IN RE: PETITION FOR ADMIN. VARIANCE
S/S Queensberry Road, 300' E of the c/l
Broadbridge Road
(117 Queensberry Road)
14th Election District
6th Election District

Stephen R. Coutant, et ux Petitioners

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 03-452-A

•

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Stephen R. and Theresa J. Coutant. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for a proposed addition. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 26-127 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, any property owner residing within 1,000 feet of the property in question who objects to the relief requested has 15 days from the date of the sign posting to demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate. In this case, a letter was received from the adjacent property owner, Mrs. Sandy Kratochvil, in which she raised several concerns regarding the proposal and the matter was scheduled for a public hearing on June 17, 2003. Appearing at that hearing in support of the request were Stephen and Theresa

ORDER RECEIVED FOR FILING Date

By Coutant, property owners. Ms. Kratochvil appeared in opposition to the request. There were no other interested persons present.

Testimony and evidence offered revealed that the subject property is a triangular shaped parcel located on the south side of Queensberry Road, in the relatively new residential community of Maple Ridge in White Marsh. The property, which is also known as Lot 31 of Maple Ridge, contains a gross area of .289 acres (12,589 sq.ft.), more or less, zoned D.R.5.5, and is improved with a new single-family dwelling. The Petitioners have owned and resided on the property since construction of the dwelling was completed in October 2002. The subject of the variance request relates to a proposed deck that the Petitioners now wish to construct along the rear of their home. The house was built into the grade of the property so that there is a walkout basement; thus, the deck will be elevated and access thereto will be by a way of a sliding, patio door off the kitchen. Photographs of the site show that the builder of the house installed the door in anticipation of the construction of a deck. The proposed deck will be 15 feet deep and 30 feet wide, nearly the entire width of the house.

A further examination of the site plan shows that the rear of the house is located 33 feet from the rear property line, which abuts the Kratochvil property. Additionally, the side of the dwelling is located 8 feet from the side property line adjoining Lot 30 of this subdivision. Setback relief is requested as described above to permit the proposed construction.

Mr. & Mrs. Coutant testified that their property is unique by virtue of its configuration and size. They indicated that the proposed location was the only practical site to construct a deck. They also indicated that the depth of 15 feet was the minimum amount needed in order to provide a usable area. Photographs were submitted which show that there are existing trees and shrubs along the rear property line. This landscaping is actually located on the Kratochvil property, but does serve to buffer this new community from the Kratochvil home. There is also a 10' drainage and utility easement along the Petitioners' rear property line. Photographs were submitted which show storm water draining along that area during inclement weather.

Ms. Kratochvil appeared and testified in opposition to the request. She believes that the deck will invade her privacy. Interestingly, the home on adjacent Lot 30 also features a deck on the first floor. Likewise, that house features a walkout basement; thus, the deck is elevated. Moreover, the lot itself is at a higher level than the subject property.

In the judgment of the undersigned, the existing deck on Lot 30 is as obtrusive as the proposal on the subject property. Although the Coutant's house is closer, this distance is offset by the height of the deck on the adjacent property. The primary focus of Ms. Kratochvil's objection seems to be at the Maple Ridge community at large. She believes that the houses are located too close to her property line. It is to be noted that her property is not part of this subdivision and apparently pre-dates the Maple Ridge community.

Based upon all of the testimony and evidence presented, I am persuaded to grant the variance. I find that the Petitioners have satisfied the requirements set forth in Section 307 of the B.C.Z.R. and case law. That Section has been considered by the Court of Special Appeals of Maryland, most notably in Cromwell v. Ward, 307 Md. 1 (1997). In Cromwell, the Court required a finding of uniqueness in order for variance relief to be considered. The uniqueness associated with the subject property is its unusual shape, which drives the location of the house and deck. Moreover, to deny the relief requested would be a practical difficulty upon the Petitioner in that a reasonable use of the property would not be permitted. Although I understand Ms. Kratochvil's objections, I do not believe that the deck will cause detrimental impacts on her property. As noted above, the deck is consistent with other development in the area, including the existing house on the immediately adjacent lot. For all of these reasons, I will grant the requested variance.

Pursuant to the advertisement, posting of the property and public hearing on this Petition 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 ______ day of July 2003, that the Petition for Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet for a

proposed addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at her 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.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

ORDER REGENTED FOR FILING
Date
By
By

IN RE: PETITION FOR ADMIN. VARIANCE

S/S Queensberry Road, 300' E of the c/l

Broadbridge Road

(117 Queensberry Road)

14th Election District 6th Election District

Stephen R. Coutant, et ux Petitioners * BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 03-452-A

*

* * * * * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Stephen R. and Theresa J. Coutant. The Petitioners sought relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 18 feet in lieu of the required 30 feet, and a side yard setback of 8 feet in lieu of the required 10 feet, for a proposed deck.

Although the Petition was filed through the administrative variance process, a demand for hearing was requested by the adjacent property owner, Sandy Kratochvil, and the matter was scheduled for further proceedings on June 17, 2003. Mr. & Mrs. Coutant attended that hearing as did Ms. Kratochvil. After due consideration of the testimony and evidence presented, I granted the relief requested by Order dated July 1, 2003.

Subsequent to the issuance of said Order, Ms. Kratochvil submitted a letter (received via facsimile on July 9, 2003) seeking a reconsideration of my decision. Essentially, she suggested a modification of the relief granted in my Order to allow a reduced deck on the subject property and require additional landscaping. As a courtesy, I forwarded a copy of her letter to the Petitioners so that they could respond and their comment was received on July 23, 2003.

After due consideration of the arguments presented by both sides, I am persuaded to deny the Motion and will affirm my original decision in this matter. As stated in my prior Order, I find that the Petitioners have met the requirements of Section 307 for relief to be granted and that

the proposed deck is reasonably sized and consistent with others in the neighborhood and will not cause adverse impacts to adjacent properties. I am appreciative of Ms. Kratochvil's desire for privacy; however, the fact remains that the Petitioners are entitled to variance relief, given the unique configuration of their property and the site constraints associated with the drainage and utility easement along their rear property line. In this regard, it appears the potential for additional screening on the Coutant property to buffer its view from the Kratochvil lot is not feasible given the wet conditions that exist in their lower yard.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this / day of August 2003, that the Motion for Reconsideration be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the relief granted in my Findings of Fact and Conclusions of Law and Order dated July 1, 2003 shall remain in full force and effect.

