IN RE: PETITION FOR SPECIAL HEARING
W/S of Clover Avenue, 220 ft. NE
centerline of Myrth Avenue
15th Election District
7th Councilmanic District
(704 Clover Avenue)

Mason Barrow Petitioner BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 04-043-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owner of the subject property, Mason Barrow. The Petitioner is requesting special hearing relief for property he owns at 704 Clover Avenue. The special hearing request is for an undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations (B.C.Z.R.).

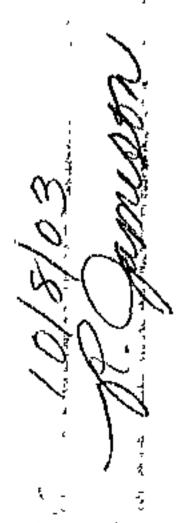
The property was posted with Notice of Hearing on September 5, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 4, 2003 to notify any interested persons of the scheduled hearing date.

Notice is taken that the property, which is the subject of this special hearing request, is zoned D.R.5.5 and was the subject of a Petition for Variance, Case No. 03-031-A, for side yard and lot width variances which was denied by Deputy Zoning Commissioner Kotroco on September 3, 2003.

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all



zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief was Jeff Holt, prospective home builder, Mason Barrow, owner and Vincent Moskunas, land use consultant who prepared the plan. Protestants included Antoinette and Lawrence Lingg, D. Jenkins, Francis Bruns and Larry & Dennis Spencer. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence for the petition was proffered by Mr. Moskunas who indicated that the property, which is the subject of this special hearing request, is a vacant lot. This petition, as opposed to the former petition for variance, contains no request for variance. The only issue raised here is whether or not the lot should be approved as an undersized lot having a lot width of 45 ft. rather than the required 55 ft. Mr. Moskunas indicated that the property meets all other County regulations. For example, the area is 6,930 sq. ft. as compared to 6,000 sq. ft. required by the Regulations. The proposed dwelling meets all setback and height requirements. Petitioner's lot is Lot #5 of the "Johnson Property" subdivision, and the Petitioner suggests that by DR 5.5 standards, 20 houses could be built. As of this hearing only 18 have been built so density is not a problem.

The "Johnson Property" subdivision was recorded in the land records in 1925. As such, the lot can not meet the lot width requirement of 55 ft., which was imposed upon it in 1955 when the DR zoning was first applied in the County. The owner seeks relief under section 304 of the B.C.Z.R. rather than Section 307 Variances. He notes the standards for each section are quite different. Section 304 merely requires:

Section 304 Use of Undersized Single-Family Lots [BCZR 1955; Bill No. 47-1992]

§304.1[Bill Nos. 64-1999; 28-2001] Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

§304.2 Building permit application.

- A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits and Development Management, at the time of application for a building permit, plans sufficient to allow the Office of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.
- B. At the time of application for the building permit, as provided above, the Director of the Department of Permits and Development Management shall request comments from the Director of the Office of Planning (the "Director"). Within 15 days of receipt of a request from the Director of the Department of Permits and Development Management, the Director shall provide to the Department of Permits and Development Management written recommendations concerning the application with regard to the following:
 - 1. Site design. New buildings shall be appropriate in the context of the neighborhood in which they are proposed to be located. Appropriateness shall



Should this occur it would push the proposed home back toward the rear of the lot, but this would eliminate the wooded area and wildlife which the Linggs enjoy. Consequently, Mr. Lingg indicated the request to approve the undersized lot should be denied.

Mr. Spencer was concerned that the proposed home would be too close to his mother's home and that the new two-story home would be out of place in the neighborhood which contains primarily single story cottage homes.

Findings of Fact and Conclusions of Law

Everyone wants a vacant lot next to them to remain vacant forever or the owner should be told to sell the lot to the adjacent property owners at a fair and reasonable price. Unfortunately (or fortunately depending on your point of view), our law does not allow the government to permanently prohibit building on an otherwise buildable lot. Nor does the government have the power to set reasonable prices for neighbors to purchase adjoining property.

I am sympathetic to the fact that the Spencer's home will be very close to the new home but the problem here is not Mr. Barrow's but the contractor who built the Spencer home in 1925 and who put the home too close to the property line. Said another way, Mr. Barrows has no means of correcting this problem as he does not own the Spencer property. I am, therefore, going to approve the undersized lot but will require the home erected to be compatible with the neighborhood pursuant to Section 304.2 through Section 304.7 of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and for the reasons given above, the special hearing request shall be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this <u>S</u> day of October, 2003, that the Special Hearing request for an undersized lot

pursuant to Section 304.1 of the B.C.Z.R., be and is hereby GRANTED, subject, however, to the following restrictions:

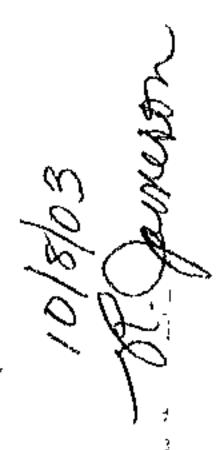
- 1. The Petitioner shall comply fully with Section 304.2 through Section 304.7 of the B.C.Z.R. including, but not limited to, submitting elevation drawings of the proposed house to the Office of Planning for their review and approval for neighborhood compatibility prior to the issuance of any building permits
- 2. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition;
 - 3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

October 7, 2003

Mr. Mason Barrow 704 Myrth Avenue Baltimore, Maryland 21221

> Re: Petition for Special Hearing Case No. 04-043-SPH Property: 704 Clover Avenue

Dear Mr. Barrow:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been granted 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

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Site Rite Surveying, Inc. 200 E. Joppa Road, Room 101 Towson, MD 21286

Mr. & Mrs. Laurence V. Lingg 706 Clover Avenue Baltimore, MD 21221

Francis H. Bruns 610 Myrth Avenue Baltimore, MD 21221

Larry Spencer 100 Magnolia Trial Delta, PA 17314 Jeff Holt

2309 Riverside Drive Baltimore, MD 21221

D. Jenkins 708 Clover Avenue Baltimore, MD 21221

Dennis Spencer 702 Clover Avenue Baltimore, MD 21221







Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING _

Reviewed By DIHOMPSON Date

for the property located at	#704 Clove	Avenue	
which i	s presently zone	ed D.R.5	. 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

AN UNDERSIZE LOTPER SECTION 304 BCZR.

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

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County

		I/We do solemnly declare and perjury, that I/we are the legal is the subject of this Petition	affirm, under owner(s) of t	the penalties of he property which
Contract Purchaser/Lessee:		Legal Owner(s):		
Name - Type or Print		Name - Type or Print	-, <u></u>	<u></u>
Signature		Signature		
		Mason Barrow		
Address	Telephone No.	Name - Type or Print Mason Bar	2021	
City	Zip Code	Signature		
Astronous Con Detitioners		704 Myrth Avenue	410-574-8733	
Attorney For Petitioner:		Address Baltimore, MD 21221		Telephone No
Name - Type or Print	· · · · · · · · · · · · · · · · · · ·	Crty	State	Zip Code
<u>!</u>		Representative to be C	ontacted:	
Signature		Site Rite Surveying,		
Company		Name 200 E. Joppa Road, Ro	oom 101	410-828-9060
Address	Telephone No.	Address		Telephone No
		Towson, MD 21286		
City 3. State	Zip Code	City	State	ZIp Code
		OFFICE U	ISE ONLY	

ZONING DESCRIPTION FOR #704 CLOVER AVENUE

BEGINNING AT A POINT ON THE WEST SIDE OF CLOVER AVENUE WHICH IS 28 FEET WIDE AT THE DISTANCE OF 220 FEET NORTHEAST OF THE CENTERLINE OF MYRTH AVENUE WHICH IS 30 FEET WIDE. BEING LOT NO. 5 IN THE SUBDIVISION OF "JOHNSON PROPERTY" AS RECORDED IN BALTIMORE COUNTY PLAT BOOK NO. 7, FOLIO NO. 179, CONTAINING 6,930 SQUARE FEET. ALSO KNOWN AS #704 CLOVER AVENUE AND LOCATED IN THE 15TH. ELECTION DISTRICT, 5TH. COUNCILMANIC DISTRICT.

