

IN RE: PETITION FOR ADMIN. VARIANCE
S/S of Engelberth Road, 2,550 ft. S
centerline of Holly Neck Road
15th Election District
6th Councilmanic District
(1201 Engelberth Road)

Darrel Shiles & Karen Sweeny
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-268-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Darrel Shiles and Karen Sweeny. The variance request is for property located at 1201 Engelberth Road in the eastern area of Baltimore County. The variance request is from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a side yard setback of 1 ft. in lieu of the required 50 ft. to construct an attached garage. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Office of Planning raised a question as to whether the Petitioners had a right to use the existing stone roadway known as "Wharf Road". See the ZAC comments from the Office of Planning dated January 7, 2004. In correspondence that followed, the Petitioners assert that they have the right to use "Wharf Road" to the proposed garage pursuant to a letter dated August 31, 1977 from George Hummel of the Baltimore County Bureau of Environmental Services. The

ORDER RECEIVED FOR FILING
Date 4/28/04
By R. J. [Signature]

Petitioners further represented that the adjacent property owner had no objection to the variance or the use of the roadway.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Zoning Advisory Committee (ZAC) comments were received from the Office of Planning dated January 7, 2004 and from the Department of Environmental Protection & Resource Management (DEPRM) dated January 13, 2004. Copies of these comments are attached hereto and made a part hereof.

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 granted.

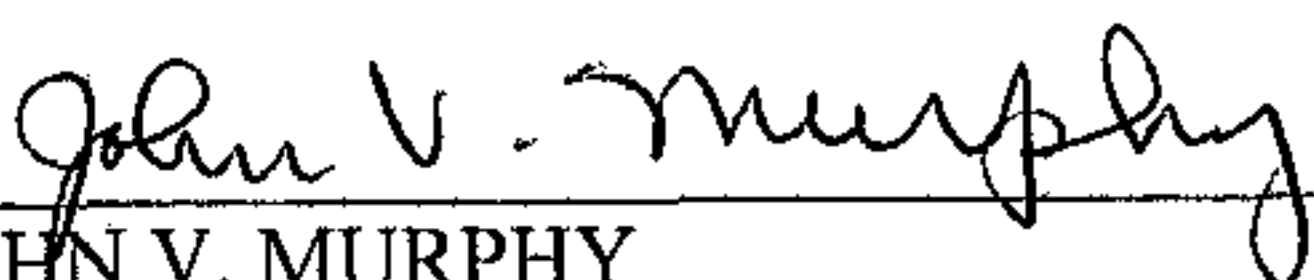
However, the Petitioners are cautioned that the Zoning Commissioner's Office has no jurisdiction to determine the Petitioners' right to use "Wharf Road", that this matter was not decided by this Order, and that a neighbor may well file suit in the Circuit Court for Baltimore County which could prevent the Petitioners from using the roadway leading to the new garage.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 28 day of April, 2004, that a variance from Section 1A04.3.B.3 of the Baltimore

ORDER RECORDED FOR FILE
4/28/04
R. J. Jenson

County Zoning Regulations (B.C.Z.R.), to permit a side yard setback of 1 ft. in lieu of the required 50 ft. to construct an attached garage, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
2. The Petitioners must comply with the ZAC comments received from the Office of Planning dated January 7, 2004, a copy of which is attached hereto and made a part hereof;
3. The Petitioners must comply with the ZAC recommendations submitted by DEPRM on January 13, 2004, a copy of which is attached hereto and made a part hereof;
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 4/28/04
By R. J. [Signature]

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

April 27, 2004

Mr. Darrell J. Shiles
Ms. Karen L. Sweeny
1201 Engelberth Road
Baltimore, Maryland 21221

Re: Petition for Administrative Variance
Case No. 04-268-A
Property: 1201 Engelberth Road

Dear Mr. Shiles & Ms. Sweeny:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance 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,

A handwritten signature in cursive script, reading "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

Visit the County's Website at www.baltimorecountyonline.info



Good *CBC*



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1201 Engleberth Rd.
which is presently zoned RC-5

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

1804.3.B.3 to permit a side yard setback of 1 ft. in lieu of the required 5 ft. to construct an attached garage,

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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

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

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

Contract Purchaser/Lessee:

Legal Owner(s):

Name - Type or Print

Name - Type or Print

Signature

Signature

Address

Telephone No.

