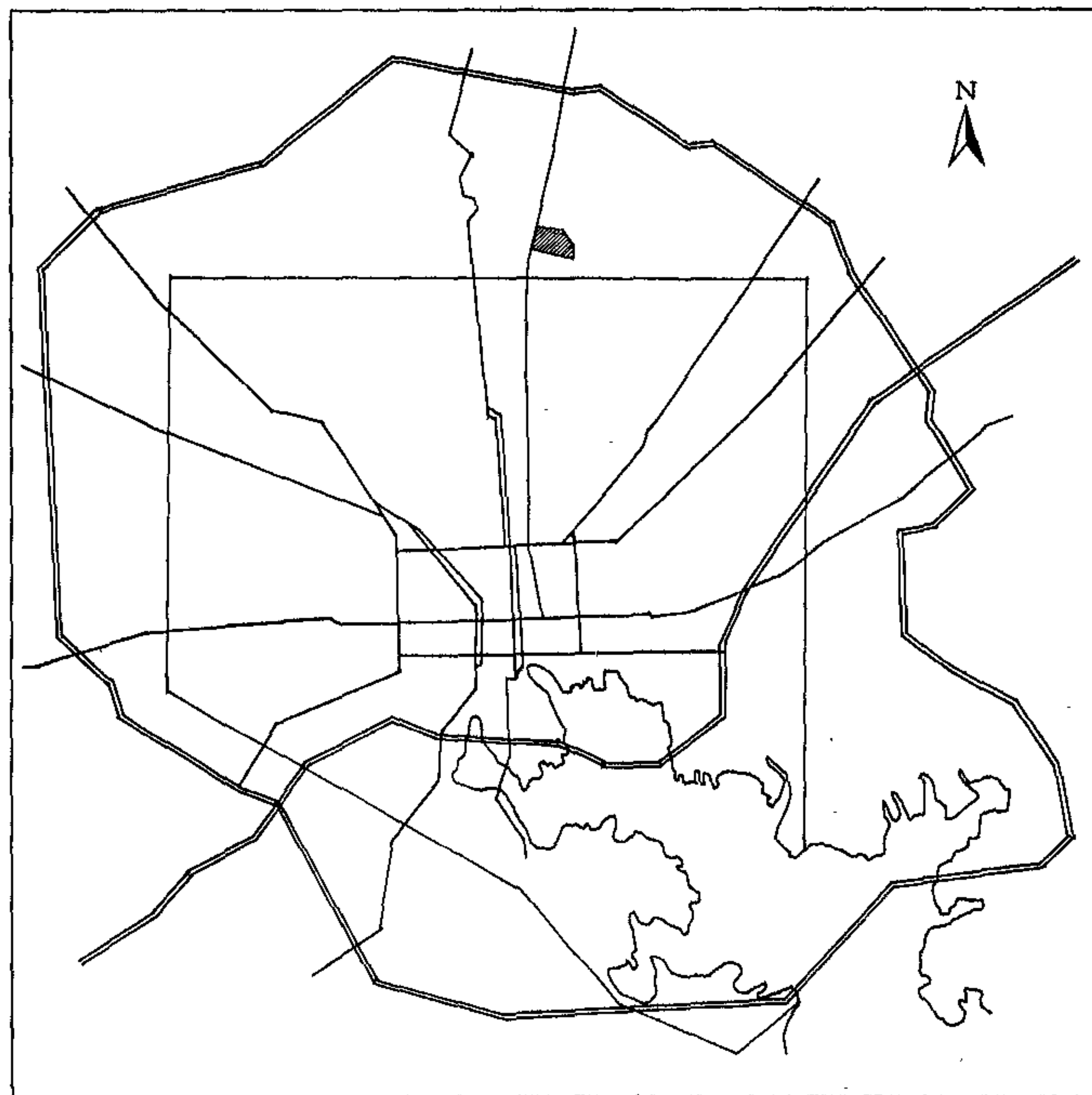
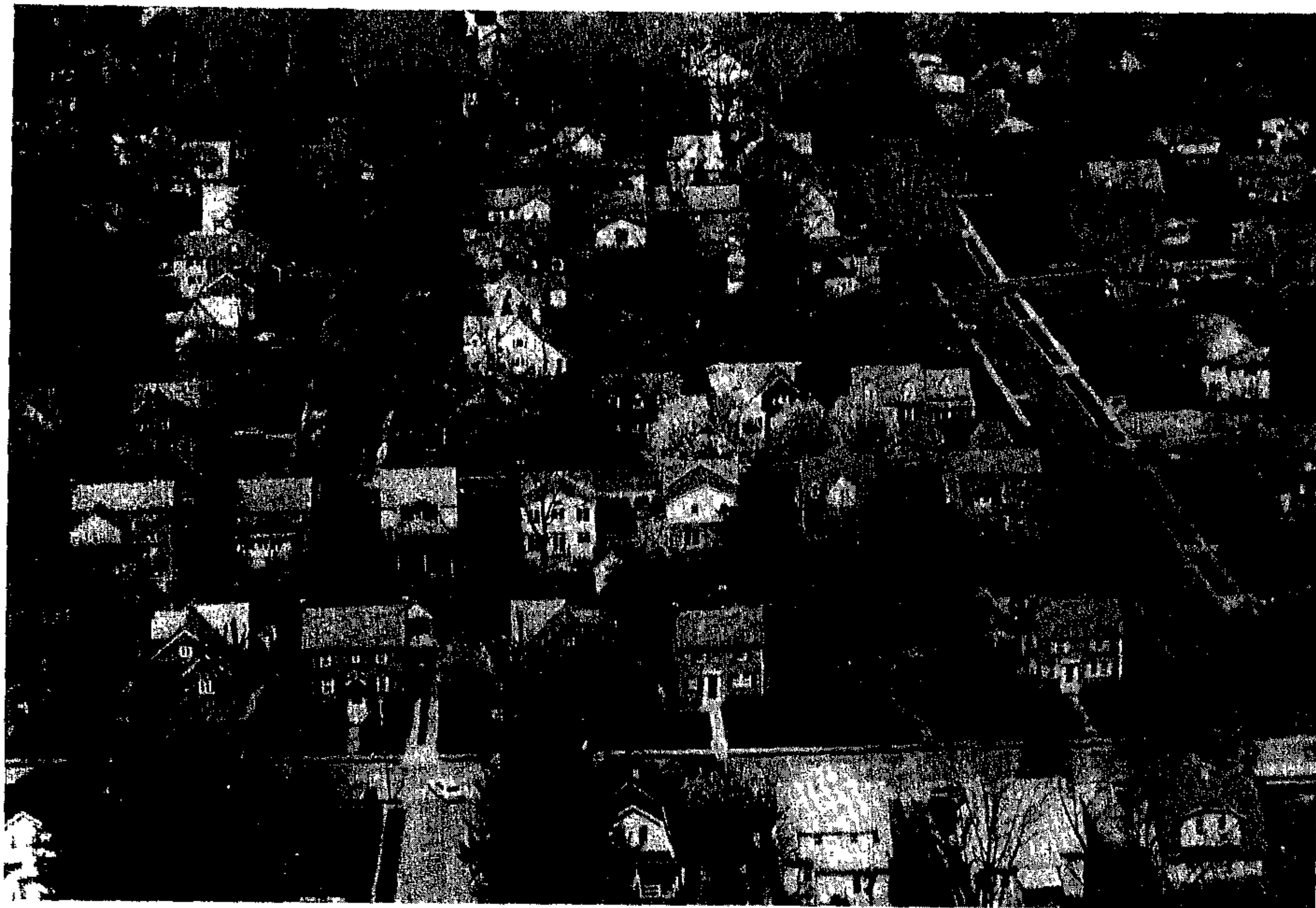


Fig. ST1
Location Relative
to Baltimore City

Fig. ST2

Aerial View Looking North from Regester Avenue



Lots in Stoneleigh were laid out in 25-foot "rods". Most residences occupy lots 50 feet wide and 125 feet deep. Slightly wider lots are typical of corners, and larger lots enfront Stoneleigh Road. Net density is 3.8 D.U./acre, with 492 units.

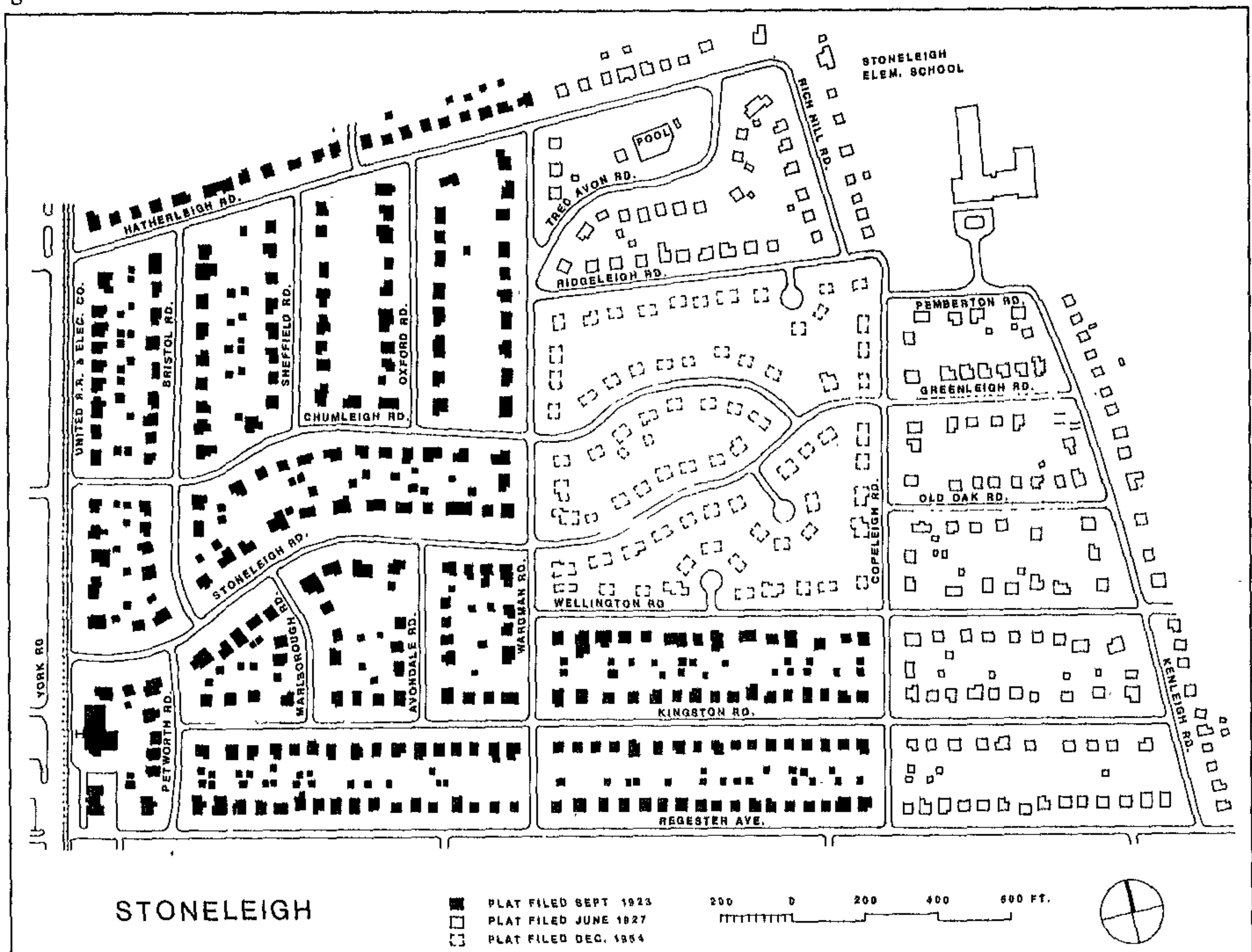
With the exception of the 1954 streets, which are about four feet wider, streets in Stoneleigh are 17' to 20' in width, with unlimited on-street parking. This arrangement slows traffic, especially on the older streets, as vehicles weave their way to their destinations. Today, these residential access streets would likely be required to have 30-foot cartway widths. The narrowest street, interestingly, is Stoneleigh Road, whose cartway is only seventeen feet wide. Stoneleigh Road, as noted, is the site of the largest houses and the deepest setbacks. Its houses were the first to be built in the community; they were built by the developer to establish an initial "cachet" of architectural taste and distinction, to establish the marketing niche targeted by the Stoneleigh Corporation. Stoneleigh Road's street corridor is visually-narrowed by magnificent street trees, many of which were planted in about 1853 by Robert P. Brown.

Kingston Road represents a typical street corridor in Stoneleigh. It consists of a twenty-foot cartway, with six-foot planting strips, four-foot sidewalks and twenty-five foot setbacks on each side. Rolled curbs edge the street except for radiused corners at intersections, which are formed with conventional curbs and gutters. Corners are radiused at about ten feet, beginning at the back edge of the sidewalk.

Apart from the small-scale commercial activity situated at Stoneleigh's south entrance, at the intersection of Register Avenue and York Road, the two "centers" of neighborhood social life are the community pool, which occupies the site of the former Stoneleigh House ice pond, and the 1929 elementary school, located at the northeast corner of the neighborhood. Neighborhood streets, in fact, comprise the locus of most of the recreational activity in the community.

Fig. ST3

Neighborhood plan showing growth over time



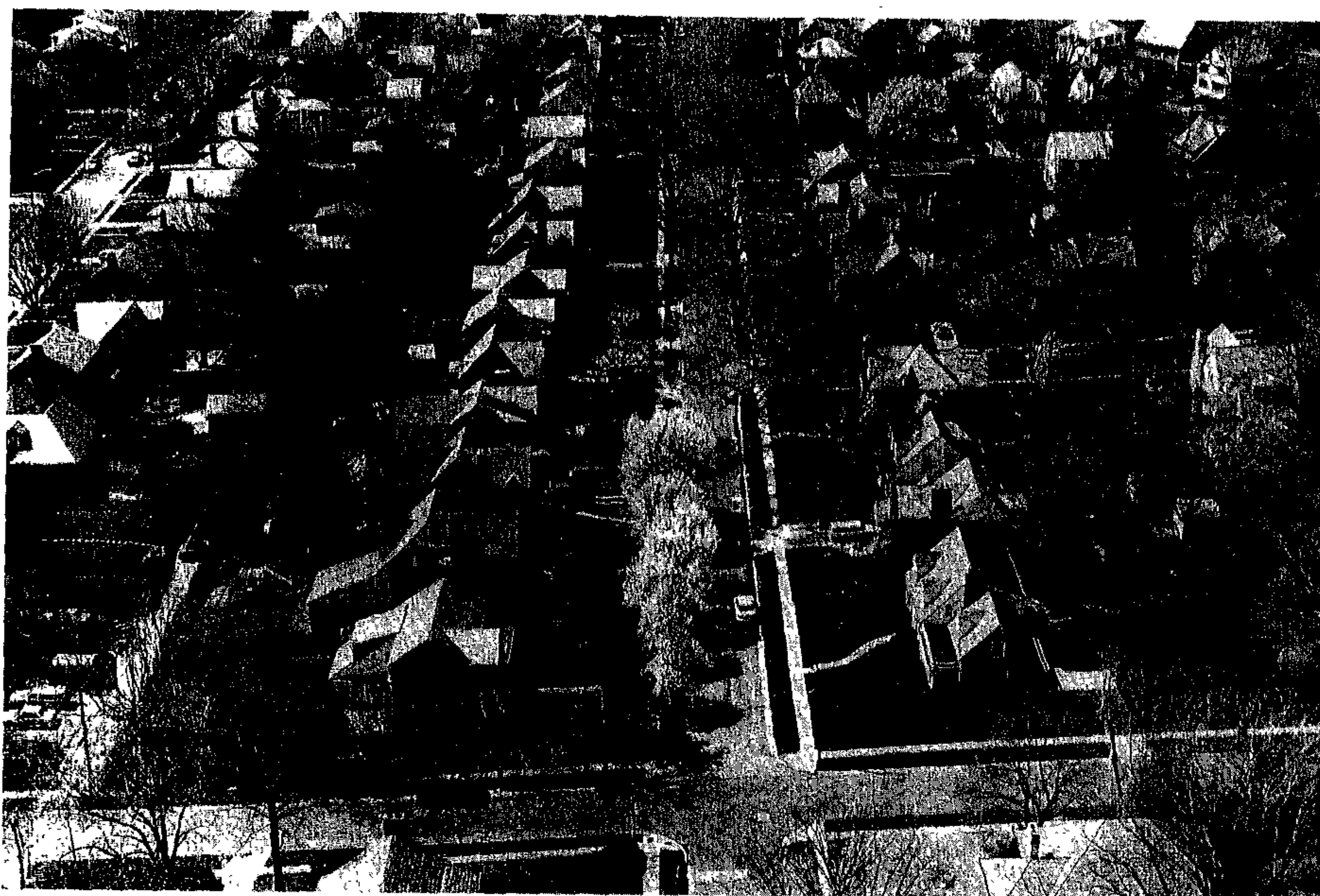


Fig. ST4

Aerial View of Kingston Road Looking West from Wardman Road

York road once accommodated a streetcar line to downtown Baltimore; it is, today, an automotive arterial, dividing Stoneleigh from the neighborhood of Rodgers' Forge, to the west. Stevenson Lane and Regester Avenue, both collector streets, divide the community from Wiltondale to the north and Anneslie to the south. A creek and wetlands sensitive area divides Stoneleigh from Idlewylde, to the east.

