IN THE MATTER OF THE APPLICATION OF INGRID AND JOHN FOUTS – LEGAL OWNERS/ PETITIONERS FOR VARIANCE ON PROPERTY LOCATED ON THE S/S OF ELLEN AVENUE, 415' E HOERNER AVENUE (2315 ELLEN AVENUE) 9TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	* * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 04-030-A

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by the Petitioners Ingrid and John Fouts, legal owners, resulting from a decision by the Deputy Zoning Commissioner, dated September 23, 2003, to deny a Petition for Variance seeking relief from § 400.3 of the *Baltimore County Zoning Regulation* (BCZR) to permit an existing accessory building with a height of 23.5 feet in lieu of the 15-foot maximum height allowed by law.

The subject property is located at 2315 Ellen Avenue, 9th Election District, 6th Councilmanic District.

A public hearing before the Board of Appeals was held on April 21, 2004. A public deliberation followed on May 11, 2004. Terrence C. Liff, Esquire, and Marvin Mandel P.C., represented Mr. and Mrs. Fouts. Carole S. Demilio, Esquire, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel.

Testimony

John Fouts, Petitioner and Appellant, was the first witness. He introduced a board of photographs, taken by his attorney, Mr. Liff, in April 2004, showing the subject property and the accessory building in question as well as neighboring properties (Petitioners' Exhibit #1).

Mr. Fouts testified that he had lived at 2315 Ellen Avenue for 13 years and that he had never heard of the community/home owners group, Greater Parkville Community Association, one of the named Protestants/Interested Parties. He opined that the neighborhood had changed

over the time of his occupancy, and he introduced a second board of photographs indicating the character of the neighborhood as proof. He added that there is only one accessory building on the subject property and that it interrupts his backyard view of the American Legion facility, the police department, and a gas station on nearby Putty Hill Avenue.

Mr. Fouts stated that he plans to use the subject building for pool supplies, tools, and weight equipment on the first floor with a game room for his grandchildren on the second floor. He emphasized that he had no intention to use the building for residential purposes, nor does the building have electricity or plumbing. He noted that he plans to remain in the community for many years, and he opined that his accessory building added value to his house and to the neighborhood.

On cross-examination by Ms. Demilio, Mr. Fouts identified photographs showing his neighbors' view of the accessory building (People's Counsel #1 & #2). He said that the game room would provide video, ping-pong and pool equipment for his grandchildren, aged 1-3 years. He further described his accessory building as having two full floors with exterior measurements of 29.8 feet x 33.6 feet. He also agreed that the gas station and the American Legion hall were there when he moved in and were built on Putty Hill Avenue, which is a different zoning classification from his property.

Ms. Demilio questioned Mr. Fouts on the Department of Assessments map (People's Counsel Exhibit #3) indicating that his house is on lot 48. Mr. Fouts affirmed that he had improved his house by adding a full second floor, that he did his own construction, and that he did have the required permit to construct. He admitted, however, that when he built a 6-foot privacy fence, he did not get a permit because he did not know that he needed one. He did not

apply for a permit to build the accessory building in question.

Mr. Fouts was the only witness for the Petitioners.

People's Counsel's first witness was Harry Webb, who testified that he has lived in the house next door to the subject property (2317 Ellen Avenue) for 48 years. His house is visible in People Counsel Exhibit #1, and he does have a shed. Mr. Webb said that his house is 36 feet x 22 feet in exterior dimensions and that he had raised his six children there.

He described Ellen Avenue as a two-way street with parking on one side only. He contrasted the street with Putty Hill Road which is different in character because of the commercial uses. The residences on Ellen Avenue, according to Mr. Webb, are single-family dwellings which vary in size, but none are any larger than that owned by Mr. and Mrs. Fouts. Some residences have added garages and fencing; some have accessory buildings; but none are as tall as the Petitioners' building.

On cross-examination by Mr. Liff, Mr. Webb further explained that Lot 48 of the original subdivision had been split between him and the Fouts (People's Counsel Exhibit #3), so their lots are somewhat larger than some others. However, according to Mr. Webb, all lots in the area are similar in shape (rectangular) and size with several others the same size as those owned by Mr. Webb and the Fouts.

Mr. Webb added that he has concerns relative to the number of people going into and out of the Fouts' property. He suggested that it was more like a recreation facility than a home, and that the situation creates parking and traffic problems.

The next witness was Dwight Hartman, who lives at 15 Foxfire Drive in Cecil County. He indicated that he had lived in the subject neighborhood for 32 years, but he sold his property

Exhibit #7.

Opinion

Section 307 of the BCZR permits granting of a variance of the regulation upon certain terms and conditions, which in pertinent part in this case, allow a variance where special circumstances or conditions exist that are peculiar to the land that is the subject of the variance requested, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

The burden to establish special circumstances or conditions was clarified by the Court of Special Appeals in *North v. St. Mary's County*, 99Md. App 502 (1994), when Judge Cathell stated:

> *An applicant for variance bears the burden of overcoming the assumption that the proposed use is unsuited. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.*

Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691 (1995), which sets forth the legal benchmark by which a variance may be granted, the Board of Appeals, hearing the case *de novo*, is given the task of interpreting regulations and statutes where issues are debatable in the light of the law. The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

The Court defined the term "uniqueness" and stated:

> *In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical*

restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

After a thorough review of the evidence and testimony before us, the Board finds unanimously as a matter of fact that the Petitioners have not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward.*

The first prong requires that the land itself of the subject property must be unique from others in the neighborhood to qualify for a variance. The testimony and evidence are substantial and uncontradicted that 2315 Ellen Avenue is not different from the other lots in that neighborhood. All of the plats, maps and photographs introduced into evidence establish that neighboring properties are of equivalent size, nature and topography.

On their part, the Petitioners offered no evidence or testimony that the subject property is unique. Their argument that the character of the neighborhood has changed, or that other people have comparable or possibly illegal accessory buildings is not relevant to the regulations and decision at hand.

Having found that the first prong of the standard has not been met by the Petitioners, the Board as a matter of law need not consider practical difficulty or spirit and intent.

Therefore it is the unanimous decision of this Board to deny a Petition for Variance seeking relief from § 400.3 of the BCZR to permit an existing accessory building with a height of 23.5 feet in lieu of the 15-foot maximum height allowed by law, and we will so order.

ORDER

THEREFORE, IT IS THIS 23rd day of July, 2004 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioners' request for variance from § 400.3 of the BCZR to permit

an existing accessory building with a height of 23.5 feet in lieu of the 15-foot maximum height allowed by law be and the same is hereby **DENIED**; and

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Margaret Worrall

Lawrence M. Stahl

IN RE: PETITION FOR VARIANCE S/S of Ellen Avenue, 415 ft. E of Hoerner Avenue 9th Election District 6th Councilmanic District **(2315 Ellen Avenue)** Ingrid R. & John D. Fouts *Petitioners*	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-030-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Ingrid R. and John D. Fouts. The Petitioners are requesting variance relief for property located at 2315 Ellen Avenue in the Parkville area of Baltimore County. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing accessory building with a height of 23 1/2 ft. in lieu of the maximum allowed height of 15 ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The property was posted with Notice of Hearing on September 2, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 2, 2003 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 307 of the B.C.Z.R. – ***Variances***.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted

9/23/03

as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: No comments by the reviewing agencies.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No. 03-4467) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due to the fact that construction of the structure was commenced without obtaining the appropriate permits.

Interested Persons

Appearing at the hearing on behalf of the variance request were Ingrid R. and John D. Fouts, the Petitioners. Several residents of the surrounding community who opposed the Petitioners' request for variance attended the hearing and signed in on the Protestant's Sign-In Sheet; namely, Ruth Baisden, President of the Greater Parkville Community Council, Dwight and Ann Hartman, Alice Baker, Clarence and Mary Curnoles, Harry and Esther Webb, Walter Curick and Will Curnoles. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of approximately 11,000 sq. ft. and is zoned D.R.5 and D.R.16. The subject property is improved with a two-story home and pool. The proposed accessory building has been erected as a two story building. Mr. Fouts indicated that only the exterior of the building was complete because a stop work order had been issued to him by the County. His intention was to use the building for storage of pool equipment, a game room for his grandchildren, which would contain a pool table, ping pong table, weights and exercise equipment for himself and family.

While he admitted that he built the shell building without a permit, he felt that it would be a severe hardship and practical difficulty to remove the top floor as he had already expended considerable money for the construction and needed the second floor to store his equipment and provide a place for his grandchildren to play. He testified that a single-story building which met the code height requirements of 15 feet would not be practical for his family's needs. He allocated the ground floor of the building for storage of his equipment, pool cover, pool equipment and the second floor for the game room with the pool table and ping pong table. He denied he had any intention of using the building as a residence.

In support of his petition, Mr. Fouts presented several photographs, Petitioner's Exhibit No. 2, which showed other accessory buildings in the area which exceeded the 15 foot limit. He reasoned that since these other buildings were allowed in the neighborhood, his should likewise be allowed. He also submitted the subdivision plat of the neighborhood which indicated each lot was 100 ft. x 220 ft. However, as it turned out, his particular property was subdivided in the past by a former owner and so his lot was only 50 feet wide. On cross examination, Mr. Fouts admitted that he had recently expanded the home on the property from a one and one-half story

9/23/03 R. Jackson

cottage to a full two-story building, all of which he testified was done with full permits. He clarified that his grandchildren were very young and may need some time to fully use the game room and equipment.

The Protestants were adamant in their opposition to the suggestion that the second story be allowed to remain. Ruth Baisden, speaking for the Greater Parkville Community Council, testified that this section of Parkville was a community conservation area and that special effort was being put forth by the County and the community association to uphold property values. She felt that granting a variance in this case would allow an oversized accessory structure to remain which may well be turned into second residence on the premises. She testified how important it was for homeowners to have their projects reviewed by the County in the permit process. She presented photographs of the area and typical homes indicating that the two-story accessory building was out of character for the neighborhood. Finally, she was concerned that granting a variance in this case would set a precedent which would adversely affect the community conservation effort. Mr. Hartman, Ms. Baker, Mr. and Mrs. Curnoles and Mr. Cwik testified of their concerns about the variance from the prospective of rain water runoff, the size of the building, and use of the building as living quarters as a game room. Mr. Webb, the adjoining property owner, objected to the size of the building and is concerned that a new buyer may believe it to be a second home on the property.