Name - Type or Print

City

State

Zip Code

Signature

Attorney For Petitioner:

1201 ENGBERTH RD 410 6875019
Address Telephone No.

Name - Type or Print

City

State

Zip Code

Signature

Company

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 04-268-A

Reviewed By BN Date 12/2/03

Estimated Posting Date 12/14/03

RECEIVED FOR FILING
4/28/04
DATE
BY

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1201 ENGELBREATH ROAD
Address
BALTO MD 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

DUE TO DAMAGE CAUSED BY HURRICANE ISABEL IN SEPT. WE LOST OUR STORAGE GARAGE. WE ARE REQUESTING TO MOVE THE LOCATION OF THIS STRUCTURE, FROM ~~THE~~ ITS LOCATION NEAR THE BOUKHEAD TO AN ATTACHED ONE CAR SIZE GARAGE, AT PRESENT WE DO NOT HAVE A STRUCTURE TO USE FOR STORAGE OR SECURITY.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Karen L Sweeney
Signature
KAREN L SWEENEY
Name - Type or Print

Darrel J Shiles
Signature
DARREL J. SHILES
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 13 day of October, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Karen L Sweeney and Darrel J Shiles
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Wendy R. Robinson
Notary Public
My Commission Expires 11/28/05

Fast Track
FLOOD DAMAGE

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

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Address
BALTO MD 21221
City State Zip Code

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That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Karen L Sweeney
Signature
KAREN L SWEENEY
Name - Type or Print

Darrel J. Shiles
Signature
DARREL J. SHILES
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 13 day of October, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Karen L. Sweeney and Darrel J. Shiles
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Wendy R. Robinson
Notary Public
My Commission Expires 11/28/05



Slood CBCA

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1201 Engelberth Rd.
which is presently zoned RC-5

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

1A04.3, B.3 to permit a side yard setback of 1 ft. in lieu of the required 50 ft. to construct an attached garage.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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

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

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

Contract Purchaser/Lessee:

Legal Owner(s):

Name - Type or Print

Name - Type or Print

Signature

Signature

Address

Telephone No.

Name - Type or Print

City

State

Zip Code

Signature

1201 ENGELBERTH RD 410 6875019

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Representative to be Contacted:

Name - Type or Print

Name

Signature

Address

Telephone No.

Company

Address

Telephone No.

City

State

Zip Code

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 04-268-A

Reviewed By BR

Date

12/2/03

REV 10/25/01

Estimated Posting Date

12/14/03

ZONING DESCRIPTION

Zoning Description For 1201 Engelberth Road

Beginning at a point on the South side of Engelberth Road which is 20 feet wide at the distance of 2,550 feet South of the centerline of the nearest improved intersecting street Holly Neck Road which is 40 feet wide. Being Lot # 8 in the subdivision of Eagle's Nest Point as recorded in Baltimore County Plat Book # 8, Folio 70, containing 16,259 square feet. Also known as 1201 Engelberth Road and located in the 15th Election District, 6th Councilmanic District.

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT**

No. **30437**

DATE 12/13/03 ACCOUNT ROW 006-6150

AMOUNT \$ 65.00

RECEIVED FROM: Karen Surawicz

FOR: Administrative Expenses

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Ita 268

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
12/03/2003	12/02/2003	15:20:36	4
REG WS06	WALKIN	KMCM KCM	
RECEIPT #	216480	12/02/2003	OFLN
Dept	5	520 ZONING VERIFICATION	
CR NO.	030437		
Receipt Tot	\$65.00		
\$65.00	CK	\$0.00	CA
Baltimore County, Maryland			

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 04-268-A

Petitioner/Developer: DARLEC SHILES

+ KAREN SWEENEY

Date of Hearing/Closing: 12/29/03

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

ATTN: Becky Hart {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1201 ENGLEBERTH RD

The sign(s) were posted on _____

12/14/03
(Month, Day, Year)

Sincerely,

[Signature]
(Signature of Sign Poster)

