

IN RE: PETITION FOR VARIANCE
E/S Todd Point Lane, 1410' S
centerline of Morse Lane
15th Election District
7th Councilmanic District
(4604 Todd Point Lane)

Antoinette & Michael A. Schultz,
Legal Owners and
Shelley & Gerald Ruth, *Contract Purchasers*
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-166-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, Antoinette and Michael A. Schultz. The Petitioners are requesting a variance for property located at 4604 Todd Point Lane which is currently zoned D.R.3.5. The variance request is to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot width and area of 6,950 sq. ft. in lieu of the required 10,000 sq. ft. and to approve an undersized lot.

Appearing at the hearing on behalf of the variance request were Michael Schultz, the owner of the property, Shelley and Gerry Ruth, the contract purchasers. and Harry Blondell, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were Gary Foulke, Bryan Pennington and Tim Hutson.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 6950 sq. ft., more or less, zoned D.R.3.5. It is a waterfront lot located on the northeast side of Todd Point Lane in North Point. It is the same lot and parcel of property which was the subject of an identical petition for variance filed before Commissioner Lawrence E. Schmidt, which case was heard in January of 1999. That prior case was Case No. 99-210-A. The case before Commissioner Schmidt was filed by Cignal Development Corp., as owner and the same Michael Schultz as contract purchaser. The case proceeded before Commissioner

11/20/02
R. J. [Signature]

Schmidt on a hearing wherein the Petitioners request was denied by Order dated February 19, 1999. Thereafter, Mr. Schultz requested a reconsideration of the denial by Commissioner Schmidt. On April 8, 1999, Commissioner Schmidt once again denied the Petitioners' request to construct a home on this lot. An appeal from Commissioner Schmidt's final decision was taken and a new hearing was held before the Baltimore County Board of Appeals. The Board of Appeals entertained the Petitioners request *de novo*. After a new hearing on the matter, the County Board of Appeals issued an Order dated the 29th day of October 1999, once again denying the Petitioners' request to construct a home on this lot.

The Petitioners now come before this Deputy Zoning Commissioner, once again requesting approval to construct a home on this very same property. The request filed in my case is identical to the request filed in the case before Commissioner Schmidt and thereafter the Board of Appeals. Apparently, according to the testimony offered at my hearing, the only difference is that the house to be constructed is somewhat narrower than the house proposed in the cases before Commissioner Schmidt and the Board of Appeals. However, both Commissioner Schmidt, as well as the Board of Appeals, made it clear that the property is not of appropriate size upon which to construct a single-family residential dwelling. This is true regardless of the size of the house to be constructed. The Petitioners, in their motion for reconsideration before Commissioner Schmidt indicated their willingness to reduce the size of the house to make it narrower, similar to the one proposed before me now. Commissioner Schmidt found that the lot is simply encumbered with too many constraints to be buildable and denied their motion.

I find that the Petitioners' request before me is identical to the request he filed before Commissioner Schmidt and the Board of Appeals. The request for variance must be denied based on the doctrine of *res judicata*.

11/20/02
R. J. Garrison

THEREFORE, IT IS ORDERED, this 20th day of November, 2002, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 304.1 and 1B02.3C.1 of the Baltimore County Zoning Regulations, be and is hereby DENIED.

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



TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Baltimore County
Zoning Commissioner

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

November 20, 2002

Harry Blondell, Esquire
628 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition for Variance
Case No. 03-166-A
Property: 4604 Todd Point Lane

Dear Mr. Blondell:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been denied in accordance with the enclosed Order.

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

Very truly yours,

A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

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



Printed with Soybean Ink
on Recycled Paper

Copies to:

Mr. & Mrs. Michael A. Schultz
4538 Golden Meadow Drive
Perry Hall, MD 21128

Mr. & Mrs. Gerald Ruth
8001 Wood Avenue
Baltimore, MD 21219

Mr. Gary A. Foulke
3118 Whiteway Road
Baltimore, MD 21219

Mr. Bryan Pennington
2507 Eugene Avenue
Baltimore, MD 21219

Mt. Tim Hutson
7707 Sparrows Point Boulevard
Baltimore, MD 21219

Copies to:

Mr. & Mrs. Michael A. Schultz
4538 Golden Meadow Drive
Perry Hall, MD 21128

Mr. & Mrs. Gerald Ruth
8001 Wood Avenue
Baltimore, MD 21219

Mr. Gary A. Foulke
3118 Whiteway Road
Baltimore, MD 21219

Mr. Bryan Pennington
2507 Eugene Avenue
Baltimore, MD 21219

Mt. Tim Hutson
7707 Sparrows Point Boulevard
Baltimore, MD 21219

ZONING DESCRIPTION

Zoning description for 4604 Todd Point Lane

(2150' /) Beginning at a point on the east side of Todd Point Lane which is twenty feet wide at the distance of 1410 feet south of the centerline of Morse Lane which is forty feet wide. Being lot number two in the subdivision of Milton Schluderberg as recorded in Deed Reference: Liber E.H.K., JR. 9824 Folio 487 (metes and bounds: N.67 52'38" E.135.00', S.16 23"05" E.50.25", S.67 52'38" W.143.00', N.07 31'22"W.51.67' to the place of beginning). Also known as 4604 Todd Point Lane and located in the 15th Election District, 7th Councilmanic District.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 17833

PAID RECEIPT

BUSINESS DAY TIME
10/03/2002 10:02/2002 11:42:09

REF: 0001 BAL FOR JRIC JMW DRYER 1

RECEIPT # 10972.7 10/02/2002 OFLM

DET: 5 503 JUDICIAL VERIFICATION

CP: 017833

Perpet tot \$100.00

100.00 00 .00 00

Baltimore County Maryland

DATE 10/2/02 ACCOUNT 0010066150

AMOUNT \$ 100.00

RECEIVED FROM: JERRY RUTH

FOR: ITEM # 166, 03-166-A,

4604 TODD POINT LN BY D. THOMPSON

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

NOTICE OF ZONING HEARINGS

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: #03-166-A

4604 Todd Point Lane

ES Todd Point Lane 1410' south of centerline of Morse Lane.

15th Election District - 7th Councilmanic District

Legal Owner(s): Michael and Antoinette Schultz

Contract Purchaser: Shelly Ruth

Variance: to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot with an area of 6,950 square feet in lieu of the required 10,000 square feet and to approve an undersized lot and any other variances deemed necessary by the Zoning Commissioner.

Hearing: Tuesday, November 19, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/1/623 Nov. 5 C57285Z

CERTIFICATE OF PUBLICATION

11/7/2002

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 11/5/2002.

☒ The Jeffersonian

☐ Arbutus Times

☐ Catonsville Times

☐ Towson Times

☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.:

03-166-A

Petitioner/Developer:

RUTH

Date of Hearing/Closing:

11/19/02

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

Attention:

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

#4604 TODD POINT RD

The sign(s) were posted on

11/3/02

(Month, Day, Year)

Sincerely

Patrick M. O'Keefe 11/10/02
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

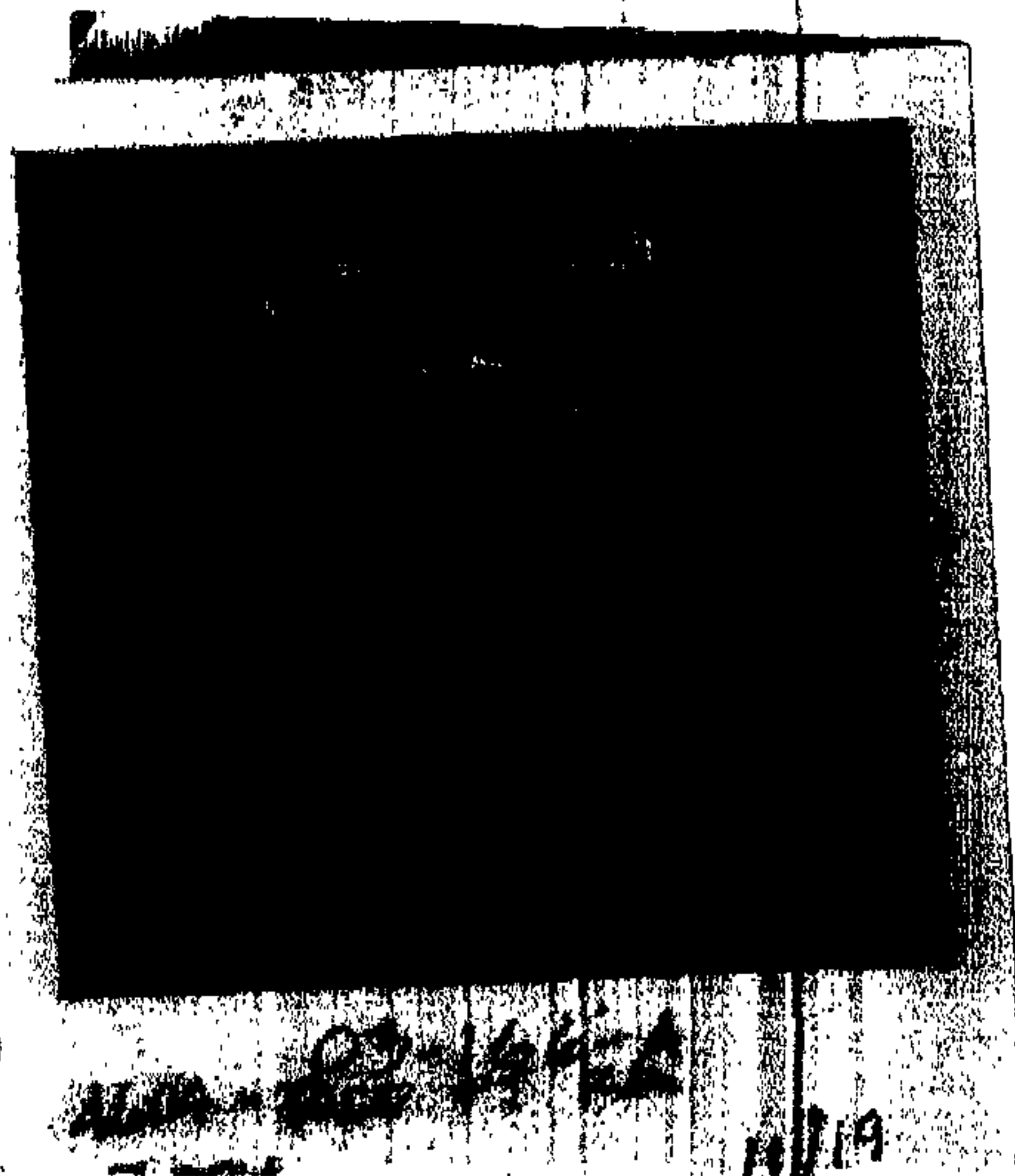
HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366 ; CELL 410-905-8571

(Telephone Number)

Post-it® Fax Note	7671	Date	11/10/02
To	BETTY / ROBIN	From	O'KEEFE
Attn	ZONING C.	Co.	
Phone	887-3468	Fax	666-0929



RE: PETITION FOR VARIANCE * BEFORE THE
4604 Todd Point Lane E/s Todd Point *
Lane 1,410' south of ctrl of Morse Lane * ZONING COMMISSIONER
15th Election District 7th Councilmanic *
District * FOR
Legal Owner: Michael & Antoinette Schultz *
Contract Pur.: Shelly Ruth * BALTIMORE COUNTY
Petitioner(s) * 03-166-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and 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 17th day of October, 2002, a copy of the foregoing Entry of Appearance was mailed to Gerald Ruth, 8001 Wood Avenue, Baltimore, MD 21219 Petitioner(s).