Findings of fact and conclusions of law

The Petitioners make a powerful argument that removal of the existing second floor of the building would create real hardship and practical difficulty. A decade ago, that would be all they needed to show in order to be granted the variance they request. However, the Court of Special Appeals in the case of *Cromwell v Ward* , 102 MD 691 (1995) redefined the test for variance, requiring that before one even gets to the question of hardship and practical difficulty,

there must be a finding that the property is unique when compared to other properties in the neighborhood. By this, the Court requires a finding that the property has some special circumstances or conditions existing that are peculiar to the land or structure which is the subject of the variance request. This finding must be made before any consideration of hardship or difficulty is made and if the property is not found to be unique, no variance can be granted.

Equally important, the Court wanted to correct the practice of many jurisdictions of finding hardship and difficulty first which would then be used to show the property was unique, reasoning that the unusual situation on the property was different from that found on surrounding properties.

The evidence before me gives no indication that the height requirements of this D.R.5.5 and D.R.16 property impact this property in any way different from the other lots in the neighborhood. The lot is as plain a rectangle as one could find. The overwhelming weight of the testimony and evidence is that this lot is indistinguishable from others in the neighborhood. As far as I can tell, the property is a flat lot, has no steep slopes, rivers, wetlands or the like that would in any way distinguish it or impose on it any special burden to follow the setback ordinance. I find no special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. As important, I may not use the finding that strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship to indicate uniqueness.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be denied.

THEREFORE, IT IS ORDERED, this 23 day of September, 2003, by this Deputy Zoning Commissioner, that the Petitioners' request for administrative variance from Section

9/23/03

400.3 of the B.C.Z.R., to permit an existing accessory building with a height of 23 1/2 ft. in lieu of the maximum allowed height of 15 ft., be and is are hereby DENIED.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

September 23, 2003

Mr. & Mrs. John D. Fouts
2315 Ellen Avenue
Baltimore, Maryland 21234

Re: Petition for Variance
Case No. 04-030-A
Property: 2315 Ellen Avenue

Dear Mr. & Mrs. Fouts:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

Printed on Recycled Paper

Copies to:

Ruth Baisden, President
Greater Parkville Community Council
7706 Oak Avenue
Baltimore, MD 21234

Dwight L. Hartman
Ann Hartman
2312 Ellen Avenue
Baltimore, MD 21234

Alice Baker
2307 Ellen Avenue
Baltimore, MD 21234

Clarence Curnoles
Mary Curnoles
2313 Ellen Avenue
Baltimore, MD 21234

Harry Webb
Esther Webb
2317 Ellen Avenue
Baltimore, MD 21234

Walter Cwik
2306 Ellen Avenue
Baltimore, MD 21234

Will Curnoles
3411 Chesley Avenue
Baltimore, MD 21234

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2315 Ellen Ave

which is presently zoned DR 5.5 & DR 16

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) 400.3, BCZR, to permit an existing accessory building with a height of 23½ feet in lieu of the maximum allowed height of 15 feet.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

FOUTS, John David
Name - Type or Print

John David Fouts
Signature

FOUTS, Ingrid Renee
Name - Type or Print

Ingrid Renee Fouts
Signature

2315 Ellen Ave — 443-271-7195
Address — Telephone No.

Balto — Md — 21234
City — State — Zip Code

Representative to be Contacted:

Renee Fouts
Name

2315 Ellen Ave — 443-277-6375
Address — Telephone No.

Balto — Md — 21234
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 04-030-A

Reviewed By JOP **Date** 7/18/03

REV 9/15/98

ZONING DESCRIPTION FOR 2315 Ellen Ave
(address)

Beginning at a point on the South side of
(north, south, east or west)

Ellen Ave which is 30 Ft
(name of street on which property fronts) (number of feet of right-of-way width)

wide at the distance of 415 Ft East of the
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Hoerner Avenue
(name of street)

which is 30 Ft wide. *Being Lot # PART OF 48,
(number of feet of right-of-way width)

in the subdivision of Grindon Little Farms
(name of subdivision)

as recorded in Baltimore County Plat Book # 7, Folio # 34,

containing 11,000 sqFt. Also known as 2315 Ellen Ave.
(square feet or acres) (property address)

and located in the 9 Election District, 6 Councilmanic District.

04-030-A

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: #04-030-A
2315 Ellen Avenue
S/side of Ellen Avenue, 415 feet east of Hoerner Avenue
9th Election District
6th Councilmanic District
Legal Owner(s): John and Ingrid Fouts
Variance: to permit an existing accessory building with a height of 23.5 feet in lieu of the maximum allowed height of 15 feet.
Hearing: Wednesday, September 17, 2003 at 11:00 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) 887-3391.
JT/9/613 Sept. 2 C624286

CERTIFICATE OF PUBLICATION

9/5/, 2003

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/2/, 2003.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23[illegible]

DATE 10·15·03 ACCOUNT 001-006-615O

AMOUNT $ 300.00

RECEIVED FROM: John Fouts.

FOR: Appeal 04-030-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACCOUNT TIME PAID
10/15/2003 10/15/2003 12:29:26 4
[illegible] NS06 WALKIN KREM K&K
>>RECEIPT # 203265 10/15/2003 [illegible]
[illegible] 5 526 ZONING VERIFICATION
CR NO. 025952
Amount Tot $300.00
$.00 CR $300.00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 25066

DATE 7/18/03 ACCOUNT R-001-006-6150

AMOUNT $65.00

RECEIVED FROM: Fouts (0315 Ellen Avenue)

FOR: 04-030-A (Variance)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
7/18/2003 7/18/2003 11:02:10 3
REG W903 WALKIN LPET LWP
>>RECEIPT # 262160 7/18/2003 UFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 025066
Recpt Tot $65.00
.00 CK 100.00 CA
35.00- CG
Baltimore County, Maryland-

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

Date: 9/2/03

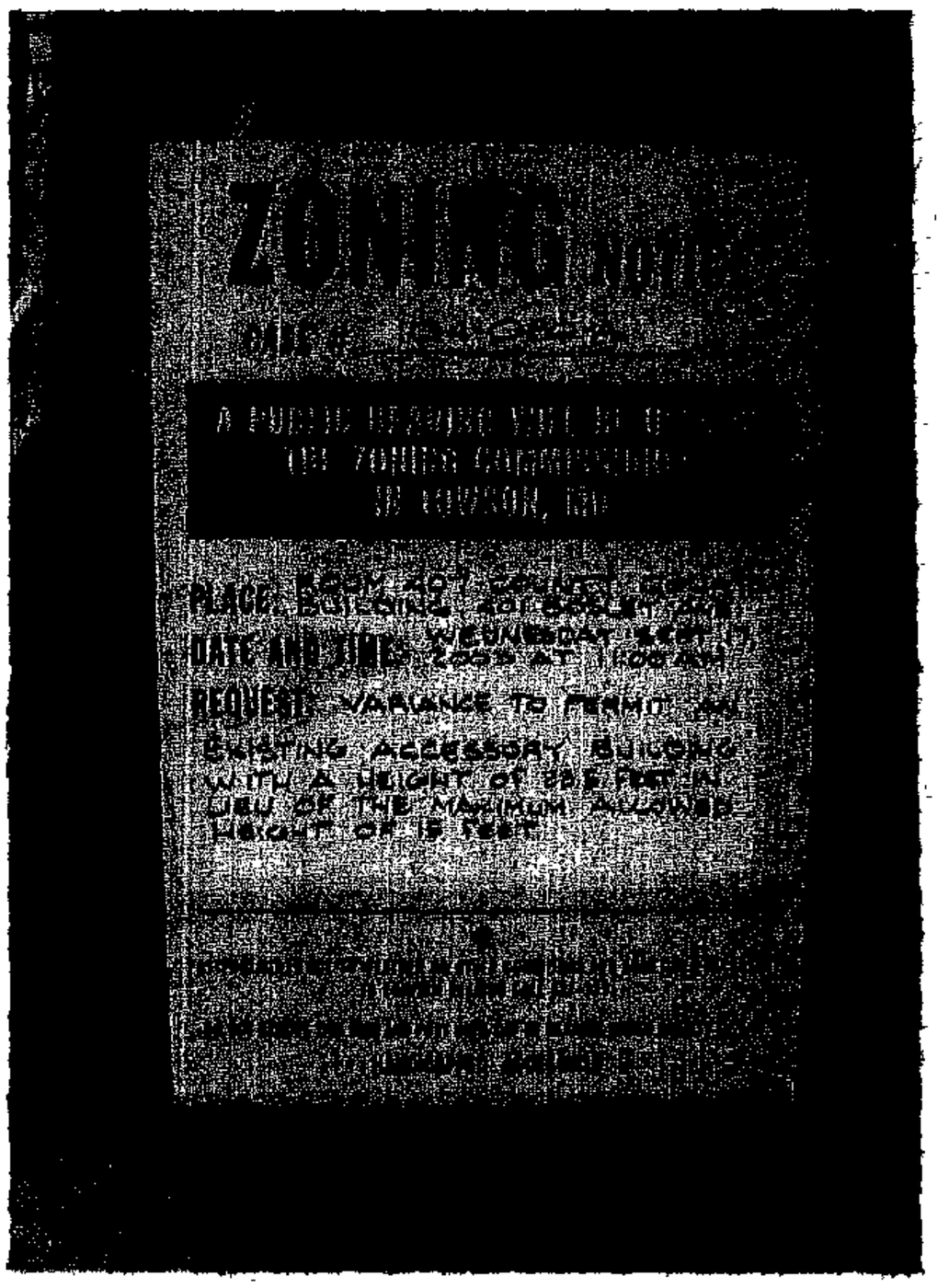
RE: Case Number: 04-030-A

Petitioner/ Developer: JOHN FOUTS

Date of Hearing/ Closing: SEPT. 17, 2003

This is to certify under the penalties of perjury that the necessary sing(s) required by law were posted conspicuously on the property located at 2315 ELLEN AVE

The sign(s) were posted on 9/2/03
(Month, Day, Year)



(Signature of Sign Poster)

Charles E. Merritt
9831 Maqledt Road
Baltimore, MD 21234
410-665-5562

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-030-A

INGRID AND JOHN FOUTS - LEGAL OWNERS

2315 ELLEN AVENUE

9TH ELECTION DISTRICT APPEALED: 10/15/2003

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

RE: Case No.: CASE NO.: 04-030-A

Petitioner/Developer:

INGRID AND JOHN FOUTS - LEGAL OWNERS

This is to certify that the necessary appeal sign was posted conspicuously on the property located at: 2315 ELLEN AVENUE / 21234

The sign was posted on 12/8, 2003

By: Gary Freund
(Signature of Sign Poster)

GARY C. FREUND
(Printed Name)

Baltimore County
Department of Permits and
Development Management

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

August 5, 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: 04-030-A
2315 Ellen Avenue
S/side of Ellen Avenue, 415 feet east of Hoerner Avenue
9th Election District – 6th Councilmanic District
Legal Owners: John and Ingrid Fouts

Variance to permit an existing accessory building with a height of 23.5 feet in lieu of the maximum allowed height of 15 feet.