12/14/03
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

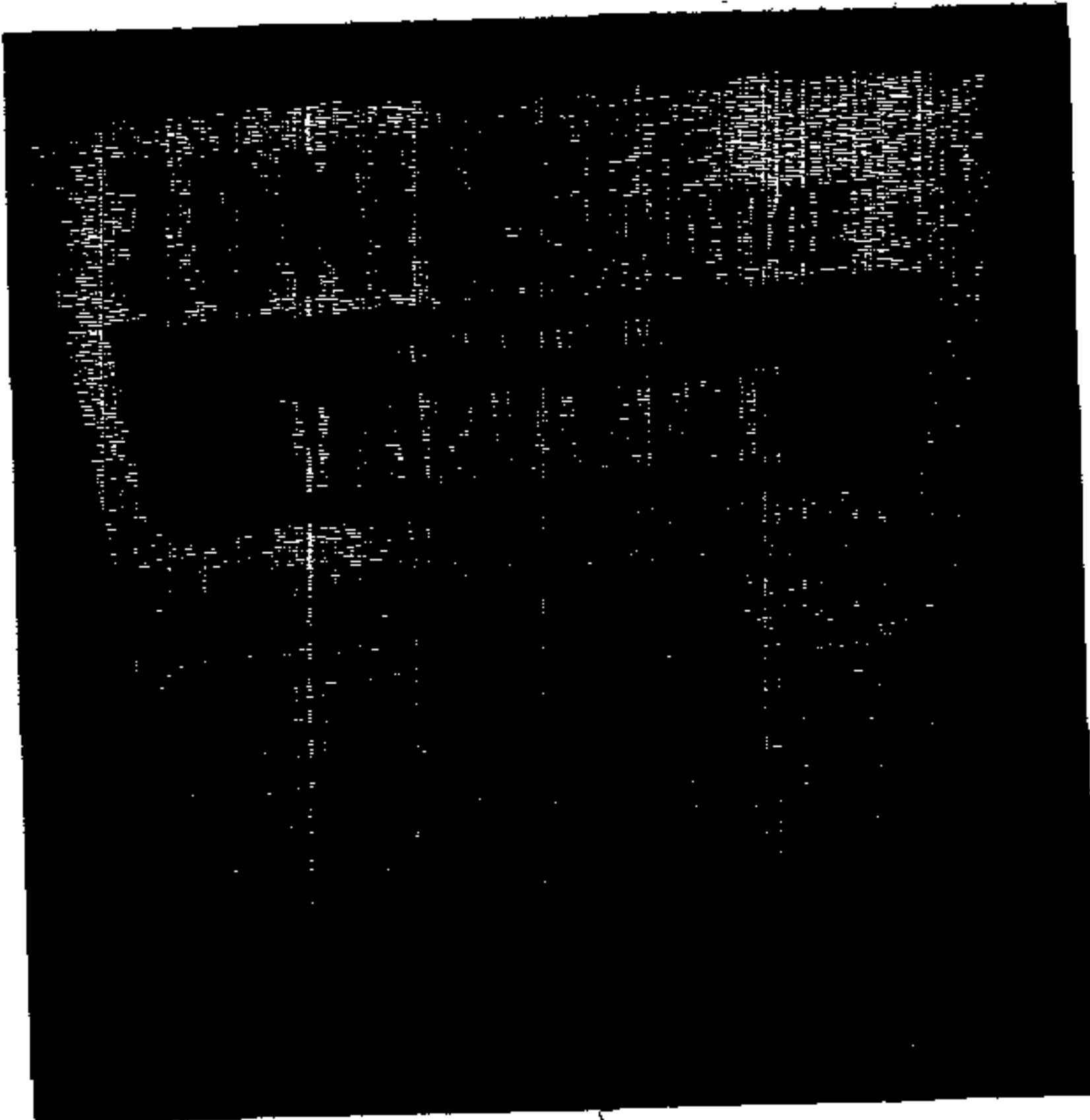
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



**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: 04-268-A
Petitioner: Karen Sweeney
Address or Location: 1201 ENGLEBEN RD BALTO 21224

PLEASE FORWARD ADVERTISING BILL TO:

Name: Karen Sweeney
Address: 1201 ENGLEBEN RD
BALTO MD 21224
Telephone Number: 410 687 5019

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 04- 268 -A Address 1201 Engelberth Rd.
Contact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 12/2/03 Posting Date: 12/14/03 Closing Date: 12/29/03

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 04- 268 -A Address 1201 Engelberth Rd.
Petitioner's Name Darrel Shiles & Karen Sweeney Telephone 410-688-5019
Posting Date: 12/14/03 Closing Date: 12/29/03
Wording for Sign: To Permit a side yard setback of 1 ft. in lieu of the
required 50 ft. to construct an attached garage.

**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

December 29, 2003

Darrel Shiles
Karen Sweeny
1201 Engelberth Road
Baltimore, MD 21221

Dear Mr. Shiles and Ms. Sweeny:

RE: Case Number: 04-268-A, 1201 Engelberth Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 14, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:klm

Enclosures

c: People's Counsel

Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: R. Bruce Seeley *RB*

DATE: January 13, 2004

SUBJECT: Zoning Item # 04-268
Address 1201 Engelberth Road
Shiles Property

RECEIVED

JAN 15 2004

ZONING COMMISSIONER

Zoning Advisory Committee Meeting of December 15, 2003

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Reviewer: Keith Kelley

Date: December 23, 2003

GROUNDWATER MANAGEMENT

An evaluation of the septic system may be required prior to building permit.