Stoneleigh's architecture is eclectic and varied, representing numerous styles and material palettes. However, the consistent use of slate on its steep roofs, together with its intimate urban order and its stately street trees, gives the neighborhood a very coherent image and visual identity.

Fig. ST5
*Kingston Road
Component Site
Plan*

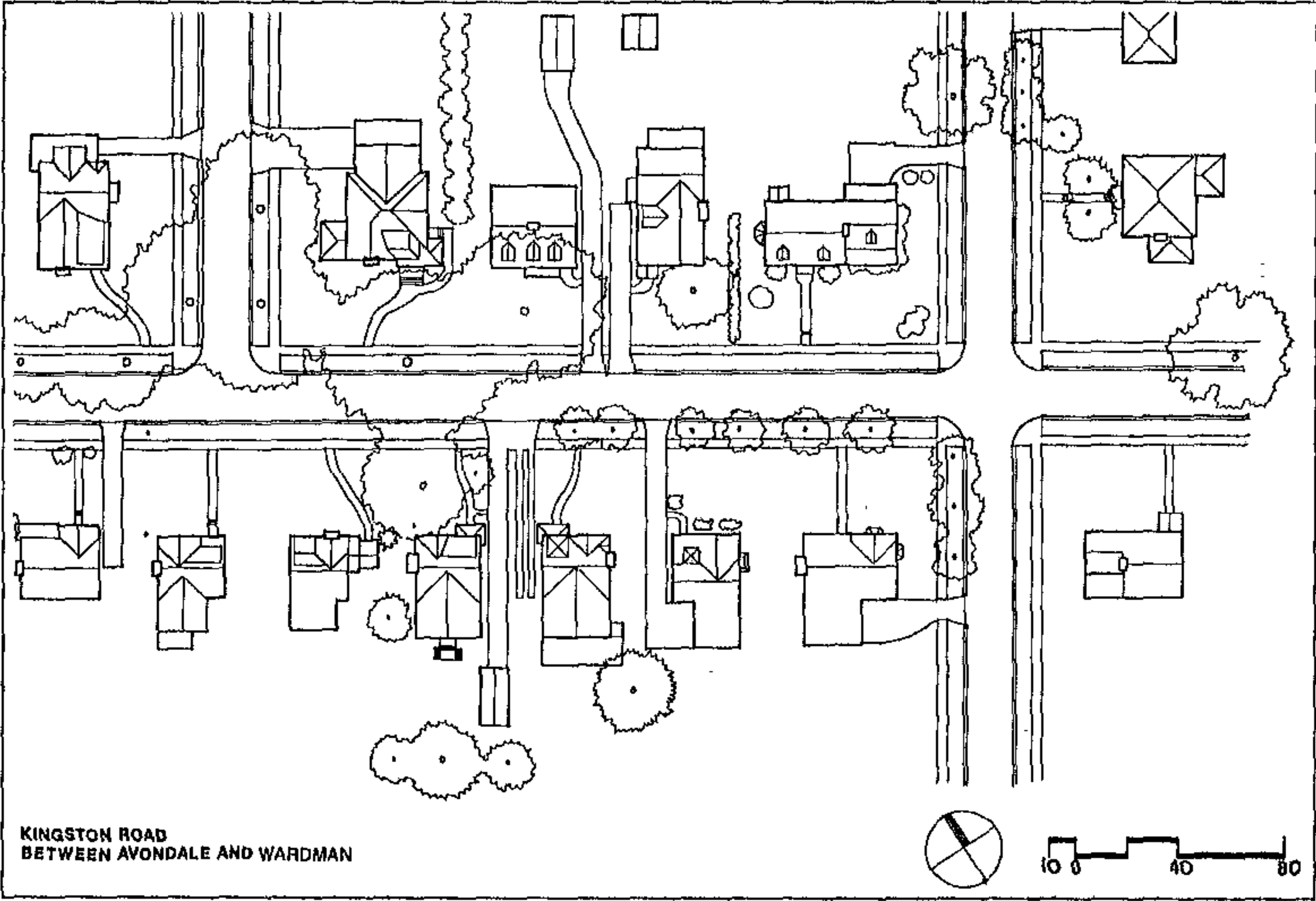


Fig. ST6
Kingston Road Street Corridor Section

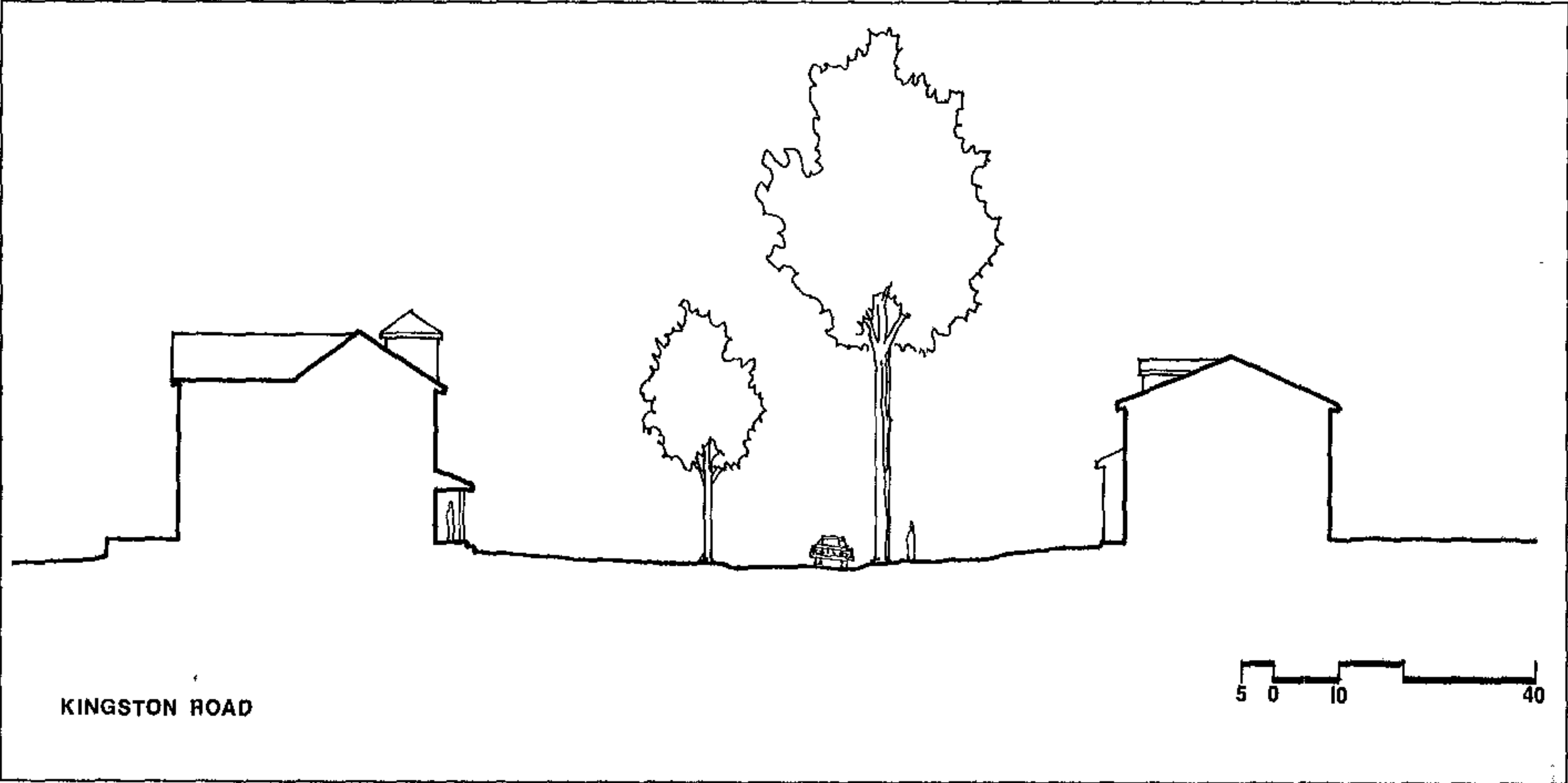


Fig. ST7

Kingston Road Architectural Character

