OR FILING ORDER REGEN IN RE: PETITIONS FOR VARIANCE

(1407 & 1409 Vesper Avenue)

E/S Vesper Avenue, 180' S of the c/l

Kimmel Avenue 12th Election District 6th Council District

Shawn Durkin, et ux Petitioners

- BEFORE THE
- ZONING COMMISSIONER
- OF BALTIMORE COUNTY
- Cases Nos. 03-469-A & 03-470-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Zoning Commissioner for consideration of Petitions for Variance filed by the owner of the subject adjacent properties, Shawn and Theresa Durkin. In Case No. 03-469-A, the Petitioners seek relief from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50.47 feet in lieu of the minimum required 55 feet, and to approve the property as an undersized lot and any other variances deemed necessary by the Zoning Commissioner, for a proposed new dwelling to be known as 1407 Vesper Avenue. In Case No. 03-470-A, the Petitioners seek similar relief from Sections 1B02.3.C.1 and 304.1 of the B.C.Z.R., to approve the adjacent property known as 1409 Vesper Avenue, as an undersized lot, pursuant to Section 304.1 of the B.C.Z.R., with a lot width of 50 feet in lieu of the required 55 feet, and to permit the existing dwelling thereon to have side setbacks of 3 feet and 7 feet in lieu of the minimum required 10 feet each. The subject properties and requested relief are more particularly described on the site plan submitted and respectively marked as Petitioner's Exhibits 1.

Appearing at the requisite public hearing in support of the requests were Shawn Durkin, co-owner of the property, and Buck Jones, Builder. There were no Protestants or other interested persons present.

As noted above, the subject properties are located immediately adjacent to one another and are under the common ownership of Mr. & Mrs. Durkin. Collectively, the properties are

known as Lots 42, 43, 44, 45 and 46 of the Kimberly Farms subdivision, an older subdivision that was recorded many years ago, prior to the establishment of the Baltimore County Zoning Regulations (B.C.Z.R.). As is often the case with older subdivisions, many of the lots are undersized and do not meet current area and lot width requirements. Testimony indicated that the subject property has been in Mrs. Durkin's family for many years; however, the Petitioners only acquired the property two years ago. In any event, the Petitioners currently reside in the existing dwelling, known as 1409 Vesper Avenue, which is located on that portion of the property that is comprised of a portion of Lot 44, and all of Lots 45 and 46. The house was built in 1949, and is 22' x 25' in dimension and features an attached 18' x 15' screened in patio. The adjacent property, known as 1407 Vesper Avenue, is comprised of Lots 42 and 43, and the remainder of Lot 44. That parcel is currently vacant. The Petitioners are desirous of constructing a new dwelling on the property known as 1407 Vesper Avenue. The new dwelling will be 28' x 25' in dimension and two stories tall. Although the new house will meet all front, side and rear setback requirements, the lot width is insufficient. Thus, in order to proceed as proposed the requested relief is necessary.

Based upon the testimony and evidence presented, I am persuaded to grant the relief. As to Case No. 03-469-A, the parcel known as 1407 Vesper Avenue meets the area requirements of 6,000 sq.ft. under the D.R.5.5 zening regulations. Moreover, the proposed dwelling will meet all front, side and rear setback requirements and will be situated on the lot consistent with other houses along Vesper Avenue. The only deficiency in this instance is the lot width, which is less than 5 feet shy of the required 55 feet. As shown on the site plan, most of the houses in this community were built on 50-foot wide lots and thus the proposal is consistent with the neighborhood. Relief will likewise be granted to legitimize the existing dwelling on the adjacent property, known as 1409 Vesper Avenue (Case No. 03-470-A). Again, this subdivision was platted and recorded many years ago, well prior to the adoption of the B.C.Z.R., and the dwelling has existed on the site where located since 1949.

