IN RE: PETITION FOR VARIANCE SE/S Briar Point Road, 514' N centerline of Bay Drive 15th Election District 6th Councilmanic District (4017 Briar Point Road) Thomas J. Murphy, III *Petitioner*	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 03-387-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Thomas J. Murphy, III. The Petitioner is requesting variance relief for property he owns at 4017 Briar Point Road located in the Bowleys Quarters area of Baltimore County. The property is zoned R.C.5. The relief requested by the Petitioner is to permit a building height for a single-family dwelling of 40 ft. in lieu of the maximum 35 ft.; to permit a lot area of 0.586 acres in lieu of the required one acre and side yard setbacks of 10 ft. and a centerline of street setback of 70 ft. in lieu of the required 50 ft. and 75 ft. respectively; and to permit lot coverage of 20% in lieu of the maximum 15%.

Appearing at the hearing on behalf of the variance requests were Cindy Bell, J. M. Diegel, J. Scott Dallas, the surveyor who prepared the site plan of the property and Joe Woolman, attorney at law, representing the Petitioner. There were no protestants or others in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request, is a waterfront lot located on Briar Point Road. The property has water frontage on the Chesapeake Bay. The property owner is interested in tearing down the old single-family dwelling, which has existed on this property for many years. He is interested in replacing the old house with a new single-family dwelling wherein he intends to reside. In order to proceed with the plans to construct this new home, the variance request is necessary.

ORDER RECEIVED FOR FILING
Date 4/21/03
By R. Jamison

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. Of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED this 21st day of April, 2003, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Sections 1A04.3A, B(1), B(2) and B(3) of the Baltimore County Zoning Regulations, to permit a building height for a single-family dwelling of 40 ft. in lieu of the maximum 35 ft.; to permit a lot area of 0.586 acres in lieu of the required one acre and side yard setbacks of 10 ft. and a centerline of street setback of 70 ft. in

ORDER RECEIVED FOR FILING
Date 4/21/03
By R. Jackson

lieu of the required 50 ft. and 75 ft. respectively; and to permit lot coverage of 20% in lieu of the maximum 15%, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1) The Petitioner may apply for his permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioner shall comply with the terms and conditions of the zoning advisory comments issued by the Department of Environmental Protection & Resource Management dated April 18, 2003, a copy of which is attached hereto.

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
Date 4/21/03
By R. Jameson

IN RE: PETITION FOR VARAINCE **SE/S Briar Point Road, 514' N** **Centerline of Bay Drive** **15th Election District** **6th Councilmanic District** **(4017 Briar Point Road)** **Thomas J. Murphy, III, Legal Owner(s)** **Petitioner(s)**	* * * * * *	**BEFORE THE** **COUNTY BOARD OF APPEALS** **OF BALTIMORE COUNTY** **CASE NOS. 03-387-A**

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

ORDER

Upon review of the record and presentations of the parties in open hearing August 28, 2003, the County Board of Appeals on this 8th day of September 2003, finds and so **ORDERS**, consistent with BCZR 307.1 and the public safety, health and welfare, as follows:

1. The Petitioner's Revised Site Plan dated August 18, 2003 for a dwelling at 4017 Briar Point Road in the R.C. 5 (Rural-Residential) Zone be, and hereby is, approved.

2. The Petition for Variance for a building height variance of 40 feet instead of the 35 feet required by BCZR 1A04.3A, having been withdrawn by Petitioner at the hearing, is hereby dismissed.

3. The Petition for Variance for lot coverage by buildings of 20% instead of the 15% required by BCZR 1A04.3B3, having been withdrawn by the Petitioner at the hearing, is hereby dismissed. Building coverage is shown on the Revised Site Plan as 13.7% and does not exceed 15%.

4. People's Counsel for Baltimore County's appeal of the Petition for Variance to BCZR 1A04.3B1 for an undersized lot of .586 acres instead of 1 acre, having been withdrawn at the hearing, is hereby dismissed, so that the

undersized lot variance granted by the Zoning Commissioner is allowed to stand.

5. People's Counsel for Baltimore County's appeal of the Petition for Variances to BCZR 1A04.3B2 for building setbacks of ten feet for the side yards instead of 50 feet and 70 feet to the centerline instead of 75 feet, having been withdrawn by People's Counsel at the hearing, is hereby dismissed, so that the building setback variances granted by the Zoning Commissioner are allowed to stand.

6. The Petitioner must comply with Chesapeake Bay Critical Area requirements and any other applicable development regulations.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Margaret Worrall

Melissa Moyer Adams

Approved as to Form:

Joseph Woolman, Attorney for Petitioner

Peter Max Zimmerman 9/3/03

Peter Max Zimmerman,
People's Counsel for Baltimore County

To File
TMK

County Board of Appeals of Baltimore County

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

September 8, 2003

Peter Max Zimmerman
People's Counsel for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of: Thomas J. Murphy, III
Case No.: 03-387-A

Dear Mr. Zimmerman:

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

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

Very truly yours,

Kathleen C. Bianco/ths

Kathleen C. Bianco
Administrator

Enclosure

c: Joseph R. Woolman, III, Esquire
Thomas J. Murphy, III
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director/PDM

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on Recycled Paper

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 20, 2003

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
SE/S Briar Point Road, 514' N
C/line of Bay Drive
(4017 Briar Point Road)
15th Election District 6th Councilmanic District
Legal Owner: Thomas J, Murphy, III
Case Nos. 03-387-A

Dear Mr. Jablon:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated April 21, 2003 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio /RMW

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: J. Scott Dallas
P.O. Box 26
13523 Long Green Pike
Baldwin, MD 21013
Representative for Petitioner

RECEIVED
MAY 20 2003
Per...bh.....

Baltimore County
Zoning Commissioner

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

April 21, 2003

Joe Woolman, Esquire
301 N. Charles Street, Suite 800
Baltimore, Maryland 21201

Re: Petition for Administrative Variance
Case No. 03-387-A
Property: 4017 Briar Point Road

Dear Mr. Woolman:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been granted 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,

Timothy Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

c: Thomas J. Murphy, III
9911 Pepper Hill Road
Perry Hall, MD 21128

J. M. Diegel
3807 Ady Road
Street, MD 21154

J. Scott Dallas
J. S. Dallas, Inc.
13523 Long Green Pike
Baldwin, MD 21013

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on Recycled Paper

Flood CBCA

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at # 4017 Briar Point Road

which is presently zoned R. C. 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) 1A04.3A, B(1), B (2), and B (3) to permit a building height of 40 feet in lieu of the maximum 35 feet, to permit a lot area of 0.586 acres in lieu of the required 1 acre, to permit sideyard setbacks of 10 feet and centerline of street setback of 70 feet in lieu of the required 50 feet and 75 feet respectively and to permit lot coverage of 20% in lieu of the Maximum 15%. of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) Property downzoned to R.C. 5 due to lack of public sewer (now planned - see site plan). Community is composed primarily of similarly "undersized" lots. Non-contiguous ownership.

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):

Thomas J. Murphy III

Name - Type or Print

Signature

Name - Type or Print

Signature

9911 Pepper Hill Rd. 410-529-7405

Address Telephone No.

Perry Hall MD 21128

City State Zip Code

Representative to be Contacted:

J. Scott Dallas (J.S. Dallas, Inc.)

Name

P. O. Box 26
13523 Long Green Pike 410-817-4600

Address Telephone No.

