IN RE: PETITION FOR VARIANCE
S/S of Martell Avenue, 75 ft. W
centerline of East Avenue
12th Election District
7th Councilmanic District
(7133 Martell Avenue)

Dorothy & Samuel Fanzone Petitioners * BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 04-279-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, Dorothy and Samuel Fanzone. The Petitioners are requesting variance relief for property located at 7133 Martell Avenue in the eastern area of Baltimore County. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot width of 50 ft. in lieu of the required 55 ft. and to approve an undersized lot with an existing dwelling per Section 304 of the B.C.Z.R.

The property was posted with Notice of Hearing on January 30, 2004, 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 February 3, 2004 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 egulations, 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 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

SAIDER RECEIVED FOR FILLINGS

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: A ZAC comment from the Office of Planning dated December 23, 2003 opposing Petitioners' request, a copy of which is attached hereto and made a part hereof. In addition, a ZAC comment was received from the Department of Environmental Protection & Resource Management (DEPRM) dated January 13, 2004 which states that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of this ZAC comment is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request was Vincent Moskunas, Site Rite Surveying Inc, which company prepared the site plan for the Petitioner. Donald Miller, William Kimmich and Martha Kimmich, Protestants, appeared at the hearing. 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 12,050 sq. ft., zoned D.R.5.5 and is improved by an existing home. This property is Lot 64 of the subdivision known as the "Justus Martell Property" recorded in the Land Records in June 1910. See Petitioner's Exhibit No. 2. The lot, as laid out, is 50 ft. wide. The DR 5.5 zoning imposed on the property requires a 55 ft. wide lot and thus the request for zoning relief.

MOTHER RECEIVED FOR FILE.

This is a companion case to Case Nos. 04-280-A, 04-274-A and 04-275-A which involve the identical request for relief for Lots 63, 62 and 61. Lots 61, 62 and 63 are vacant and the three proposed homes on the three vacant lots meet all County requirements except that the lots are undersized per Mr. Moskunas. By agreement of the Petitioner and Protestants, all testimony and evidence given by either side in this case also applies equally in Case Nos. 04-280-A, 04-274 and 04-275.

Mr. Moskunas initially noted that these lots have been in the same ownership since 1946. However, in testimony and by means of deeds submitted during the hearing for Case No. 04-274, it appears that significant changes in title have occurred on these lots. Per Mr. Moskunas, Joseph and Susan Fanzone have owned Lots 61 and 62 since 1946. However, Joseph died subsequently and Susan sold these two lots to V&W Homes LLC after the petition was filed. Samuel and Dorothy Fanzone have owned Lots 63 and 64 since 1946. However, both Samuel and Dorothy have died subsequently and their estate is being handled by their son Carmen Fanzone, their personal representative. Apparently, Carmen Fanzone transferred Lot 64 to himself and sold Lot 63 to V&W Homes LLC after the petition was filed. Consequently, at the time of the hearings, V&W owned Lots 61, 62 and 63 while Carmen Fanzone owns Lot 64 with the existing home.

Mr. Moskunas indicated that pubic sewer connections have been planned for each lot, (see sewer drawing from Baltimore County, Petitioners' Exhibit No. 3) and that access to public vater and sewer removes any concern that the undersized lots will not be large enough to accommodate well and septic systems.

The Office of Planning opposes the requested variances based upon the fact that Lots 61 & 62 and lots 63 & 64 are owned by the same persons. We now know that V&W Homes owns Lots 61, 62 and 63. The Office of Planning's initial argument that the owner merely needs to

CROSS PROFILES

the block. He felt the Protestants should under these circumstances support the variance requests.

In fairness to the Protestants that had not seen the latest proposal, Mr. Moskunas agreed to send this new evidence to the Protestants and keep the record open for their response. After apparently some consultation with the County agencies, the Protestants decided to oppose the variances as shown by their March 4, 2004 letter included in the file.

Findings of Fact and Conclusions of Law

As stated to Mr. Moskunas at the hearing, by definition there can be no practical difficulty or hardship if he finds a way to do what he wants without a variance. Exhibit No. 9 shows such a plan. The Protestants, for whatever reason, did not accept his proposal to support the petitions of variance so that the three new home would align along Martell Avenue. Consequently, I must deny the variances. Petitioners' Exhibit No. 9 shows that by rearranging lot lines and positioning homes there is a means to comply within the zoning regulations and not require any variances. Thus, there is no unreasonable hardship or practical difficulty. In addition, regarding practical difficulty, V&W Homes owns three adjacent lots. As the Office of Planning indicates and Mr. Moskunas confirms, the owner can meet the regulations by reconfiguring these lots.