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

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

this day of July 2003, that the Petition for Variance filed in Case No. 03-469-A, seeking relief from Sections 1B02.3.C.1 and 304.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50.47 feet in lieu of the minimum required 55 feet, and to approve the property, known as 1407 Vesper Avenue, as an undersized lot, with any other variances deemed necessary by the Zoning Commissioner, for a proposed new dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

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

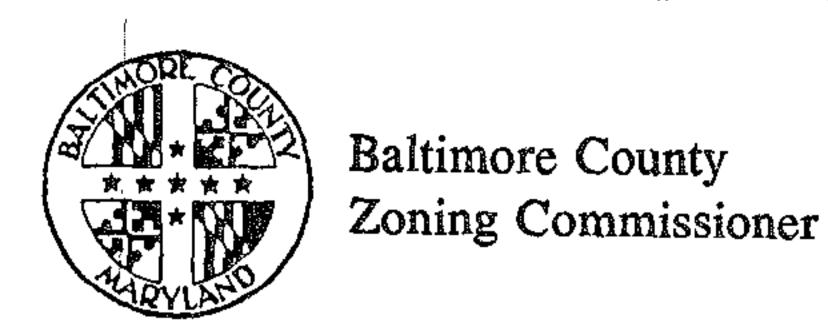
IT IS FURTHER ORDERED that the Petition for Variance filed in Case No. 03-470-A, seeking similar relief from Sections 1B02.3.C.1 and 304.1 of the B.C.Z.R., to approve the adjacent property known as 1409 Vesper Avenue as an undersized lot, pursuant to Section 304.1 of the B.C.Z.R., and a lot width of 50 feet in lieu of the required 55 feet, and to permit the existing dwelling thereon to have side setbacks of 3 feet and 7 feet in lieu of the minimum required 10 feet each, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

LAWRENCE E. SCHMIDT

Zoning Commissioner

for Baltimore County

LES:bjs



July 21, 2003

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

Fax: 410-887-3468

Mr. & Mrs. Shawn Durkin 1407 Vesper Avenue Baltimore, Maryland 21222

RE: PETITIONS FOR VARIANCE
E/S Vesper Avenue, 180' S of the c/l Kimmel Avenue
(1407 & 1409 Vesper Avenue)

12th Election District – 6th Council District
Shawn Durkin, et ux - Petitioners
Case No. 03-469&470-A

Dear Mr. & Mrs. Durkin:

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

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

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc:

Mr. Buck Jones
500 Vogts Lane, Baltimore, Md. 21221
People's Counsel; Case/File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1409 Vesper Avenue which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1002, 30, 1, 304.1 (2028)

To permit a dwelling with a side setback of 3-feet and 7-feet in lieu of the minimum permitted 10-feet. And to permit a lot with a lot width of 50-feet in lieu of the required 55-feet and to approve and undersized lot per Section 304 (BCZR) and to approve any other variances deemed necessary by the Zoning Commissioner.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) The homeowner of 1409 Vesper Avenue wishes to construct a SFD on his lot next door to his existing home. This would become an infill lot, which by becoming an infill lot is refered to as smart growth. This is the only lot on the street not developed. To deny him the right to develop would deny him the right that his neighbors do enjoy.

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

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

Contract Purchaser/Lessee:		<u>Legal Owner(s):</u>			
			Shawn Durkin	-	
Name - Type or Print			Name - Type or Print		
Signature	<u></u>		Signature	<u></u>	
			Theresa Durki	n	
Address Telephone No.			Name - Type or Print Bluesa A Durkin Signature		
City	State	Zip Code	Signature		
			1409 Vesper A	venue	410-850-5140
Attorney For Petitioner:			Address	<u> </u>	Telephone No.
5			Baltimore	Md	21222
Name - Type or Prin		<u> </u>	City	State	Zip Code
4			Representative to	be Contacted	<u>.</u>
Signature			Buck Jones		
Gompan			Name		
			500 Vogts Lan	e	410-574-9337
i da est		Telephone No.	Address		Telephone No.
			Baltimore	Mď	21221
E CITY CITY	State	Zip Code	City	State	Zip Code
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		Reviewed	By DITHOMPSON Dat	e 4 10 03	
PEV 0/15/08					

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 1409 VESPER AVENUE.

BEGINNING AT A POINT ON THE EAST SIDE OF VESPER AVENUE WHICH IS 40 (FORTY) FEET WIDE AT THE DISTANCE OF 230 FEET SOUTH OF THE CENTERLINE OF THE NEAREST IMPROVED INTERSECTING STREET KIMMEL AVENUE WHICH IS 40 (FORTY) FEET WIDE.

*BEING LOT 45, 46 PART 44. SECTION # C IN THE SUBDIVISION OF KIMBERLY FARMS AS RECORDED IN BALTIMORE COUNTY PLAT BOOK # 7, FOLIO 127. CONTAINING 8,350 SQUARE FEET / .19 ACRE. ALSO KNOWN AS 1409 VESPER AVENUE AND LOCATED IN THE 12 ELECTION DISTRICT, 6 COUNCILMANIC DISTRICT.

