IN RE: PETITION FOR VARIANCE

W/S Cold Spring Road, 700' S of the c/l

Chesapeake Avenue (809 Cold Spring Road) 15th Election District 6th Council District

Janice Ann Oberst, Owner; Robert B. Long, Contract Purchaser

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 03-500-A

u u u u u u

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, Janice Ann Oberst, and the Contract Purchaser, Robert B. Long. The Petitioners request relief from Sections 303.1 and 1B.02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front setback of 11 feet in lieu of the required average 55 feet, a rear setback of 2 feet in lieu of the required 30 feet, and approval of the property as an undersized lot. 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 Janice Oberst, property owner; Robert Long, Contract Purchaser/Builder; and Ann J. Schuman, an adjacent property owner. Richard Pitz, another adjacent property owner, appeared in opposition. There were no other interested parties present.

Testimony and evidence offered revealed that the subject property is an irregular shaped waterfront parcel located adjacent to Galloway Creek on the east side of Cold Spring Road, near its terminus, in the subdivision of Long Beach Estates. The property contains a gross area of .15 acres in area (6,521 sq.ft.) zoned D.R.3.5 and is presently unimproved; however, is served by public water and sewer. Testimony indicated that Ms. Oberst acquired the property in January 2003 from her parents who had apparently owned the property since 1954. The Petitioner recently

contracted to sell the property to Mr. Long who proposes to develop the property with a single-family dwelling, 28' x 28' in dimension, with an area for a parking pad. Owing to the unusual shape and small area of the lot, minimal setbacks are proposed. The front corner of the house is shown within 11 feet of the existing wooden bulkhead. In that the house will be oriented to face the water, this area is considered the front yard. Thus, a front setback of 11 feet in lieu of the required 55 feet is proposed. The rear corner of the house is shown within 2 feet of the rear property line. Moreover, due to its waterfront location, development on the property is subject to Chesapeake Bay Critical Areas regulations and certain environmental regulations. Apparently, however, a waiver from those requirements was applied for and granted by DEPRM.

As noted above, Mr. Pitz appeared in opposition to the request. Mr. Pitz opined that the property is simply too small to support a dwelling. His objections are summarized in a written memorandum that was submitted at the hearing as Opposition Exhibit 1. Therein, he expresses a number of concerns regarding the potential development of this site.

An adverse Zoning Advisory Committee (ZAC) comment was also received from Baltimore County's Office of Planning. That comment opines that the property is too small to accommodate the proposed residence and that the 2-foot rear yard setback is not in character with the surrounding neighborhood. It also notes that the minimum required 25-foot setback from the water's edge for the house in a buffer management area can only be waived by an administrative variance from DEPRM's environmental regulations. However, as noted above, the Petitioners apparently applied for and were granted a variance from this requirement.

In any event, after due consideration of the testimony and evidence presented, I am persuaded to deny the request. I concur with Mr. Pitz' that the property is simply too small for the proposed development. I am appreciative that the property is a lot of record that was originally recorded as part of the subdivision of Long Beach Estates well prior to the adoption of the current zoning regulations. Nonetheless, it is simply too small to support the proposed dwelling and development of the parcel would be inconsistent with the neighborhood and cause detrimental

impacts to adjacent properties. In sum, I am not persuaded that the Petitioners have met the requirements of Section 307 and Cromwell v. Ward, 307 Md. 1 (1995), for relief to be granted.

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 denied.

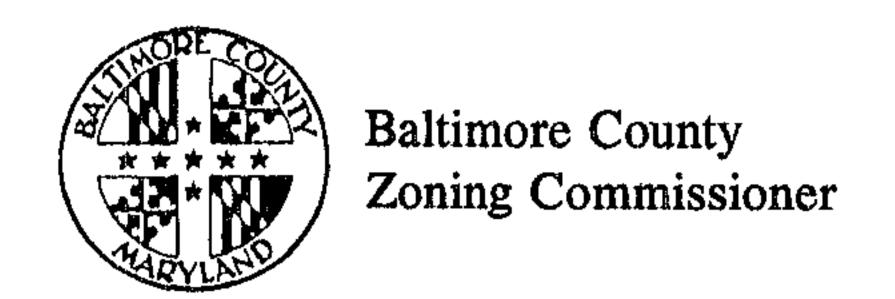
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of July 2003 that the Petition for Variance seeking relief from Sections 303.1 and 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front setback of 11 feet in lieu of the required average 55 feet, a rear setback of 2 feet in lieu of the required 30 feet, and approval of the property as an undersized lot, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

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



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

July 29, 2003

Fax: 410-887-3468

Ms. Janice A. Oberst 2587 Vance Drive Mt. Airy, Maryland 21771

PETITION FOR VARIANCE RE:

W/S Cold Spring Road, 700' S of the c/l Chesapeake Avenue

(809 Cold Spring Road)
15th Election District – 6th Council District

Janice Ann Oberst, Owner; Robert B. Long, Contract Purchaser - Petitioners

Case No. 03-500-A

Dear Mr. Oberst:

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

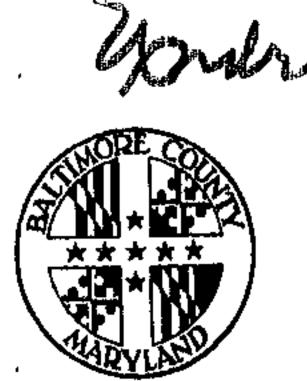
Mr. Robert Long, 3827 Annadale Road, Baltimore, Md. 21222 cc:

Mr. Richard Pitz, 808 Cold Spring Road, Baltimore, Md. 21220 Mr. Mike Vivirito, 3619 Bay Drive, Baltimore, Md. 21220

Chesapeake Bay Critical Areas Commission,

1804 West Street, Suite 100, Annapolis, Md. 21401

DEPRM; People's Counsel; Case File



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 809 Cold Spring Hoad

which is presently zoned DR 3-

nereor, nereby petition for a variance from Section(s) - 2/->	ind Development Management. The undersigned, legal owner(s) ibed in the description and plat attached hereto and made a part
FRONT SETBACKOF II FT. W. Li	EN AND DICA. SC. I TO FEDMITA.
55 FT. AND A ROAR SETTERACE OF	2 FT. LN CHEW OF THE REQUIRED 30FT.
	AND UNDER SUZED LOT
	PROD CONDERD & VZGSD COT
or practical difficulty) A house will not be	v of Baltimore County, for the following reasons: (indicate hardship able to be built on the lot and we
have been paying taxes that ha	s the value of a building lot. I
for this 1 ot. All attached	ent on obtaining a Building Permit
Property is to be posted and advertised as prescribed by the zor I, or we, agree to pay expenses of above Variance, advertising, por regulations and restrictions of Baltimore County adopted pursuant to the	osting, etc. and further agree to and are to be bounded by the zoning
	solemnly declare and affirm, under the penalties of are the legal owner(s) of the property which
is the subject of this Petit	
Contract Purchaser/Lessee:	<u>Legal Owner(s):</u>
Robert B. Long	Janice Ann Oberst
Name / Type or Print	Name - Type or Print Vol vice ConvOb
Signature	Signature
3827 Annadale Rd. (410) 336-5100 Address Telephone No.	Name - Type or Print
Baltimore MO 21222	
City State Zip Code	Signature
Attorney For Petitioner:	2587 Vance Drive Address Telephone No.
	Mount Aimy MD 21771-8813
Name - Type or Print	City State Zip Code
Signature	Representative to be Contacted:
Company	Name Name 33675/00
	3827 Annadale Rd. (410) 388:1974
Address Telephone No.	Address Telephone No.
State Zip Code	Gity MD 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
	OFFICE USE ONLY
	ESTIMATED LENGTH OF HEARING
Case No. <u>5500</u> (-) Reviewed By .	UNAVAILABLE FOR HEARING
Reviewed By	Date 0 4/25/03
Car K to Crisco	

Zoning Description

ZONING DESCRIP	TION FOR <u>809 Cold Spring Road</u> beg	ginning at a point on the
West	side of <u>Cold Spring Road</u>	, which is <u>a 40'</u>
<u>right of way</u> wide <u>70</u>	<u>0+- South</u> of the centerline of the ne	earest improved intersecting
street <u>Chesapeake A</u>	venue which is 40' wide. *Being Lot # 3	304, Block, Section #
in	the subdivision of Long Beach Estates a	as recorded in Baltimore
County Plat Book #	4 , Folio # <u>131, containing 6521 sq. ft.</u>	. Also known as <u>809 Cold</u>
Spring Road and loc	cated in the <u>15</u> Election District, <u>6th</u> Cour	ncilmanic District.

FOR: DISTRIBUTION
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WHITE - CASHIER FOR: DISTRIBUTION FROM: DATE. RECEIVED MISCELLANEOUS OFFICE OF BUDGET & FINANCE **EALTIMORE** COUNTY, PINK - AGENCY RECEIPT MARYLAND DS Transc ACCOUNT AMOUNT YELLOW - CUSTOMER 1 2300 CASHIER'S VALIDATION far. far. far. andia .

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MOTICE OF ZONING HEARING

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

Case: #03-500-A
809 Cold Spring Road, W/side of Cold Spring Road 700+/- feet south of centerline of Chesapeake
15th Election District-6th Councilmanic District
Legal Owner(s): Janice Ann Oberst
Contract Purchaser: Robert B. Long
Variance: to permit a front setback of 11 feet in lieu of the required average of 55 feet and rear setback of 2 feet in lieu of the required 30 feet and to approve an undersized

Hearing: Wednesday, June 25, 2003 at 11:00 a.m. it Room 407, County Coorts Building, 401 Bosiey Avenue. lot. Hearing

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.

Contact the Zoning Review Office at (410) 887-3391.

