IN RE: PETITION FOR VARIANCE
SW/Corner of Brandy Springs Road
and Mount Carmel Road
7th Election District
3rd Councilmanic District
(1314 "B" Mt. Carmel Road)

Barbara P. & Glenn L. Durst Petitioner

- BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * CASE NO. 03-453-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by Barbara P. and Glenn L. Durst requesting special hearing relief for property located at 1314 "B" Mt. Carmel Road. The subject property is zoned R.C.2. The special hearing request is to approve the transfer of one density unit, along with one acre of land, from Maurice E. Fitez, Jr. to Mr. and Mrs. Durst, as shown on the attached zoning plans.

Appearing at the hearing on behalf of the special hearing request were Glenn and Barbara Durst, their son and daughter-in-law, Barry and Taunia Durst, and Joseph Larson appearing on behalf of Spellman Larson & Associates, the engineers who prepared the site plan of the property. Appearing in opposition to the Petitioners' request were adjacent property owner, Melody Baker and her father, Radford Baker. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of one acre of land, zoned R.C.2, located on the north side of Mt. Carmel Road, which property is owned by Maurice E. Fitez, Jr. The Durst's are petitioning for permission to allow Mr. Fitez to convey this one acre of land to the Durst family, which one acre would be joined with the 44.71 acres currently owned by Mr. and Mrs. Durst. The purpose of the transfer of the one acre, along with one density unit, is to permit Barry and Taunia Durst the

Remark States

ability to construct a new single-family home on the Durst family property for themselves and their five children.

After reviewing the petition for special hearing form filed along with this request, it is noted that Mr. Maurice Fitez, the actual owner of the property, did not sign the special hearing petition, which is a mandatory requirement for such a request. The ultimate decision to be made on this special hearing request has a tremendous impact on the property owned by Maurice Fitez and his signature and participation in this proceeding is absolutely necessary in order for the matter to go forward. Actually, the special hearing petition indicates that the legal owners of the property, which is the subject of this request, are Glenn and Barbara Durst. However, this is not the situation at this time. The Durst's are the intended purchasers of the land. However, at this time it is owned by Maurice Fitez. Therefore, it is necessary for Mr. Fitez to participate in this proceeding in order for the special hearing request to be entertained and a decision to be rendered thereon. Accordingly, because of this technical flaw in the petition application, the special hearing petition must be dismissed.

The participants may amend their special hearing request to include the name of Maurice Fitez and his signature. The ultimate decision in this case will basically eliminate one density unit from the Fitez property. The remaining one density unit attributable to the Fitez property will have been utilized by his own dwelling located thereon. Therefore, in order for the zoning records to be accurate and in order for this matter to be documented in the Land Records of Baltimore County, it is necessary for Mr. Fitez to participate in this proceeding. Accordingly, the special hearing petition shall be dismissed and the Petitioners shall be granted leave to amend their special hearing petition for a future hearing.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this Aday of May, 2003, that as a result of the technical flaw in the Special Hearing Petition filed herein, the request is hereby DISMISSED.

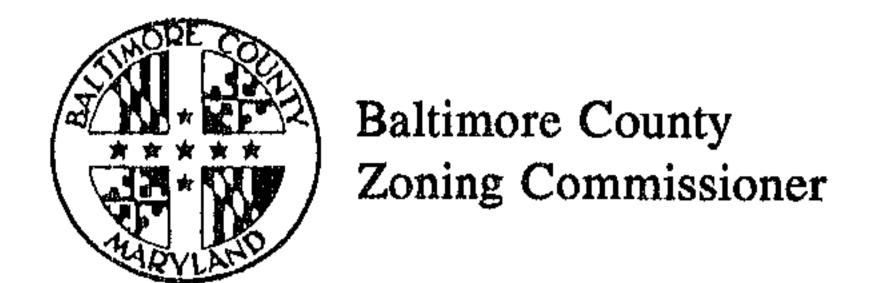
IT IS FURTHER ORDERED, that the Petitioners shall be permitted to amend their Special Hearing request to include the name and signature of Maurice Fitez as the legal owner of the property. Once properly filed, the matter may be reset for another public hearing. The property shall be reposted with a sign advertising a new hearing date and notice must be sent by the Petitioners to Melody and Radford Baker at the address specified on the Citizen's Sign-In Sheet.

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj



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

Fax: 410-887-3468

May 29, 2003

Mr. & Mrs. Glenn L. Durst 1314 "B" Mt. Carmel Road Parkton, Maryland 21120

Re: Petition for Special Hearing

Case No. 03-453-SPH

Property: 1314 "B" Mt. Carmel Road

Dear Mr. & Mrs. Durst:

Enclosed please find the decision rendered in the above-captioned case.

