IN RE: PETITIONS FOR VARIANCE NE/S Klausmier Road, 145.25' E of Bauer Avenue (4104 & 4106 Klausmier Road) 11th Election District 5th Council District The Estate of John C. Dunn, Jr. Petitioner	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case Nos. 03-216-A & 03-217-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Zoning Commissioner for consideration of Petitions for Variance filed by the owner of the subject adjacent properties, The Estate of John C. Dunn, Jr., through its Personal Representative, Margaret M. Barrett. Since the properties are under common ownership and are adjacent to one another, the two cases were heard contemporaneously. In both cases, the Petitioner seeks relief from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the required 55 feet, and approval of an undersized lot, pursuant to Section 304, and any other variances deemed necessary by the Zoning Commissioner to develop each property with a single family dwelling. The subject properties and requested relief are more particularly shown on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioner in support of the request were Thomas J. Hoff, Registered Landscape Architect, and Isaac Gheiler, Builder. Appearing in opposition to the request were Joseph and Tracy Katzenberger, John Bogdan, Jr., and Kathleen Eckart, adjacent property owners. It is to be noted that a Petition that had been signed by a number of residents in opposition to the request was received from the Protestants and marked as Protestant's Exhibit 1. This Petition is opposed to the grant of the relief and "changing the D.R.5.5 zoning" of this property. In this regard, a change of zoning classification is not being requested

ORDER RECEIVED FOR FILING
Date 2/4/03
By

Indeed, the Zoning Commissioner does not zone properties nor has the authority to change their zoning, only the issues raised in the Petitions are under consideration.

In any event, the subject properties are part of a larger tract that was originally owned by John C. Dunn, Jr. That tract contained seven lots, identified as Lots 55, 56, 57, 61, 62, 63 and 64 of the subdivision known as Dengler Heights, which was recorded in the Land Records of Baltimore County in 1937. As is often the case with older subdivisions, these lots were laid out and platted prior to the adoption of the first set of zoning regulations in Baltimore County (1945) and thus, do not meet current area/width requirements. But for Lot 61, which is somewhat larger, each of the other six lots is 50 feet wide and 150 feet deep, or 7500 sq.ft. in area, zoned D.R.5.5. As shown on the site plan, Lots 61 through 64 have frontage on Klausmier Road; however, Lot 61 is a corner lot, which also has frontage on Bauer Avenue. Lots 55 through 57 are located immediately to the rear of Lots 62 through 64. These six lots form a rectangular shaped parcel 150 feet wide by 300 feet deep.

Lot 62 is improved with a single family dwelling, known as 4102 Klausmier Road, in which the Dunn family at one time resided. The corner lot (Lot 61) and Lots 63 and 64 essentially served as the side yards for that dwelling, and Lots 55 through 57 encompassed much of the rear yard. In fact, an existing shed, which served as an accessory structure to the Dunn house, straddles the property line between Lots 55 and 56. Testimony indicated that after the demise of Mr. Dunn, the Estate conveyed the former Dunn house on Lot 62 and Lots 57 and 61 to Joseph and Tracy Katzenberger. It is the remaining four lots (Lots 63, 64, 55 and 56) which are the subject of the instant Petitions. These four lots have remained in ownership of the Estate and are unimproved, but for the existing shed. As noted above, each lot is 50 feet wide and 150 feet deep. The Petitioner proposes combining Lot 63 with Lot 56 and Lot 64 with Lot 55 to form two rectangular shaped parcels, each 50 feet wide by 300 feet deep, or 15,000 sq.ft. in area, and developing each parcel with a single family dwelling. However, due to the history of the property and narrow width of the lots, the relief requested as set forth above is necessary.

As noted above, the properties are zoned D.R.5.5. The D.R.5.5 zoning classification imposes a number of requirements for the construction of single family dwellings thereon. First, each lot must be a minimum 6,000 sq.ft. in area, a requirement which is easily met in this case. Secondly, for any single family dwelling on a D.R.5.5 lot, the minimum front property line setback is 25 feet and a 30-foot rear property line setback must be maintained. Finally, 10-foot side yard setbacks must be maintained on each side. In this regard, the Petitioner's proposal meets or exceeds all of these requirements. The sole deficiency under the current regulations relates to the lot width. Under the D.R.5.5 zoning regulations, a minimum lot width of 55 feet is required. As noted above, these lots were originally laid out as 50-foot wide lots. Although recorded well prior to the adoption of the zoning regulations, the current requirements must be maintained or variance relief acquired before building permits can be approved.

Mr. Hoff testified on behalf of the Petitioner and presented much of the information set out above. He noted that the applicant proposes the construction of a single family dwelling on each lot. He stated that all of the required setbacks would be met and noted that the lots are significantly larger in terms of area than is required. Finally, he noted that many of the houses in the immediate vicinity are situated on 50-foot wide lots. This fact was confirmed during a site visit I undertook after the hearing. Indeed, all of the houses on the other side of Klausmier Road appear to be on 50-foot wide lots. However, the Eckart dwelling on the adjacent parcel, which is comprised of Lots 53, 54, 65 and 66, is on a 100-foot wide parcel, as is the Bogdan dwelling, which is located on Lots 59 and 60, to the rear of Lot 61, and fronts on Bauer Avenue.

The neighbors who appeared in opposition contend that a grant of the variance would negatively affect the neighborhood and the value of the homes therein. In my judgment, the Petitioner's request is not inconsistent with the existing character of the community. I closely observed the houses during my site visit and as noted above, most of the dwellings on Klausmier Road are situated on 50-foot wide lots. Some of what appear to be newer dwellings further towards the interior of the community on Bauer Avenue are on larger lots. Concerns were also expressed regarding drainage, particularly by Mr. Bogdan; however, an examination of the site

COUNTY RECORDER FILING
2/4/03

plan, as well as observations made during my site visit are persuasive to a finding that this issue does not justify a denial of the requests. Specifically, the Bogdan dwelling is located at a higher elevation. Thus, any storm water runoff from the subject lots will drain away from that property. In addition, the subject lots are relatively flat and storm water runoff does not appear to be an issue, given the size of the lots.

Finally, perhaps the most significant factor in this regard is the fact that the Petitioner could develop these properties under an alternate plan without the need for variance relief. That is, as noted above, the four lots in question are collectively 300 feet deep and 100 feet wide. Moreover, they contain more than sufficient area to yield two building lots, pursuant to the D.R.5.5 zoning classification. The property owner could construct two dwellings on the property, one in the front portion of the site on Lots 63 and 64, and the other to the rear on Lots 56 and 55, and configure a lot width in excess of 55 feet. A panhandle-type driveway could then be constructed to lead to the rear of the parcel to the second lot, which would also meet all requirements. However, such a scheme would be inconsistent with other houses in the neighborhood, which are situated side by side. Retaining the existing character of the community is a significant issue.

Based upon the cumulative testimony and evidence offered, I am persuaded that variance relief should be granted. In my judgment, relief is justified, particularly given the age of the subdivision and the original configuration of the properties under consideration. I find that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. and that variance relief should be granted. I also note that the Office of Planning issued a favorable Zoning Advisory Committee (ZAC) comment as to the proposal. That agency no doubt concluded that the side by side orientation of two new dwellings in this neighborhood is preferable to a front/rear alignment.

Pursuant to the advertisement posting of the property and public hearing on these Petitions held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of February 2003 that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot

width of 50 feet in lieu of the required 55 feet, and approval of an undersized lot, pursuant to Section 304, and any other variances deemed necessary by the Zoning Commissioner to develop each property with a single family dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) The proposed dwellings shall be constructed substantially in accordance with the building elevation drawings submitted to and approved by the Office of Planning.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 2/4/03
By

IN THE MATTER OF THE APPLICATION OF THE ESTATE OF JOHN C. DUNN - LEGAL OWNER through MARGARET BARRETT – PERSONAL REPRESENTATIVE, FOR VARIANCES ON PROPERTY LOCATED ON THE NE/S KLAUSMIER RD, E OF BAUER AVENUE (4104 & 4106 KLAUSMIER ROAD) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 03-216-A and CASE NO. 03-217-A

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals on appeal filed by Joseph Katzenburger, Protestant, from a decision of the Deputy Zoning Commissioner dated February 4, 2003 in which the requested variance relief was granted, and a subsequent decision dated March 21, 2003 in which Protestant's Motion for Reconsideration was denied.

WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed on February 19, 2004 by Joseph Katzenburger, Appellant /Protestant, (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Appellant/Protestant requests that the appeal taken in Case No. 03-216-A and Case No. 03-217-A be withdrawn and dismissed as of February 19, 2004;

IT IS THEREFORE ORDERED this 26th day of February, 2004 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 03-216-A and Case No. 03-217-A be and the same is hereby **DISMISSED**.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Charles L. Marks

Edward W. Crizer, Jr.

2-12-04

Ms. Kathleen C. Bianco/Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Zoning Appeals, Case #'s
C-03-216-A & C-03-217-A

Dear Ms. Bianco:

Please accept this letter as a termination of my above referenced appeals.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Joseph Katzenberger
4102 Klausmier Road
Baltimore, Maryland 21236
410-256-9735

RECEIVED
FEB 19 2004
BALTIMORE COUNTY
BOARD OF APPEALS

County Board of Appeals of Baltimore County

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

February 26, 2004

Mr. Joseph Katzenburger
4102 Klausmier Road
Baltimore, MD 21236

RE: *In the Matter of: The Estate of John C. Dunn;*
Margaret M. Barrett – Personal Representative
Case No. 03-216-A and Case No. 03-217-A
Order of Dismissal

Dear Mr. Katzenburger:

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

Very truly yours,

Kathleen C. Bianco /trs

Kathleen C. Bianco
Administrator

Enclosure

c: Howard L. Alderman, Jr., Esquire
Mark Gheiler /Wismar Building Corporation
Margaret Barrett, Personal Representative
on behalf of the Estate of John C. Dunn
Thomas J. Hoff /Registered Landscape Architect
Kathleen Eckart
John Bogdan, Jr.
Isaac Gheiler
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt /Z.C.
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITIONS FOR VARIANCE NE/S Klausmier Road, 145.25' E of Bauer Avenue (4104 & 4106 Klausmier Road) 11th Election District 5th Council District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
	*	Case Nos. 03-216-A & 03-217-A
The Estate of John C. Dunn, Jr. Petitioner	*	

* * * * * * * * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

These matters came before the Zoning Commissioner for consideration of Petitions for Variance filed by the owner of the subject adjacent properties, The Estate of John C. Dunn, Jr., through its Personal Representative, Margaret M. Barrett. Within the Petitions, relief was sought from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot width of 50 feet in lieu of the required 55 feet and also from Section 304.1 to approve an undersized lot. Relief was also requested for any other variances deemed necessary by the Zoning Commissioner to permit development of the property with three (one existing and two proposed) single family dwellings.