Reviewer: Sue Farinetti

Date: December 17, 2003

ADDED RECEIVED FOR FILING
Date 4/28/04
By R. Johnson

AN
12/20/04

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 7, 2004

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

RECEIVED

JAN 08 2004

SUBJECT: 1201 Engleberth Road

INFORMATION:

Item Number: 04-268

Petitioner: Darrel Shiles

Zoning: RC 5

Requested Action: Variance

ZONING COMMISSIONER

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided it can be demonstrated that the petitioner has the legal right to access the 14-foot right-of-way identified as Wharf Road.

Prepared by: Mart A. Cump

Section Chief: Lynn L. Laska

AFK/LL:MAC:

ORDER RECEIVED FOR FILING

Date

By

W:\DEVREV\ZAC\04-268.doc



Baltimore County
Fire Department

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

December 18, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: December 18, 2003

Item No.: 267-271, 273-283 269

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

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



State Highway
Administration

Driven to Excel

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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 12.16.03

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

RE: Baltimore County
Item No. 268 BPR

Dear Ms. Hart:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

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

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: December 29, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For December 22, 2003
Item No. 268

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

The flood protection elevation for this site is 11.2 feet.

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

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

The building engineer shall require a permit for this project.

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

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

TO: Mark Cunningham
Office of Planning

DATE: March 30, 2004

FROM: John V. Murphy *J.V.M.*
Deputy Zoning Commissioner

SUBJECT: Petition for Administrative Variance
Cause No. 04-268-A
Property: 1201 Engelberth Road
Petitioners: Karen L. Sweeny & Darrel J. Shiles

Attached hereto please find correspondence received from the petitioners in the above-captioned case in response to my letter to them dated March 23, 2004.

It would be appreciated if you would review this correspondence and let me have your response to this matter at your convenience.

Thank you for your attention and cooperation in this matter.

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

January ²¹14, 2004

Mr. Darrel Shiles
Ms. Karen Sweeny
1201 Engelberth Road
Baltimore, Maryland 21221

Re: Petition for Administrative Variance
Case No. 04-268-A
Property: 1201 Engelberth Road

Dear Mr. Shiles & Ms. Sweeny:

I have reviewed your request for administrative variance for a new garage, and I note that my file contains Zoning Advisory Committee (ZAC) comments from the Office of Planning questioning whether you have the legal right to access the 14 ft. right-of-way identified as Wharf Road. If you have such information would you kindly send it to Mr. Cunningham for his review and try to come to an understanding with him on this issue. Thereafter, I hope to receive a revised ZAC comment indicating the Office of Planning's position in this matter.

In the meantime, should you have any questions please do not hesitate to contact my office at 410-887-3868.

Very truly yours,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Mark Cunningham, Office of Planning (410-887-3480)

Visit the County's Website at www.baltimorecountyonline.info



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

March 23, 2004

Mr. Darrell J. Shiles
Ms. Karen L. Sweeny
1201 Engelberth Road
Baltimore, Maryland 21221

Re: Petition for Administrative Variance
Case No. 04-268-A
Property: 1201 Engelberth Road

Dear Mr. Shiles & Ms. Sweeny:

In December of 2003, you filed a petition for administrative variance with the County for a proposed garage to be added to the side of your home. As you will recall, I held the request pending your sending proof that you had the right to use the existing 14 ft. driveway, which is the means of access to the new garage. It is my understanding that you neighbor strongly denies your right to use this driveway.

Such disputes are within the jurisdiction of the Circuit Court for Baltimore County. This office simply does not have the legal power to determine your rights in this kind of dispute.

I have held the file open for more than 60 days waiting for proof from you that you can legally use the driveway. I would like to complete this matter by May 1, 2004.

If I do not hear from you by that time, I will render a decision in this case.

Very truly yours,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj

Visit the County's Website at www.baltimorecountyonline.info



March 27, 2004

Karen Sweeney
Darrel Shiles
1201 Engelberth Rd
Baltimore MD 21221

RECEIVED

MAR 29 2004

ZONING COMMISSIONER

John V. Murphy
Deputy Zoning Commisioner
Suite 405
County Courts Building
Towson MD 21204

Mr. Murphy,

We are writing you in response to your letter re: request for administrative variances for a garage to be built at 1201 Engelberth Rd.