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 M. Kotroco

Deputy Zoning Commissioner

buthy lotroco

TMK:raj Enclosure

c: Joseph Larson Spellman Larson Associates 105 W. Chesapeake Avenue Towson, MD 21204

Melody Baker 1308 Mt. Carmel Road Parkton, MD 21120 Barry & Taunia Durst 1314 A Mt. Carmel Road Parkton, MD 21120

Radford Baker 504 Linwood Avenue Belair, MD 21014



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at _	1314	"B"	Mt.	Carmel	Road
which is	presen	tly 2	oned	RC-2	·

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED SHEET

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, 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

		the penalties of ne property which			
Contract Purchaser/Lessee:	· ·	<u>Legal</u>	Owner(s):		
Name - Type or Print			ype or Print	Adu	
Signature	· · · · · · · · · · · · · · · · · · ·	S ignature Bart	para P. Durs	t a	
Address	Telephone No.	Name - T	ype or Print	2//	+
City	Zip Code	Signature		- Mur	<u> </u>
Attorney For Petitioner:		1314 Address	B Mt. Carm	el Road	(410) 343-0616 Telephone No.
Name - Type or Print		Park City	cton	MD State	21120~9762 Zip Code
Traine Type of think		•	sentative to l	e Contacted:	·
Signature		•	Joseph L.	Larson	
Company	······································	Name	105 W. Che	sapeake Ave	(410) 823-3535
Address	Telephone No.	Address	Towson,	MD	Telephone No. 21204
State	Zip Code	City		State	Zip Code
S. A.			OFFI	CE USE ONLY	
		ESTIM	ATED LENGT	H OF HEARING	
Case No. 03-453-58H			AILABLE FOR		
	Revi	ewed By _	BR	Date <u> 4/</u>	1/03

A TRANSFER OF 1 DENSITY UNIT ALONG WITH 1 ACRE OF LAND FROM FITEZ TO DURST AS SHOWN ON THE ATTACHED ZONING PLATS.





ROBERT E. SPELLMAN, P.L.S. JÖSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215

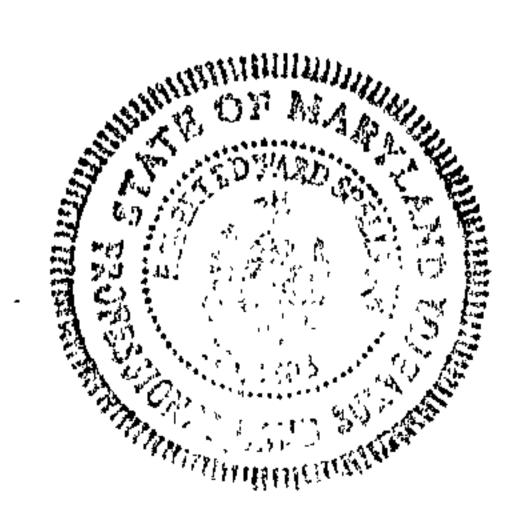
DESCRIPTION FOR ZONING, PART OF FITEZ PROPERTY, MT. CARMEL ROAD, SEVENTH DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point measured northwesterly radially from the center line of Mt. Carmel Road and the center line of Flickerwood Road 830 feet, more or less, and running thence from said beginning north 04 degrees 26 minutes 52 seconds east 452.77 feet south 60 degrees 44 minutes 10 seconds west 125 feet, more or less, south 04 degrees 26 minutes 52 seconds west 410 feet, more or less, north 86 degrees 55 minutes 30 seconds east 100.00 feet to the place of beginning.

CONTAINING 1.0 acres of land more or less.

April 1, 2003

File#D04010301







ROBERT E. SPELLMAN, P.L.S JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS

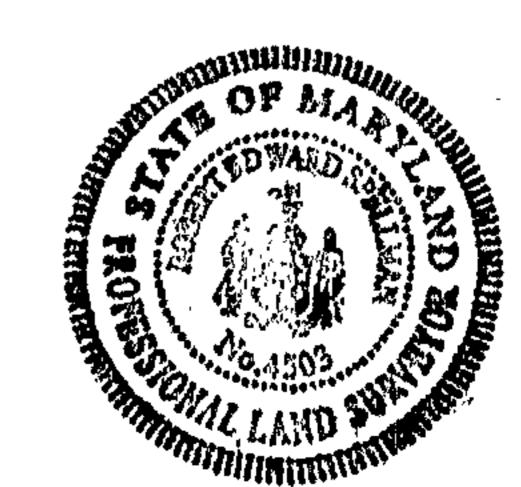
105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215

DESCRIPTION FOR ZONING, 1314 B MOUNT CARMEL ROAD, DURST PROPERTY, 7TH DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point on the south side of Brandy Springs Road, 50 feet wide, at the distance of 20.5 feet more or less measured northwesterly along the south side of Brandy Springs Road from the west side of Masemore Road, 60 feet wide, and running thence and binding on the south side of Brandy Springs Road by a curve to the left with a radius of 300.00 feet the distance of 148.89 feet thence leaving the south side of Brandy Springs Road and running south 11 degrees 27 minutes 21 seconds east 43.98 feet south 55 degrees 03 minutes west 113.79 feet south 54 degrees 35 minutes 45 seconds west 235.51 feet north 75 degrees 12 minutes 35 seconds west 486.53 feet north 35 degrees 24 minutes 15 seconds west 776.52 feet south 54 degrees 35 minutes 45 seconds west 741.35 feet north 63 degrees 52 minutes 53 seconds west 895.76 feet south 49 degrees 06 minutes 09 seconds west 300.00 feet south 08 degrees 54 minutes 06 seconds east 156.30 feet south 04 degrees 26 minutes 52 seconds west 452.77 feet south 82 degrees 14 minutes 06 seconds east 1,179.34 feet south 34 degrees 35 minutes 15 seconds east 655.89 feet north 55 degrees 13 minutes 33 seconds east 784.08 feet north 54 degrees 35 minutes 45 seconds east 739.38 feet and north 55 degrees 03 minutes east 247.52 feet to the place of beginning.