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 29, 2002 Issue – Jeffersonian

Please forward billing to:
Shelly Ruth
8001 Wood Avenue
Baltimore, MD 21219

410-477-1594

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: 03-166-A

4604 Todd Point Lane

E/s Todd Point Lane 1,410' south of center line of Morse Lane

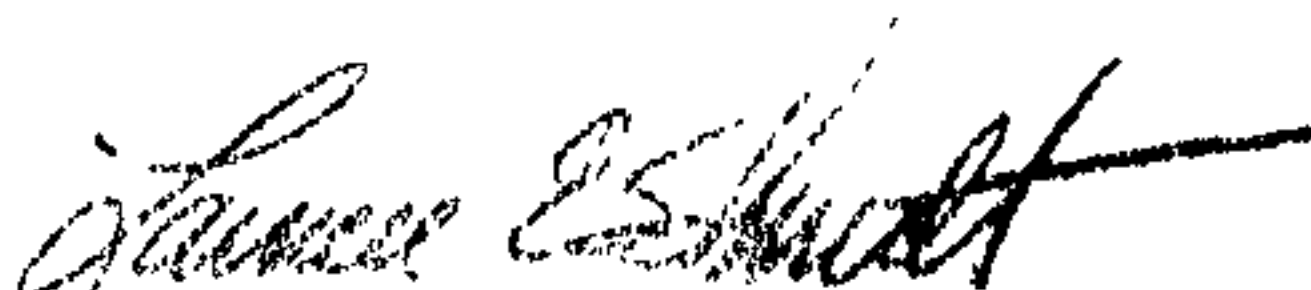
15th Election District – 7th Election District

Legal Owner: Michael and Antoinette Schultz

Contract Purchaser: Shelly Ruth

Variance to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot with an area of 6,950 square feet in lieu of the required 10,000 square feet and to approve an undersized lot and any other variances deemed necessary by the Zoning Commissioner.

HEARING: Tuesday, November 12, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

LES:rlh

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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 5, 2002 Issue – Jeffersonian

Please forward billing to:
Shelly Ruth
8001 Wood Avenue
Baltimore, MD 21219

410-477-1594

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: 03-166-A

4604 Todd Point Lane

E/s Todd Point Lane 1,410' south of center line of Morse Lane

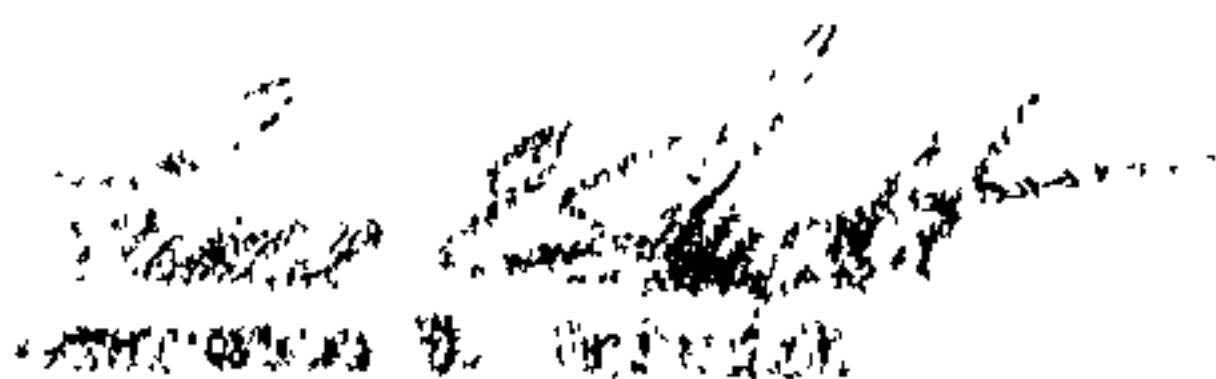
15th Election District – 7th Election District

Legal Owner: Michael and Antoinette Schultz

Contract Purchaser: Shelly Ruth

Variance to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot with an area of 6,950 square feet in lieu of the required 10,000 square feet and to approve an undersized lot and any other variances deemed necessary by the Zoning Commissioner.

HEARING: Tuesday, November 19, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

LES:rlh

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



Baltimore County
Department of Permits and
Development Management

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

October 11, 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: 03-166-A

4604 Todd Point Lane

E/s Todd Point Lane 1,410' south of center line of Morse Lane

15th Election District – 7th Election District

Legal Owner: Michael and Antoinette Schultz

Contract Purchaser: Shelly Ruth

Variance to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot with an area of 6,950 square feet in lieu of the required 10,000 square feet and to approve an undersized lot and any other variances deemed necessary by the Zoning Commissioner.

HEARING: Tuesday, November 12, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

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

Arnold Jablon
Director

AJ:rlh

C: Mr. and Mrs. Michael Schultz, 4538 Golden Meadow Drive, Perry Hall 21128-9035
Shelly Ruth, 8001 Wood Avenue, Baltimore 21219

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



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 18, 2002

NOTICE OF ZONING HEARING CORRECTION

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: 03-166-A

4604 Todd Point Lane

E/s Todd Point Lane 1,410' south of center line of Morse Lane

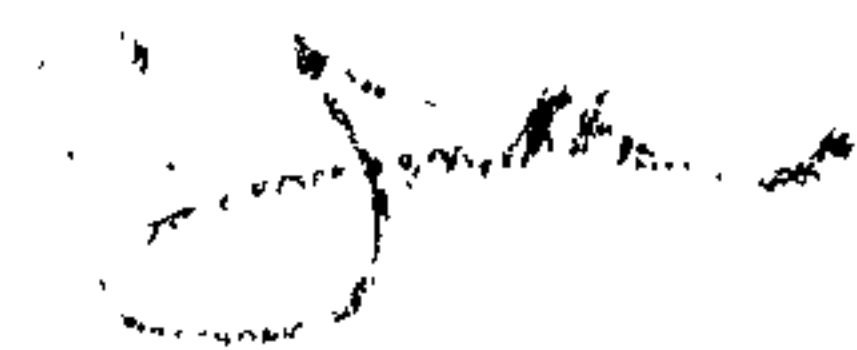
15th Election District – 7th Election District

Legal Owner: Michael and Antoinette Schultz

Contract Purchaser: Shelly Ruth

Variance to permit a lot width of 51.67 ft. in lieu of the required 70 ft. and to permit a lot with an area of 6,950 square feet in lieu of the required 10,000 square feet and to approve an undersized lot and any other variances deemed necessary by the Zoning Commissioner.

HEARING Tuesday, November 19, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Arnold Jablon
Director

AJ:rlh

C: Mr. and Mrs. Michael Schultz, 4538 Golden Meadow Drive, Perry Hall 21128-9035
Shelly Ruth, 8001 Wood Avenue, Baltimore 21219

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, NOVEMBER 4, 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



**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 03-166-A

Petitioner: SCHULTZ

Address or Location: 4604 TODD POINT LANE

PLEASE FORWARD ADVERTISING BILL TO:

Name: MS. SHELLEY RUTH

Address: ~~4602 TODD POINT~~ 8001 WOOD AVE.

BALTO. MD 21219

Telephone Number: 410-477-1594

Revised 2/20/98 - SCJ



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

November 14, 2002

Michael A. Schultz
Antoinette Schultz
4538 Golden Meadow Road
Perry Hall, MD 21128

Dear Mr. and Mrs. Schultz:

RE: Case Number: 03-166-A, 4604 Todd Point Lane

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 2, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:rlh

Enclosures

c: People's Counsel
Gerald Ruth and Shelley Ruth, 5001 Wood Avenue, Baltimore 21219

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





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

October 15, 2002

ATTENTION: George Zahner

Distribution meeting: 10/15/02

Location:

Item No.:

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.

7. The Fire Marshal's Office has no comments at this time, in reference to the following items: 159 & 160, 162-172

(166)

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

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 30, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For October 21, 2002
Item No. 159, 160, 161, 162, 163, 164,
165, 166, 167, 168, 169, 170, and 172

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *RB/TGT*

DATE: 11/06/02

SUBJECT: Zoning Item 166
Address 4604 Todd Point Lane (Schultz Property)

Zoning Advisory Committee Meeting of 10/15/02

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

X Additional Comments:

See Attachment

Reviewer: Keith Kelley

Date: 10/25/02

CBCA Zoning Comments (zoning item # 166)

☒ The property is located within the Limited Development Area (LDA), ~~or Resource Conservation Area (RCA), or Intensely Developed Area (IDA)~~ of the Chesapeake Bay Critical Area (CBCA).

☐ This proposal must use best management practices, which reduce pollutant loadings by 10%.

☐ Man-made impervious surfaces are limited to 15% for lots greater than 1/2 acre in size.

☒ Man-made impervious surfaces are limited to 25% for lots less than 1/2 acre in size.

☒ Mitigation is required if exceeding the 25% impervious surface limit. Impervious surfaces are limited to 25% of the lot & 500 square feet ~~or 31.25% of the lot~~. Otherwise, a Critical Area Administrative Variance (CAAV) is required.

☐ If permitted development on a property currently exceeds impervious surface limits, that percentage may be maintained during redevelopment of the property.

☒ 15% forest must be established or maintained. This equates to 2 trees for a lot of this size.

☒ Any tree removed in the buffer for this structure must be replaced on a 1:1 basis.

☒ All downspouts must discharge rainwater runoff across a pervious surface such as a lawn.

☒ The lot is in a Buffer Management Area (BMA). Mitigation (planting trees, removing impervious area, or paying a fee-in-lieu) is required for the placement of the proposed structure within 100' of tidal waters.

☒ If the lot is unimproved, then the proposed dwelling cannot go any closer to the water than the neighboring dwelling farthest away from the water.

☐ If the lot is improved, then the proposed dwelling can go as close to the water as the existing dwelling.

☐ A Critical Area Administrative Variance (CAAV) is required for the placement of the proposed structure within 100' of tidal waters, tidal wetlands, stream, or within 25' of non-tidal wetlands.

☐ A Critical Area Administrative Variance (CAAV) is required since the proposed principal structure cannot honor the required 35' residential building setback or 25' commercial building setback from the 25' or 100' buffer.

Jim
11/19

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 15, 2002

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

03-166

SUBJECT: Zoning Advisory Petition(s): Case(s) 03-166 & 03-168

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:

Drew L. Lukan

AFK/LL:MAC

**INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM**

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

Permit or Case No. 03-16-A

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

Residential Processing Fee Paid
(\$50.00)

Accepted by D. THOMPSON
Date 10/2/02

RE: Undersized Lots

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

MINIMUM APPLICANT SUPPLIED INFORMATION:

SHELLEY RUTH 8001 WOOD AVE. 410-477-1594
Print Name of Applicant Address Telephone Number

Lot Address 4604 TODD POINT LANE Election District 15 Councilmanic District 7 Square Feet 6950

Lot Location: N E S W/side/corner of TODD POINT LANE 1410 feet from N E S W corner of MORSE LANE
(street) (street)

Land Owner: MICHAEL A SCHULTZ & ANTOINETTE COTSORAKIS SCHULTZ Account Number 1508301742

Address 4538 GOLDEN MEADOW DR., PERRY HALL, MD Telephone Number () 21128

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

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

	YES	NO
1 This Recommendation Form (3 copies)	☒	☐
2 Permit Application	☐	☒
3. Site Plan Property (3 copies)	☒	☐
4. Building Elevation Drawings	☒	☐
5 Photographs (please label all photos clearly) Adjoining Buildings	☒	☐
Surrounding Neighborhood	☒	☐
6. Current Zoning Classification: <u>D.R. 3.5</u>		

TO BE FILLED IN BY THE OFFICE OF PLANNING ONLY!