Finally, I note that the petition requests approval of the undersize lot pursuant to Section 304 of the Baltimore County Zoning Regulations. It has been this office's consistent position that Section 304 is an alternative route for approval of undersized lots. If a lot qualifies under Section 304 then nothing further is needed. However, Section 304.1 specifically requires that the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements. I find that in this case the owner does own sufficient land to comply with the width regulations and consequently is not entitled to approval under Section 304. Also note that

the Zoning Commissioner's Policy Manual refers to the "six year rule" for properties considered for approval under Section 304 of the Baltimore County Zoning Regulations. This policy addresses the practice of some applicants who, prior to consideration of undersized adjoining lots, nominally transfer title to a third party prior to the hearing, which would then allow them to claim that they have no interest in adjoining land, no means of combining lots, and, therefore, meet the requirement of not having sufficient adjoining land. I find that the "six year rule" of said Policy Manual is applicable to these properties.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be denied.

THEREFORE, IT IS ORDERED, this <u>18</u> day of March, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a lot width of 50 ft. in lieu of the required 55 ft. and to approve an undersized lot with an existing dwelling per Section 304 of the B.C.Z.R., be and is hereby DENIED; and

IT IS FURTHER ORDERED, that in any future petition for approval of this property as an undersized lot, that the zoning history shall include the finding that the "six year rule" of Section 304 of the Zoning Commissioner's Policy Manual applies to this property.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

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 19, 2004

Vincent Moskunas Site Rite Surveying, Inc. 200 E. Joppa Road, Room 101 Towson, Maryland 21286

> Re: Petitions for Variance Case Nos. 04-279-A & 04-280-A

Property: Lot #64 & Lot #63, Martell Avenue

Dear Mr. Moskunas:

Enclosed please find the decisions rendered in the above-captioned cases. The petitions for variance have 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

Deputy Zoning Commissioner

JVM:raj Enclosure

cc: Carmen Fanzone 11 Hunt Farms Court Sparks, MD 21152 Donald S. Miller 1817 West Avenue Baltimore, MD 21222

Martha & William Kimmich 7128 Martell Avenue Baltimore, MD 21222



TODE A	
M. Maritin	n for Variance
to the Zoning Commis	sioner of Baltimore County #7133 property located at 10+64 MWHU AVCNUL which is presently zoned D: 25.5
for the p	property located at WT64 MWfW ftvcnwc
Much	which is presently zoned
This Petition shall be filed with the Department of Permits owner(s) of the property situate in Baltimore County and which and made a part hereof, hereby petition for a Variance from Se	and Development Management. The undersigned, legal ch is described in the description and plat attached hereto
	(120a, 3, C, 1, 70 primit) & 101 wiath
or so the lieu of the required 5	5 ft. and to approve an undersized lot
with an existing Dwelling per Sec	tion 304 BCZR,
of the Zoning Regulations of Baltimore County, to the zon	ning law of Baltimore County, for the following reasons:
entitled "Justus Martell" recorded 4/82 since 191	property is and has been a lot of record on a plat 0. (b) the existing single family dwelling was
built in 1924 and was built in compliance of zoni	
surrounding area are consistently 50' wide, with	
the relief being requested is in strict harmony w	with the spirit and intent of the B.C.Z.R.
Despendente la la les montrel anel automationel de managelle est les thes se	anina zavidetiana
Property is to be posted and advertised as prescribed by the zon l, or we, agree to pay expenses of above Variance, advertising, posting regulations and restrictions of Baltimore County adopted pursuant to	ng, etc. and further agree to and are to be bounded by the zoning taw 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):
	Samuel Franzone by Joseph Warne FANZON
Name - Type or Print Name -	Type or Print
	with Wayne + amore 11/22/03
Signature	DONO TUNZONE BY PARMEN RONALS FANZAN
Address Telephone No.	Name Type or Frint
City State Zip Code	Signature Service Constitution
Attorney For Petitioner:	1 Hunt Farms Court 410-7844668
	Address Telephone No.
Name - Type or Print City	State Zip Code
	Representative to be Contacted:
Signature Company	Site Rite Survaimen luc
Ogmpan	Name
Address Telephone No.	200 E. Juga Boad Rm 101 410 828-9060
Substantial 1/2	
City Zip Code	Address Telephone No. WSON MO 2126 City State Zip Code

OFFICE USE ONLY

on a plat

ESTIMATED LENGTH OF HEARING ____

UNAVAILABLE FOR HEARING Dete

Case No.