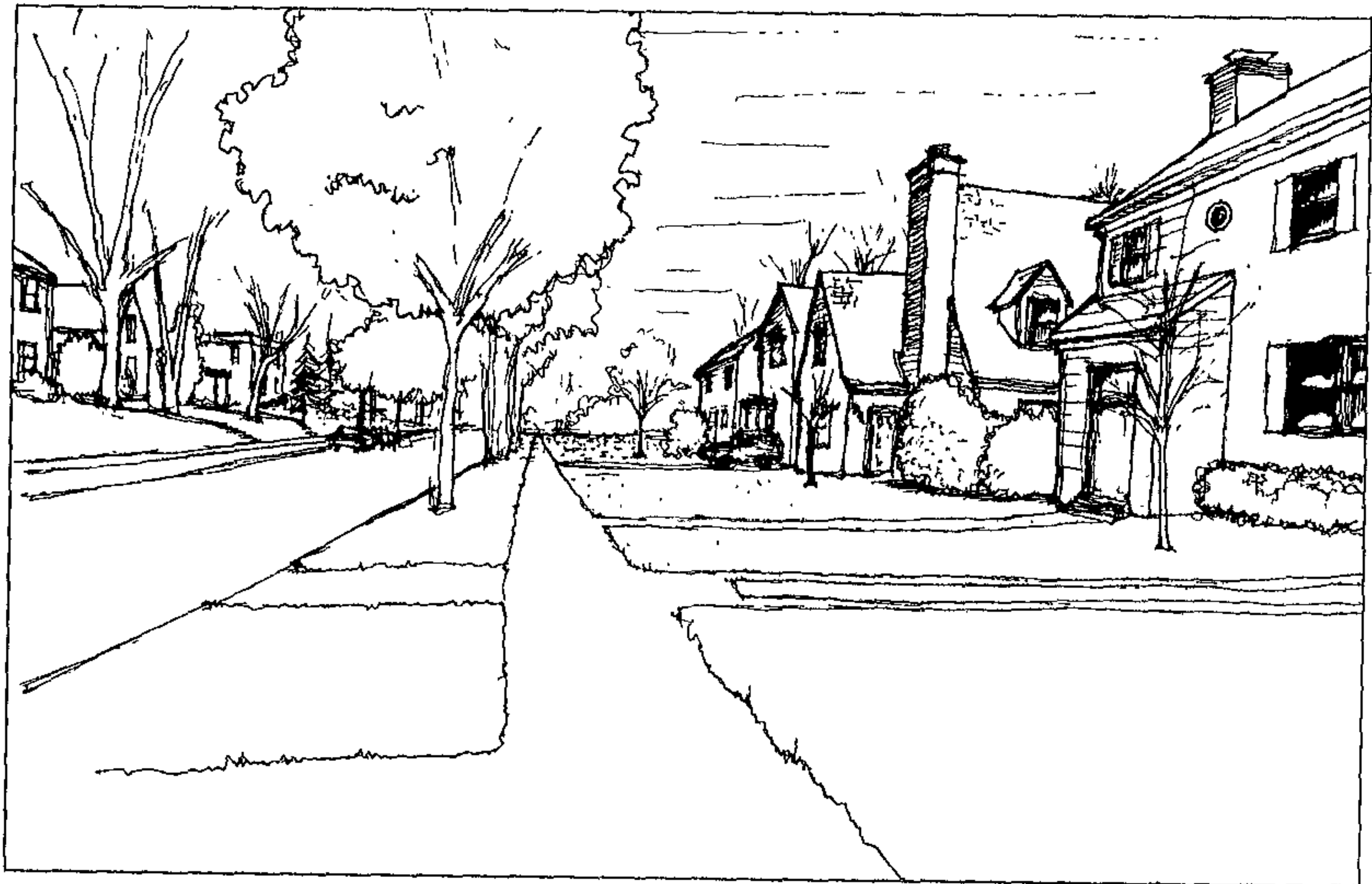


Fig. ST8

Aerial View of Stoneleigh Road Looking West

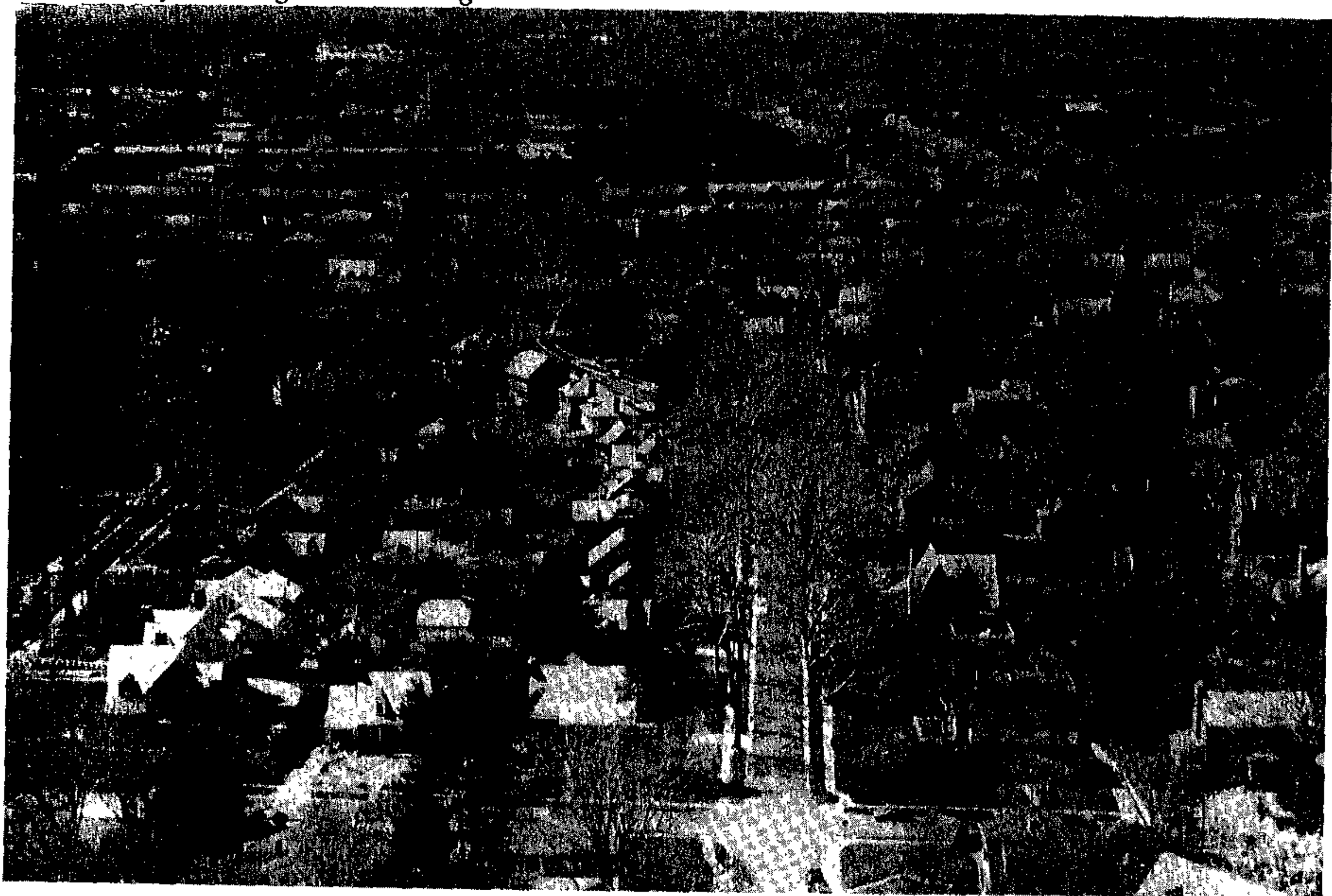


Fig. ST9

Stoneleigh Road Component Site Plan

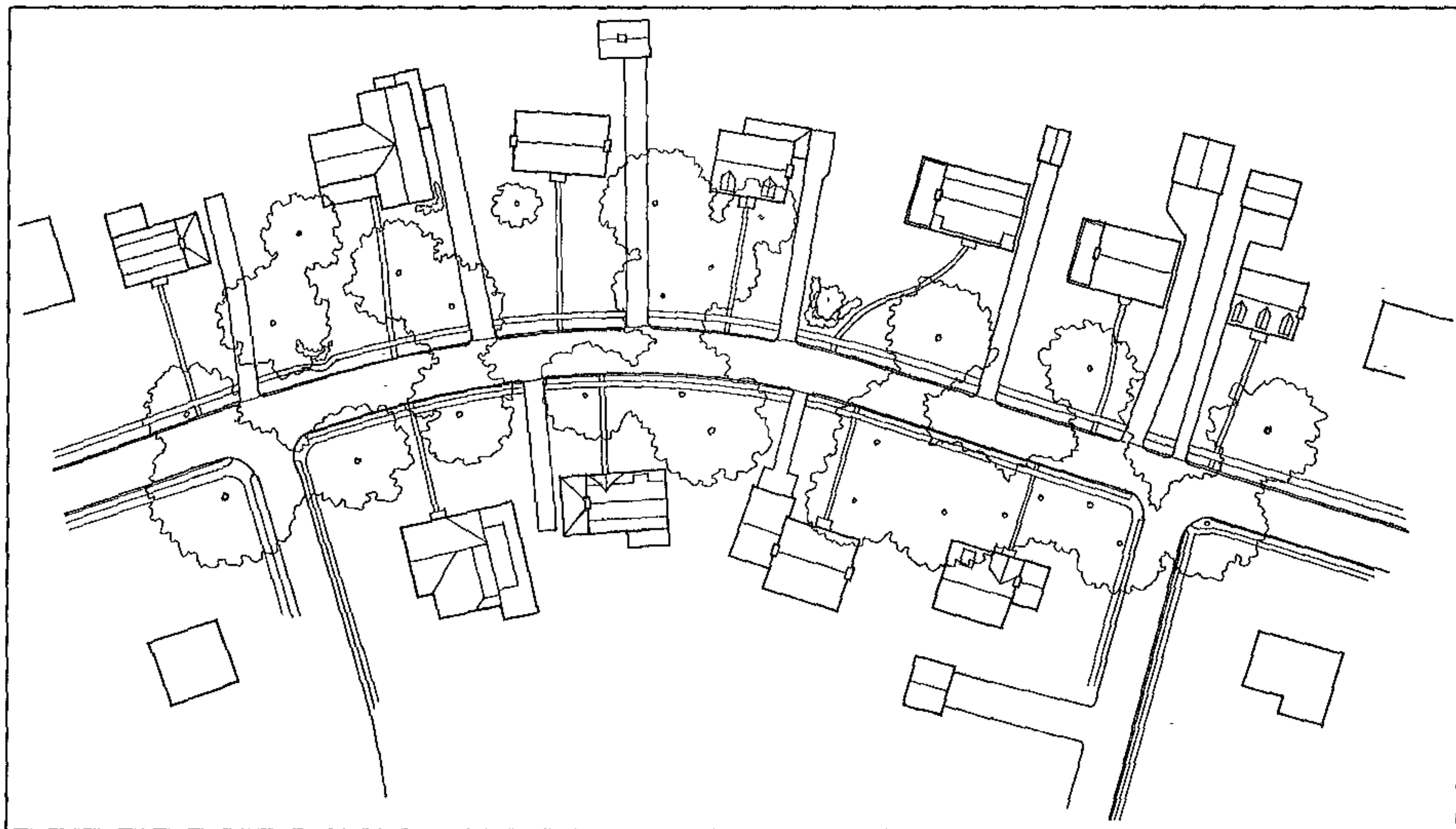


Fig. ST10

Stoneleigh Road Street Corridor Section

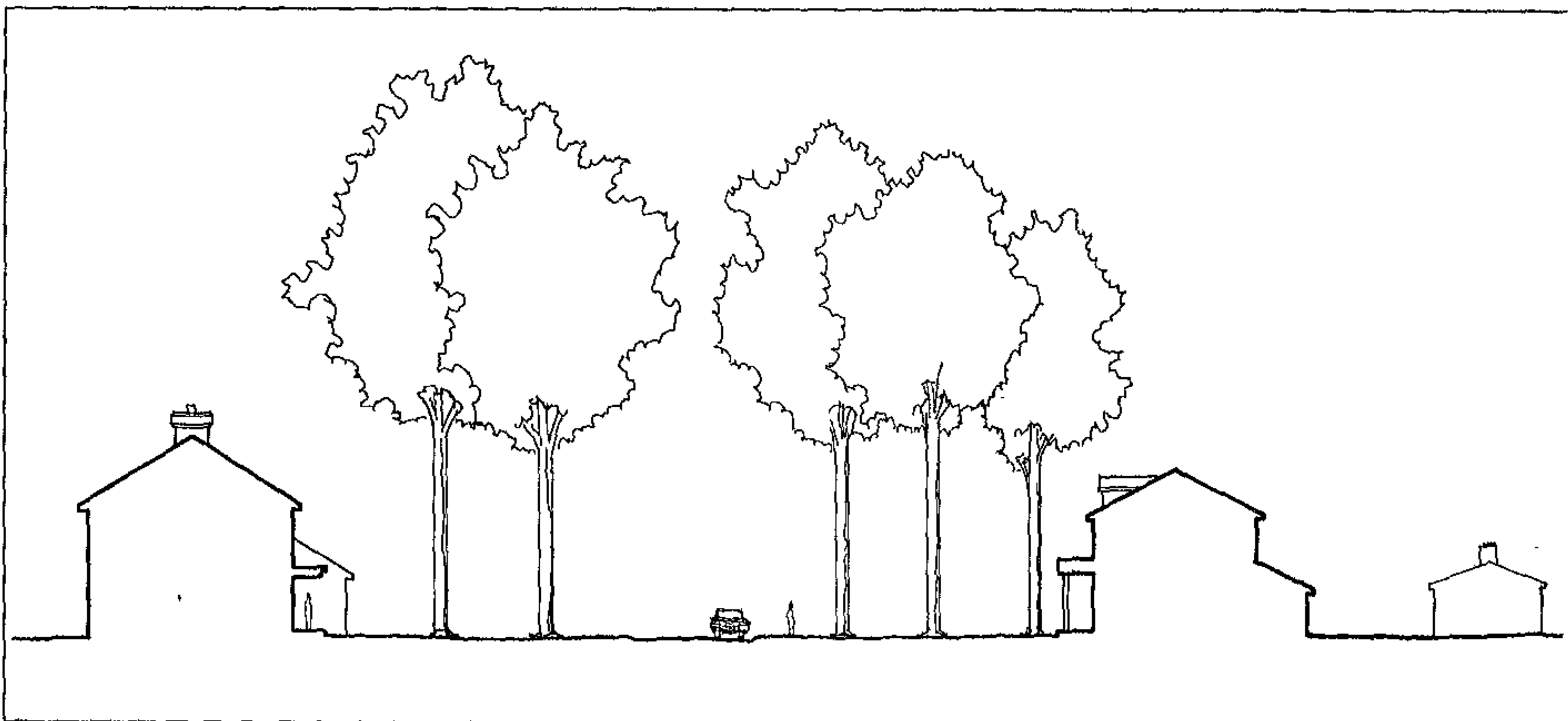


Fig. ST11

Stoneleigh Road Architectural Character

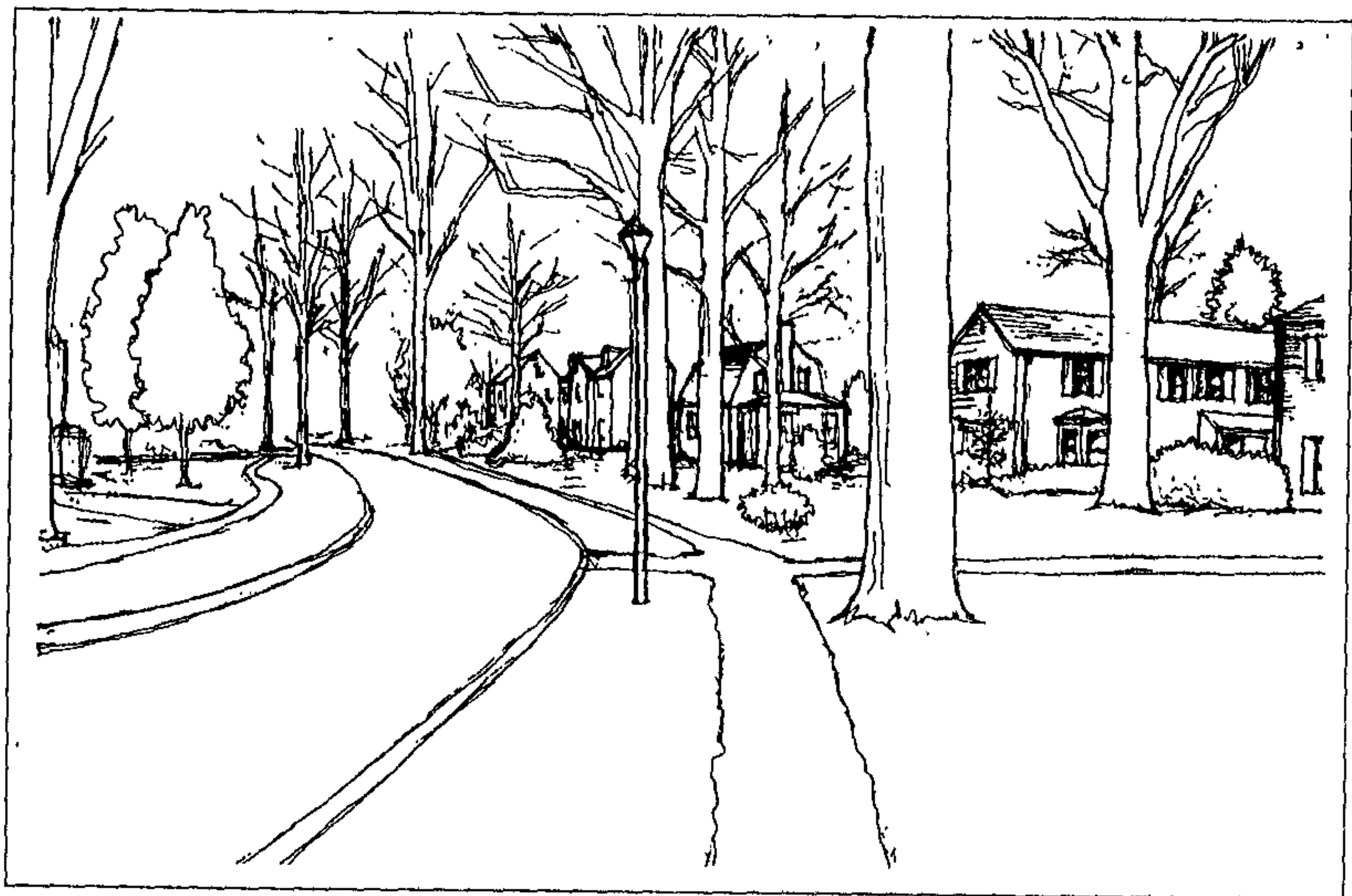


Fig. ST12

Stoneleigh Pool Component Site Plan

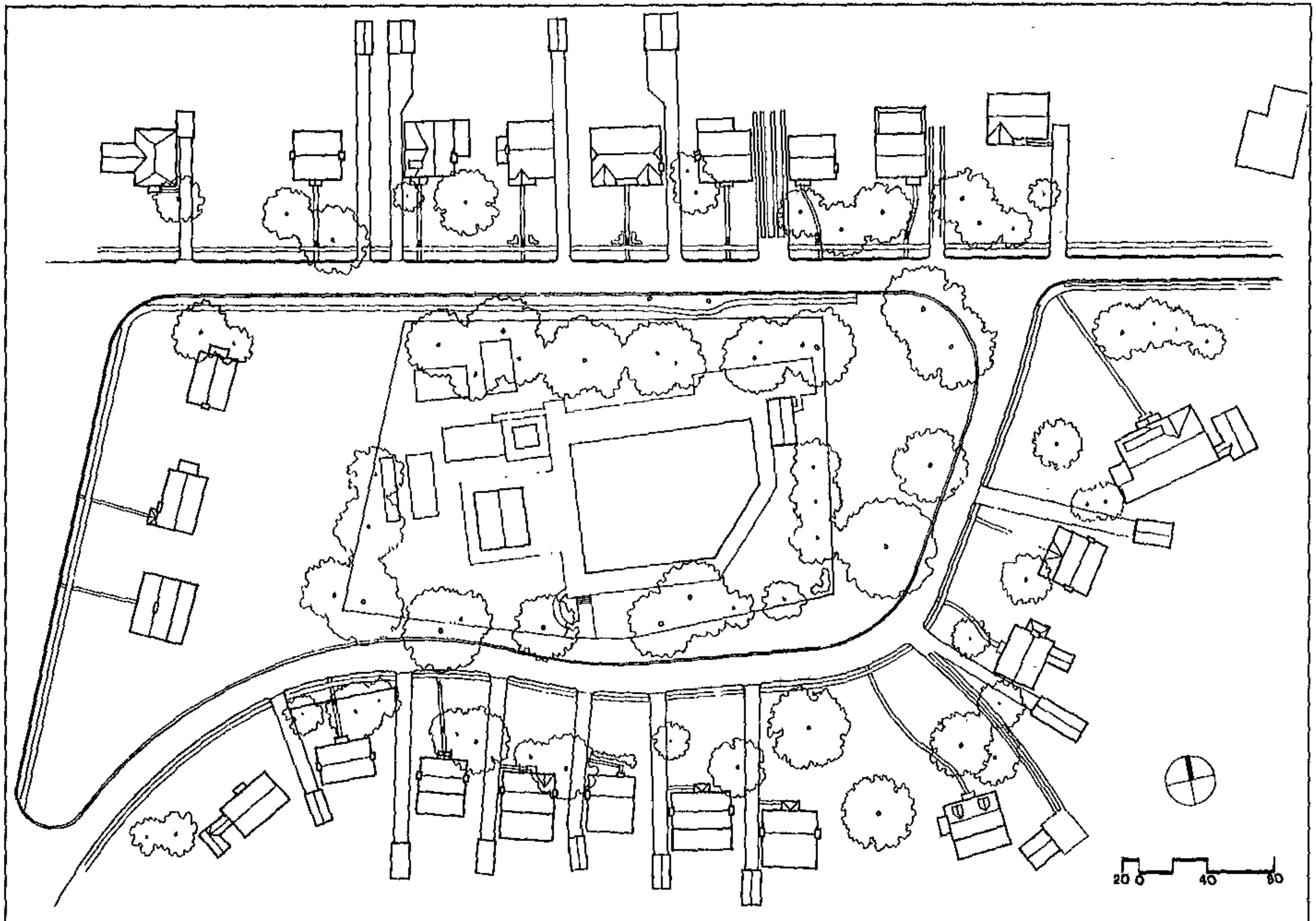
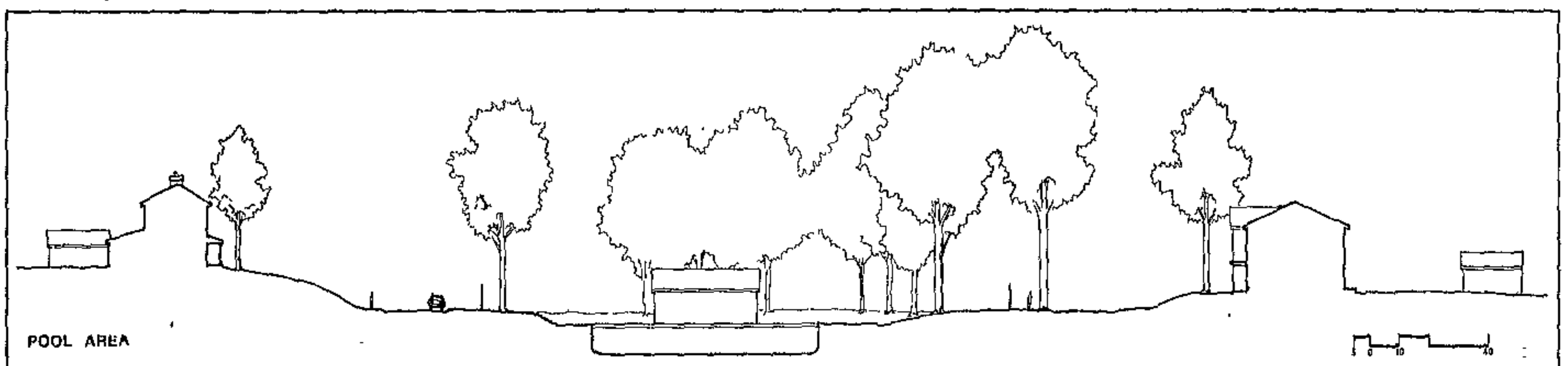