CONTAINING 44.71 acres of land, more or less.

D01060301



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MISCELLANEOUS OFFICE OF BUDGET & FINANCE BALTIMORE COUNTY, MARY RECEIPT

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VALIDATION

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DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

HEARING 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: #03-453-SPH
1314 "B" Mt. Carmel Road
S/west corner of Brady
Springs Road and Mt.
Carmel Road
7th Election District
3rd Councilmanic District
Legal Owner(s). Glenn L.
and Barbara Durst
Special Hearing: to permit
a transfer of 1 density unit
along with 1 acre of land
from Fitez to Durst.
Hearing: Wednesday, May
28, 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 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-

JT 5/682 May 13

C603667

CERTIFICATE OF PUBLICATION

	S
	15
-	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 _____ successive weeks, the first publication appearing

	☐ North County News	☐ NE Booster/Reporter	☐ Owings Mills Times	☐ Towson Times	☐ Catonsville Times	☐ Arbutus Times	A The Jeffersonian
1							

TOAL ADVEDTIGING

CERTIFICATE OF POSTING

RE: Case No.: <u>03-453-SPH</u>
Petitioner/Developer: Glenn L. 4
Barbara P. Durst
Barbara P. Durst

Date of Hearing/Closing: 5-28-03

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

Attention: Ms. Gwendolyn Stephens

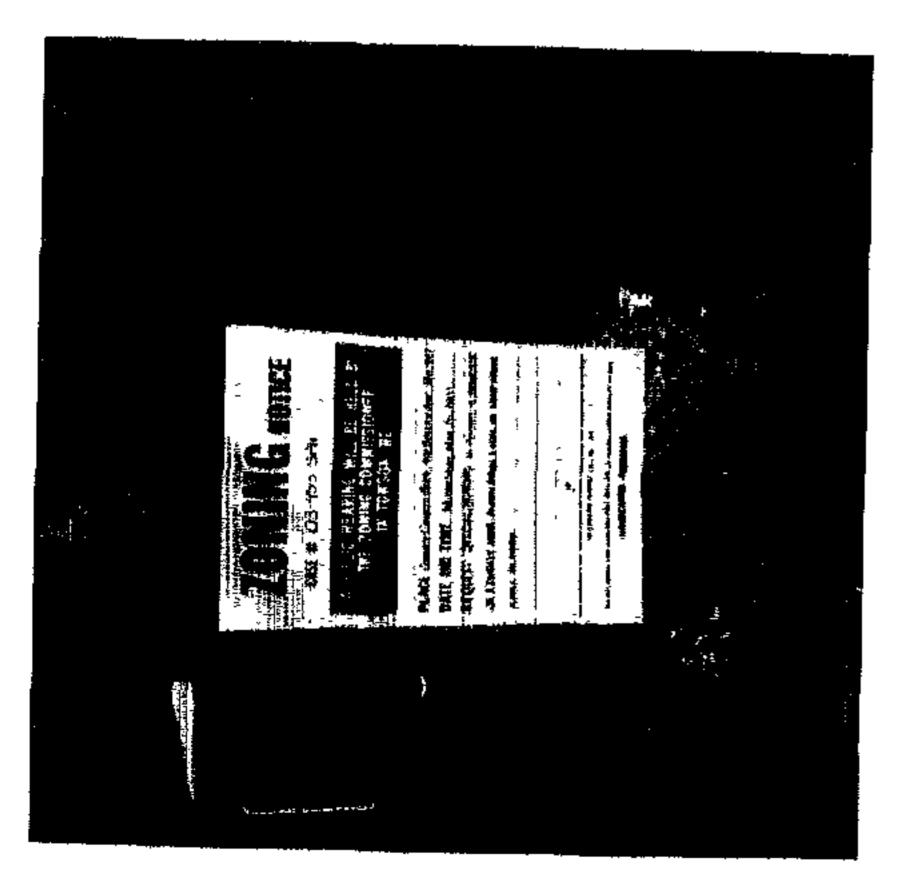
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1314 "B" Mt. Carmet Rd.