At a public hearing held on December 30, 2002, Thomas J. Hoff, Registered Landscape Architect, and Isaac Gheiler, Builder, appeared on behalf of the Petitioner. Joseph and Tracy Katzenberger, John Bogdan, Jr., and Kathleen Eckart (hereinafter "Protestants"), adjacent property owners, appeared in opposition to the request.

After due consideration of the testimony and evidence presented, the undersigned granted the request by Order dated February 4, 2003, subject to certain terms and conditions. Pursuant to Rule 2(K) of the Zoning Commissioner's Rules of Practice and Procedure (Appendix G, B.C.Z.R.), the Protestants have filed a Motion for Reconsideration, citing three reasons in support thereof. These arguments will be addressed in order of their presentation.

3/27/03
R. Jameson

1) Standards in Cromwell v. Ward: As noted above, the Petitioner sought relief through a Petition for Variance. The Zoning Commissioner's authority to grant variance relief from the requirements of the B.C.Z.R. is established in Section 26-127 of the Baltimore County Code (Code). Section 307 of the B.C.Z.R. contains the standards for the grant of variance relief. This Section has been interpreted on numerous occasions by the appellate courts of this State, most notably in Cromwell v. Ward, 307 Md. App. 691 (1995). In Cromwell, the Court established two tests that need be satisfied in order for a variance to be granted.

First, it must be established that the property at issue is unique. As set forth in the original opinion, I find that the subject tract is unique. As noted therein, the tract is composed of seven lots, identified as Lots 55, 56, 57, 61, 62, 63 and 64 of the subdivision known as Dengler Heights, which was recorded in the Land Records of Baltimore County in 1937. The fact that these lots were laid out prior to the adoption of the first set of zoning regulations in Baltimore County (1945) is a significant factor. That is, the lots were laid out prior to the adoption of the first zoning regulations in Baltimore County and therefore do not individually meet current standards. More significantly, the configuration of the overall tract is unique. It is this shape that drives the need for variance relief.

Second, Cromwell requires a finding of practical difficulty. The practical difficulty in this case springs from the uniqueness described above. The Petitioner proposes the resubdivision and reconfiguration of the tract from the original seven lots into three building lots. That reconfiguration provides for the retention of the existing corner lot and dwelling thereon, as well as the creation of two side by side lots that will feature dwellings to front Klausmeier Road.

The D.R.5.5 zoning regulations permit, by right, the development of D.R.5.5 zoned property with dwellings. Thus, the land use (single family housing) proposed is allowed and proper. Moreover, from a density perspective, the three single-family dwelling lots are permitted. As noted within my earlier opinion, the zoning regulations impose a number of requirements for the construction of single family dwellings on D.R.5.5 zoned land. In this instance, all but one of those requirements are met. Specifically, each lot meets the minimum area requirement and the

3/27/03 RJ Jamison

proposed and existing dwellings will meet all setback, height and area requirements. The sole deficiency under the proposal relates to lot width of the two new building lots, which is due to the configuration of the overall tract.

The opposition ignores the fact that the property has sufficient area, under law, so that it can be subdivided to create three lots. However, a three-lot layout that requires no zoning variance would be both ill conceived and inconsistent with other properties in the neighborhood. As noted in my prior opinion, variance relief would not be required if the two new building lots were laid out with a back to front orientation towards Klausmier Road and a panhandle driveway to provide access to the rear lot. Under that scenario, one new house would be in the front of the property and the second to rear. The Protestants have offered no evidence that supports such a layout and/or that they prefer such a configuration. Apparently, they fail to realize that denial of the Petition would no doubt result in the applicant developing the property in that fashion. Such a development would be entirely inconsistent with the character and scheme of adjacent properties in the neighborhood. Many lots in this neighborhood are but fifty feet wide, with houses on both sides. There are no houses in the community that feature a front to back orientation. In my judgement, a denial variance relief would prohibit the applicant from developing the property for a permitted purpose and in a most suitable manner.

Finally, Section 307 of the B.C.Z.R. requires that variance relief cannot be granted if a detrimental impact would result to surrounding properties. Given the area and zoning of the property, it cannot be reasonably contended that the development of the parcel into three lots is inappropriate. In the judgment of the undersigned, development of the tract lots with a front/rear building orientation would adversely impact the neighborhood far more than the proposed layout. The proposed side by side orientation is consistent with other development in the neighborhood and preferable.

For all of these reasons, I find that a variance should be granted from Section 1B02.3.C.1 of the B.C.Z.R., to allow lot widths of 50 feet in lieu of the required 55 feet.

3/21/03 J. Jameson

2) Standards of Section 304 of the B.C.Z.R.: Instrumental to an understanding of this issue is that the Petitioners sought relief on an alternative basis. An individual with an undersized lot or a lot with a width less than that required can seek relief from the B.C.Z.R. under two methods. First, as noted above, variance relief can be requested, pursuant to Section 307 of the B.C.Z.R. Indeed variance relief was requested in this case pursuant to that regulation from the requirements contained in Section 1B02.3.C.1 of the B.C.Z.R. and for reasons set out above will be granted. As an alternative, the Petitioner also sought relief from Section 304 of the B.C.Z.R. Section 304 allows an individual to develop an undersized lot/insufficient width if three requirements are met. Those requirements are: 1) that the property is part of a subdivision that was duly recorded prior to 1955; 2) that the Petitioner does not own any adjacent property which can be added to the subject parcel to create a sufficiently sized or wide lot; and 3) that no other variance relief is requested. If the Petitioner meets these three requirements, then development is permitted, without a public hearing. In this case, relief cannot be granted pursuant to Section 304 because the Petitioner fails to meet the second standard. That is, the Petitioner owns sufficient adjacent property (i.e. the seven lots in total). Thus, although the applicant cannot proceed with its plans pursuant to Section 304; relief should and will be granted to allow the proposed development pursuant to a variance granted under Section 307.

3) Zoning Commissioner's Site Visit: Lastly, the Protestants apparently object to my visit to the property and neighborhood after the hearing. First, it need be noted that there is no prohibition, anywhere under law, on the Zoning Commissioner's ability to personally inspect a property. To the contrary, a more cogent position would be that the Zoning Commissioner should familiarize himself with the neighborhood and property in order to make a well-reasoned decision. One may well argue that the Zoning Commission should visit every site considered, in order to make a better informed decision Such a position is consistent with the Maryland Rules of Procedure (See Maryland Rule 2-515), which permit a finder of fact in Court to inspect a property. Moreover there was no ex parte communication or inappropriate contact with any party in this case. I drove to the site, inspected the neighborhood and property and left without speaking to

anyone or even exiting my automobile. Finally, the Protestants' assertion that that they were not afforded the opportunity for direct or cross-examination is ludicrous. The Zoning Commissioner is not subject to either direct or cross-examination! The Zoning Commissioner is not a witness! The Protestants' argument in this regard is entirely without merit.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of March 2003 that the Motion for Reconsideration filed by the Protestants in the above-captioned matter be and the same is hereby DENIED; and,

IT IS FURTHER ORDERED that the relief granted pursuant to my Opinion and Order dated February 4, 2003, as more particularly clarified herein, shall remain in full force and effect.

Any appeal of this decision must be entered within thirty (30) days of the date hereof.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Ms. Margaret M. Barrett, 3800 Cedarbrooke Place, Baltimore, Md. 21236
Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
Mr. Isaac Gheiler, 3403 Old Post Drive, Baltimore, Md. 21208
Mr. & Mrs. Joseph Katzenberger, 4102 Klausmier Road, Baltimore, Md. 21236
Mr. John Bogdan, Jr., 9529 Bauer Avenue, Baltimore, Md. 21236
Ms. Kathleen Eckart, 4108 Klausmier Road, Baltimore, Md. 21236
Office of Planning; People's Counsel; Case File

3/27/03
B. Jameson

Baltimore County
Zoning Commissioner

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

March 21, 2003

Mr. & Mrs. Joseph Katzenberger
4102 Klausmier Road
Baltimore, Maryland 21236

Re: Motion for Reconsideration on Petitions for Variance
NE/S Klausmier Road, 145.25' of Bauer Avenue
(4104 & 4106 Klausmier Road)
11th Election District, 5th Councilmanic District
The Estate of John C. Dunn, Jr., Petitioner
Case Nos. 03-216-A & 03-217-A

Dear Mr. Katzenberger:

Enclosed please find the decision rendered in connection with the Motion for Reconsideration filed in the above-captioned case. The Motion for Reconsideration 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,

Lawrence E. Schmidt
Zoning Commissioner

LES:raj

Printed with Soybean Ink
on Recycled Paper

Copies to:

Thomas J. Hoff
406 W. Pennsylvania Avenue
Towson, MD 21204

Mr. Isaac Gheiler
3403 Old Post Drive
Baltimore, MD 21208

Mr. John Bogdan, Jr.
9529 Bauer Avenue
Baltimore, MD 21236

Ms. Kathleen Eckart,
4108 Klausmier Road
Baltimore, MD 21236

Ms. Margaret M. Barrett
3800 Cedarbrooke Place
Baltimore, MD 21236

Office of Planning

People's Counsel

Baltimore County
Zoning Commissioner

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

February 4, 2003

Ms. Margaret M. Barrett
3800 Cedarbrooke Place
Baltimore, Maryland 21236

RE: PETITIONS FOR VARIANCE
NE/S Klausmier Road, 145.25' E of Bauer Avenue
(4104 and 4106 Klausmier Road)
11th Election District – 5th Council District
The Estate of John C. Dunn, Jr. - Petitioner
Cases Nos. 03-216-A & 03-217-A

Dear Ms. Barrett:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
Mr. Isaac Gheiler, 3403 Old Post Drive, Baltimore, Md. 21208
Mr. & Mrs. Joseph Katzenberger, 4102 Klausmier Road, Baltimore, Md. 21236
Mr. John Bogdan, Jr., 9529 Bauer Avenue, Baltimore, Md. 21236
Ms. Kathleen Eckart, 4108 Klausmier Road, Baltimore, Md. 21236
Office of Planning; People's Counsel; Case File

Printed with Soybean Ink
on Recycled Paper

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 4104 KLAUSMIER RD

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) SEE ATTACHED

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

THE ESTATE OF JOHN G. DUNN, JR.
Name - Type or Print

x Margaret M. Barrett
Signature

Margaret M. Barrett
Name - Type or Print

PERSONAL REPRESENTATIVE
Signature

3800 Cedarbrooke Pl. 410-256-1733
Address — Telephone No.

Baltimore Md 21236
City — State — Zip Code

Representative to be Contacted:

THOMAS J. HOFF
Name

406 W. PENNSYLVANIA AVE. 410-296-3668
Address — Telephone No.

TOWSON, MD. 21204
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 03-216-A

Reviewed By D. THOMPSON **Date** 11/4/02

REV 9/15/98

11/13/02

VARIANCE REQUEST

Lots 55 & 64, Dengler Heights, 4104 Klausmier Road

Section 1B02.3.C.1. and Section 304.1
VARIANCE TO ALLOW A LOT WIDTH OF 50 FEET IN LIEU OF THE REQUIRED 55 FEET AND TO APPROVE AN UNDERSIZED LOT AND ANY ADDITIONAL RELIEF DEEMED NECESSARY.