RECOMMENDATIONS / COMMENTS

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

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

Date. _____

Revised 2/05/02

**SCHEDULED DATES, CERTIFICATE OF FILING AND POSTING FOR A
BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2**



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 10.11.02

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

RE: Baltimore County
Item No. 166 DT

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



Maryland Department of Planning

*Parris N. Glendening
Governor*

*Kathleen Kennedy Townsend
Lt. Governor*

*Roy W. Kienitz
Secretary*

*Mary Abrams
Deputy Secretary*

October 16, 2002

Mr. George Zahner
Baltimore County Department of Permits and Development Management
111 West Chesapeake Avenue
Room 111, Mail Stop #1105
Towson MD 21204

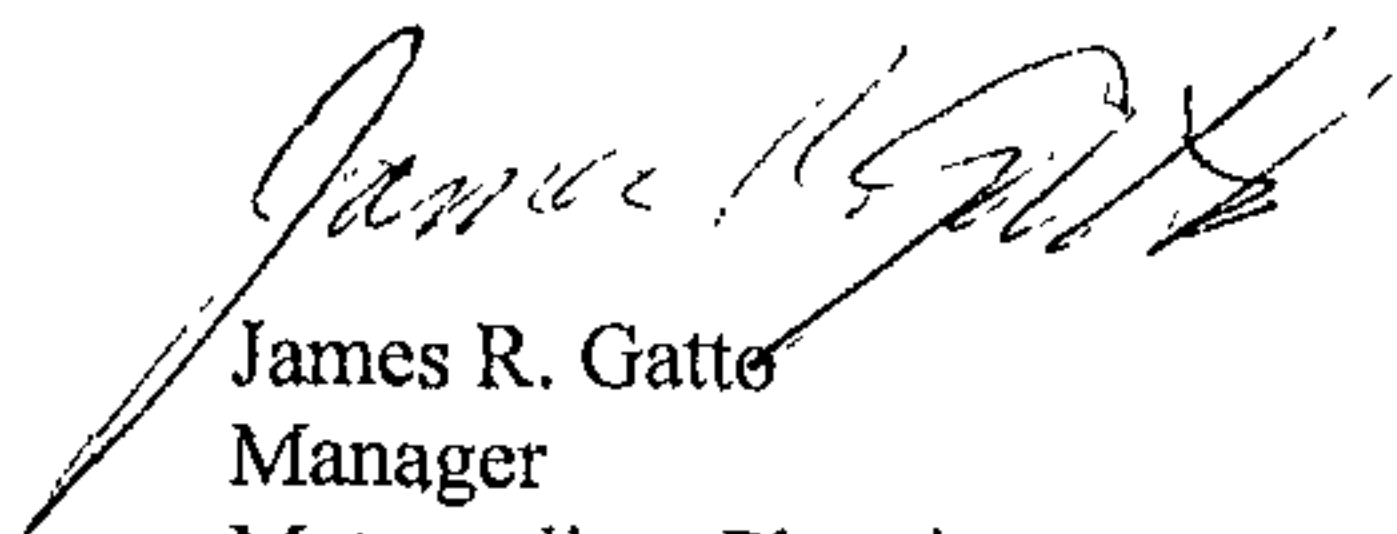
Re: Zoning Advisory Committee Agenda, 10/21/02 re: case numbers 03-159-SPHA, 03-160-SPH, 03-161-SPH, 03-162-A, 03-163-A, 03-164-A, 03-165-A, 03-166-A, 03-167-A, 03-168-A, 03-169-A, 03-170-A, 03-172-A

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 10/15/02. The information has been submitted to Mr. Mike Nortrup.

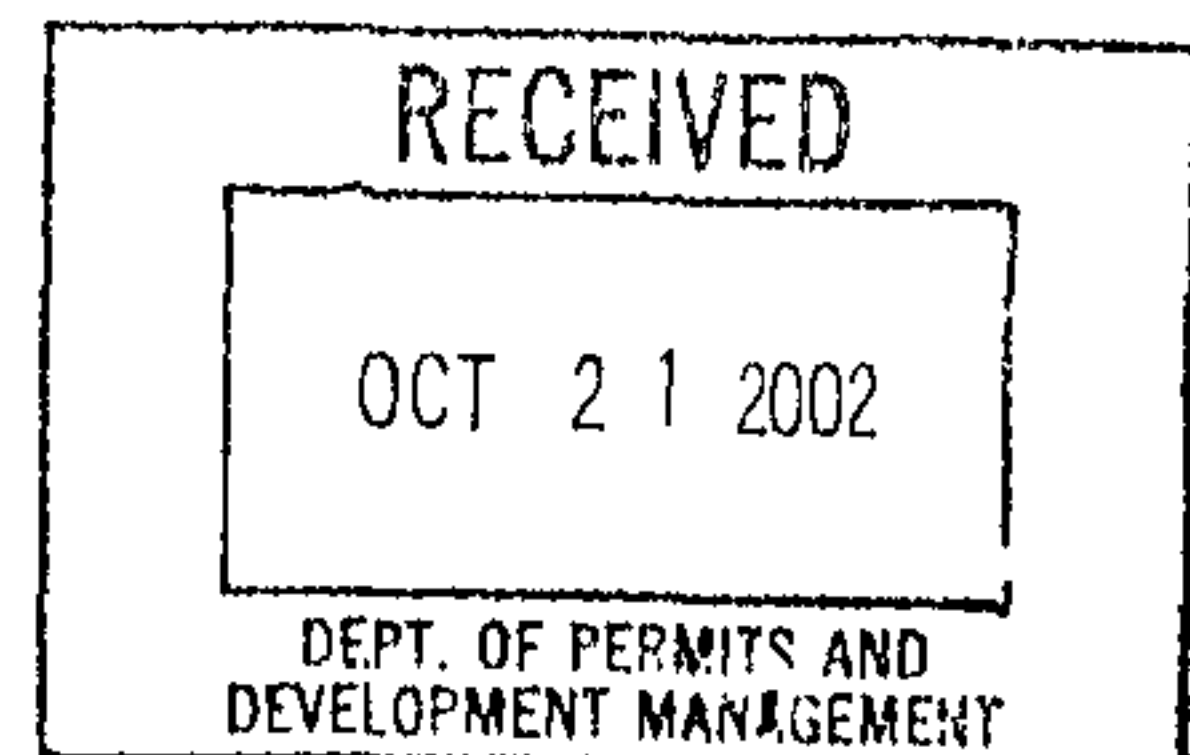
Thank you for your cooperation in this review process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,



James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup



11/19

1 4 2002

November 11, 2002

Timothy M. Kotroco, Deputy Commissioner
Zoning Commissioner's Office
County Courts Building
401 Bosley Ave, Room 405
Towson, MD 21204

Re: Case #03-166A
Petition for Variance
4604 Todd Point Lane

Dear Deputy Commissioner Kotroco:

In accordance with my telephone conversation with your secretary, please accept this letter, as my formal objection to the request for a variance on the above referenced property.

As I understand the matter is scheduled for a hearing on November 19, 2002.

I am unable to attend that hearing, as I am a caregiver for my ninety-three year old sister who is blind and has Alzheimer's.

There was a petition for a variance filed in late 1998 -- which was denied in 1999. The same party applied again and once more was denied. They were told the lot was unbuildable and ruled as such. Nothing has changed regarding the property since that time.

We would appreciate if you would please take into consideration the previous rulings on the property at 4604 Todd Point Lane on November 19, 2002.

Our family has owned the property at 4602 Todd Point Lane for fifty-three years.

I understand Brenda Hutson has sent you the papers on the previous rulings.

Thank you for any help you could grant us.

Sincerely yours,

Elizabeth S. Foulke

Elizabeth S. Foulke
3119 River Drive Road
Baltimore, MD 21219
410-477-1168

*The property at 4602 Todd Pt Lane
is registered too.*

*Elizabeth S. Foulke
Gene R. Foulke
Douglas N. Foulke*

*I handle all matters for the above
Thank you*

November 18, 2002

Timothy M. Kotroco, Deputy Commissioner
Zoning Commissioner's Office
County Courts Building
401 Bosley Ave., Room 405
Towson, MD 21204

Re: Case #03-166A
Petition for Variance
4604 Todd Point Lane

Dear Deputy Commissioner Kotroco:

In accordance with my telephone conversation with your secretary, please accept his letter as our formal objection to the request for a variance on the above referenced property. I am speaking for the legal owners of the property at 4602 Todd Point Lane, which are Elizabeth S. Foulke, Gene R. Foulke and Douglas Foulke. I handle all matters for the owners.

As I understand the hearing for the petition is scheduled on November 19, 2002.

I am unable to attend that hearing, as I am a caregiver for my ninety-three year old sister who is blind and has Alzheimer's.

There was a petition for a variance filed in late 1998 – which was denied in 1999. The same party applied again and one more was denied. They were told the lot was unbuildable and ruled as such. Nothing has changed regarding the property since that time.

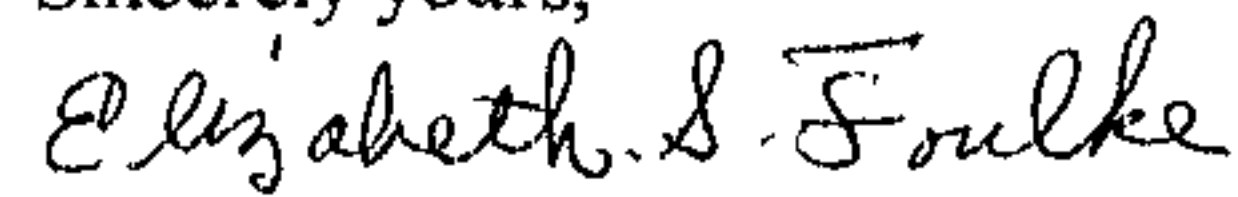
We would appreciate if you would please take into consideration the previous rulings on the property at 4604 Todd Point Lane on November 19, 2002.

Our family has owned the property at 4602 Todd Point Lane for fifty-three years.

I understand Brenda Hutson has sent you the papers on the previous rulings.

Thank you for any help you could grant us.