Hearings: Wednesday, September 17, 2003, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco
Director

TK:klm

C: John and Ingrid Fouts, 2315 Ellen Avenue, Baltimore 21234
Renee Fouts, 2315 Ellen Avenue, Baltimore 21234
Code Enforcement

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, SEPTEMBER 2, 2003.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 2, 2003 Issue - Jeffersonian

Please forward billing to:
John & Ingrid Fouts
2315 Ellen Avenue
Baltimore, MD 21234

410-665-8297

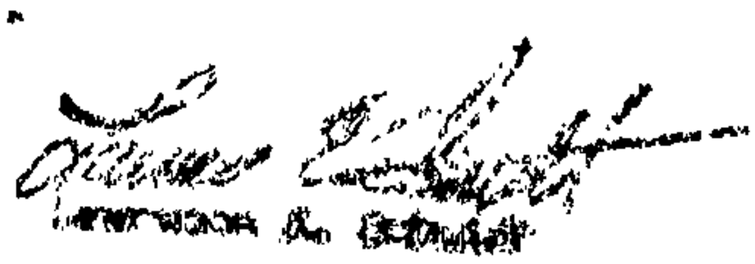
NOTICE OF ZONING HEARING

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: 04-030-A
2315 Ellen Avenue
S/side of Ellen Avenue, 415 feet east of Hoerner Avenue
9th Election District – 6th Councilmanic District
Legal Owners: John and Ingrid Fouts

Variance to permit an existing accessory building with a height of 23.5 feet in lieu of the maximum allowed height of 15 feet.

Hearings: Wednesday, September 17, 2003, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 04-030-A

Petitioner: Fouts

Address or Location: 2315 Ellen Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: John + Inarid Fouts

Address: 2315 Ellen Avenue
Baltimore MD 21234

Telephone Number: 410-665-8297 - 443-271-7195

Revised 2/20/98 - SCJ

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

February 6, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-030-A

IN THE MATTER OF: INGRID AND JOHN FOUTS -
Legal Owners /Petitioners 2315 Ellen Avenue
9th Election District; 6th Councilmanic District

9/23/03 – D.Z.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR: **WEDNESDAY, APRIL 21, 2004 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellant /Petitioner : John D. and Ingrid R. Fouts
Petition Representative : Renee Fouts

Protestants /Interested Parties : Ruth Baisden, President
Greater Parkville Comm.Council
Dwight and Ann Hartman
Alice Baker
Clarence and Mary Curnoles
Harry and Esther Webb
Walter Cwik

Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

April 28, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:

INGRID AND JOHN FOUTS – Legal Owners
Case No. 04-030-A

Having heard this matter on 4/21/04, public deliberation has been scheduled for the following date /time:

DATE AND TIME : TUESDAY, MAY 11, 2004 at 10:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellant /Petitioner : John D. and Ingrid R. Fouts
Petition Representative : Renee Fouts

Protestants /Interested Parties : Ruth Baisden, President
Greater Parkville Comm.Council
Dwight and Ann Hartman
Alice Baker
Clarence and Mary Curnoles
Harry and Esther Webb
Walter Cwik

Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

***FYI:* 4-2-3**

Printed with Soybean Ink
on Recycled Paper

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

SHA State Highway Administration Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7.29.03

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

RE: Baltimore County
Item No. 030 JHP

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,

L. F. Gredlein

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: August 6, 2003

RECEIVED
AUG - 7 2003
ZONING COMMISSIONER

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

SUBJECT: Zoning Advisory Petition(s): **Case 04-028 and 04-030**

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

Prepared by: Mark A Cunningham

Section Chief: Lynn Lanham

AFK/LL:MAC

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: September 12, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For August 4, 2003
Item Nos.019, 029, 030, and 032

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

RWB:CEN:jrb

cc: File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Planning

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

July 29, 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 re: case numbers 4-19-A, 4-27-SPH, 4-28-A, 4-29-SPH, 4-30-A, 4-31-A, & 4-32-XA**

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 07/29/03. 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

In The Matter Of:
Ingrid and John Fouts
Legal Owners/ Petitioners
2315 Ellen Avenue
Baltimore, Maryland 21234

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY,
* MARYLAND
* 04-030-A
*
*

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

ENTRY OF APPEARANCE

Please enter the appearance of Marvin Mandel and Terrence C. Liff, and Marvin Mandel, P.C. as Counsel for the Petitioner's 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.

Marvin Mandel

RECEIVED
APR 21 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Terrence C. Liff
Marvin Mandel, P.C.
116 Defense Highway, Suite 505
Annapolis, Maryland 21401
Attorneys for Petitioner

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 21st day of April, 2004 a copy of the foregoing Entry of Appearance was delivered by first class mail, postage prepaid, to Peter Max Zimmerman, people's Counsel for Baltimore County at Old Courthouse, Room 47, 400 Washington Avenue Towson, Maryland 21204.

Terrence C. Liff

RE:	PETITION FOR VARIANCE 2315 Ellen Avenue; S.side of Ellen Ave, 415' E of Hoerner Ave 9th Election & 6th Councilmanic Districts Legal Owner(s): John D. & Ingrid R. Fouts Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 04-030-A

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

ENTRY OF APPEARANCE

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

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

Carole S Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August, 2003, a copy of the foregoing Entry of Appearance was mailed to, Renee Fouts, 2315 Ellen Avenue, Baltimore, MD 21234, Petitioner(s).

RECEIVED
AUG 05 2003
Per.....

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

Department of Permits and Development Management

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

October 29, 2003

Mr. John D. Fouts
Mrs. Ingrid R. Fouts
2315 Ellen Avenue
Baltimore, MD 21234

Dear Mr. and Mrs. Fouts:

RE: Case: 04-030-A, 2315 Ellen Avenue

Please be advised that your appeal of the above-referenced case was received in this office on October 15, 2003. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

KT:rlh

c: John V. Murphy, Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel

RECEIVED
OCT 30 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Printed on Recycled Paper

APPEAL

Petition for Variance
2315 Ellen Avenue
S/side of Ellen Avenue, 415 feet east Hofferner Avenue
9th ED – 6th CD
Ingrid and John Fouts – Legal Owner

Case No.: 04-030-A

✓ Petition for Variance (7/18/03)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (8/5/03)

✓ Certification of Publication (9/2/03)

✓ Certificate of Posting (9/2/03) by Charles E. Merritt

✓ Entry of Appearance by People's Counsel (8/5/03)

✓ Petitioner(s) Sign-In Sheet
One Sheet

✓ Protestant(s) Sign-In Sheet
One Sheet

✓ Citizen(s) Sign-In Sheet
None

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibit
1. Plat to accompany Petition for Variance

✓ Protestants' Exhibits:
None

✓ Miscellaneous (Not Marked as Exhibit)
Photos

✓ Deputy Zoning Commissioner's Order (9/23/03) – Denied

✓ Notice of Appeal received on October 15, 2003 by John Fouts

c: People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
John and Ingrid Fouts, 2315 Ellen Avenue, Baltimore 21234
Code Enforcement

date sent 10/29/03 rlh

JOHN D FOUTS
INGRID R FOUTS
2315 ELLEN AVENUE
BALTIMORE, MD 21234
Petitioners/Appeallants

DWIGHT L HARTMAN
2312 ELLEN AVENUE
BALTIMORE MD 21234

RENEE FOUTS
2315 ELLEN AVENUE
BALTIMORE, MD 21234
Representative to be contacted

WALTER CWIK
2306 ELLEN AVENUE
BALTIMORE MD 21234

HARRY WEBB
ESTHER WEBB
2317 ELLEN AVENUE
BALTIMORE, MD 21234
Neighbor (side)

RUTH BAISDEN, PRESIDENT
GREATER PARKVILLE COMMUNITY COUNCIL
7706 OAK AVENUE
BALTIMORE MD 21234

ALICE BAKER
2307 ELLEN AVENUE
BALTIMORE, MD 21234

CLARENCE CURNOLES
MARY CURNOLES
2313 ELLEN AVENUE
BALTIMORE, MD 21234
Neighbor (side)

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF:		Ingrid and John Fouts Case No. 04-030-A	
DATE	:	Tuesday, May 11, 2004	
BOARD /PANEL	:	Lawrence S. Wescott Margaret Worrall Lawrence M. Stahl	(LSW) (MW) (LMS)
RECORDED BY	:	Kathleen C Bianco /Administrator	

PURPOSE: To deliberate Case No. 04-030-A /Petition for Special Hearing filed by Ingrid and John Fouts to permit existing accessory building with height of 23.5 feet ilo maximum allowed height of 15 feet; appeal filed by the Office of People's Counsel from the 12/03/03 decision of the Deputy Zoning Commissioner.

Deliberation:

Discussion of issues:

- Petition for Variance – height exceeding 15 feet
- Does not meet requirements; no uniqueness in size, property, etc., pursuant to County law and as set forth in *Cromwell*
- Matter of not getting a permit and not finding out that height was not allowed
- Truth in statements:
  - What Petitioners want to do
  - Not intended to be another house
- None of that is relevant – building is too high
- Fact that it is already built cannot be taken into consideration
- Will require permit to fix it
- Change in character of neighborhood
  - Proven not to be so
  - No change in character of Ellen Avenue
  - Things built on Putty Hill but not on Ellen
- Double lot issue – does not make it unique
- Law was intended to make it difficult

- Additionally discussed practical difficulty /unusual hardship and spirit and intent of regulations

- Determined that there is no need to discuss the additional prongs of the variance test if it fails on the first prong, that being uniqueness

Decision

LSW – Does not meet the uniqueness requirement – fails on that
MS – Agrees – no evidence to prove that property is unique
LMS – Record reveals nothing unique about property – cannot be granted

- Summary – Petition for Variance is **DENIED.**

  Unanimous decision of the Board: Petition for Variance is DENIED. Written Order to be issued by the Board; appellate period to run from date of written Order.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted

Kathleen C. Bianco

Kathleen C. Bianco, Administrator
County Board of Appeals

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: July 31, 2003

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT:	Item No.:	030
	Legal Owner/Petitioner	Fouts, John D. & Ingrid R.
	Contract Purchaser:	N/A
	Property Address:	2315 Ellen Ave
	Location Description:	S/side of Ellen Ave, 415 ft. E/Hoerner Ave

VIIOLATION INFORMATION:	Case No.	03-4467
	Defendants:	Fouts, John D. & Ingrid R.