Parkton, MD 21120-9762

The sign(s) were posted on

May 13, 2003 (Month, Day, Year)



Sincerely,

Signature of Sign Poster and Date)

Stacy Gardner

(Printed Name)
SHANNON-BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD. 21784

(City, State, Zip Code) 410-781-4000

- RE: PETITION FOR SPECIAL HEARING
 1314 "B" Mt Carmel Road; SW corner of
 Brandy Springs Road & Mt Carmel Road
 7th Election & 3rd Councilmanic Districts
 Legal Owner(s): Glenn L & Barbara Durst
 Petitioner(s)
- * BEFORE THE
- * ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * 03-453-SPH

* * * * * * * * * *

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel

Old Courthouse, Room 47 400 Washington Avenue

Towson, MD 21204

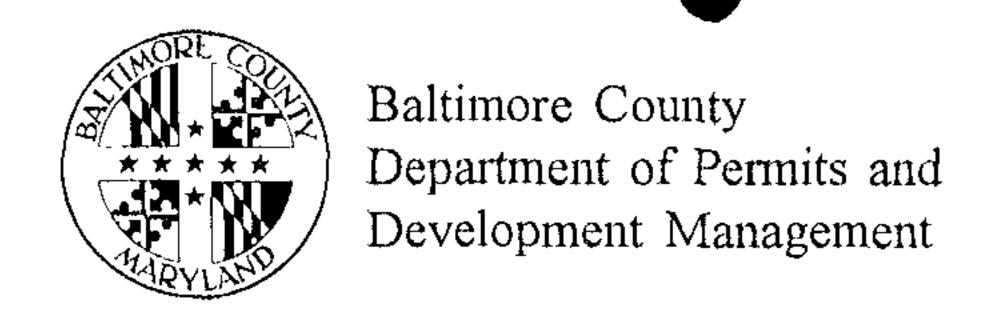
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of April, 2003, a copy of the foregoing Entry of Appearance was mailed to Joseph L Larson, 105 W Chesapeake Avenue, Towson, MD 21204, Representative for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



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

Fax: 410-887-5708

April 8, 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: 03-453-SPH

1314 "B" Mt. Carmel Road

S/west corner of Brady Springs Road and Mt. Carmel Road

7th Election District – 3rd Councilmanic District

Legal Owners: Glenn L. and Barbara Durst

Special Hearing to permit a transfer of 1 density unit along with 1 acre of land from Fitez to Durst.

Hearings:

Wednesday, May 28, 2003 at 10:00 a.m. in Rm. 407, County Courts Bldg.,

401 Bosley Avenue

Arnold Jablon

Director

AJ:klm

C: Glenn L. and Barbara P. Durst, 1314 "B" Mt. Carmel Rd., Parkton MD 21120-9762 Joseph Larson, 105 W. Chesapeake Avenue, Towson MD 21204

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, MAY 13, 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, May 13, 2003 Issue - Jeffersonian

Please forward billing to:

Glenn L. Durst

1314 "B" Mt. Carmel Road Parkton, MD 21120-9762 410-343-0616

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: 03-453-SPH

1314 "B" Mt. Carmel Road

S/west corner of Brady Springs Road and Mt. Carmel Road

7th Election District – 3rd Councilmanic District

Legal Owners: Glenn L. and Barbara Durst

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401 Bosley Avenue

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

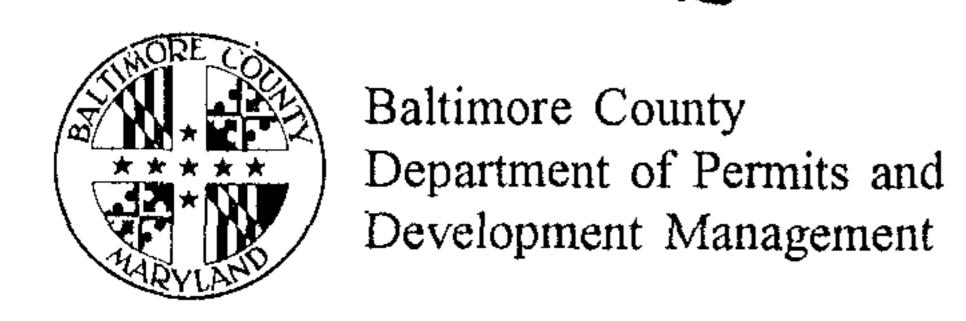
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign 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.

For Newspaper Advertising:
Item Number or Case Number: 03-453-504
Petitioner: GLENN L. DURST
Address or Location: 1914-B MT. CARMEL RO. PARKTON, MO.
21120-9762
PLEASE FORWARD ADVERTISING BILL TO:
Name GLENN L. DUZST
Address: 1314-B MT. CARMEL R.D. PARKTON, MD.
21120-9762
Telephone Number: 410 - 343-0616

Revised 2/20/98 - SCJ



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

May 23, 2003

Glenn L. Durst Barbara Durst 1314 B. Mt. Carmel Road Parkton, MD 21120-9762

Dear Mr. and Mrs. Durst:

RE: Case Number: 03-453-SPH, 1314 B Mt. Carmel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 1, 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. Callibal)

WCR:klm

Enclosures

c: People's Counsel Joseph Larson, 105 W. Chesapeake Avenue, Towson 21204



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

453

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: April 28, 2003

TO:

Arnold Jablon, Director

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

ec: File

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

DATE: June 4, 2003

TO: James H. Thompson, Supervisor

Code Enforcement Division

Department of Permits & Development Management

FROM: Lawrence E. Schmidt

Zoning Commissioner

SUBJECT: PETITION FOR VARIANCE

S/S Philadelphia Road, 830' W of the c/l Bradshaw Road

(12303-A Philadelphia Road)

11th Election District – 5th Council District

John Barnes – Petitioners

Case No. 03-453-A

Yesterday, I received a telephone call from Mrs. June Shipley, the adjacent property owner, regarding the subject property. As noted above, this property was the subject of prior zoning Case No. 03-453-A in which I granted variance relief to the property owner to allow construction of a single-family dwelling thereon, subject to certain restrictions. Pursuant to my Order of June 26, 2001, the owner was to submit a revised plan showing the new location of the proposed dwelling, and private well and septic system to this Zoning Commissioner and the Office of Planning and DEPRM prior to the issuance of any permits. Apparently, construction of a single-family dwelling has commenced and Ms. Shipley believes that the building is not being constructed in accordance with the approved plan. I understand that Glenn Barry has already been out to the site and that Karen Hoffberger from the Executive's Office has received some telephone calls on this issue.