Fig. ST13

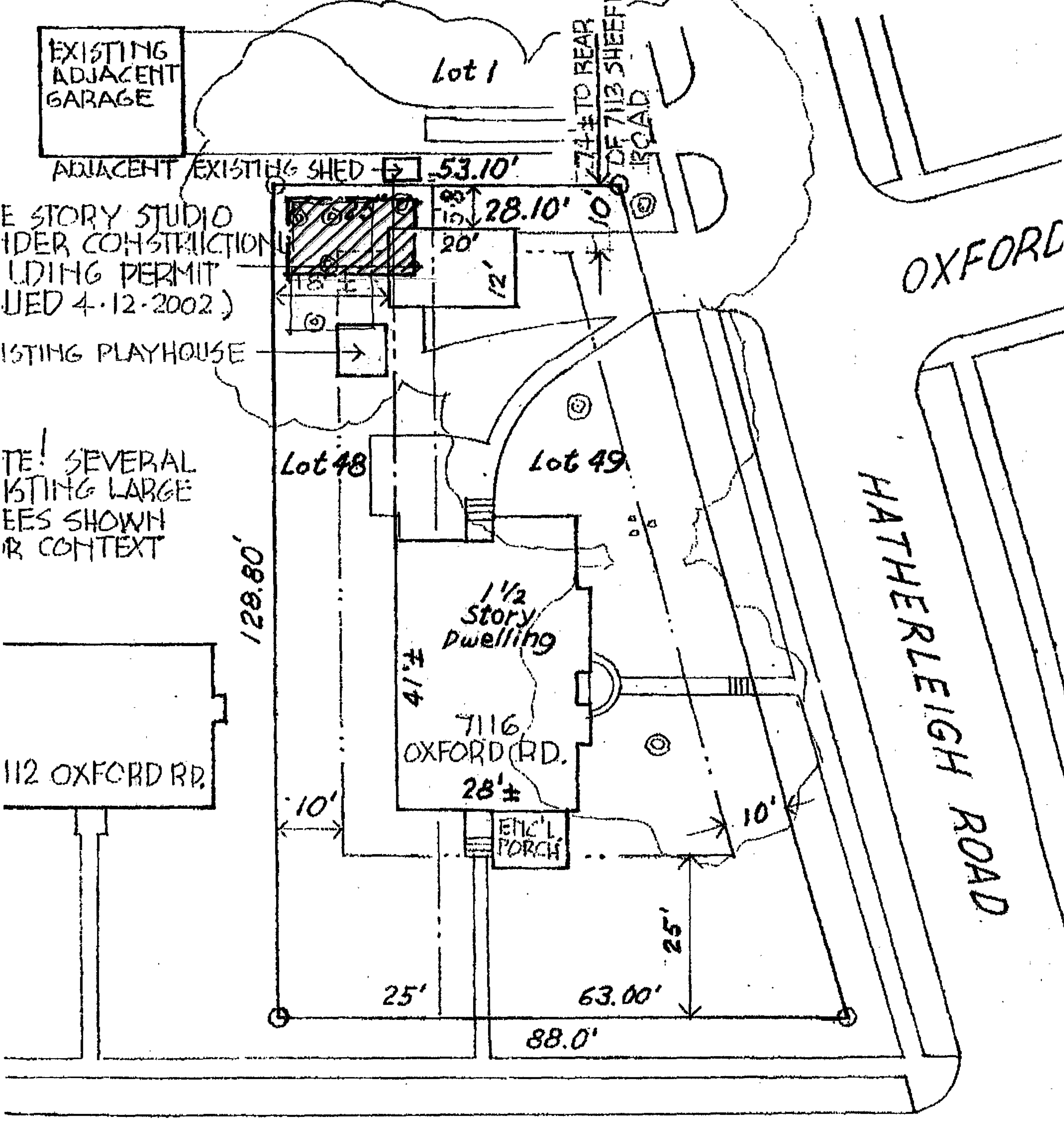
Stoneleigh Pool Site Section



02-519-A
Milligan

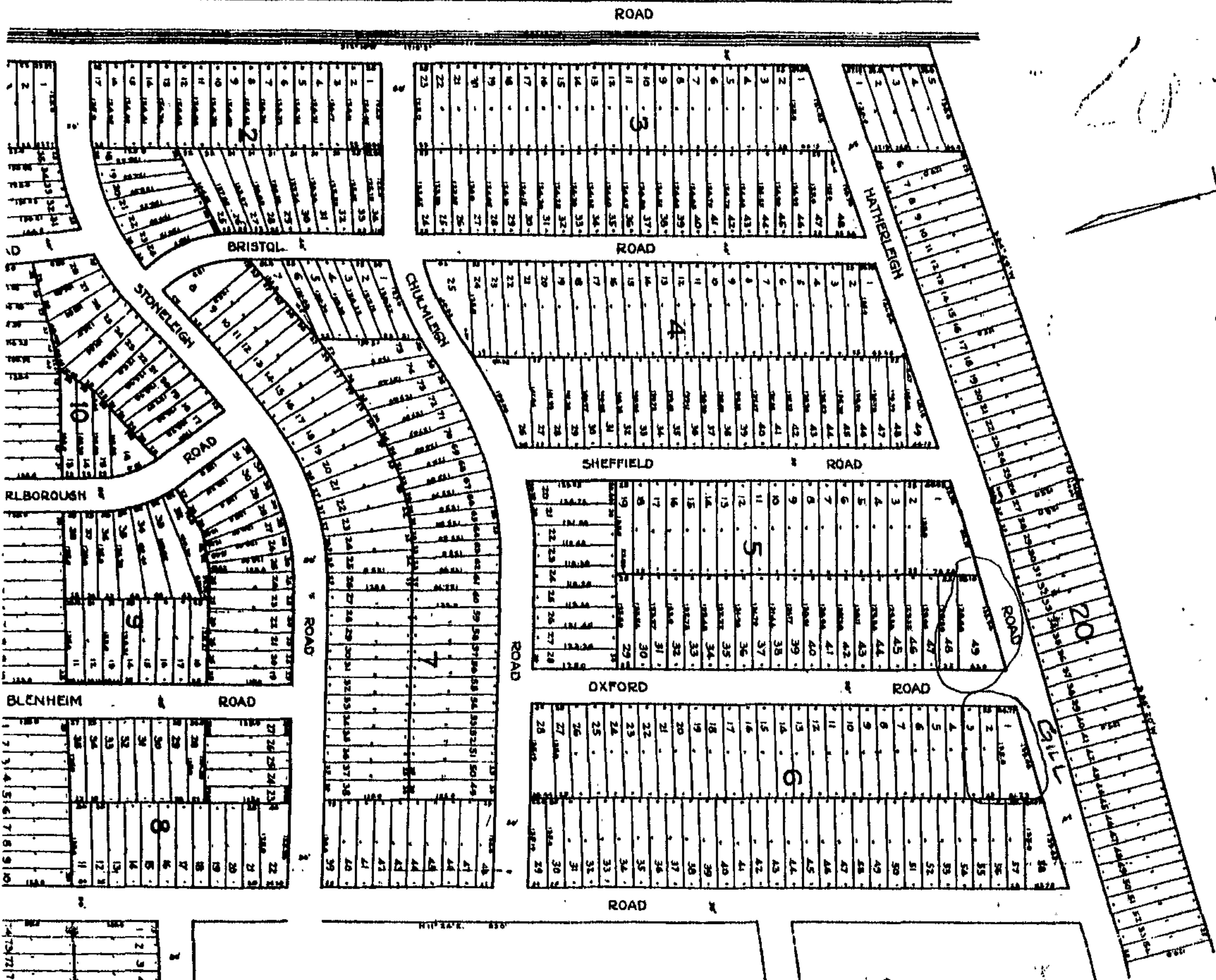
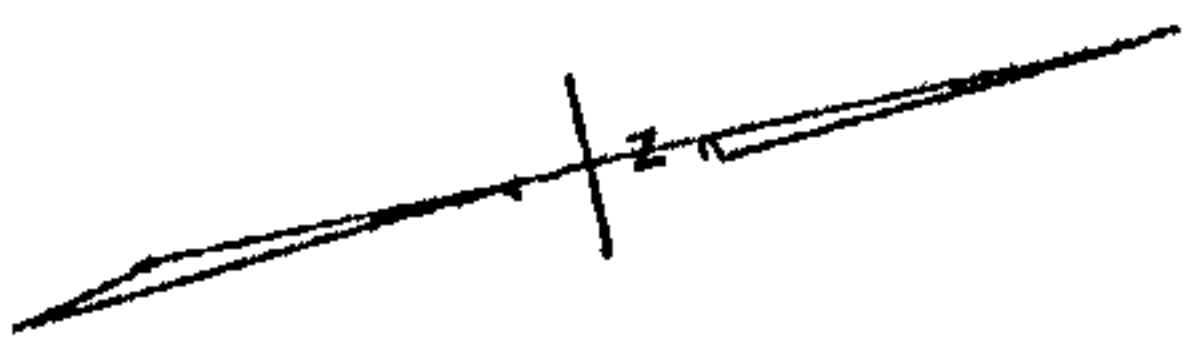
SEE PAGES 5 & 6 OF THE CH

DOROTHY K. & CHERYL A. MILLIGAN



OXFORD ROAD

20-2



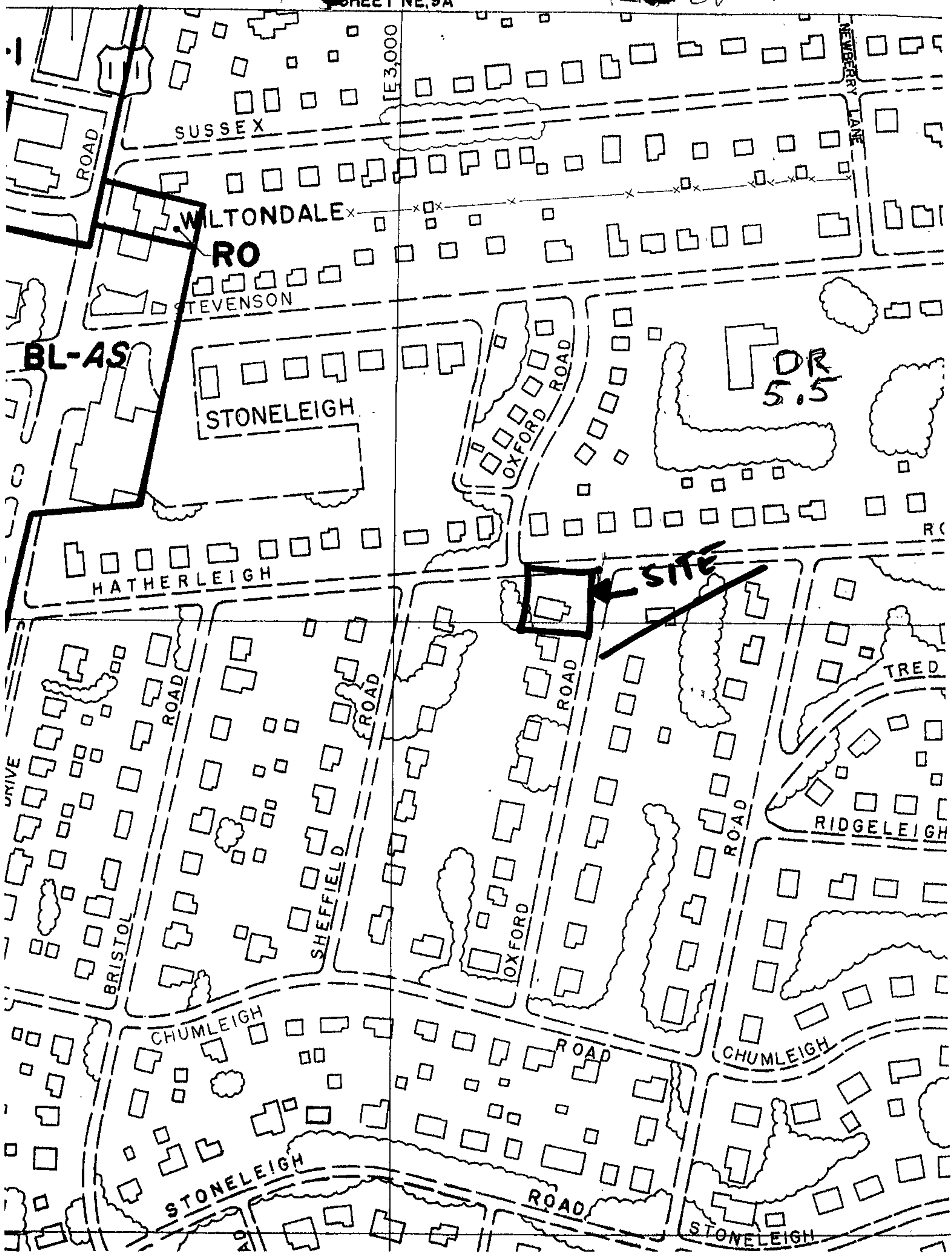
REVISED PLAT
OF
BLOCKS No. 1 to 13, incl.
AND
PART OF BLOCK No. 20
"STONELEIGH"

BALTIMORE COUNTY, MD.
SEPTEMBER 1923.
SCALE 1 in. = 40 ft.

24/15/13
01/14/18

1000 121365/124

Page #7



Hearing
Court

Plot # 6

Greater Towns Council of Community ASSOCIATIONS, Inc.

RESOLVED: That the position of the Greater Towns Council of Community Associations, Inc. Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

Case # 02 - 519 - A
Dorothy K + Cheryl A. Milligan
7116 Oxford Road

is that:

as the minutes of the GTCCA meeting of the Council dated February 20, 2003 state - re 7116 Oxford Rd @ Hatherleigh in Stoneleigh, Case # 02 - 519 - A. At issue, a zoning commissioner 'denied' variance for a large accessory building in a side yard in lieu of required rear yard. The petitioner has appealed the ruling. At the request of Robert Starr, president of the Stoneleigh Community Association, the Council (GTCCA) voted for the community in its request that Case # 02 - 519 - A be denied at appeal."

Added
to
Council

* minutes will show continual review of this issue on 3/20/03, 4/17/03, 5/15/03, 6/19/03, 8/21/03

AS WITNESS OUR HANDS AND SEAL THIS 3rd day of September, 2003.

ATTEST:

Greater Towns Council of Community Associations, Inc.

Stacy Weiss
Secretary

Donald R. Wright
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a
duly elected member of the (Board of Directors) (Zoning Committee)
of the Greater Towson Council of Community Associations, Inc

J. Donald Gerding Zoning Chair

ATTEST:

Greater Towson Council of Community Associations, Inc

Shay Weiss
Secretary

Donald E. Wright
President

DATE:

September 3, 2003

Greater Town Council of Community ASSOCIATIONS, Inc

RESOLVED: That at the January 16, 2003 meeting of the Greater Town Council of Community Association, Inc ~~Association~~ held on January 16, 2003 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period January 16, 2003 to January 31, 2004 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

see attached

AS WITNESS OUR HANDS AND SEAL THIS 3rd day of September, 2003

ATTEST:

Greater Town Council of Community Associations, Inc.

Stacy Weiss
Secretary

Donald R. Wright
President

The Greater Towson Council of Community Assoc., Inc



GTCCA

REPRESENTING MORE THAN 20 COMMUNITIES

PO BOX 5421, TOWSON, MD. 21285-5421

410-296-6732

drigsby@comcast.net

RESOLVED: That the GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, Inc. shall, from January 16, 2003 to January 31, 2004, assign official responsibility for review, representation, and action on all zoning and development matters to the EXECUTIVE BOARD and the Chair and Deputy Chairs of the Zoning Committee, which consist of the following members:

Donald R. Wright, President

Judy Gregory, Treasurer

Stacy Weiss, Corresponding Secretary



J. Donald Gerding, Zoning Committee Chair

Richard Parsons, Zoning Committee Deputy Chair

410.825.0894 Phone

335 Old Trail
Baltimore, 21212

AS WITNESS: Our hands and seal this 16th day of January 2003

ATTEST: GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, Inc.

Stacy Weiss
Secretary

Donald R. Wright
President



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN

People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

MEMORANDUM TO: All Civic Associations

FROM : People's Counsel for Baltimore County

SUBJECT : Appearance before the Board of Appeals as
Representative of a Civic Association

Attached to this memorandum is a copy of Rule 8 of the Rules of Practice and Procedure of the County Board of Appeals which governs the appearance before the Board of representatives of civic or improvement associations.

This rule requires the following:

1. That the person who testifies can describe accurately the number of members in the association and the geographic limits of the association; and
2. That the person is authorized to speak for and present the views of the association. This second requirement can only be met by:
 - a. A resolution (in duplicate) adopted by the association at its annual meeting or first meeting of the year signed by the president and attested by the secretary. This resolution must state that the responsibility for review and action of all zoning matters is placed in the board of directors or a duly elected zoning committee; and
 - b. A written affidavit (in duplicate) signed by the president of the association and attested by the secretary that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee; and
 - c. A resolution (in duplicate) adopted by the board of directors or zoning committee signed by the president and attested by the secretary stating the position of the association.

For your assistance, we have also attached sample resolutions and affidavits which may be used by your association. They have been reviewed by the Board of Appeals for form, but, of course, the substance remains the responsibility of the community association.

A handwritten signature in cursive script that reads "Peter Max Zimmerman".
Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosures

Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations.

- a. Before any person shall testify on behalf of any civic or improvement association, it shall be shown that he has accurate knowledge of the number of members in the association and geographical limits of the association.
- b. Before any such person shall testify it shall also be shown that he is authorized to speak for and present the views of the civic or improvement association.
- c. Such authorization shall consist of presenting at the hearing or prior thereto a resolution in duplicate duly adopted by the association at its annual meeting or first meeting of each year, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed in its board of directors or a duly elected zoning committee.
- d. Before any such authorized person shall testify, it shall be shown by written affidavit in duplicate, signed by the president of the association and attested by the secretary, that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee.
- e. Before any such authorized person shall testify, a resolution stating the position of the association as adopted by the board of directors or zoning committee, signed by the president and attested by the secretary, shall also be produced in duplicate at the hearing.