J. TILGHMAN DOWNEY, JR.

Site Rite Surveying, Inc. 200 E. Joppa Road Room 101 Towson, MD 21286 (410)828-9060

BALTIMORE COUNTY, MARYLA OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	ND No. 27407
DATE 7/28/03 ACCO	UNTO0100650
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RECEIVED SITE RITESUR	NETING
FOR: ITEM # 04-043-6	SPH 704 CLOVER AVE
	BY D. THOMPSON
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YELLOW - CUSTOMER

PINK - AGENCY

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1	Baltimore County,	Maryland	

CASHIER'S VALIDATION

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: #04-043-SPH
704 Clover Avenue
W/side of Clover Avenue, 220 feet northeast of centerline of Myrth Avenue
15th Election District - 7th Councilmanic District
Legal Owner(s): Mason Barrow
Special Hearing: to permit an undersize lot.
Hearing(s): Tuesday, September 23, 2003 at 11:00 a.m.
in Room 106, County Office Building, 111 W. Chesapeake Avenue

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

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

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 ofsuccessive weeks, the first publication appearing
on 94 , 2003 .
The Jeffersonian Arbutus Times Catonsville Times
Towson Times Owings Mills Times
Owings Mills TimesNE Booster/Reporter
☐ North County News
S. Wilkinger
LEGAL ADVERTISING

CERTIFICATE OF POSTING

4 4

	Petitioner/Developer: MASON BARROW
•	Date of Hearing/Closing: SEPT. 23, Zero3
ealtimore County Department of ermits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue owson, MD 21204	
Mention: BECKY HART	
adies and Gentlemen: This letter is to certify und	er the penalties of perjury that the necessary sign(s) required by
were posted conspicuously on the property loc	cated at # 704 CLOVER AVENUE
he sign(s) were posted on SEP7.	5th 7003 (Month, Day, Year)
	Sincerely, Signature of Sign Poster and Date)
	CHARLANDE, KLOORE (Printed Name)
	3225 RYERSON CIRCLES (Address)
	TOAUTINIORE, MD. 2127 (City, State, Zip Code)
	(Telephone Number)

RE: Case No.: 04 - 043-SPH



CASE # 04-043- SPH

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: TOWSON MD. 21204

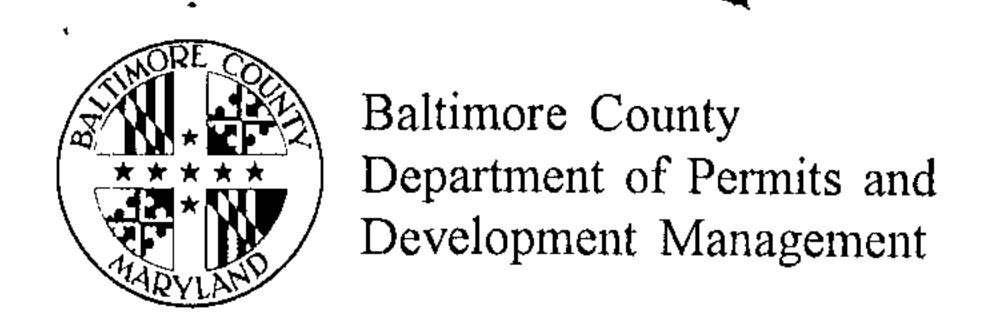
DATE AND TIME: AT 11:00 A.M.

REQUEST: SPECIAL HEARING

TO PERMIT AN

UNDERSIZED LOT

ZONING NOTICE LAE TOUTHE SHIT OF BEEN PLACE
DATE AND TIME
REQUEST SUPERIOR AND A PROPERTY AND A PROPERTY



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

Fax: 410-887-5708

August 7, 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: 04-043-SPH

704 Clover Avenue

W/side of Clover Avenue, 220 feet northeast of centerline of Myrth Avenue

15th Election District – 7th Councilmanic District

Legal Owner: Mason Barrow

Special Hearing to permit an undersize lot.

Hearings:

Tuesday, September 23, 2003, at 11:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Avenue

Timothy Kotroco

Director

TK:klm

C: Mason Barrow, 704 Myrth Avenue, Baltimore 21221 Site Rite Surveying, Inc., 200 E. Joppa Rd., Room 101, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 8, 2003.

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

TO: PATUXENT PUBLISHING COMPANY

Thursday, September 4, 2003 Issue - Jeffersonian

Please forward billing to:

Mason Barrow 704 Myrth Avenue Baltimore, MD 21221 410-574-8733

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: 04-043-SPH

704 Clover Avenue

Hearings:

W/side of Clover Avenue, 220 feet northeast of centerline of Myrth Avenue

15th Election District – 7th Councilmanic District

Legal Owner: Mason Barrow

Special Hearing to permit an undersize lot.

Tuesday, September 23, 2003, at 11:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

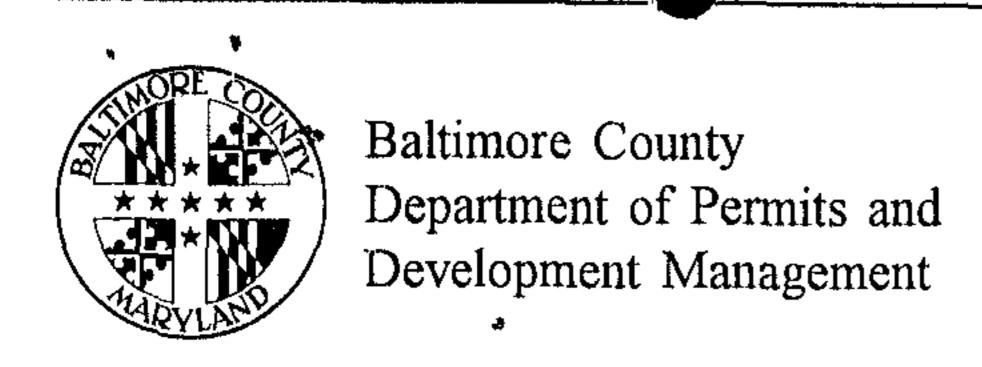
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <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:	04-043-SPH	_
Petitioner: Mason Barrow		
Address or Location: 704 Clove	Avenue	
,		
PLEASE FORWARD ADVERTISING BILL	L TO:	
Name: Mayon Barrow		
Address: 704 Myrth Avenue Baltimore, MD 212	<u> </u>	
Baltimore, MD 212	2	<u></u>
		-
Telephone Number. 410 574-8	133	



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

September 22, 2003

Mason Barrow 704 Myrth Avenue Baltimore, MD 21221

Dear Mr. Barrow:

RE: Case Number: 04-043-SPH, 704 Clover Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 28, 2003.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:klm

Enclosures

c: People's Counsel Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson 21286



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 August 6, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: August 4, 2003

Item No.:

034, 036-045

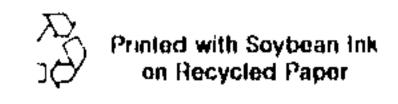
Dear Ms. Hart:

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, Administrator

Martial Deviation of Traismontain

Date:

8.5.03

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

RE:

Baltimore County

Item No. 043

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,

1. 1. And

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

FROM: Arnold F. 'Pat' Keller, III

Director, Office of Planning

Zoning Advisory Petition(s): Case 04-043 and 04-061 **SUBJECT:**

RECEIVED

AUG 1 9 2003

MG COMMISSION

DATE: August 18, 2003

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

Section Chief:

AFK/LL:MAC

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: September 25, 2003

TO:

Timothy M. Kotroco, Director

Department of Permits &

Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

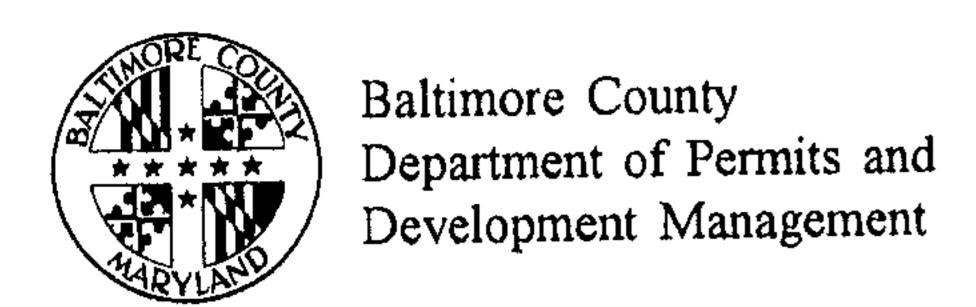
For August 11, 2003

Item Nos. 033, 034, 035, 036, 037, 039, 040, 041, 043, 045, and 046

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

RWB:CEN:jrb

cc: File



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

June 5, 2003

Mr. Mason Barrow 704 Myrth Avenue Baltimore, Maryland 21221

RE: Demand for Public Hearing, Undersized Lot Approval, 7 Clover Avenue

15th Election District

Dear Mr. Barrow:

The purpose of this letter is to officially notify you that the posting of the subject property has resulted in a timely demand on May 30, 2003 for a public hearing concerning your proposed undersized lot. I regret to inform you that we are withholding approval of your use permit because it has been superseded by a demand for public hearing (Special Hearing), pursuant to Section 304.4. of the <u>Baltimore County Zoning Regulations</u> (BCZR).