ZONING DESCRIPTION FOR #7133 MARTELL AVENUE

BEGINNING at a point on the south side of Martell Avenue which is 50 feet wide at the

distance of 75 feet west of the centerline of East Avenue which is 50 feet wide. Being

Lot No. 64, in the subdivision of Justus Martell as recorded in Baltimore County Plat

Book No. 4, folio No. 85, containing 12,050 square feet. Also known as #7133 Martell

Avenue and located in the 12th Election District, 7th Councilmanic District.

OF MACHINE

OF MACHINE

ON 21176

AL LAND MINISTER

ON 21176

ON 2

MICHAEL V. MOSKUNAS

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

FILE: MARTELL.DOC\ADMINASST

279

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BALTIMORE COUNTY, MA OFFICE OF BUDGET & FINANC	E	No. 30553		
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NOTICE OF ZONING HEARING

The Zoning Cornmissioner 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: #04-279-A 7133 Martell Avenue, Lot 64 S/side of Martell Avenue, 75 feet west of centerline of East Avenue 12th Election District 7th Councilmanic District Legal Owner(s): Samuel and Dorothy Fanzone by Joseph and Camen Fanzone Variance: to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot with an existing dwelling. Hearing: Wednesday, February 18, 2004 at 11:00 a.m. in Room 407, County Courts Building, 401 Bostley Avenue.

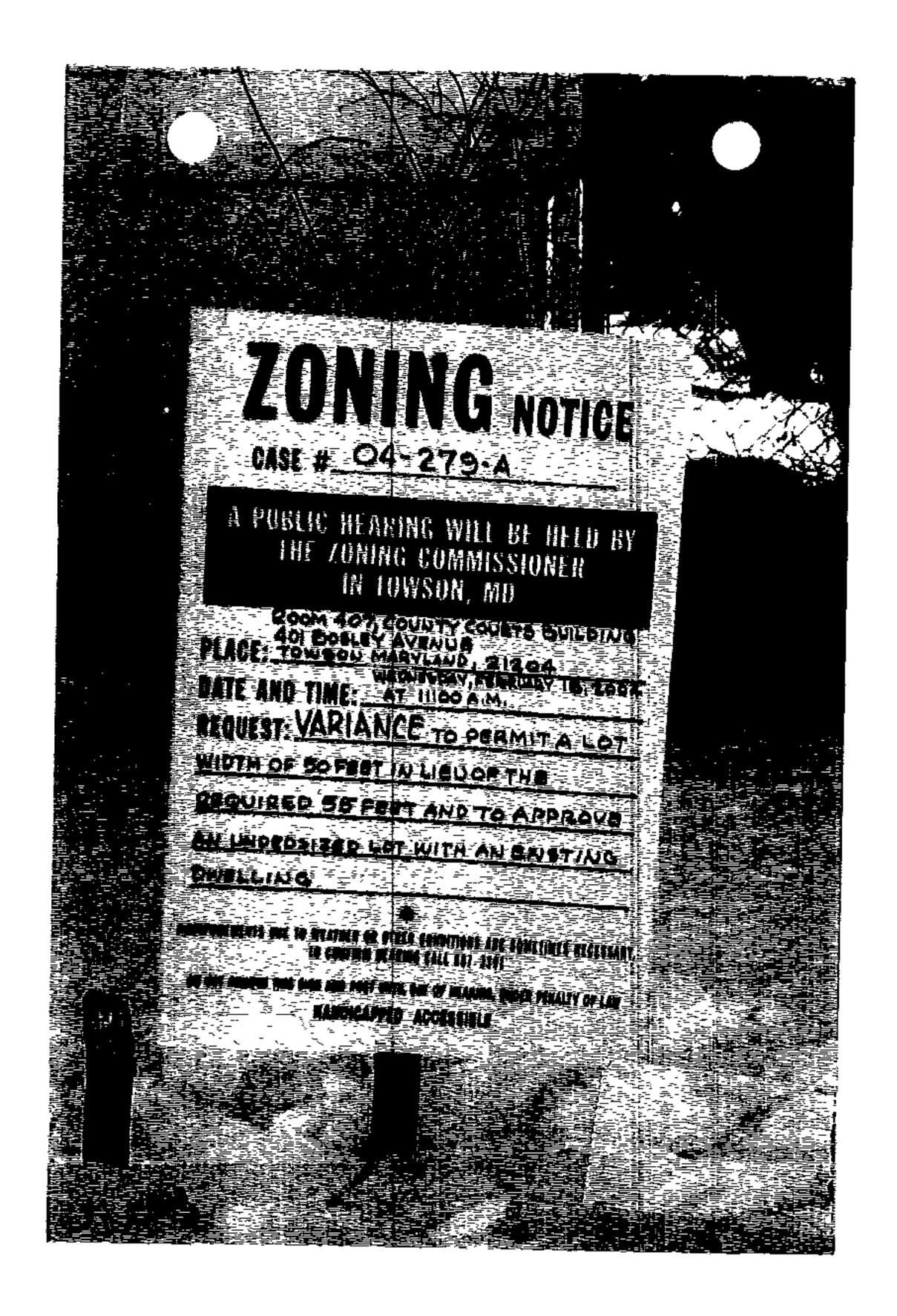
LAWRENCE E SCHMIDT
Zoning Commissioner for
Baltimore County
NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Contact the Zoning
Commissioner's Office at
(410) 887-4386.
(2) For information concerning the File and/or
Hearing, Contact the Zoning
Review Office at (410) 8873391.