I am attaching a letter from Baltimore County from August 1977. This was the response to an inquiry of the previous owner to the public use of the right of a way known as Wharf Road. According to this letter "the road was never reserved in the name of the developer on the record plat and or by deed. Under Title to Street or Highway, Article 1 by Act of 1892,....that title passes to the center of road unless reserved." It is my understanding that our property runs to the center line of the road and although neither of the 2 adjacent properties has the right to block the access we both may use it as a right of way.

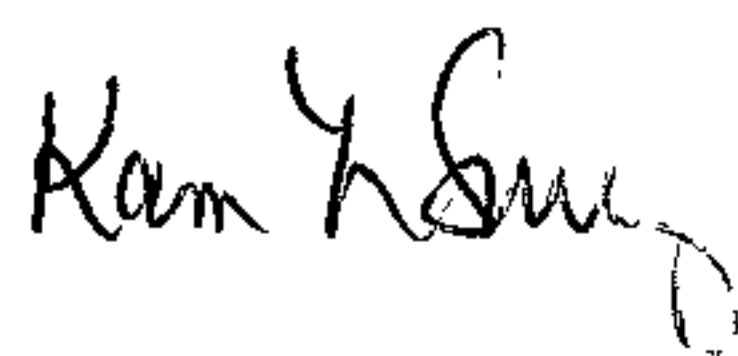
I spoke with Winnie Carpenter several years ago and she also stated the above was true.

The adjacent property was purchased in October of 2003 by Mr & Mrs Claude Profili. We have spoken with them about the garage plans and the signed the attached note stating they do not have any objection.

Our property was damaged by the hurricane in October and we are in need of a storage building. Please review the attached documents and let me know if there is any other information I can provide.

Thank you ,

Karen Sweeney



Oct 12, 2004

We have reviewed the plans for the proposed attached garage at 1201 Engelberth Road and do not object to it's construction.

*Louis Profili
Claude J Profit 1147 Engelberth Rd*

#268

baltimore county
department of health

TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

August 31, 1977

Mr. Howard Sappington
231 Engleberth Road
Baltimore, Maryland 21221

Dear Mr. Sappington:

Reference is made to your inquiry of July 22, 1977 concerning the public use of a right-of-way known as Wharf Road parallel to your property located at 231 Engleberth Road in the 15th Election District. Following is the report of an investigation by Mr. Carl J. Nethkin, Jr. of the Bureau of Land Acquisition of Baltimore County.

In reviewing Wharf Road and the rest of the streets in the subject subdivision, we find that the acquisition of the streets was never completed due to the fact that it has been the policy of Baltimore County since 1851 never to take a right-of-way for road purposes less than 30' wide, or two perch right-of-way, which is 33' wide. The roads on this subdivision and Wharf Road are laid out 20' wide, therefore the County does not own the aforesaid road.

Further research shows that on the Plat of Eagle Nest Point, the roads were never reserved in the name of the developer on the record plat and or by deed. Under Title to Street or Highway, Article 1 by Act of 1892, Chapter 684 sets forth law that title passes to center of road unless reserved. Article 2 says see case of Shipley vs. Western Maryland Railway 99 Maryland 115 at page 121, Article 3 says 1892 Act was "codified" in Article 21, Section 5-114 Maryland Code, and Article 4 says 1892 Act is now codified in Maryland Code, Real Property, Section 2-114.

Section 2-114 is as follows: Unless a contrary intention appears in the deed, will, or other instrument, if any deed, will, or other instrument grants or bequeaths land binding on any street or highway, or if any street or highway is one or more of the lines of the land, the deed, will, or other instrument passes to the legatee, donee, or grantee, all the right, title, and interest of the testator, donor, or grantor in the street or highway.

Book 70
W.P.C.H.

Tax Transfer Office
downstairs
Hesse

Spec
887
1106115
3263

Page 2
August 31, 1977
continued

Except that to the extent the testator, donor, or grantor owns other land on the opposite side of the street or highway, the deed, will or other instrument passes the right, title, and interest of the testator, donor, or grantor only to the center of that portion of the street or highway on which the two or more tracts coextensively bind.

Even though your property runs into the center of Wharf Road, by the Acts of 1892 you must make a request to the County Executive for a formal road closing petition whereas the owner's of the subdivision properties can relinquish any right, title, and interest into the bed of Wharf Road by due process of law.

This right-of-way has been used in excess of 20 years. The record plat indicates that it was laid out in 1925 which further substantiates the fact that you will still need a formal road closing by the County Executive.