ORDER RECEIVED FOR FILING
Date 2/5/13
By

THOMAS J. HOFF, INC.
Landscape Architects and Land Development Consultants
406 WEST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
410-296-3668
FAX 410-296-5326

November 2, 2002

Description of Lots 56 & 63 of Dengler Heights (Plat 12/18), 4104 Klausmier Road, to Accompany Petition for Variance.

BEGINNING FOR THE SAME at a point on the east side of Klausmier Road, 95.25 feet more or less south of the east side of Bauer Avenue.

Being Lot # 56 & 63 in the subdivision of Dengler Heights as recorded in the Baltimore County Plat Book 12, Folio 18.

Containing 15,000 square feet or 0.34 acres of land more or less.

Note:
This Description has been prepared for zoning purposes only.

03-216-A

State of Maryland

LETTERS OF ADMINISTRATION

Estate No. 120950

I certify that administration of the Estate of

JOHN C. DUNN JR.

was granted on the 23rd day of May, 2002

to MARGARET M. BARRETT

as personal representative(s) and the appointment is in effect

this 23rd day of May, 2002.

☑ Will probated 05/23/2002
(date)

☐ Intestate estate.

Grace G. Connolly
GRACE G. CONNOLLY
Register of Wills for

Baltimore County

RW 1120

VALID ONLY IF SEALED WITH THE SEAL OF THE COURT OR THE REGISTER

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 22267

DATE 4/18/07 ACCOUNT 001-006-6150

AMOUNT $ 300.00

RECEIVED FROM: Joseph Kats, Esq.

FOR: Appeal

03-216-A & 03-217-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
4/18/2007	4/18/2007	07:46:04	2
FILMGC MAIL JFWA JFL			
RECEIPT # 285374	4/18/2007		OFLR
DAP 5 569 ZONING VERIFICATION			
CR NO. 022267			
Exept Tot		$300.00	
300.00 CK		.00	CA
Baltimore County, Maryland			

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 16365

DATE 11/4/02 ACCOUNT 001006 6150

AMOUNT $ 100.00

RECEIVED FROM: TOM HOFF

FOR: ITEM #216, 03-216-A UNDERSIZE LOT
4104 KLAUSMIER RD.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

DATE RECEIPT
PAID RECEIPT
BUSINESS ACTUAL TIME
11/04/2002 11/04/2002 11:23:07
REG WS05 WALKIN RB05 LRB DRAWER 5
>>RECEIPT # 305113 11/04/2002 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 016365
Recpt Tot $100.00
100.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:
Case: #03-216-A
4104 Klausmier Road
E/side Klausmier Road 95.25 feet to east side Bauer Road
11th Election District
5th Councilmanic District
Legal Owner(s): The Estate of John C. Dunn, Margaret M. Barrett, Personal Representative
Variance: to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot and any additional relief deemed necessary.
Hearing: Monday, December 30, 2002 at 10:00 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.
12/088 Dec 12 C578478

CERTIFICATE OF PUBLICATION

12/12/, 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 12/12/, 2002.

- [X] 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. **03-216-A**
Petitioner/Developer:
The Estate of John C. Dunn, Jr., Margaret M. Barrett, Personal Representative
Hearing Date: **12/30/02**

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

Attention: Mr. George Zahner

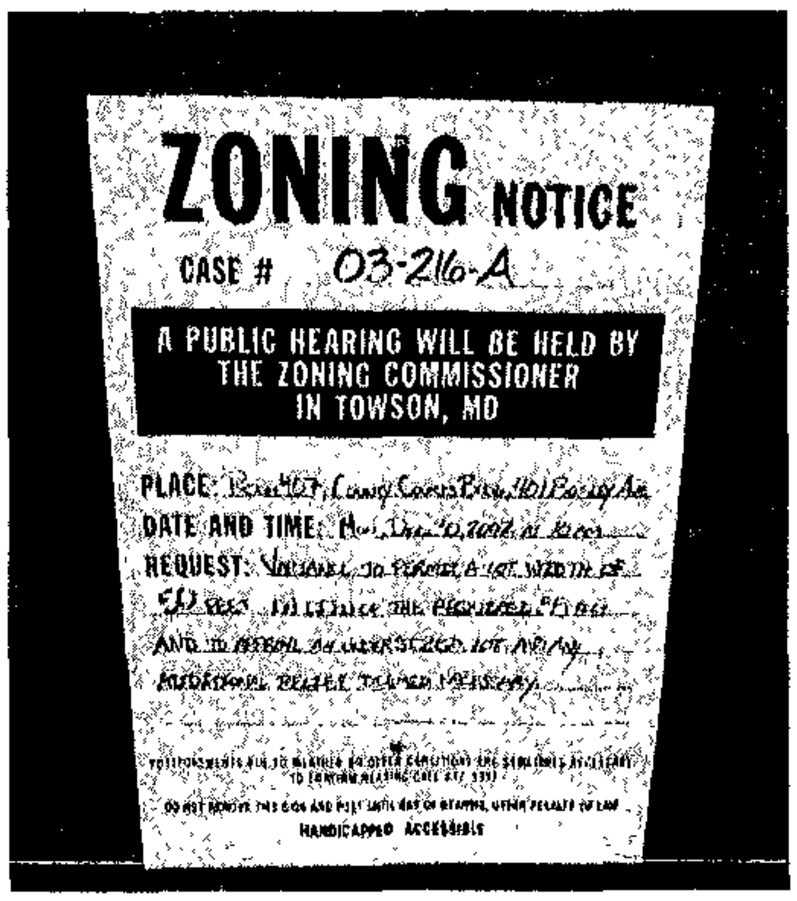
Ladies and Gentlemen:

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 **4104 Klausmier Rd.**

The sign(s) were posted on **12/14/02.**

Sincerely,

Diana Sugiuchi
Thomas J. Hoff, Inc.
406 West Pennsylvania Avenue
Towson, MD. 21204
410-296-3668



RECEIVED
DEC 20 2002
By bh

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-216-A and 03-217-A

Estate of John John - LEGAL OWNERS

4104 and 4106 Klausmier Road, respectively

11th ELECTION DISTRICT

APPEALED: 4/18/03

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

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-216-A and 03-217-A

Estate of John John - LEGAL OWNERS

4104 and 4106 Klausmier Road, respectively

11th ELECTION DISTRICT APPEALED: 4/18/03

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

RE: Case No.: 03-216 A

Petitioner/Developer:

This is to certify that the necessary appeal sign was posted conspicuously on the property located at: 4104 / 4106 KLAUSMIER RD

The sign was posted on 5/29, 2003

By: [signature]
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

Baltimore County
Department of Permits and
Development Management

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

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations 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 which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 03-216-A

Petitioner: DUNN ESTATE

Location: 4104 KLAUSMIER RD.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: JENMAR HOMES

ADDRESS: 3403 OLD POST DR.
BALTIMORE, MD. 21208

PHONE NUMBER: 410-486-5693

AJ:ggs

(Revised 09/24/96)

Printed with Soybean Ink
on Recycled Paper

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

November 27, 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: 03-216-A
4104 Klausmier Road
E/side Klausmier Road 95.25 feet to east side Bauer Road
11th Election District – 5th Councilmanic District
Legal Owner: The Estate of John C. Dunn, Jr., Margaret M. Barrett, Personal Representative

Variance to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot and any additional relief deemed necessary.

Hearings: Monday, December 30, 2002 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

AJ:rlh

C: Margaret M. Barrett, Personal Representative of the Estate of John C. Dunn, Jr., 3800 Cedarbrooke Place, Baltimore 21236
Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 14, 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.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 12, 2002 Issue - Jeffersonian

Please forward billing to:
Jenmar Homes 410-486-5693
3403 Old Post Drive
Baltimore, MD 21208

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: 03-216-A
4104 Klausmier Road
E/side Klausmier Road 95.25 feet to east side Bauer Road
11th Election District – 5th Councilmanic District
Legal Owner: The Estate of John C. Dunn, Margaret M. Barrett, Personal Representative

Variance to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot and any additional relief deemed necessary.

Hearings: Monday, December 30, 2002 at 10:00 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

December 27, 2002

The Estate of John C. Dunn
Margaret M. Barrett, Personal Representative
3800 Cedarbrooke Place
Baltimore, MD 21236

Dear Ms. Barrett:

RE: Case Number: 03-216-A, 4104 Klausmier Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 4, 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.
Supervisor, Zoning Review

WCR:rlh

Enclosures

c: People's Counsel
Thomas J. Hoff, 406 W. Pennsylvania Ave., Towson 21204

Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 3, 2002

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

SUBJECT: 4104 Klausmire Road

INFORMATION:

Item Number: 03-216

Petitioner: Margaret Barrett

Zoning: DR 5.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to permit a lot width of 50 feet in lieu of the minimum required 55 feet and to approve an undersized lot.

Prepared by: Mark A. Cunningham

Section Chief: Lynn Lanham

AFK/LL:MAC:

Baltimore County
Fire Department

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

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

November 26, 2002

ATTENTION: George Zahner

Distribution Meeting of November 25, 2002

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:
214-223

216

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

cc: File

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 11-27-02

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

RE: Baltimore County
Item No. 216 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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 16, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For December 2, 2002
Item Nos. 215, 216, 217, 218, 219,
220, and 223

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

RWB:CEN:jrb

cc: File

12/30

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 3, 2002

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

SUBJECT: 4104 Klausmire Road

INFORMATION:

Item Number: 03-216

Petitioner: Margaret Barrett

Zoning: DR 5.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to permit a lot width of 50 feet in lieu of the minimum required 55 feet and to approve an undersized lot.