Baldwin MD 21013

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By BK Date 2/21/03

Case No. 03-387-A

ORDER RECEIVED FOR FILING

Date 4/21/03

By

PSU 9/15/98

J. S. DALLAS, INC.
SURVEYING & ENGINEERING
13523 LONG GREEN PIKE
P.O. BOX 26
BALDWIN, MD 21013
(410) 817-4600
FAX (410) 817-4602

ZONING DESCRIPTION OF #4017 BRIAR POINT ROAD

BEGINNING *at a point on the southeast side of Briar Point Road, 20 feet wide at the distance of 514 feet, more or less, from the centerline of Bay Drive as shown on Baltimore County Department of Public Works Sewer Drawing No. 2000-0371 thence running with and binding on said southeast side of Briar Point Road the two following courses and distances* ***(1) South 55 degrees 24 West 56.25 feet*** *and* ***(2) South 55 degrees 24 minutes West 28.12 feet*** *thence leaving said Briar Point Road and running* ***(3) South 61 degrees 52 minutes East 369.01 feet*** *to the waters of Chesapeake Bay thence running with and binding on said waters of Chesapeake Bay* ***(4) North 3 degrees 03 minutes East 27.60 feet*** *and* ***(5) North 30 degrees 28 minutes East 50 feet*** *thence leaving said waters of Chesapeake Bay and running* ***(6) North 61 degrees 52 minutes West 319 feet*** *to the place of beginning.*

CONTAINING 25,532 square feet (or 0.586 acres) of land, more or less.

ALSO *known as* ***#4017 Briar Point Road*** *and located in the 15th Election District, 6th Councilmanic District.*

Note: above description is based on existing deed and is for zoning purposes only.

STATE OF MARYLAND
JONATHAN SCOTT DALLAS
No. 468
REGISTERED
PROPERTY LINE SURVEYOR

2-03.

#387

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: #03-387-A
4017 Briar Point Road
S/east side Briar Point Road 514 feet north centerline Bay Drive
15th Election District - 6th Councilmanic District
Legal Owner(s): Thomas J. Murphy, III

Variance: to permit a building height of 40 feet in lieu of the maximum permitted 35 feet. To permit a lot area of 0.586 acres in lieu of the required 1 acre. To permit sideyard setbacks of 10 feet and centerline of street setback of 70 feet in lieu of the required 50feet and 75 feet respectively and to permit lot coverage of 20% in lieu of the maximum 15%.

Hearing: Wednesday, April 16, 2003 at 11:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/4/604 Apr. 1 C595504

CERTIFICATE OF PUBLICATION

4/4/, 2003

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 4/1/, 2003.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 22311

DATE 2/21/03

ACCOUNT R001-006-6150

AMOUNT $ 115.00

RECEIVED FROM: Scott Dallas, Inc.

FOR: Variance - undersized lot

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item # 387

PAID RECEIPT
BUSINESS ACTUAL TIME
2/21/2003 2/21/2003 09:22:14
REG W006 WALKIN DOL DWD DRAWER 2
RECEIPT # 21591 2/21/2003 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 02311
Recpt Tot $115.00
115.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

Date: 4/1/03

RE: Case Number 03-387-A

Petitioner/Developer: THOMAS MURPHY

Date of Hearing/Closing: 4/16/03

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 4017 BRIAR POINT ROAD

The sign(s) were posted on MARCH 29, 2003
(Month, Day, Year)

(Signature of Sign Poster)

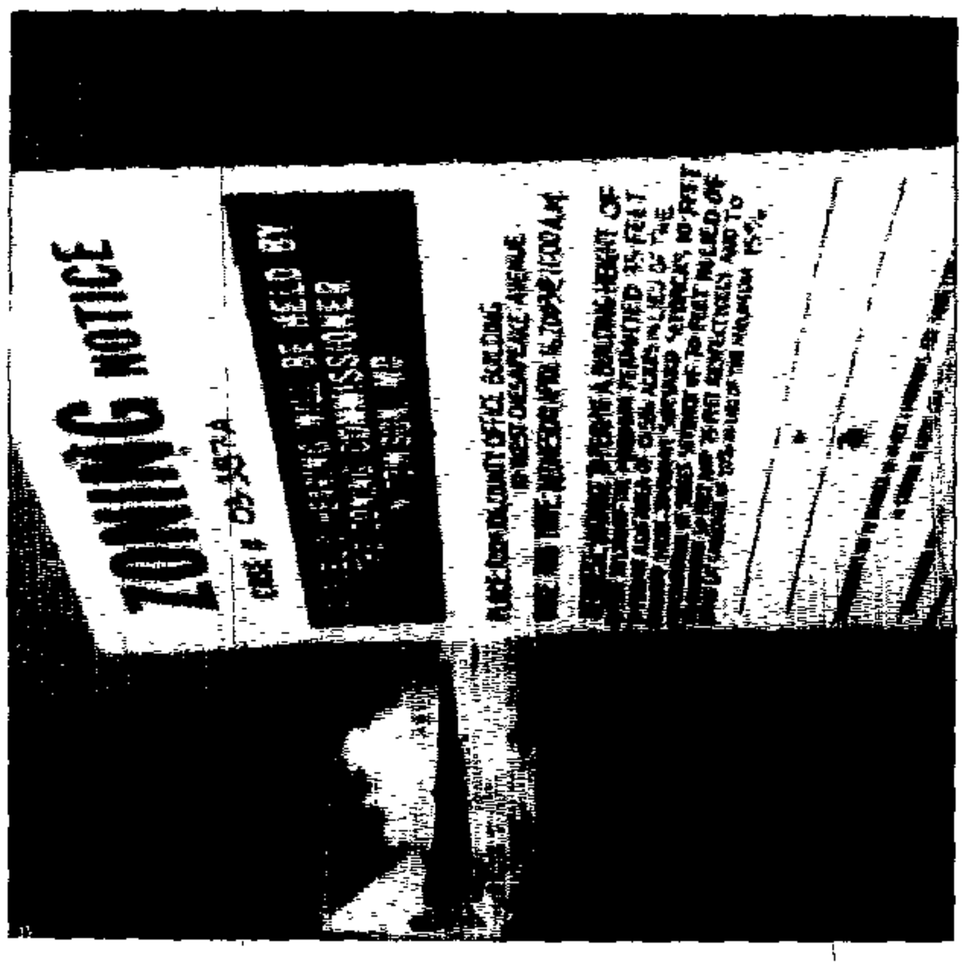
CHARLES MERRITT
(Printed Name of Sign Poster)

9831 MAGLEDT RD
(Street Address of Sign Poster)

BALTIMORE MD 21234
(City, State, Zip Code of Sign Poster)

410 665-5562
(Telephone Number of Sign Poster)

ATTACH PHOTOGRAPH OF SIGN POSTED ON PROPERTY



4/16/03

03-387-A
4017-BRIAR PT. RD.
MURPHY

Revised 3/1/01 - SCJ

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-387-A

Thomas J. Murphy, III - LEGAL OWNERS

4017 Briar Point Road, Baltimore 21220

15th ELECTION DISTRICT

APPEALED: 5/20/2003

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

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-387-A

Thomas J. Murphy, III - LEGAL OWNERS

4017 Briar Point Road, Baltimore 21220

15th ELECTION DISTRICT APPEALED: 5/20/2003

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

RE: Case No.: 03-387-A

Petitioner/Developer:

_____

This is to certify that the necessary appeal sign was posted conspicuously on the property located at: 4017 Briar Point RD.

The sign was posted on 6/23, 2003

By: _____
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

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

March 12, 2003

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: 03-387-A
4017 Briar Point Road
S/east side Briar Point Road 514 feet north centerline Bay Drive
15th Election District – 6th Councilmanic District
Legal Owner: Thomas J. Murphy, III

Variance to permit a building height of 40 feet in lieu of the maximum permitted 35 feet. To permit a lot area of 0.586 acres in lieu of the required 1 acre. To permit sideyard setbacks of 10 feet and centerline of street setback of 70 feet in lieu of the required 50 feet and 75 feet respectively and to permit lot coverage of 20% in lieu of the maximum 15%.