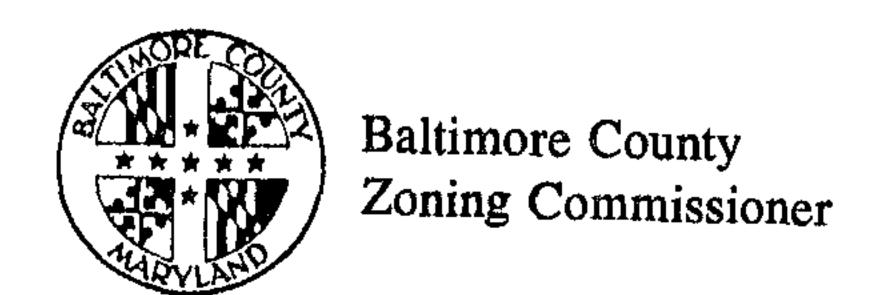
Any appeal of this decision must be entered within thirty (30) days of the date hereof.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. & Mrs. Stephen R. Coutant
117 Queensberry Road, Baltimore, Md. 21237
Mrs. Sandy Kratochvil
5008 Bucks School House Road, Baltimore, Md. 21237
People's Counsel; Case File



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

July 2, 2003

Fax: 410-887-3468

Mr. & Mrs. Stephen R. Coutant 117 Queensberry Road Baltimore, Maryland 21237

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S Queensberry Road, 300' E of the c/l Broadbridge Road
(117 Queensberry Road)
14th Election District – 6th Council District
Stephen R. Coutant, et ux - Petitioners
Case No. 03-452-A

Dear Mr. & Mrs. Coutant:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has 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

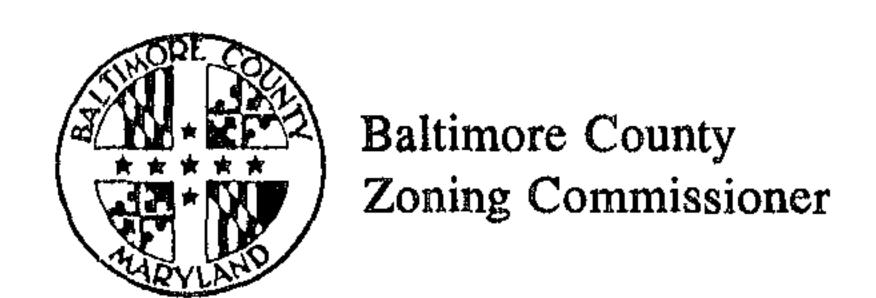
Zoning Commissioner for Baltimore County

LES:bjs

cc: Mrs. Sandy Kratochvil

5008 Bucks School House Road, Baltimore, Md. 21237

People's Counsel; Case File



401 Bosley Avenue Towson, Maryland 21204 410-887-4386

Fax: 410-887-3468

Suite 405, County Courts Bldg.

July 15, 2003

Mr. & Mrs. Stephen R. Coutant 117 Queensberry Road Baltimore, Maryland 21237

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S Queensberry Road, 300' E of the c/l Broadbridge Road
(117 Queensberry Road)
14th Election District — 6th Council District
Stephen R. Coutant, et ux - Petitioners
Case No. 03-452-A

Dear Mr. & Mrs. Coutant:

Enclosed please find a copy of a letter I recently received from Mrs. Kratochvil requesting a reconsideration of my decision in the above-captioned matter. Within her letter, she has suggested a compromise, which I would like your response to prior to my making a decision on her request. Please submit your comments on her proposal within 10) days of your receipt of this letter and I shall make a decision thereafter.

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mrs. Sandy Kratochvil

5008 Bucks School House Road, Baltimore, Md. 21237

People's Counsel; Case File



F V 10/25/01

Petition for Administrative Variance

for the property le	which is presen		
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Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

competent to testify thereto in the event that a p	ublic hearing is schedule	d in the future with reg	gard thereto.					
That the Affiant(s) does/do presently reside at	117 Queens berry Rd Address							
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STEPHEN R. COUTANT Name - Type or Print	·····	RESA J. COU	JTANT					
STATE OF MARYLAND, COUNTY OF BALTIN		~						
I HEREBY CERTIFY, this 26 day of 44 of Maryland, in and for the County aforesaid, pe			a Notary Public of the State					
the Affiant(s) herein, personally known or satisfa	actorily identified to me as	s such Affiant(s).	<u></u>					
AS WITNESS my hand and Notarial Seal								
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My Commission Expires ___

REV 10/25/01

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

competent to testify thereto in the event that a p	ublic hearing is sche	duled in the future	with regard thereto).			
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STATE OF MARYLAND, COUNTY OF BALTIN		1 1	ore me, a Notary P	ublic of the Ctate			
I HEREBY CERTIFY, this be day of hos of Maryland, in and for the County aforesaid, per the Affiant(s) herein, personally known or satisfa	rsonally appeared		•	ublic of the State			
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Petition for Administrative Variance

for the property located at 117 Queensberg

to the Zoning Commissioner of Baltimore County

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DATE, MISCELLANEOUS RECEIPT DISTRIBUTION
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The Zoning Commissioner of Ballimore County. by authority of the Zoning Act and Regulations of Baltimore County will hold a more County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #03-452-A
117 Queensbury Road
S/side of Queensbury Road
300 feet east of centerline
of Broadbridge Road
14th Election District
Legal Owner(s): Stephen and
Theresa Coutant
Administrative Variance: to
permit a rear setback of 18,
feet and a side yard setback
of 8 feet in heu of the required 30 feet and 10 feet
respectively for an addition.
Hearing: Tuesday. June
17, 2003 at 10:00 a.m. in
Room 407, County Courts
Building, 401 Bosley Ave; e.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Battimore County
Battimore County
Handicapped Accessible: Jos
Handicapped Accessible: Jos
Handicapped Accessible: Jos
Special accommodations
Please Contact the Zoning
Commissioner's Office at
(410) 887-4386. (2) For information con-cerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887. 3391 JT/6/619 June 3 C607476

in the following weekly newspaper published in Baltimore County, Md., THIS IS TO CERTIFY, that the annexed advertisement was publisl ,20<u>03</u> successive weeks, the first publication appearing hed