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME ADDRESS

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

X 1. Complaint letter/memo/email/fax (if applicable)
X 2. Complaint Intake Form/Code Enforcement Officer's report and notes
X 3. State Tax Assessment printout
☐ 4. State Tax Parcel Map (if applicable)
☐ 5. MVA Registration printout (if applicable)
☐ 6. Deed (if applicable)
☐ 7. Lease-Residential or Commercial (if applicable)
☐ 8. Photographs including dates taken
X 9. Correction Notice/Code Violation Notice
☐ 10. Citation and Proof of Service (if applicable)
☐ 11. Certified Mail Receipt (if applicable)
☐ 12. Final Order of the Code Official/Hearing Officer (if applicable)
☐ 13. Office of Budget & Finance Billing Notice/Property Lien Sheet (if applicable)
☐ 14. Complete Chronology of Events, beginning with the first complaint through the Billing Notice/Property Lien Sheet (if applicable).

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/rr
C: Code Enforcement Officer

Code Enforcement - Daily Worksheet

CB

Inspector - [illegible]

2838

Area	Case #	Location	Apt	Zip	Date Rec	Reinsp Dt
015	03-4467	2315 ELLEN AVE		21234	6/13/2003	

Tax Acct #: 0916660193

Complainant Name: (Last) ANNONS (First)

Addr:

Str # Dir Street Name Type Apt

City ST Zip

Phone: (Home) (Work)

Problem: BUILDING NO PERMIT

6-16-3

2 Story Structure in back yard under Const. w/o permits. Issued Stop work order.

[illegible] 6-24-3

[illegible]

KH

CB

J te			Closed Date		Gary F to update
onymous nplaint	Complainant Updated		Updated by voice message	Unable to update	Update not necessary
ecutive office nplaint	**Yes**	**No**	If Yes is Executive memo attached?	**Yes**	**No**

CODE ENFORCEMENT REPORT

NCF

DATE: 6 / 13 / 03 INTAKE BY: MSK CASE #: 03-4467 INSPEC: #5

COMPLAINT LOCATION: 2315 ELLEN Ave

ZIP CODE: 21234 DIST: 9

COMPLAINANT NAME: ANON PHONE #: (H) (W)

ADDRESS: ZIP CODE:

PROBLEM: BUILDING W/out Permit

IS THIS A RENTAL UNIT? YES NO

IF YES, IS THIS SECTION 8? YES NO

OWNER/TENANT INFORMATION:

Rick

John Fouts

410 665 8297

RE: 2315 Ellen Ave

TAX ACCOUNT #: 09-1660 1930

INSPECTION:

REINSPECTION:

REINSPECTION:

REINSPECTION:

6/12/03
To RW
TMK

June 9, 2003

Maryland Department of Zoning for Baltimore County
Baltimore County Office Building, Room 111,
111 West Chesapeake Avenue,
Towson, MD 21204

NCF

Dear Sir or Madam:

Attached you will find copy of a residence located in Parkville Maryland which is in the process of completing a two story building, which looks like a house on the rear most portion of his property. I called the zoning, permits and variances offices and checked to see if a permit had been pulled for the building of this second two story house on this property and found that there had been none requested or approved/given. I wonder why this person is allowed to build a second two story house on his property without any permits what so ever. He apparently has a total disregard for the county zoning and permits laws and he knows better I am sure.

Please look into this and take whatever action is appropriate for this type of situation. The address and thereby the owner of this address is as follows:

David John Fouts and Renee Ingrid Fouts

2315 Ellen Avenue

Baltimore, MD 21234-3905

Sincerely,

A concerned citizen

RECEIVED

JUN 12 2003

03-1994

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

Account Identifier: **District** - 09 **Account Number** - 0916601930

Owner Information

Owner Name:	FOUTS JOHN DAVID FOUTS INGRID RENEE	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	2315 ELLEN AV BALTIMORE MD 21234-3905	**Deed Reference:**	1) / 8890/ 262 2)

Location & Structure Information

Premises Address
2315 ELLEN AVE

Zoning

Legal Description
PT LT 48
550 W OLD HARFORD RD
GRINDON LITTLE FARMS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
71	13	1134					48	81	Plat Ref: 7/ 34

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1951	2,280 SF	11,000.00 SF	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2002	Phase-in Assessments As Of 07/01/2002	As Of 07/01/2003
Land:	32,750	32,750		
Improvements:	88,230	99,740		
Total:	120,980	132,490	124,816	128,652
Preferential Land:	0	0	0	0

Transfer Information

Seller: EMICH V LOUISE	**Date:** 08/21/1991	**Price:** $100,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 8890/ 262	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

D. 9

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 03-4467

Property No. 0966060193

Zoning:

Name(s): JOHN DAVID FOWLS
TWOMID RENEE FOWLS

Address: 2315 ELLEN AVE 21234

Violation Location:

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

IRC 105.1

BUILDING PERMIT (S) REQUIRED

FOR 2 STORY STRUCTURE IN

REAR YARD.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:

Date Issued:

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: Richard Rollins

7-23
8-22

INSPECTOR: R. Rollins

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than: 6-23-3

Date Issued: 6-16-03

INSPECTOR: R. Rollins

DEFENDANT

10/15/03

To Timothy Kotroco

I would like to appeal zoning Case No. 04-030-A. I am lease/owner on subject property 2315 Ellen Ave.

John D. Foutz

John D. Foutz

410 665-8297

RECEIVED

OCT 15 2003

Per.....

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

DATE: October 1, 2004

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton trs
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
04-030-A	*04-030-A*	JOHN FOUTS	2315 ELLEN AVENUE

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

cc: Raymond S. Wisnom, Chief
Code Inspection and Enforcement

Case Number 04-030-A

PLEASE *PRINT* LEGIBLY

PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
✓ RUTH BAISDEN, PRESIDENT GREATER PARKVILLE COM. CONC.	7106 OAK AVE BALTO. MD	21234	SEND COPY OF DECI
✓ DWIGHT L HARTMAN	2312 ELLEN AVE	BALTO MD 21234	21234
✓ Alice Baker	2307 Ellen Ave	21234	21234
✓ Clarence Curnodes	2313 Ellen Ave	21234	21234
Mary Curnodes	2313 Ellen Ave	Balt Md	21234
✓ HALEY WEBB	2317 ELLEN AVE.	BALTO. MD	21234
Esther Webb	2317 Ellen Ave.	Balto Md.	21234
Ann Watson	2312 Ellen Ave	Balto Md	21234
✓ Walter Cook	2306 Ellen Ave	Balt Md	21234
✓ WILL CURNODES	3411 CABSLEY AVE	BALTO. MD	21234

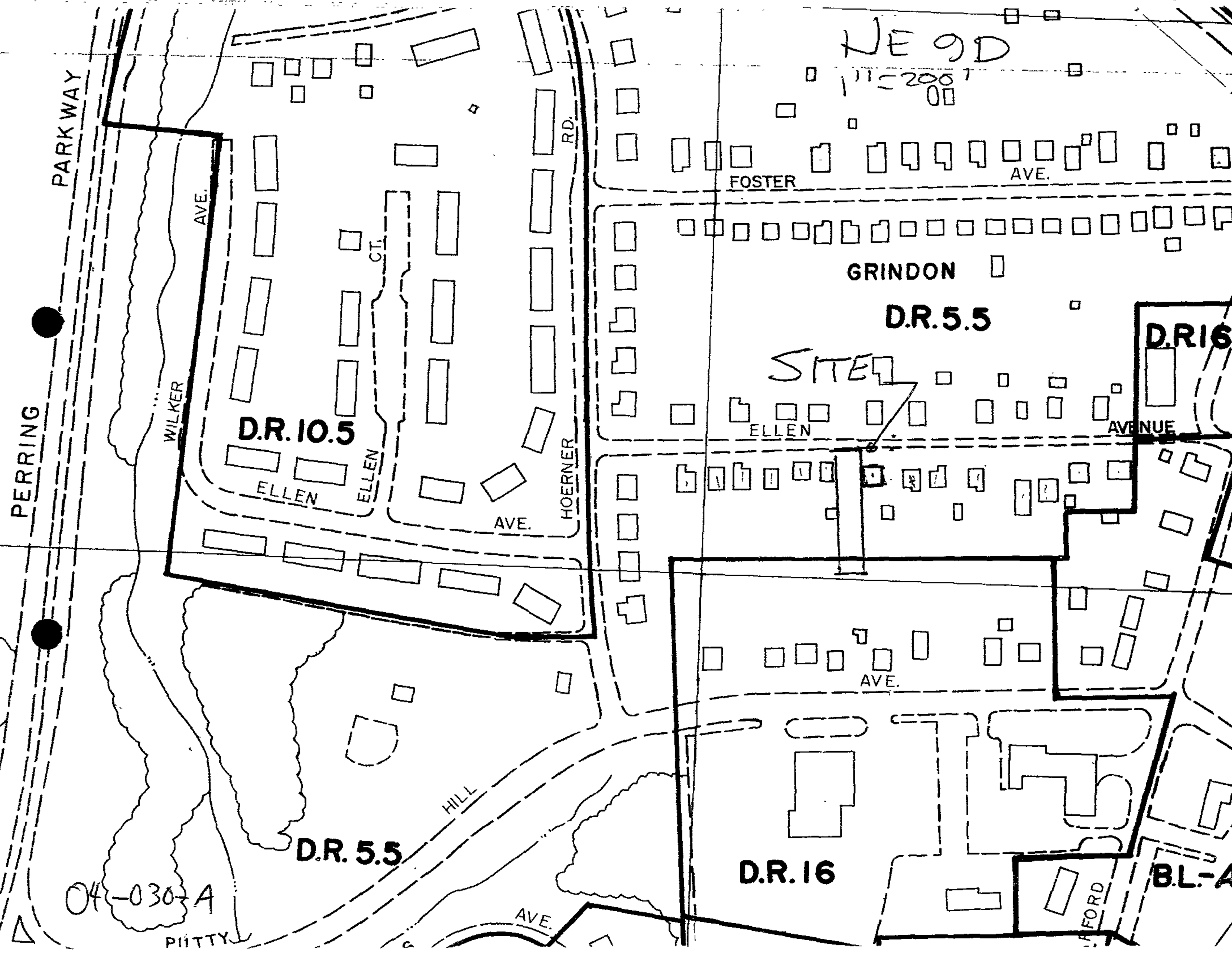
Revised 4/17/00

PLEASE PRINT CLEARLY

CASE NAME 2315 ELLEN AVE.
CASE NUMBER 04-030-A
DATE 9/17/03

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
John D. Forts	2315 Ellen Ave	Ba Hr. Md 21234	
Ingrid Renee Forts	2315 Ellen Ave	Ba Hr. Md. 21234	