Very truly yours,

George H. Hummel
George H. Hummel, Regional Supervisor
Eastern Regional Health Center
Bureau of Environmental Services

GHH/sk

Road Closing
LOIS BERGMAN
887 2673

LAW OFFICE
987 - 4420

WINNE CARPENTER

*No concern
the police*

ACCOMPANY PETITION FOR ZONING

☒ VARIANCE

☐ SPECIAL HEARING

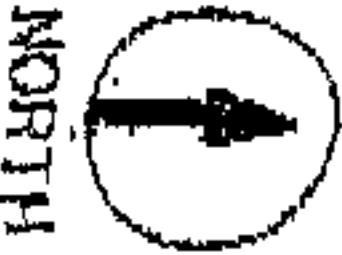
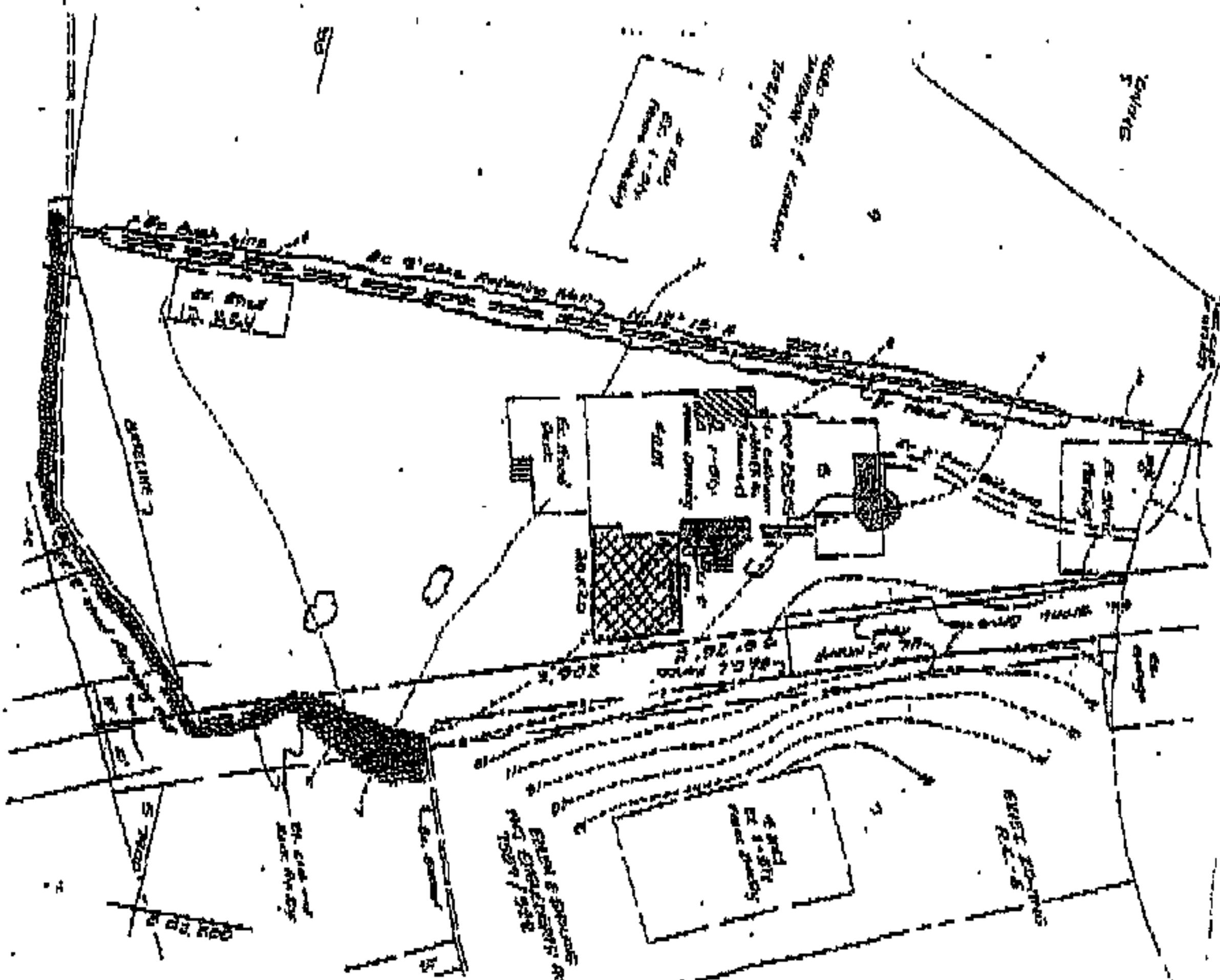
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