Once the Special Hearing petition forms and plan is filed and accepted in this office, you will receive a notice of public hearing indicating the date, time and location of the hearing. This notice will also contain the date that the sign must be reposted with the hearing information. This notification will be published in a local newspaper and you will be billed directly by the Patuxent Publishing.

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

Sincerely,

Donna Thompson

Planner II, Zoning Review

DT

Enclosure

Cc: Junn Lanham, Office of Planning

Site Rite Surveying Inc., 200 E. Joppa Rd., Towson, MD 21286

Come visit the County's Website at www.co.ba.md.us

SCHEDULED DATES. CERTIFICATE OF FILING AND POSTING FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2

OFFICE OF PLANNING

OH-043-SPH

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
704 Myrth Avenue; W/side Clover Avenue,
220' NE c/line Myrth Aveneu * ZONING COMMISSIONER
15th Election & 7th Councilmanic Districts
Legal Owner(s): Mason Barrow * FOR
Petitioner(s)

* BALTIMORE COUNTY

* 04-043-SPH

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore Co

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 8th day of August, 2003, a copy of the foregoing Entry of Appearance was mailed to Site Rite Surveying, Inc, 200 E Joppa Road, Room 101, Towson, MD 21286, Representative for Petitioner(s).

RECEIVED AUG 0 8 2003

Per.....

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Correspondence

Date: September 23, 2003

To: Deputy Commissioner Murphy

Baltimore County Department of Licenses and Permits

Zoning Commission

From: Laurence and Antoinette Lingg

Re: Case #: 04-043-SPH

Question concerning Spencer residence side yard at 702 Clover Avenue,

Baltimore, Maryland 21221.

Please see attached information for clarification of this question.

If you have any questions, please feel free to call us at 410-391-2573.

Thank You for your time.

IN RE: PETITION FOR YELANCE
W/S Clover Avenue, 220' NE
of Myrth Avenue
15th Election District
5th Councilmanic District
(704 Clover Avenue)

Mason Barrow
Petitioner

* BEFORETHE

DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

CASE NO. 03-031-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 owner of the subject property, Mason Barrow. The variance request involves property located at 704 Clover Avenue. The Petitioner is requesting permission to construct a single-family dwelling on a lot with a width of 45 ft. in lieu of the required 55 ft. and side yard setbacks of 8 ft. and 7 ft. in lieu of the required 10 ft.

Appearing at the hearing on behalf of the variance requests were Vince Moskunas, who prepared the site plan of the property, and Jeff Holt, the contractor interested in constructing this home. Appearing in opposition to the Petitioner's request were adjacent property owners Mr. & Mrs. Lingg and Mr. Jenkins. Mrs. Elva Spencer and her daughter, also adjacent property owners, were not able to make the hearing on time, however did appear after the hearing to note their opposition to the request. I indicated to those neighbors that the decision in this case would be mailed to them just as if they had attended the hearing.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.159 acres of land, more or less, zoned D.R.5.5. The subject property is unimproved at this time. It has been owned by Mason Barrow for a number of years. At this time, Mr. Barrow is interested in selling the property to Mr. Jeffrey Holt who would like to build a single-family dwelling thereon. Mr. Holt proposes to construct a single-family dwelling on the property the size of which requires a variance to allow side yard setbacks of 7 ft. and 8 ft. In

order to proceed with the construction of this size of home on the property, the variance request is necessary.

As stated previously, several neighbors appeared in opposition to the Petitioner's request. These neighbors opposed any variance being granted for a home to be constructed on this lot. They believe the home chosen to be constructed by Mr. Holt is out of character with the other smaller cottage type homes existing on Clover Avenue. They ask that the variances be denied.

After considering the testimony and evidence offered at the hearing, I believe that the variance to allow a house to be constructed on this property with side yard setbacks of 8 ft. and 7 ft. should be denied. It should be noted that the home owned by Elva Spencer, located immediately to the south of the subject unimproved lot is situated a mere 2 ft. from the property line. Mrs. Spencer indicated that her house has existed on her lot for over 70 years. Allowing these variances to be granted will cause an overcrowding of this lot, based on the size and spacing of the other homes located along Clover Avenue. Accordingly, the variances shall be denied.

THEREFORE, IT IS ORDERED this 3 day of September, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for variances, to construct a single-family dwelling on a lot with a width of 45 ft. in lieu of the required 55 ft. and side yard setbacks of 8 ft. and 7 ft. in lieu of the required 10 ft., be and is hereby DENIED.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj

Department of Permits and Development Management County Office Building Baltimore, MD 21204

> Mrs. Elva Spencer 702 Clover Avenue Baltimore, MD 21221

September 22, 2003

Subject: Special Hearing to permit an undersized lot.

Case Number: 04-043-SPH

Dear Sir/Madam,

I write this letter in opposition to the zoning variance for 704 Clover Avenue sought by Mr. Mace Barrow. Mr. Barrow seeks this zoning variance to allow construction of a single family dwelling on this property.

My house at 702 Clover Avenue (adjacent to the lot 704) has existed for 78 years, and has been passed down in my family since 1924. The particular placement of my house within the property of 702 Clover Avenue results in a 2-foot side yard separating lot 702 from lot 704.

The 10-foot side yard setback requested by Mr. Barrow seems like a quick solution to the problem posed by his original zoning variance request (Case No. 03-31-A), which was denied because, as a full-sized lot, it did not fall within the original criteria. Aside from the new small-lot permit request violating the spirit in which the original dwellings were constructed, a dwelling placed on 704 Clover Avenue would cause overcrowding. This overcrowding would be further exacerbated if other structures were also built on the property, such as fences, a pool, or a shed.

Allowing the variance requested by Mr. Barrow would:

- ruin the continuity of the current lots on Clover Avenue
- seriously detract from the appearance and characteristics of the adjacent properties
- diminish the value of the adjacent properties
- set a very bad precedent in a well-established neighborhood

The zoning variance requested for this property does not meet the desires of our neighborhood, and there is no inordinate economic burden or hardship on the property owner sufficient to justify this variance.

As a resident of this fine neighborhood and a long-time homeowner, I respectfully request that you deny this zoning variance and allow our neighborhood to retain its charm and beauty.

Sincerely, Elva Spencer

RECEIVED

SEP 2 3 2003

Elva Spencer 702 Clover Avenue Baltimore, MD 21221

ZONING COMMISSIONER

Subject: Special Hearing for an Undersized Lot

Case No. 04-043-SPH

Location: 704 Clover Avenue

September 23, 2003

Dear Commissioner,

We, the property owners, residing at 706 Clover Avenue oppose the request to "permit an undersized lot" located at 704 Clover Avenue. Supporting documentation is on file with the Zoning Commissioner of Baltimore County under Case No. 03-031-A, which details our strong opposition to any zoning variances, which would alter changes to the present prescribed zoning regulations.

Mr. Mason Barrow, property owner requesting the permit for undersized lot, continues his quest to complete an apparent deal with building contractors. He's made no attempt over the past several years to discuss the sale of his property or negotiate any figures with the adjacent property owners. We are very interested in purchasing his lot at a price that is fair and equitable to everyone.