The Greater Towson Council of Community Assoc., Inc

2/26/03



GTCCA

AGENDA: Thursday, February 27, 2003, 7:30 pm
Sheppard Pratt Conference Center

13

1. Call to Order and Introductions
2. Acceptance of January's Minutes
3. Treasurer's Report
4. Reports from Institutions *Susanna Crain*
5. Reports from Associated Committees and Organizations:
 - a. Towson Gardens Day - Dorrie Wilfong
 - b. 4th of July Parade - Frank Kaufman
 - c. Towson Business Association - Steve Cupit
 - d. Transportation Committee - Richard Parsons, *See attached Draft - Somers & Mann, DeHaven, Howard Berman, Jim O'Neill, DeLong, Carter*
6. County Government Representatives:
 - a. Baltimore County Council - Vince Gardina *excuse*
 - b. Planning Office - Karen Brown *excuse*
 - c. Police Department *Anti theft in Towson - East Green Hill - up !!!*
7. State Legislature:
 - a. Senator Jim Brochin
 - b. Delegates: Bill Frank, Sue Aumann, & John Trueschler
8. 2nd U.S. Congressional District - C. A. "Dutch" Ruppertsberger
3rd U.S. Congressional District - Ben Cardin (Renee Cohen)
9. Community Concerns: *Don G notes*
 - a. Sign Legislation (Council Bill 7-03) ROA Zones
 - b. 502 Charles Street Avenue (Lot Line Adjustment) (V)
 - c. Towson Market Place (Covenants)
 - d. Trinity Church (Sign Appeal)
 - e. 1100 Stevenson Lane (03-337 SPHA) Lot Line Adj./Undersize lots (V)
 - f. 7116 Oxford Road (Oversize Excessory Bldg.) Appeal (V)
 - g. Public Hearings:
 - (1) Monday, Mar. 3rd - Traffic Calming
 - (2) Designated Priorities for Sign Removal
 - h. Alcoholic Beverages Legislation (SB 204 - Sen. Brochin) (V)
 - i. Variance for Sheppard Pratt (V)
 - j. DRC Meetings: Calvert Hall, St. Joseph, 1100 Stevenson & Edenwald
 - k. Speed Cameras (SB 455) Sen. Forehand (V) *- school & comm zones*
10. Unfinished Business:
 - a. Towson University Master Plan
 - b. GTCCA Internal Audit
11. New Business:
 - a. Baltimore Co. Master Plan/Towson Core Community Assoc. - Wally North
 - b. Council Resolution No. 9-03 (Gardina) *Pan handle lots*
12. Announcements: Dues Reminder for 2003 / New Community Memberships
13. Adjournment

GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.

Minutes of February 2003 Meeting

President, Don Wright
(West Towson)
403 Woodbine Avenue
Towson, MD 21204
(410) 296-6732
drigsby@comcast.net

Recorder, Don Wright



Treasurer, Judy Gregory
(Knollwood-Donnybrook)
1116 Stevenson Lane
Towson, MD 21286
thejudygregory@comcast.net

Corresponding Secretary, Stacy Weiss
(Towson Manor Village)
220 East Susquehanna Avenue
Towson, MD 21286
stacyweiss@msn.com

Roll Call: Aigburth Manor: Paul Hartman; Anneslie: Sam Bradner; Bellona-Gittings: Nancy Maronick; Chesapeake Stone Manor: Christopher Logan; Ridgely Condominiums: Wally North; Rodgers Forge: Don Gerding; Southland Hills: Charlie Culbertson; West Towson: Dick Parsons, Don Wright; Wiltondale: Jennifer Carl, Ginny Barnhart; Baltimore County Police: Lt. Richard P. Bolgiano, Off. Gary Doucette; Baltimore County Detention Center: Jim O'Neil; Greater Towson Committee: Joe Werner; Somerset Manor Apartments: Howard & Debbie Berman; Towson University: Susanna Craine;

Meeting called to order at 7:30 p.m. by President Wright with an introduction of those present.

In the midst of a snow storm, approval of minutes and treasurer's report were waved and the council moved to Towson Transportation Committee issues and community concerns.

Correction to January's Minutes: Corinne Becker, President of Riderwood Hills Community Association, is not serving on the Towson Transportation Committee.

Towson Transportation Committee: Joe Werner, Greater Towson Committee, and Dick Parsons both members of the Towson Transportation Committee opened to the floor comments and concerns as to the Committee's proposed recommendations for easing traffic through Towson during the reconstruction of the York Road bridge across the beltway. Debbie and Howard Berman, owners of Somerset Manor Apartments, were extremely concerned about eliminating the parking along Kenilworth Drive to facilitate two lanes of traffic approaching Bosley Avenue from West Road. They suggested that this increase in traffic would make it difficult for their residents to enter Kenilworth Drive from Camberly Circle. They also mentioned that they have problems with people parking on their property and eliminating parking would increase this problem. It is very difficult to enforce illegal parking because residents frequently have guests to their homes. James P. O'Neil, Administrator for the detention center, said he could not give up the parking spaces for his employees at this time. It was voted that two (2) items be tabled until after the jail expansion is completed in 2004. (1) Two lane left turn from West onto Kenilworth Drive, and (2) no parking along Kenilworth Drive from West Road and Bosley. Beltway signage which would direct drivers away from Charles Street to the York Road exit was praised for its possible elimination of some traffic through Riderwood Hills.

Community Concerns: (1) County Council Bill #7-03 introduced by Vince Gardina and Joe Bartenfelder on Feb 3, 2003 permitting free standing signs in ROA zones was withdrawn. (2) The request for a pan-handle-lot (infill) at 502 Charles Street Avenue which does not have the favor of the 5th District Planner or the West Towson Neighborhood Association was voted on in support of the community that the request be

denied. (3) Towson Marketplace covenant issue still continues and GTCCA may be requested to support our member efforts on this issue. It is expected that there will be more dialogue in the future. (4) Trinity Church of God, Inc. has appealed its case #03-115-A for a large illuminated changeable sign which would be seen along the Beltway. There has been no date set for the appeal and GTCCA will continue to support Ruxton/Riderwood/Lake Roland communities in their effort to have this appeal denied. (5) 1100 Stevenson Lane, Case #03-337-SPHA, the petitioner seeks to create 2 undersized lots on a DR 3.5 property. Knollwood-Donnybrook Improvement Association will compromise at only (1) new lot, retaining the existing home on the site. The Office of Planning holds the position and favoring only one (1) lot adjustment. At the request of Judy Gregory, President of Knollwood-Donnybrook, the Council voted in support of the community and Office of Planning, that only one (1) new lot of at least 10,000 sq.ft. be permitted. The hearing date is 3/18/03 in Rm #407, County Courts Bldg. (6) 7116 Oxford Road at Hatherleigh in Stonleigh, Case #02-519-A. At issue, a zoning commissioner "denied" variance for a large accessory building in a side yard in lieu of required rear yard. The petitioner has appealed the ruling. At the request of Robert Starr, President of the Stoneleigh Community Association, the Council voted for the community in its request that Case #02-519A be denied at appeal. (7) Public Hearing Announcements for the County Council session of March 3, 2003 at 7 p.m. (a) Neighborhood Traffic Management Program; and (b) designated priority areas for sign removal. (8) Sen. Jim Brochin (42nd District) introduced a bill entitled *Baltimore County Alcoholic Beverages - Towson Revitalization District*, that will authorize 6 (six) licenses to the Towson area as a tool to attract new businesses and help with the process of revitalizing the Towson Core. GTCCA voted unanimously in favor of the concept of this bill. (9) Sheppard Pratt submitted a request for a second amendment to the Restricted Covenant Agreement between the institution and GTCCA with regards to revising paragraph 2 relating to the current elevation (height) of 511.17 ft. of the historic A & B buildings and revised and requested a new height/elevation of 512.46 for a new building now in the process of planning/review process. This increase is for chimneys which will add to the aesthetics of the new building. A phone vote was conducted by Don Wright so as to meet the time-line of development review and the vote in favor for the amendment was unanimous. (10) Edenwald - Case #03-334-A. A petition for a request for a variance for a 12 story addition to the existing building to include four (4) of parking and eight (8) floors of apartments plus one (1) floor for an auditorium. A vote showed that there were no objections to this petition. (11) There were two development review meetings held on Feb. 10th. (a) Calvert Hall College proposed a 4 story academic building and an outdoor amphitheater; (b) St. Joseph Hospital is to install a Cingular wireless antenna to the many now existing on the roof of the main building. (12) Traffic Calming efforts - After many comments by Don Gerding on behalf of Rodgers Forge, there may be a solution forthcoming with the Keelty plan of redevelopment for the Weiss Kettle property. Don requested that Vince Gardina examine the proposed plan with Pat Keller and Karin Brown and request a reduction in the speed limit from 30 to 25 in this residential area. This issue has been on the GTCCA screen for many years and Traffic Engineering has not offered relief. (13) Department of Planning announced that the Comprehensive Zoning Map Process will begin in September 2003 and has been condensed to a 12 month timetable. **All communities need to be on there toes during this process.**

Baltimore County Police: We were informed that there was an increase in car thefts in the Towson area. Residents are reminded not to start their cars for early morning warm-up and leave them unattended. Remove your keys at all times that your car is not occupied. With warmer weather, sheds and garages need to be locked. When doing yard work, keep your home locked and secure.

With snow still falling all other business was moved to the March Meeting.

Meeting was adjourned @ 8:15 p.m.

Respectfully submitted: Don Wright

Motion passed All
to support K-D
Dept of Planning
Compromise
only 1 lot

lot retaining the remaining property to the
home now on the 3 lot site. Dept of
Planning position favors only 1 (one) lot
Also. Anollwood-Donneybrook president
Judy Gregory requests GTCCA support
their position. Motion GTCCA supports the K-D Dept
Assoc position and ~~the~~ the position of Dept of
Planning to compromise at only 1 (one) lot
of at least the required min. size of
10,000 sq. ft. Meeting - Discussion Judy Gregory &

Karen Brown - Vote ~~pass~~ : Hearing Date is 3/18/03 c. 9 AM
Room 407

Motion passed
All
to support SCA
position to have
Board of Appeal
deny the
petition

⑥ 7/16 Oxford Rd at Hatherleigh in Stoneleigh
Case # 02-519-A - at issue - a denial by
Deputy Zoning Commissioner Kotroco - request for
variance to allow a very large accessory studio building
in a side yard in lieu of required rear yard.
Petitioner has agreed - Stoneleigh Community
Assoc president Rob Stam requests GTCCA support
of Stoneleigh Assoc to have request again denied.

Motion GTCCA supports Stoneleigh Comm Assoc position
to have petitioner request in Case # 02-519A
be Denied at Appeal. Meeting - Discussion Vote ~~pass~~
No date has as yet been set for Appeal hearing.

⑦
↓

Pet Ex #3

June 26, 2002

Mr. Arnold Jablon, Director
Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RE: Case No. 02-519-A
7116 Oxford Road
S/east side of Hatherleigh Road, 25 feet sw of Oxford Road
9th Election District - 4th Councilmanic District
Legal Owner: Dorothy K. Milligan and Cheryl A. Milligan

Dear Mr. Jablon:

It has come to my attention that Dorothy and Cheryl Milligan have a public zoning hearing scheduled for Friday, July 12, 2002 at 11:00 am. Unfortunately, I will have to be at work at that time, but I am writing to you now to voice my support for the Milligan's accessory structure, as I believe it enhances their home and therefore, the neighborhood as a whole.

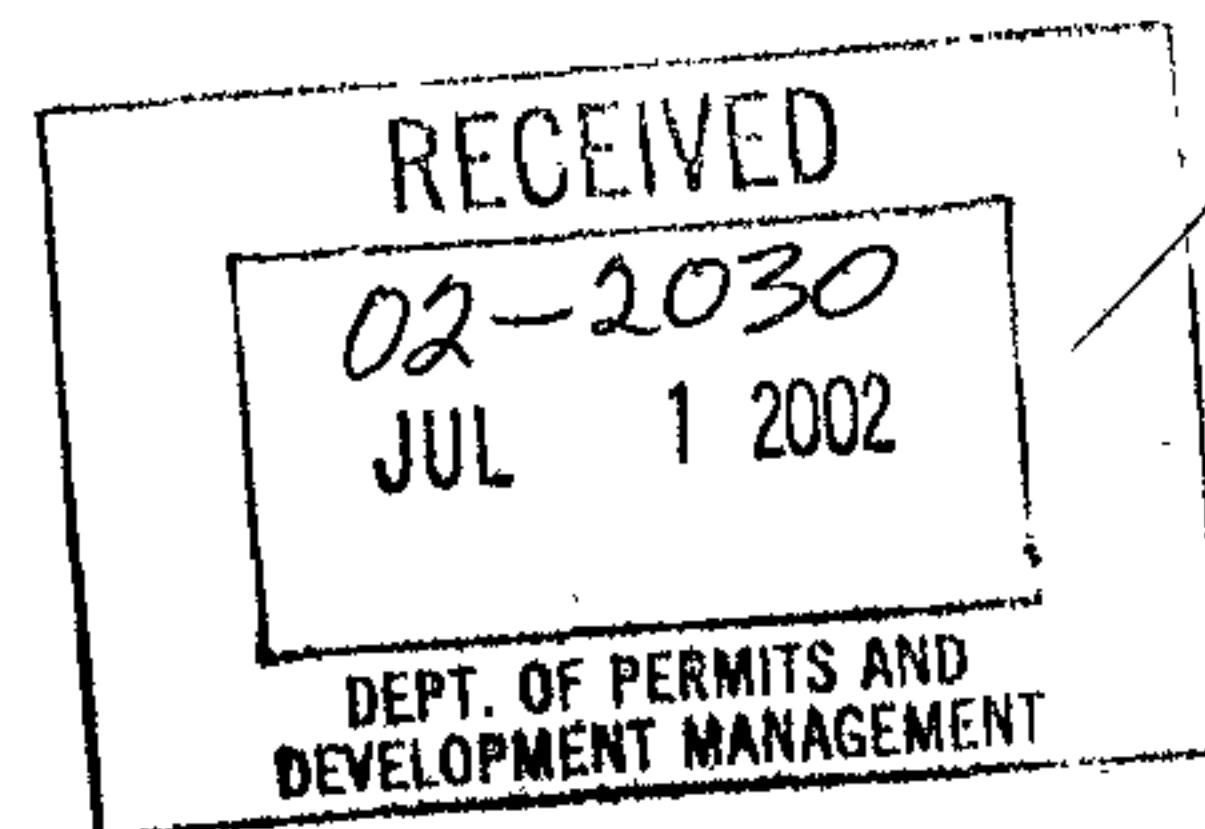
I wholeheartedly support the Milligans in their efforts to improve their property with an accessory structure at the end of their driveway.

Mark J. Potter
Mark J. Potter

Sincerely yours,
Kelly Buedel
Kelly Buedel
7115 Wardman Rd.
Balto. MD 21212

My commission expires 5/1/06

Notarized by:



wagon entirely within our existing driveway. We do have plans, however, after the variance process is completed, to expand the width of the driveway in addition to landscaping plans, so the two cars will fit more comfortably, well off the sidewalk.

The most egregious demonstration at the hearing, however, I believe, came from Mr. Barry Miller, who read "into evidence" his letter dated July 12, 2002. Aside from the numerous perpetuations of misinformation and factual inaccuracies contained in his two page letter, the fact that he chose to submit his letter as a Stoneleigh resident on his official State of Maryland stationery raised our concerns, as the State of Maryland is not involved in this decision-making process, nor was Mr. Miller writing his letter as an official of the state giving his opinion on a State of Maryland project. I believe he was using his position with the State of Maryland to add weight to his arguments, however inaccurate they are. If Mr. Miller chose to detail his views on his private stationery, I would have no problem with it, but that he chose to use his official State stationery seems to be an unwarranted abuse of his authority. Some concerned neighbors have suggested that I forward his letter to the State Ethics Board, but I'm not sure I want to do that. I do think that his protestations are specious, and should be regarded as such.

At the conclusion of the Variance Hearing, it was decided that I would have the first available opportunity to address the combined Stoneleigh Board of Governors, which was to be held on July 14th. I was subsequently advised by David Hudson that the meeting of the 14th was postponed to July 16th, at which time I attended their meeting. I was originally granted the period of time from 7:00 to 7:15pm, but was actually there until 8:00pm that evening. I went through the entire approval process (as outlined above) in complete detail, answering questions from members of the Board of Governors throughout the descriptive process. Some suggested that the structure could be moved back approximately 4 feet, but I mentioned that would be very expensive and would also endanger 2 or 3 of the 80 foot pine trees by the driveway, which serve to screen the structure from our nearest neighbors. Many of the Board members stated their agreement that the shed structure was quite attractive, and I left with the understanding that the Board would advise us of their decision as soon as possible.