NE 9D
1" = 200'
PARK WAY
PERRING
WILKER
AVE.
CT.
D.R. 10.5
ELLEN
ELLEN
AVE.
HOERNER
RD.
FOSTER
AVE.
GRINDON
D.R. 5.5
SITE
ELLEN
AVENUE
D.R. 16
AVE.
HILL
D.R. 5.5
D.R. 16
B.L.-A
04-030-A
PUTTY
AVE.
FORD

12 copys

PLAT TO ACCOMPANY PETITION FOR ZONING ☑ VARIANCE ☐ SPECIAL HEARING

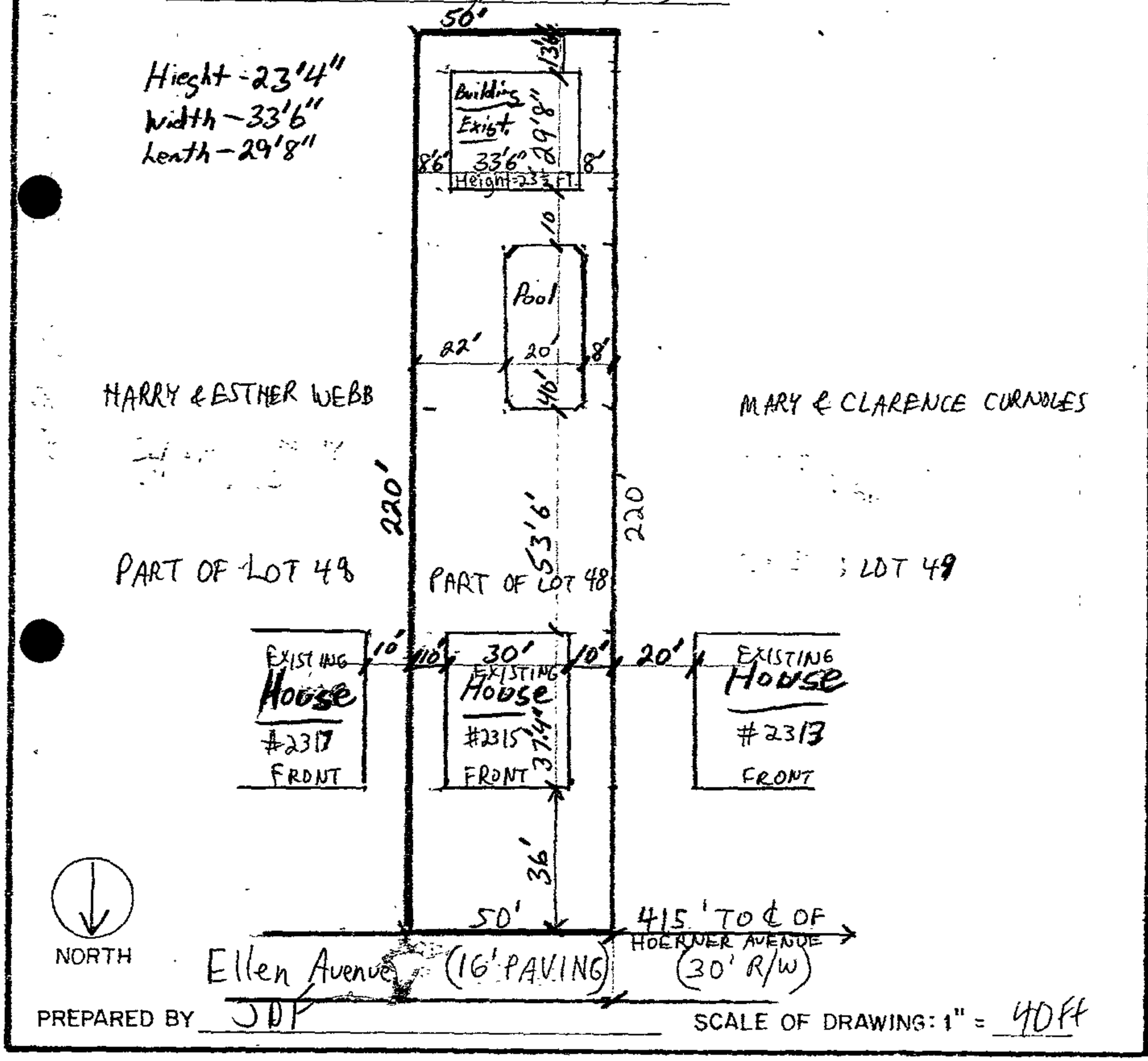
PROPERTY ADDRESS 2315 Ellen Ave

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Grindon Little Farms

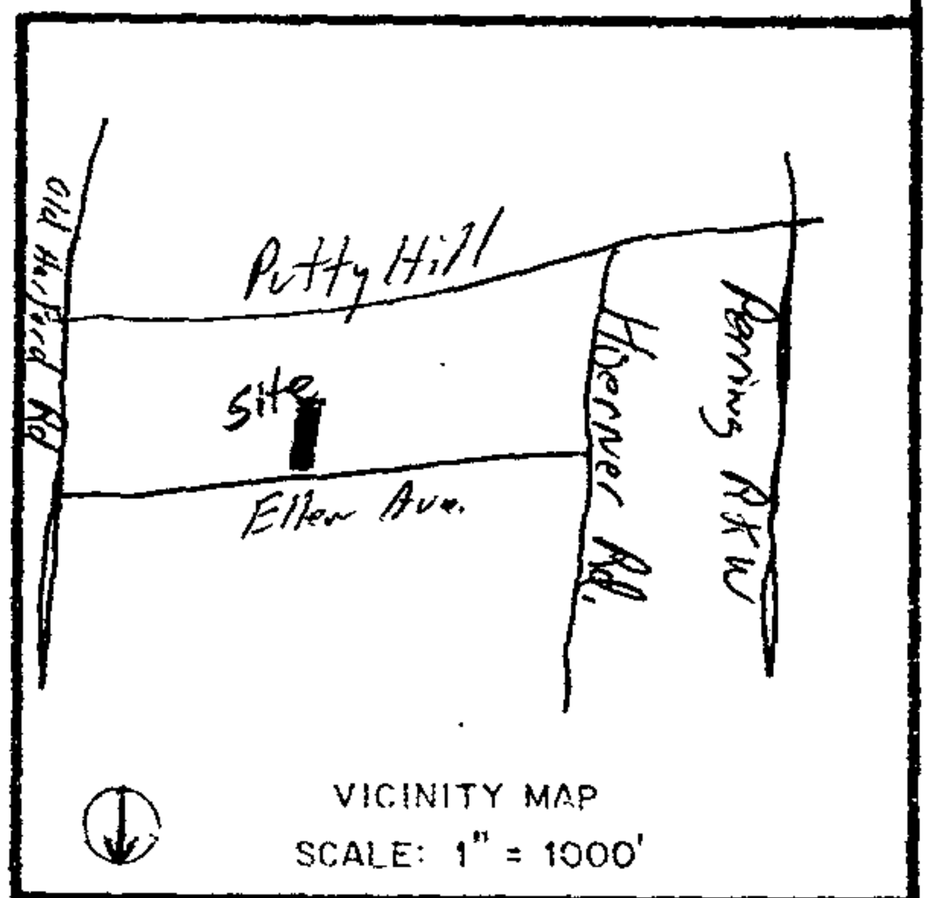
PLAT BOOK # 7 FOLIO # 34 PART OF LOT # 48 SECTION # ___

OWNER John David Foutz Ingrid Renee Foutz



PREPARED BY JDF

SCALE OF DRAWING: 1" = 40ft



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 9th

COUNCILMANIC DISTRICT 6th

1"=200' SCALE MAP # NE-9-D

ZONING DR 5.5 & DR 16

LOT SIZE ___ ACREAGE 11,000 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☑	☐
WATER	☑	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☑
100 YEAR FLOOD PLAIN	☐	☑
HISTORIC PROPERTY/ BUILDING	☐	☑