Prepared by: Mark A Cumpton

Section Chief: Lynn Lanham

AFK/LL:MAC:

Baltimore County
Fire Department

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

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

November 20, 2002

ATTENTION: George Zahner

Property Owner:

Location:

Item No.: ZAC Dist. Meeting of 11/18/2002

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:
203-209, 211-227

216

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

cc: File

Baltimore County
Department of Environmental Protection
and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

December 11, 2001

Mr. Michael Brewer
L & B Enterprises
506 S. Marlyn Avenue
Baltimore, MD 21221

Re: Grading Permit Application #B467363
506 S. Marlyn Avenue

Dear Mr. Brewer:

Environmental Impact Review (EIR) has reviewed the above-referenced permit application for grading 19,700 square feet of area and has placed the application on hold because the work was done prior to applying for a grading permit and receiving approval from this Department.

The property is located in the Limited Development Area (LDA) of the Chesapeake Bay Critical Area (CBCA). There are rules governing the clearing of designated forest. Approximately 3.9 acres of your 4.8 acre parcel were forested according to recent aerial photographs. A site visit by me on November 28, 2001 revealed that 25,096 square feet of this forest has been cleared. This equates to 14.6% of the forest onsite was cleared.

Regulations allow for up to 30% clearing of forest on a property, provided that the forest cleared is replaced on a 1 to 1 ratio. If a suitable onsite or offsite location cannot be found, then we would normally accept a fee-in-lieu of $0.40 per square foot of forest cleared. However, since designated forest was cleared without benefit of permit, fees are increased to $1.20 per square foot.

Your options for permit approval are:

1. Reforest 25,096 square feet onsite or somewhere offsite in the same watershed. This will require a Forest Protection and Establishment Plan which needs to be prepared by a licensed forester or registered landscape architect; or

2. Pay a fee-in-lieu to Baltimore County, MD in the amount of $30,115.20.

Please note that the consequences of grading/clearing of the forest without first obtaining permits could have been worst. Luckily, there were no streams, tidal waters, or wetlands impacted from this disturbance; otherwise the state and federal authorities would also get involved. Also, the piles of slash and debris from the work already done must be removed prior to grading permit approval.

Printed with Soybean Ink
on Recycled Paper

Finally in closing, you will need a grading plan since the disturbance exceeds 20,000 square feet. You can speak to Mr. Jim Brendel of our Sediment Control Section at 410-887-3226 about this matter. I can be reached at 410-887-3980 if you have any questions about these findings.

Sincerely,

Keith Kelley
Natural Resource Specialist
Environmental Impact Review

C: Jim Brendel

Kdk#13/brewer

RE:	PETITION FOR VARIANCE 4104 Klausmeir Road; E/side Klausmeir Rd 95.25 ft to E/side Bauer Rd 11th Election District 5th Councilmanic District Legal Owner: Estate of John C. Dunn, Jr. Petitioner(s)	* * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 03-216-A

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

ENTRY OF APPEARANCE

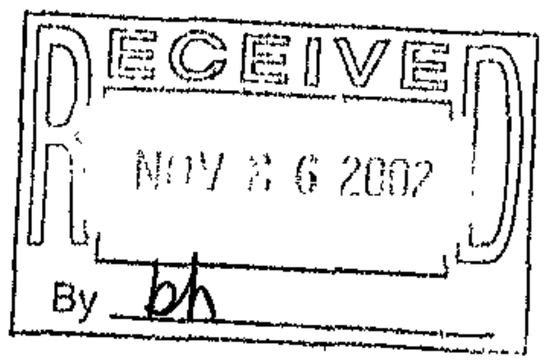
Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
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 26th day of November, 2002, a copy of the foregoing Entry of Appearance was mailed to, Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, MD 21204, Representative for Petitioner(s).



Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

MDP
Maryland Department of Planning

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz
Secretary
Mary Abrams
Deputy Secretary

December 2, 2002

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

Re: **Zoning Advisory Committee Agenda 12/2/02 re: Case numbers 03-214-SPHA, 03-215-SPH, 03-216-A, 03-217-A, 03-218-SPH, 03-219-SPHA, 03-220-A, 03-221-SPH, 03-222-A, 03-223-SPH**

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 11/26/02. 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,

Dana S. for J.G. 12/2/02

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup

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

April 21, 2003

Wismar Building Corporation
Mr. Mark Gheiler
3403 Old Post Drive
Baltimore, MD 21208

Dear Mr. Gheiler:

RE: Case No. 03-216-A AND 03-217-A, 4104 and 4106 Klausmier Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 14, 2003. 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,

Arnold Jablon
Director

AJ:rlh

c: Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM
People's Counsel
Thomas J. Hoff, 406 W. Pennsylvania Ave., Towson 21204
Margaret Barrett, Personal Representative for the Estate Of John Dunn, 3800 Cedarbrooke Place, Baltimore 21236
Joseph Katzenburger, 4102 Klausmier Road, Baltimore 21236

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition for Variance
4104 and [redacted] Klausmier Road
NE/s Klausmier Road, [redacted]5' east of Bauer Avenue 95.25
11th ED – 5th CD
Legal Owner: The Estate of John C. Dunn

Case Nos.: 03-216-A and 03-217-A

✓ Petition for Variance (November 4, 2002)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (November 27, 2002)

✓ Certification of Publication (December 12, 2002)

✓ Certificate of Posting (December 14, 2002) on

✓ Entry of Appearance by People's Counsel (November 26, 2002)

✓ Petitioner(s) Sign-In Sheet
One Sheet (See 217 file)

✓ Protestant(s) Sign-In Sheet
None

✓ Citizen(s) Sign-In Sheet
One Sheet (See 217 file)

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibits: 1. Plan Lot 55 & 64 (See 217 file)

✓ Protestants' Exhibits:
1. Sign in sheets (2) for neighbors of the properties located on 4104 and 4106 (See 217 file)

Miscellaneous (Not Marked as Exhibit)
1. State of Maryland letter making Margaret M. Barrett the administrator of the Estate of John C. Dunn
2. Copy of Letter to Lynn Lanham of Planning Office
3. Plan to accompany Petition for Variance

✓ Deputy Zoning Commissioner's Order (March 21, 2003 – DENIED; this was the order for reconsideration of original decision on February 4, 2003)

✓ Notice of Appeal received on April 18, 2003 from Joseph ~~Klausmier~~ KATZENBURGER (tas)

RECEIVED
APR 2 2 2003
BALTIMORE COUNTY
BOARD OF APPEALS

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner
Arnold Jablon, Director of PDM
Wismar Building Corporation, Mark Gheiler, 3403 Old Post Drive, Baltimore 21208

MARGARET BARRETT
PERSONAL REPRESENTATIVE
ESTATE OF JOHN C DUNN
3800 CEDARBROOKE PL
BALTIMORE MD 21236
Petitioner

MARK GHEILER
WISMAR BUILDING CORPORATION
3403 OLD POST DRIVE
BALTIMORE MD 21208
Contract Purchaser

THOMAS J HOFF
406 W PENNSYLVANIA AVENUE
TOWSON MD 21204
Representative to be contacted

JOSEPH KATZENBURGER
4102 KLAUSMIER ROAD
BALTIMORE MD 21236
Appellant

KATHLEEN ECKART
4108 KLAUSMIER ROAD
BALTIMORE MD 21236

JOHN BOGDAN JR
9529 BAUER AVENUE
BALTIMORE MD 21236

ISAAC GHEILER
3403 OLD POST DRIVE
BALTIMORE MD 21236

1E

Case No. 03-216-A
and

Case No. 03-217-A

In the Matter of: Estate of John C. Dunn through its Personal Representative, Margaret Barrett
4104 Klausmier Road
4106 Klausmier Road

03-216-A and 03-217-A – To permit a lot width of 50' ilo required 55' and approval of undersized lot per § 304 and any other relief as necessary (to develop each property with a SFD).

2/04/03 - D.Z.C.'s Order in which requested relief was GRANTED with restrictions in both matters.
3/21/03 – D.Z.C.'s Ruling on Motion for Reconsideration filed by Protestant – Motion DENIED.

8/12/03 -- Notice of Assignment sent to parties; assigned for Wednesday, October 29, 2003 at 10:00 a.m.:

Joseph Katzenburger
Margaret Barrett, Personal Representative
on behalf of the Estate of John C. Dunn
Mark Gheiler /Wismar Building Corporation
Thomas J. Hoff /Registered Landscape Architect
Kathleen Eckart
John Bogdan, Jr.
Isaac Gheiler
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt /Z.C.
Timothy M. Kotroco, Director /PDM

10/20/03 – Letter from Howard L. Alderman, Jr., Esquire, including Entry of Appearance filed by Mr. Alderman on behalf of Wismar Building Corporation, present owner of the subject property (and successor in interest to The Estate of John C. Dunn); and Request for Postponement of hearing assigned for 10/29/03 due to conflict with unrelated legal matter previously scheduled.

10/21/03 – Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, March 23, 2004 at 10:00 a.m. (confirmed with Mr. Alderman via telephone on 10/20/03 that this hearing, if postponed, could not be rescheduled until March 2004; this confirmation is included in Mr. Alderman's postponement request).

2/19/04 – Letter of withdrawal of appeal filed by Joseph Katzenberger, Appellant. Order of Dismissal to be issued.

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

DATE: April 15, 2004

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

FROM: Theresa R. Shelton
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.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
03-216-A	*03-216-A*	ESTATE OF JOHN C. DUNN	4104 KLAUSMIER ROAD
03-217-A	*03-217-A*	ESTATE OF JOHN C. DUNN	4104 KLAUSMIER ROAD
03-371-A	*03-371-A*	JAVAD AND GUITY VARZANDEH	9402 BELAIR ROAD

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

County Board of Appeals of Baltimore County

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

W/D by Appellant 3/19/04

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 21, 2003

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 03-216-A

IN THE MATTER OF: ***The Estate of John C. Dunn, through its Personal Representative, Margaret M. Barrett – Legal Owner*** **; Mark Gheiler /Wismar Building Corporation 4104 Klausmier Road**
11th Election District; 5th Councilmanic District **AND**

CASE #: 03-217-A

IN THE MATTER OF: ***The Estate of John C. Dunn, through its Personal Representative, Margaret M. Barrett – Legal Owner*****; Mark Gheiler /Wismar Building Corporation 4106 Klausmier** Road
11th Election District; 5th Councilmanic District

2/04/03 – Order of the D.Z.C. in which Petitions for Variance were GRANTED with restrictions.
3/21/03 – Decision of the D.Z.C. in which Protestants' Motion for Reconsideration was DENIED.

which was assigned to be heard on 10/29/03 has been **POSTPONED** at the request of Counsel for Petitioner due to conflict in previously scheduled but unrelated legal matter; and has been

REASSIGNED FOR: **TUESDAY, MARCH 23, 2004 at 10:00 a.m.**

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

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco /Administrator

c: Appellant /Protestants : Joseph Katzenburger

Counsel for Petitioner : Howard L. Alderman, Jr., Esquire
Petitioner : Mark Gheiler /Wismar Building Corporation
Margaret Barrett, Personal Representative
on behalf of the Estate of John C. Dunn
Thomas J. Hoff /Registered Landscape Architect

Kathleen Eckart John Bogdan, Jr. Isaac Gheiler

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt /Z.C.
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

pp'd @ req. of Counsel for Petitioner

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 12, 2003

NOTICE OF ASSIGNMENT

CASE #: 03-216-A

IN THE MATTER OF: ***The Estate of John C. Dunn, through its Personal Representative, Margaret M. Barrett – Legal Owner*** **; Mark Gheiler /Wismar Building Corporation 4104 Klausmier Road**
11th Election District; 5th Councilmanic District **AND**

CASE #: 03-217-A

IN THE MATTER OF: ***The Estate of John C. Dunn, through its Personal Representative, Margaret M. Barrett – Legal Owner*****; Mark Gheiler /Wismar Building Corporation 4106 Klausmier** Road
11th Election District; 5th Councilmanic District

2/04/03 – Order of the D.Z.C. in which Petitions for Variance were GRANTED with restrictions.
3/21/03 – Decision of the D.Z.C. in which Protestants' Motion for Reconsideration was DENIED.