M The Jeffersonian Catonsville Times Towson Times

Owings Mills Times

NE Booster/Reporter

North County News

LEGAL ADVERTISING

CERTIFICATO OF POSTING

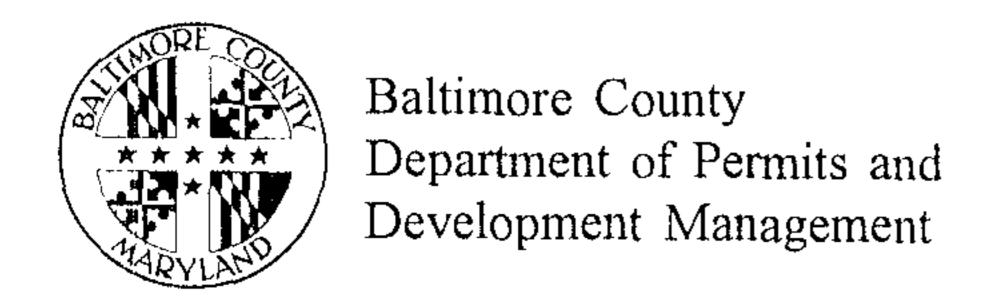
•	RE: Case No.: 03-394-A
•	Petitioner/Developer: PAUACIOTA
	75A0US15
	Date of Hearing/Closing: 4/23/03
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	 4 6 7 9 9 9 9 9 9 9 9 9 9
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
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	(City, State, Zip Code)
	(410) 282-7940 (Telemboro Minute)
	(Teicphone Number)

CERTIFICATE OF POSTING

RE: Case No.: 03-452-A

	Petitioner/Developer: 3TEPHEN
	THERESA COUTANT
	Date of Hearing/Closing: 6/17/03
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Becky Hart {(410) 887-3394}	
Ladies and Gentlemen:	
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posted conspicuously on the property locate	
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1	(Signature of Sign Poster) (Date)
	SSG Robert Black
	(Print Name)
In according to the second of	1508 Leslie Road
	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)

•	RE: Case No.: (15 - 452 - 17
•	Petitioner/Developer: STEPHEN L
	THERESA COUTANT
	Date of Hearing/Closing: 4/21/03
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
This letter is to certify under the penalties were posted conspicuously on the propert	of perjury that the necessary sign(s) required by law y located at 1/7 QUEENSBURY RT
The sign(s) were posted on	4/5/03 (Month, Day, Year)
	Sincerely,
	(Signature of Sign Poster and Date)
	SSG BOHERT BLACK
	(Printed Name)
	1508 Leslie Rd (Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)



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

Fax: 410-887-5708

April 25, 2003

CORRECTED 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: 03-452-A

117 Queensbury Road

S/side of Queensbury Road 300 feet east of centerline of Broadbridge Road

14th Election District – 6th Councilmanic District

Legal Owners: Stephen and Theresa Coutant

Administrative Variance to permit a rear setback of 18 feet and a side yard setback of 8 feet in lieu of the required 30 feet and 10 feet respectively for an addition.

Hearings:

Tuesday, June 17, 2003 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon

Director

AJ:rlh

C: Mr. and Mrs. Stephen Countant, 117 Queensbury Road, Baltimore 21237 Sandy Kratochvil, 5008 School House Road, Baltimore 21237

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JUNE 2, 2003.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS. PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY

Tuesday, June 3, 2003 Issue - Jeffersonian

Please forward billing to:

Stephen Coutant 117 Queensbury Road Baltimore, MD 21237

410-882-1712

NOTICE OF ZONING HEARING

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117 Queensbury Road

S/side of Queensbury Road 300 feet east of centerline of Broadbridge Road

14th Election District – 6th Councilmanic District

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Tuesday, June 17, 2003 at 10:00 a.m. in Room 407, County Courts

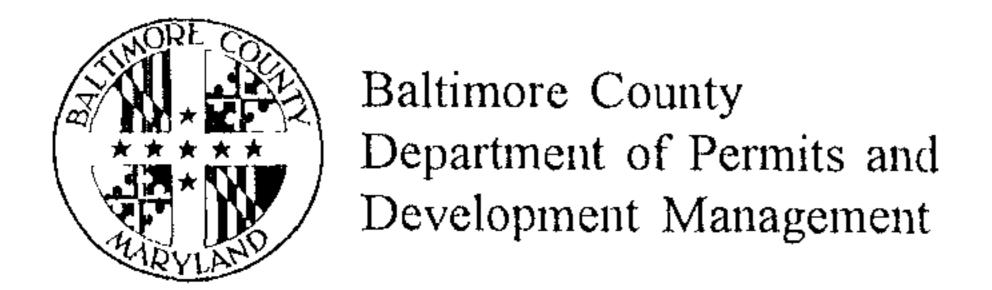
Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL 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.



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

April 17, 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: 03-452-A

117 Queensbury Road

S/side of Queensbury Road 300 feet east of centerline of Broadbridge Road 14th Election District – 6th Councilmanic District

Legal Owners: Stephen and Theresa Coutant

Administrative Variance to permit a rear setback of 18 feet and a side yard setback of 8 feet in lieu of the required 30 feet and 10 feet respectively for an addition.

Hearings:

Friday, June 13, 2003 at 9:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue

Arnold Jablon

Director

AJ:rlh

C: Mr. and Mrs. Stephen Countant, 117 Queensbury Road, Baltimore 21237

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MAY 29, 2003.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY

Thursday, May 29, 2003 Issue - Jeffersonian

Please forward billing to:

Stephen Coutant 117 Queensbury Road Baltimore, MD 21237

410-882-1712

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401 Bosley Avenue

Lauronce II. Schmidt

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

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DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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.