6113 .2003

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The Jeffersonian

Arbutus Times

Catonsville Times

Towson Times

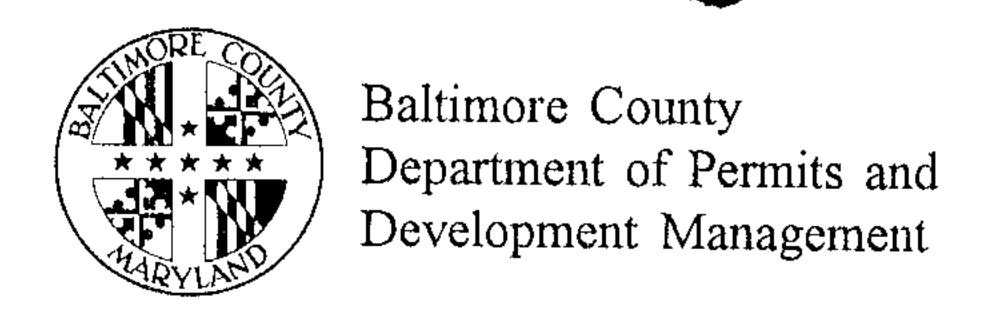
NE Booster/Reporter Owings Mills Times

North County News

LEGAL ADVERTISING

CERTIFICATE OF POSTING

	R	E: Case No.: 03-500	2-A
		Petitioner/Developer: R	OBSR+
		B. LONG.	
		Date of Hearing/Closing:	9/25/03
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:	ı		
This letter is to certify under the penalties of posted conspicuously on the property located a		the necessary sign(s) required	by law were
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	~~~~	**************************************	<del></del>
The sign(s) were posted on	6/7	103	<u></u>
· <b>*</b>	(Month, 1	Day, Year)	
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	-	(Signature of Sign Poster)	(Date) 3
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A PUBLIC HEARING WILL BE HELD BY		(Print Name)	<u>,                                      </u>
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	-	(Address)	<del></del>
		Dundalk, Maryland 212:	22
	-	(City, State, Zip Code	<del>)</del>
		(410) 282-7940	
	-	(Telephone Number)	<del></del>



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

Fax: 410-887-5708

May 2, 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: 03-500-A

809 Cold Spring Road

W/side of Cold Spring Road 700 +/- feet south of centerline of Chesapeake

15th Election District – 6th Councilmanic District

Legal Owner: Janice Ann Oberst Contract Purchaser: Robert B. Long

<u>Variance</u> to permit a front setback of 11 feet in lieu of the required average of 55 feet and rear setback of 2 feet in lieu of the required 30 feet and to approve an undersized lot.

Hearings:

Wednesday, June 25, 2003 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon

Director

AJ:rlh

C: Janice Ann Oberst, 2587 Vance Drive, Mount Airy 21771 Robert B. Long, 3827 Annadale Road, Baltimore 21222

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 10, 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 10, 2003 Issue - Jeffersonian

Please forward billing to:

Robert Long 3827 Annadale Road

Baltimore, MD 21222

410-686-5800

### **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: 03-500-A

809 Cold Spring Road

W/side of Cold Spring Road 700 +/- feet south of centerline of Chesapeake

15th Election District – 6th Councilmanic District

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Building, 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.

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

### **ZONING REVIEW**

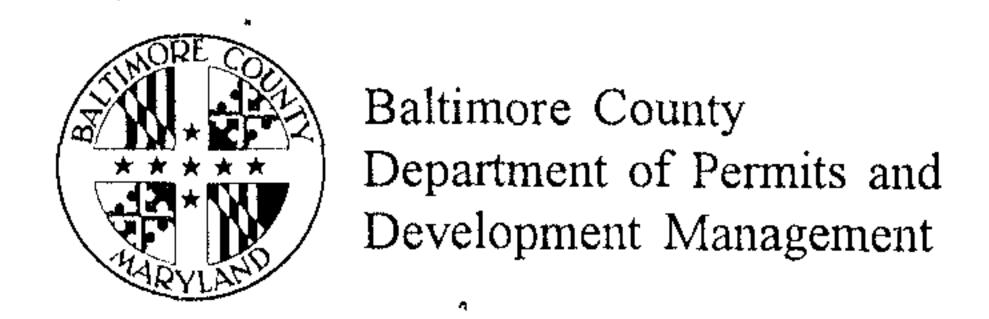
# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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 Number <u>03-500-4.</u>
Petitioner: KONG (ONG)
Address or Location: 809, Coup Spring Torp.
PLEASE FORWARD ADVERTISING BILL TO.
Name CONG.
Address: 5827 ANDADACE RD
BACT. MD. 2(222
Telephone Number: 4(0-686-5800



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

Fax: 410-887-5708

June 20, 2003

Janice Ann Oberst 2587 Vance Drive Mount Airy, MD 21771-8813

Dear Ms. Oberst:

RE: Case Number: 03-500-A, 809 Cold Spring Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 23, 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 D.

WCR:klm

Enclosures

c: People's Counsel Robert B. Long, 3827 Annadale Road, Baltimore 21222



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 May 6, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: May 5, 2003

Item No.:

497-504, 506-511

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 Neil J. Pedersen, Acting Administrator

### MARYLAND DEPARTMENT OF TRANSPORTATION

6.3.03 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. 03-500 - A
REVISED

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

1. J. Andle



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

JRA

### MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 5.5.03

Baltimore County

Item No. 500

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 DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:	Arnold Jablon		RECEIVED
FROM:	R. Bruce Seeley	RBS /TOT	JUN 2 5 2003
DATE:	June 18, 2003		ZONING COMMISSIONE
SUBJECT:	<del>-</del>	500 1809 Cold Spring Road	
Zoni	ng Advisory Comr	mittee Meeting of <u>May</u>	05, 2003
	•	vironmental Protection e-referenced zoning ite	and Resource Management has no m.
an ex	ctension for the rev		and Resource Management requests enced zoning item to determine the ply to the site.
	•	vironmental Protection ts on the above-referen	and Resource Management offers ced zoning item:
<del></del>	Protection of W	_ ~ ~	mply with the Regulations for the Wetlands and Floodplains (Sections ore County Code).
	- <del></del>	•	omply with the Forest -401 through 14-422 of the
<u>X</u>	Critical Area R		mply with the Chesapeake Bay 6-436 through 26-461, and other de).
X	Additional Con	nments: See Attachm	ent

Reviewer: Keith Kelley Date: June 17, 2003

# CBCA Zoning Comments (zoning item \$500)

The property is located w	ithin tha till a se
Conservation Lies IRC 11 1	ithin the Limited Development Area (LDA), o <del>r Resource.</del> I <del>ntensely Developed Area (IDA), of</del> the Chesapeake Bay Critica
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This proposal must use he	
06 06 06	ist management practices, which reduce nothing to
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pack from the 25° or 100' buff	er commercial building
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Sint

### 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

**SUBJECT:** 809 Cold Spring Road

**INFORMATION:** 

Item Number: 03-500

Petitioner: Robert B. Long

Zoning: DR 3.5

Requested Action: Variance

### **SUMMARY OF RECOMMENDATIONS:**

The Office of Planning does not support the petitioner's request to permit a front yard setback of 11 feet in lieu of the required average front yard setback of 55 feet. This office also opposes the petitioner's request to permit a rear yard setback of 2 feet in lieu of the minimum required 30 feet.

It is the opinion of this office that the subject property is too small to accommodate the proposed residence and that a 2-foot rear yard is not in keeping with the character of neighborhood. In addition, the minimum required 25-foot setback from the water's edge for the house in a buffer management area can only be waved by an administrative variance.

Prepared by:

MECEIVED

**DATE:** May 23, 2003

MAY 2 6 2003

Section Chief:

AFK/LL:MAC:

ZONING COMMISSIONER

0;

### INTER-OFFICE CORRESPONDENCE

### UNDERSIZED LOT

TO:

Lynn Lanham

DATE:

May 22, 2003

Development Review:

FROM:

**David Pinning** 

Sixth District Planner

SUBJECT:

809 Cold Spring Road

INFORMATION:

Item Number:

03-500

Petitioner:

Robert B. Long

**Property Size:** 

.15 acres

Zoning:

DR 3.5

Requested Action: Undersized lot

### SUMMARY OF RECOMMENDATIONS:

The Office of Planning disapproves of the request for the following reasons:

- 1) The site is appears too small to accommodate the proposed residence.
  - The minimum setback from the water's edge for the house in a buffer management area is 25', which can only be waved by an administrative variance.
    - The rear setback of 2' is not in keeping with the character of this neighborhood.
- The architectural elevations provided depict the house to be built on slab on grade with a two car garage attached on the side. The petitioner has said that the intention is to build the house on piers with parking underneath. The accommodation of vehicular parking, turning movements and access(both vehicular and pedestrian) is an important component of this site design. These elements are not depicted on the site plan.
- 3) The plan should show the ground and the proposed elevation of the first floor.
- 4) The rear architectural elevation of this house needs to be articulated to reflect the feel of the front since it is facing the public right-of-way.
- 5) It is not clear whether the lot area shown, 6521 includes land that extends into the water.

### RECEIVED BALTIMORE COUNTY, MARYLAND

### **Inter-Office Correspondence**

JUL - 2 2003



ZONING COMMISSIONER

Date: July 2, 2003

To:

Lawrence E. Schmidt

Zoning Commissioner

From:

Patricia M. Farr PMF

Department of Environmental Protection and

Resource Management

Subject:

809 Cold Spring Road

Zoning Item # 500

The Department of Environmental Protection and Resource Management is reviewing a Chesapeake Bay Critical Area administrative variance for construction of a dwelling on the above referenced property. At this time, I request that you hold the record open on the zoning variance case for this dwelling, until such time as we have completed our review. I anticipate that we will render a decision on the Critical Area variance sometime next week.

Thank you for your cooperation in this matter. If you have any questions, I can be reached at extension 3980.

pmf/809 Cold Spring Rd zoning petition.dot

### BALTIMORE COUNTY, MARYLAND

### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

**DATE:** May 13, 2003

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For May 12, 2003 Item No. 500

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

The flood protection elevation for this site is 11.2 feet.

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

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

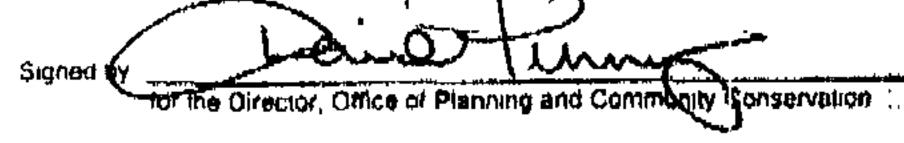
The building engineer shall require a permit for this project.

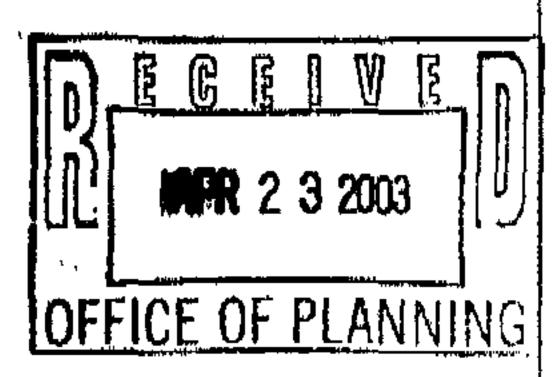
Building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

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

RWB:CEN:jrb

cc: File





5 22 03

Revised 2/25/99

RE: PETITION FOR VARIANCE 809 Cold Spring Road; Wside Cold Spring Road, 700 + ft S c/line of Chesapeake 15th Election & 6th Councilmanic Districts Legal Owner(s): Janice Ann Oberst Contract Purchaser(s): Robert B. Long

**BEFORE THE** 

ZONING COMMISSIONER

FOR

**BALTIMORE COUNTY** 

03-500-A

Petitioner(s)

### 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 6 day of May, 2003, a copy of the foregoing Entry of Appearance was mailed to, Robert B. Long, 3827 Annadale Road, Baltimore, MD 21222, Representative for Petitioner(s).