Sincerely yours,



Elizabeth S. Foulke
3119 River Drive Road
Baltimore, MD 21219
410-477-1168

JK
11/19

BRENDA K. HUTSON
7707 Sparrows Point Boulevard
Baltimore, Maryland 21219
(410) 477-5416
(410) 477-5180 (facsimile)

12:20

November 6, 2002

Deputy Commissioner Timothy M. Kotroco
Zoning Commissioner's Office
County Courts Building
401 Bosley Avenue, Room 405
Towson, Maryland 21204

RE: Case #03-166-A
Petition for Variance.
4604 Todd Point Lane

Dear Deputy Commissioner Kotroco:

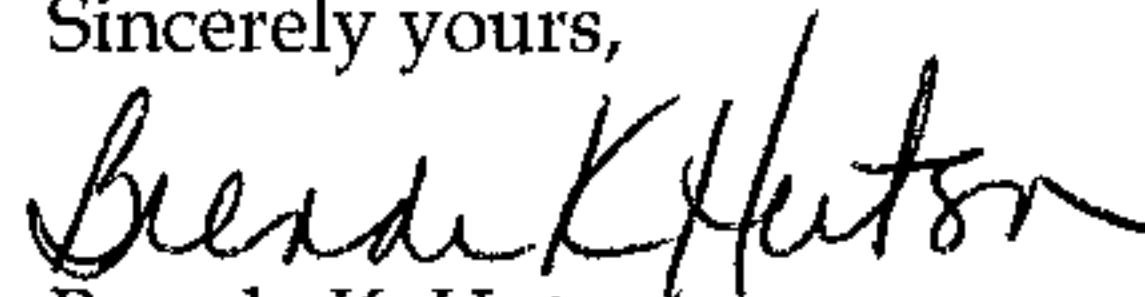
In accordance with our telephone conversation today, please accept this letter as my formal objection to the request for variance with regard to the above-referenced matter. As I understand it, this matter is scheduled for a hearing on November 19, 2002 and at this point, I am unable to attend that hearing.

As I explained to you on the telephone, there was a previous petition for variance filed in late 1998 or early 1999, apparently by the same individuals as in this case. That case number was 99-210-A. A number of individuals objected to that petition as well.

In that case, the matter was appealed by the petitioner, and that appeal was denied. I am enclosing copies of the Zoning Commissioner's Findings of Fact and Conclusions of Law, the Zoning Commissioner's Ruling on Motion for Reconsideration and the Board of Appeals' Opinion in the prior case.

Please note that nothing has changed regarding the property since that time. I would appreciate it if you would take all of this into consideration when considering the request for variance, and deny the request. If you have any questions or need further information, I can be reached at (410) 727-5000 between the hours of 8:30 and 4:00 p.m.

Sincerely yours,


Brenda K. Hutson

BKH/me
Enclosures

4600 TODD POINT LANE - FOULKE

LOT WIDTH - 51.67'

" DEPTH - 135' - 137'

" SIZE - 6936 $\square$ FT

4602 TODD POINT LANE - 4604

LOT WIDTH - 51.67'

" DEPTH - 135' - 145'

" SIZE - 6950 $\square$ FT.

EASEMENT OF APPROX.
15' ON RIGHT SIDE
FOR STORM DRAIN
(INSTALLED)

4606 TODD POINT LANE - DAUSER

LOT WIDTH - 51.67'

" DEPTH - 143' - 151'

" SIZE - 7350 $\square$ FT.

4608 TODD POINT LANE - PIRARO

LOT WIDTH - 51.67'

" DEPTH - 151' - 170'

" SIZE - 8000 $\square$ FT

4610 - 9333 $\square$ FT

11/13/02

CASE NAME Scythia
CASE NUMBER 03-166-A
DATE 11/19/02

CASE NAME SECHULTZ
CASE NUMBER 03-166-A
DATE 11/19/02

[illegible]

IN RE: PETITION FOR VARIANCE

E/S Todd Point Lane, 1410 ft. S

of c/l of Morse Lane

4604 Todd Point Lane

12th Election District

7th Councilmanic District

Contract Purchaser: Michael Schultz

Legal Owner: Cignal Development Corp.

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 99-210-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Variance for the property located at 4604 Todd Point Lane in the North Point subdivision of Baltimore County. The Petition was filed by Cignal Development Corporation, Property Owner, and Michael Schultz, Contract Purchaser. Variance relief is requested from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (BCZR) to allow a buildable lot with a width of 50.25 ft., in lieu of the required 70 ft., and an area of 6,985 sq. ft., and in lieu of the required 10,000 sq. ft. The Petition also generally seeks relief necessary to approve an undersized lot pursuant to Section 304 of the BCZR and any other variances as deemed necessary by the Zoning Commissioner. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the requisite public hearing held for this case were Michael Schultz, property owner, and Buck Jones, builder. Also appearing were Cabrina Dembow and Ethel Weber. Additionally, although they did not appear at the hearing, this office received letters in opposition to the request from Elizabeth S. Foulke, who owns property immediately adjacent to the site at 4602 Todd Point Lane, Brenda K. Hudson, on behalf of the property owner on the other side of the subject parcel at 4606 Todd Point Lane, and Diana M. Dausen. That correspondence is contained within the case file and speaks for itself.

As noted above, the subject property is approximately 6,985 sq. ft., zoned D.R.3.5. Presently, the property is unimproved. Mr. Schultz has acquired the property and proposes constructing a single family dwelling thereon. A building envelope of 30 ft. x 30 ft. is

shown. The property is a waterfront property, adjacent to Back River. A setback of 70 ft. from the water line to the dwelling is shown on the plan.

Variance relief is requested because the lot is undersized in terms of area and is also too narrow. Moreover, although variance relief is not requested within the Petition, the proposed side yard setback on the one side of the property is 6.5 ft. and is insufficient under law.

Mr. Schultz and Mr. Jones appeared at the hearing and offered testimony regarding the proposal. They noted the existence of the drainage and utility easement along the southeastern portion of the property line. The site plan offered at the hearing (Petitioner's Exhibit No. 1), shows that the drainage and utility easement is 13.5 ft. in width. The plan also shows that the side of the dwelling will be set back that same measurement from the side property line. Thus, the Petitioner proposes to construct the side of the dwelling so that same immediately abuts the drainage and utility easement area.

Although this drainage and utility easement indeed exists, it does not provide the basis upon which relief can be granted for the lot width and lot area. That is, the property is less than the required 70 ft. width, irrespective of the drainage and utility easement. The property is approximately 51 ft. wide, including the area of the drainage and utility easement. Moreover, the property does not contain sufficient area, even including the area of the drainage and utility easement.

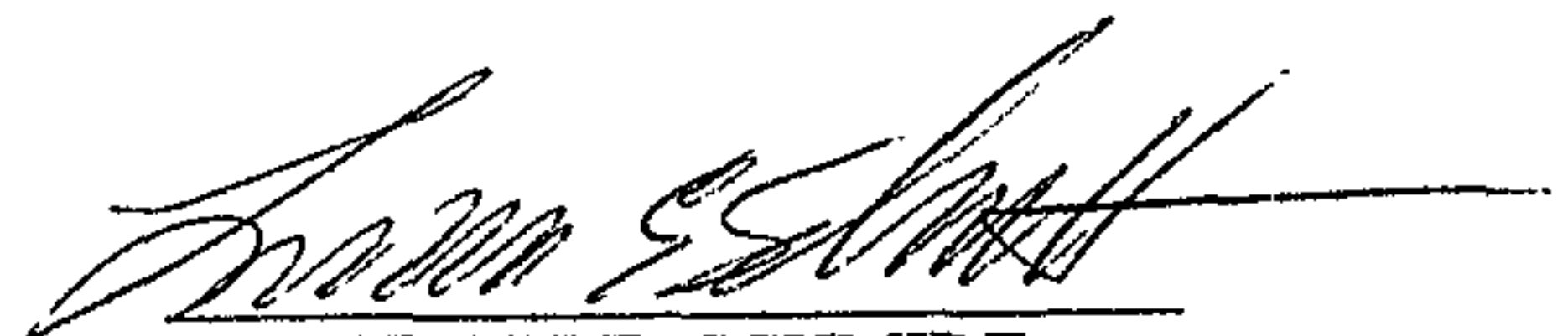
A Zoning Plans Advisory Committee (ZAC) comment was also received from the Developer's Plans Review Division. That comment indicates that the drainage and utility easement is 15 ft. wide. The comment also indicates that the County has constructed a storm drain within that easement and County policy prohibits any construction over the easement area. If the County measurement of the easement is correct (i.e. 15 ft.) than the plan shows that the dwelling would be constructed over an area of the easement (approximately 1.5 ft.).

Based upon the testimony and evidence presented, I am not persuaded that relief should be granted. With the constraints of this property, construction is difficult. Not only is

the property inherently too small and narrow, but the location of the easement also severely limits the possibilities for this site. Moreover, I concur with the written comments of the adjacent property owners. They opine that construction would adversely impact their property. Finally, Mr. Jones indicated at the hearing that the property has an elevation of 8 ft. Pursuant to the ZAC comment from the Developer's Review Division, the minimum building elevation is 10 ft. For all of these reasons, the Petition must be denied.

Pursuant to the advertisement, posting of the property and the public hearing on this Petition held, and for the reasons given above, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 19th day of February, 1999, that the Petition for Variance from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (BCZR) to allow a buildable lot with a width of 50.25 ft., in lieu of the required 70 ft., in an area of 6,985 sq. ft., and in lieu of the required 10,000 sq. ft., be and is hereby DENIED.


LAWRENCE E. SCHMIDT
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

IN RE: PETITION FOR VARIANCE
E/S Todd Point Lane, 1410 ft. S
of c/l of Morse Lane
4604 Todd Point Lane
12th Election District
7th Councilmanic District
Contract Purchaser: Michael Schultz
Legal Owner: Cignal Development Corp.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-210-A
*

* * * * *

RULING ON MOTION FOR RECONSIDERATION

This matter comes before the Zoning Commissioner on a Motion for Reconsideration of the Findings of Fact and Conclusions of Law and Order issued by me on February 19, 1999. At that time, I denied a Petition for Variance, which had been filed by the owner of the subject property, Michael Schultz. Within that Petition, variance relief was requested to approve a lot with a width of 50.25 ft., in lieu of the required 70 ft. and a lot area of 6,985 sq. ft., and in lieu of the required 10,000 sq. ft.

This matter was the subject of a public hearing on January 4, 1999. At that time, Mr. Schultz and his builder (Buck Jones) appeared and offered testimony and evidence in support of the request. Also, Cabrina Dembow and Ethel Weber appeared at that time in opposition to the request. Ms. Debow and Ms. Weber live in the community. Letters in opposition to the request were also received from other adjacent property owners including Diana Dausen, Brenda K. Hutson and Elizabeth S. Foulke.

For reasons fully set forth in my prior opinion, the variance was denied. One of the reasons enumerated was that the property is subject to a 15 ft. wide drainage and utility easement controlled by Baltimore County. Under County law, permanent construction cannot occur on that easement. Thus, the lot, already undersized at approximately 51 ft., would be further reduced in terms of buildable area to a 36 ft. wide lot. Additionally, the lot is in a floodplain and suffers from environmental constraints. Indeed, Mr. Schultz's proposed dwelling will be on stilts, which is inconsistent with any dwelling in the area. For all of these reasons, I denied the Petition for Variance.

Subsequent to the issuance of that Order, Mr. Schultz filed a Motion for Reconsideration. Apparently, he and his representative had additional discussions with Robert W. Bowling, a supervisor in the Bureau of Developer's Plans Review. As a result of those discussions, Mr. Schultz agreed to move the dwelling outside of the easement area and reduce its proposed width.

Although that concession solves one problem, it does not resolve the complaints of many of the neighbors. In this regard, I spoke with those neighbors and advised them of the filing of the Motion for Reconsideration. They remain opposed to the request. The neighbors believe that the proposed dwelling will be inconsistent with the neighborhood and that the lot is simply encumbered with too many constraints to be buildable. I agree.