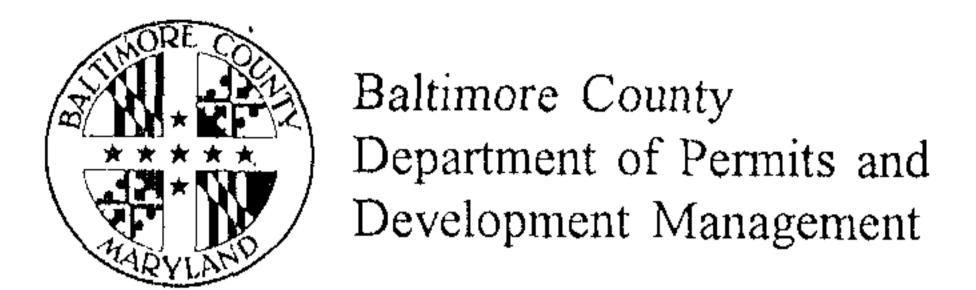
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

ZONING REVIEW

ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

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

June 13, 2003

Stephen R. Coutant Theresa J. Coutant 117 Queensbury Road Baltimore, MD 21237

Dear Mr. and Mrs. Coutant:

RE: Case Number: 03-452-A, 117 Queensbury Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 28, 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.

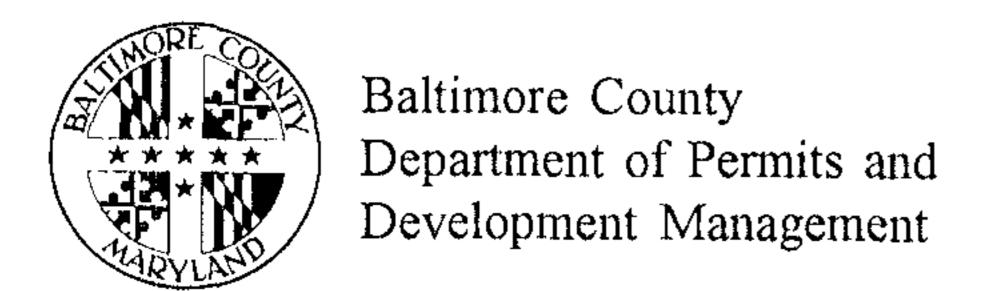
Supervisor, Zoning Review

u. Callaball

WCR:klm

Enclosures

c: People's Counsel



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

April 17, 2003

Stephen R. Coutant Theresa J. Coutant 117 Queensberry Road Baltimore, MD 21237

Dear Mr. and Mrs. Coutant:

RE: Demand for Public Hearing, Administrative Variance, Case Number: 03-452-A

The purpose of this letter is to officially notify you that the posting of the subject property has resulted in a timely demand on April 15, 2003 for a public hearing concerning the above proposed administrative procedure.

As soon as the hearing has been scheduled, you will receive a notice of public hearing indicating the date, time and location of the hearing. This notice will also contain the date that the sign must be reposted with the hearing information.

As a result of the above, the property must be reposted with the hearing date, time and location. This notification will be published in the Jeffersonian and you will be billed directly by Patuxent Publishing for this.

If you need any further explanation or additional information, please feel free to contact me at 410-887-3391.

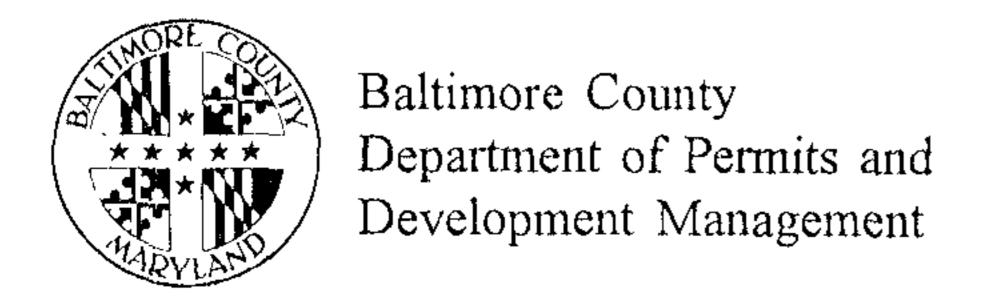
Very truly yours,

W. Carl Richards, Jr.

Supervisor Zoning Review

WCR:rlh

C: Sandra Kratochvil, 5008 Bucks School House Road, Baltimore 21237



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

Fax: 410-887-5708

April 25, 2003

Stephen R. Coutant Theresa J. Coutant 117 Queensbury Road Baltimore, MD 21237

Dear Mr. and Mrs. Coutant:

RE: Case Number: 03-452-A

The above matter previously scheduled for June 13, 2003 has been postponed at your request. Once the hearing has been rescheduled you will be notified by mail.

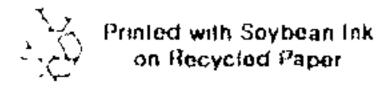
Please be advised that the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with notice of the original hearing date, as quickly as possible a notice of the new hearing date should be affixed to the sign(s).

Very truly yours,

Arnold Jablon Director

AJ:rlh

C: Sandy Kratochvil, 5008 Bucks School House Road, Baltimore 21237





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

April 08, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: April 7, 2003

Item No.: 445-455 (+5)

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.

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

cc: File



Robert L Ehrlich, Jr., Governor Michael S Steele, Lt Governor Robert L. Flanagan, Secretary Noil J. Pederson, Acting Administrator

JCM

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4.8.03

Baltimore County

Item No. 452

RE:

Ms. Rebecca Hart Baltimore County Office of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

Dear. Ms. Hart:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

111 Queen Bor

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DATE: April 10, 2003

APR 1 1 2003

ZONING COMMISSIONER

SUBJECT:

Zoning Advisory Petition(s): Case(s) 03-445 and 03-452 Administrative Variance

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.