RECEIVED

MAY 1 5 2003

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

as Limnorman

Per. bh

Robert L. Ehrlich, Jr.



Audrog E. Scott Secretary

Florence E Burlan
Deputy Secretary

Michael S. Steele Lt. Governor

May 12, 2003

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

Re: Zoning Advisory Committee Agenda, 05/12/03 re: case numbers 03-496-X, 03-497-A, 03-498-A, 03-499-A 03-500-A, 03-501-A, 03-502-SPH, 03-503-A, 03-504-A, 03-505-A, 03-506-A, 03-507-SPHX, 03-508-SPH, 03-509-A, 03-510-A, 03-511-SPHX

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 05/05/03. The information has been submitted to Mr. Mike Nortrup.

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

Sincerely,

James R. Gatto

Manager

Metropolitan Planning

Planning Services

cc: Mike Nortrup

Department of Environmental Protection and Resource Management

401 Bosley Avenue, Suite 416 Towson, Maryland 21204

`#

nes T Smith, Jr., County Executive avid A.C. Carroll, Director

Mr. Robert Long 3827 Annadale Road Baltimore, Maryland 21222 Baltimore County

One of the Best-Managed Counties in America

RECEIVED

Re: 809 Cold Spring Lane

Critical Area Administrative Variance

Dear Mr Long

The Department of Environmental Protection and Resource Management (DEPRM) has received your variance request to construct a dwelling in the 100-foot buffer to Galloway Creek closer than Buffer Management Area Regulations allow. Under these regulations, the proposed dwelling cannot extend any closer to the water than the waterward extent of an existing dwelling located farthest from the water on one of the two adjacent properties. In your case, the regulations would mean that the proposed dwelling must be built at least 32 feet from mean high tide. The Director of DEPRM may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. All man-made structures such as the driveway, sidewalk, etc. have not been shown on the plan submitted with this project. Additionally, you have not explored options to scale down this project. Therefore, you have failed to demonstrate that the hardship in

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. If this variance were approved, you would be permitted a dwelling within 11 feet of Galloway Creek. Applicants requesting similar variances have been denied permission to construct buildings very close to the water or have been required to scale down their projects. Therefore, preventing you from constructing the dwelling in the 100-foot buffer as proposed would not deprive you of a right which would be enjoyed by other property owners in similar areas.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Because other property owners acting under similar circumstances have

Mr. Robert Long July 15, 2003 Page 2

been denied permission or have been required to scale down their projects, allowing you to construct a dwelling only 11 feet from Galloway Creek would confer a special privilege that has been denied to other similarly-situated applicants. The third criterion, therefore, has not been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of either actions by the applicant, or by any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. In your case, the subject property has been a recorded lot of record since before December 1, 1985 which was the effective date of Critical Area law. In addition, construction of the dwelling has not commenced. Thus, you have demonstrated that this variance request is not based upon conditions or circumstances which are the result of your actions. The forth criterion, therefore, has been met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Regulations. The Chesapeake Bay and many of its tributaries have been designated as anadromous fish propagation waters by the Maryland Department of Natural Resources. The Chesapeake Bay Critical Area regulations require protection of such habitat and minimization of adverse impacts to water quality from development within these waters. Anadromous fish depend upon shallow waters with high quality in order to propagate successfully. In your case, you have proposed constructing the dwelling would only be 11 feet from Galloway Creek. However, you have failed to propose any mitigation to offset negative impacts to water quality and habitat associated with construction of the dwelling. Furthermore, it is well known that any rainwater runoff from impervious surfaces located as close to the water as you have proposed, would have little or no chance to infiltrate the ground, thus adversely affecting water quality. Accordingly, you have failed to demonstrate not only that the proposed variance within a functioning buffer will not adversely affect water quality or adversely impact fish, wildlife, and/or plant habitat within the Critical Area, but also that it is inconsistent with the general spirit and intent of the Critical Area Regulations. Therefore, you have failed to meet the

Consequently, based upon our review of your entire submittal, it is this Department's findings that only one of the above criteria have been met. Thus, the Department hereby denies the requested variance pursuant to Section 26-445(c) of the Baltimore County Code.

If you do not concur with the above decision, you may file an appeal with the Baltimore County Board of Appeals within thirty (30) calendar days of the date of this letter. The appeal must be in writing and state concisely why you believe the decision was improper. Please address the appeal to the Baltimore County Board of Appeals and

Mr. Robert Long July 15, 2002 Page 3

send it to the address listed below, accompanied by a \$75.00 check payable to Baltimore County Government to cover the appeal fee.

Environmental Impact Review
Baltimore County Department of
Environmental Protection and Resource Management
401 Bosley Avenue
Towson, Maryland 21204
Attention: Ms. Patricia M. Farr

If you have questions regarding this project, please contact Mr. Keith Kelley at (410) 8<u>87-</u>3980.