The primary structure built in 1924 on the lot located at 702 Clover Avenue remains intact. The single-family dwelling has only a 2-foot "Side Yard" setback resulting from the house's age and non-existing zoning regulations at the time of construction. The house has existed on the lot for 78 years. Permit for an undersized lot located at 704 Clover Avenue would significantly reduce the allowed "Side Yard" protection between residential dwellings. Infringements on property width will deprive Mrs. Elva Spencer, the adjacent property owner, and her family to their privacy and create an over-crowed condition currently non-existent within the seven hundred block of Clover Avenue. All zoning variances, including the 55-feet width of property required by law and enforced by the Zoning Commission of Baltimore County are equally important.

Clover Avenue is a mature, well-established community. The homeowners have made significant investments to maintain their homes and provide a good quality of life in their neighborhood. Along with this commitment is the understanding that any new development, if approved, would be consistent with the established character of the neighborhood. In fact, the residential zoning regulations form the basis of this understanding. Permitting any variances in the lot width to build a single-family dwelling would be contrary to the protection that existing zoning regulations provide.

The Zoning Commission of Baltimore County recently "DENIED" variances (Case No. 03-031-A) for the lot located at 704 Clover Avenue. This is a justified decision, which we fully support.

Recently, two new single-home dwellings were built on Myrth Avenue within two blocks of Clover Avenue. The houses were built on lots that exceed the minimum 55-feet zoning requirements. They are a beautiful addition to our neighborhood while allowing a spacious EVED

SEP 2 3 2003

Subject: Special Hearing for an Undersized Lot Case No. 04-043-SPH (continued)

We encourage the Department of Permits & Development Management to support the recent decision of the Zoning Commission of Baltimore County by denying the requested permit for undersized lot located at 704 Clover Avenue. It's obvious to everyone that permitting a lot width variance of less than 55-feet will surely create an overcrowded condition for the lot located at 702 Clover Avenue, based on the size and spacing of other houses located along Clover Avenue. We thank the commissioner for allowing us the time to express our valid concerns.

Sincerely,

Laurence V. Lingg, Jr. 706 Clover Avenue Baltimore, MD 21221

Antoinette M. Lingg 706 Clover Avenue Baltimore, MD 21221

antoinette M. Lengg

CASE NAME 704 CLOVER AVE CASE NUMBER 04-043-5114 DATE 9/23/2003

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
JEFF HOUT	2309 RIUTRSIDE DR.	ESSEX MD 2,221	
Mosen Barrow	704 mysthane	ESSOC/M 2/22/	
Mosen Barrow SITERITE SURVEYING. VINCENT MOSICUNAS	ZOBE. JOPPARS.	TOWSON MO. 21286	
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CASE NAME POINT for undersized Lot CASE NUMBER 04-043-5PH DATE 9/23/03

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
MRS. ANtoinette Lings	106 Clover Avenue	BAJ+0. Md. 21221	aling@hcpl.net
VIR. LAURENCE VILINGS JENKINS	706 Clover ANENGE 118 CIMIER AVE	BALT MI) 21221	<u> </u>
MR FRANCIS H. BRUUS	610 MYRTH AVE	BOLTO MTD 21221	FRAN 19302000 @ YAHOO.CON
Larry Spencer Denna Spencer	100 Magnolia Trail	Delta 17314 Belto MD >1221	
	*		
			<u></u>
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SITE PLAN TO BE USED IN DETERMINING FRONT YARD DEPTHS IN RESIDENCE ZONES WHEN THE IMPEDIATE ADJOINING LOTS ARE NOT IMPROVED Reference - Section 303.1 Baltimore County Zoning Regulations

303.1 -In B.R.2, D.R.3.5 and D.R.5.5 Zones the front yard depth of any building or other structure hereafter erected shall be the average of the front ' yard depths of the lots issediately adjoining on each side provided such adjoining lots are improved with principal buildings situate within 200 feet of the joint side property line, but where said immedistely adjoining lots ere not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the everage depth of the front yards of all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in D.R.2 somes, 50 feet in D.E.3.5 somes and hD feet in D.R.5.5 somes. In no case, however, shall nonresidential principal buildings have front yards of less depth then those specified therefrom in the area regulations for B.R.2, B.R.3.5 and D.R.5.5 respectively.

A	29'	FT. # 702	Maso
B	47'	FI. #706	704
C _	50'	FT. # 708 CLOVER	buildin
. D _	42'	FR. #710 AVENUE	<u>. Ji</u>
E	115'	Fr. # 712	dete
F_		FT.	
TOTAL (283) (5) = 56.6 * of RECURRED FRONT	NO