I then received a phone call on August 1st from David Hudson, who advised that the Board would abide by the decision of the Baltimore County Zoning Commissioner, and that they would send a letter stating such. I told Mr. Hudson that I was leaving for a planned vacation the next day, and that, in the spirit of cooperation requested at the end of the Variance Hearing, it might be best if the response could wait until my return, so that we could provide the requested joint response. Upon my return from vacation I received the aforementioned letter dated August 12th from the Stoneleigh Board of Governors.

While the Stoneleigh Board of Governors may continue to object to the idea of a variance, I would like to emphasize that the shed structure is not and has never been in our front yard, as they stated in their letters of July 2nd and August 12th. We have followed all the rules and regulations for this process, even going so far as to canvas our immediate neighbors before the County approved a building permit. We have gotten all of the required permits and paperwork approved before we even hired a contractor. At no point in the process did we try to do anything not in accordance with the County's building codes and requirements.

Accordingly, we are writing to request the formal approval of our variance request, based upon the following factors:

1. The shed structure is indeed located in the back yard of our property, and the Baltimore County Permits Office was correct in its approval for the placement of the structure. Our address is on Oxford Road, and based upon the examples provided by John Hill, Dean

Emeritus of the University of Maryland School of Architecture, all of the properties in Stoneleigh on the south side of Hatherleigh Road are arranged back yard to front yard, and front yard to back, so that each house has a front yard facing onto the side street, and not on Hatherleigh. The shed structure as it is now is placed in the same area next to the driveway and garage of our neighbor to the west. As it is placed now it is also at the very back our neighbors' yard directly behind us. Even if we could move it, the structure would then be much more visible to that neighbor and to Oxford Road. Wanting to be good neighbors, we have done our best to place it in the most unobtrusive spot possible, the location of which was approved by the County Building Permit and Zoning Offices.

2. The arguments raised by the opponents at the Variance Hearing I believe are readily dispelled, as the shed structure in question will never be used as a residence or a commercial space. We will be more than happy to attest to these facts as part of the variance approval process. Additionally, our two largest cars now fit comfortably within the existing driveway space, and do not intrude onto the sidewalk in any fashion, but we will, as part of the final landscaping planning, widen the parking area in our driveway.
3. Since Stoneleigh does not have a formal approval process for property improvements, we were not required to submit plans to the Restrictions and Improvements committee for their review. Based upon the statements of the current President, David Hudson, on May 4, 2002, that as long as we had a building permit, he saw no problem, we did not pursue this issue further. (Having lived in Roland Park for many years, we are very familiar with the rules and regulations governing certain communities, and we felt sure that we had taken care of all of the regulatory approvals necessary for the construction of the shed structure.)
4. Moving the structure back would be prohibitively and unnecessarily expensive. It now rests on 6 concrete pilings, and, after asking our contractor, the only way to move it would be to remove the building from its current footings and set 6 new concrete footings. Where the structure could be placed in the interim, while the concrete sets, would also be a problem. As a ballpark figure, the contractor estimated that it could cost an additional \$10,000 or more, which is not in our budget or available. And moving it for the sake of 4 feet would endanger 2 or 3 of the large pine trees that now currently screen the structure from our direct neighbors.

Therefore, we request that the variance for the shed structure in question to remain in its current location be granted based upon the above information and the fact that the Baltimore County Permit Office deemed this an appropriate site on which to build. I am also enclosing several recent photographs of the structure, which show the two cars safely parked within our driveway and its relation to the smaller playhouse building. Should you wish any further information, or to arrange a visit to our house to view the structure, please don't hesitate to contact me at home at (410) 769-8722, or on my cell phone (443) 562-1012. Many thanks for your assistance and guidance in this matter.

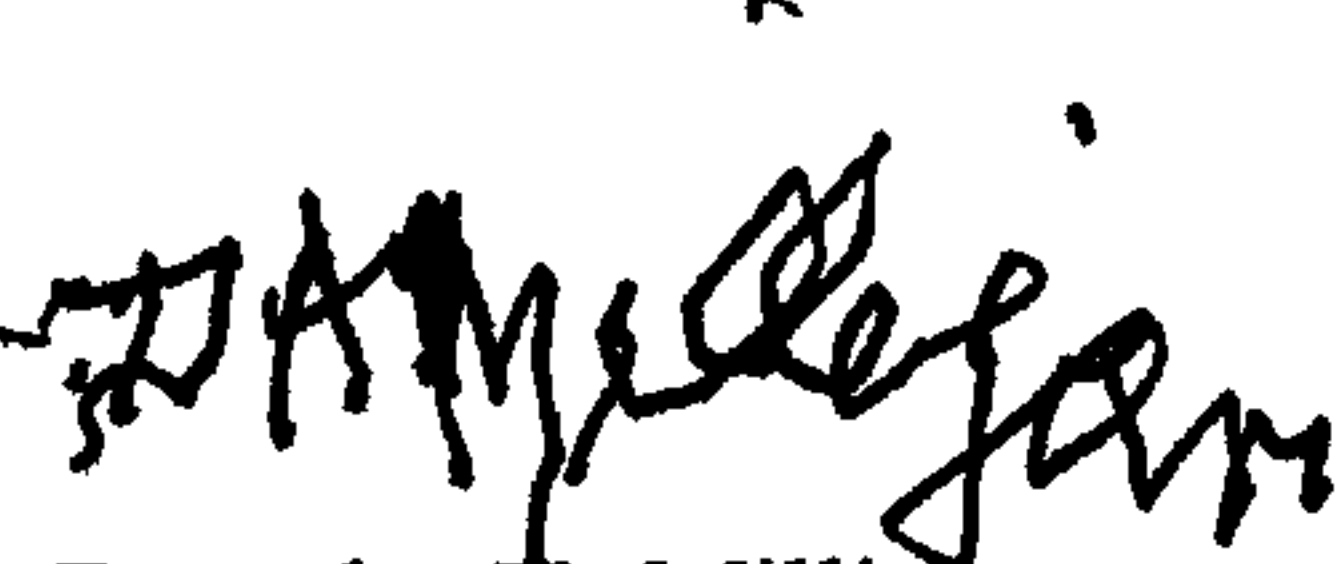
Sincerely yours,



Victor Puotinen
7116 Oxford Road
Baltimore, MD 21212



Cheryl A. Milligan
7116 Oxford Road
Baltimore, MD 21212



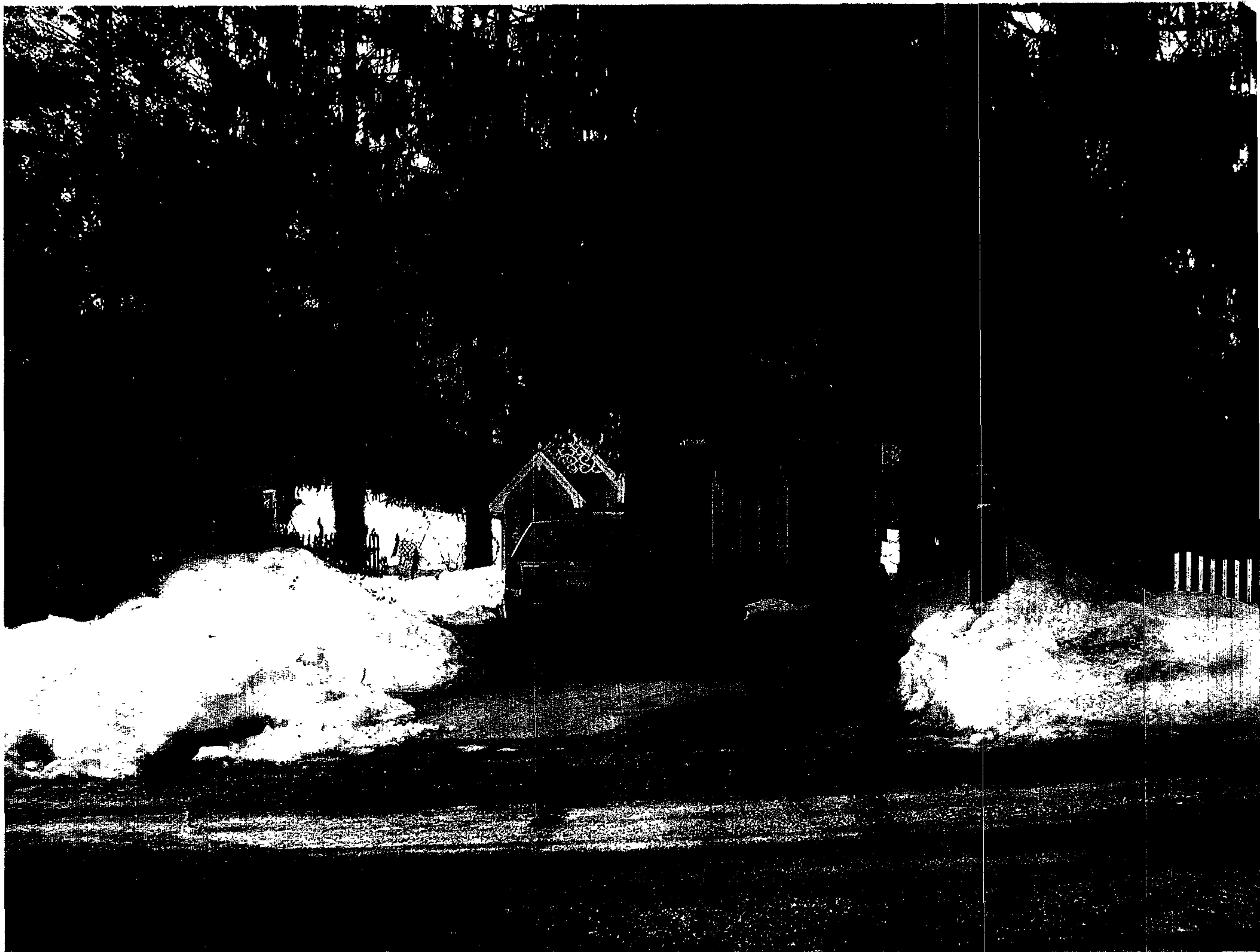
Dorothy K. Milligan
7116 Oxford Road
Baltimore, MD 21212

Cc: David Hudson, Stoneleigh Board of Governors

McIligan

02-519-A

Protosists # 4 A-4D (4 photos)