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	1409 VESPES AVE BY DIT.	
	DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER	CASHIER'S VALIDATION

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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 <u>Towson</u>. Maryland on the property identified herein as follows.

Case: #03-470-A

1409 Vesper Avenue E/side Vesper Avenue 230 feet south of Kimmel Avenue 12th Election District – 7th Councilmanic District

Legal Owner(s): Shawn and Theresa Durkin
Variance: to permit a dwelling with a side setback of 3 feet
and 7 feet in lieu of the minimum permitted 10 feet. To
permit a lot width of 50 feet in lieu of the required 55 feet.
To approve an undersize lot and any other variances
deemed necessary by the Zoning Commissioner.
Hearing: Tuesday, June 10, 2003 at 10:00 a.m. in Room
106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

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

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

5/327 May 22_

CERTIFICATE OF PUBLICATION

5 23 _,2003
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
nce in each ofsuccessive weeks, the first publication appearing
$m_{5/22,2003}$
The Jeffersonian
The Jeffersonian Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

CERTIFICATE OF POSTING

)	
ATTENTION: BECKY HART	Date: <u>May 26, 2003</u>
RE: Case Number <u>03-470-A</u> Petitioner/Developer: Shaww & There Date of Hearing/Closing: JUNE 1	Sa PURKIN/BUCKJONES 0, 2003
This is to certify under the penalties of perwere posted conspicuously on the property locat	rjury that the necessary sign(s) required by law ted at
The sign(s) were posted on	04,2003 (Month, Day, Year)
ZONING NOTICE Case # 1 03-470-A A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER	(Signature of Sign Poster) (Printed Name of Sign Poster)
IN TOWSON, MD. ROOM ING. COUNTY OFFICE BUILDING PLACE III WEST CHESAPEAKE AVENUE TIME 8 DATE: THE SORY JUNE 10. 2003 AT 10.00 A.M. VARIANCE TO PERMIT A DWELLING WITH A SIDE SETBACK OF 3 FEET AND AND 7 FEET IN LIEU OF THE MINIMUM PERMITTED 10 FEET. TO FERMIT A LOT WIDTH OF 50 FEET IN-LIEU OF THE REQUIRED 53 FEET. TO APPROVE AN VARIANCES DEEMED NECESSARY BY 1409 VESPER AVE	(Printed Name of Sign Poster) 523 PENNY LANE (Street Address of Sign Poster) HUNT VALLEY MD 21030
The analysis of the last the last to be the state of the	(City, State, Zip Cope of Sign Poster)

03-470-A 1409 VESPER AVE 410-666-5366

(Telephone Number of Sign Poster)

RE: PETITION FOR VARIANCE

1409 Vesper Avenue; E/side Vesper Avenue,

230' S Kimmel Avenue

12th Election & 7th Councilmanic

Legal Owner(s): Shawn & Theresa Durkin *

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

* 03-470-A

* * * * * * *

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

2mmerman

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

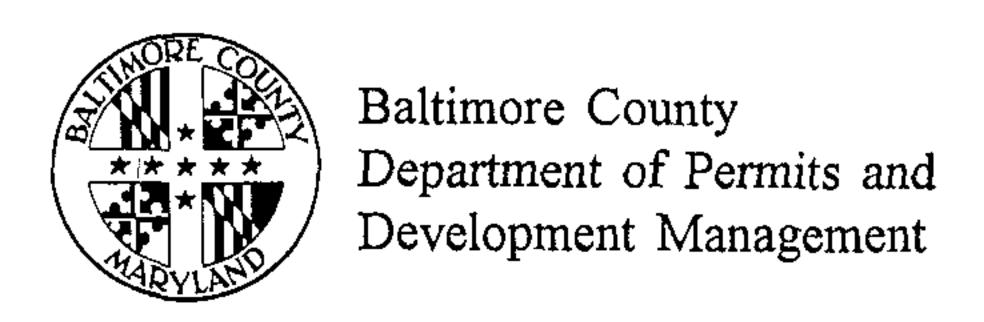
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of April, 2003, a copy of the foregoing Entry of Appearance was mailed to, Buck Jones, 500 Vogts Lane, Baltimore, MD 21221, Representative for Petitioner(s).