3391. JT/2/603 Feb 3 C647954

CERTIFICATE OF PUBLICATION

214,2004
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 <u>23</u> ,20 <u>0+</u> .
The Jeffersonian Arbutus Times
🖵 Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
S. Wilkinger_

LEGAL ADVERTISING

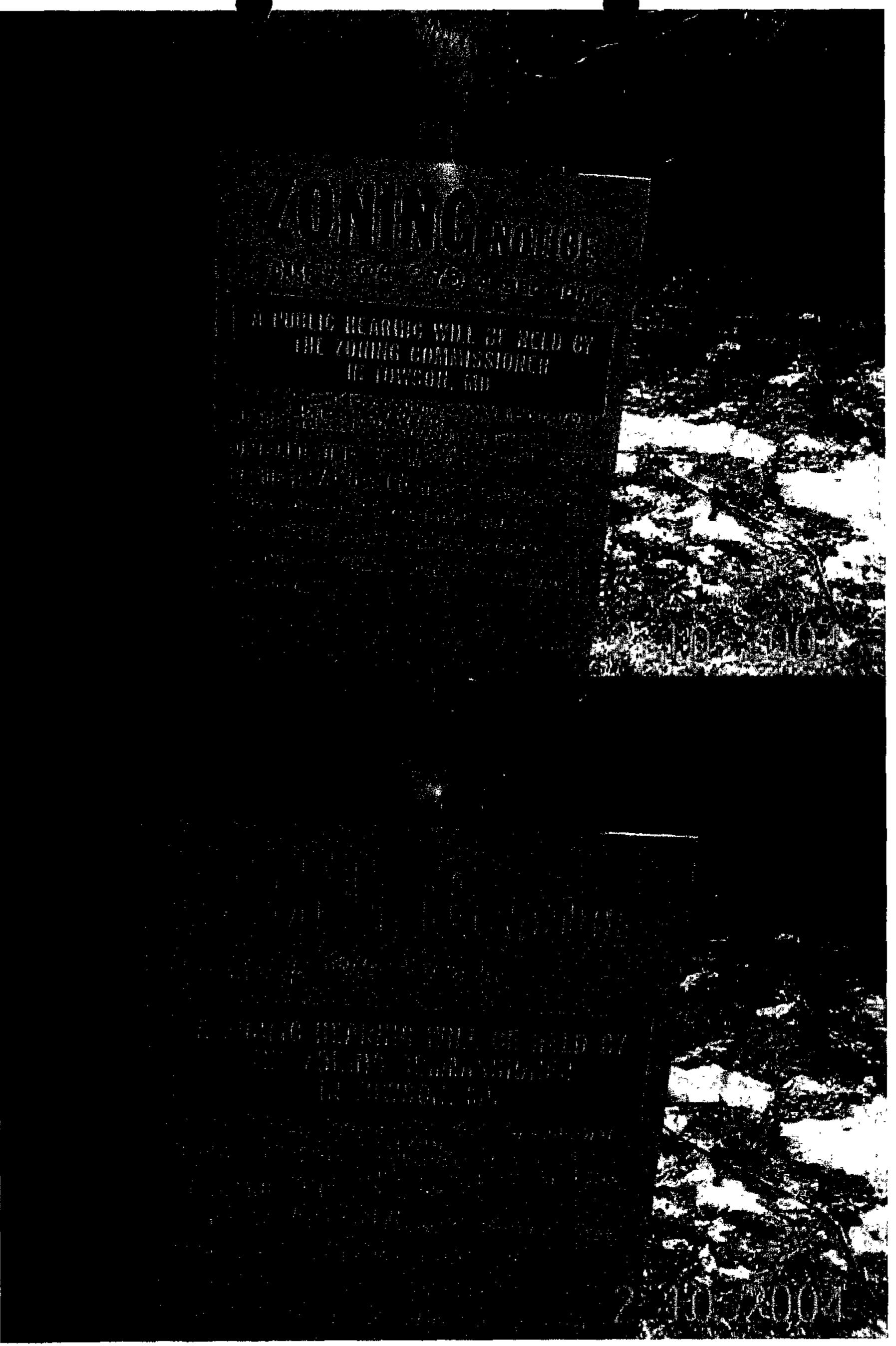




CERTIFICATE OF POSTING

,•	Petitioner/Developer: WAYNE WILSON - FINIZONE
	Date of Hearing/Closing: F58.18, 2004
Baltimore County Department of Permits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue Cowson, MD 21204	
Attention: Becky Hart	
adies and Gentlemen: This letter is to certify under	the penalties of perjury that the necessary sign(s) required by
aw were posted conspicuously on the property locate	ed at #7133 MARTECCAVE,
	
he sign(s) were posted on <u>JAU. 30</u>	17004 Ionth, Day, Year)
	Sincerely, Signature of Sign Poster and Date)
	GARLANDE, Mooro (Printed Name)
	3225 RYERSON CIRCLES (Address)
•	PAUTINIARE, MD. 2127 (City, State, Zip Code)
	(Telephone Number)
•	,

RE: Case No.: 04 - 270) -A



RE:	PETITION FOR VARIANCE	*	BEFORE THE
	7133 Martell Avenue, Lot 64; S/side Martell		
	Avenue, 75' W c/line of East Avenue	*	ZONING COMMISSIONER
	12 th Election & 7 th Councilmanic Districts		
	Legal Owner(s): Samuel Fanzone by Joseph	*	FOR
	W Fanzone & Dorothy Fanzone by		
	Carmen R. Fanzone	*	BALTIMORE COUNTY
	Petitioner(s)		
		_	

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

04-279-A

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 17th day of December, 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).

HELMAX ZIMMERMAN

People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 3, 2004 Issue - Jeffersonian

Please forward billing to: V& W Homes 502 Sylvan Way