ASSIGNED FOR: **WEDNESDAY, OCTOBER 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: Appellant /Protestants : Joseph Katzenburger

Petitioner /Legal Owner : Margaret Barrett, Personal Representative on behalf of the Estate of John C. Dunn

Mark Gheiler /Wismar Building Corporation
Thomas J. Hoff /Registered Landscape Architect

Kathleen Eckart
John Bogdan, Jr.
Isaac Gheiler

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence Schmidt /Z.C.
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

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. 03-216-A

Residential Processing Fee Paid ($50.00)
Accepted by D. THOMPSON
Date 11/4/02

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

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:

THOMAS J. HOFF (Print Name of Applicant) 406 W. PENNSYLVANIA AVE TOWSON, MD 21204 (Address) 410-296-3668 (Telephone Number)

Lot Address 4104 KLAUSMIER RD Election District 11 Councilmanic District 5 Square Feet 15,000

Lot Location: N E S W/side/corner of KLAUSMIER RD. (street) 95.25 feet from N E S W corner of BAUER AVE. (street)

Land Owner: THE ESTATE OF JOHN C. DUNN, JR. PERSONAL REPRESENTATIVE - MARGARET M. BARRETT Tax Account Number LOT 56 - 1104075351 LOT 63 - 2200001268

Address: 3800 CEDARBROOKE PLACE, BALT. MD. 21236 Telephone Number (410) 296-1733

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

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

	PROVIDED? YES	NO
1. This Recommendation Form (3 copies)	✓	
2. Permit Application		✓
3. Site Plan Property (3 copies)	✓	
4. Building Elevation Drawings		✓
5. Photographs (please label all photos clearly) Adjoining Buildings	ALREADY SUBMITTED / ON FILE	
Surrounding Neighborhood		

6. Current Zoning Classification: D.R. 5.5

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: Lynn Lanham
for the Director, Office of Planning and Community Conservation

RECEIVED NOV - 7 2002

Date: 11/15/02

Post-It® Fax Note 7671

To D. Thompson	Date 11/15/02 # of pages ▶ 2
Co./Dept. Zoning	From L. Lanham
Phone #	Co. Planning
Fax # 2824	Phone # 3480
	Fax #

SCHEDULED DATES, CERT ... ed 2/05/02
BUILDING PERMIT APPL ... OR A ... 4.2

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

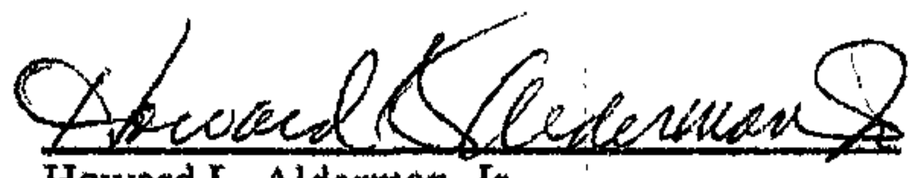
RE: PETITIONS FOR VARIANCE **4104 & 4106 Klausmier Road** **8th Election District** **5th Councilmanic District** ***Wismar Building Corporation,*** ***Owner/Substitute Petitioner***	**Case Nos.: 03-216-A & 03-217-A**

ENTRY OF APPEARANCE

Madame Clerk:

Please enter the appearance of the undersigned counsel on behalf of Wismar Building Corporation, present owner of the property (and successor in interest to *The Estate of John C. Dunn, Jr.*) which is the subject of the above-captioned case and please forward copies of all further notices and other communications to me at the address listed below.

Thank you.

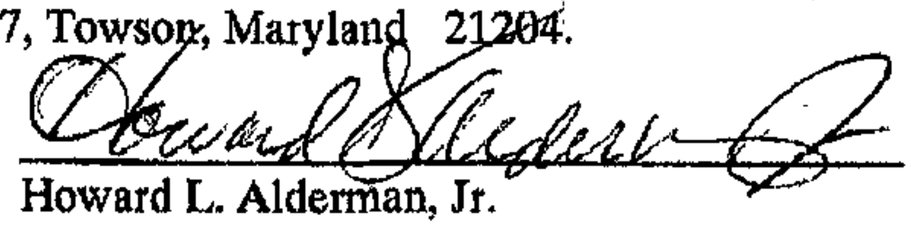


Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Wismar Building Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of October, 2003, , a copy of the foregoing Entry of Appearance was sent via telefax and was mailed via First-Class, United States Mail to Peter Max Zimmerman, Esquire and Carole S. DeMilio, Esquire, both of Baltimore County Office of People's Counsel, Old Courthouse, Room 47, Towson, Maryland 21204.



Howard L. Alderman, Jr.

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

RE: PETITIONS FOR VARIANCE **4104 & 4106 Klausmier Road** **8th Election District** **5th Councilmanic District** ***Wismar Building Corporation,*** ***Owner/Substitute Petitioner***	**Case Nos.: 03-216-A & 03-217-A**

REQUEST FOR POSTPONEMENT

Wismar Building Corporation, Owner/Substitute Petitioner, by its attorneys, Howard L. Alderman, Jr. and Levin & Gann, P.A., respectfully move that this Honorable Board postpone the hearing in this case until the next regularly scheduled appeal date or an earlier date if the same becomes available, and in support thereof state as follows:

1. The hearing before this Board is scheduled for Wednesday, October 29, 2003 at 10:00 a.m.

2. The undersigned did not participate in the hearing held at the Zoning Commissioner level. At the time of that hearing the subject property was owned by the Estate of John C. Dunn, Jr. and Wismar Building Corporation was the contract purchaser.

3. Since the decision of the Zoning Commissioner, Wismark has settled on its purchase of the subject property and is the appropriate Substitute Petitioner to make this request.

4. The undersigned was contacted by Mr. Mark Gheiler of Wismark this afternoon regarding representation of the corporation at the scheduled hearing. Due to a previously advertised scheduling conflict in an unrelated legal matter, the undersigned will be unable to appear on the date and time scheduled. The undersigned has advised Mr. Gheiler that a rescheduled hearing will occur

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

October 20, 2003

VIA TELEFAX & REGULAR MAIL
Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
Old Courthouse, Suite 49
400 Washington Avenue
Towson, Maryland 21204

RE: Wismar Building Corporation, Owner/Substitute Petitioner
Case Nos.03-216-A & 03-217-A
4104 & 4106 Klausmier Road
(filed originally under prior owner's name: *The Estate of John C. Dunn, Jr.*)
Entry of Appearance and Request for Postponement

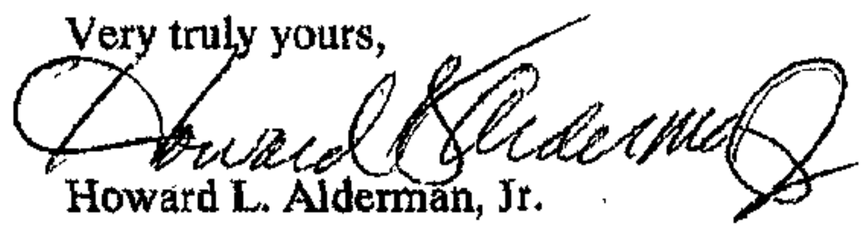
Dear Ms. Bianco:

Please accept for filing the enclosed *Entry of Appearance* and *Request for Postponement* in the above-referenced matter. A proposed Order for the Board's use is also enclosed.

Should you or any member of the Board require any additional information in this regard or if I need be present to put the postponement request on the record, please contact me.

Thank you for your attention to this matter.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures
c (w/encl.): Wismar Building Corporation
Baltimore County Office of People's Counsel

sometime in early 2004 and not before.

5. It would be appreciated if the requested rescheduling is coordinated with counsel for the Owner/Substitute Petitioner and the Office of People's Counsel so as not to result in possible future requests for rescheduling.

WHEREFORE, the Owner/Substitute Petitioner respectfully requests that this Honorable Board grant a postponement of the hearing in this case until the next regularly scheduled appeal date or an earlier date if the same becomes available.

Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Owner/Substitute Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of October, 2003, a copy of the foregoing Request for Postponement was sent via telefax and was mailed via First-Class, United States Mail to Peter Max Zimmerman, Esquire and Carole S. DeMilio, Esquire, both of Baltimore County Office of People's Counsel, Old Courthouse, Room 47, Towson, Maryland 21204.

Howard L. Alderman, Jr.

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

RE: PETITIONS FOR VARIANCE **4104 & 4106 Klausmier Road** **8th Election District** **5th Councilmanic District** ***Wismar Building Corporation,*** ***Owner/Substitute Petitioner***	**Case Nos.: 03-216-A & 03-217-A**

ORDER

After consideration of the Request for Postponement filed by the Owner/Substitute Petitioner in this case, it is by the County Board of Appeals of Baltimore County this ____ day of _____, 2003,

ORDERED that the Request for Postponement be and it is hereby GRANTED, and the Board hereby directs that the hearing be rescheduled until the next regularly scheduled appeal date and that any rescheduling be coordinated with counsel of record.

COUNTY BOARD OF APPEALS:

_____

_____

_____

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

October 20, 2003

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	TELEFAX NO.
Kathleen Bianco, Administrator Office of People's Counsel	410-887-3182 410-823-4236

FROM: HOWARD L. ALDERMAN, JR., ESQUIRE

NUMBER OF PAGES [INCLUDING THIS COVER PAGE]: 6

CLIENT/MATTER: 4101 & 4106 Klausmier Road Case Nos. 03-216-A & 03-217-A

COMMENTS: **Ms. Bianco: an entry of appearance and request for postponement follows.**

[x] ORIGINAL NOT BE MAILED

If you do not receive all of the pages indicated above, please call 321-0600 as soon as possible. My return FAX Number is (410) 296-2801.