Mason Barrow

Tot clover trenue

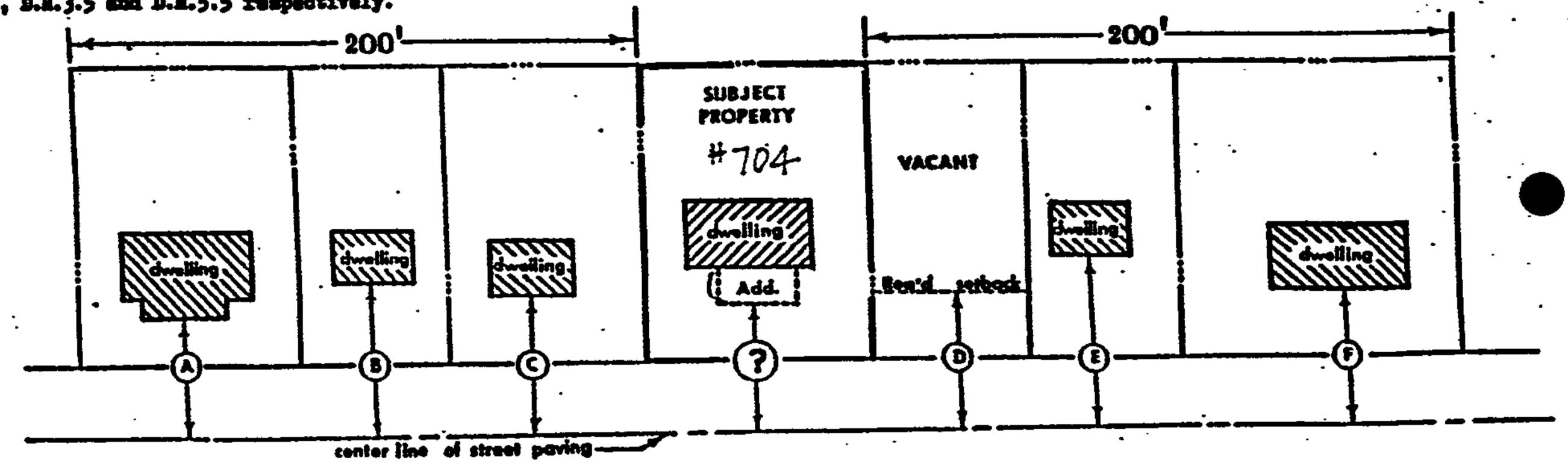
building address

July 28, 2003

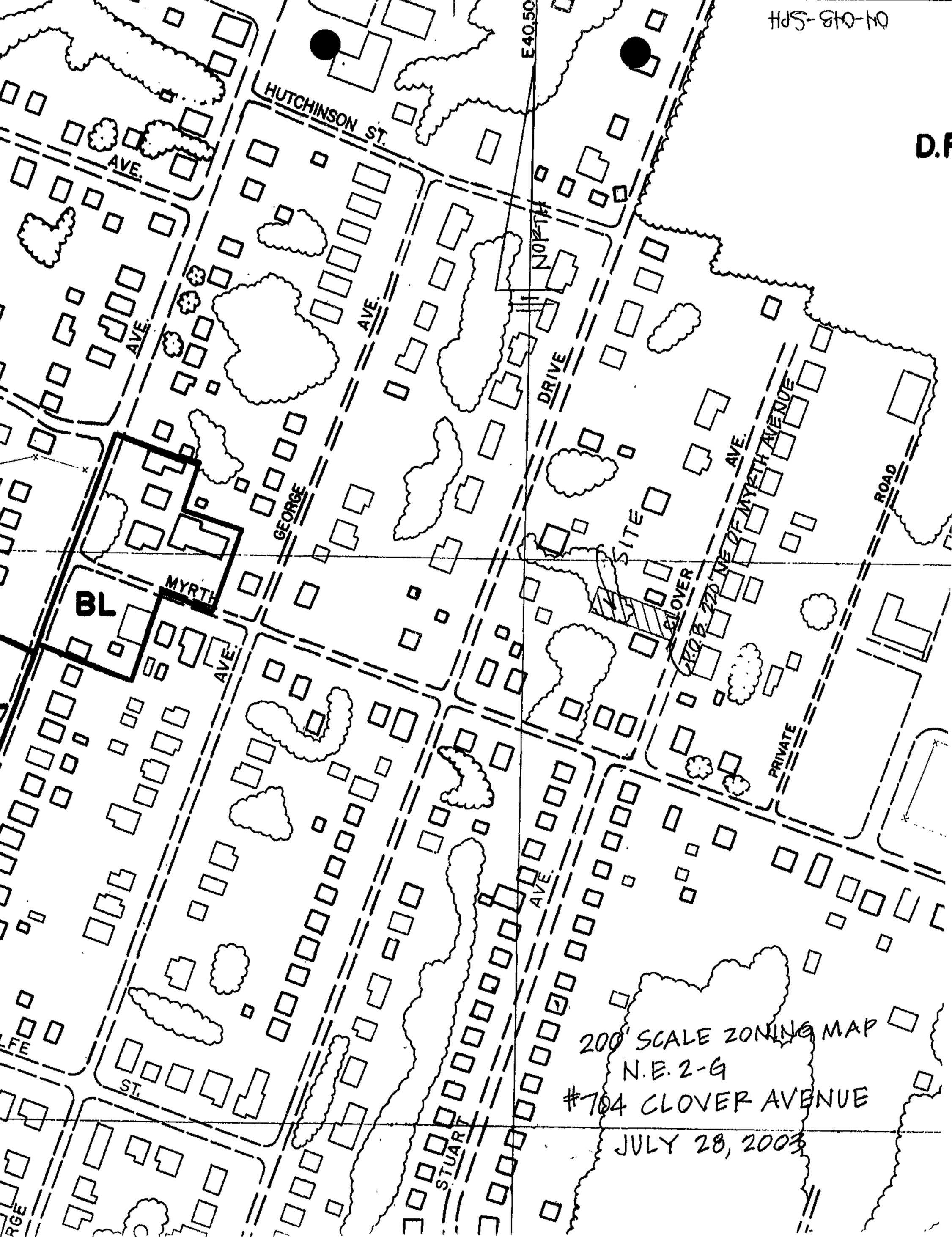
NORMAL REQUIRED SETRACES

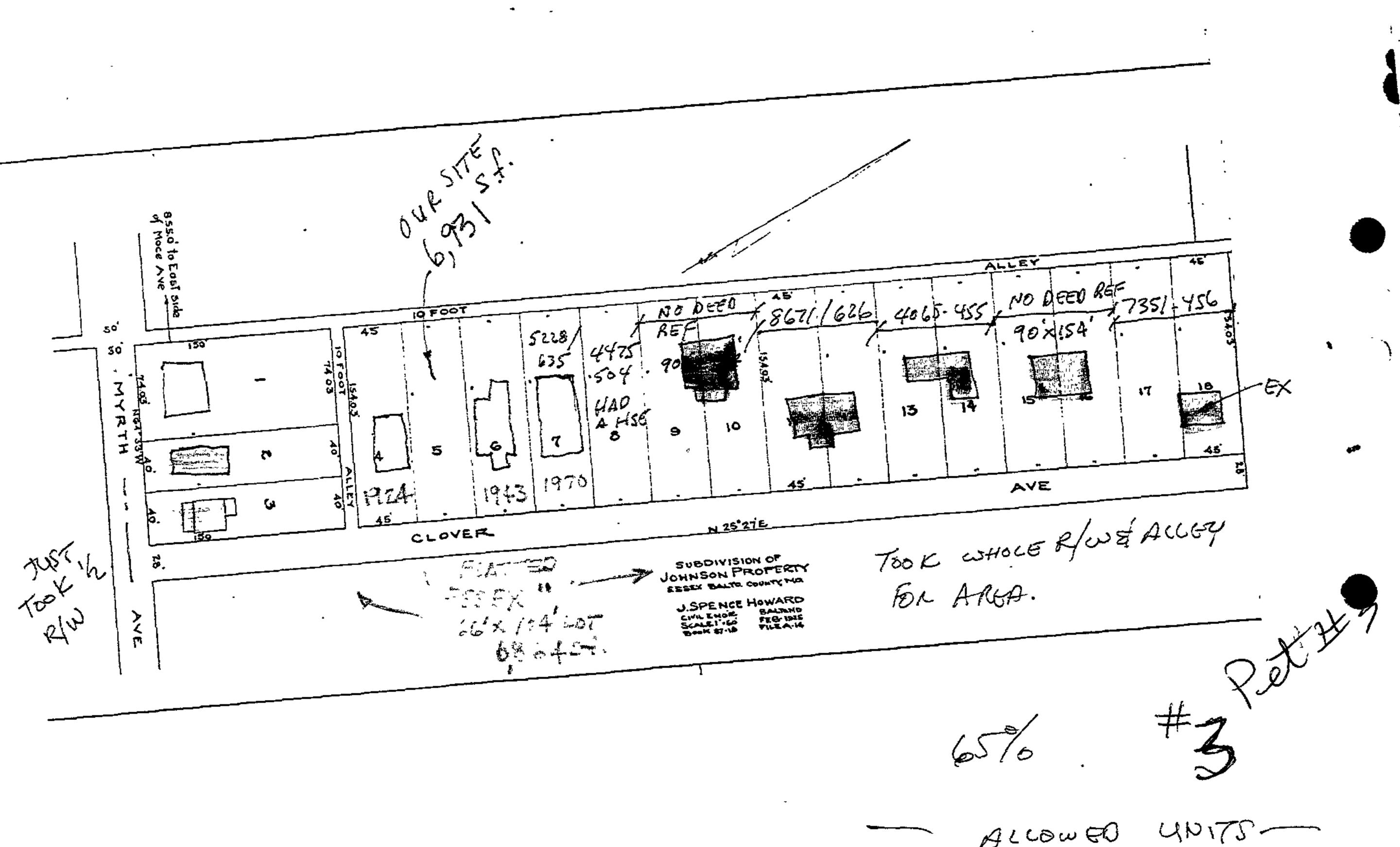
D.R.2 - 65 ft. D.R.3.5- 55 ft.

D.R.5.5- 50 ft.



CLOVER AVENUE 25'P/W





ALLOWED UNITS-SSO × 192.03 = 3.75Act × 5.5=20UNITS. EXESTING 12+(I PROPOSED)