Pasadena, MD 21122

1-410-320-5316

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: 04-279-A

7133 Martell Avenue, Lot 64

S/side of Martell Avenue, 75 feet west of centerline of East Avenue

12th Election District – 7th Councilmanic District

Legal Owners: Samuel and Dorothy Fanzone by Joseph and Carmen Fanzone

Variance to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot with an existing dwelling.

Hearing: Wednesday, February 18, 2004, 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



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





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

January 5, 2004

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: 04-279-A

7133 Martell Avenue, Lot 64

S/side of Martell Avenue, 75 feet west of centerline of East Avenue

12th Election District – 7th Councilmanic District

Legal Owners: Samuel and Dorothy Fanzone by Joseph and Carmen Fanzone

<u>Variance</u> to permit a lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot with an existing dwelling.

Hearing: Wednesday, February 18, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Mr. and Mrs. Fanzone, 11 Hunt Farms Court, Sparks 21152 Site Rite Surveying, 200 E. Joppa Rd., Rm. 101, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 3, 2004.

- (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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

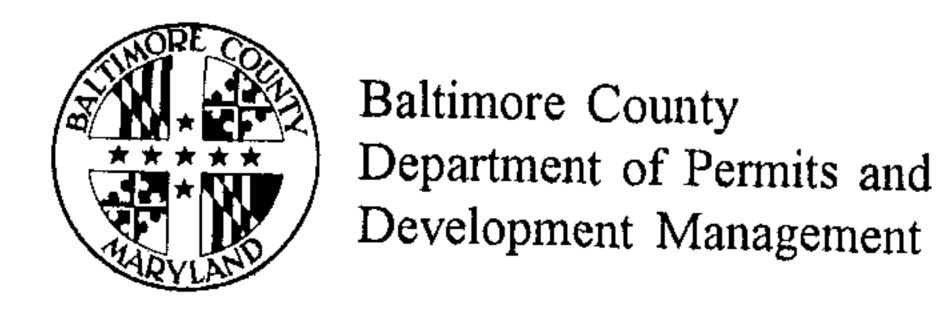
ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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: 04-279- A Petitioner: 133 May Avanue Address or Location: 1133 May Avanue
PLEASE FORWARD ADVERTISING BILL TO: Name: V&W HOWES Address: 502 Sylvan Way Pasadena wo 21122
Telephone Number:



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

February 17, 2004

Samuel Fanzone Dorothy Fanzone 11 Hunt Farms Court Sparks, Maryland 21152

Dear Mr. and Mrs. Fanzone:

RE: Case Number: 04-279-A, Lot 64 Martell Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 8, 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,
U. Callallallal

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: December 29, 2003

TO: Timothy M. Kotroco, Director

> Department of Permits & Development Management

FROM: /

Robert W. Bowling, Supervisor
Bureau of Development Plans Review

Zoning Advisory Committee Meeting **SUBJECT:**

For December 22, 2003

Item Nos. 267, 269, 270, 271, 272, 273, 274, 275, 279, and 283

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

R. Bruce Seeley M5 FROM: DATE: January 13, 2004 SUBJECT: Zoning Item # 04-279 Address 7133 Martell Avenue Fanzone Property Zoning Advisory Committee Meeting of December 15, 2003 X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item. 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). 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). Additional Comments:

Reviewer: Keith Kelley Date: December 23, 2003

TO:

Tim Kotroco

DATE: December 23, 2003

RECEIVED

DEC 2 4 2003

ZONING COMMISSIONER

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

SUBJECT:

7133 Martell Avenue

INFORMATION:

Item Number:

04-2789

Petitioner:

Samuel Fanzone

Zoning:

DR 5.5

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not support the petitioner's request. Per Section 304 of the Baltimore County Zoning Regulations (BCZR), a one-family detached dwelling may be erected on a lot having an area or width at the building line less than that required by the BCZR if the owner of the lot does not own sufficient adjoining land to conform to the width and area requirement.

This office has determined that the owner of the subject 50-foot wide lot also owns the adjoining 50-foot wide lot -7131 Martel Avenue. Therefore, this office recommends that the petitioner's variance and undersized lot request be **DENIED**.

Prepared by:

Section Chief:

≱FK/LL:MAC:

FORT THE



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

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

BPR

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: /2.14.63

Baltimore County

Item No. 272

RE:

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

Dear. Ms. Hart:

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

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

Very truly yours,

1-

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division Copy sent to Vince Moskunas - 3 9 04

04-279

WILLIAM H. KIMMICH

7128 Martell Ave Baltimore, Maryland 21222 kinsin mayanan makanan kanan minin makan minin makan minin makan minin makan minin

MAR 8 2004

410-284-2328 w.kimmich@earthlink.net ZONING COMMISSIONER

March 4th 2004

Mr. Murphy
Deputy Zoning Commissioner
Room 405 Courts Bldg

Sir:

Yesterday March 3,2004, I spoke to two sections of zoning and they told me that there has been no application to the DRC as of 3/3/04 and that it is legal to section off lots that they have presented. The center home only has to be a given number of feet behind the offset.

I cannot honestly approve the building of three homes in this lot the way it is proposed. Breaking up the center lot in that manner might be legal but how will it look. The driveway will also subtract from appearance.

Building (Two) 2 homes in that space would be agreeable & would not over crowd the area The number of homes on both sides of the street would be the same, maintaining the integrity of the neighborhood.

Bottom line none one wants three homes on that lot.

Very truly yours,

William H. Kimmich



200 E. Joppa Road Shell Building, Suite 101 February 24, 2004

tel. 410.828.9060

Towson, MD 21286

fax. 410.828,9066

Mr. Donald S. Miller 1817 West Avenue www.siteritesurveying.com Baltimore MD 21222

Mr. William H. Kimmich 7128 Martell Avenue Baltimore MD 21222

Re: Undersize zoning cases on Martel Avenue

Gentlemen:

Please find enclosed a plat marked as Petitioner #9 which shows revisions to Lots 61 through 64. These are revisions which will eliminate the need for the undersize variances 04-274-A, 04-275-A, 04-279-A and 04-280-A.

Per letter dated December 23, 2004 from the Office of Planning re Item No. 04-275 stating the variance would be denied because the width of the lots were less than the fifty-five (55) feet needed under the zoning regulations. By the revisions to the property lines, this is now possible.

Mr. Murphy, the Deputy Zoning Commissioner, suggested that I send you this new information for your review and comments. He has allowed the variances to remain open for three (3) weeks for you to review the package and to give him a call on your decision. He can be reached at (410) 887-4386.