Hearings: Wednesday, April 16, 2003 at 11:00 a.m. in Room 106, County Office Bldg., 111 W. Chesapeake Avenue

Arnold Jablon
Director

AJ:klm

C: Thomas J. Murphy, III, 9911 Pepper Hill Road, Perry Hall 21128
J. Scott Dallas, J.S. Dallas, Inc., P.O. Box 26, 13523 Long Green Pike, Baldwin 21013

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, APRIL 2, 2003. HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 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.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Tuesday, April 1, 2003 Issue - Jeffersonian

Please forward billing to:
Thomas J. Murphy, III
9911 Pepper Hill Road
Perry Hall, MD 21128

410-529-7405

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: 03-387-A
4017 Briar Point Road
S/east side Briar Point Road 514 feet north centerline Bay Drive
15th Election District – 6th Councilmanic District
Legal Owner: Thomas J. Murphy, III

Variance to permit a building height of 40 feet in lieu of the maximum permitted 35 feet. To permit a lot area of 0.586 acres in lieu of the required 1 acre. To permit sideyard setbacks of 10 feet and centerline of street setback of 70 feet in lieu of the required 50 feet and 75 feet respectively and to permit lot coverage of 20% in lieu of the maximum 15%.

Hearings: Wednesday, April 16, 2003 at 11:00 a.m. in Room 106, County Office Bldg., 111 W. Chesapeake Avenue

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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 03-387-A

Petitioner: THOMAS J. MURPHY, III

Address or Location: 4017 BRIAR POINT ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: THOMAS J. MURPHY, III

Address: 9911 PEPPER HILL RD.

PEPPER HILL RD PERRY HALL, MD. 21128

Telephone Number: 410.529.7405

Revised 2/20/98 - SCJ

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 to 8/28/03

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 8, 2003

NOTICE OF ASSIGNMENT

CASE #: 03-387-A

IN THE MATTER OF: ***Thomas J. Murphy III -Legal Owner***
4017 Briar Point Road 15th E; 6th C

4/21/03 -Decision of the D.Z.C. in which Petition for Variance was GRANTED with restrictions.

The subject matter has been specially assigned as follows by agreement of counsel:

ASSIGNED FOR: **WEDNESDAY, AUGUST 20, 2003 at 9:00 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 : People's Counsel for Baltimore County

Counsel for Petitioner /Legal Owner : Joe Woolman, Esquire
Petitioner /Legal Owner : Thomas J. Murphy III
J. Scott Dallas / JS Dallas, Inc.

J. M. Diegal

Pat Keller, Director /Planning
Lawrence Schmidt /Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

August 19, 2003

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 03-387-A

IN THE MATTER OF: ***Thomas J. Murphy III -Legal Owner***
4017 Briar Point Road 15th E; 6th C

4/21/03 -Decision of the D.Z.C. in which Petition for Variance was GRANTED with restrictions.

The subject matter which was specially assigned by agreement of counsel has been administratively POSTPONED; AND HAS BEEN:

REASSIGNED FOR: **THURSDAY, AUGUST 28, 2003 at 9:00 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 : People's Counsel for Baltimore County

Counsel for Petitioner /Legal Owner : Joe Woolman, Esquire
Petitioner /Legal Owner : Thomas J. Murphy III
J. Scott Dallas / JS Dallas, Inc.

J. M. Diegal

Pat Keller, Director /Planning
Lawrence Schmidt /Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

April 11, 2003

Thomas J. Murphy, III
9911 Pepper Hill Road
Perry Hall, MD 21128

Dear Mr. Murphy:

RE: Case Number: 03-387-A, 4017 Briar Point Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 21, 2003.

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·klm

Enclosures

c: People's Counsel
J. Scott Dallas, P.O. Box 26, 13523 Long Green Pike, Baldwin 21013

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on Recycled Paper

Sign 4/16

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 13, 2003

RECEIVED

MAR 13 2003

ZONING COMMISSIONER

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 03-387, & 03-388**

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

Prepared by: Mark A Cunningham

Section Chief: Lyn Lanham

AFK/LL:MAC

W:\DEVREV\ZAC\noconment.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 14, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For March 17, 2003
Item No. 387

The Bureau of Development Plans Review has reviewed the subject-zoning item.

The flood protection elevation for this site is 11.2 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the floodplain elevation in all construction.

In accordance with *Bill No. 18-90, Section 26-276*, filling within a floodplain is prohibited.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building's engineer shall require a permit for this project.

Building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with requirement of B.O.C.A. International Building Code adopted by the county.

RWB:CEN:jrb

cc: File

ZAC-3-17-2003-ITEM 387-03142003

State Highway Administration
Driven to Excel
MARYLAND DEPARTMENT OF TRANSPORTATION
Robert L. Ehrlich, Jr., *Governor* • Michael S. Steele, *Lt. Governor* • Trent M. Kittleman, *Acting Secretary*

Date: 3.11.03

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

RE: Baltimore County
Item No. 387 BR

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

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

March 11, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: March 10, 2003

Item No.: 387 384 - 395

Dear Ms. Hart:

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.

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

cc: File

Printed with Soybean Ink
on Recycled Paper

JW 4/16

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS | TOT

DATE: April 18, 2003

SUBJECT: Zoning Item 387
Address 4017 Briar Point Road (Murphy Property)

Zoning Advisory Committee Meeting of March 10, 2003

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

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

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

____ If streams or wetlands occur on or within 200 feet of the property, the development of the property may need to comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

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

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

Additional Comments:

See attached comments.

Reviewer: Kieth Kelley Date: April 9,2003

Date 4/21/03
By K. Gunderson

CBCA Zoning Comments (zoning item # 387)

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

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

X Man-made impervious surfaces are limited to 15% for lots greater than ½ acre in size.

___ Man-made impervious surfaces are limited to 25% for lots less than ½ acre in size.

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

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

X 15% forest must be established or maintained. This equates to 8 trees for a lot of this size.

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

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

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

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

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

X A Critical Area Administrative Variance (CAAV) is required for ~~the placement of the proposed structure within 100' of tidal waters, tidal wetlands, streams, or within 25' of tidal wetlands.~~ exceeding 15% imperviousness or exceeding existing imperviousness if it is currently over 15%.

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

Kdk#14/cbcazoningcomments

4/21/03
JE Gemeson

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Planning

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

March 12, 2003

Ms. Rebecca Hart
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, 03-17-03 regarding case numbers: 03-384-A, 03-385-A, 03-387-A, 03-388-SPH, 03-389-A, 03-390-SPH, 03-391-A, 03-392-SPHA, 03-393-SPHA, 03-394-A, 03-395-A**

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 03/11/03. The information has been submitted to Mr. Mike Nortrup.

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

Sincerely,

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: MikeNortrup

RE:	PETITION FOR VARIANCE 4017 Briar Point Road; SE/side Briar Point Rd, 514' N c/line Bay Drive 15th Election & 6th Councilmanic Districts Legal Owner(s): Thomas J. Murphy, III Petitioner(s)	* * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 03-387-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 14th day of March, 2003, a copy of the foregoing Entry of Appearance was mailed to, J. Scott Dallas, P.O. Box 26, 13523 Long Green Pike, Baldwin, MD 21013, Petitioner(s).

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

Baltimore County
Department of Permits and
Development Management

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

May 20, 2003

Mr. Thomas J. Murphy, III
9911 Pepper Hill Road
Perry Hall, MD 21128

Dear Mr. Murphy:

RE: Case No. 03-387-A, 4017 Briar Point Road

Please be advised that an appeal of the above-referenced case was filed in this office on May 20, 2003 by Peter M. Zimmerman, People's Counsel of Baltimore County. 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: Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM
People's Counsel
J. Scott Dallas, 13523 Long Green Pike, Baldwin 21013

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MAY 2 1 2003
BALTIMORE COUNTY
BOARD OF APPEALS

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on Recycled Paper

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 20, 2003

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR VARIANCE
SE/S Briar Point Road, 514' N
C/line of Bay Drive
(4017 Briar Point Road)
15th Election District 6th Councilmanic District
Legal Owner: Thomas J, Murphy, III
Case Nos. 03-387-A

Dear Mr. Jablon:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated April 21, 2003 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/RMW

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: J. Scott Dallas
P.O. Box 26
13523 Long Green Pike
Baldwin, MD 21013
Representative for Petitioner

RECEIVED
MAY 20 2003
Per...bh.....