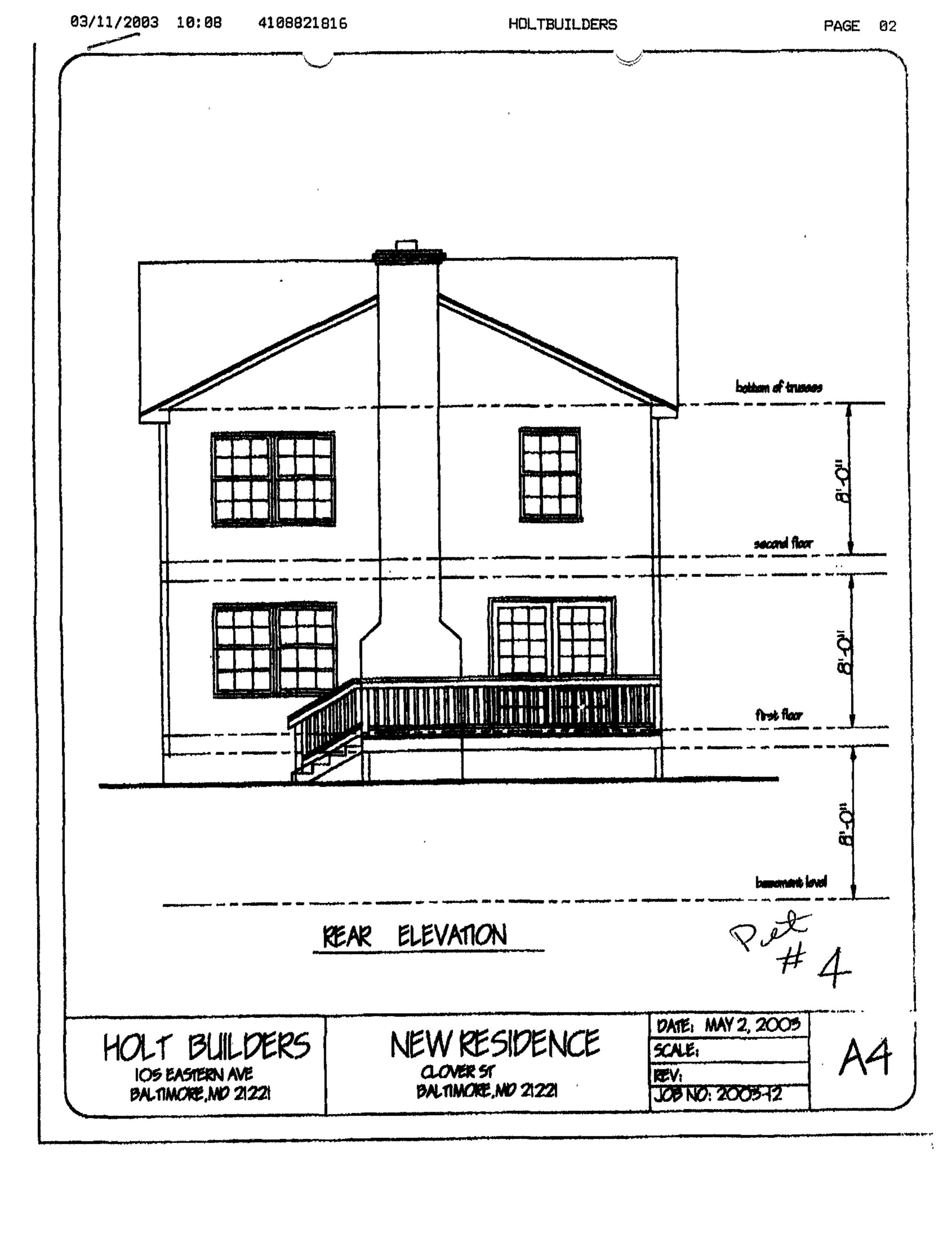
FRONT ELEVATION

#4.

HOLT BUILDERS
105 EASTERN AVE
BALTIMORE, MD 21221

NEW RESIDENCE CLOVER ST BALTIMORE, ND 21221 DATE: MAY 2, 2003 SCALE: REV: JOB NO: 2003-12

43

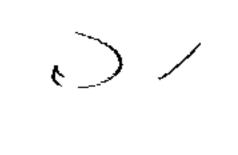


Baltimore County Zoning Commissioner Office of Planning Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204





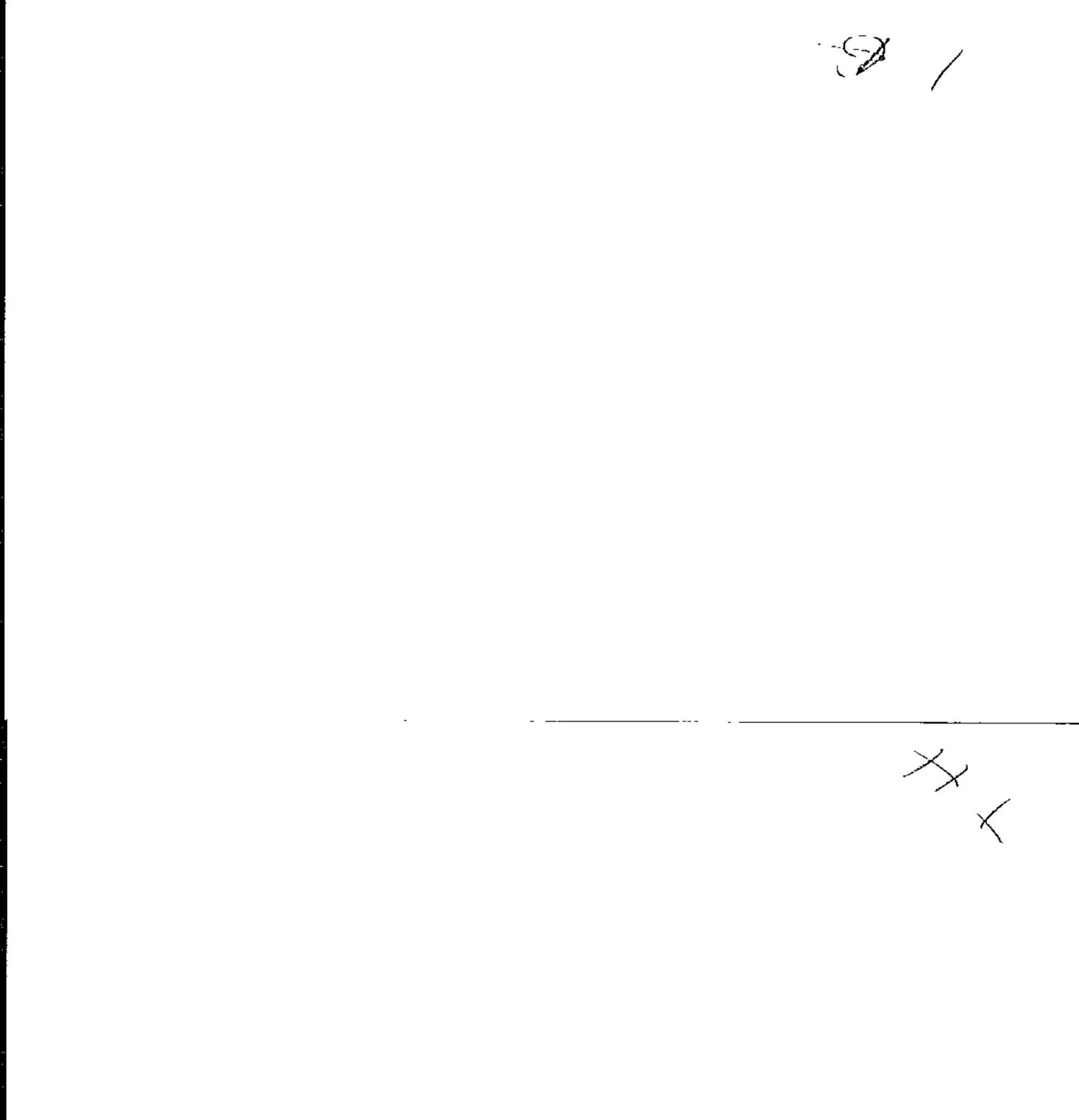
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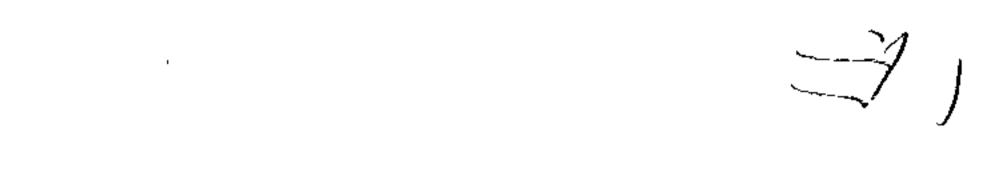