DETER 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 22, 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: 03-470-A

1409 Vesper Avenue

E/side Vesper Avenue 230 feet south of centerline Kimmel Avenue

12th Election District – 7th Councilmanic District

Legal Owners: Shawn and Theresa Durkin

<u>Variance</u> to permit a dwelling with a side setback of 3 feet and 7 feet in lieu of the minimum permitted 10 feet. To permit a lot width of 50 feet in lieu of the required 55 feet. To approve an undersize lot and any other variances deemed necessary by the Zoning Commissioner.

Hearings:

Tuesday, June 10, 2003 at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Arnold Jablon Director

AJ:rlh

C: Shawn and Theresa Durkin, 1409 Vesper Avenue, Baltimore 21222 Buck Jones, 500 Vogts Lane, Baltimore 21221

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 24, 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 22, 2003 Issue - Jeffersonian

Please forward billing to:

Shawn Durkin 1409 Vesper Avenue Baltimore, MD 21222

410-574-9337

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: 03-470-A

1409 Vesper Avenue

E/side Vesper Avenue 230 feet south of centerline Kimmel Avenue

12th Election District – 7th Councilmanic District

Legal Owners: Shawn and Theresa Durkin

<u>Variance</u> to permit a dwelling with a side setback of 3 feet and 7 feet in lieu of the minimum permitted 10 feet. To permit a lot width of 50 feet in lieu of the required 55 feet. To approve an undersize lot and any other variances deemed necessary by the Zoning Commissioner.

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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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

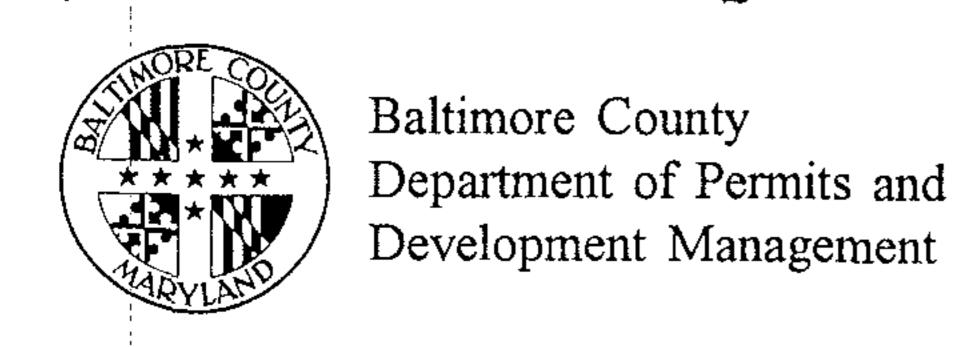
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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.

For Newspaper Advertising:								
Item Number or Case	e Number:	03-1	170-A					
Petitioner:	SHAWN	DURKIN						
Address or Location:	1409	VES PER	AVE.	ZIZZZ				
PLEASE FORWARD ADVERTISING BILL TO: Name:SHBWN DURHIN								
Address:	1409	VES PER	AUE.	·				
<u> </u>	BALT.	MP. P	1222	<u> </u>				
-								
Telephone Number:	410-	574-933	7	·				



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

June 6, 2003

Shawn Durkin Theresa Durkin 1409 Vesper Avenue Baltimore, MD 21222

Dear Mr. and Mrs. Durkin:

RE: Case Number: 03-470-A, 1409 Vesper Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 10, 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 Buck Jones, 500 Vogts Lane, Baltimore 21221



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 24, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: April 21, 2003

Item No.:

465, 467-477

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

TO:

Arnold Jablon, Director

DATE: April 30, 2003

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For April 28, 2003

Item Nos. 465, 466, 467, 468, 469, 470, 473, 474, 475, 476, and 477

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DATE: May 6, 2003

MAY - 8 2003

ZONING COMMISSIONER

Zoning Advisory Petition(s): Case(s) 03-470 **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