APPEAL

Petition for Variance
4017 Briar Point Road
SE/s Briar Point Road, 514' north centerline of Bay Drive
15th Election District – 6th Councilmanic District
Thomas J. Murphy, III – Legal Owner

Case No.: 03-387-A

√ Petition for Variance (February 21, 2003)

√ Zoning Description of Property

√ Notice of Zoning Hearing (March 12, 2003)

√ Certification of Publication (The Jeffersonian issue April 1, 2003)

√ Certificate of Posting on March 29, 2003 (by Charles Merritt)

√ Entry of Appearance by People's Counsel (March 14, 2003)

√ Petitioner(s) Sign-In Sheet
One sheet

√ Protestant(s) Sign-In Sheet
None

√ Citizen(s) Sign-In Sheet
None

√ Zoning Advisory Committee Comments

√ Petitioners' Exhibits:
√ 1. Site plan to accompany Petition for Zoning Variance and Undersized Lot Approval

√ Protestants' Exhibits:
None

√ Miscellaneous (Not Marked as Exhibit
√ 1. 12 Photos of 4017 Briar Point Road

√ Deputy Zoning Commissioner's Order (April 21, 2003 - GRANTED)

*√ Notice of Appeal received on May 20, 2003 from Peter M. Zimmerman, People's Counsel of Baltimore County

RECEIVED
MAY 21 2003
BALTIMORE COUNTY
BOARD OF APPEALS

c: *People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Arnold Jablon, Director of PDM
Thomas J. Murphy, III, 9911 Pepper Hill Road, Perry Hall 21128

THOMAS J MURPHY III
9911 PEPPER HILL ROAD
PERRY HALL MD 21128
PETITIONER

JOE WOOLMAN, ESQUIRE
301 N CHARLES STREET, SUITE 800
BALTIMORE, MD 21201

J SCOTT DALLAS
J S DALLAS INC
13523 LONG GREEN PIKE
BALDWIN MD 21013

J M DIEGAL
3807 ADY ROAD
STREET MD 21154

√E

Case No. 03-387-A

Thomas J. Murphy III – Legal Owner /Petitioner
4017 Briar Point Road 15th E; 6th C

VAR – Bldg height of 40' ilo max. 35' for SFD; lot area of 0.586 acre ilo required 1 acre and side yd setbacks of 10' and c/l of street setback of 70' ilo required 50' and 75' respectively; to permit lot coverage of 20% ilo max 15%.

4/21/03 - D.Z.C.'s Order in which requested relief was GRANTED with restrictions.

8/07/03 – T/C with Joe Woolman, Esquire; has reached resolution of issues with People's Counsel; requesting that an early morning hearing be scheduled to put that resolution on the record. (He will contact P Zimmerman regarding possible 8/20/03 hearing and get back to CBA.)
- T/C from J. Woolman; 8/20/03 okay with P. Zimmerman. Notice to be sent.

8/08/03 -- Notice of Assignment sent to the following; assigned, as agreed, for Wednesday, August 20, 2003 at 9:00 a.m.:

People's Counsel for Baltimore County
Joe Woolman, Esquire
Thomas J. Murphy III
J. Scott Dallas / JS Dallas, Inc.
J. M. Diegal
Pat Keller, Director /Planning
Lawrence Schmidt /Zoning Commissioner
Timothy M. Kotroco, Director /PDM

8/19/03 – T/C with Mr. Woolman – Board's 10 a.m. hearing on 8/20/03 has been postponed due to injury sustained by one of the parties to that matter; at request of Chairman, who is also scheduled to sit on 8/20/03, this matter will be postponed as well to accommodate Board's schedule; confirmed availability of both Mr. Zimmerman and Mr. Woolman for 8/28/03 at 9 a.m.; Mr. Zimmerman has no objection to postponement; Mr. Woolman is available on 8/28/03.
-- Notice of PP and Reassignment sent to parties; case reassigned to Thursday, August 28, 2003 at 10:00 a.m. Copy to Mr. Woolman this date via FAX and USPS.

8/28/03 - Board convened for hearing (Wescott, Worall, Adams); Petitioner withdrew part of variance request; People's Counsel withdrew appeal from balance of variance relief granted; Board therefore granted that relief which was remaining; Counsel to prepare proposed Order for submittal and review by Board.

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 3, 2003

Lawrence S. Wescott, Panel Chairman
Board of Appeal for Baltimore County
Old Courthouse
400 Washington Avenue, Rm 49
Towson, MD 21204

Re: Thomas J Murphy, III
Case No.: 03-387-A

Dear Mr. Wescott:

Enclosed for your review, please find the proposed Order, which Joseph Woolman, attorney for Petitioner and I have approved as to form.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ\rmw
Enclosures

cc: Joseph R. Woolman, III, Esquire

RECEIVED
SEP - 3 2003
BALTIMORE COUNTY
BOARD OF APPEALS

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

DATE: November 12, 2003

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
03-458-SPHA	***03-458-SPHA***	ROBERT BLAKE BP AMOCO	7730 WISE AVENUE
03-387-A	***03-387-A***	THOMAS J MURPHY, III	BRIAR POINT ROAD
02-437-SPHA	***02-437-SPHA***	REISTER COURT, LLC	3757 OLD COURT ROAD
03-179-SPH	***03-179-SPH***	GEORGE KOSMAKOS MARYLAND TOWING & RECOVERY	NO ADDRESS NO LOCATION
02-105-A	***02-105-A***	MARK E. GREEN	8 GREENSPRING VALLEY ROAD

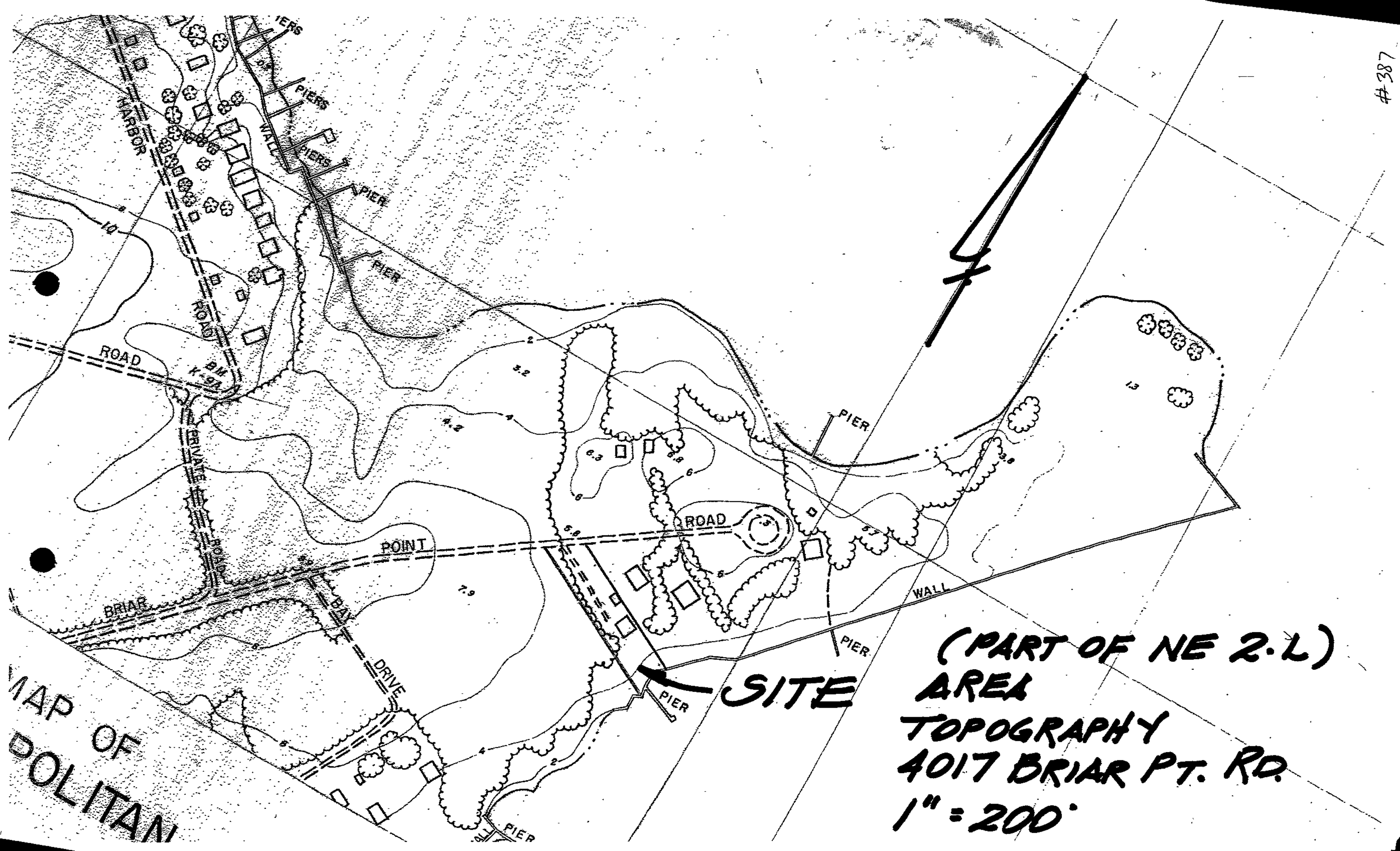
Attachment: SUBJECT FILE(S) / EXHIBIT(S) ATTACHED