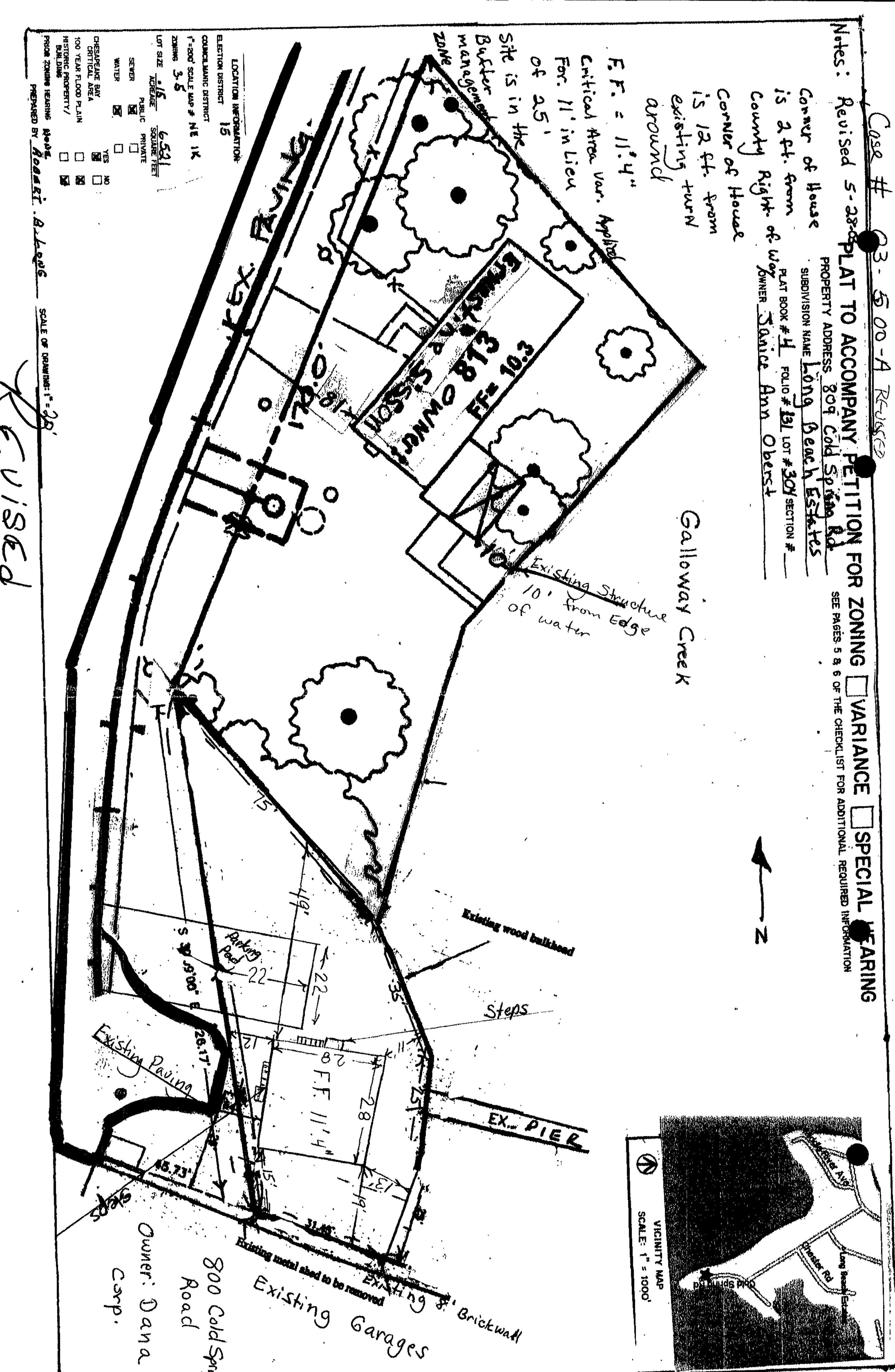
David A. C. Carroll

Director

DACC/kdk

C. Ms. Wanda Cole, CBCA Commission Ms. Janice Oberst

J \keith\oberstcaav



CASE NAME
CASE NUMBER 03-500-1

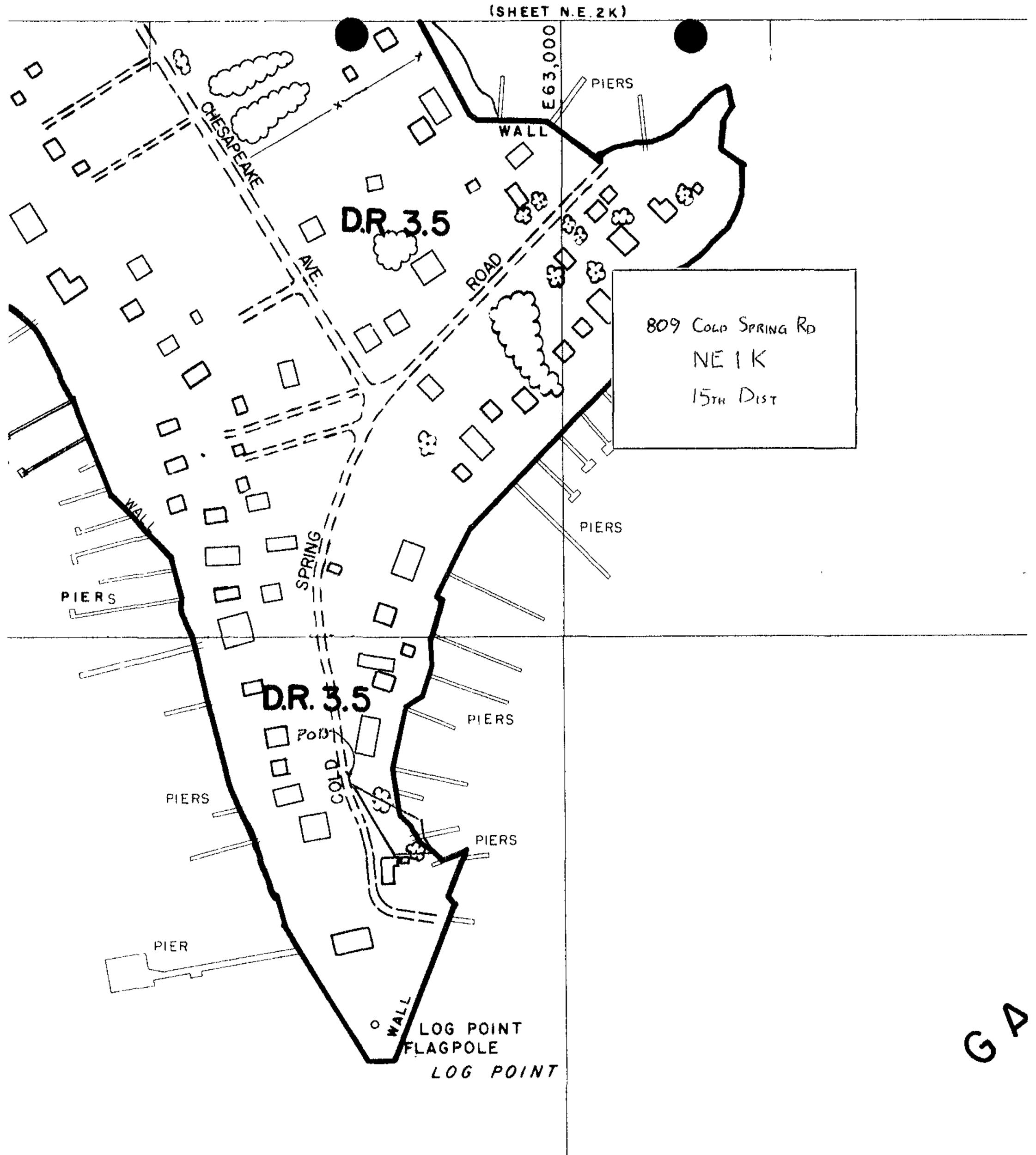
# CITIZEN'S SIGN-IN SHEET

								RICHARD PITZ	NAME
								SOS COLD SPRINGE	ADDRESS
								O BASTO, MO, 21220	CITY, STATE, ZIP
								RPM	E-MAIL

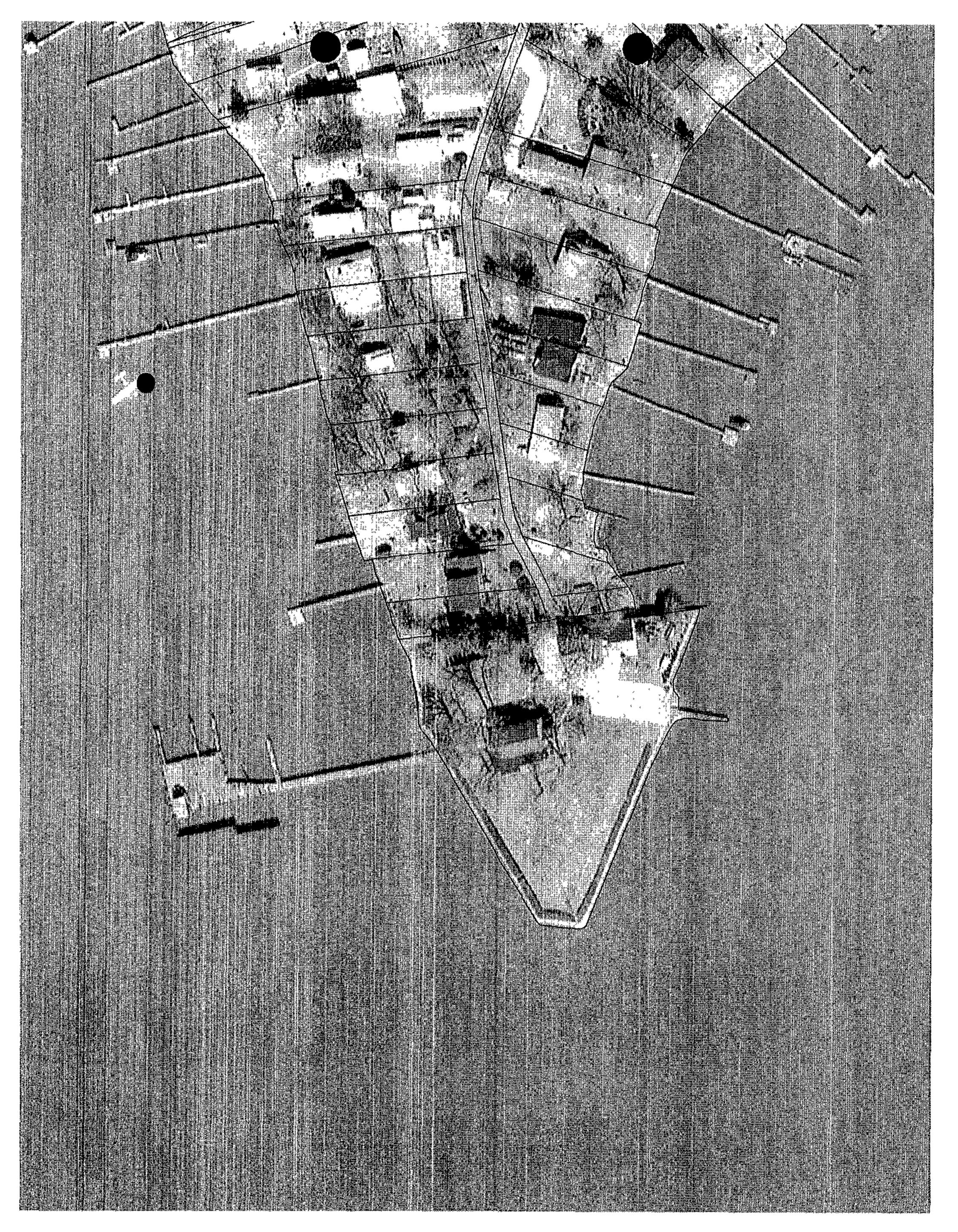
DATE	CASE NUMBER	CASE NAME

# TELLICNER'S SIGN-IN SHEET

								Down J. SCHUMAN	NAME
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								22	CITY, STATE, ZIP
									E- MAIL



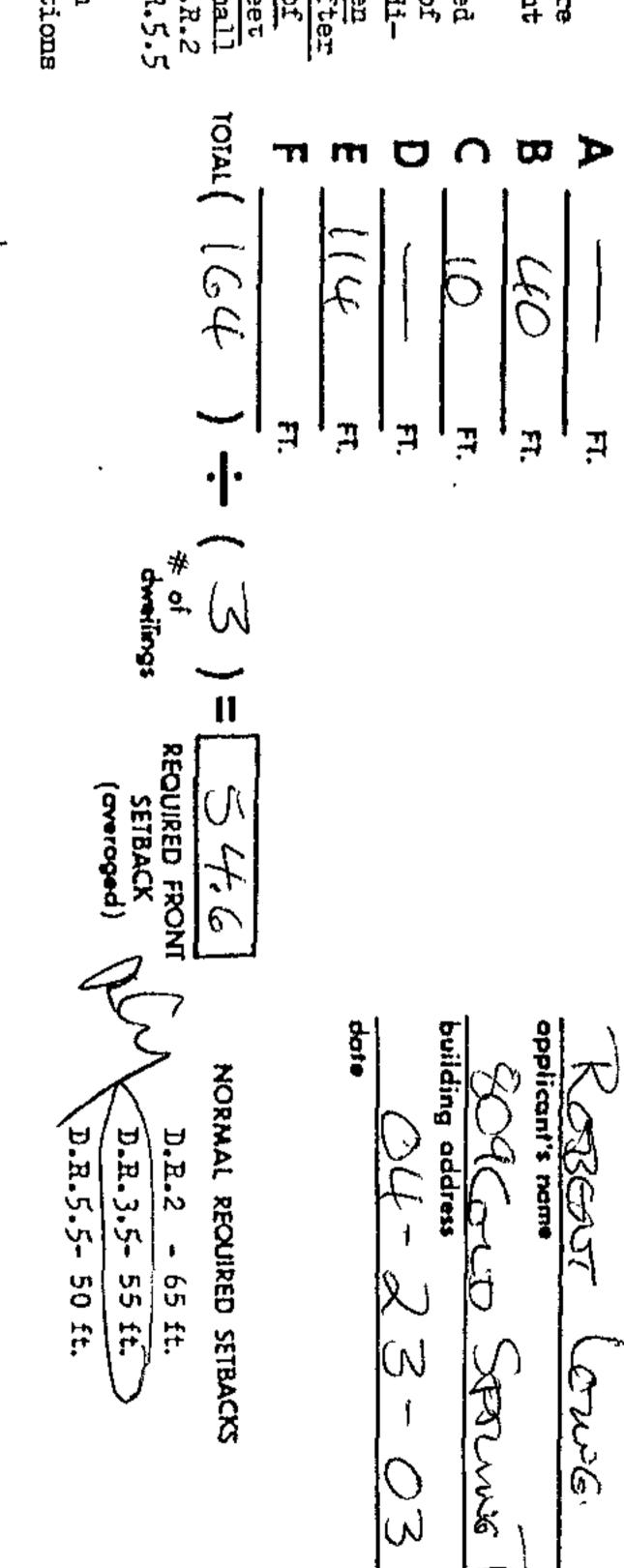
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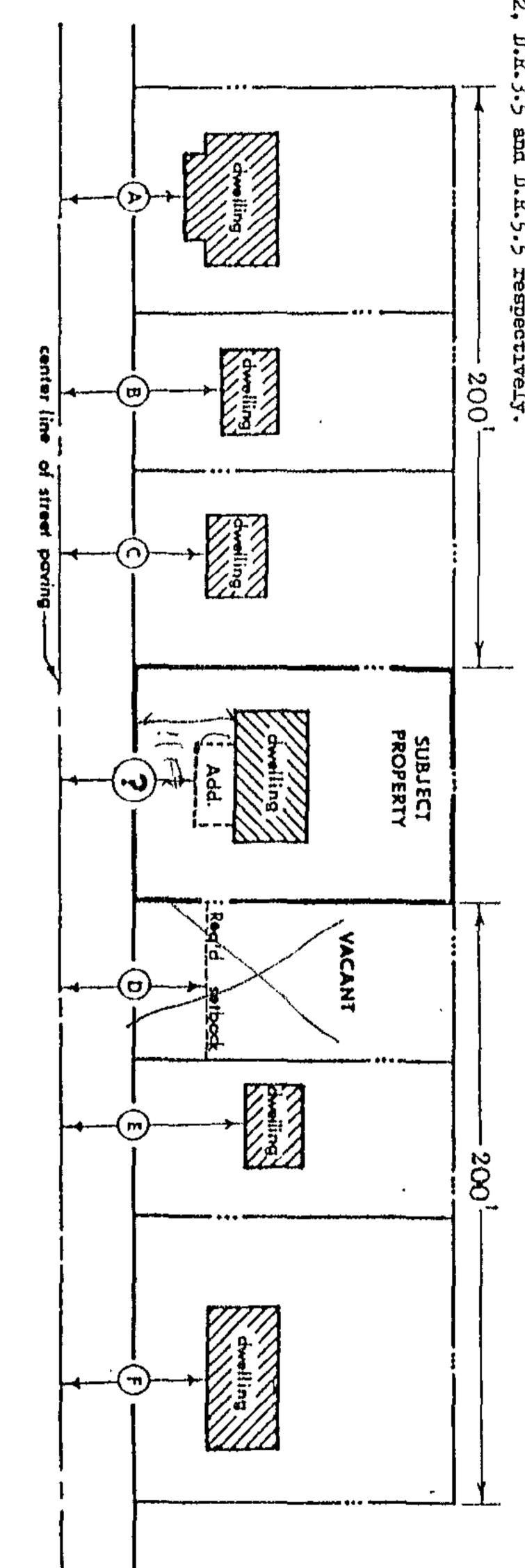