To a certain extent, I am sympathetic to Mr. Schultz's plight. However, this is clearly a self-imposed hardship. He purchased the property gambling that variance relief could be obtained. Clearly, the lot is undersized and of insufficient width. A variance from the Baltimore County Zoning Regulations cannot be granted on the basis to cure a bad business decision or to provide relief from a self imposed hardship. The variance regulations clearly require that the Petitioner show some compelling rationale for deviation from the regulations. If ever there were a case of self imposed hardship, this is it. Thus, the Motion for Reconsideration shall be denied and the provisions of the Findings of Fact and Conclusions of Law dated February 19, 1999 are incorporated herein. Mr. Schultz may file an appeal of this decision within 30 days from the date hereof should he wish further consideration of this matter by the County Board of Appeals.

Pursuant to the advertisement, posting of the property and the public hearing on this Petition held, and for the reasons given above, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 8th day of April, 1999, that the Motion for Reconsideration from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (BCZR) to allow a buildable lot with a width of 50.25 ft., in lieu of the required 70 ft., and a lot area of 6,985 sq.

ft., and in lieu of the required 10,000 sq. ft., be and is hereby DENIED.



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

Post-It* Fax Note 71		Date 11-7-02	# of pages 17
To Brenda	From		
Co./Dept.	Co.		
Phone #	Phone #		
Fax #	Fax #		

IN THE MATTER OF
 THE APPLICATION OF
 SIGNAL DEVELOPMENT CORP. /
 MICHAEL SCHULTZ - PETITIONER
 FOR VARIANCE ON PROPERTY
 LOCATED ON THE E/S TODD POINT
 LN, 1410' S OF C/L MORSE LANE
 (4604 TODD POINT LANE)
 12TH ELECTION DISTRICT
 7TH COUNCILMANIC DISTRICT

* OF
 * BALTIMORE COUNTY
 * CASE NO. 99-210-A

* * * * *

O P I N I O N

This case comes to the Board of Appeals based on a decision of the Zoning Commissioner that denied a Petition for Variance. Ralph K. Rothwell, Esquire, represented the Petitioners. Carole S. Demilio, Deputy People's Counsel for Baltimore County, appeared on behalf of the Office of People's Counsel. A public hearing was conducted on August 14, 1999, with opening statements by both counsel. Public deliberation occurred on September 14, 1999.

Mr. Douglas Swam, Bureau of Building Permit Processing, Department of Permits & Development Management, appeared as custodian of records of that department under a process served on Mr. Carl Richards, Zoning Supervisor, to produce land records and documents. Records produced were:

Appellants' 2A

Permit #B344064 for property at 4604 Todd Point Lane issued to Signal Development Corp., Timonium, Md to construct a single-family dwelling, permit application dated June 19, 1998, along with a site plan drawn by KCI Technologies, Inc. The permit was issued on August 13, 1998 (and attachments).

Appellants 3

Building Permit #B360294 issued to Mike Schultz on December 17, 1998 for 4604 Todd Lane for a single-family dwelling. This permit cancelled No. B344064, and expired one year from issue date.

Mr. Swam testified as to the issuance processes for each exhibit. He explained that a permit is valid for one year from issuance

Case No. 99-210-A /Michael Schultz -Petitioner

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date, but any new purchaser needs a new permit -- although it can be assigned for a \$20.00 fee and could be extended if accompanied by a letter of explanation. He acknowledged that the new permit secured by Mr. Schultz was the same home proposed, same site, and he ascertained no particular problems.

On cross-examination, he acknowledged his familiarity with variances, but that his department only grants the permits, and his department assumes the sufficiency if authorized by zoning, and other County agencies, based on the application information. Compliance with County laws was not within his authority, and the only basis he had for disapproval would be if the application information itself was incorrect. Questions were posed by Ms. Demilio concerning a 24-foot width, 28-foot depth, and 30-foot height of the proposed home, with no garage being shown on the site plan, no County easement being shown, the location of the air conditioning unit, and the slab foundation in a flood plain.

On re-direct, the witness again acknowledged the issuance of essentially the two similar permits, and on re-cross, Ms. Demilio cited the lack of a sealed site plan with the application.

Mr. Swam acknowledged that most people would rely on the permit and again that his office does not become involved in zoning interpretations.

Mr. James Gay III was called by Mr. Rothwell under a process issued on July 28, 1999. He is a licensed Maryland real estate agent working for Old Colonial Realty, Inc., and was the listing agent for the seller, At Homes Again, Inc. The latter corporation

Case No. 99-210-A (Michael Schultz -Petitioner)

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had purchased the vacant lot from Cignal Corporation on August 6, 1998. Mr. Gay acknowledged that a building permit had been issued to Cignal Development on August 13, 1998, and that he had listed the lot with the August 13, 1998 permit (Appellants' Exhibit No. 4), with a sale price of \$69,900.00 (Multiple List Form #BC2526706). He opined that he had no reasons to believe that the permit was not valid and that the lot was sold to the Appellants for \$55,000.00. A deed was executed on November 30, 1998 from At Homes Again, LLC, to Michael A. Schultz and Antoinette Cotsoradis. The deed reflects that James L. Gay III is manager for the seller, At Homes Again Realty, LLC.

On cross-examination, Mr. Gay acknowledged that he had been a real estate agent for 12 years and was 31 years of age. He had no affiliation with Cignal Development. He had no knowledge of any variance request; and it was not his signature that appeared on the Petition for Variance. He acknowledged that At Home Realty is his company and he is the sole stockholder. He acknowledged being active in the purchase and re-sale of lots and homes -- the latter of which he rehabs and then re-sells. At Home Realty was incorporated in 1990 and is active in buying, selling and rehabing older homes. He stated he has limited knowledge of permit securing, since his rehab work does not require permits. He had only been involved with Cignal in this sole transaction. He had sold one home in the immediate Beachwood Estates area. The subject property was purchased by him for \$25,000.00 on October 6, 1998 and sold to the buyers for \$55,000.00. An employee of his company

Case No. 99-210-A / Michael Schultz - Petitioner

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attended the settlement of the property with the buyers, a copy of the building permit was given to Mark Ford who represented the buyers.

Mr. Albert Charles Jones testified for the Petitioner. He is the owner of Free State General Contractors who was engaged to build the house for the Appellants. He opined that he has 15 years in the building business and has constructed at least 30 different homes, and is fully licensed to do so. He stated as to how he prepares his plans and obtains permits, searches the land records which include the tax records, frequently by way of WEB pages. He was familiar with the subject property and the Appellants. He testified as to the preparation of the plans and certain revisions that were made. He acknowledged seeing the Signal permit and stated that D.R. 3.5 zoning was required, with a side-yard setback of 10 feet, 15 feet, and 25 feet needed. He acknowledged drawing up the amended site plan. Appellants' Exhibits 7A and 7B were reviewed in detail by Mr. Jones. It was his impression that all flood plain requirements had been satisfied. Considerable time was expended reviewing the house dimensions and site location. He opined that he had personally gone to the Land Records of Baltimore County and pulled copies of various deeds. Appellants' 8A, 8B, 8C, 9A, and 9B were admitted into evidence. Exhibits 9A and 9B represent deeds covering properties on both sides of the subject site (9A dated 8/30/88 and 9B dated 9/05/97). The Foulke property has a width of 52.2 feet (more or less) and 51.67 feet on the right side. The 9B property has a width of 50.25 feet (more or less) and

Case No. 99-210-A / Michael Schultz -Petitioner

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right side length of 51.67 feet.

Appellants' Exhibit 10 (A through D) were reviewed, and the witness stated these reflected various lots comprising square footage comparable to the Appellants:

- 10A - 4608 Todd Point Lane, 8,000 sq. ft.
- 10B - 4606 Todd Point Lane, 7,350 sq. ft.
- 10C - 4604 Todd Point Lane, 6,950 sq. ft.
- 10D - 0.16 N.E.C. Todd Point (undeveloped), 6,936 sq. ft.

On cross-examination, Mr. Jones stated again that he was a builder involved in contracting and development work and was not an expert in land planning. He believed that he had made every legitimate effort to determine if the Appellants could build on the subject site, based on his research, the County permits, and no adverse conditions imposed by the County. When he became aware of the side yard setbacks, the second permit and request for variance were made simultaneously. It was he who placed Mr. Gay's name on the variance request, after contacting Gay's office on three occasions.

On cross-examination by Ms. Demilio, he again acknowledged putting Cignal Development as the owners of the property and he signed Gay's name on the variance request. He acknowledged the specific variance needs and reviewed Appellants' Exhibit No. 6 and that four different variances were needed (area, width of lot and sum of side yard setbacks). He also acknowledged that the County has a 15-foot right-of-way and that because of the easement, the house could not be centered on the property, being 7 feet from the Foulke property line and 20 feet from their house. He stated that Mr. Schultz understated the variance process and was aware that same

Case No. 99-210-A / Michael Schultz -Petitioner

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was needed before going to settlement. The proposed changes dictated the need for a new permit. He opined that an examination of Appellants' Exhibit 10 would reflect that the Schultz lot was valued less than others in the area, and that his site visits reflected that most were constructed in the 1950s and 1960s, again acknowledging that Mr. Schultz was aware of the easement problem before settlement.

Mr. Mark A. Ford, an agent with Coldwell Banker Grempier since 1983 and an appraiser also testified. The bulk of his activities are in the eastern portion of Baltimore County. He represented Mr. and Mrs. Schultz (now married) as a buyer/broker. He was very familiar with Beachwood Estates with over 200 homes, none with a direct waterfront access. He had been working with the Appellants, saw the property on the Maris (Multiple List) system, pulled the listing, recognized it as a buildable lot per Gay's comments, got a survey from Gay, the permit, discussed the property with the Schultz's and drew up a contract on September 24, 1998, which was accepted by the sellers the same day. Settlement date was extended, and took place on November 30, 1998. The settlement date had been extended, according to the agent, due to financing delays, and that he and Mr. Schultz physically drove to Towson and saw three County agencies before submitting the September 24, 1998 contract. The County people involved Keith Kelly, DEPRM; one employee of zoning and one employee in permits. Since he "had a permit in hand," he recommended the purchase based on their investigations and the permit. He opined that he genuinely

Case No. 99-210-A /Michael Schultz -Petitioner

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believed the lot to be a buildable one based on the Maris listing, public records, check of the neighboring properties, and the County investigation. He stated that, on his own investigation, 20 waterfront lots had improvements, with 14 less than 10,000 sq. ft.; 2 had 6,975 sq. ft.; and 9 others were much smaller.

On cross-examination, the witness acknowledged that he was not a zoning expert and not aware of variance regulations. He stated he was aware of contract contingencies and could have put one in the contract relative to the appropriateness of building on the site. He was personally not aware of the need for any variances in this instance, but that Mr. Jones was aware of the need after the changes had been made, and that's why all parties concerned believed there was no need for variances.