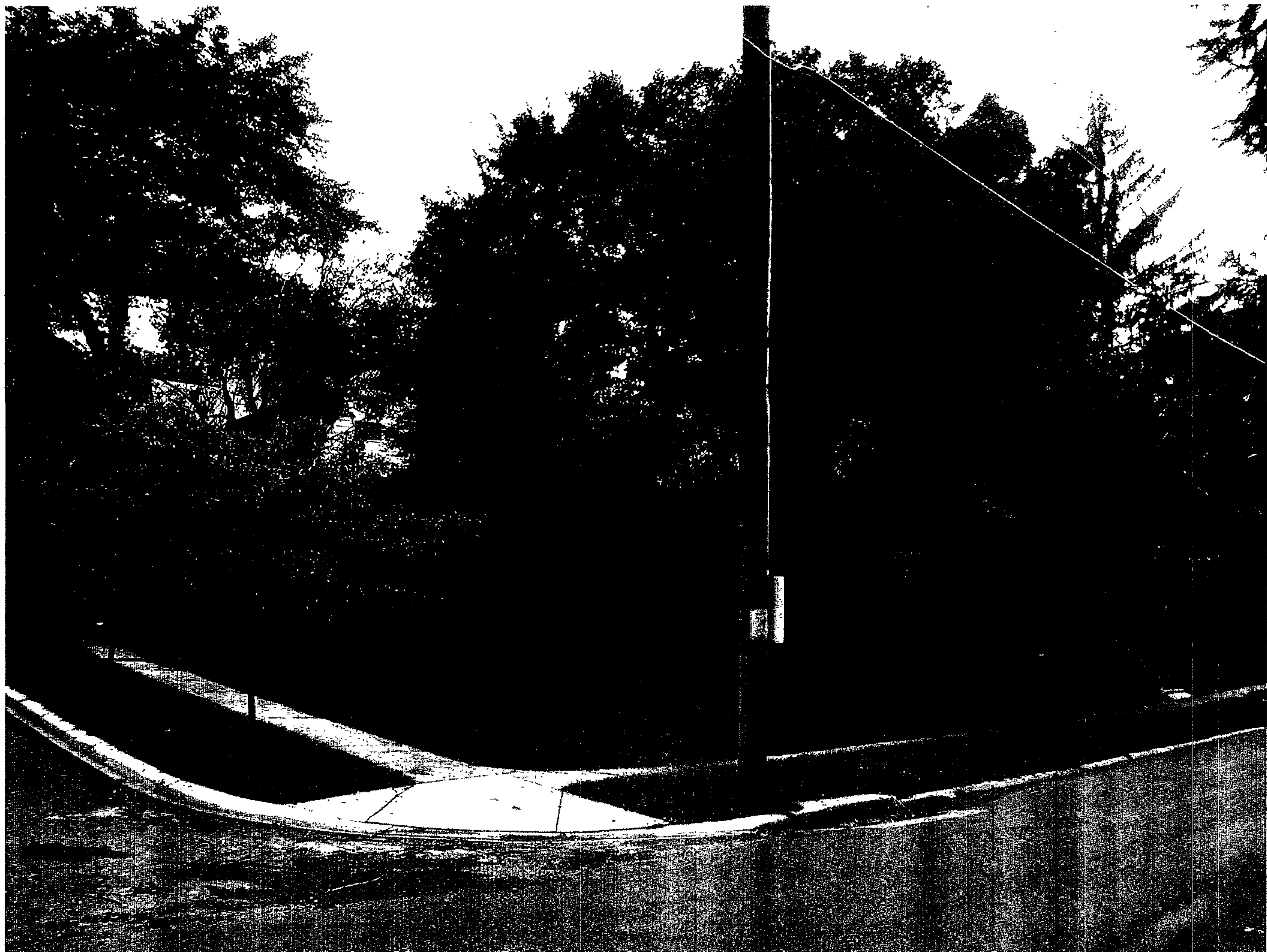






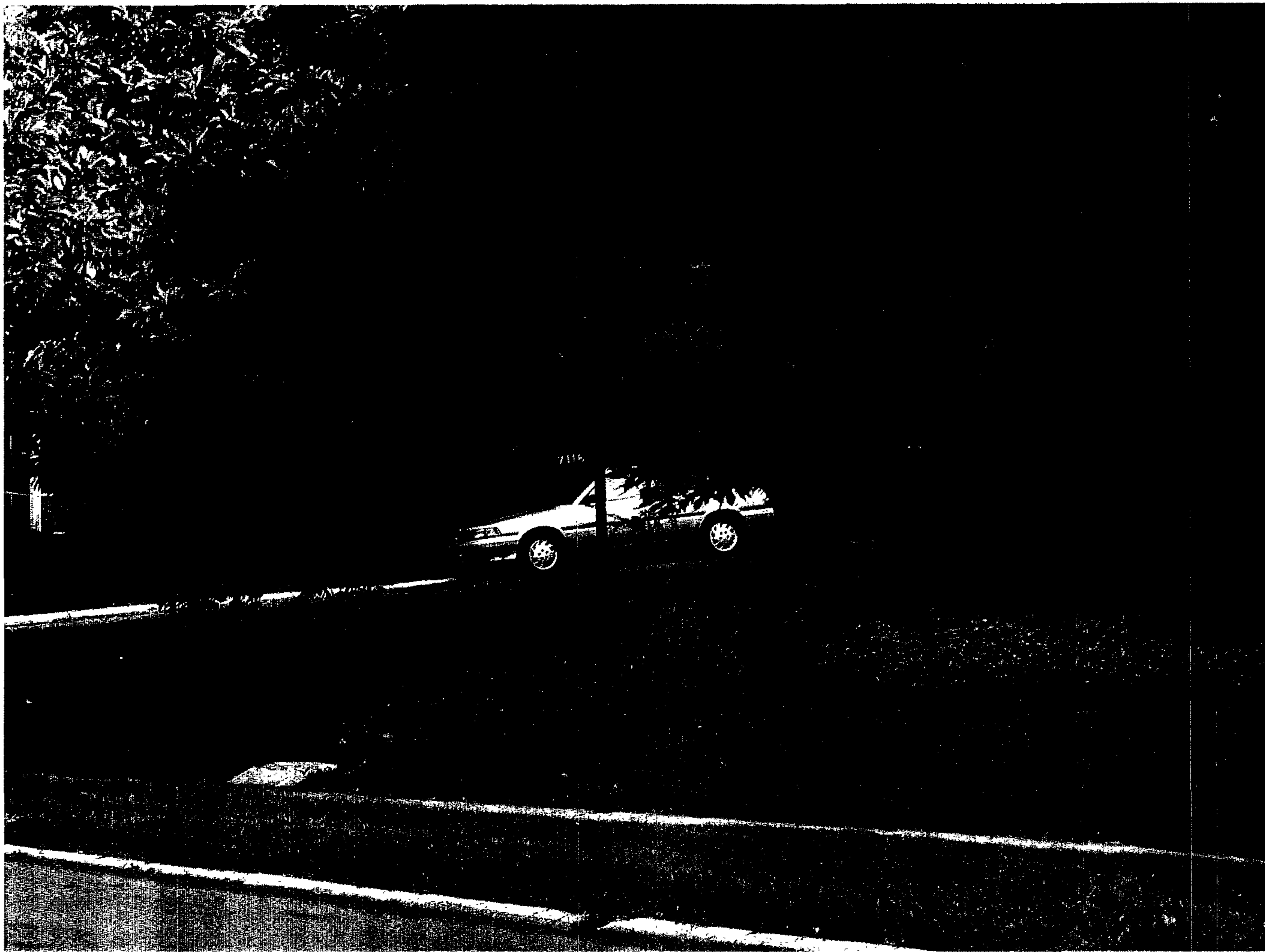


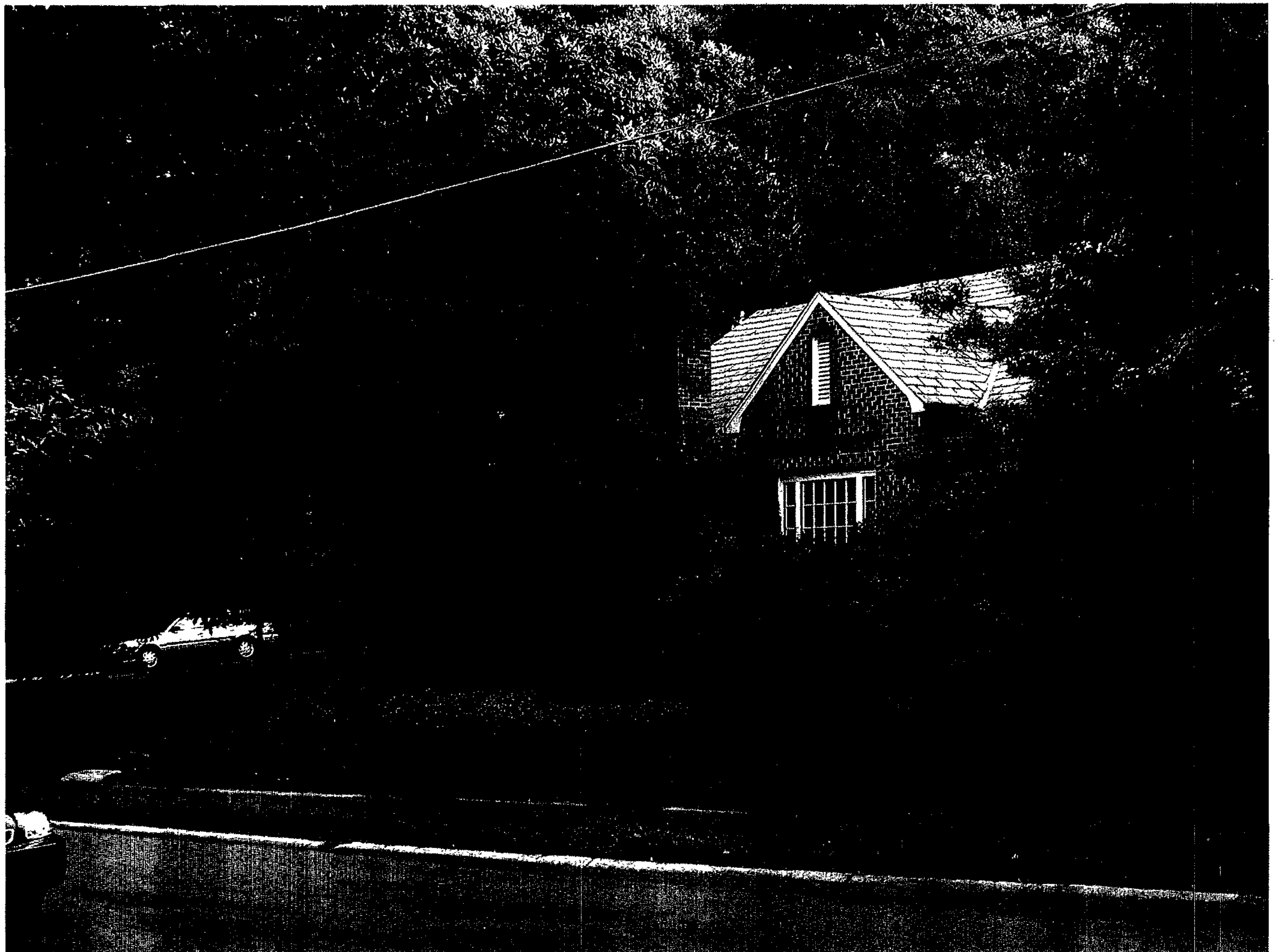




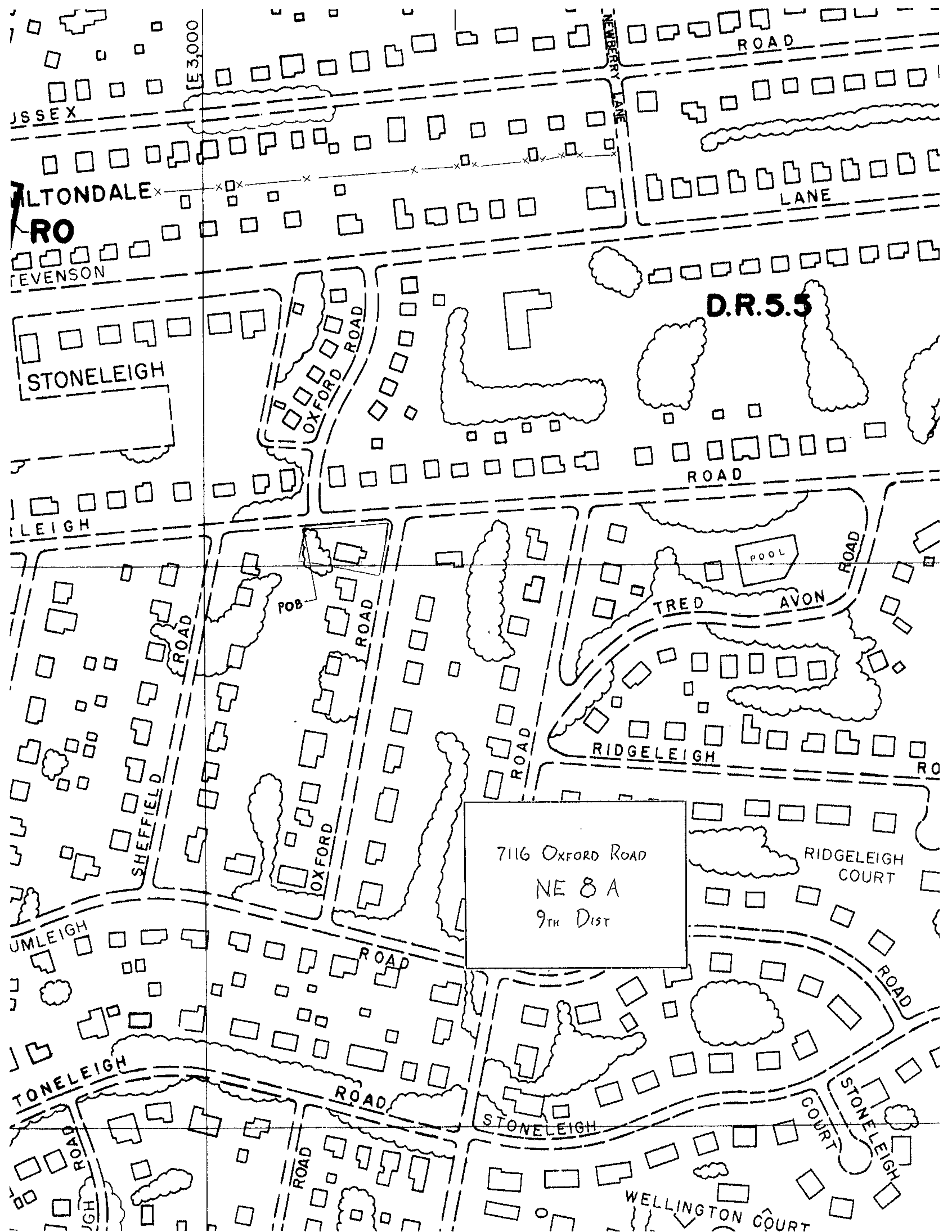












D.R.5.5

7116 Oxford Road
NE 8 A
9th Dist

POOL

RIDGELEIGH COURT

STONELEIGH

WELLINGTON COURT

ALTONDALE

RO

EVENSON

STONELEIGH

LEIGH

UMLEIGH

STONELEIGH

ROAD

ROAD

ROAD

E3000

NEWBERRY LANE

ROAD

LANE

ROAD

ROAD

TRED

AVON

RIDGELEIGH

RO

ROAD

STONELEIGH

ROAD

ROAD

ROAD

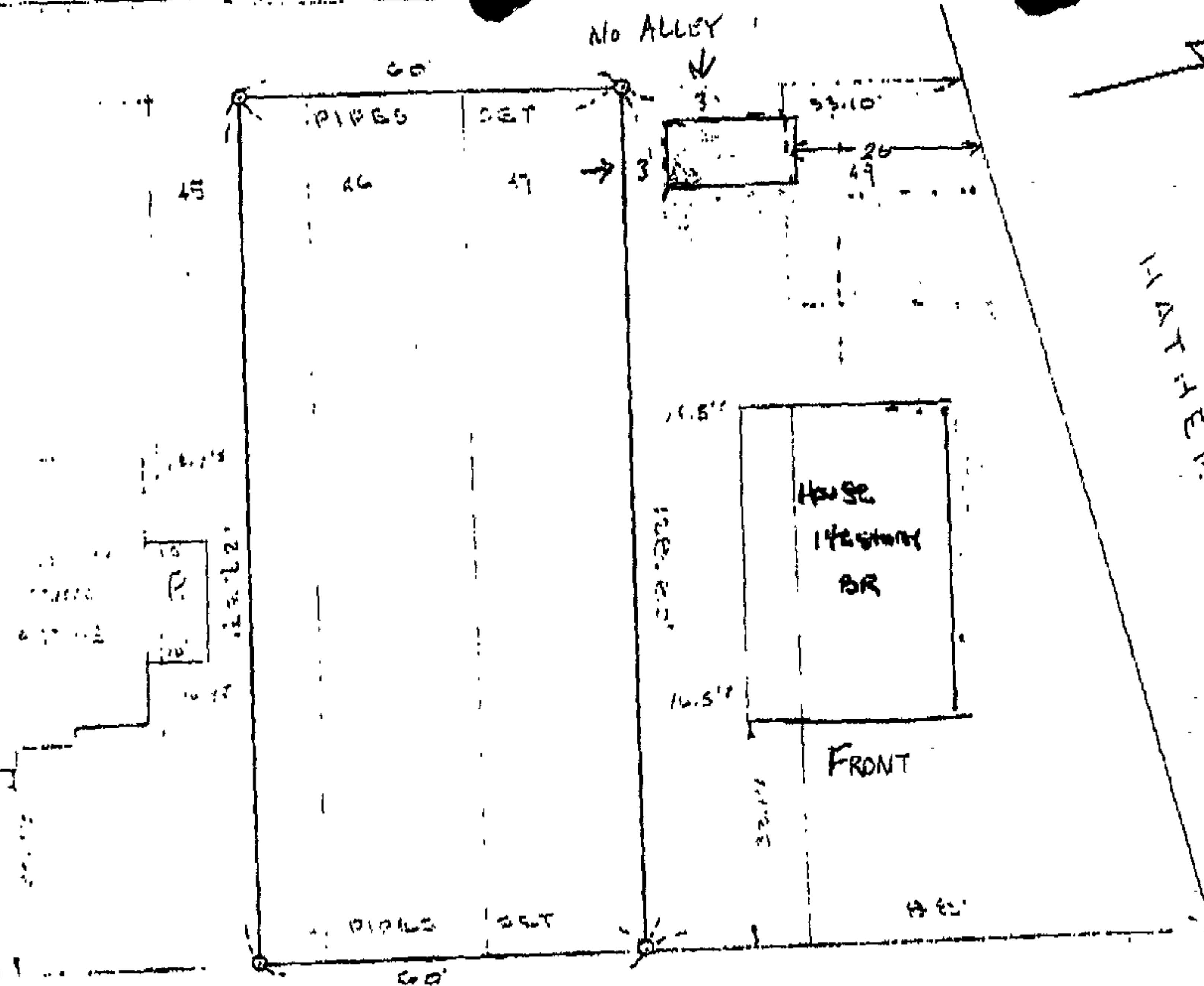
OXFORD

ROAD

ROAD

POB

NO ALLEY



Oxford RD
(50' WIDE)

> 15' tall
< 3' prop line

40. 882. 9031

Atto Richino

RD

OUTLINE SURVEY

LOTS 49 & 40 & NORTH 10' OF LOT 45

REVISED PLAT BLKS 1 TO 13

2 PART OF BLK 20

'STONEBLIGH' PG 7-87

ELECT. DIST. 7 BALTIMORE CO. MD



Walter Richino

JOSEPH D. THOMPSON, INC.
ENGINEERS & SURVEYORS

101 GHELL BLVD. - 200 E JENNA RD
TOWSON 21204 MD
SCALE: 1" = 50' DATE: 10-17-1997

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

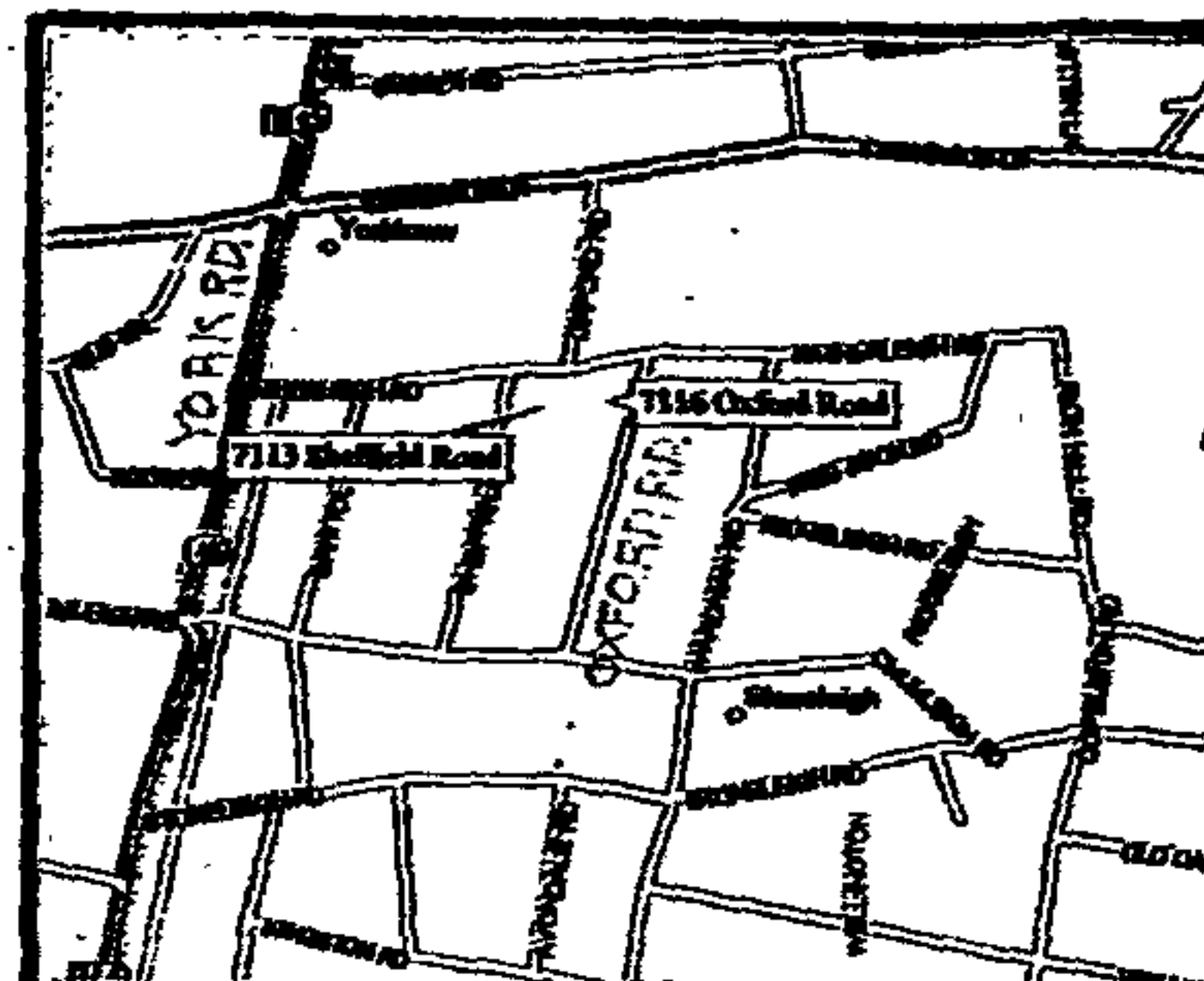
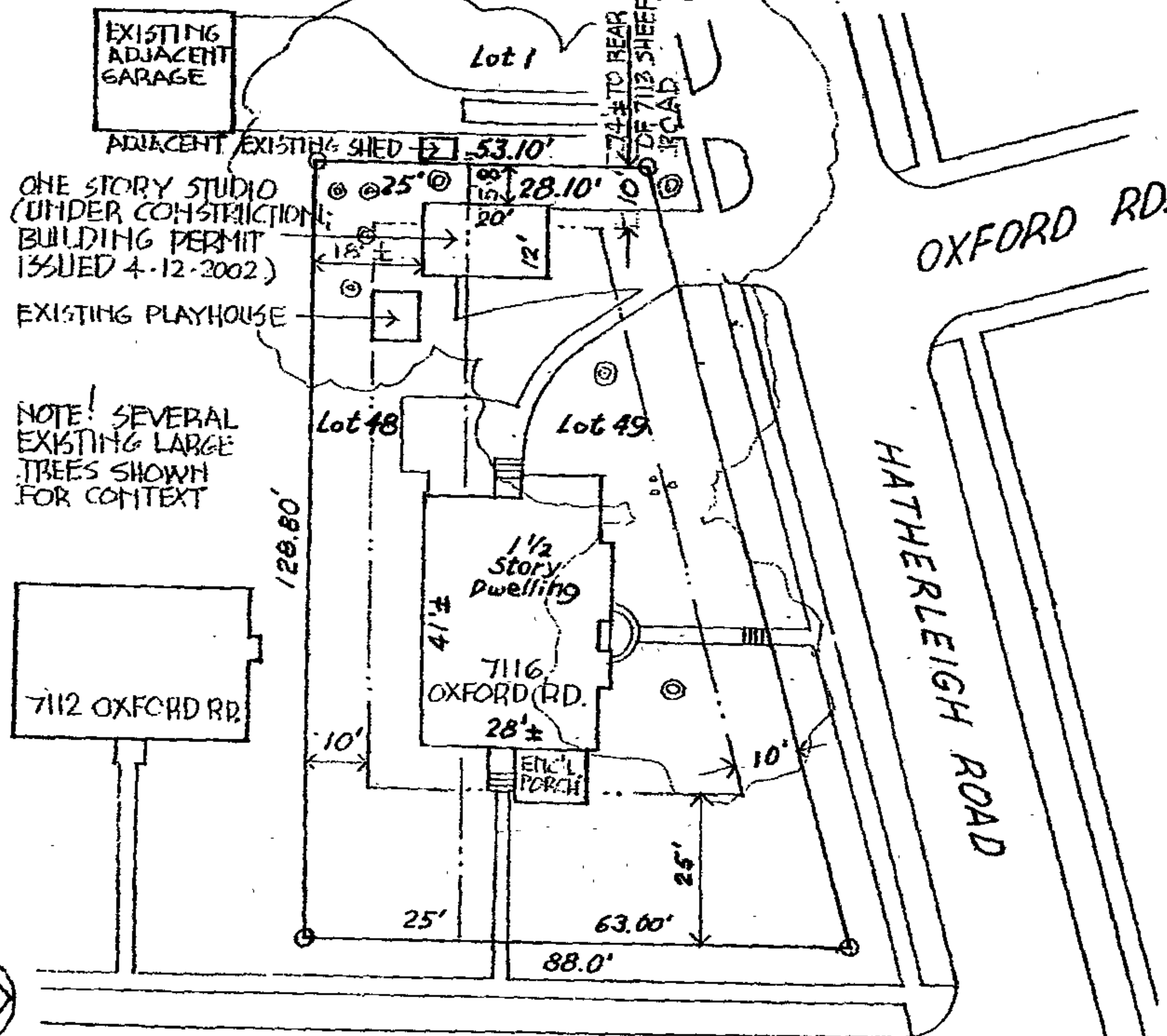
PROPERTY ADDRESS 7116 OXFORD RD.