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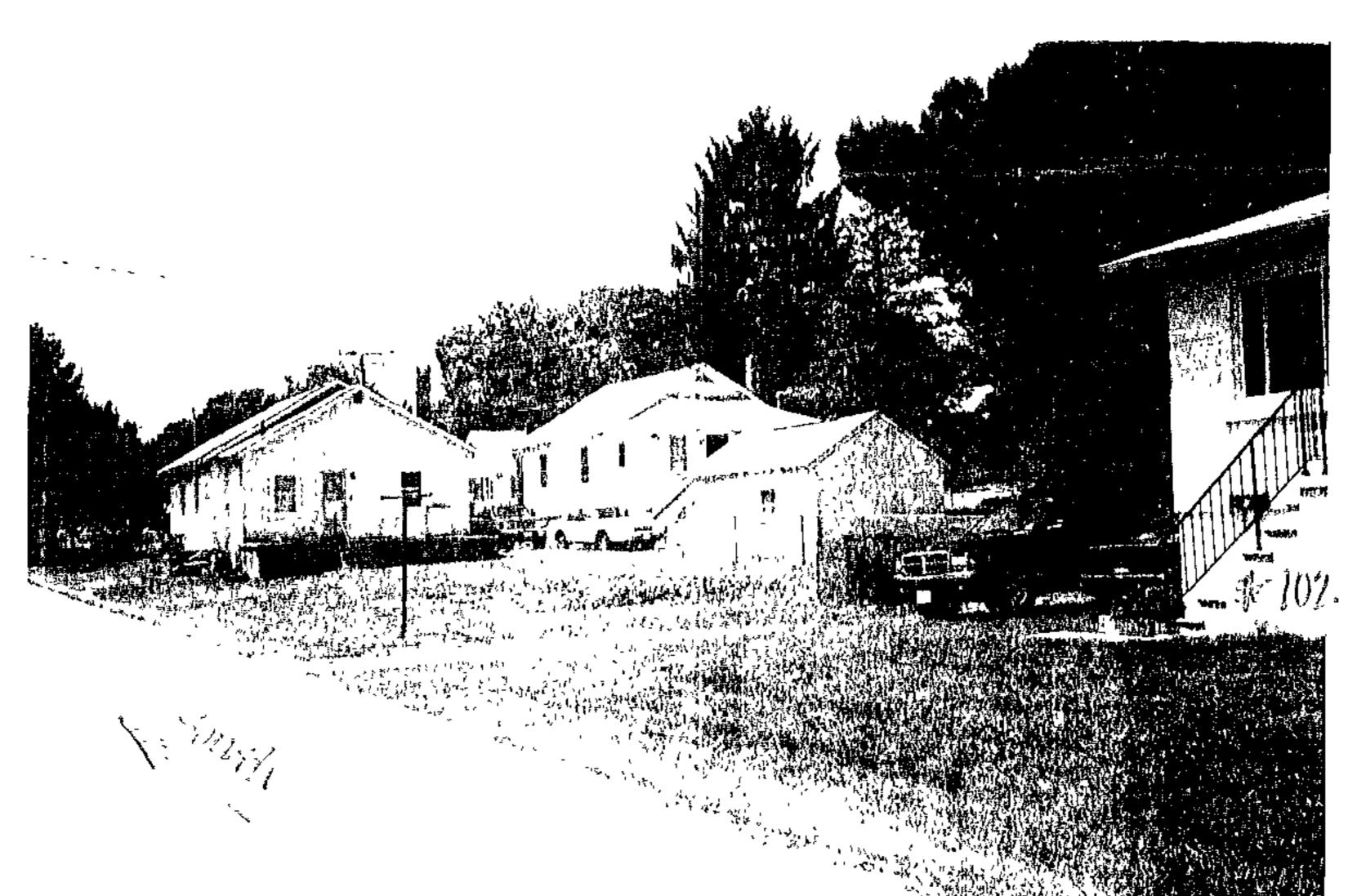
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106 Chover Avenue property in the vight of soils