Section Chief:

AFK/LL:MAC

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: April 28, 2003

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor
Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For April 14, 2003 Item Nos. 399, 446, 448, 450, 452,

453, 454, and 455

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

RWB:CEN:jrb

cc: File



FORMAL DEMAND FOR HEARING

CASE NUMBER: 03-452-A
Address: 17 Greens berry Maple Ringe Petitioner(s): Im Steplen & Theresa Courtains
Petitioner(s): Im Stephen & The resa Courtence
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: I/We
M Legal Owner OR WResident of 5008 Bucks School House Ra
Address $\frac{B_0/f_{1000}}{B_0/f_{1000}} = \frac{MD}{21237}$ City State $\frac{Zip \text{ Code}}{4/0-6665-3/10}$
Telephone Number which is located approximately feet from the property, which is the subject of the above petition, do hereby formally demand that a public hearing be set in this matter. ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS DEMAND. Demand Regular
Signature Revised 9/18/98 - wcr/scj

Fax 410-887-3468

April 15, 2003

Attention: Commissioner Larry Schmidt Sandra Kratochiel, would like to and demand a hearing on variance Case # protests the administrative variance case # 03-452-A at 117 Queensberry in the Maple Ridge Developement Joppose a rear yard set back of 18 feet in lieu of the 30 ft, set back which is in the code. as you may know the entire developement wild to be totally wooded. The developer took down every single tree that it possible could and put these houses as close to the property une as it would. A deck on this house would over look my back yard and totally invade my privacy as well as dicrease the value of my property. If you have any few then guestions I can be reached at 410-665-3110 Sincerely

9.5. The closing date on this is April 21,2003

Sandra Knartochnil

Maril 22, 2003

Dear arnold Jablon, Surector of Permit and Wevelopement. Today I received the notice of Zoning Hearing letter in regards to Case # 03-452-A 117 Queensbury Rd. The date of the Learing is June 13, 2003. I would like to request a postponement of This hearing in light of the fact that we have had our family vacation planned for six month's now and will be out of town during that date. any thing before or after that week would be greatly appreciated. 03-1183 Sony for the inconvenience

vacation 103-1183 2003

vacation 6/7-6/15

about 4/0-6/5-3/10

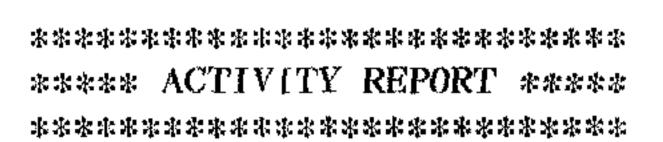
Sencerely Soucha Bratochil petitioner (iontesting) April 15, 2003

FAX NO.: 410 256 4879

April 15 2003 10:22AM P1 High

April 15, 2003

April 15 I, Sandra Kratochiel, would like to protest the administrative variance Case # 03-452-A at 117 Queensberry in the maple Ridge Developement Joppose a rear yard set back of 18 feet in lieu of the 30 ft, set back which is in the code as you may know the entire developement used to be totally wooded. The developer took down every single tree that it possible could and put these houses as close to the property une as it could. a deck on this house would over look my back yard and Itotally invade my privacy as well as dicrease the value of my property. If you have any few then questions I can be reached at 410-665-3110 Sincerely 5. The closing date on this is april 21,2003 Sandra Knowto chino



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RECEIVED

JUL-9 2003

ZONING COMMISSIONER

Balto County

Case No. 03.452-A

Fax to: 410 887-3468

From: Sandy Kratochvil

From: Sandy Kratochvil

5008 Backs Schoolthouse RD.

3008 Hb , MD 21237

410-665-3110

4 Agages including cover sheet

I I Karala

Dear Mr. Larry Schmidt,

I, Sandy Kratochiel, would like to request a reconsideration on the decision of Case # 03-452-A. I feel that possibly because I was newous and 4at I dich't throw what to expect that I failed to Day Things that I should have and said other things that may have been taken the wrong way. By writing this letter I hope we can come to a better understanding of why I am contesting the variance. A was always uncles the impression that a vousaince would be passed only if there were no reasonable objections by any parties involved. I thought that with their deck directly facing my backy and that it would Constitute a very reasonable objection on my part. I sant it there are a few trees which treate some what of a barrier in the these trees are bare of leaves and I be situated very clearly. I've tried to

plant wergeens in this area but they haven't taken due to wetness in that area. By allowing the Countants a larger dech it would mean the possibility of a greater number of seople during parties Thus greater amount of nouse Close to my property creating a disruption of my privacy. I fail to see why the shape of their lot should allow them to go from an 8/2 fort dech which is allowed to a 15 foot alech I don't see where to deny them the additional footage would be a practical difficulty on them in that reasonable use of the property would not be sermitted. The Counternt's unformed me after the proceedings that if hy Chance they lost this case that they intended to build a patio on the ground which would be larger than The proposed decks to which I replied that it was alight with me as long as it was in the constraints of the law-Mr. Schmidt I could understand elech was facing a wooded portion

of my property away from my house, three Children play. In this day and age you don't know who your neighbors could be, and I am concerned for their patity as well. he for as the other neighbor having a higher dech, there was nothing I could do about that because they were with in the law, but to say that my privacy so already suined by them So why not allow the Countants to further invade my princy is just not right. I have endured a years of construction of this alevelopement. Machinery and tools running 7 days a week starting at the crack of down. I should only hope that you never have to experience any thing the the sur gour lefetime. I also feel that by allowing the Vancence due to the uniqueness of the lot would only set a precedent to developers to Create these oddly shaped toto in order to get more lots on the property at other people's expense, namely property owners such as my self. In conclusion, although I feel the 81/2 foot dech which the Constants are allowed and the large patio dech which they intended to construct should in what itself, in an effort to resolve this issue with out further aggrevation to all parties I am willing 46 suggest a compromise which I feel we can all live with. I propose that the Countants be allowed a 12 dech which is halfway between what is allowed and what they want. allso that they should brave to plant and maintain a now of ever green trees preferably Leland (ypress to further assist with helping to watablish men privacy for all faiths involved. I've already some my part in planting trees to create a borrier so likewise it is only right that they do their fant as well. I hope that this proposal is acceptable so that we can get on with our lives Sincerely Sandy Knatschill

1.5. If you don't consider this consider an appeal due to the effect a layger select might have on the resolution my property which I might be considering in the near future. -, 4

July 18, 2003

Stephen R. Coutant 117 Queensberry Road Baltimore, MD 21237

Mr. Lawrence E. Schmidt Zoning Commissioner, Baltimore County Suit 405, County Courts Building 401 Bosley Avenue Towson, MD 21204



Dear Mr. Schmidt:

I am writing this in response to Sandra Kratochvil's written request for reconsideration (July 9, 2003) subsequent to our variance hearing (case no. 03-452-A). The variance concerned reducing my property's rear setback from 30 feet to 18 feet in order to accommodate a deck. The variance requested in that hearing was granted on July 1st, 2003 as explained in the Commissioner's thoughtful memorandum of facts and law. As explained below, I do not consider Mrs. Kratochvil's current request meritorious, nor do I accept the constraints she proposes as a compromise.