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

SUBDIVISION NAME STONELEIGH

PLAT BOOK # 7 FOLIO # LOT # 48-49 SECTION # 5

OWNER DOROTHY K. & CHERYL A. MILLIGAN



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 9

COUNCILMANIC DISTRICT 4

1" = 200' SCALE MAP # NE 8A

ZONING DR 5.5

LOT SIZE .2086 a. 9086.84 ^{sq}
ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒
PRIOR ZONING HEARING	☐	☒

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #



NORTH

OXFORD ROAD

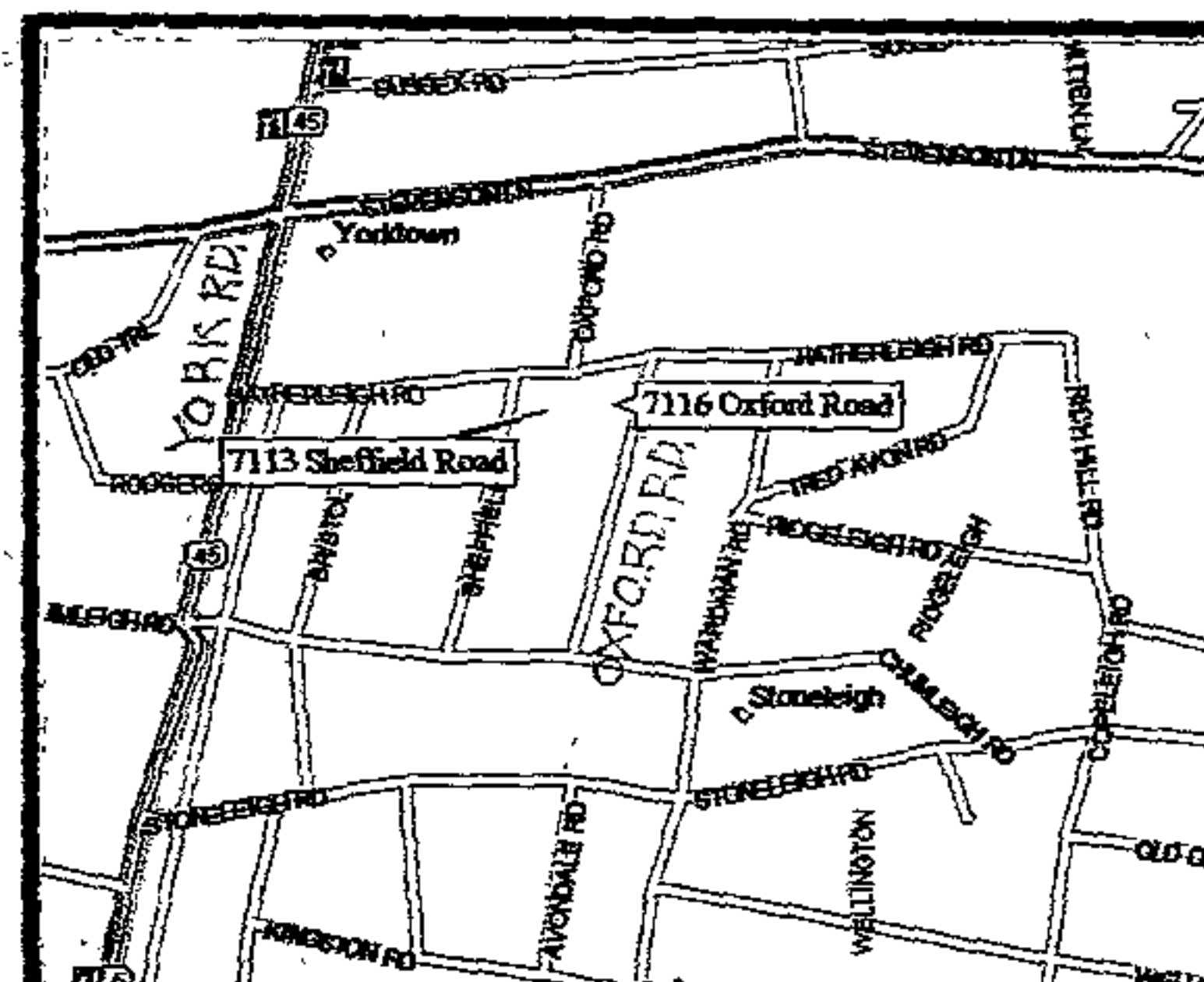
PREPARED BY JOHN W. HILL, FAIA, ARCHITECT

SCALE OF DRAWING: 1" = 30'

15

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

OWNER DOROTHY K. & CHERYL A. MILLIGAN



SCALE- 1" = 1000'

JNP 1519 102-519-A

SCALE OF DRAWING: 1" = 30'

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

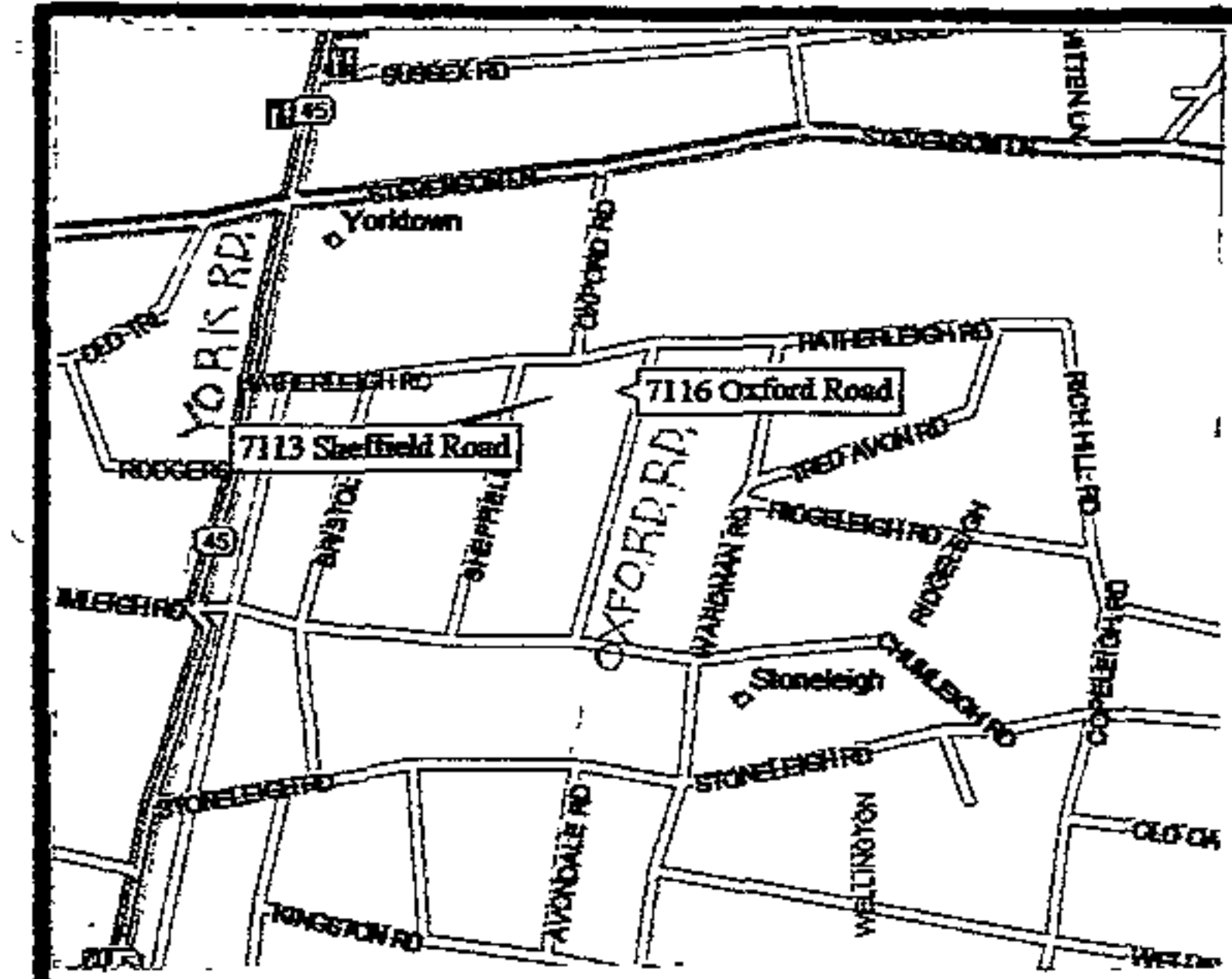
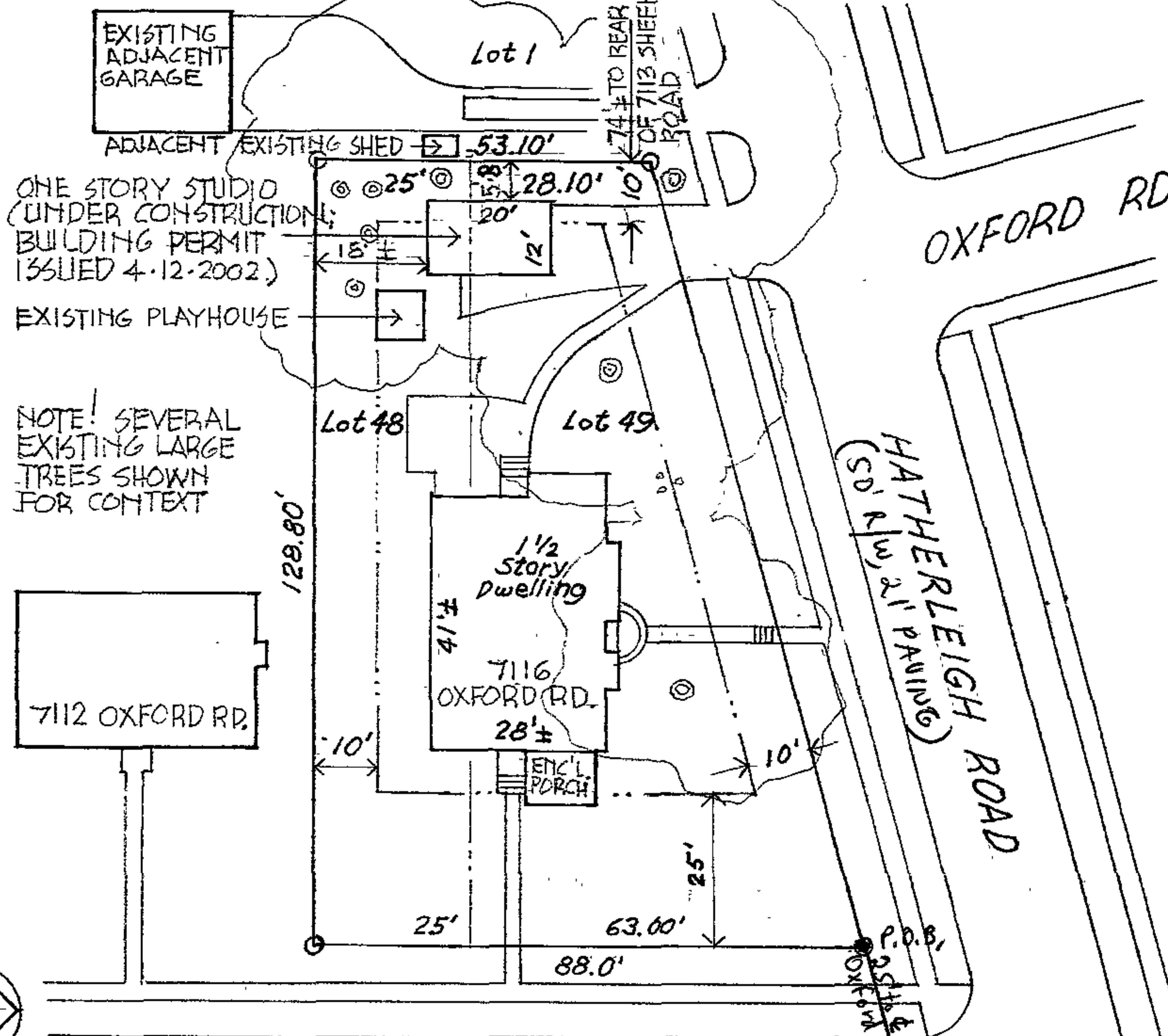
PROPERTY ADDRESS 7116 OXFORD RD.

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

SUBDIVISION NAME STONELEIGH

PLAT BOOK # 7 FOLIO # 87 LOT # 48-49 ^{BLOCK} 5

OWNER DOROTHY K. & CHERYL A. MILLIGAN



LOCATION INFORMATION			
ELECTION DISTRICT	9		
COUNCILMANIC DISTRICT	4		
1" = 200' SCALE MAP #	NE 8A		
ZONING	DR 5.5		
LOT SIZE	2086 a.	9086.84	
	ACREAGE	SQUARE FEET	
	PUBLIC	PRIVATE	
SEWER	☒	☐	
WATER	☒	☐	
CHESAPEAKE BAY CRITICAL AREA	☐	YES	NO
100 YEAR FLOOD PLAIN	☐	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☐	☒
PRIOR ZONING HEARING VIOLATION CASE #	NONE 02-2778		

ZONING OFFICE USE ONLY		
REVIEWED BY	ITEM #	CASE #
JNP	519	02-519-A

PREPARED BY JOHN W. HILL, FAIA, ARCHITECT

SCALE OF DRAWING: 1" = 30'