PLEASE PRINT CLEARLY

CASE ~~NAME~~ # 03-387-A
CASE ~~NUMBER~~ 4017 Briar Pt. Rd.
DATE 4/16/03

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Joe Woolman	301 N. Charles St. Ste 800	Balt. MD 21201	jwoolman@gildeallc.com
Cindy Bell	9411 Pepperhill Rd	Perry Hall, MD 21128	ckbell@lerchmason.com
Jim Diegel	3807 Ady Rd	Street Md. 21154	
Scott Dakis	13523 Long Green Pike	Baldwin MD 21013	jsdinc@aol.com.


#387
HARBOR
PIERS
WALL
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ROAD
ROAD
BM
K-94
PRIVATE
ROAD
POINT
BRIAR
BAY
DRIVE
ROAD
PIER
WALL
PIER
PIER
PIER
SITE
(PART OF NE 2.L)
AREA
TOPOGRAPHY
4017 BRIAR PT. RD.
1" = 200'
MAP OF
POLITAN

CBA-03-387-A Exhibits

Verified 8/28/03

People's Counsel

1. April 18, 2003 - ~~Hearing~~ Seagley comments
2. Aug. 26, 2003 - Kelly to DeMilio
3. Aug. 27, 2003 - Email from Kelley on Murphy property

Petitioner

1. Amended site plan

P.C. #1

JW 4/16

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/TOT

DATE: April 18, 2003

SUBJECT: Zoning Item 387
Address 4017 Briar Point Road (Murphy Property)

Zoning Advisory Committee Meeting of March 10, 2003

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

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

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

____ If streams or wetlands occur on or within 200 feet of the property, the development of the property may need to comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

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

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

Additional Comments:

See attached comments.

Reviewer: Kieth Kelley Date: April 9,2003

By R. Jones

CBCA Zoning Comments (zoning item # 387)

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

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

X Man-made impervious surfaces are limited to 15% for lots greater than ½ acre in size.

___ Man-made impervious surfaces are limited to 25% for lots less than ½ acre in size.

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

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

X 15% forest must be established or maintained. This equates to 8 trees for a lot of this size.

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

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

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

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

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

X A Critical Area Administrative Variance (CAAV) is required for ~~the placement of the proposed structure within 100' of tidal waters, tidal wetlands, stream, or within 25' of the tidal wetlands.~~ exceeding 15% imperviousness or exceeding existing imperviousness if it is currently over 15%.

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

#14/cbcazoningcomments

7/24/03 J. Quesenberry

JW 4/16

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS |TLT

DATE: April 18, 2003

SUBJECT: Zoning Item 387
Address 4017 Briar Point Road (Murphy Property)

Zoning Advisory Committee Meeting of March 10, 2003

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

Additional Comments:

See attached comments.

Reviewer: Kieth Kelley

Date: April 9,2003

P.C. #2

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

To: Carole S. Demilio, Deputy People's Council Date: August 26, 2003

From: Keith Kelley, Environmental Impact Review KK

Subject: Murphy Property-4017 Briar Point Road
Case # 03-387-A

This Department has received and reviewed your issues regarding the above-referenced property and have the following responses:

1. A deck is considered pervious if it has gaps between the boards, does not have a roof overhead, or a concrete or macadam pad underneath.

2. In our Chesapeake Bay Critical Area Policy Manual, we allow a percentage of perviousness for turfstone or other waffle block driveways. The exact percentage is based on the manufacturer's specifications. Additionally, the Chesapeake Bay Critical Area Commission recognizes that driveway pavers are semi-pervious. In this specific case, the turfstone is 60% impervious/40% pervious.

3. All proposed man-made impervious area calculations submitted by the engineer are correct. However, since the lot is greater than ½ acre, there is a maximum impervious surface limit of 15%, not 25%. According to the tax records, the lot size is slightly larger (27,520 square feet) as opposed to 25,532 square feet submitted by the engineer. Please note that it is our policy to allow an owner to maintain the existing impervious surface percentage during redevelopment if it currently exceeds 15%. When staff visited the site in May of 2003 while reviewing the building permit application; all man-made structures were already removed, except for a 10' x 72' section of driveway. Depending on what the impervious calculations were in the past (to be determined by aerial photographs), the turfstone driveway may not be allowed or have to be reduced in length/width.

Please note that prior to Use & Occupancy approval, staff will revisit the site for Chesapeake Bay Critical Area compliance. Contact me at x3980 if you have any questions about this matter.

J:\keith\4017briarptroad

EVR · II

MAY 12 2003

APPLICATION FOR BUILDING PERMIT

PERMIT #: B517736 CONTROL #: NRFPPA DIST 15 PREC. 03

LOCATION: 4017 BRIAR POINT RD
SUBDIVISION: 400 NE OF BRIAR POINT R
TAX ASSESSMENT #: 1600001204

OWNERS INFORMATION
NAME: MURPHY, THOMAS 3RD
ADDR: 9911 PEPPER HILL RD PERRY HALL MD 2

APPLICANT INFORMATION
NAME: J MICHAEL DIEGEL
COMPANY: J DIEGEL BUILDERS INC
ADDR1: 3867 ADY RD
ADDR2: STREET MD 21154
PHONE #: 410-893-7044 LICENSE #: MHBR

NOTES
EDW

ADC 38 H10
CBCA? LDA
LOT#
LOT SIZE 27,520 ft² · 15% = 4,128 ft²
WATERFRONT? Ches. Bay
BMA? 79-2
STRUCTURE TO BE 144 FT. FROM MHT
EX. IMP. 720 ft² or 2.6%
PROP. IMP. 4,092 ft² or 14.9%
EX.TREES 3
EX. SHRUBS 0
15%= 83 TREES

ex. pier w/ riprap shore serial NE-2L

DRC#
PLANS: CONST 3 PLOT 9 R PLAT 0 DATA 0 ELEC YES PLUM YES
TENANT:
CONTR: J DIEGEL BUILDERS INC
ENGNR: $33720
SELLR:
WORK: CONST SFD W/4 BDRMS, STUDY, LOFT, CRAFT RM, FP (OUTSIDE PROJ NOT TO EXCEED 4'X10') 3-CAR SIDE LOAD GARAGE, SIDE BAY, REAR BOX BAY, ATT'D STORAGE SHED, FRT OPEN COMPOSITE MATERIAL DECK. IN CBCA, FLOOD ZONE:A10, ELEV:6'. SEE B517737 FOR RAZING. 43'6"X122'8"X24'6"= 5,361SF.