Mrs. Kratochvil contends that she was ignorant of the procedures and standards for a variance hearing, that this ignorance handicapped her presentation at the hearing, and that therefore she should be granted reconsideration. The procedures and standards of review for variance hearings, however, are clearly explained in the Zoning Review Checklist, which is available both at the Baltimore County Zoning office and on the Internet. Regardless, Mrs. Kratochvil still argues the wrong criteria and elements for contesting this variance. Her argument is based on irrelevant and often contradicting assertions, and not on *Cromwell v. Ward*, 100 Md. App. 691 (1995).

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Phone #	Phone #
Fax# 4(0-887-0530	Fax #

Proper Standards for a Variance

Mrs. Kratochvil wrote that a variance should be granted "only if there were no reasonable objections by any parties involved." *Cromwell* announced that variances may be granted upon a finding of either practical difficulty or unreasonable hardship. Under either test, a variance is appropriate in my case. Below is a review of my basis for the variance under each test, as I argued at the hearing.

Unreasonable Hardship. My situation meets the following three prongs of *Cromwell's* unreasonable hardship standard:

- 1. I cannot make reasonable use of my back yard without the variance due to constant wet conditions of the back yard;
- 2. the hardship faced (wet conditions) is particular to my lot due to the unique elevation of surrounding lots, the drainage plan and storm drain located on my lot, and the shape of my lot, which automatically restricts the size of the rear yard; and
- 3. this hardship is not a result of my own actions.

<u>Practical Difficulty</u>. My situation meets the following three prongs of *Cromwell's* practical difficulty standard:

1. strict compliance with the zoning requirement would be unnecessarily burdensome since it would limit me to a deck only *8 ½ feet deep;

*Mrs. Kratochvil wrote, "I don't see where to deny them the additional footage would be a practical difficulty." I think that if one tries to place a picnic table surrounded by chairs in a space 8 ½ feet wide, the term "practical difficulty" would fairly describe any attempts to maneuver in that configuration.

- 2. granting the variance would not result in a substantial injustice to Mrs. Kratochvil (as further demonstrated in this memorandum); and
- 3. granting the variance will have absolutely no adverse effect on the public safety and welfare.

Mrs. Kratochvil's Objections are Insufficient Grounds for Denial of Variance

Having met the threshold requirements for undue hardship and practical difficulty, the objections Mrs. Kratochvil raises in her letter are irrelevant and insufficient grounds upon which to deny the variance. I will now address specific portions of that letter:

View. Mrs. Kratochvil admits to the existence of "a few trees" between our respective yards. A brief examination of the photographs I submitted at the hearing will clearly show that the vegetation is much more substantial than her characterization implies. If her objection is simply that she will be able to see my deck during the winter months, the matter of a few feet in deck size is not an issue. Assuming, arguendo, that she can see the deck, she would be able to see both an 8-foot deck and a 15-foot deck. The sight of either deck would not be a substantial injustice to Mrs. Kratochvil.

Furthermore, Mrs. Katochvil admits in her letter to have planted numerous evergreens in her back yard to augment the existing buffer zone. I would dispute her assertion that these trees "have not taken". While claiming that her trees will not grow due to "wet conditions" in the back yard, she inexplicably requests that I also "plant and

maintain a row of evergreens" in those same conditions. Her admission that the ground is wet only bolsters my claim that the ground of my back yard is continually soggy and inappropriate for uses other than a deck.

Disturbance. Mrs. Kratochvil asserts that a larger deck "would mean the possibility of a greater number of people during parties, thus greater amount of noise." First of all, there are noise ordinances that address unduly loud parties and Mrs. Kratochvil would have full protection of those laws. Those laws are her proper recourse; the variance should not be denied based on her prediction that we may have wild parties. Secondly, there were absolutely no claims that we have ever disturbed her peace in the 11 months that we have lived next to Mrs. Kratochvil, and it would be extremely unjust to assume we would be inclined to disturb the peace in the future. Conversely, I would be happy to present evidence (videos and affidavits of other neighbors) of Mrs. Kratochvil's disruptive behavior. On numerous occasions she and her children have spent hours running a very loud dirt bike along the border of our properties, while our newborn tries to sleep. I do not contend that this behavior is illegal, only that Mrs. Kratochvil's concern over privacy and disruption does not extend to her neighbors' sensibilities.

Safety. Mrs. Kratochvil goes on to say that she fears her children would somehow be put at risk by this deck: "I am concerned for their safety as well....you never know who your neighbors could be." We are left to guess about the exact nature of these perceived dangers. Aside from my indignation at being labeled a risk to children's safety, I fail to see how a 15-foot deck either creates or increases this undefined safety hazard.

Patio. Mrs. Kratochvil mischaracterized our conversation regarding the possibility of a patio. The point I was trying to make with her was that a variance for a deck was not the gross breech of zoning that she perceived. I pointed out that a patio, for instance, could be legally built regardless of the set back distance. As a practical matter, however, any such patio would need to be completely at-grade or a variance would still be required. An at-grade patio in my back yard would be as vulnerable to the runoff problem as the current ground. The land is, therefore, unsuitable for such a patio. Additionally, as noted in the commissioner's decision, the builder envisioned a deck as demonstrated by the sliding glass doors off the elevated kitchen. These doors currently open to a drop of 15 feet.