PRIOR ZONING HEARING NONE
VIOLATION CASE # 03-4467

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #
JNP	030	04-030-A

-15-

Pet. Ex. #1

P.C. #5

DATE: Apr 21, 2004

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: John & Ingrid Fouts

CASE NO.: 04-030-A

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

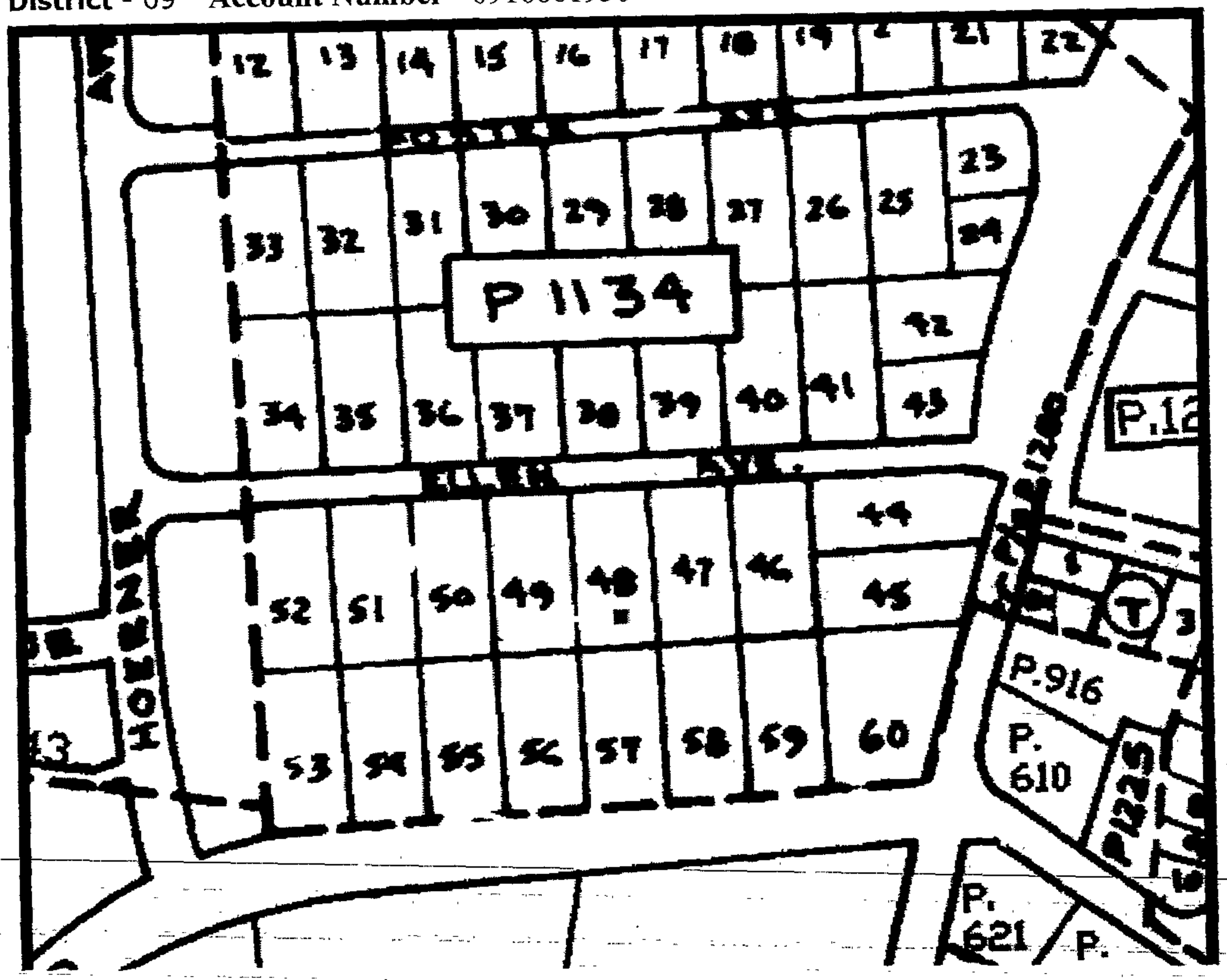
Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
✓	Alice M. Baker 2307 Ellen Ave 410-668-4496	height-Compat. w/neighborhood
	John Baker Same	"
	Walter Fewick 2306 Ellen Ave 410-668-5377	Building Height & Size
✓	Harry Dekel 2317 Ellen Ave.	" " " "
	Esther Webb 2317 Ellen Ave.	" " " "
	WILL CURNOLES 3411 CHESLEY AVE	" " " "
✓	MARY CURNOLES 2313 ELLEN AVE.	" " " "
✓	CLARENCE CORNOLES 2313 ELLEN Ave	" " " "
	DWIGHT HARTMAN 2312 ELLEN	
	Ruth Baisden 7106 Oak Ave	21234 Greater Parkville Community Council - please send order

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

P.C. #3

District - 09 **Account Number** - 0916601930



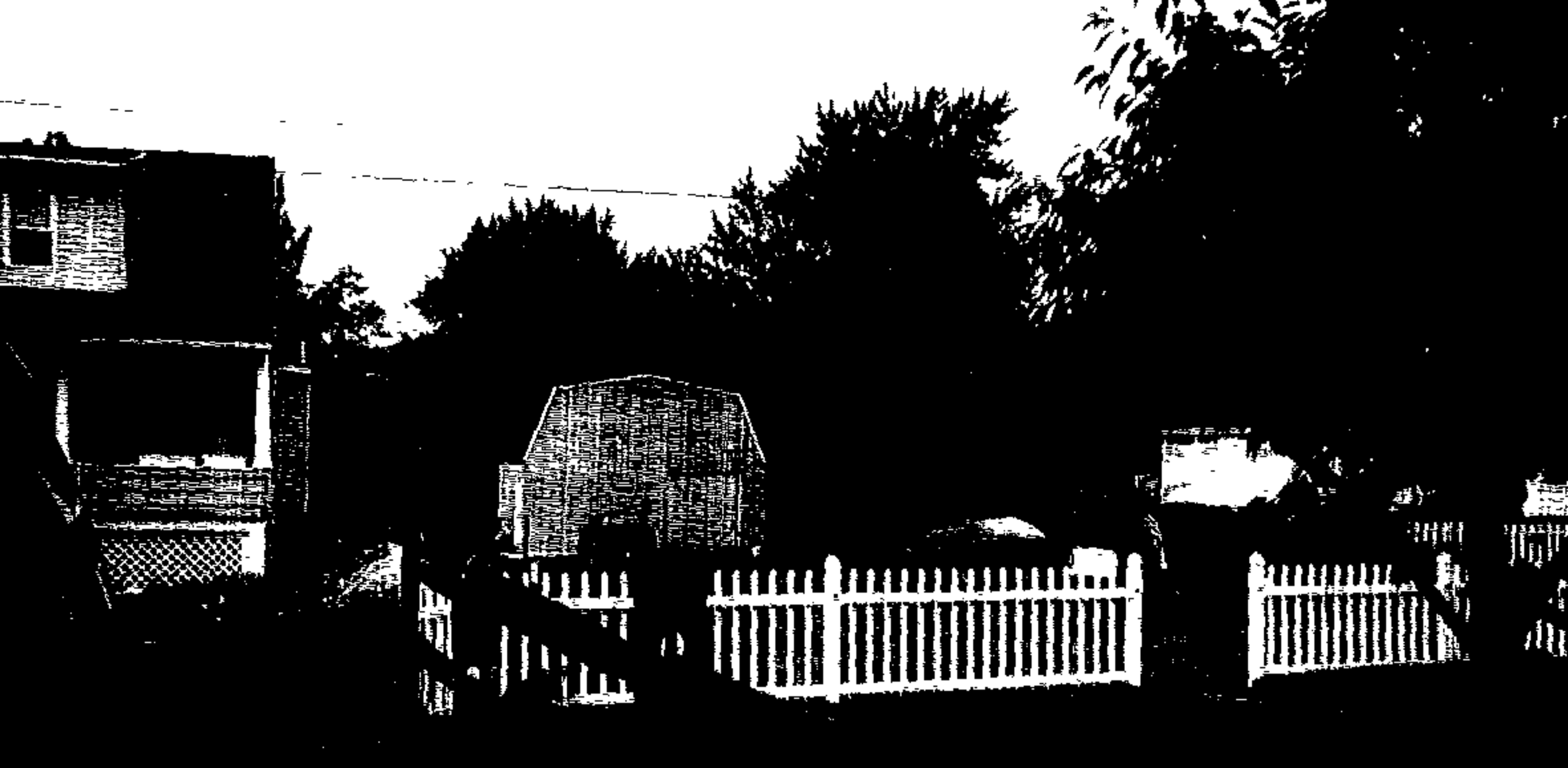
Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

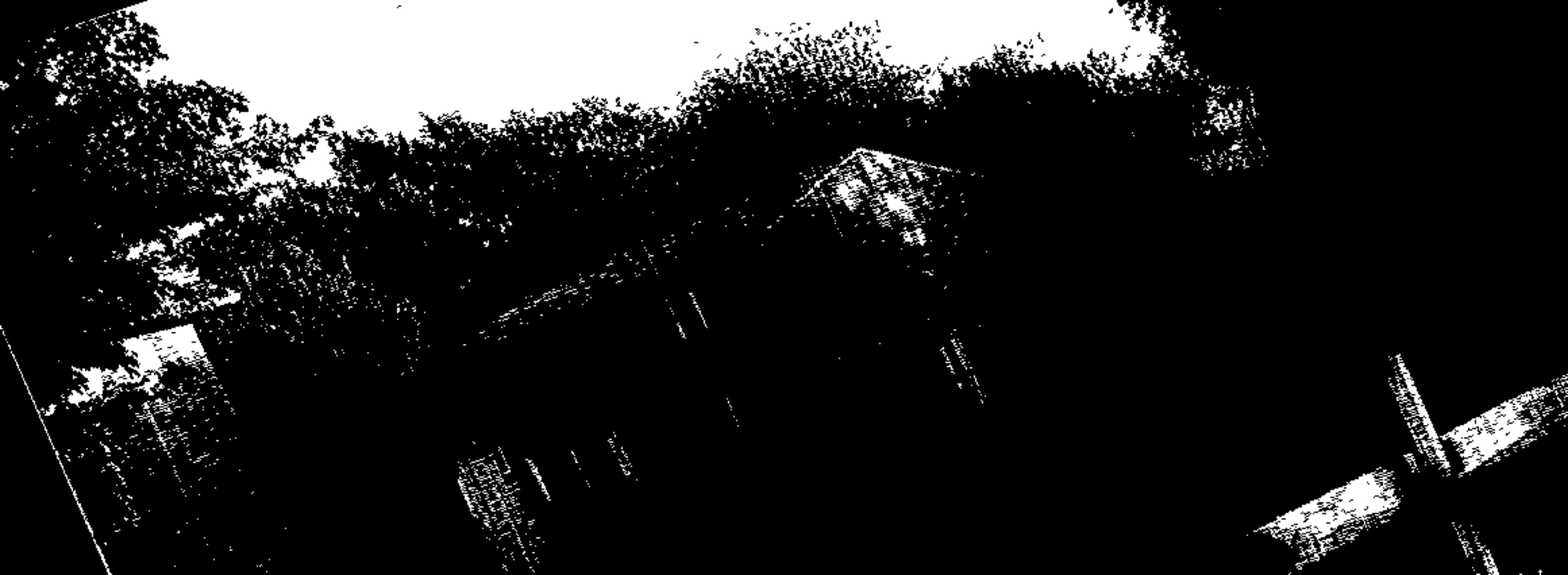
Photographs
04-030-A
9/17/03 hearing

PC #8A-8E (photos)

04-030-A

FOUTS





9/17/03 04-030 A

Fouts - request for variance

John Fouts

- 12-year resident

① built structure -
pool house, accessory
build. game, over
pool table,
for grandchildren

over 15 limit

② - other places in neighbor

accept Pet #1 Plat

Pet #2 Photo -
on took.

- 2A existing building
just shell
- nothing inside

2B - neighbor house

- existing house added onto it
house

2C one story garage
across street
> 15 feet
perhaps 18 feet

2D — ~~the~~ garage
2 car garage
side staircase
2 story
— 2306 Pittly Pell
cul
behind house

---

already have money — difficult
to remove

need storage space

— move roof difficult —

Cross Hartman

White store?

pool equip, weights
game room, ping pong table

Cross Baker

Why 2 storage — no
upstairs.

— 2D lot twice size
yes — larger
100 foot x 220 lo

50 x 220

2D — She protestant to
— won
1990
protestant

Cross Hartman

Front Property — ✓ no not aware

Cross Basden

Set back for access (home

What use of building

game room

— what business
— beer delivery

Ms Baker —
Chevore leave Orange Cou
Gardens
— not.