Add for EIR CBCA issues K Kelley 5/23/03

Approved for EIR K Kelley 5/23/03

PROPOSED USE: SFD & SHED
EXISTING USE: SHED, SEE B517737 FOR RAZING SFD & GARAGE

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED
ESTIMATED COST OF MATERIAL AND LABOR:

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: ONE FAMILY
FOUNDATION: CONCRETE BASEMENT: NONE
SEWAGE: ~~PRIV. EXISTS~~ PUB PROP WATER: ~~PRIV.~~ PUBLIC EXISTS ← Sely 6-5-03
CONSTRUCTION: WOOD FRAME FUEL:
CENTRAL AIR:

SINGLE FAMILY UNITS
TOTAL 1 FAMILY BEDROOMS 4
MULTI FAMILY UNITS
EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:
NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:
TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

ent of Environmental Protection
Source Management

y Avenue, Suite 416
Maryland 21204

T. Smith, Jr., County Executive
d A.C. Carroll, Director

Baltimore County

One of the Best-Managed Counties in America

FILE COPY

May 29, 2003

Mr. Thomas Murphy, 3rd
9911 Pepper Hill Road
Perry Hall, MD 21128

Re: Permit Application #B517736
New dwelling-4017 Briar Point Road

Dear Mr. Murphy:

Environmental Impact Review (EIR) has reviewed the above-referenced permit application for the proposed dwelling and has placed the application on hold because we need to convey to you the following regulations.

The property is located in the Limited Development Area (LDA) and Buffer Management Area (BMA) of the Chesapeake Bay Critical Area (CBCA). LDA regulations state that impervious surfaces are limited to 15% of the property. The lot size is 27,520 square feet. Fifteen percent (15%) of the site is 4,128 square feet. Existing impervious areas (driveway only) are 720 square feet or 2.6%. Proposed imperviousness of the lot will be 4,092 square feet or 14.9% for the proposed dwelling and the existing driveway. You have 36 square feet of imperviousness left for an impervious driveway extension, sidewalk, etc.

Another LDA regulation states that a minimum 15% forest cover must be established or maintained. This equates to 8 trees for a lot of this size. Only 3 trees are present, thus 5 more need to be planted. Any tree removed in the 100 foot buffer needs to be replaced on a 1 to 1 basis. Any tree to be planted must be native to Maryland, deciduous, and 5-6' tall.

BMA regulations state that the proposed dwelling cannot go any closer to the water than the existing dwelling. The existing dwelling was about 85' from the water. The submitted plot plan shows the proposed dwelling to be 144' from Chesapeake Bay, thus it is in compliance with BMA regulations.

Please sign and return a copy of this letter to indicate your understanding of the CBCA Regulations. Your permit application will be approved once I receive a copy of this signed letter. The conditions stated above will be checked at the time of Use & Occupancy request.

If you have any questions regarding these requirements or if I can be of assistance, please contact me at 410-887-3980.

Sincerely yours,

Keith Kelley
Natural Resource Specialist
Environmental Impact Review

Printed on Recycled Paper

I/We have read and do hereby agree to implement the above requirements to bring my/our property into compliance with Chesapeake Bay Critical Area Regulations.

signature 6/3/03
date

signature
date

kdk#19/tommurphy

P.C. #3

From: Keith Kelley
Subject: Murphy Property-4017 Briar Point Road

Carole:

In regards to item #3 (existing imperviousness) of my 8/26/03 inter-office correspondence to you, I have concluded the following:

I estimate that 32.7% imperviousness existed according to aerial photographs. I calculated 23.8% according to the engineers submission. Given the circumstances, I would probably average the two figures and give the owner 28.25% "imperviousness credit". Even if you take the low of 23.8% as the maximum amount of imperviousness allowed during redevelopment, the owner could do his project with just a minor reduction of the turfstone driveway.

I hope this helps you with your case.

Keith

Keith Kelley
Environmental Impact Review
DEPRM
410-887-3980

ZONING NOTICE

CASE # 03-387-A

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

PLACE: ROOM 106, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE

DATE AND TIME: WEDNESDAY, APRIL 16, 2003 @ 11:00 A.M.

REQUEST: VARIANCE TO PERMIT A BUILDING HEIGHT OF 40 FEET IN LIEU OF THE MAXIMUM PERMITTED 35 FEET. TO PERMIT A LOT AREA OF 0.386 ACRES IN LIEU OF THE REQUIRED 1 ACRE. TO PERMIT SIDEYARD SETBACKS 10 FEET AND CENTERLINE OF STREET SETBACK OF 70 FEET IN LIEU OF THE REQUIRED 50 FEET AND 75 FEET RESPECTIVELY AND TO PERMIT LOT COVERAGE OF 20% IN LIEU OF THE MAXIMUM 15%

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 887-3391

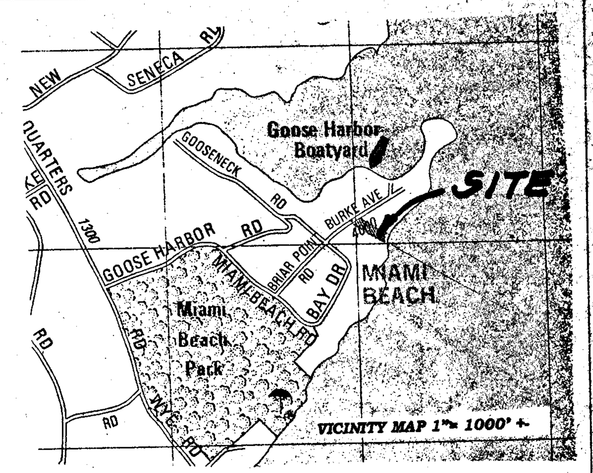
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

Petitioner #1

NOTES

1. NO KNOWN PRIOR ZONING HEARINGS.
2. OWNERSHIP: DEED REFERENCE : 15080-418
   THOMAS J. MURPHY, III
   9911 PEPPER HILL ROAD
   PERRY HALL, MD 21128
   PHONE: 410-529-7405
3. PROPERTY INFORMATION:
   TAX MAP 98 PARCEL 3
   ACCT. NO. 1600001204
4. AREA OF SUBJECT SITE: 25,532 SF +- OR 0.586 AC. +-
5. EX USE- SINGLE FAMILY RESIDENCE
6. PROPOSED USE- SINGLE FAMILY RESIDENCE.
7. SITE IS IN C.B.C.A. (LDA) PER MAP NO. 98.
8. SITE LIES IN FLOOD ZONE A10 PER F.E.M.A. F.I.R.M. 240010 0465 B.
9. EXISTING ZONING OF SITE AND SURROUNDING PROPERTY: R.C.5
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. PROP. DWG. HEIGHT WILL NOT EXCEED 35'



Relief Requested:

Variance from BCZR Section 1.A.04.3B(1) – to permit a lot area of 0.586 acres in lieu of the required one acre.