Mr. Michael Schultz also testified. The couple were married on May 29, 1999 and wanted to build a new home on the water, became interested in the subject site, submitted a contract on September 24, 1998, and on three occasions Mr. Schultz visited Towson with his real estate agent and was told he could build, as long as he stayed off the County easement. He went to the permit office with Appellants' Exhibit No. 2, and before he purchased the lot, he discussed the proposed expansion with Mr. Jones. It was their understanding that he could still build on the original permit if not amended. He stated that he presently resides in Canton, works as a longshoreman in Dundalk, and his wife is employed at Fort Howard Hospital as a secretary for Medical Records. He stated he wanted to build the home immediately after settlement, went to Key

Case No. 99-210-A /Michael Schultz -Petitioner

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Bank for \$180,000.00 loan, and was granted a loan with one year to build, by November 30, 1999 (one year construction loan). He is currently paying on the \$55,000.00 for the land, and has people continuously trespassing on the lot since he purchased it, despite sign postings which have been repeatedly torn down. He submitted 14 photographs of the property which were admitted into evidence, all of which have been reviewed by the panel members. He alleged that vehicles have been parked illegally since his purchase, his signs removed, and the boat ramps constantly being illegally used by nearby residents. Maintenance of the property, because of its nonresidency, is a never-ending problem because Beachwood residents constantly use it for their parking and boat launching activities.

On cross-examination, he stated he was paying interest on the land loan only; there was a one-year construction loan; that he had heard nothing from Baltimore County concerning the absolute right to build the home. Mrs. Antoinette Schultz proffered Mr. Schultz' remarks. That concluded the Petitioners' case in chief.

Mr. Eric Rockel, Permits and Development Management, Land Acquisition, testified for the County. He has 19 years' experience in subdivision development. He supervises the rights-of-way, assisting developers in Baltimore County with regulations, and is charged with record keeping of new subdivisions. He was aware of the Beachwood development, and the 15-foot wide easement conveyed by Cignal Development to the County. He stated that about 10 to 20 percent of the lots in the newer development have some sort of easements, all of which are on private property. The easement in

Case No. 99-210-A /Michael Schultz -Petitioner

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stormwater management facility and to prevent beach erosion. The community was told basically that no building would ever take place on the lot, and she was quite surprised when she saw a "for sale" sign on the property placed there by Mr. Gay. That concluded the County's case.

Both counsel were requested to submit written briefs to the Board, which were to be reviewed by the individual members, along with the testimony taken at the hearing and the evidence submitted, at which time a public deliberation would be scheduled.

The Petitioners' request for variance filed on November 17, 1998 requested a variance from Section 1B02.3.C.1 and Section 304.1 "To allow a buildable lot with a width of 50.25 feet and an area of 6,985 sq. ft. in lieu of the minimum required 70 feet and 10,000 sq. ft. respectively, to approve an undersized lot per Section 304 and any other variance as deemed necessary by the Zoning Commissioner." The Appellant recites the presence of a utility easement on the property, which causes strict compliance with the statute to be impossible. The original Zoning Commissioner's Order was dated February 19, 1999, denying the variance; and a further ruling on Motion for Reconsideration led to another denial on April 8, 1999. The Board considered the approval of the lot under Section 304 which recites the requirements for such approval. Section 304.1 stipulates that:

"A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

A. Such lot shall have been duly recorded either

Case No. 99-210-A / Michael Schultz -Petitioner

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question was recorded between August 12, 1998, and August 31, 1998, and has approximately 15 to 15-1/2 feet in size which is typical, although they can go as high as 20 feet. He stated that a property owner cannot build on these easements since the County may have to make repairs on stormwater pipes for maintenance. As part of the development process, the County does not pay developers for the easement if it is absolutely needed, and in this case, in order to get the plan approved, the developer needed the easement for its stormwater management and runoff.

On cross-examination by Ms. Demilio, he described the concrete pipes which run under the easements, and while the pipes do not occupy the entire easement, they are necessary for its protection, and that the easement does go through the lot in question. The pipe is about 4 to 6 feet below ground, he was not familiar with the maintenance, and that there were other properties with easements on them.

Mr. John Tim Hudson, 7707 Sparrows Point Boulevard, testified in opposition to the granting of the variance. Mr. Hudson indicated that he has been going to 4606 Todd Point Lane for 11 to 12 years (family property through his wife's family). He stated that the original house occupied the site as a summer home and described the general character of the neighborhood as being homes constructed during the 1950-1960 era. He opined that he never saw any trespassing signs and frequently had cut the grass to keep in trimmed, and that prior to Mr. Schultz' purchase, nearby residents had played ball on the vacant lot but he had never experienced

Case No. 99-210-A /Michael Schultz -Petitioner

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anything burning on it. He also stated that the drainage pipe is quite visible, and was installed by the developers of Beachwood.

Mrs. Weber, a resident of Todd Point Lane for over 50 years who resides approximately one block away, also testified, describing the neighborhood and her residence as a summer home which she had replaced in 1965. It was essentially the same size as others in the area, and that the neighborhood had remained fairly stable through the years; she was quite familiar with the easement, and indicated that both Mr. Gay and Cignal knew of the pipe which was created to take care of the outfall from a stormwater management facility. She stated that there are approximately 300 lots in Beachwood with 55 more to be built, and that everyone in the area was aware of Beachwood Estates because of community input meetings, and that the pipe was laid through the property because of need for the outfall for stormwater management facility; and that it had been her impression that it was not to be offered for sale for any building purposes.

Ms. Elizabeth Foulke, who owns 1/3 of the property at 4402 Todd Point Lane, indicated that her property is used essentially as a summer house by the family, and stated her opposition to the Appellants' request because it was simply too close to her property.

Ms. Cabarina Dembow, 4544 Todd Point Lane, indicated she had attended the Zoning Commissioner's hearing and was familiar with the Department of Public Works and the pipe installation quite some time ago, which was essentially to be used for outfall from the

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by deed or in a validly approved subdivision prior to March 30, 1955;

- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

This section of the zoning regulations is a unique provision created by legislation to apply to existing undersized lots that had been subdivided before the Baltimore County zoning regulations came into effect in 1955. In this particular case, neither the area or width requirement is satisfied since the front yard is 50.25 feet and the total area is 6,985 sq. ft. To qualify under the site's present zoning of D.R. 3.5, the front must be 70 feet wide and the area 10,000 sq. ft. There is no dispute that the subject lot was created before 1955 (in 1952) in connection with a development of lots along Todd Point Lane directed on the water side. The Appellant also does not own any adjoining land that would enable conformity to the width and area requirements specified in the regulations. Additionally, however, the amended plan reflects the need for a second variance for a side yard setback of 7 feet in lieu of 10 feet; and a third variance of a total side yard of 22 feet in lieu of 25 feet.

Item "B" of Section 304.1 states that "...all other requirements of the height and area requirements are complied with...." While Counsel for Appellant alleges that the only issue for the Zoning Commissioner is to make a determination whether the proposed building is appropriate, the Board takes a different view

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that has long been held by this body, mainly that where multiple variances are required, relief cannot be granted under Section 304.1, and the correct posture is to make application under Section 307 of the Baltimore County Zoning Regulations. People's Counsel appropriately relates cases that have been decided relative to undersized lots and decisions affirmed by the Circuit Court for Baltimore County and the Maryland Court of Special Appeals: In the Matter of Robert Johnson, 95-42-SPHA; In the Matter of John Blasy, 95-355-A; and In the Matter of Warren Grill, 94-163. The Grill case went as far as the Court of Special Appeals, which affirmed the Order of the Circuit Court for Baltimore County and the Order of the Board of Appeals.

The Board also takes note of the objections of the adjoining property owners in protesting the granting of any variances as requested by the Appellants. Objections were raised by Ms. Elizabeth S. Foulke, 4602 Todd Point Lane; Ms. Brenda K. Hudson, 4606 Todd Point Lane; and Ms. Diana M. Dauser, all of whom cited the presence of the easement running through this property and the negative impact and infringement upon adjacent property owners' rights.

In reaching its decision, the Board considered the testimony of Mr. Eric Rockel, a senior member of the Land Acquisition Bureau of Baltimore County, who testified that the County had negotiated purchase of an easement along the southeast property line by deed and agreement, 13116/199; and that County policy prohibited the construction of a permanent structure within a County drainage and

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utility easement. This easement was one of the reasons the size of the proposed house was reduced and placed outside the County's 15-foot wide easement.

The Board also considered the Appellants' allegation concerning "being led down the path" by County employees. The Board takes recognition of the fact that the permit department issues thousands of permits each month. Between the time the first building permit was issued to Signal Development Corporation (Petitioner's Exhibit No. 2) and the second permit was issued on December 17, 1998, that department had issued over 16,000 permits.

Mr. Doug Swam readily testified that the permit department, as well as other reviewing County agencies, are not authorized to render legal decisions, nor have the authority to grant variances. Case law in Maryland clearly holds that a permit for building a house is not zoning approval per se. The leading Maryland case involving variances, Cromwell v. Ward, 102 Md.App. 691 (1995), also recites Lipsitz v. Parr, 164 Md 222 (1993):

It was therefore unlawful for the officers...to grant the permit and would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued...does not...permit the permit from being unlawful nor being denounced by the municipality because of its illegality.

The burden rests squarely on the Appellant to inquire as to the specifics for building outside the parameters of the permit. The fact that a permit is issued "does not prevent...nor permit the permit from being unlawful nor from being denounced by the municipality because of its illegality." It is obvious to this Board that, based on the testimony and evidence, the Board must

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deny the relief requested by the Appellant. The lot in question is simply too small, and the width too narrow, coupled with the easement, to accommodate the structure proposed.

While not required to comment on BCZR 307, the Board feels constrained to agree with the Office of People's Counsel concerning the application of Crowwell v Ward, and the fact that the subject lot is neither "unique" or "unusual" in that its proportions are similar to other lots along the water line in the general area of the subject site. Failing that, it is not necessary to pursue the second prong, that is practical difficulty or undue hardship. The Board recognizes the existence of the size limitations when the Appellant originally purchased the lot. The Board, however, is sympathetic to the plight of the Appellant. The chain of title and circumstances that led the Appellants to purchase the lot are suspect, that full disclosure was not provided. Jim Gay was president of Diamond Development Corporation who sold the lot to Beachwood for \$25,000.00 on February 24, 1984. Jim Gay, as President of Beachwood, executed the deed to the lot to Cignal Development Corporation on January 23, 1993. On June 19, 1998, Cignal Development applied for the site building permit. Before having obtained the building permit, the lot was placed on the Maris multiple list sheet by James Gay III as agent for Olde Colonial Realty, disclosing him as an "agent having a financial interest, owner, real estate licensee," and further stating that the seller (Cignal) had the permit. On August 12, 1998, Cignal entered into a deed and agreement for a 15-foot drainage easement

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from Cignal to Baltimore County, recorded by August 31, 1998. The permit was, in actuality, not issued until August 13, 1998.

The Appellants (Michael Schultz and Antoinette Cotsoradis) executed the deed for the lot on November 30, 1998 from "At Home Again LLC." Mr. Jim Gay III acknowledged that he was the sole owner and stockholder of that corporation. The deed executed by the Appellants reflects that At Home acquired the site by deed dated October 9, 1998 from Cignal Development Corporation. Reference is made in the November 30, 1998 deed relative to the Baltimore County easement dated August 12, 1998 and recorded in libre S.M. 13116, folio from Cignal to Baltimore County. It should be noted that at the time At Home signed the contract with the Appellants on September 24, 1998, that corporation had not yet purchased the property from Cignal. That did not occur until October 9, 1998.

The property was settled on October 23, 1998. Mr. Jones testified that Mr. Schultz was aware of the easement at the time of settlement and that precipitated the need for the amended plan and variance request being filed on November 18, 1998, and the subsequent events. The Board also notes that the Maris MLS list shows an original purchase price of \$74,000.00. The actual deeds reflect \$25,000.00 as consideration. The Schultz's paid \$55,000.00 for the site. The Board also takes note that a significant number of nearby residents were aware of the easement and outfall pipe that served the stormwater management facility. It was believed that, as part of the Beachwood development, the Developer was

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required to cede to the County the easement, and neighbors were under the impression it would not be developed for that reason.