WARNING: UNAUTHORIZED INTERCEPTION OF THIS TELEFAX COMMUNICATION COULD BE A VIOLATION OF FEDERAL AND MARYLAND LAW.

The information contained in this transmission is attorney privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect and return the original message to us at the above address via the U.S. Postal Service. We will reimburse you for expenses. Thank You.

4/14/03
g
To: Beck
ok To: Office

Arnold Jablon - Re: Zoning Appeal Fees

From: Arnold Jablon
To: Madgebill@aol.com
Date: 4/14/2003 11:10 AM
Subject: Re: Zoning Appeal Fees

the zoning office is right, the correct appeal fee is per case, even though the zoning commissioner heard both cases at the same time. because two separate and distinct cases were filed, assigned separate case numbers, an appeal fee would be charged for each.

that said, i will agree to permit an appeal of both to be for $300.00. i will let the zoning office know.

Arnold Jablon

1 fee ok
AJ | wcr

>>> <Madgebill@aol.com> 04/13/03 02:41PM >>>
Mr. Jablon

We are writing to seek your assistance in determining the correct fee for appealing a zoning commissioners decision in case numbers C-03-216-A & C-03-217-A.

The Zoning Commissioner consolidated these cases and conducted one hearing and rendered one opinion. The neighbors wish to appeal this decision and have been informed that because there are two case numbers the fee for filing an appeal is $600.00.

We believe that this is incorrect. The filing fee for appealing a decision of the Zoning Commissioner is $300.00. Since there is only one decision being appealed we believe the neighbors should only have to pay the $300.00 fee.

Time is important as the appeal must be filed by 4/21/03.

Thank you for your assistance in this matter.

William M. Libercci, Sr.
Chairman Zoning and Development Committee
Perry Hall Improvement Association
19 Shawn Court
Baltimore, MD 21236
410 256-0675

copies of lease agreements

copies of income and expense reports prepared by rental management company reflecting past due moneys owed for rent for 1997, 1998, 1999 and 2000

copies of checks issued by defendants for rent that were dishonored

copies of memos from rental management company to defendants

copies of invoices from rental management company to defendants and plaintiffs

copies of bills, receipts and proof of payment for work performed by plaintiffs or their agents

(b) defendants' exhibits:

3. Request for Stipulations:

None

4. Estimated Time of Trial:

one day

V. Settlement:

Plaintiff would be willing to enter into consent judgment with stay of execution. On 22 August 2002, counsel for plaintiffs met with counsel for defendants at mediation and suggested settlement considering the contentions as expressed in defendants' Answer and those raised at the mediation conference, but proposed settlement was not achieved. Subsequently, on 12 September, settlement was further discussed and an offer made by defendants in the amount of $2000.00. Plaintiffs' on 3 October, made a counter-offer of $3600.00 to which no response has been received as yet.

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SETTLEMENT STATEMENT

THE FOUNTAINHEAD TITLE GROUP

B. TYPE OF LOAN

1-5: Loan Type: Commercial Loan, 30years Fixed

6. File Number: 15870CAT 7. Loan Number:

8. Mortgage Insurance Case Number:

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME OF BORROWER:
Wismar Building Corporation
3403 Old Post Drive
Baltimore, MD 21208

E. NAME OF SELLER:
Margaret M. Barrett
Personal Representative of the
Estate of John C. Dunn, Jr.

F. NAME OF LENDER:
Valley Bank of Maryland
130 Lakefront Drive
Hunt Valley, MD 21030

G. PROPERTY LOCATION:
Lots Klausmier Road
Baltimore, MD 21236
Baltimore County
11-1104075353 & 5351

H. SETTLEMENT AGENT:
THE FOUNTAINHEAD TITLE GROUP

PLACE OF SETTLEMENT:
300 Frederick Road, Suite 100
Catonsville, Maryland 21228

I. SETTLEMENT DATE: 03/17/03

ADJUSTMENT DATE: 03/17/03

J. SUMMARY OF BORROWER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER	
101. Contract Sales Price	175,200.00
102. Personal Property	
103. Settlement Charges to Borrower (1400)	5,827.75
104. Return To Trust Valley Bank	359,900.00
105.	
Adjustments for items paid by seller in advance	
106. City/Town Taxes	
107. County Taxes 03/17/03 to 06/30/03	45.19
108. Assessments	
109.	
110.	
111.	
112.	
120. GROSS AMOUNT DUE FROM BORROWER	540,972.94
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER	
201. Deposit or earnest money	2,000.00
202. Principal amount of new loan(s)	500,000.00
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
Adjustments for items unpaid by seller	
210. City/Town Taxes	
211. County Taxes	
212. Assessments	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. TOTAL PAID BY/FOR BORROWER	502,000.00
300. CASH AT SETTLEMENT FROM/TO BORROWER	
301. Gross amount due from borrower (120)	540,972.94
302. Less amounts paid by/for borrower(220)	502,000.00
303. Cash-From Borrower	38,972.94

K. SUMMARY OF SELLER'S TRANSACTION	
400. GROSS AMOUNT DUE TO SELLER	
401. Contract Sales Price	175,200.00
402. Personal Property	
403.	
404.	
405.	
Adjustments for items paid by seller in advance	
406. City/Town Taxes	
407. County Taxes 03/17/03 to 06/30/03	45.19
408. Assessments	
409.	
410.	
411.	
412.	
420. GROSS AMOUNT DUE TO SELLER	175,245.19
500. REDUCTIONS IN AMOUNT DUE TO SELLER	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line1400)	8,950.75
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506. Deposit or earnest money	2,000.00
507.	
508.	
509.	
Adjustments for items unpaid by seller	
510. City/Town Taxes	
511. County Taxes	
512. Assessments	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. TOTAL REDUCTION IN AMOUNT DUE SELLER	10,950.75
600. CASH AT SETTLEMENT TO/FROM SELLER	
601. Gross amount due to seller (420)	175,245.19
602. Less reduction in amount due seller (520)	10,950.75
603. Cash To Seller	164,294.44

Estimated Mortgage **First Payment Date:**

L. SETTLEMENT CHARGES

		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price 175,200.00 @ 5.00% = 8,760.00			
Division of Commission (line 700) as follows:			
701. 3,504.00	to Coldwell Banker Residential Brokerage		
702. 5,256.00 less deposit 2,000.00	to Long & Foster Realtors		6,760.00
703. Commission paid at Settlement			
704. Documentation Fees			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee			
802. Loan Discount			
803. Appraisal Fee	to Valley Bank of Maryland	750.00	
804. Credit Report			
805. Lender's Inspection Fee			
806. Bank Counsel Fee	to Jack & Adler, P.A.	930.00	
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from 03/11/03 to 03/31/03 @ .000/day			
902. Mortgage Insurance Premium	for 12 months		
903. Hazard Insurance Premium	for 1 years		
904.	for 1 years		
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	0 months @ $ 0.00 per month		
1002. Mortgage Insurance	0 months @ $ 0.00 per month		
1003. City Property Taxes	0 months @ $ 0.00 per month		
1004. County Property Taxes	0 months @ $ 0.00 per month		
1005. Annual Assessments	0 months @ $ 0.00 per month		
1006. Ground Rent	0 months @ $ 0.00 per month		
1007.			
1008. Aggregate Adjustment	0 months @ $ 0.00 per month		
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or title search	to The Fountainhead Title Group	103.00	
1103. Title examination	to The Fountainhead Title Group	295.00	
1104. Title insurance binder preparation	to The Fountainhead Title Group	50.00	
1105. Document preparation			
1106. Notary fees			
1107. Attorney's fees			
includes:			
1108. Title Insurance	to The Fountainhead Title Group	1,174.00	
includes:			
1109. Lender's coverage $ 500,000.00 $ 875.00			
1110. Owner's coverage $ 175,200.00 $ 299.00			
1111. Court copies			
1112. Judgment reports			
1113. Procurement of Release of Mortgage			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed $ 25.00 ; Mortgage $ 50.00 ; Additiona $ 25.00		100.00	
1202. City/county tax/stamps: Deed $ 877.50 ; Mortgage $ 0.00 ; Credit Local: $ 0.00		438.75	438.75
1203. State Transfer Tax: $ 876.00 City/County: $ 2,628.00		1,752.00	1,752.00
1204. Lien Certificate	to The Fountainhead Title Group	120.00	
1205Additional Recording	to SDAT	40.00	
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey			
1302. Pest Inspection			
1303Delivery & Hand Recording	to The Fountainhead Title Group	75.00	
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		5,827.75	8,950.75

This settlement is subject to further adjustments between the parties. In the event of errors or omissions, parties agree that any errors or omissions shall be corrected, and the adjusted amount shall be paid by the appropriate party within 10 days of notification. Parties further agree that interest at the rate of 12% per annum shall accrue on any adjusted amount from the date of settlement, and that the party indebted for such adjusted amount shall also pay reasonable attorney's fees incurred in the collection of such debt. Borrower hereby acknowledges receipt of a copy of Truth-in-Lending Statement and mortgage instrument, and acknowledges that interest earned on settlement trust accounts is retained by Fountainhead as additional consideration for services rendered. The undersigned hereby acknowledges receipt of a copy of this settlement sheet.

all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in D.R.2 Zones, 50 feet in D.R.3.5 Zones and 40 feet in D.R.5.5 Zones. In no case, however, shall nonresidential principal buildings have front yards of less depth than those specified therefor in the area regulations for D.R.2, D.R.3.5 and D.R.5.5 Zones respectively. **[Resolution, November 21, 1956]**

303.2 In B.L., B.M. and B.R. Zones, the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with permanent commercial buildings constructed of fire-resisting materials situate within 100 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above.

Section 304
Use of Undersized Single-Family Lots
[BCZR 1955; Bill No. 47-1992]

304.1 **[Bill Nos. 64-1999; 28-2001]** Except as provided in Section 4A03, a one-family detached or semidetached 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 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.

304.2 Building permit application.

A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits and Development Management, at the time of application for a building permit, plans sufficient to allow the Office of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.

B. At the time of application for the building permit, as provided above, the Director of the Department of Permits and Development Management shall request comments from the Director of the Office of Planning (the "Director"). Within 15 days of receipt of a request from the Director of the Department of Permits and Development Management, the Director shall provide to the

4-17-03

Mr. Arnold Jablon
Director Department of Permits And Development Management
111 W. Chesapeak Ave.
Towson, MD 21204

Re: Zoning Appeal, Case #'s
C-03-216-A & C-03217-A

Dear Mr. Jablon:

Please accept this letter as an appeal of the zoning commissioner's decision in the referenced cases.