Compromise. Subsequent to the commissioner's grant of the variance, Mrs. Kratochvil has offered a compromise to "resolve the issue without further aggravation." First of all, Mrs. Kratochvil had been unwilling to even discuss the matter with me prior to her losing the hearing. The very day that I received notice that she was contesting the administrative variance, I called and left a message at her home, introducing myself and asking her to call me so that we could discuss the matter. I had hoped to address her concerns at the very beginning in an amicable manner. Mrs. Kratochvil did not return my call. Several days later I approached her along our common property line, and asked her if we could discuss this matter. In no uncertain terms, she told me that she did not wish to discuss it, and that nothing I could say will stop her from contesting the variance. She specifically told me that she was "just bitter" about the whole development, and that she was going to do everything she could to hinder the development in any way.

Attacks on Character. Since Mrs. Kratochvil has implied that I would have wild parties, and that I somehow pose a risk to her children, I feel compelled to briefly address my character. I am an officer in the U.S. Army with a spotless record. My wife of almost two years, Theresa, works at Catholic Relief Services in Baltimore. Our first child, Madeleine, was born on July 4th, 2003. My typical day starts at 5 am, and I work from 6:30 a.m. until 5:00 p.m. Most nights for the past three years I go directly from work to night school in Baltimore. When I get home at 11:00 p.m. after a 16-hour day, I don't have wild parties or plot attacks on the neighbor's children. Mrs. Kratochvil's inferences to the contrary are unfounded and insulting.

Conclusion

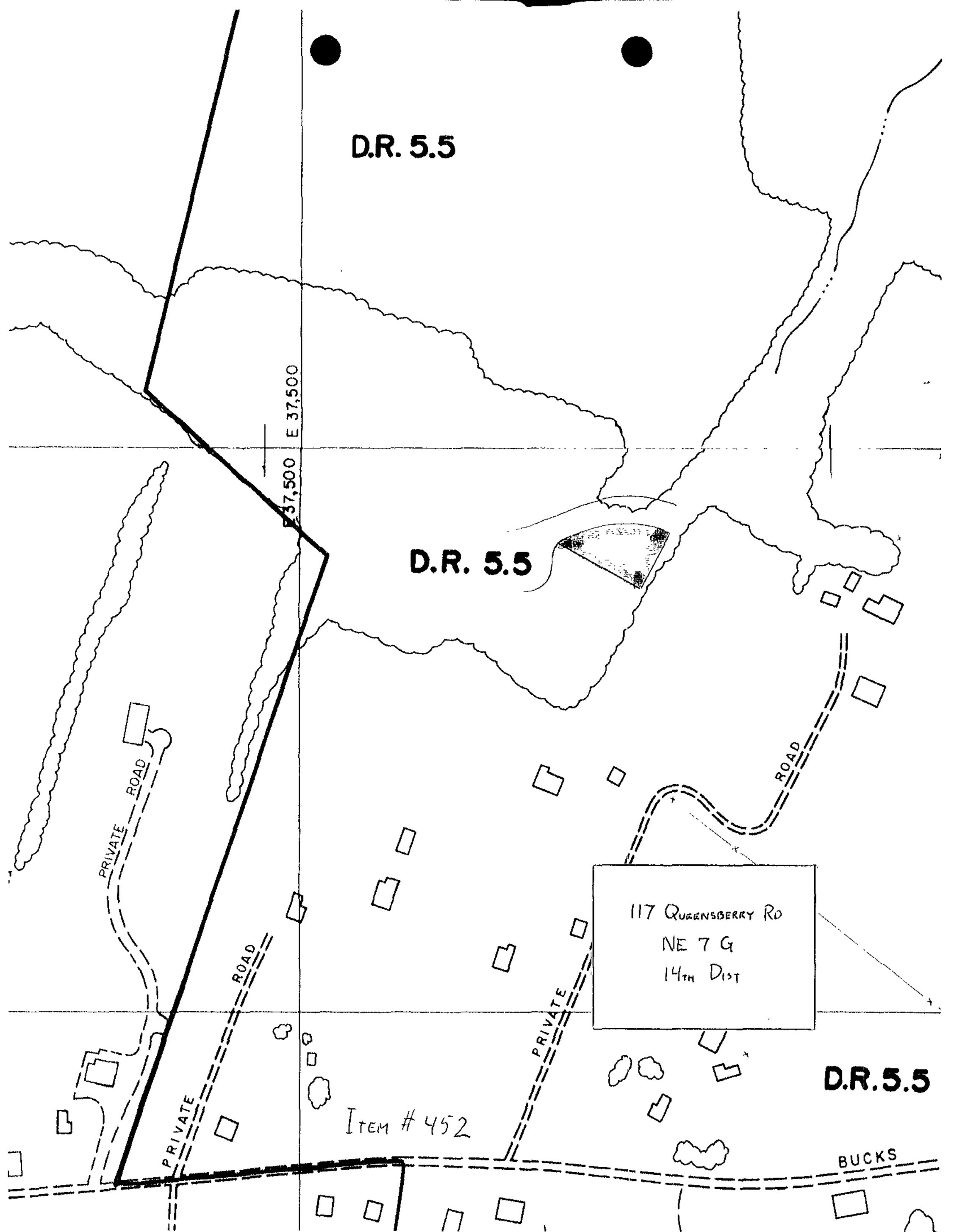
As evinced by my rebuffed original attempt to negotiate, Mrs. Kratochvil's own letter, and as noted in the Commissioner's report, the true root of Mrs. Kratochvil's discontent is the very existence of the Maple Ridge housing development. She is infuriated that the land bordering her property did not remain woodlands. This anger now has her seeing threats to her children's safety arising from a deck off my kitchen. She warns that the grant of this variance will "set a precedent to developers to create these oddly shaped lots in order to get more lots on the property at other people's expense, namely property owners such as myself." These arguments are not based on reality, and they certainly are not based on *Cromwell*.