### SITE PLAN Ö Reference 면면 USED METER Section 胃 岁 DETERMINING FRONT YARD IMMEDIATE 303. I ADJOINING Baltimore STOL ARE TON Zoning DEPTHS IMPROVED Regulations 艺 RESIL FNCE ZONES

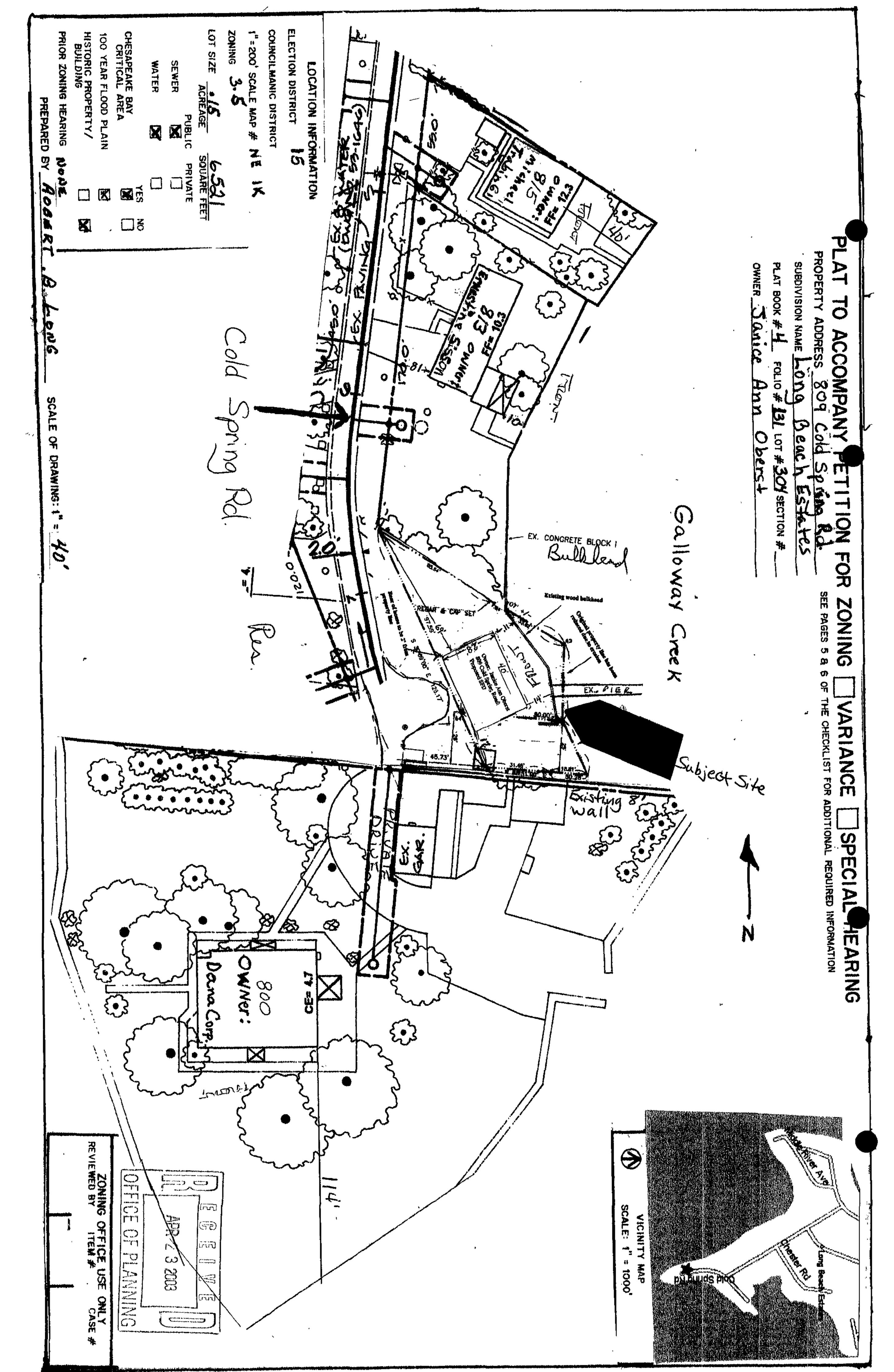
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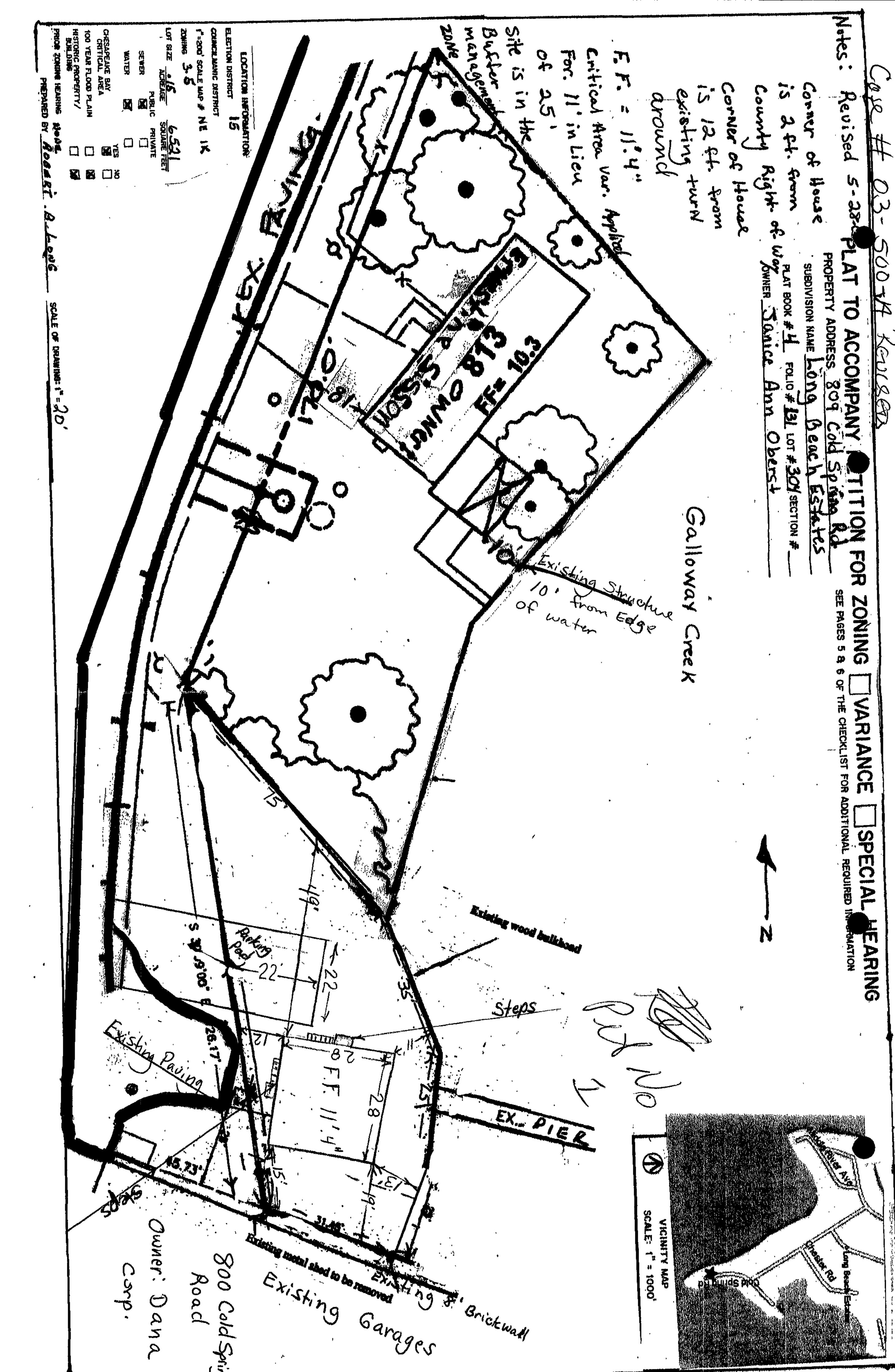
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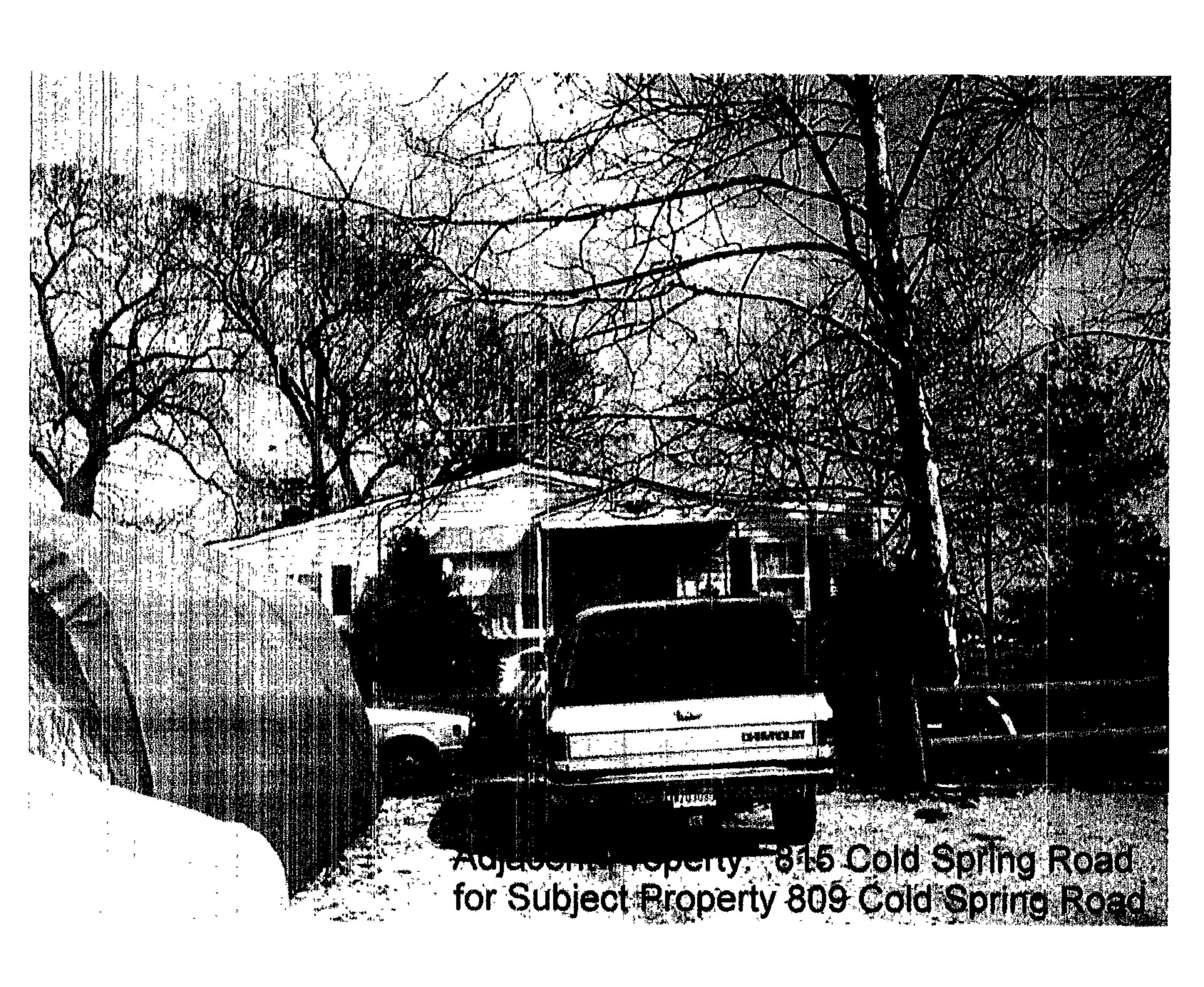