Pursuant to your decision regarding the filing fee in this matter, e-mail correspondence between you and Mr. William Libercci, enclosed is a check in the amount of $300.00.

Sincerely Yours

Joseph Kahzenberger

4102 Klausmier Rd
Baltimore, MD 21236
410-256-9735

Enclosure:

RECEIVED
APR 18 2003
Per bh

March 3, 2003

RECEIVED
MAR 4 2003
ZONING COMMISSIONER

The Honorable Lawrence Schmidt
Baltimore County Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, MD 21204

RE: Case # 03-216-A
Case # 03-217-A

Dear Commissioner Schmidt:

Please consider this letter as a "motion for reconsideration" in accordance with the rules and regulations of the Zoning Commissioner/hearing officer for Baltimore County.

The request is based on the following:

(1) The testimony and evidence produced at the original hearing was legally insufficient to support the burden imposed upon the petitioners that the property or properties were "unusual or unique" in accordance with the standards of *Cromwell vs Ward*; and no "practical difficulty" was demonstrated other than the request is for economic gain and/or the convenience of the petitioner.

(2) Section 304 of the Baltimore County Code clearly requires three (3) elements to be present before a variance can be granted in connection with an undersized lot (copy attached). Clearly, the owners of the lot have more than sufficient "width" to merge the lots and build a dwelling therein. Your opinion fails to state any reference to that fact.

The petitioners have therefore reached the conclusion that your "opinion" was arbitrary in light of the facts of the case; and further that your personal visit to view the property exceeded your authority; and any opinion was tainted by personal observation not admitted into evidence and subject to appropriate cross-examination by the petitioners.

Sincerely:

Joseph Katzenberger

Joseph Katzenberger

John Bogdan

John Bogdan

Kathleen Eckart

Kathleen Eckart

8/26/03 to wcd we talked about this - ok Beck P OK

Can 1 fee

Est. 1776
PERRY HALL
IMPROVEMENT ASSOCIATION, INC.
P.O. Box 63 Perry Hall, MD 21128 *phia@mail.bcpl.net* *www.bcpl.net/~phia*

April 14, 2003

Arnold Jablon
Director, Permits and Development Management
111 W. Chesapeake Ave.
Towson, MD 21204

Re: Zoning Appeal Case Numbers
C-03-216-A & C-03-217-A

Dear Mr. Jablon:

We are writing to seek your assistance in determining the correct amount of the fee for appealing a Zoning Commissioner's decision.

The Zoning Commissioner consolidated the above referenced cases and he conducted one hearing and rendered one decision. The neighbors wish to appeal his decision and have been informed that because there are two case numbers the fees for filing an appeal is $600.00.

We believe this is incorrect. The fee for appealing a decision is $300.00. Since there is only one decision being appealed we believe the neighbors should have to pay only $300.00.

Time is important, as the appeal must be filed by April 21, 2003.

Thank you for your assistance in this matter.

Sincerely,

Wm Libercci, Sr.

William M. Libercci, Sr.
Chairman, Zoning and Development Committee

E-Mail sent 4/13/03

RECEIVED
03-1044
APR 14 2003

WISMAR BUILDING CORPORATION
3403 Old Post Drive
Baltimore, Maryland 21208
Telephone (410) 486-5693
Facsimile (410) 486-3818

April 25, 2003

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

RECEIVED
APR 25 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Attn: Ms. Kathleen C. Bianco

Re: Case Nos. 03-216-A and 03-217-A
4104 and 4106 Klausmier Road
Baltimore, Maryland 21236

Dear Ms. Bianco:

Pursuant to our telephone conversation on Monday, April 21, 2003, the following is Wismar Building Corporation's ("Wismar") request to expedite the appeal of the above referenced cases.

As I briefly explained to you then, throughout the variance process Wismar was the Contract Purchaser on the above referenced Property. On February 6, 2003 we received a letter from Commissioner Lawrence E. Schmidt dated February 4, 2003 (copy enclosed) informing us that The Petitions for Variance had been granted, but that any party could still file an appeal with the County Board of Appeals within thirty (30) days from the date of his Order.

On March 3, 2003 I contacted Commissioner's Schmidt's office to find out if the Order had been appealed. A lady there told me that her office did not have the files, that I should check with the Zoning Office because that was where the files were and that was where the appeal would be filed.

On March 6, 2003 I contacted the Zoning Office and a lady there informed me that the Order had not been appealed.

Because the Order was not appealed, on March 17, 2003 Wismar purchased the Property (copy of HUD-1 Settlement Statement enclosed).

On March 21, 2003 we received another letter from Commissioner Schmidt informing us that the Motion for Reconsideration had been denied, but that any party still had thirty (30) days to appeal the Order (copy enclosed). This came as a complete surprise to us because the letter of February 4, 2003 did not say anything regarding the possibility of a Motion for Reconsideration.

I spoke with Commissioner Schmidt that same day, and he explained to me that Mr. Joseph Katzenberger had filed the Motion for Reconsideration directly with him on March 3, 2003 by facsimile, and that was probably the reason that neither the lady in his office, nor the Zoning Office knew about it, but that any party still had another thirty (30) days to appeal the Order. On April 17, 2003, Mr. Katzenberger filed an appeal.

As I explained to you in our telephone conversation, we would have begun construction on the Property, had it not been for Commissioner Schmidt's letter of March 21. Had we known about the possibility of a Motion for Reconsideration we would not have even bought the Property.

I understand that your office is extremely busy at this time, but in order to curtail the damages to our company, I request that you schedule the appeal as soon as possible. Thank you for your continued assistance in this matter. Should you need to contact me, please feel free to do so at your convenience.

Sincerely

Mark Gheiler, Vice-President

Enclosures

cc: Lawrence E. Schmidt, Zoning Commissioner

THOMAS J. HOFF, INC.
Landscape Architects and Land Development Consultants
406 WEST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
410-296-3668
FAX 410-296-5326

November 2, 2002

Lin Lanham
Office of Planning
Courts Building
Towson, MD 21204

Re: Lots 56 & 63, Dengler Heights, 4104 Klausmier Road
Undersized Lot Request

Dear Lin:

As per my meetings with you and Jeff Long, it is my understanding that the Planning Office will support our request for a building permit on an undersized lot on the above referenced property.

We are not submitting building elevation drawings at this time because a house plan has not been selected yet. We will provide elevation drawings at the time of building permit filing if you want to review them.

Since we submitted a set of photographs with our panhandle lot request, we have not included additional photographs at this time. However, if you need additional copies of the photographs, please give me a call.

If you have any questions or require additional information, please give me a call.

Very truly yours,

Thomas J. Hoff, RLA
President

PLEASE PRINT CLEARLY

CASE NAME Isaac Gheslin
CASE NUMBER 03-216-A
DATE 12/30/02

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Isaac Gheslin	340 Old Post DR	Baltimore, MD 21208	
THOMAS J. HOFF	406 W. PENNSYLVANIA AVE	TOWSON, MD. 21204.	

Neighbors of the property located on 4104 and 4106 Klausmier Road Against Allowing A Variance For Lot Width of 50 Feet in Lieu of the required 55 Feet and against approval of undersized Lot in case numbers 03-216-A and 03-217-A.

Pet Ex No 1

We the following neighbors are opposed to changing the existing D.R.5.5 Zoning in the above case. Additionally we feel that allowing the variance request will negatively affect our neighborhood and the value of our homes.

Joseph Katzenberger	4102 Klausmier Rd
John J Gogola Jr	9529 BAUER AVE.
[illegible]	4108 KLAUSMIER RD.
Jerry Clue	4110 KLAUSMIER RD.
Gwen Clue	" "
Lauren Stevens	4116 Klausmier Rd
Carole L. Dietz	4114 Klausmier Rd
Harold W. Dietz	4114 Klausmier RD
[illegible]	4118 KLAUSMIER RD
Claudia Cyge	4115 KLAUSMIER RD
[illegible]	4115 Klausmier rd
Christine Boyton	9529 BAUER AVE.
STEVE SCHMIDT	4030 KLAUSMIER RD
JASON PIPKIN	4026 KLAUSMIER RD
Sheila Schmidt	4030 Klausmier Rd

Nancy R Bedale DONALD A BROADWATER 4103 KLAUSMIER RD.

Mary J Carpenter Mary J Carpenter 4109 Klausmier Rd

JAMES BOWLES James Bowles 90 JUMPERS CIR.

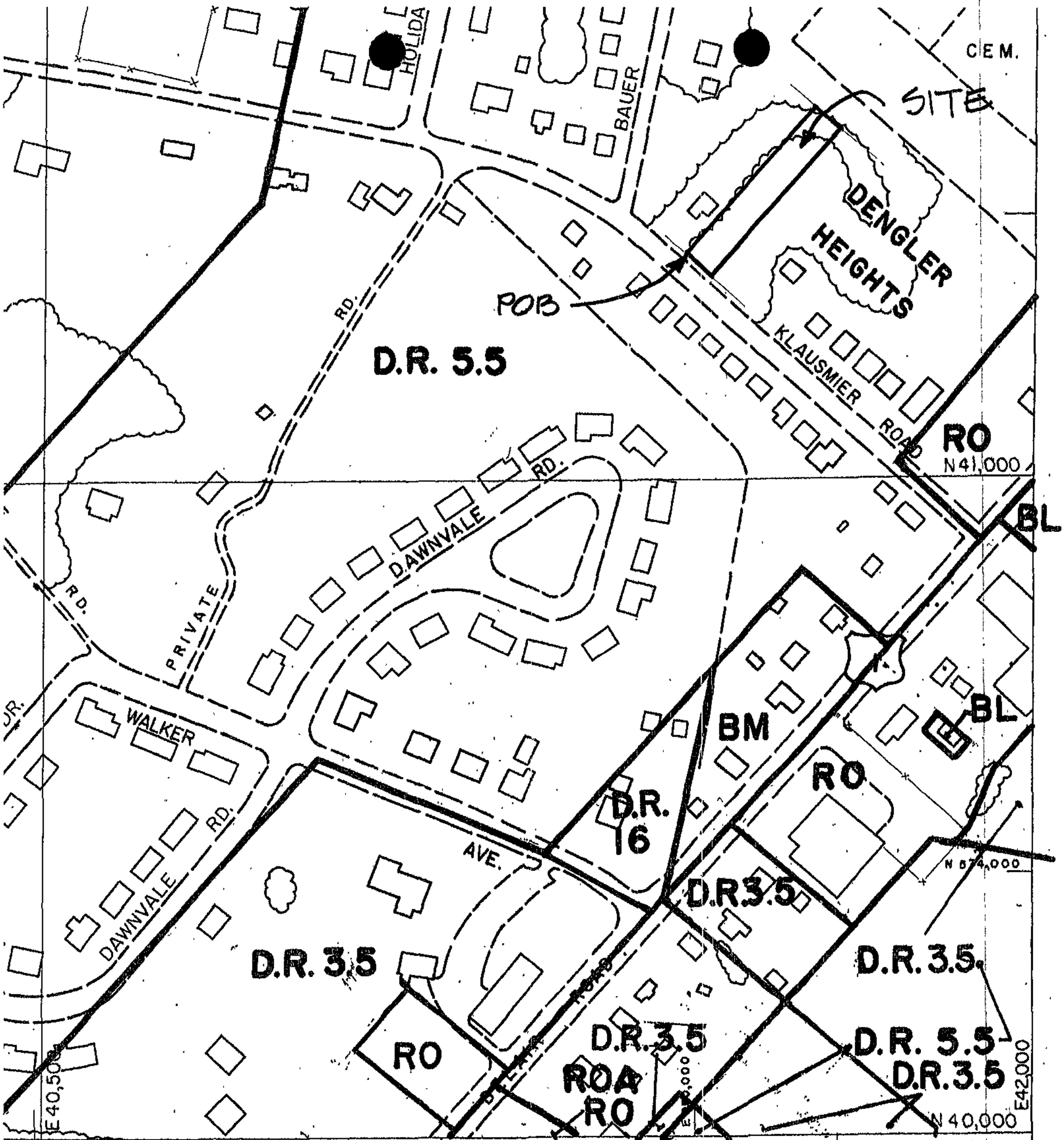
Don Eckart Don Eckart 4105 KLAUSMIER RD.