When one analyzes all the facts and the sequence of events, there exists a deep suspicion on the part of this Board that the Appellant did not have disclosed to him significant factors that, if known, would have precluded his purchase of the site. However, the Appellants' relief as requested by this Board cannot be granted. That effort, if undertaken, lies with another Court and another day. The Board is required, therefore, for the reasons stated, to deny the relief requested.

O R D E R

THEREFORE, IT IS THIS 29th day of October, 1999 by the County Board of Appeals of Baltimore County

ORDERED that the variance relief requested in Case No. 99-210-A be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Charles L. Marks, Chairman


Lynn Barranger


Margaret Worrall

Click here for a plain text ADA compliant screen.



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

Go Back
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New Search

Account Identifier: District - 15 Account Number - 1506450090

Owner Information

Owner Name: FOULKE ELIZABETH S FOULKE GENE R
FOULKE DOUGLAS G,ET AL Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: 3119 RIVER DRIVE RD
BALTIMORE MD 21219-1105 Deed Reference: 1) / 7999/ 686
2)

4600 TODD POINT LANE

Location & Structure Information

Premises Address			Zoning	Legal Description						
TODD POINT RD				0.16 NES TODD POINT						
			WATERFRONT	600 NW MERRITS LA						
Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	
104	22	317						82	Plat Ref:	
Special Tax Areas			Town Ad Valorem Tax Class							
Primary Structure Built			Enclosed Area		Property Land Area			County Use		
1952			720 SF		6,936.00 SF			34		
Stories		Basement		Type			Exterior			
1 1/2		NO		STANDARD UNIT			ASBESTOS SHINGLE			

Value Information

	Base Value	Value As Of 01/01/2000	Phase-In Assessments As Of 07/01/2002	As Of 07/01/2003
Land:	69,500	69,500		
Improvements:	23,720	23,720		
Total:	93,220	93,220	93,220	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

LOT SIZE
5167 x 135'-137'

Transfer Information

Seller: FOULKE ELIZABETH S FOULKE GENE R	Date: 10/17/1988	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 7999/ 686	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

M.D.A.T. REAL PROPERTY SYSTEM
BALTIMORE COUNTY

11/15/2002

OWNER INFORMATION

DISTRICT: 15 ACCT NO: 1506450090

USE: RESIDENTIAL

OWNER NAME: FOULKE ELIZABETH S FOULKE GENE R
FOULKE DOUGLAS G, ET AL
MAILING ADDRESS: 3119 RIVER DRIVE RD
BALTIMORE MD 21219-1105

PRINCIPAL
RESIDENCE
NO

TRANSFERRED

FROM: FOULKE ELIZABETH S FOULKE GENE R DATE: 10/17/1988 PRICE: \$0

DEED REFERENCE: 1) / 7999/ 686
2)

SPECIAL TAX RECAPTURE

* NONE *

TAX EXEMPT: NO

PRESS: <F1> LOCATION INFO <F2> VALUE INFO <F3> TRANSFER/STRUCTURE INFO
<F5> RETURN TO LIST SCRN <F6> SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM
BALTIMORE COUNTY

11/15/2002

LOCATION INFORMATION

DISTRICT: 15 ACCT NO: 1506450090

NAME: FOULKE ELIZABETH S FOULKE GENE R

USE: RESIDENTIAL

PREMISES ADDRESS
TODD POINT RD

ZONING

LEGAL DESCRIPTION
0.16 NES TODD POINT

WATERFRONT

600 NW MERRITS LA

MAP GRID PARCEL SUBDIV SECT BLOCK
104 22 317

LOT GROUP
82

PLAT NO :
PLAT REF:

SPECIAL TAX AREAS -

PRIMARY STRUCTURE DATA
YEAR BUILT ENCLOSED AREA
1952 720 SF

PROPERTY LAND AREA
6,936.00 SF

COUNTY
USE
34

PRESS: <F1> OWNER INFO <F2> VALUE INFO <F3> TRANSFER/STRUCTURE INFO
<F5> RETURN TO LIST SCRN <F6> SELECT NEXT PROPERTY

NO CONSIDERATION, NO TITLE SEARCH

THIS DEED, made this 30TH day of Aug 1938, between GENE R. FOULKE, party of the first part, Grantor, and GENE R. FOULKE and ELIZABETH JANE FOULKE, his wife, parties of the second part, and DAVID A. FOULKE and PEGGY A. FOULKE, (Children of the Grantor) parties of the third part.

WITNESSETH that in consideration of Zero Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the said parties of the second part, as tenants by the entireties, for and during the term of their natural lives, reserving however in said parties of the second part a life estate with powers of disposition as hereinafter mentioned, and from and after the death of the survivor, if not disposed of under said powers, then unto DAVID A. FOULKE and PEGGY A. FOULKE, as joint tenants and not as tenants in common, (Children of the Grantor), their personal representatives and assigns, the one-third (1/3) interest belonging to the said Gene R. Foulke, only, in the fee simple property lying and being in the Fifteenth Election District of Baltimore County, State of Maryland, described as follows; that is to say:

BEGINNING for the same at a point in the first line of the land described in a deed from Ethel Bond Merritt, widow, to William Schluderberg of C. and Ernest Schluderberg dated July 17, 1942 and recorded among the Land Records of Baltimore County in Liber C.H.K. No. 1243, folio 243, etc., at a point north 68 degrees 43 minutes east 20.67 feet from the end of the first line of the land described in a deed from Ernest Schluderberg, et al, to Manor Real Estate and Trust Company dated August 8, 1947 and recorded among the said Land Records in Liber J.W.B. No. 1591, Folio 23, etc., said beginning point being at the easternmost side of a road 20 feet wide laid out by the grantors along the second and third lines of the land described in said last mentioned deed and running thence, with and binding on the remainder of the first line of the land described in the deed first herein referred to, north 68 degrees 43 minutes east 137 feet to the waters of Back River; thence southerly along the waters of Back River 52.21 feet to a point 50 feet southeasterly, measured at right angles, from the first line of the land now being described; thence parallel with said first line, south 68

RECEIVED FOR TRANSFER

State Department of
Assessments & Taxation
for Baltimore County

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE [Signature] DATE 11-11-58

By

Date

BLAIR & VETRI
ATTORNEYS AT LAW
1734 MERRITT BOULEVARD
BALTIMORE, MD. 21205
TELEPHONE 361-255-0000

TRANSFER TAX NOT REQUIRED

BALTIMORE COUNTY, MARYLAND
For 1938 Aug 9 1938
10-2-88

degrees 43 minutes west 135 feet to the easternmost side of said road 20 feet wide and thence binding on the easternmost side of said road, with the use thereof in common with others entitled thereto, north 6 degrees 41 minutes west 51.67 feet to the place of beginning.

BEING the same lot of ground which by deed dated May 21, 1970 and recorded among the Land Records of Baltimore County in Liber 5094, folio 588, was conveyed by C. Edgar Foulke and Annabel Foulke, his wife, to William C. Foulke, Gene R. Foulke and Douglas G. Foulke.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or otherwise appertaining.

TO HAVE AND TO HOLD the said one-third (1/3) portion of the lot of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said GENE R. FOULKE and ELIZABETH JANE FOULKE, his wife, as tenants by the entireties, with the full power, however, to assign, convey, sell, mortgage, sub-lease, or in any other manner dispose of or encumber the whole or any part of or interest in said property in any manner whatsoever (except, however power of disposition thereof by Last Will and Testament) without the consent or joinder of the remaindermen or anyone else, and the proceeds of any sale or sales thereof, or money borrowed and secured by any mortgage thereof, to take and expend or dispose of in any manner that they may wish, or to consume for their own purposes without obligation on the part of the purchaser, mortgagee, lessee, assignee, or grantee to see to the application of the money so borrowed or any money which may be the proceeds of any sale, mortgage, sub-lease or disposition of any part of any interest in said property, it being the intention hereof that the exercise of any of the powers hereinbefore set forth shall operate not only upon the life estate

hereby granted unto the Grantor but also upon the estate in remainder as herein provided, and from and immediately after the death of the survivor, as to his or her share or any interest therein as may not have been disposed of by him or her unto DAVID A. FOULKE and PEGGY A. FOULKE, as joint tenants and not tenants in common their personal representatives and assigns, in fee simple subject to certain covenants and restrictions previously set forth in prior deeds.

WITNESS the hand and seal of the Grantor.

WITNESS:

Gene R. Foulke *Gene R. Foulke* (SEAL)
GENE R. FOULKE

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

: I HEREBY CERTIFY that on this 30th day of Aug, in the year one thousand nine hundred and eighty-eight, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared GENE R. FOULKE, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed same for the purposes therein contained, and in my presence signed and sealed the same, and acknowledged that no consideration was paid to is to be paid on account of this conveyance.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Gene R. Foulke
Notary Public

My Commission Expires:

July 1, 1990

G RC/F 17.00
DEED 0 #
SM CLERK 17.00
H81426 C001 R02 107:32
10/17/89

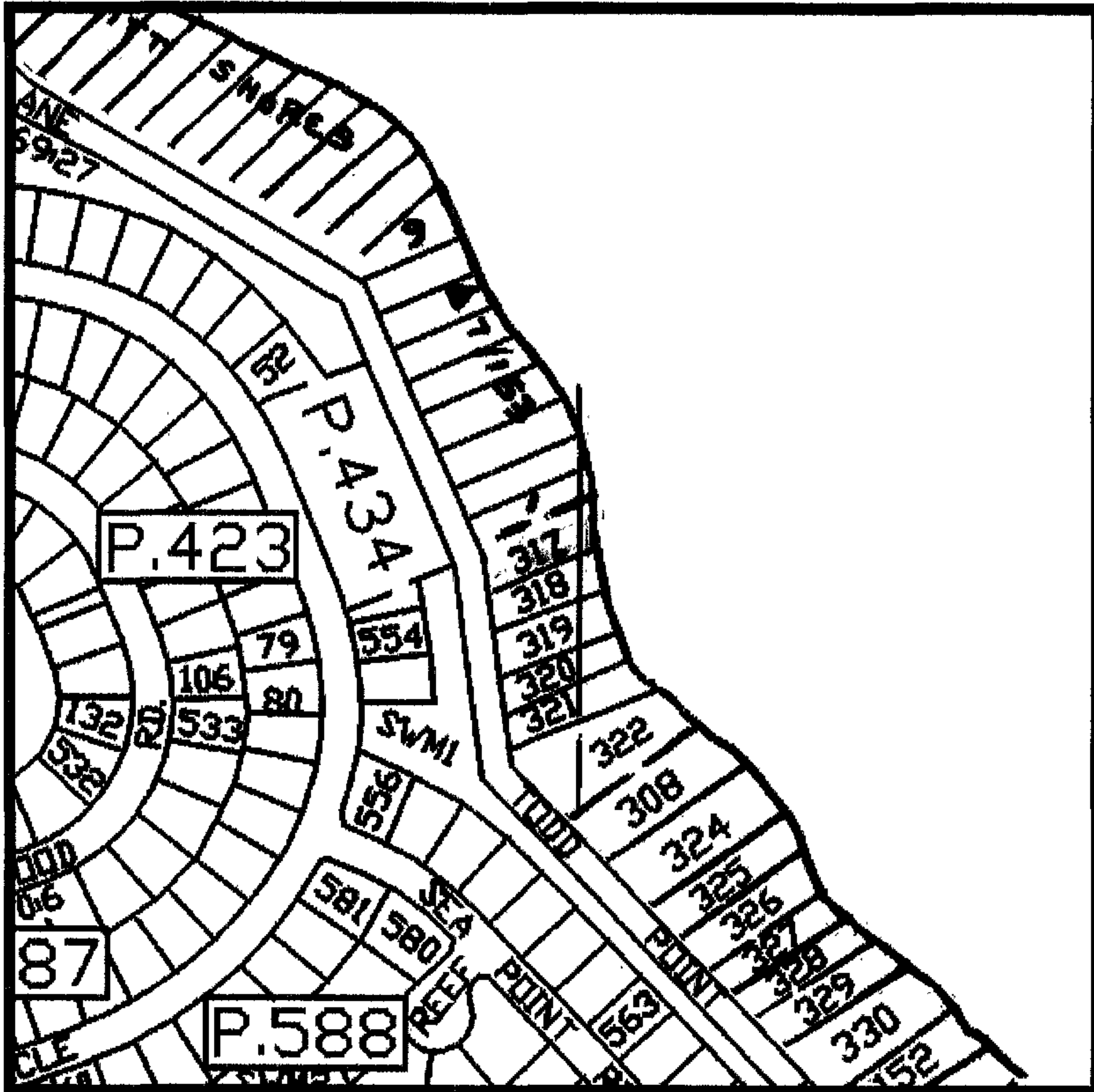
BLAIR & WHITE
ATTORNEYS AT LAW
1706 HENRY BOULEVARD
BALTIMORE, MD. 21224
TELEPHONE 301-550-0000