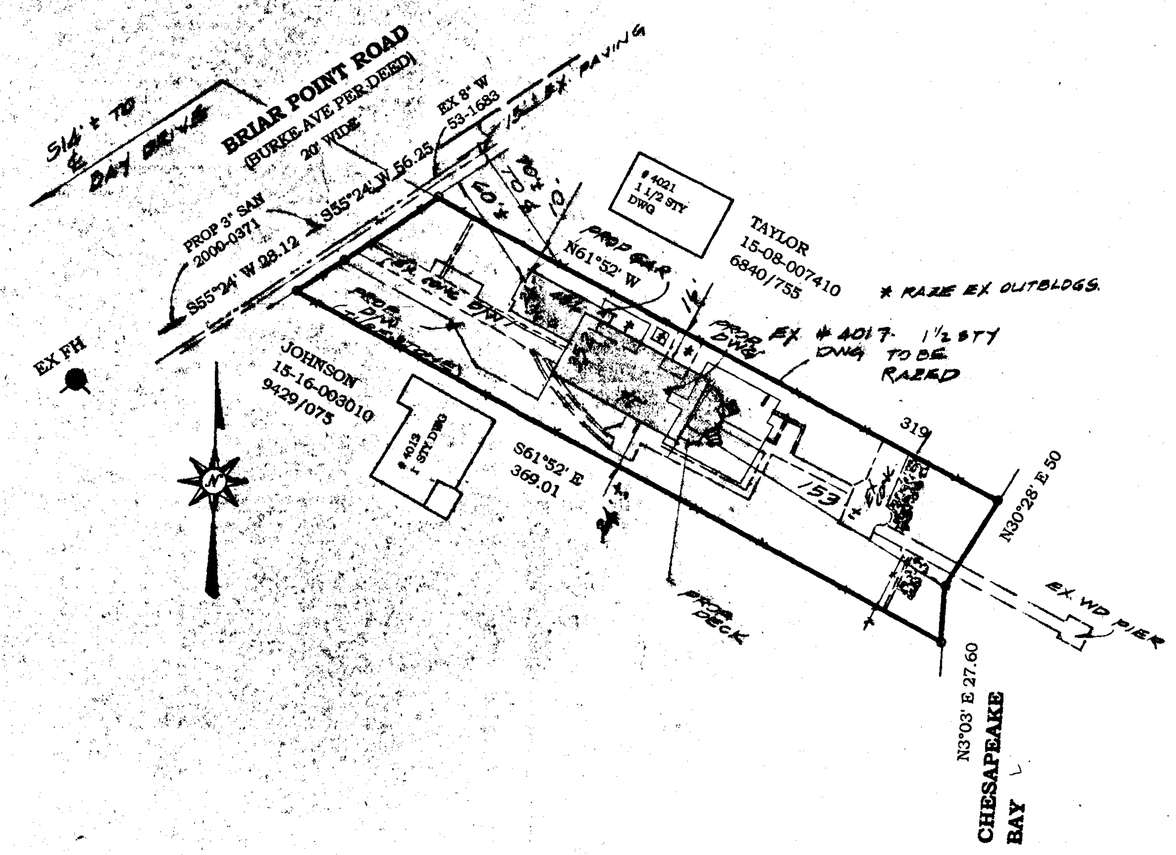
Variances from BCZR Section 1.A.04.3B(2)– to permit a side yard setback of 10 ft. and a centerline street setback of 70 ft. in lieu of the required 50 ft. and 75 ft., respectively.

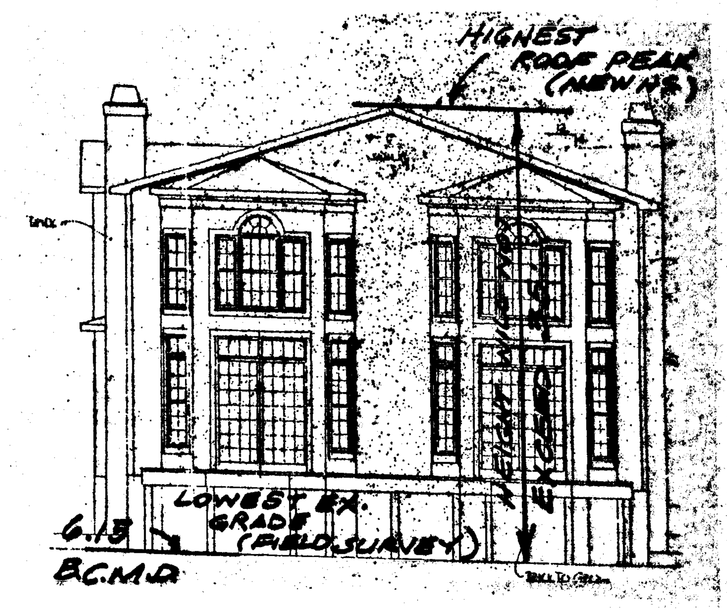
Impervious Calculations

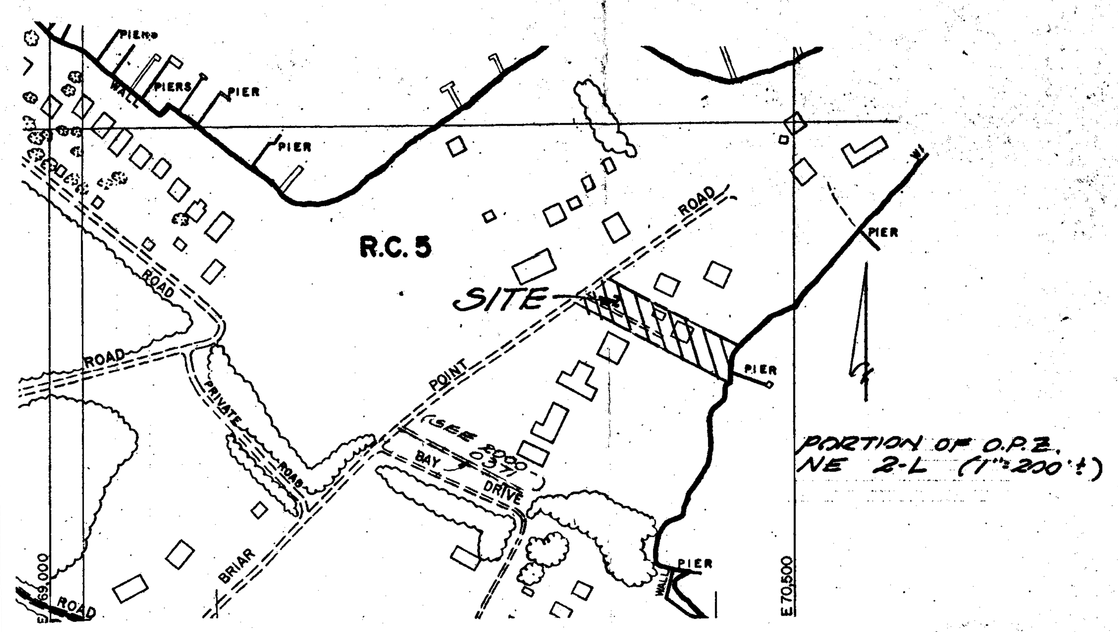
Existing: 8200 s.f. (32%)
Proposed:

Dwelling & Garage -	3600 s.f.	(13.7% +)
Deck steps and Concrete	1200 s.f.	
(Note: deck pervious 1/4" BD spacing)		
Driveway -	1620 s.f.*	
TOTAL -	6520 s.f. (26%)	

*Actual driveway area is 2700 s.f. "Turfstone" material utilized. 0.6 ratio approved by DEPRM and applied due to 41% aperture of "Turfstone."