Pet # 3 Plat 1920
area

Fouts has subdivid

lot 48 — split

Walter Quick —
rebuilt house —
yes —
took roof built up
permit —

upstairs
second
— pool table, ping pong table
Fitnequipment, pool cover, pool equip

Cross Webb
way no permit

Cross Hartman
yes had permit for larger home
no permit for swimming pool
didn't get permit

going to have electric - no -f

Cunnolas Cross

any consideration - drainage -
- runo off
no did not look

Hartman

Grand children 2, 2 1/2, 6, 1 year

- many years
1 child can use

Cunnoles

ask / tell neighbor about

- spoke to Webb - some years

Pres

Ruth Darden Pres Greater Parkville Com Council

- Coverly community Conservation Area

- goals preserve neighborhood
good neighborhood

- Council is council of association
zoning preserve property value
- do not support variances

no

Protest Photographs
Pro #1

yes, yesterday –

Photo 1A – typical parkville house

– current house improved
1B – typical house – next door
neighborhood

1C – accessory structure.
storage area
compared to back
subject

1D – from Ellen Ave →
Putty Hill

– street in back – narrow drive
way
– if sell property – make into
new home –

X condition of

1E, F & G structure

1H – view from opposite house

I setback

Concern lack of permits -
Community
not proper way
- leaves open for business
second homes
- not object to a pool building

- Community wants law followed
- character of neighborhood
majority - single family house
Regert - unusually

- no permit about County
review

- if grant - precedent for other
structures
behind these house - little open
space - keeps families
moving in

* - not prove site unusual in any
way - economic hardship
not reason to grant variance

- burden on community -

2 story?

cross - true across street
- two story - yes
- zoning variances

Mr Hartman ① his house smaller than their house

② Plat are 100 feet have address are accurate

X ③ Balto Co. missed - use as game room for children
- not just storage
- safety fire
how home owner insurance
- people
- meet safety requirement -

④ - ~~need~~ don't need 2 floors
36 inch door

Parker
; lives 200 feet by
should ~~get~~ it go to DRC

- has problem with rain water run over - yard
- ~~fan~~ limb fell on her
- water
- not accessory structure - looks like a house
- next her - ~~that~~ happened
- worried about

suspect there is plumbing -

no accessory structure - looks a house
* - her yard a water problem

main house - story

2200 2 story structure
→ 2 story -

- top floor should be torn off
- not compatible with neighbor

→ lot
→ is her house below

→ Ellen Ave -

only trouble now that she built

Walter Cavik -
water - lake river
- down hill - run off

- of just playroom -
of game room - sha

Gary Webb - of sell his house
with exu
- ~~non~~ buyer may have
problem
- lot new -

can't see beyond.

— in back of

— next door neighbor.

Baker — neighbors — going

Clarence Carroles — John told wanted to get his son/family —

Walter Cook — object

Will Carroles — if permit applied for

Rebuttal

B — just bought house in Dundalk — ~~27 day~~ Sept 27 going

* Closing Statement — Bassden

— request 15 — second floor

— restrict future use of building

revise should according to GL

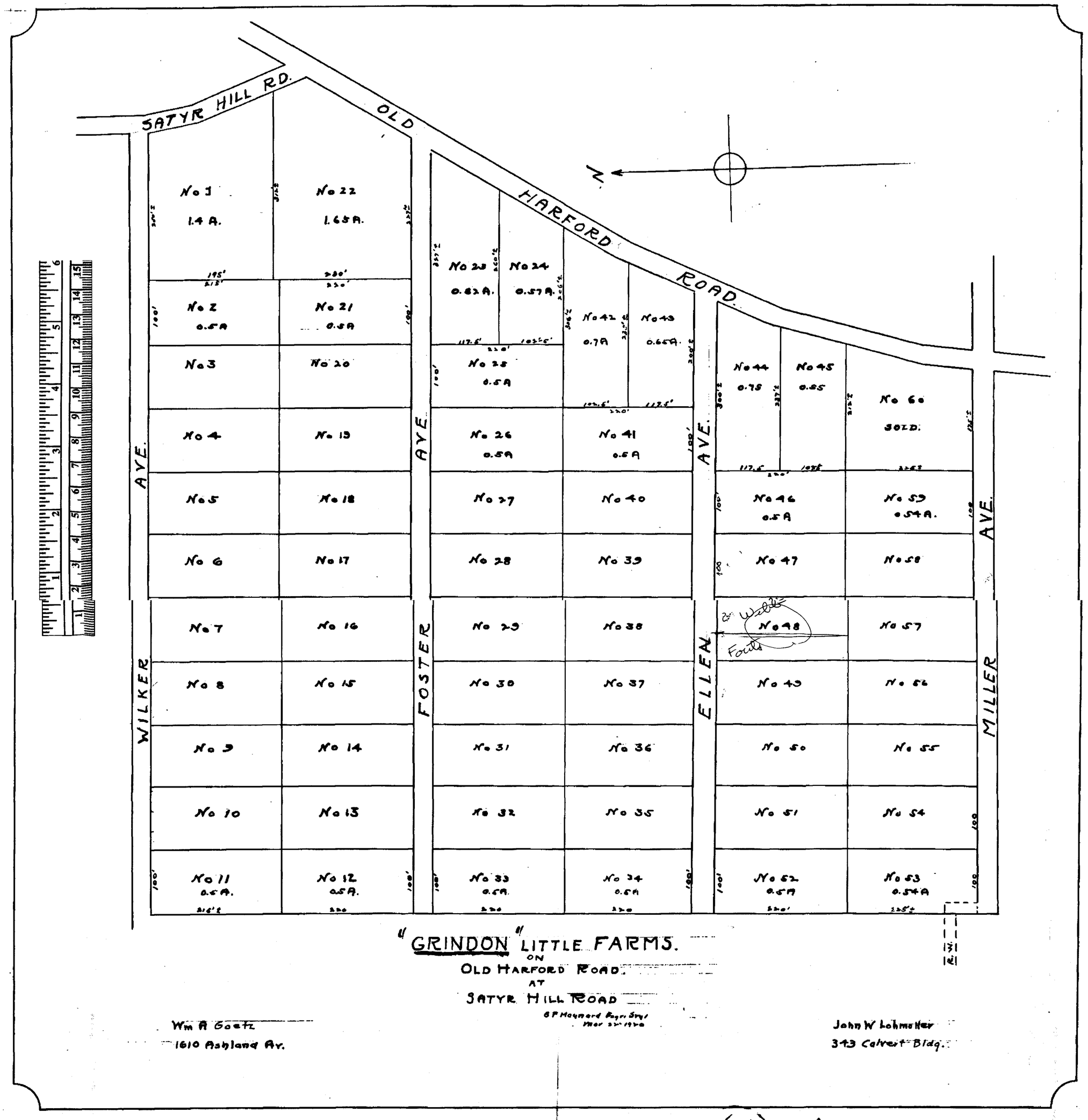
Hartman – had to state
– nothing about living quarters – game room

– may be ~~to~~ misload on game room – accessory structure – no game room

Baker – go out to location –

PC 1

pe 2



"GRINDON" LITTLE FARMS.
ON
OLD HARFORD ROAD.
AT
SATYR HILL ROAD

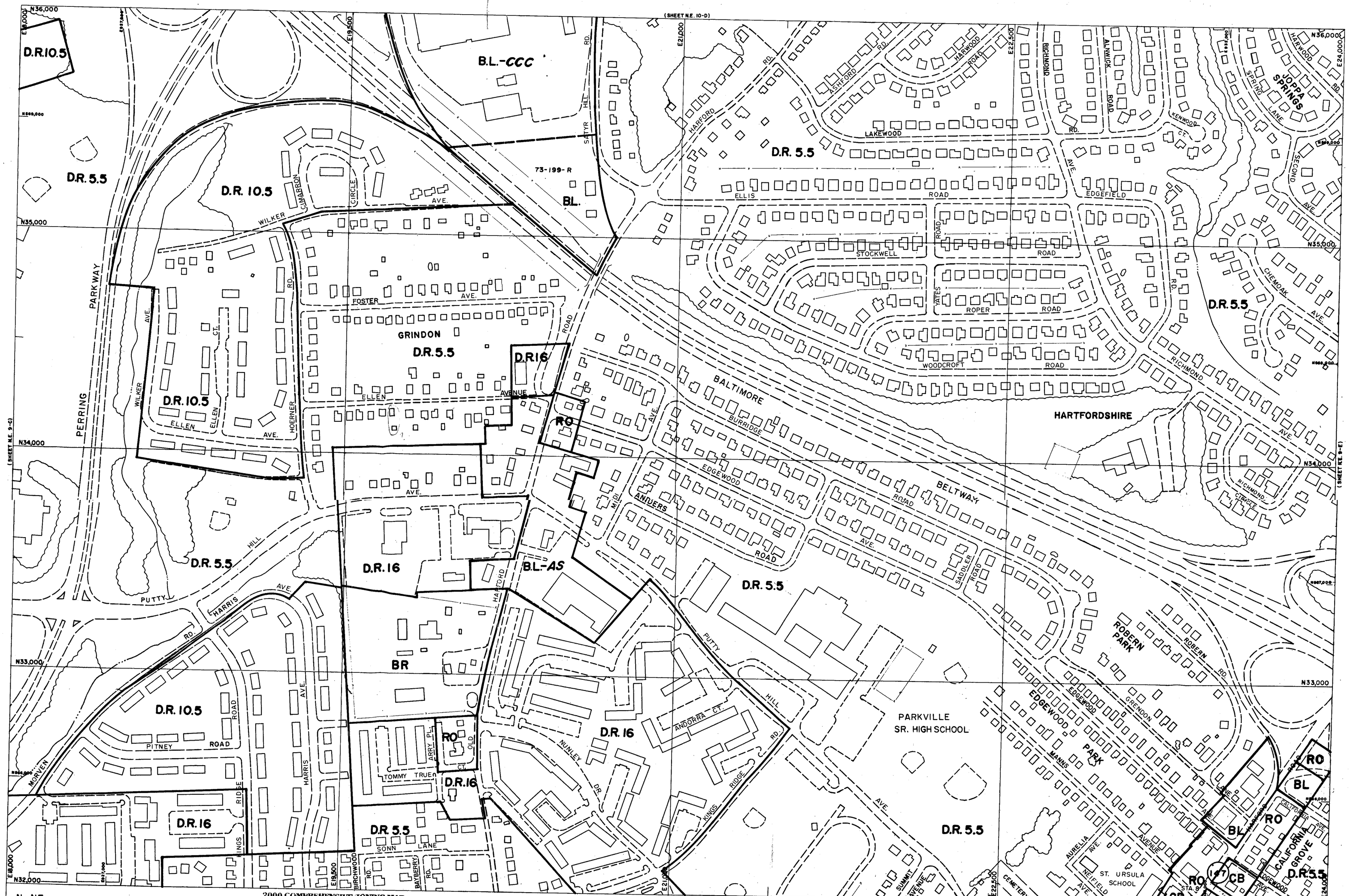
G P Hayward Regr Stys
Mar 3rd 1920

Wm A Goetz
1610 Ashland Av.