Please investigate this matter and advise me of your findings. Thank you for your attention in this matter.

LES:bjs

cc: Karen Hoffberger, Executive Office

File

Sign

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

May 14, 2003

To: Zoning Commissioner

From: Wally Lippincott, Jr.

D.E.P.R.M.

Re: Case No. 03-453-SpH, 1314 "B" Mt Carmel Road

RECEIVED

MAY 2 8 2003

ZONING COMMISSIONER

Comments:

1. The submitted plan does not accurately reflect the existing uses and structures on the property. There are a minimum of two house trailers on the property that appear to be occupied as residences. In addition, it has been reported that there are two apartments - each associated with one of the two kennel facilities on the property.

2. Transfer of density is not permitted in the RC zones. While the accumulation of density between parcels within a single deed has been permitted in order to protect agriculture, provide for septic, or access, transfer between parcels under separate ownership is not permitted. This issue was addressed in the decision by the Circuit Court in the case of Gudeman v. People's Counsel – 88-490-sph.

Recommendation:

Deny the request. Transfer of density is not permitted in the RC zones. In certain cases movement of density on parcels under the same ownership is permitted for agricultural purposes, and other as indicated above. In this case the parcels are in separate ownership, no agricultural benefit is apparent. The landowner should be advised to proceed through the minor subdivision process.



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

MAY - 6 2003
ZONING COMMISSIONER

Zoning Advisory Petition(s): Case(s) 03-453 and 03-508 **SUBJECT:**

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



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4.8.03

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

RE:

Baltimore County

Item No. 453

BR

Dear Ms. Hart:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 1.37. are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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).

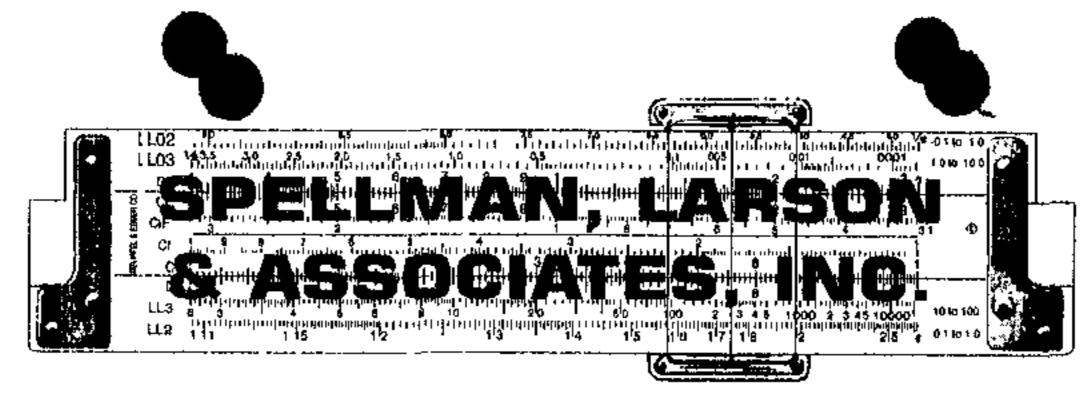
Very truly yours,

1.1. dredl

1

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





Becker about 18th See this TMK

ROBERT E. SPELLMAN; P.L.S. JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS/

105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 TEL (410) 823-3535 / FAX (410) 825-5215 17/15/03-Per Joe Lanson,
this letter no longer
relevant. He will file
new petition for this
new petition for this

June 11, 2003

Ms. Becky Hart, Scheduling Supervisor
Office of Zoning
Dept. of Permits and Development Management
Baltimore County

"HAND DELIVERED"

Re: Petition for Special Hearing

Case No. 03-453-SPH 1314B Mt. Carmel Road

Dear Becky,

Pursuant to our conversation this date, I am herein requesting to reset the Special Hearing for the Case that is referenced above in accordance with the Order from then Deputy Commissioner, Timothy Kotroco. A copy of the Order is herewith attached.

I would appreciate your earliest attention to re-scheduling this Special Hearing and notifying this office as soon as possible.

Very truly yours,

Joseph L. Larson, President

SPELLMAN, LARSON & ASSOC., INC.

File#L06110301

cc: Barry Durst

JUN 1 1 2003 03-1977 IN RE: PETITION FOR VARIANCE
S/S Philadelphia Road, 830' W of
Bradshaw Road
(12303-A Philadelphia Road)

11th Election District 5th Council District

John Barnes Petitioner

ft,

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 01-453-A

*

* * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, John Barnes. The Petitioner seek relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 15 feet and 17 feet, respectively, in lieu of the required 50 feet each, for a proposed dwelling. 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.