Charles E Franklin Jr. Charles E Franklin 9528 Bauer Ave 21236

Jean Blum 9524 Bauer Ave.

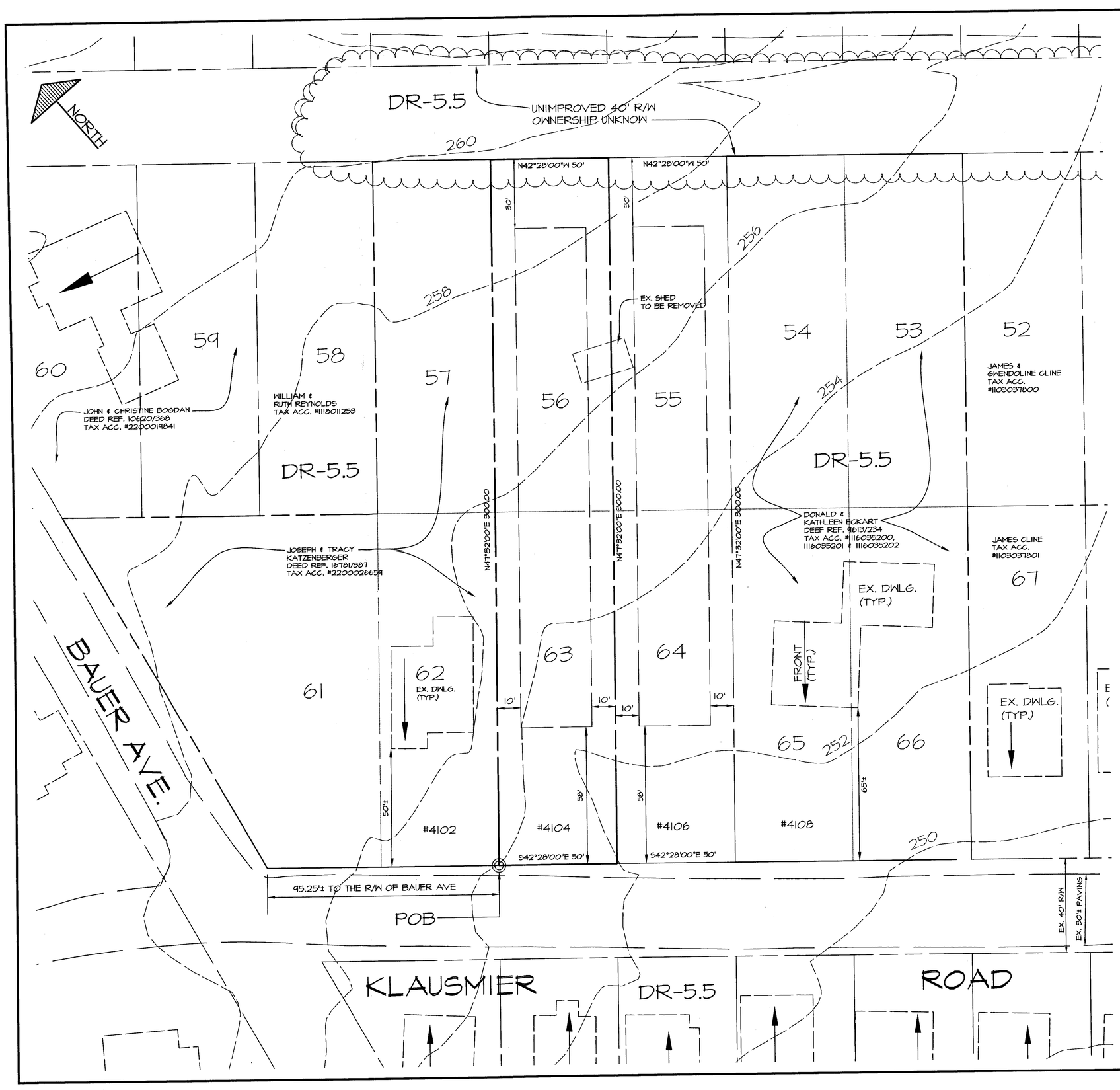
Edward [illegible] 9533 BAUER AVE 21236

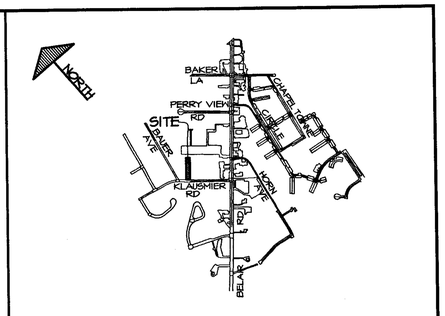
Tracy Kalyex Dugan 4102 Klausmier Road 21236



SCALE	LOCATION	SHEET
1" = 200'±	PERRY HALL LOT 56 & 63 - DENGLER HEIGHTS	N. E. 11 — G
DATE OF PHOTOGRAPHY JANUARY 1986		

03-216-A





VICINITY MAP
SCALE: 1"=1000'

SITE DATA:
NET SITE AREA: 15,000 S.F. = 0.34 AC ±
EXISTING ZONING: DR-5.5

EXISTING USE = VACANT
PROPOSED USE = SINGLE FAMILY DETACHED LOT

ZONING HISTORY:
THERE IS NO PRIOR ZONING HISTORY ON THIS SITE

GENERAL NOTES:
1) BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREON TAKEN FROM DEED, BALTIMORE COUNTY GIS AND OTHER SOURCES. BOUNDARY SHOWN DOES NOT REPRESENT A FIELD RUN SURVEY.
2) PROPERTY IS SERVED BY PUBLIC WATER & SEWER.
3) ALL FUTURE SIGNS WILL COMPLY WITH SECTION 450 BCZR.
4) SITE IS NOT IN 100 YR. FLOOD PLAIN.
5) SITE IS NOT IN CHESAPEAKE BAY CRITICAL AREA.
6) SITE IS NOT IN ANY MORITURIUM AREA.
7) THERE ARE NO HISTORICAL BUILDINGS ON SITE.

ZONING RELIEF REQUESTED:
VARIANCE TO ALLOW A LOT WIDTH OF 50' IN LIEU OF THE REQUIRED 55' AND TO APPROVE AN UNDERSIZED LOT. SECTION 1B02.3.C.1.

OWNER:
THE ESTATE OF JOHN C. DUNN, JR.
MARGARET M. BARRETT
PERSONAL REPRESENTATIVE
3800 CEDARBROOKE PLACE
BALTIMORE, MD. 21236
DEED REF. 8402/257 (BOTH LOTS)
LOT 56, TAX ACC. #1104075351
LOT 63, TAX ACC. #2200001268

PLAN TO ACCOMPANY PETITION FOR VARIANCE
LOT 56 & 63 OF DENGLER HEIGHTS
PLAT REFERENCE 12/18

4104 KLAUSMIER ROAD
TAX MAP # 72, GRID # 3, PARCELS # 1008, LOTS 56 & 63
11th ELECTION DISTRICT, 5th COUNCILMANIC BALTIMORE COUNTY, MD

THOMAS J. HOFF, INC.
LAND DEVELOPMENT CONSULTANTS
LANDSCAPE ARCHITECTS
406 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
410-296-3668 FAX 410-296-5326

SCALE:	1"=20'
DATE:	11/02/02
JOB NO.:	441-01
DESIGNED:	TJH
DRAWN:	TJH/ZJJ
CHECKED:	
REVISIONS:	
DRAWING NUMBER:	ZP-1
SHEET	1 OF 1

C:\Land Projects R2\400-449\441-01\dwg\441 ZONING PLATS.dwg, 11/02/2002 12:40:32 PM, TJH, INC.

03-216-A D.T.

Neighbors of the property located on 4104 and 4106 Klausmier Road Against Allowing A Variance For Lot Width of 50 Feet in Lieu of the required 55 Feet and against approval of undersized Lot in case numbers 03-216-A and 03-217-A.

Protest Ex No 1

We the following neighbors are opposed to changing the existing D.R.5.5 Zoning in the above case. Additionally we feel that allowing the variance request will negatively affect our neighborhood and the value of our homes.

Joseph Katzenberger	4102 Klausmier Rd
John J Gogola Jr	9529 BAUER AVE.
Kat [illegible]	4105 KLAUSMIER RD.
Jerry Cline	4110 KLAUSMIER RD.
Gwen Cline	" "
Lauren Stevens	4116 Klausmier Rd
Gerald L. Dietz	4114 Klausmier Rd
Harold M. Dietz	4114 Klausmier RD
[illegible]	4118 KLAUSMIER RD
Nancy [illegible]	4115 KLAUSMIER RD
[illegible]	4115 Klausmier rd
Christine Boyter	9529 BAUER AVE.
STEVE SCHMIDT	4030 KLAUSMIER RD
JASON PIPKIN	4026 Klausmier RD
Jennifer Schmidt	4030 Klausmier Rd