4.18.03 Date:

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

RE: Baltimore County

Item No. 470

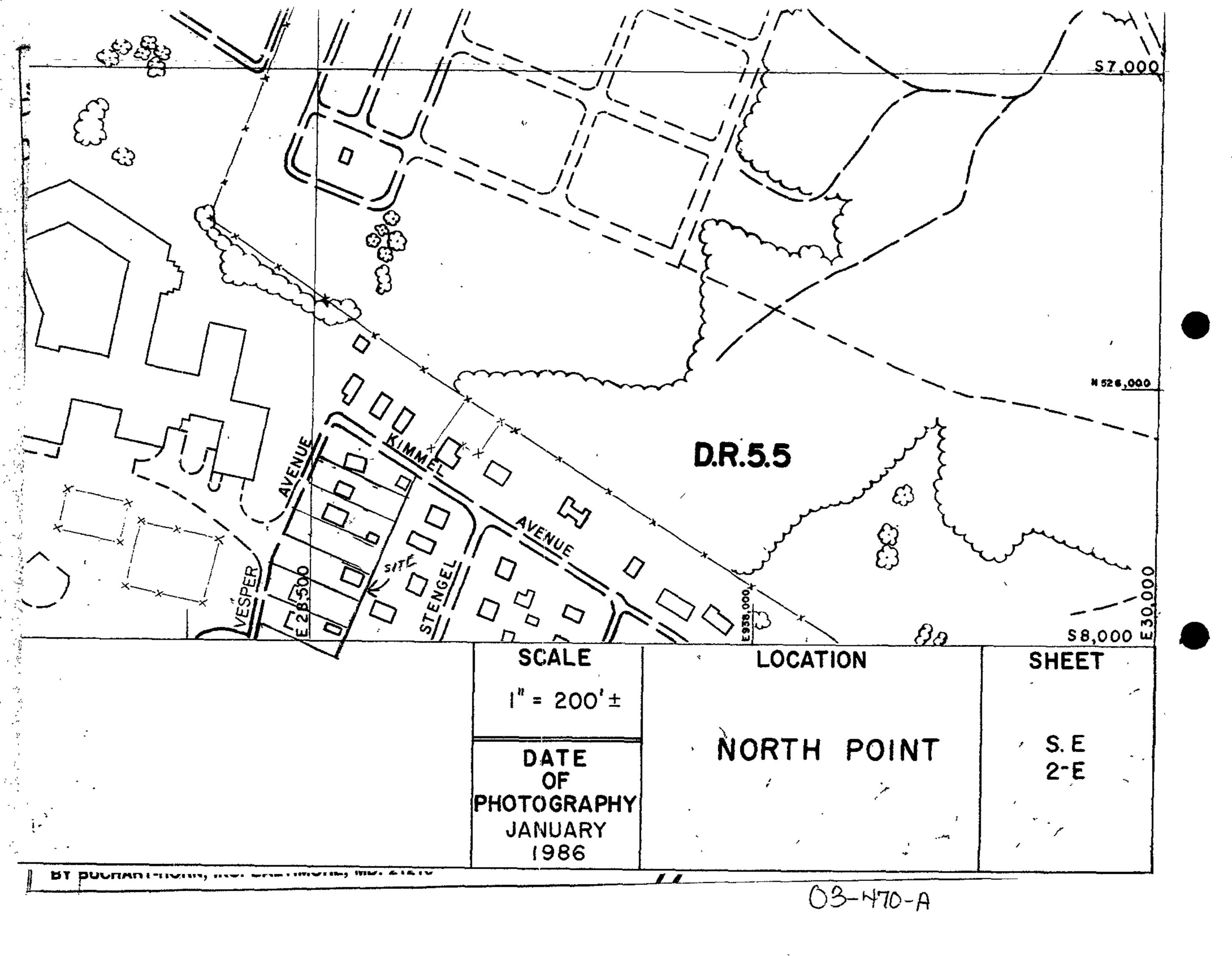
Dear. Ms. Hart:

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



Plat to accompany Petition for Zoning X Variance PROPERTY ADDRESS: 1409 VESPER AVE HOLY SUBJUSION NOME: KIMBERLY FARMS ROSPRY OWNER: SHAWNN & THERESA DURHIN Socred HEART of Jesus ADC: 44-6-3 LOCATION INFORMATION **#1411** Election District : 12 COUNCIMANIC DISTRICT: 87 1'=200 scale more: 5 E 2- E Zoning! PA5.5 Lot siza: 019 8350 Screage square leet SEWER: X D JOSPER AVED 40'RW/28'PAVED J.O. 980-30-371 180 10 6 WATER: X | Chesopeane Bay Chitical Area: 1 Prior Zoning Heurings: Zoning Office USE ONLY! ITEM # CASEM Korth reviewed by! prepared by: BUCK JONES Scale of prowing "= 50 ID-THOMPSON 470 03-470-A DRAWN BY

DRAWING NUMBER