Appearing at the requisite public hearing in support of the request were John W. Barnes, property owner, and Vincent Moskunas, a representative of Site Rite Surveying, Inc., the consultants who prepared the site plan for this property. Appearing as Protestants in the matter were Mr. & Mrs. Michael W. Shipley, adjacent property owners.

Testimony and evidence offered revealed that the subject property is a narrow, rectangular shaped lot, approximately 86 feet wide by 542 feet deep, located on the south side of Philadelphia Road (Maryland Route 7), not far from Bradshaw Road and the Harford County line in Kingsville. The subject property is one of two parcels purchased by the Petitioner in 1984. Both parcels were recorded as separate lots of record in 1973. Parcel 1 contains a gross area of 2.271 acres, more or less, zoned R.C.5 and is improved with a single family dwelling known as 12303 Philadelphia Road in which the Petitioner resides. Parcel 2 contains a gross area of 1.00 acre, zoned R.C.5, and is the subject of the instant request. The Petitioner is desirous of developing

Parcel 2 with a two-story, single family dwelling, approximately 50' x 51' in dimension, as shown on Petitioner's Exhibit 1. Although the property meets the minimum area requirements for development in the R.C.5 zone, it lacks sufficient width to meet setback requirements. Thus, the requested variance relief is necessary in order to proceed. Mr. Barnes indicated that most of the lots in the area are approximately 100 feet wide. Thus, it would be virtually impossible to find a lot that would meet current setback requirements.

Appearing and testifying in opposition to the request were Mr. & Mrs. Michael Shipley, adjacent property owners. They generally objected to the Petitioner's use of the subject property, indicating that the Petitioner is using the property as a junk yard and that cars and miscellaneous equipment are stored thereon. In addition, they expressed concern over the impact of the proposed development on existing wells and septic systems in the area. They also object to the proposed location of the new dwelling in close proximity to their home. The Protestants also testified that the dwelling on Parcel 1 contains two apartments and they are concerned about the potential use of the proposed dwelling on Parcel 2.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. It is clear that strict compliance with the zoning regulations would be impossible and prevent use of the subject property for a permitted purpose. In sum, I find that the requirements for variance relief as set out in Section 307 of the B.C.Z.R. are satisfied. However, as a condition to the relief granted, I shall impose certain restrictions to address the concerns raised by the Protestants. First, I shall require that the proposed dwelling be moved closer toward Philadelphia Road, so that the front yard setback for the new dwelling will be substantially the same as the existing dwelling on Parcel 1 (i.e., 111 feet). Moreover, the Petitioner shall be required to remove all cars, junk and debris from the subject property and cease utilizing same as a junk yard. In addition, pursuant to the Zoning Advisory Committee comment submitted by the Office of Planning, dated May 29, 2001, the Petitioner shall submit a revised plan showing the location of the proposed well and septic system for the subject lot. The locations of same must be approved by the Department of Environmental Protection and Resource Management (DEPRM).

It should also be noted that testimony at the hearing indicated that the dwelling at 12303 Philadelphia Road contains two apartments. Multi-family dwellings are not permitted in the R.C.5 zone, unless otherwise determined that such use is nonconforming and existed prior the enactment of the R.C.5 zoning regulations. Thus, if that is the case, the Petitioner shall be required to file a Petition for Special Hearing to legitimize the use of the existing dwelling; however, the proposed dwelling shall be limited to single family use.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the Petition for Variance shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of July, 2001 that the Petition for Variance seeking relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 15 feet and 17 feet, respectively, in lieu of the required 50 feet each, for a proposed dwelling, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner is hereby made aware that a 30-day appeal period runs from the date of this Order. If an appeal is filed and the Board of Appeals reverses this Order, the relief granted herein shall be rescinded.
- 2) Prior to the issuance of any permits, the Petitioner shall submit a revised plan to this Zoning Commissioner showing the new location of the proposed dwelling, as set forth herein. In addition, said plan shall show the proposed location of the private well and septic system for the subject lot. A copy of the revised plan shall be forwarded to the Office of Planning and DEPRM prior to the issuance of any permits.
- 3) Prior to the issuance of any permits, the Petitioner shall remove all cars, junk and debris from the subject property, and generally, bring both parcels into compliance with all zoning laws. Petitioner shall allow access to both properties by a Code Enforcement Inspector to insure compliance with this restriction.

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

1406 MT. CARMA

ED ()

DEED 1
PERSONAL REPRESENTATIVE'S DEED
No Title Search Performed
No Consideration
No Documentary Stamps Required
No Transfer Taxes Payable
Property Tax Account No. 07-0706020126

whereas, Mary M. Fitez died intestate on June 4, 1982, owning at the time of her death an undivided one-fourth (1/4) interest in certain real property located in Baltimore County, state of Maryland, known as 1406 Mt. Carmel Road, which is more particularly described below; and

WHEREAS, Maurice E. Fitez, Jr. was appointed Personal Representative of the Estate of Mary M. Fitez by the Register of Wills for Baltimore County, in administrative probate proceeding on the 9th day of July, 2002 (Estate No. 121515); and

whereas, Maurice E. Fitez, Jr. is the son and sole heir of Mary M. Fitez, and, as such, is the person to whom the undivided one-fourth (1/4) interest of the decedent is distributable.