The developer would like to proceed with the fifty (50) foot lots without your protests. We feel V&W Homes design is aesthetically more appealing since the houses are more in line and closer to Martell Avenue which allows the two (2) car parking pad in front of each unit.

This letter and plat is being sent to each of you as your names appear on the Citizen's Sign-in Sheet dated February 18, 2004.

If you have any questions, please feel free to give me a call. If you do not, please give the Deputy Zoning Commissioner your decision on this matter.

Very truly yours,

Vrucent & Mithum Vincent J. Moskunas

President

Enclosure

CC: Deputy Zoning Commissioner

File:\ martell.doc

ZONING HEARING FILE INTERNAL CHECKLIST Zoning Case No. 14-279-A

Date Completed/Initials	
1-5-64	PREPARE HEARING FILE (put case number on all papers; hole punch and place appropriately; put label and case number on folder; complete information on stamp on front of folder)
	DETERMINE HEARING DATE (schedule within 45 days of filing; post and advertise at least 15 days prior to hearing)
	TYPE HEARING NOTICE AND ADVERTISING NOTICE (type according to sample, taking billing information for advertising from advertising form in file; make appropriate copies; mail original and copies of hearing notice; place original advertising notice in Patuxent's box; file copies of both notices in hearing file; update ZAC in computer for hearing date, time and place)
	UPDATE ZONING COMMISSIONER'S HEARING CALENDAR (keep original in "red" folder; mail copy to zoning commissioner's office)
	COMPLETE FILE (write hearing date, time, and room on front of hearing folder; file in numerical order in cabinet next to copier until it is pulled for sending to zoning commissioner's office)
······································	POSTPONEMENTS (type postponement letter; make appropriate copies; mail original and copies; send copy to zoning commissioner; file copy in hearing file; update hearing calendar and ZAC in computer)
	RESCHEDULING (determine hearing date; type letter confirming new date; make appropriate copies; mail original and copies; file copy in hearing file; update hearing calendar and ZAC in computer; refile hearing folder)
	INDEX CARDS (prepare index cards, according to sample; file cards in cabinet)
2/3/04	ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)
-C1-10-4	COMMENTS (check off agency comments received on front of hearing file; make copies; type comments letter; mail original to petitioner; file copy in hearing file)
	FILES TO ZONING COMMISSIONER'S OFFICE (pull the files for the following

week every Friday and administrative files on Tuesday; verify that checklist on front of

hearing file has been completed; secure all papers under clips in file; send files for

hearings to zoning commissioner's office by noon on Friday and files for administrative

on Tuesday morning)