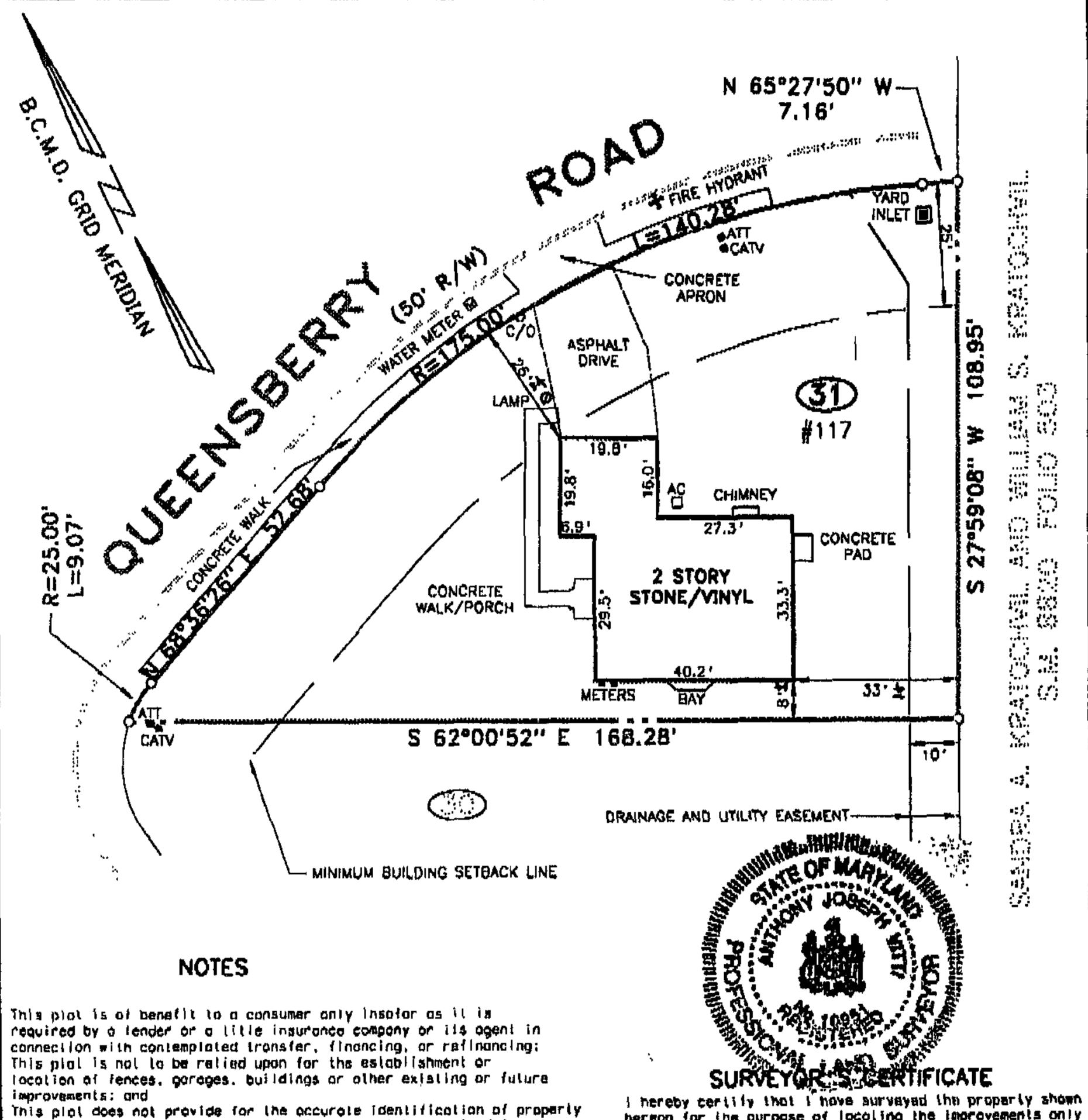
To put this whole issue in context, consider that my house sits on a lot that is .33 acres in size. Mrs. Kratochvil's property is several acres in size. While my house necessarily sits 33 feet from our common, tree-lined boundary, I would estimate that her house is at least 50 YARDS from this boundary. I would invite the Commissioner to come see this for himself. A variance granting me an additional 6 ½ feet for a deck will have absolutely no impact on the Kratochvils, but it will make an immense impact on my family's use and enjoyment of our property.

For the reasons as stated in this memorandum, I urge the Commissioner to affirm his earlier, well-reasoned order. I further ask that Mrs. Kratochvil's request for reconsideration not stay or toll the 30-day appeal period. She first delayed the variance hearing because it conflicted with her vacation, and now she seeks to yet again lengthen the process beyond designated appeal timelines. She acts now only as an obstructionist, with no new or legitimate grounds for reconsideration. As such, I request that the Board of Appeals deadline remain on or about August 4th, 2003.

Sincerely,

Stephen R. Coutant





this plot does not provide for the occurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. The occuracy of the apparent setback dimensions from the property lines to the improvements is within 0.5 feet of being greater than or

less then the dimension shown.
The subject property lies within Flood Zone "C",
(Areas of Minimal Flooding) as shown on
Flood Insurance Rate Map No. 240010 0430 B,

hereby certify that I have surveyed the property shown hereon for the purpose of locating the improvements only and the improvements are located as shown. Exact property corners have not been established or set.

Md. Res # 10951

REV: FINAL IMPROVEMENTS JULY 24, 2002

LOCATION DRAWING
LOT 31
SECOND AMENDED PLAT OF
SECTION 2, PLAT 2
WHITE MARCH DOAD PROPERT

5,M, 74 FOLIO 76

Fourteenth Election District

dated Warch 2, 1981.

Baltimore County, Maryland Drown by: dew Checked by: ATV File: LOTS ICERT +CERT.



Daft · McCune · Walker, Inc.

A Yearn of Land Plansers, Londscope Architects, Engineers, Surveyors & Emironmental Professionals 200 East Pennsylvania Avenua Tawson, Maryland 21286 410 296 3333 For 286 4705

Scale: 1" = 30"

Date: May 13, 2002 Jab No.: 90047-SA

NESG.

1 Trem# 452