NOW, THEREFORE, THIS DEED WITNESSETH, that MAURICE E. FITEZ, JR., PERSONAL REPRESENTATIVE OF THE ESTATE OF MARY M. FITEZ, does hereby grant and convey unto MAURICE E. FITEZ, JR., his personal representatives and assigns, in fee simple, all of a

Kelly, Spicer & Sidle, PA 9515 Peerson Anad Suite 902 Tipundimi, 1890 21093 410-308-3124

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one-fourth (1/4) undivided interest in that parcel of ground situate in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same in the center of the Mount Carmel Road and in the seventh line of the parcel of land which by Deed dated June 8, 1955 and recorded among the Land Records of Baltimore County in Book GLB No. 2712, Page 63, was conveyed by Lossie Mays, widow to Irwin R. Barr and Florence L. Barr, his wife, which place of beginning being distant South 73 degrees 56 minutes 50 seconds West 45 feet measured along said seventh line from the place of beginning thereof, and running thence with and binding on a part of said seventh line and binding in the center of the Mount Carmel Road as constructed South 73 degrees 56 minutes 50 seconds West 225 feet; thence leaving said road and running for a line of division North 20 degrees 29 minutes 30 seconds West 1025.09 feet to intersect the thirteenth line of the aforesaid parcel of land; thence running with and binding on a part of said thirteenth line and binding on the fourteenth line of said parcel of land the two following courses and distances, viz: North 60 degrees 44 minutes 10 seconds East 898 feet; and South 3 degrees 29 minutes 10 seconds West 453 feet; and thence leaving said outlines and running for lines of division the two following courses and distances viz: South 86 degrees 55 minutes 30 seconds West 272.53 feet; and South 6 degrees East 875 feet to the place of beginning. Containing 11.53 acres more or less.

BEING the same lot of ground, a onefourth (1/4) undivided interest in which, by
deed dated December 16, 1982, and recorded
among the Land Records of Baltimore County,
Maryland in Liber E.H.K. Jr. No. 6475, folio
045, was granted and conveyed from Maurice E.
Fitez, Sr. to Maurice E. Fitez, Jr. and
Shirley M. Fitez, his wife.

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BEING ALSO, the same lot of ground which by deed dated June 20, 1963, and recorded among the Land Records of Baltimore County, Maryland, in Liber R.R.G. No. 4159, folio 533, was granted and conveyed from The Bedford Holding Company unto Maurice E. Fitez, Sr. and Mary M. Fitez, his wife (as to an undivided one-half) and Maurice E. Fitez, Jr. and Shirley M. Fitez, his wife (as to an undivided one-half); Mary M. Fitez having died on June 4, 1982.

The aforegoing property being known as 1406 Mt. Carmel Road.

TOGETHER with all buildings and improvements thereon and all rights, roads, ways, waters, privileges, and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD said tracts or parcels of ground and premises above-described and mentioned and hereby intended to be conveyed, together with all buildings and improvements thereon and all rights, roads, ways, waters, privileges, and appurtenances thereunto belonging or in anywise appertaining, unto and to the proper use and benefit of the Grantee, his personal representatives and assigns, in fee simple.

AS WITNESS the hand and seal of the Grantor.

WITNESS:

MAURICE E. FITEZ, JR. (SEAL)

Personal Representative of the Estate of Mary M. Fitez

STATE OF MARYLAND

: TO WIT:

COUNTY OF BALTIMORE

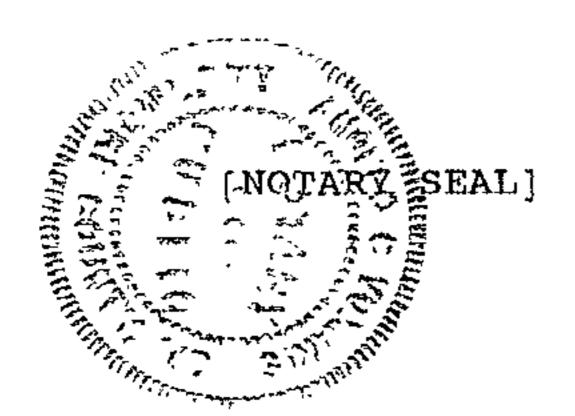
I HEREBY CERTIFY that on this 16 day of July 2002, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared MAURICE E. FITEZ, JR., Personal Representative of the Estate of Mary M. Fitez, known to me (or satisfactorily proven) to be the person whose name

Relly, Spicer & Sidle, P.A. 9515 Brereen Zimd Butte 202 Dimantum, AM Acqu 410-308-3124

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is subscribed to the foregoing Deed, who signed and sealed the same in said capacity in my presence and who acknowledged that he executed the same in said capacity for the purposes therein contained.

AS WITNESS my hand and notarial seal.