J.S. DALLAS, INC.
Surveying & Engineering
13523 Long Green Pike
Baldwin, MD. 21013
(410) 817-4600

SITE PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE AND UNDERSIZED LOT APPROVAL

 # 4017 BRIAR POINT ROAD

15TH ELEC. DIST. 6TH COUNC. DIST. BALTIMORE COUNTY, MD.
SCALE: 1"=50' JANUARY 23, 2003
REV 7-24-03
8-18-03

j.o. # 02-965

NOTES

1. NO KNOWN PRIOR ZONING HEARINGS.
2. OWNERSHIP: DEED REFERENCE : 15080-415
   THOMAS J. MURPHY, III
   9911 PEPPER HILL ROAD
   PERRY HALL, MD 21128
   PHONE: 410-529-7405
3. PROPERTY INFORMATION:
   TAX MAP 98 PARCEL 3
   ACCT. NO. 1600001204
4. AREA OF SUBJECT SITE: 25,582SF +- OR 0.586 AC. +-
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6. PROPOSED USE- SINGLE FAMILY RESIDENCE.
7. SITE IS IN C.B.C.A. (L34) PER MAP NO. 98.
8. SITE LIES IN FLOOD ZONE A10 PER F.E.M.A. F.I.R.M. 240010 0465 B.
8. EXISTING ZONING OF SITE AND SURROUNDING PROPERTY: R.C.5
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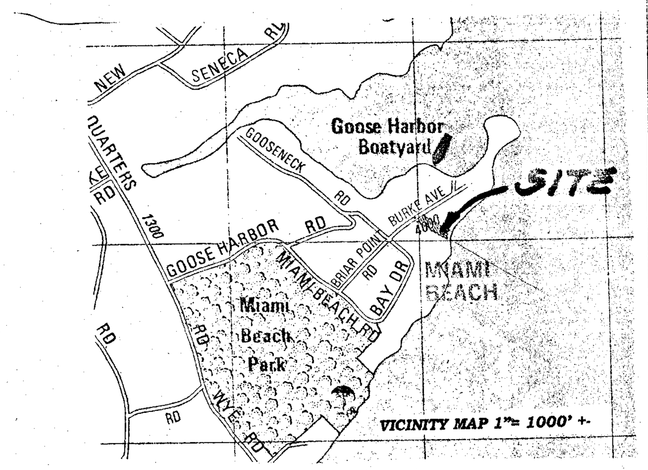

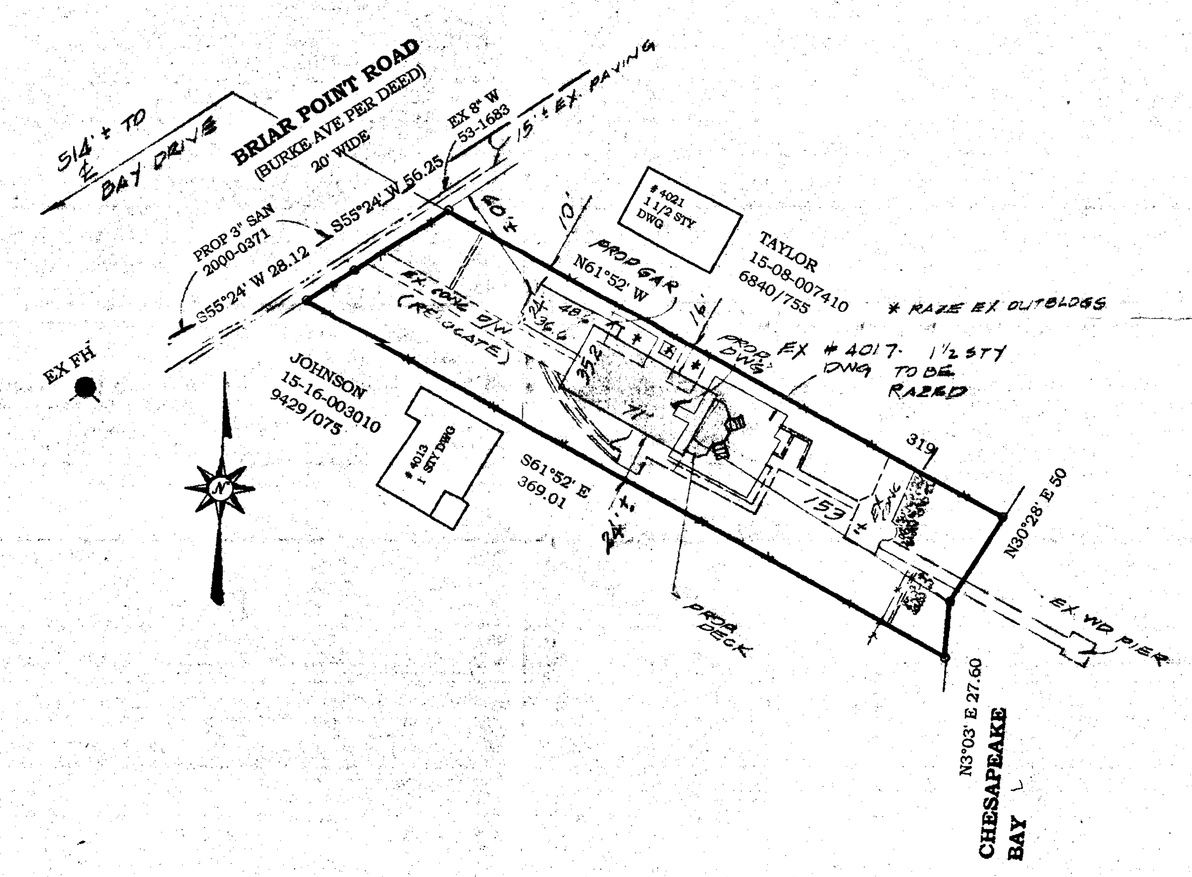

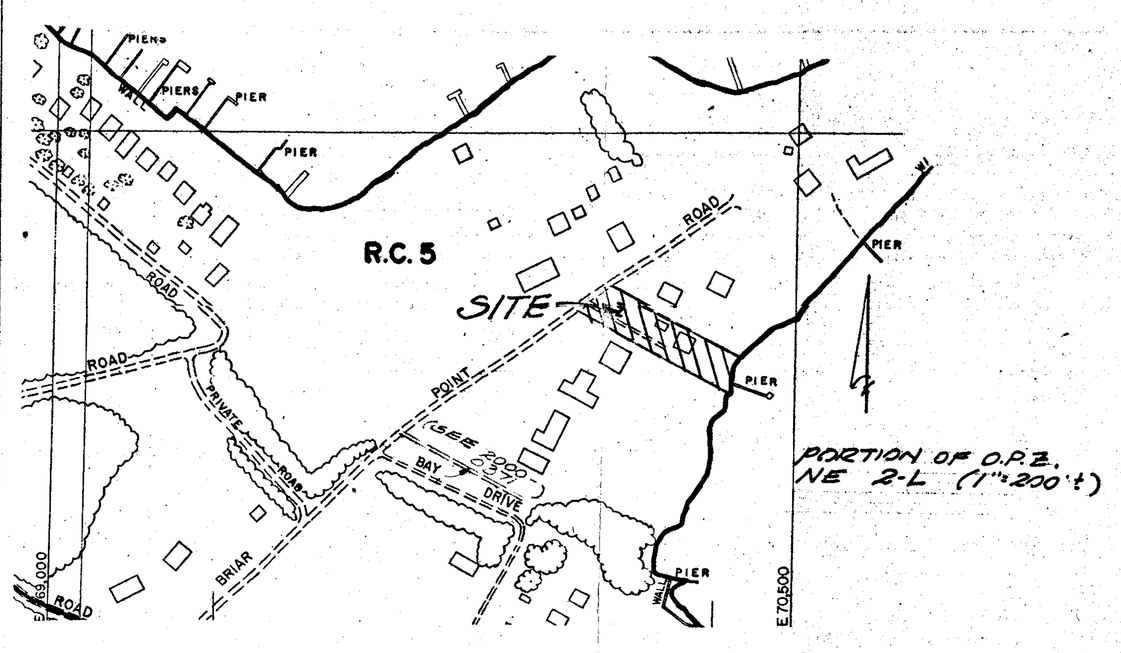

Pet Ex #1

J.S. DALLAS, INC.
Surveying & Engineering
13523 Long Green Pike
Baldwin, MD. 21013
(410) 817-4600

SITE PLAN TO ACCOMPANY PETITION FOR ZONING VARIANCE AND UNDERSIZED LOT APPROVAL

 # 4017 BRIAR POINT ROAD

15TH ELEC. DIST. 3RD COUNC. DIST. BALTIMORE COUNTY, MD.
SCALE: 1"=30' 6TH JANUARY 23, 2003

j.o. # 02-965

#387

Pet Ex #2

MARINA to FAST

Reef

Side Yard West

GENERAL

Side Yard West

Neighbor across the street

Side Yard East

Overall

Side Yard East

View Angle from
Neighbor across
the street

2 doors west