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BALTIMORE COUNTY
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District - 15 Account Number - 1506450090

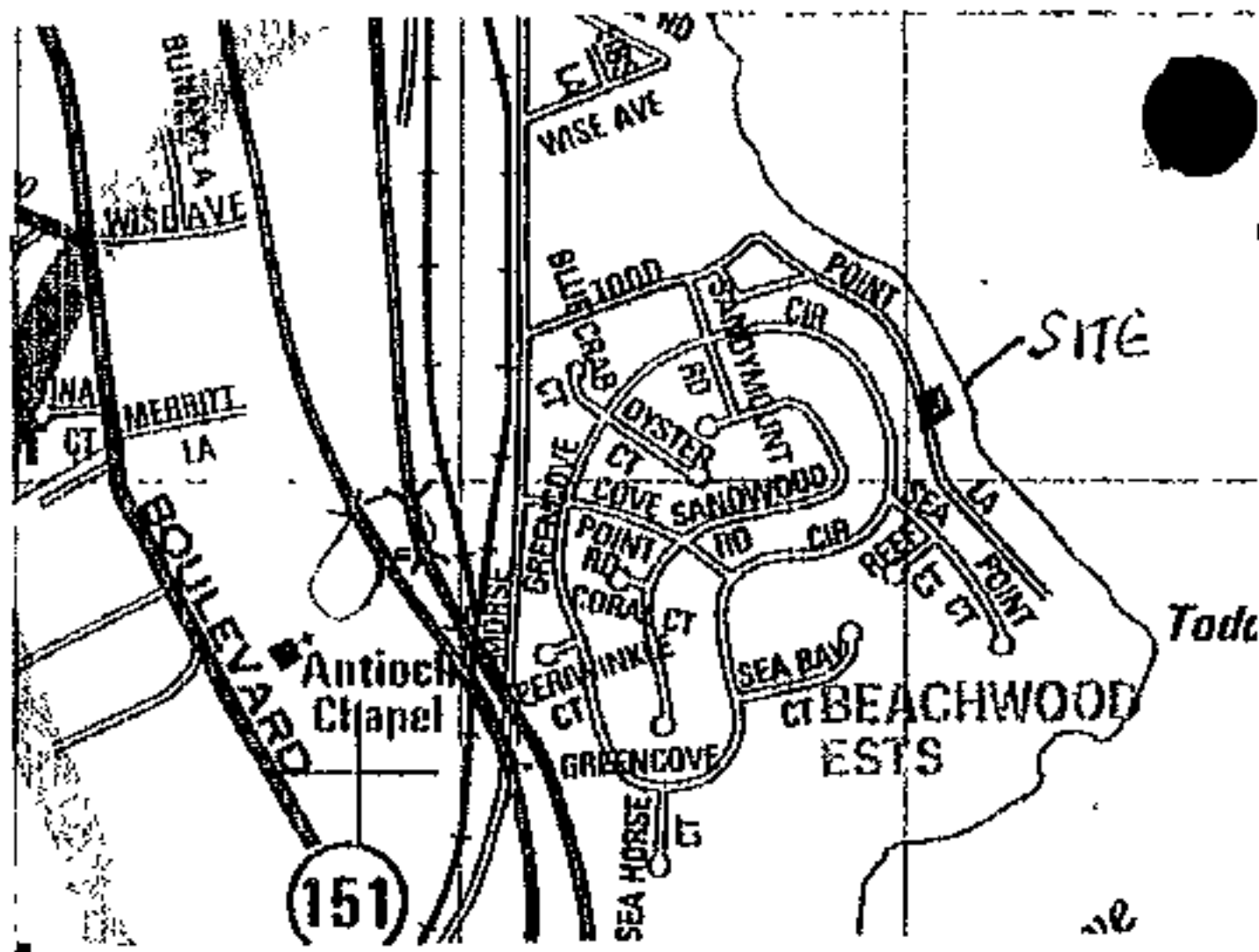


Property maps provided courtesy of the Maryland Department of Planning ©2001.
For more information on electronic mapping applications, visit the Maryland Department of Planning
web site at www.mdp.state.md.us

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS: 4604 TODD POINT LANE
SUBDIVISION NAME: MILTON SCHLUDERBERG
OWNER: MICHAEL & ANTOINETTE SCHULTZ

BACK RIVER



VICINITY MAP

SCALE: 1" = 1000'

PRIOR ZONING HEARING
CASE NO. 99-210-A "DENIED"
(UNDERSIZE LOT & SETBACK CHANGES)

CRITICAL AREA LINE

VACANT

100' NOT TO SCALE

4544
5' TODD POINT LANE

EXIST. DWELL. 4602
ELIZABETH & GENE FOULKE
DOUGLAS FOULKE
DEED REF: 7999/686
TAX ACCOUNT NO: 1506450090

42'

2100'
1410' MORSE LANE

6950 SQUARE FEET
ZONING MAP SE 4 H
ZONING: D.R. 3.5

AREA OF LOT: 6950 SQ. FT. - 015955 AC.
IMPERVIOUS AREA ALLOWED: 1737.5 SQ. FT.
PROPOSED IMPERVIOUS AREA: 1253 SQ. FT.
PERCENT OF IMPERVIOUS AREA: 18.03%

PROPERTY LIES IN CBCA
FLOOD ZONE "A-10"



ENGINEERS AND PLANNERS
8 NORTH PARK DRIVE
MOUNT VERNON, MARYLAND 20880
(410) 344-3000

TODD POINT LANE

SCALE: 1" = 30'

SITE PLAN

#4604 TODD POINT LANE

DEED REF: LIBER E.H.K., JR. 9824 FOLIO 487

7TH COUNCILMANIC DISTRICT
ELECTION DISTRICT NO. 15

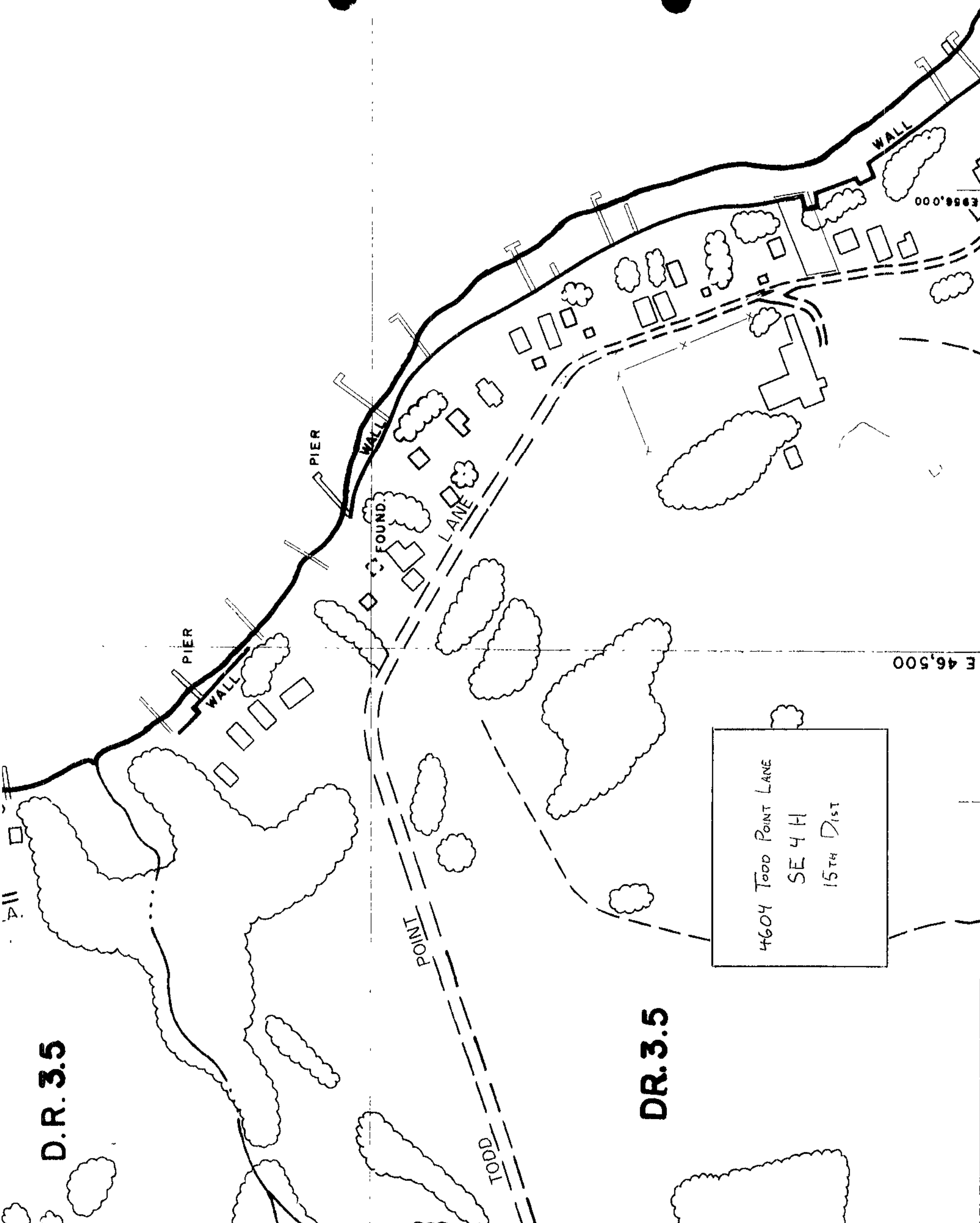
DATE: OCT. 1, 2002
BALTIMORE COUNTY, MARYLAND

03-166-A

10/2/02
DT.

D.R. 3.5

DR. 3.5



LOCATION

SCALE