Signature of Notary Public

Name of Notary Public Typed or Handwritten

My Commission Expires:____

11-01-05

In accordance with Real Property Article Sec. 3104(f)(1), this is to certify that the aforegoing instrument
was prepared under the supervision of the undersigned, an
attorney duly admitted to practice before the Court of Appeals
of Maryland.

Barbara Ann Spicer, Esquire Kelly, Spicer & Sidle, P.A. 9515 Deereco Road, Suite 902 Timonium, Maryland 21093 410 308-3124

PLEASE RETURN DEED TO BARBARA ANN SPICER AT ABOVE ADDRESS

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Kelly, Spicer & Sidle, P.A. 9519 Decreen Road Suite 902 Timortium, AG 21093 410-308-3121

0016692 20 State of Maryland Land Instrument Intake Sheet BALTIMORE Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.
(Type or Print in Black Ink Only — All Copies Must Be Legible) FD SURE \$ Check Box if Addendum Intake Form is Attached.) Type(s) RECORDING FEE of Instruments X Deed Mortgage Other Other TIGAL REST BAUS Deed of Trust Lease Improved Sale Multiple Accounts Not an Arms-Conveyance Type Unimproved Sale Check Box Arms-Length [1] Arms-Length [2] Arms-Length [3] Length Sale [9] ALA **09**; 02:31 PA Tax Exemptions Recordation (if Applicable) State Transfer Estate RX Distribution Cite or Explain Authority County Transfer Estate Distribution **Consideration Amount** Finance Office Use Only Purchase Price/Consideration -0-Transfer and Recordation Tax Consideration Consideration Any New Mortgage Transfer Tax Consideration and Tax Balance of Existing Mortgage \$ Calculations = Other: Less Exemption Amount **Total Transfer Tax** Other: Recordation Tax Consideration per \$500 Full Cash Value TOTAL DUE **Amount of Fees** 5 Doc. 1 Doc. 2 Agent: Recording Charge 25.00 Fees Surcharge Tax Bir State Recordation Tax State Transfer Tax C.B. Credit: County Transfer Tax Other Other Property Tax ID No. (1) District Grantor Liber/Folio Map Parcel No. Var. LOG 0x7x0x6x0x2x1x2x6x 07 21 EHK JR6475/045 36 **(5)** Description of Stabilitishin Name Lot (3a) Block (3b) Sect/AR(3c) Plat Ref. SqFt/Acreage (4) Property SDAT requires submission of all Location / Address of Property Being Conveyed (2) applicable information. 1406 Mt. Carmel Road (1/4 interest) A maximum of 40 Other Property Identifiers (if applicable) Water Meter Account No. characters will be indexed in accordance Residential X or Non-Residential [Fee Simple X or Ground Rent with the priority cited in Amount: Partial Conveyance? Yes No Description/Amt. of SqFt/Acreage Transferred: Real Property Article Section 3-104(g)(3)(i). If Partial Conveyance, List Improvements Conveyed: Doc. 1 - Grantor(s) Name(s) Doc. 2 - Grantor(s) Name(s) Maurice E. Fitez, Jr. Personal Representative Transferred Estate of Mary M. Fitez From Doc. 1 Owner(s) of Record, if Different from Grantor(s) Doc. 2 Owner(s) of Record, if Different from Grantor(s) Doc. 1 - Grantee(s) Name(s) Doc. 2 - Grantee(s) Name(s) **Transferred** Maurice E. Fitez, Jr. Τo New Owner's (Grantee) Mailing Address 1406 Mt. Carmel Road, Parkton, Maryland 21120-9778 Doc. 1 - Additional Names to be Indexed (Optional) Doc. 2 - Additional Names to be Indexed (Optional) Other Names to Be Indexed 10 Instrument Submitted By or Contact Person Return to Contact Person Muriel G. Davidson Contact/Mail Name: Information Firm: Kelly, Spicer & Sidle, P.A, Suite 902 Hold for Pickup 9515 Deereco Rd. Address: Timonium, MD 21093 Phone: (410) 308-3882 Return Address Provided IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER X Yes No Will the property being conveyed be the grantee's principal residence? Assessment Yes X No Does transfer include personal property? If yes, identify: _ Information Yes X No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required). Assessment Use Only - Do Not Write Below This Line Terminal Verification Agricultural Verification ☐ Whole Part Tran. Process Verification Transfer Number: Date Received: Deed Reference: Assigned Property No.: Year 20 20 Geo Map Sub Block Land Zoning Grid Plat Lot Buildings TASSENSAT REQUIRED Cd. Parcel Use Total, Ex. St. Town Cd. Directorof Budget and Finance REMARKS: BALTIMORE COUNTY, MARYLAND RULGOOV Sec 33-139 Per 404 Succom Distribution: White - Clerk's Office Canary - SDAT T.P. ART 12-108 Pink - Office of Finance Goldenrod - Preparer AOC-CC-300 (6/95)

PLEASE PRINT CLEARLY

CASE NUMBER 08-453-5

ETITIONER'S SICK-IN SHEET


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CASE NAME DURST-13 14" B" Mt. (2500). CASE NUMBER 03-453-SPH DATE 5 28/03

CITIZEN'S SIGN-IN SHEET

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