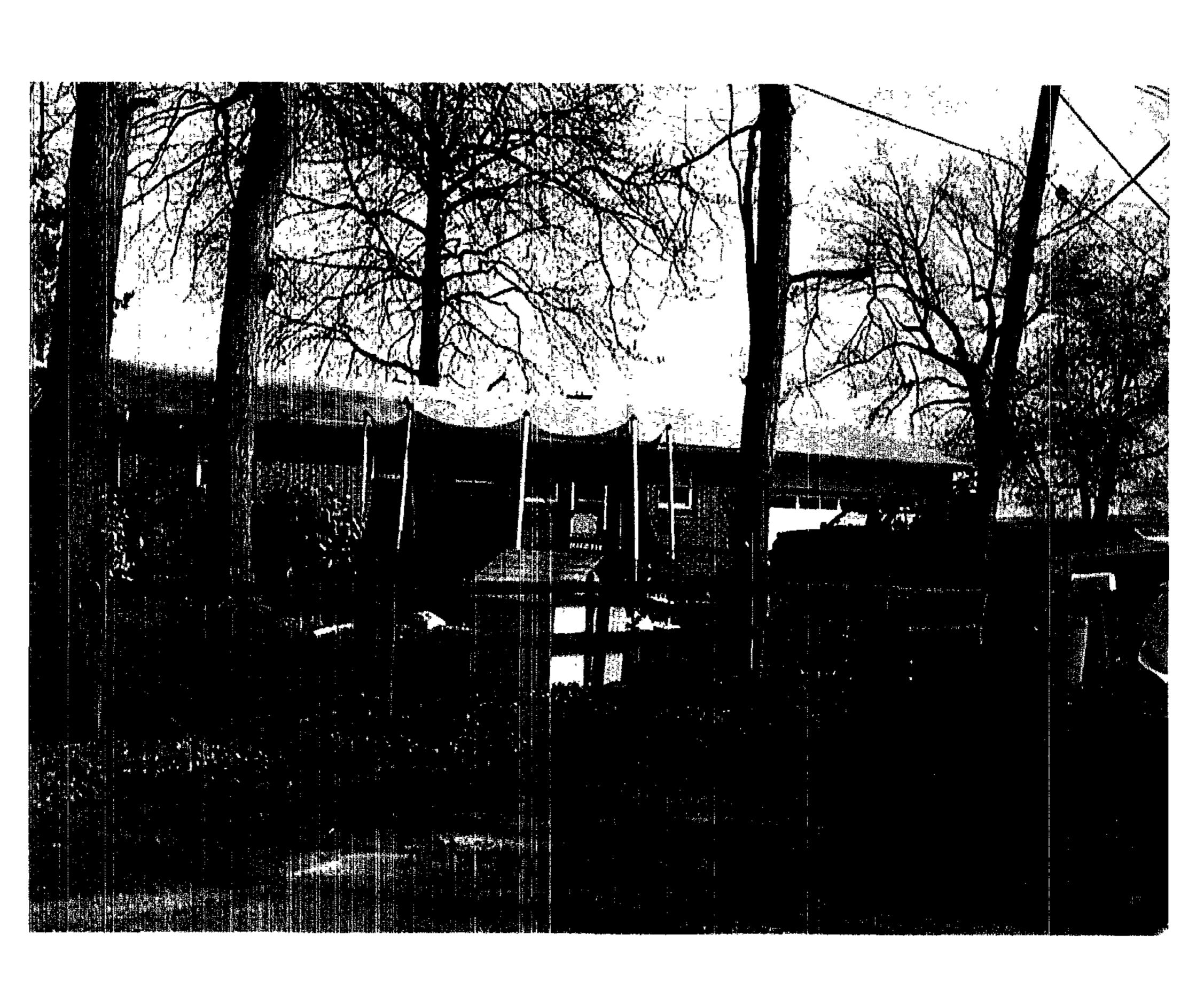


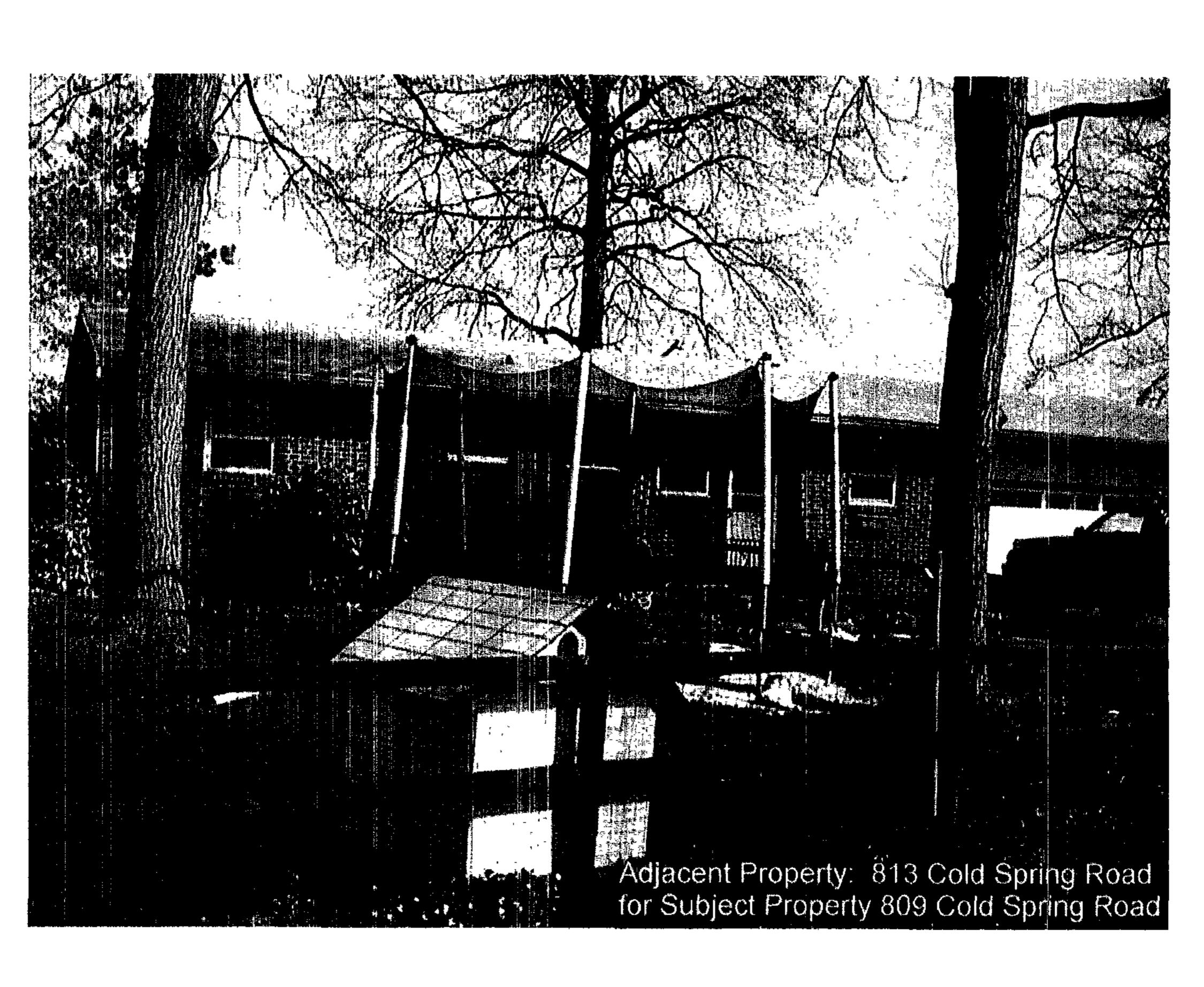
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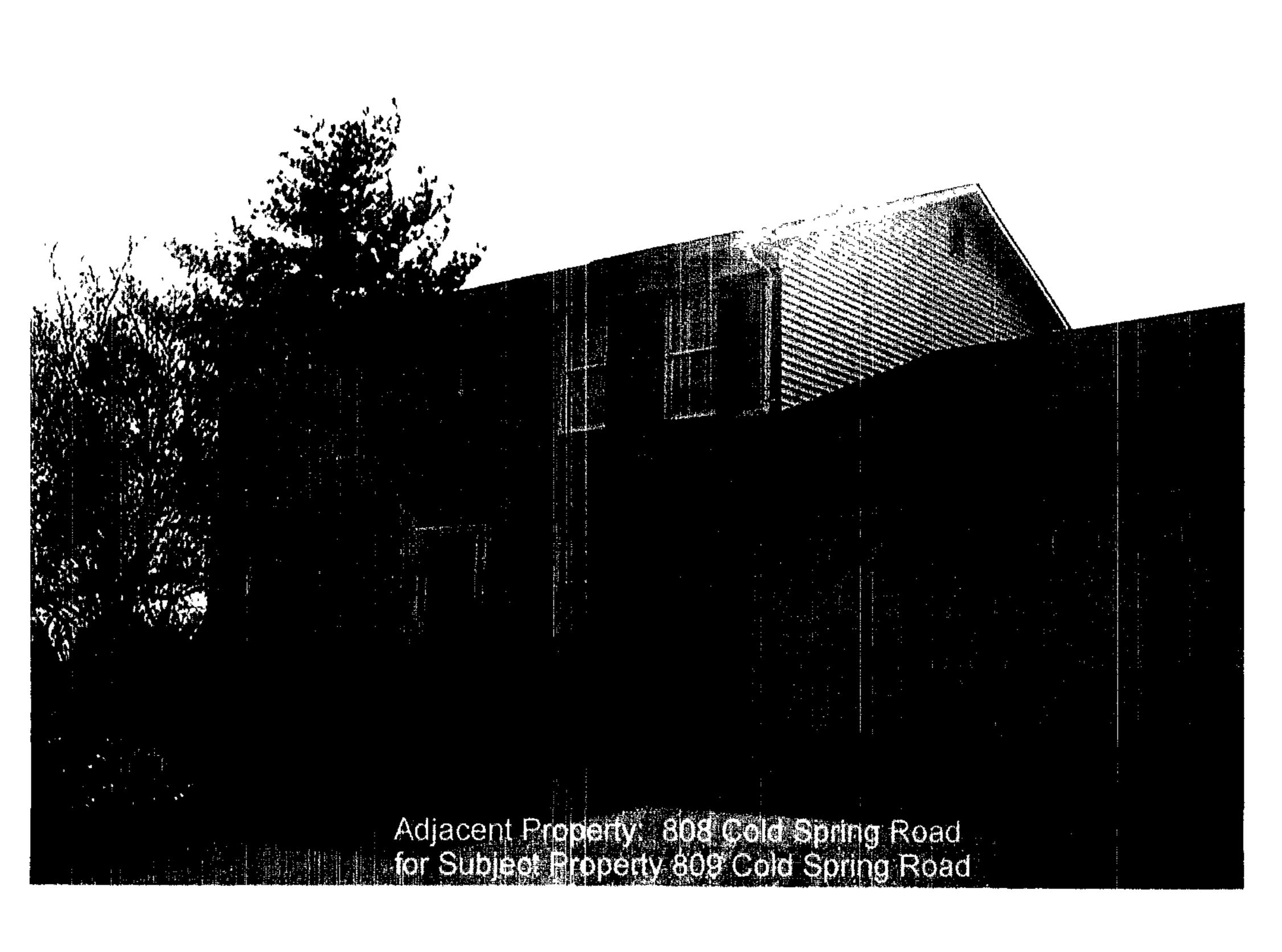


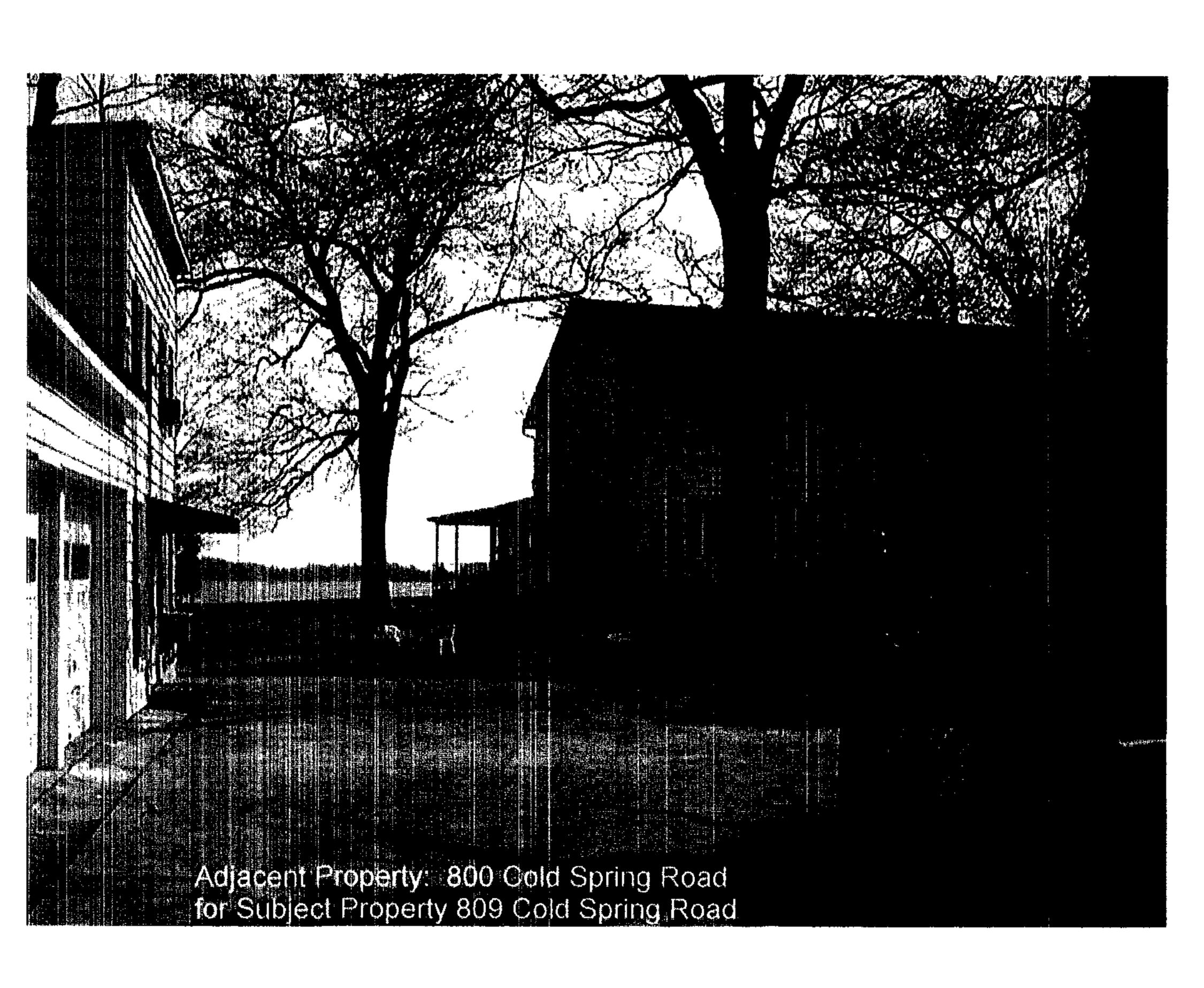














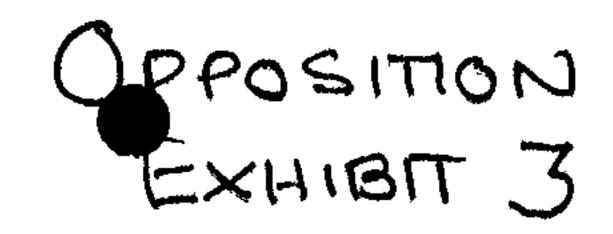


# OPPOSITION 1 EXHIBIT 1

### Zoning Notice 03-500-A

The residential housing unit proposed for the clearly undersized waterfront lot (Lot 304 - 809 Cold Spring Rd, Baltimore County) lies in the Chesapeake Bay Critical Area and is not consistent with meeting the 'reasonable use' criteria of the Maryland Department of Natural Resources Critical Area Commission nor the Department of Environmental Protection and Resource Management (DEPRM) due to the following reasons:

- Front (from water line) setback variance requested by owners is 11 feet rather than the required 55 feet, this is an 80% reduction in the required standard. The laws passed since the Critical Area Act of 1984 were enacted to maximize, not minimize the buffer areas that prevent runoff to the Chesapeake Bay watershed. I would hope that one of the priorities of this commission is to uphold the many efforts to protect the bay, not to further endanger this precious resource.
- Rear setback variance requested by owners of 2 feet rather than the standard 30 feet a 93% setback reduction. This 2-foot distance abuts the turnabout in the road used by county snowplows, garbage and recycling trucks. My property also abuts this turnabout and I have replaced shrubs damaged by county trucks. Cold Spring Rd. is just 14 feet wide between this undeveloped lot and my property where the turnabout starts.
- Adjacent properties with similar insufficient road setback routinely have parked cars jutting out into Cold Spring Rd. creating potential 'life safety' hazards for Emergency vehicles; not to mention a rutted, muddy roadside.
- New house would be less than 15 feet from wetlands area with active marsh grasses acting as a buffer. What mitigation is possible to protect this natural habitat?
- Undersized lot is low-lying, in a floodplain, and floods regularly during high tide when accompanied by Nor'easter storms.
- This lot is filled-land that previously had been used for boat access via pier and currently for shed storage and parking. In addition to the inadequate setback distances caused by the lot shape, the lot size (5,396.00 SF) is barely half of the Minimum Net Lot Area per Dwelling Unit (10,000 SF for DR 3.5) as noted in the Baltimore County Zoning Regulations 1B02.
- My driveway is damaged and sunken due to large trucks that turn around using my driveway and the adjacent parking area now present on this lot. This situation will only worsen if the trucks are left with just my driveway as delivery trucks often fail to go to the end of the road to use the turnabout as they see my driveway as the first opportunity to turn around.