John W Lohmeller
343 Calvert Bldg.

04-030-A

MSA CCA 2136-4247



N-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

Joseph Bartenfelder
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	PARKVILLE	N.E. 9-D
DATE OF PHOTOGRAPHY JANUARY 1986		

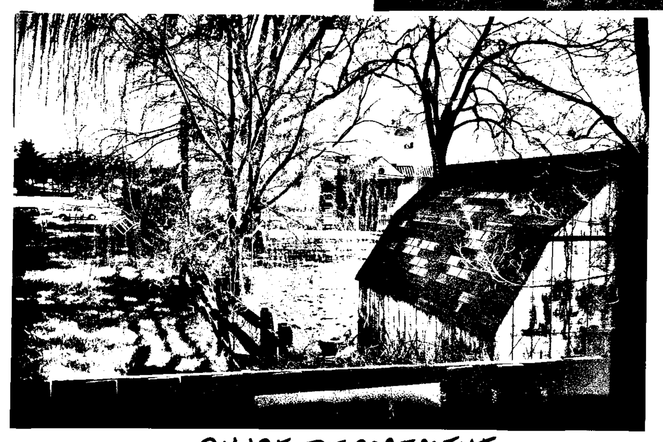
NE 9 D

04-30-A

P.C. #7

Per. #2

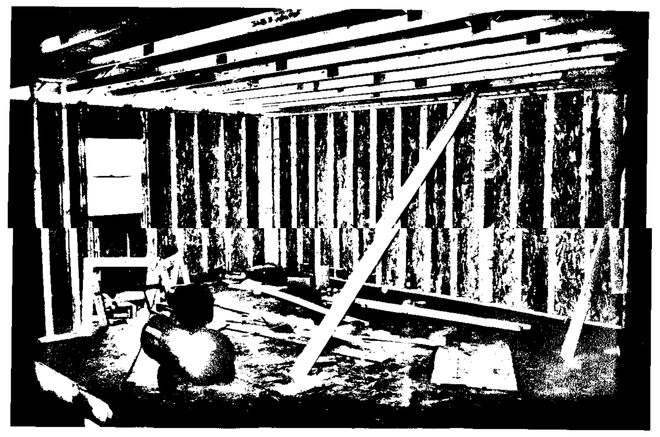
ANTENEA TOWER BEHIND AMERICAN LEGION



POLICE DEPARTMENT

AMERICAN LEGION

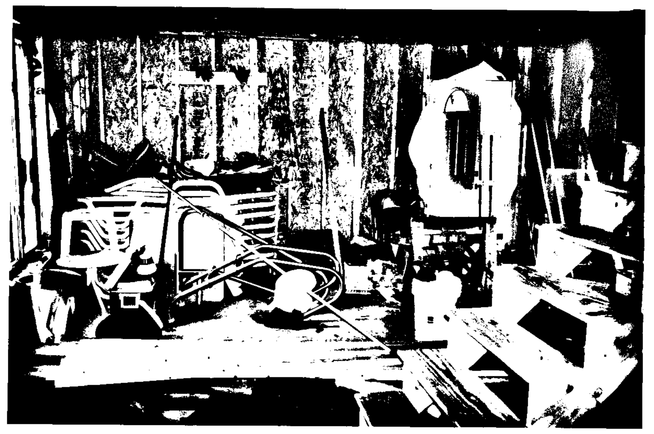
GAME ROOM ON 2ND FLOOR OF ACCESSORY BUILDING



2304 PUTTY HILL

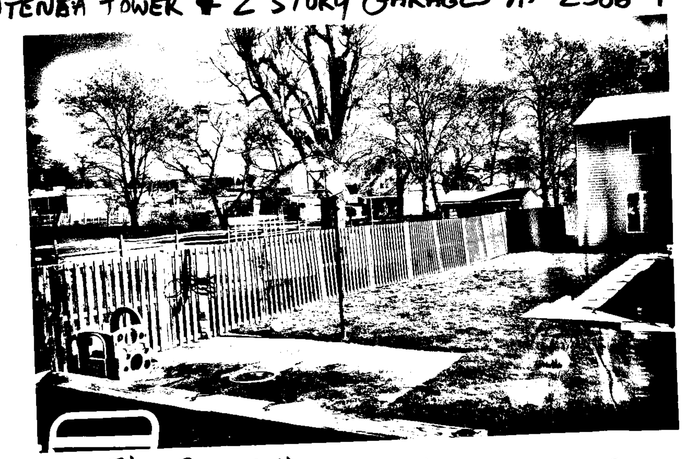
2306 PUTTY HILL AVE

THE FOUTS BACKYARD LOOKING AT ACCESSORY BUILDING WITH BACKGROUND VIEW OF FROM LEFT: 7-11, EXXON, CITGO, LIQUOR PUMP, FIRE DEPARTMENT POLICE DEPARTMENT, AMERICAN LEGION, ANTENEA TOWER & 2 STORY GARAGES AT 2306 + 2304 PUTTY HILL AVENUE



POOL SUPPLIES INSIDE ACCESSORY BUILDING

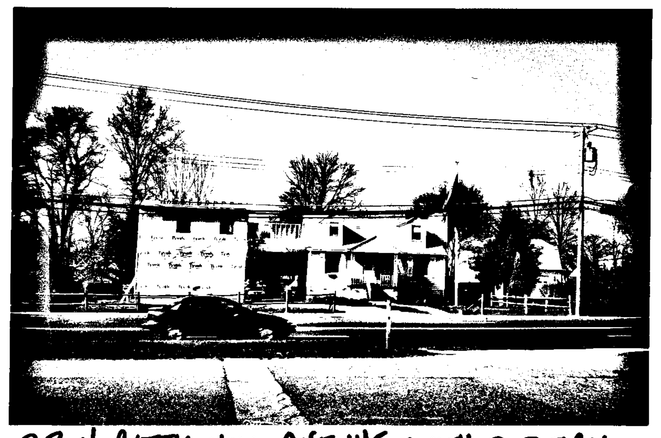
WORK-OUT WEIGHT EQUIPMENT IN ACCESSORY BUILDING



THE FOUTS HOME WITH ACCESSORY BUILDING IN BACKGROUND

THE FOUTS HOME + ACCESSORY BUILDING AS SEEN FROM 2311 FOSTER AVENUE

PUTTY HILL AVENUE LOOKING DOWN TOWARDS 2304, PAST THE AMERICAN LEGION



2304 PUTTY HILL AVENUE WITH 2 STORY GARAGE WITH CAUSEWAY TO MAIN HOUSE

2306 PUTTY HILL AVENUE WITH GARAGE OVER 15 FEET TALL

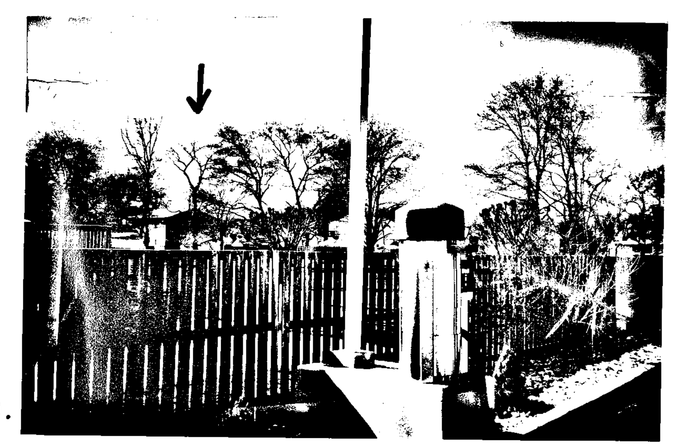
PUTTY HILL AVENUE LOOKING PAST THE AMERICAN LEGION TOWARDS OLD HARFORD ROAD

THE BACK OF 2304 PUTTY HILL AVENUE GARAGE AS SEEN FROM 2307 ELLEN AVENUE

Ret. #1

OLD HARFORD ROAD AS SEEN TOWARDS PUTTY HILL AVE FROM THE PLUMBING SUPPLY ON THE CORNER OF ELLEN AVE + OLD HARFORD RD.

THE FOUTS ACCESSORY BUILDING AT 2315 ELLEN AVENUE AS SEEN FROM THE CITGO GAS STATION ON THE CORNER OF PUTTY HILL AVE + OLD HARFORD RD.



FOSTER + ELLEN AVENUES

LOOKING DOWN ELLEN AVENUE FROM THE ALLSTATE PARKING LOT

2314 ELLEN AVENUE WITH GARAGE OVER 15 FEET TALL AS SEEN FROM THE FOUTS FRONT PORCH

2309 ELLEN AVENUE RENOVATED WITH NUMEROUS ADDITIONS

in part because of the problem getting in and out of his driveway. He expressed concerns that the accessory building is out of character because of its height.

Alice Baker testified next. She has lived at 2307 Ellen Avenue for 45 years, 200 feet west of the subject property. She acknowledged that her lot is the same size as that of the Fouts on the same side of the street. Her house is the original size, approximately 1,300 square feet.

She described the subject building as being visible to her from both inside and outside her house. She stated that the building is much higher than any other accessory building on Ellen Avenue. In her opinion the building overcrowds the land, is out of character for the street, and has a negative effect on real estate value.

Ms. Demilio noted that other residents had offered to speak but their testimony would be repetitive. She offered a sign in sheet as People's Counsel Exhibit # 5.

Ruth Baisden, president of the Greater Parkville Community Council, testified on behalf of that organization. She submitted the appropriate papers authorizing her appearance (People's Counsel Exhibit #6). She described the boundaries of the Council, the membership and explained the organization's position. The Greater Parkville Community Council voted to oppose the request for variance on the grounds that the accessory building is out of character with the residential neighborhood, that it violates the zoning regulations, and that it was built without a permit and therefore illegally. The goal of her group, she testified, is to preserve older residential communities. She emphasized that adherence to the zoning regulations helps this mission.

Ms. Baisden explained why Ellen Avenue is different from an arterial such as Putty Hill Avenue which adjoins it. She offered a 200-scale zoning map into evidence (People's Counsel