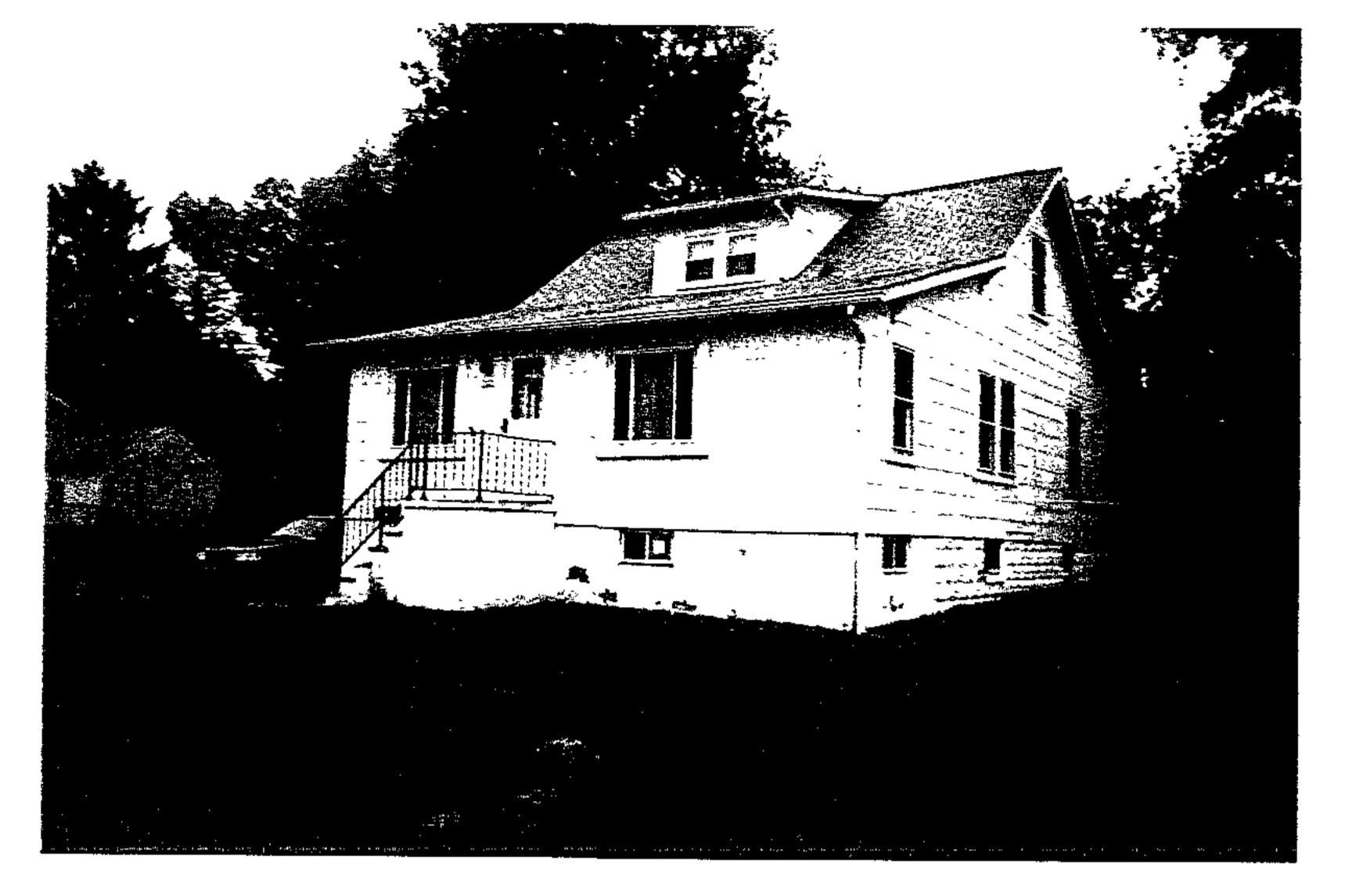


SOUTH OR CHEATAVIOLE TOWNER, MUSTER AND MANY

B

C

P. 25









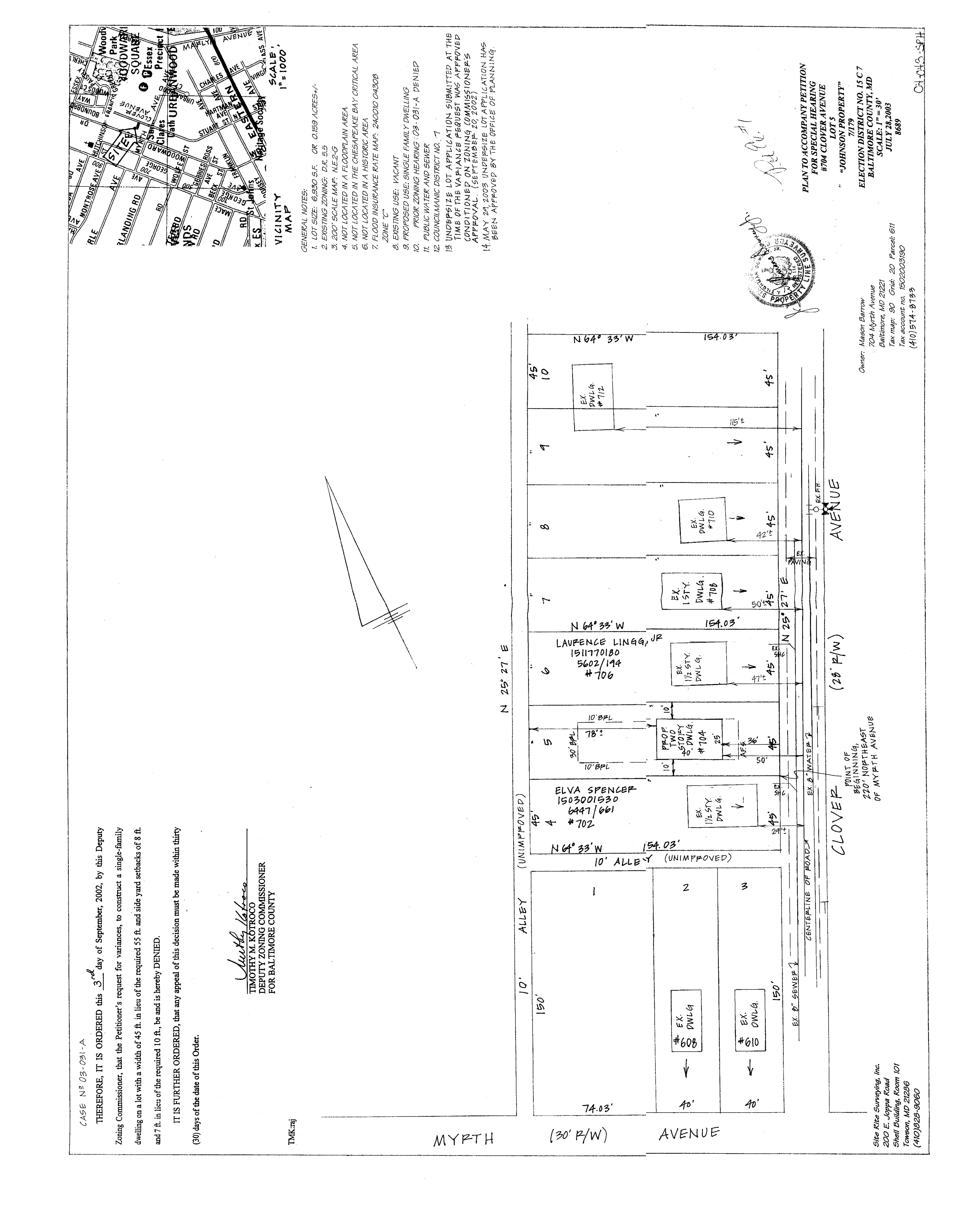


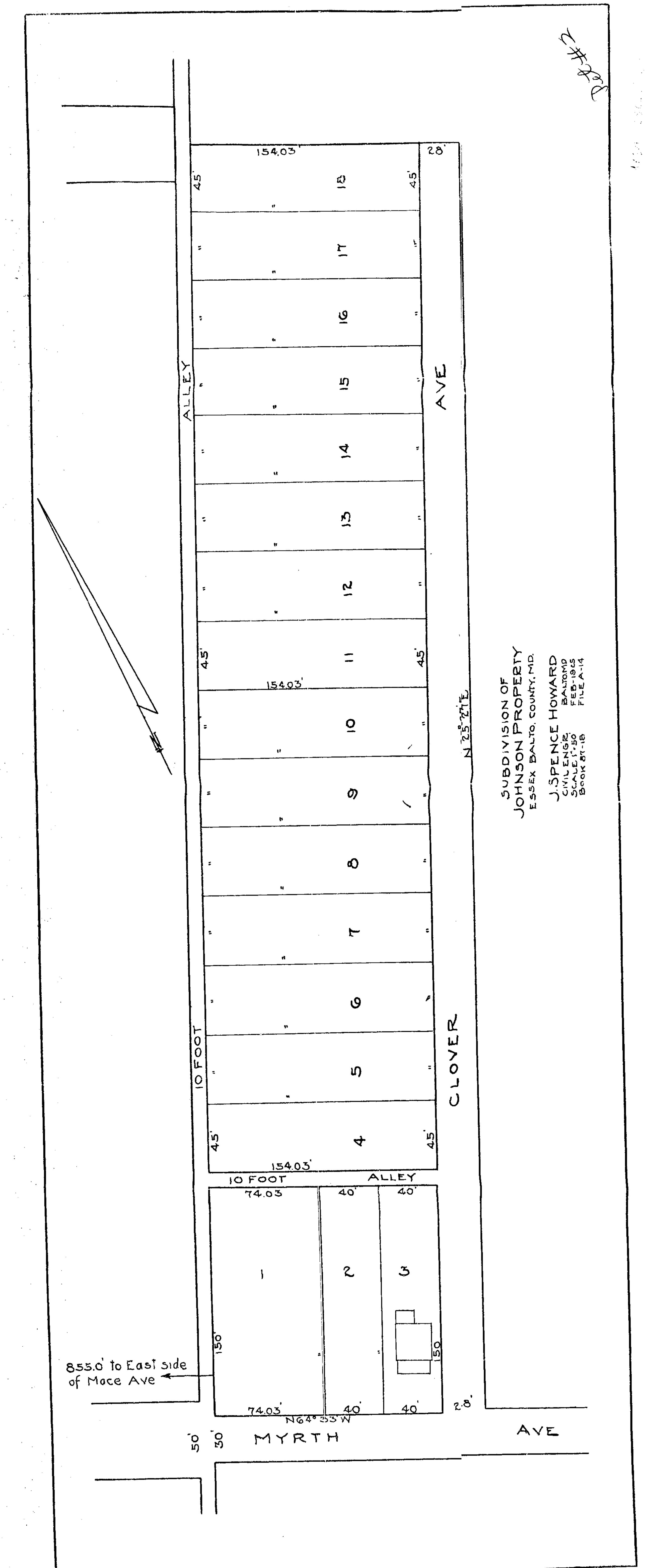


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be evaluated on the basis of new building size, lot coverage, building orientation and location on the lot or tract.

- 2. Architectural design. Appropriateness shall be evaluated based upon one or more of these architectural design elements or aspects:
 - a. Height.
 - b. Bulk or massing.
 - c. Major divisions, or architectural rhythm, of facades.
 - d. Proportions of openings such as windows and doors in relation to walls.
 - e. Roof design and treatment.
 - f. Materials and colors, and other aspects of facade texture or appearance.
- 3. Design amendments. The Director may recommend approval, disapproval or modification of the building permit to conform with the recommendations proposed by the Office of Planning.

Mr. Moskunas points out that this owner meets each requirement of Section 304.1 in that a) they are proposing building a single family dwelling; b) the lot is part of a validly approved subdivision prior to March 30, 1955; c) all other requirements of height and area requirements are complied with; and, d) the lot owner does not own sufficient adjoining land to conform to the width and area regulations. This latter point was confirmed by the Protestants who wanted to purchase the Barrow property and not sell the property. However, they could not come to terms with the owner.

The adjacent and nearby property owners were adamant in their opposition to the approval of an undersized lot. Mr. Lingg who owns Lot #6 complained that he wants to buy the Barrow lot but Mr. Barrow is asking too much money. He also likes the open space the vacant lot provides, especially the wooded area in the rear and the wildlife found there. He feels that if the undersized lot is approved this will overcrowd the area. He also pointed out that the Spencer home on the other side of this lot (Lot #4) was built in 1924. This home is not centered on Lot #4 as one would expect, but rather is only a few feet away from the Barrow property line. Mr. Lingg opined that any new building should be at least 20 ft. away from an adjacent building.