PROPERTY ADDRESS 1201 E. EMBURY RD

SUBDIVISION NAME CHICKS WEST POUD

PLAT BOOK # 8 FOLIO # 70 LOT # 8 SECTION # 4/A

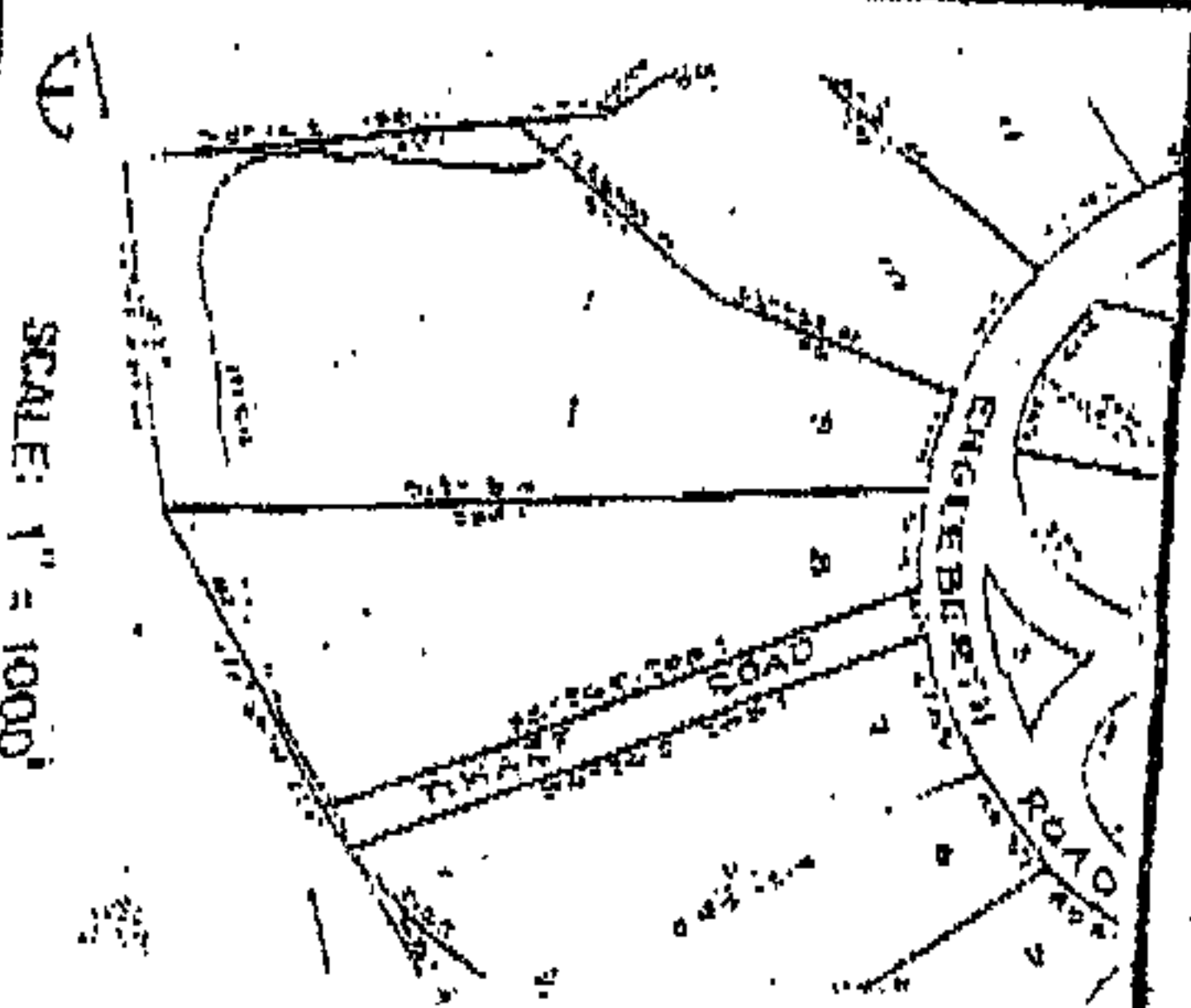
OWNER KAREN SUTTERWAY / DANA CHICKS



PREPARED BY

KS

SCALE OF DRAWING: 1" = 50'