**DATE:** May 23, 2003

## 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

SUBJECT: 809 Cold Spring Road

INFORMATION:

Item Number: 03-500

Petitioner: Robert B. Long

Zoning: DR 3.5

Requested Action: Variance

#### SUMMARY OF RECOMMENDATIONS:

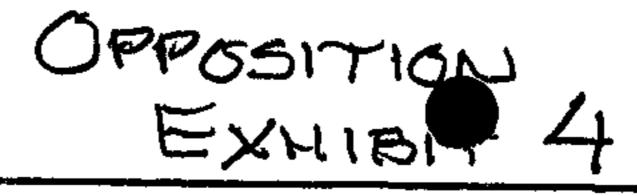
The Office of Planning does not support the petitioner's request to permit a front yard setback of 11 feet in lieu of the required average front yard setback of 55 feet. This office also opposes the petitioner's request to permit a rear yard setback of 2 feet in lieu of the minimum required 30 feet.

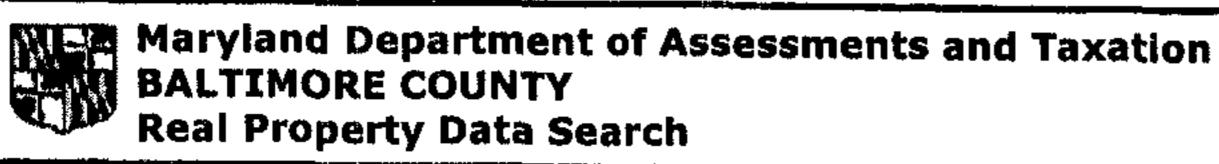
It is the opinion of this office that the subject property is too small to accommodate the proposed residence and that a 2-foot rear yard is not in keeping with the character of neighborhood. In addition, the minimum required 25-foot setback from the water's edge for the house in a buffer management area can only be waved by an administrative variance.

Prepared by:

Section Chief:

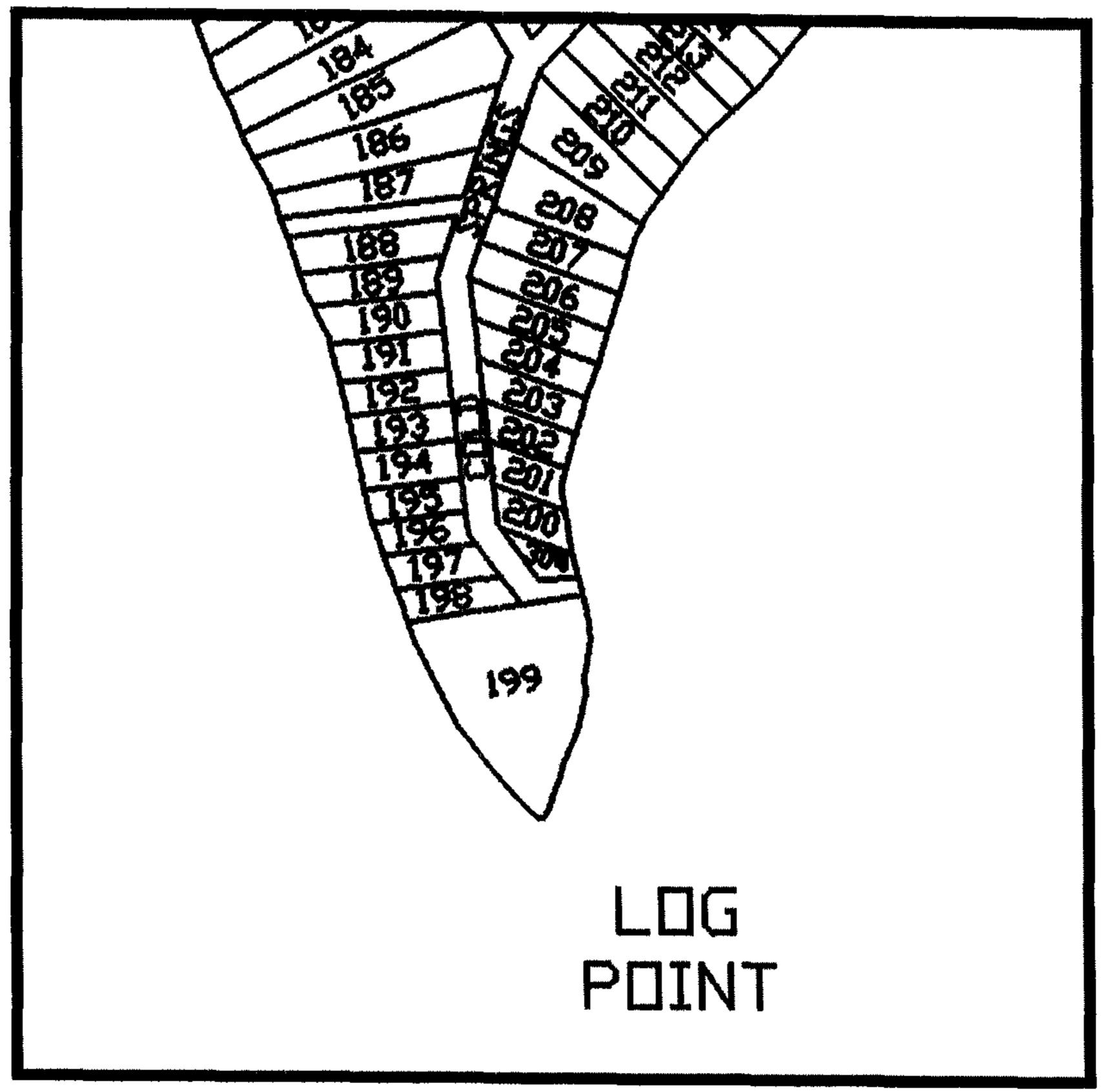
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Go Back View Map New Search

District - 15Account Number - 1511770661



Property maps provided courtesy of the Maryland Department of Planning ©2001. For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <a href="https://www.mdp.state.md.us">www.mdp.state.md.us</a>

0017471 328

DEED - FEE SIMPLE - NO CONSIDERATION NO TITLE SEARCH

This Deed, Made This _____ day of ______ in the year two thousand

and three, by and between Ann June Schuman fka Ann June Kratzer and Janice Ann Oberst, parties of the first part and Janice Ann Oberst, party of the second part.

WITNESSETH, That in consideration of the sum of no dollars the said parties of the first part, Ann June Schuman fka Ann June Kratzer and Janice Ann Oberst do grant and convey all of the following described property unto the party of the second part, Janice Ann Oberst, in fee simple, all that lot of ground situated in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 304, Plat of Long Beach Estates 97.59' by 102', fronts on the East side of Cold Spring Avenue, corner of a 25' road; which Plat is on file in the office of the Clerk of the Circuit Court for Baltimore County, Plat Book W.P.C. No. 4, folio 131, in the fifteenth election district of Baltimore County.

BEING the same lot of ground which by deed dated February 15, 1994, and recorded among the Land Records of Baltimore County in Liber 10436, folio 530 was granted and conveyed by Ann June Kratzer unto Ann June Kratzer and Janice Ann Oberst, the within grantors. The said Ann June Kratzer now known as Ann June Schuman for reason of her remarriage.

BEGINNING for the same at the corners formed by the intersect of the east side of Cold spring Road with the north side of a 25 foot road or Right of Way, as laid out and shown on the plat entitled Plan "C" Long Beach Estates, said plat being recorded among the Land Records Of Baltimore County in Plat Book 4 folio 131; thence leaving Cold spring Road and binding on the north side of said road or Right Of Way in an easterly direction 50 feet more or less to the waters of Cold spring Cove, thence binding on the waters of Cold Spring Cove in a southerly direction 25 feet more or less to the northern outline of Lot 199 and to the south side of said road or right Of Way, thence running and binding on the northern outline of Lot 199 and on the south side of said road or Right of Way in a westerly direction 40 feet more or less to the east side of Cold spring Road, and thence running and binding on the east side of Cold Spring Road North 30 degrees 09 Minutes West 25.50 feet more or less to the place of beginning.

BEING the same lot of ground which by deed dated April 3, 2001 and recorded among the Land Records Of Baltimore County in Liber 15098, folio 369, was granted and conveyed by Mary Elizabeth Sheely unto Ann June Schuman, the within grantor.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belongings, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said Janice Ann Oberst.

AND the said parties of the first part hereby covenants that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed:

that they will warrant specially the property hereby granted: and that they will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said grantor

Test:

Ann June Schuman, fka Ann June Kratzer

Janice Ann Oberst

STATE OF MARYLAND, County of Baltimore, to wit:

I HEREBY CERTIFY, That on this 3, 2 day of Tinking in the year two thousand and three, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Ann June Schuman, fka Anne June Kratzer, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within

instrument, who signed the same in my presence and acknowledged that he/she executed the same for the purposes therein contained, and in the capacity therein stated.

IN WITNESS WHEREOF, I here unto set my hand and official seal.

My Commission expires:

7-1-04

STATE OF MARYLAND, County of Baltimore, to wit:

I HEREBY CERTIFY, That on this / 4 day of January in the year two thousand and three, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Janice Ann Oberst, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who signed the same in my presence and acknowledged that he/she executed the same for the purposes therein contained, and in the capacity therein stated.

IN WITNESS WHEREOF, I here unto set my hand and official seal.

Notary Public

My Commission expires:

This is to certify that the within instrument has been prepared by the undersigned

Maryland attorney.

Timothy P. Knepp

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- Although I understand the desire of the owners to maximize the property value of this undersized lot, I also need to be cognizant of the negative impact this proposed dwelling will have on my property value just across the road. An area of desirable natural, wildlife habitat populated with native marsh grasses, home to ducks, geese and herons will be eliminated due to human encroachment and a stilted residence looming over Cold Spring Rd, just 20 feet away.

As a long-standing neighbor, I would not attempt to hinder another neighbor's effort to reasonably utilize their land; reduced setback variance requests of 80 and 93% are severe reductions of the standards; any proposed dwelling on this property is not 'reasonable use' and is not consistent with the doctrines of the Maryland Department of Natural Resources Critical Area Commission, the Baltimore County Department of Environmental Protection & Resource Management (DEPRM) and certainly not the Chesapeake Bay Foundation who works so closely with our local agencies to improve water quality and natural habitats.

Circumventing the guidelines of concerned state and local agencies undermines the efforts of those entrusted with promoting 'smart growth' in the county and minimizing the adverse effects of human activities on water quality and natural habitats; thus fostering a consistent, uniform, and more sensitive development activity within the Critical Area. What value are our guidelines and standards if we are not going to adhere to them? I ask this commission to review the facts, weigh them against the acknowledged standards and decide in the best interests of our community and the Chesapeake Bay watershed. Let's not make a decision and set a precedent that may render our standards ineffective.

Respectfully,

Richard Pitz

808 Cold Spring Rd.

Baltimore, Md. 21220