CASE NAME
CASE NUMBER 04-279-A
DATE 2/18/04

PETITIONER'S SIGN-IN SHEET

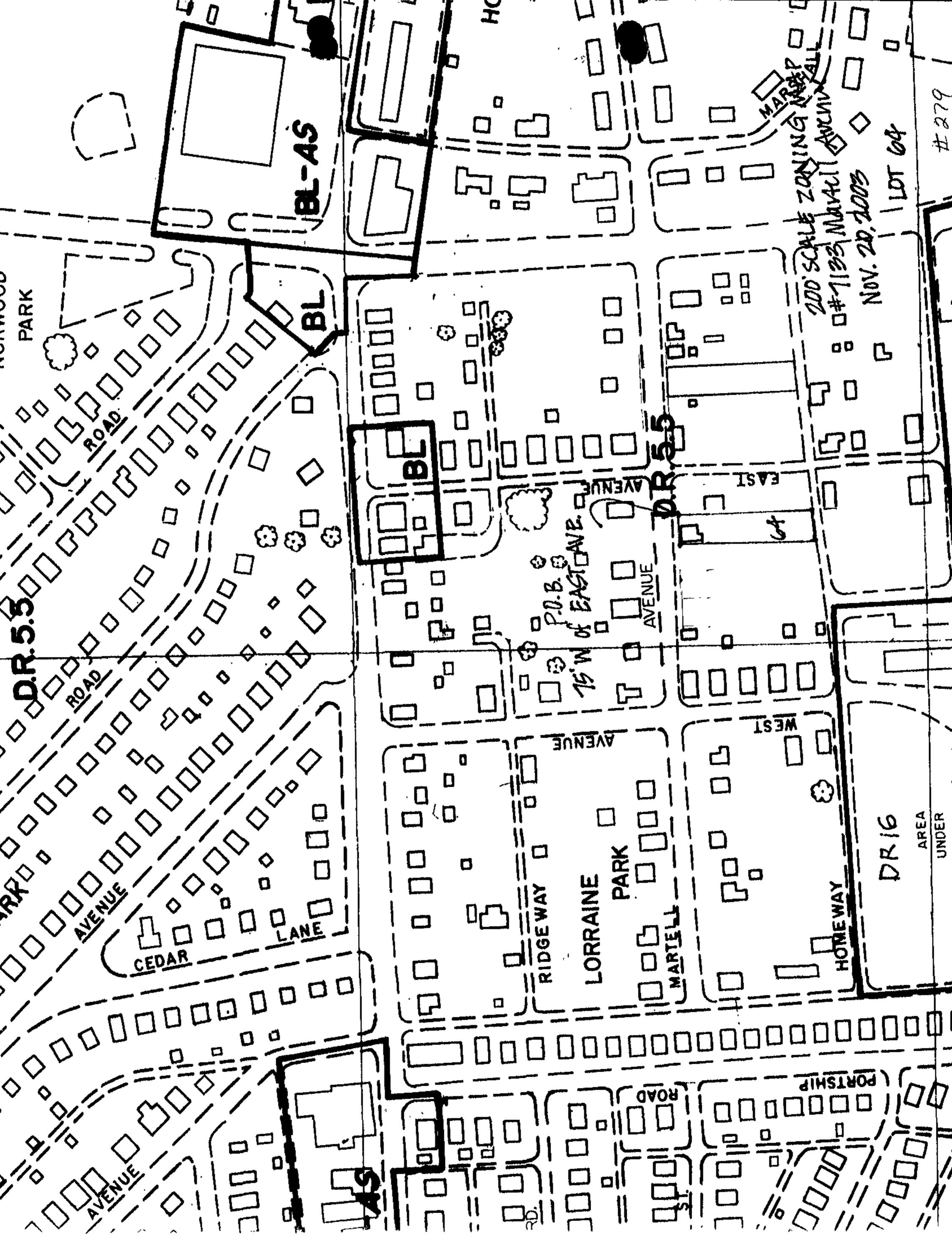
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
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PLEASE PRINT CLEARLY

CASE NAME	
CASE NUMBER	04-279-A
DATE 2/18/	04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL		
Donald Mille	1817 West ave	Balo Md 2/225			
William H. Frontish	7128 martell ave	Rollonion and 21772			
Marthu Kemmich	7128 Martell ave	Baltimore, Ma 51222			
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DOPOTHY FANZONE
1206000311 242'± 243't JOSEPH & SUSAN FANZONE 1206000341 12084/51 20.00 245'± JOSEPH & SUSAN FANZONE 1206000340 12084 51 (0) 50, 246'± DONALD 120208 6260 The second secon 249 = EX. DWLG. #1821 #1817 #1815 #1819 50'

WEST AVENUE EX. SO' P/W

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reconfigure two lots to arrive at a lot which will not require a variance is extended to include the three lots owned by V&W Homes. Thus, Planning sees no hardship or practical difficulty on the part of the owner, which could form the basis of a variance.

At the hearing, Mr. Miller brought a petition signed by numerous neighbors opposing the variances. There was some confusion regarding the petition, which stated that 4 homes were to be built instead of 3. However, in fact, only three new homes are planned to be built on all four lots. Nevertheless, Mr. Miller indicated his opposition to the variances. Also see Protestant's photographs, Exhibit No. 2, which he testified showed that there was not enough room for the new homes, that there were only two curb cuts onto Martell Avenue from the lots, and that there is a problem of flooding in the neighborhood.

He and Mr. Kimmich indicated that the neighborhood had been developed primarily with homes having double lots and that having homes on the single lots as proposed would be out of character for the neighborhood. See the zoning map which accompanied the petition. Mr. Moskunas, however, pointed out that the five homes on West Avenue were reoriented and consumed only two lots in being constructed.

On the day of the last hearing (Case No. 04-275), Mr. Moskunas presented Petitioners' Exhibit No. 9, which showed an arrangement of three new homes on the three vacant lots and lot line adjustments, which he proffered, required no variances. Essentially, he moved the new home on the middle lot toward the rear and away from Martell Avenue. As I indicated at the hearing, this evidence by definition indicates that there is no hardship or practical difficulty, which could form the basis for a variance. However, Mr. Moskunas pointed out that, if the requested variances are approved, the three new homes could be aligned along Martell Avenue in keeping with the other homes on the block and have large back yards just as the other homes on