LOCATION INFORMATION

ELECTION DISTRICT 15

COUNCILMANIC DISTRICT 6

1" = 200' SCALE MAP # SE 2-K

ZONING RC-S

LOT SIZE

ACREAGE 1.6259

SQUARE FEET

SEWER

PUBLIC ☐ PRIVATE ☒

WATER

☒

CHESAPEAKE BAY CRITICAL AREA

YES ☒ NO ☐

100 YEAR FLOOD PLAIN

☒

HISTORIC PROPERTY / BUILDING

☒

PRIOR ZONING HEARING

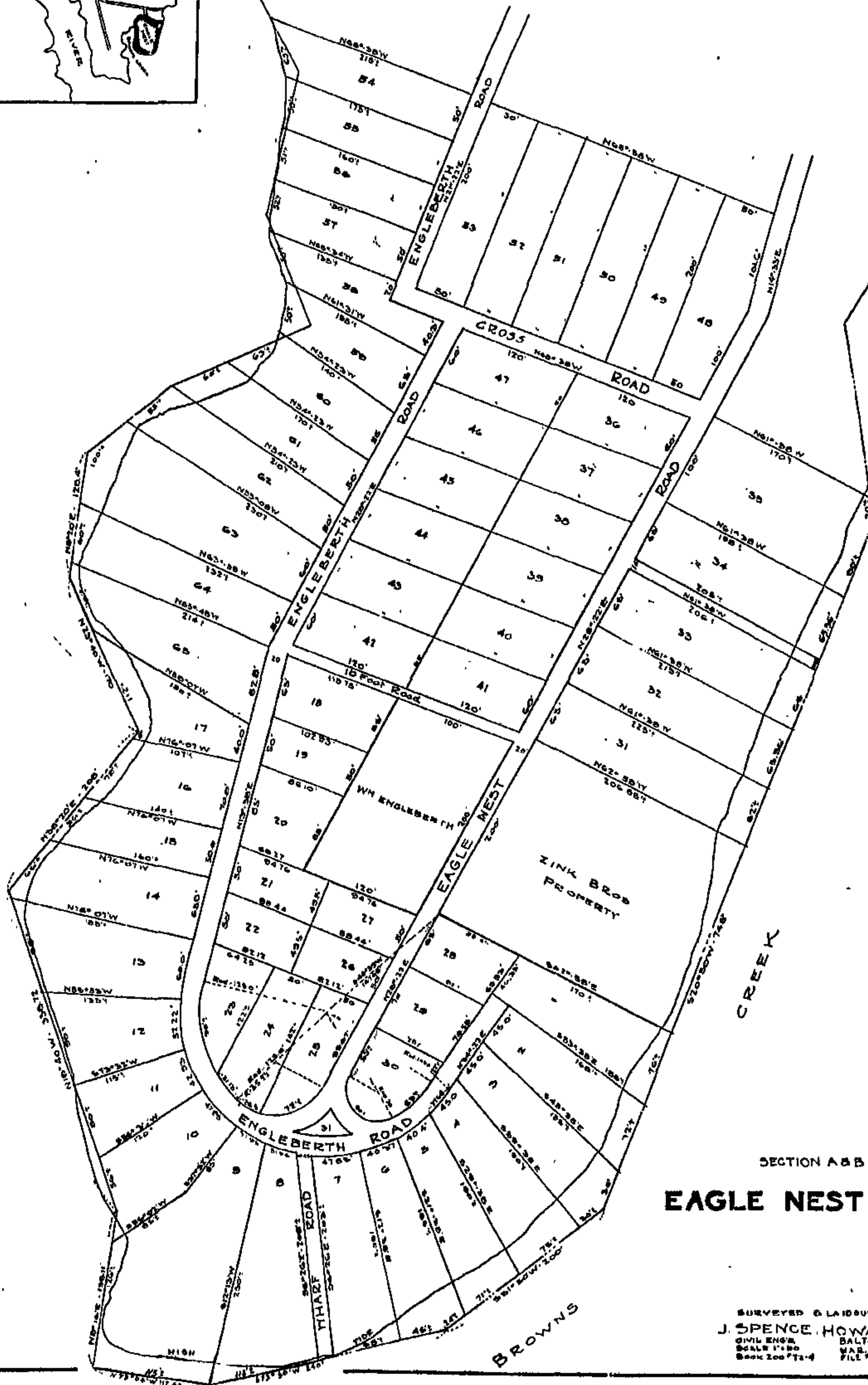
ZONING OFFICE USE ONLY

REVIEWED BY ITEM # CASE #

BR 268 04-268-A

Ret. #1

Filed for Record with Deed
Engelberth to Leaf
November 22, 1926.
Tenn. MCP Code clerk



SECTION A & B
EAGLE NEST POINT

SURVEYED & LAYOUT BY
J. SPENCE HOWARD
CIVIL ENGINEER
BALTIMORE
SCALE 1" = 80'
Book 200 P 12-4
FILE 7 56

