IN RE: PETITION FOR VARIANCE
NE/Corner of Sunnyking Drive
and Sunwood Court
4th Election District
4th Councilmanic District
(3 Sunnyking Drive)

Marilyn V. & Louis K. Nielsen Petitioners

- **BEFORE THE**
- \* DEPUTY ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- CASE NO. 04-376-A

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#### 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, Marilyn V. and Louis K. Nielsen. The variance request is for property located at 3 Sunnyking Drive in the Reisterstown area of Baltimore County. The variance request is from Section 1B02.3.3 (old Regs. 205.2) to allow a front/side yard setback of 48 ft. to the street centerline and 23 ft. to the property line in lieu of the minimum required 65 ft. and 40 ft. respectively for a proposed garage.

The property was posted with Notice of Hearing on March 27, 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 March 25, 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 regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances.

SELECTIVE FOR FILES

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: None.

#### **Interested Persons**

Appearing at the hearing on behalf of the variance request were Michael Ertel, MJ Consulting, Inc. and Louis Nielson, Petitioner. Francis X. Borgerding, Jr., Esquire represented the Petitioners. There were no protestants or citizens attending 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, is a corner lot bounded by Sunnyking Drive and Sunwood Court in the Reisterstown area of Baltimore County. The property is located in 1950's subdivision and consequently the old R-20 regulations apply. The Petitioners, who testified that they are getting older, wish to build an attached garage to provide snowless access to their vehicles, more storage space and one floor entrance to their home in which they have lived for 33 years. Mr. Nielson testified that he has a heart condition and that his wife recently had a stroke, which makes shoveling snow difficult and perhaps dangerous. They have a one-story rancher with no basement, an attic filled with insulation and little closet space in the home. They thought about selling the home and moving to a less strenuous location but decided to stay if they could make some changes to the home. Thus the request for the attached garage.

Mr. Ertel testified that the house was constructed at an angle to the streets and up against the building restriction lines. Therefore, there is no way to locate the garage on either end of the home and not violate the building restriction lines. While the Petitioners have a large back yard, the existing deck and septic reserve area greatly restrict any placement of the garage in the rear yard. He also pointed out and demonstrated with photographs, that only the Fritz property located across Sunnyking Drive would ever see the new garage, but that an existing dense evergreen screen along Sunnyking Drive completely shields the Fritz property from the garage. He also mentioned that the garage would be located on the existing parking pad, so that there would be little change in the character of the neighborhood as a result.

#### Findings of Fact and Conclusions of Law

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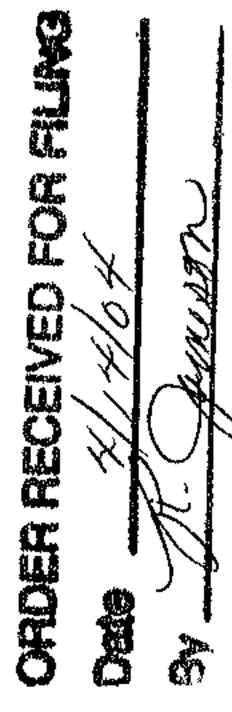
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I find that special circumstances or conditions exist that are peculiar to the land or structure, which is the subject of the variance request, in that the Petitioners' home was constructed at an angle and immediately against the building restriction lines. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There simply is no other place to locate the garage. I further find that the requested variance can be granted in strict harmony with the spirit and intent of the regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

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 Petitioner, I find that the Petitioner's variance request should be GRANTED.

THEREFORE, IT IS ORDERED, this day of April, 2004, by this Deputy Zoning

Commissioner, that the Petitioners' request for variance from Section 1B02.3.3 (old Regs. 205.2) to allow a front/side yard setback of 48 ft. to the street centerline and 23 ft. to the property line in lieu of the minimum required 65 ft. and 40 ft. respectively for a proposed garage, be and it is hereby



GRANTED, subject, however, to the following restriction which is a condition 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;

Any appeal of this decision must be made within thirty (30) days of the date 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





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

April 14, 2004

Francis X. Borgerding, Esquire 409 Washington Avenue, #600 Towson, Maryland 21204

Re: Petition for Variance Case No. 04-376-A Property: 3 Sunnyking Drive

Dear Mr. Borgerding:

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

John V. Murphy

Deputy Zoning Commissioner

John V. Murphy

JVM:raj Enclosure

c: Mr. & Mrs. Louis K. Nielsen 3 Sunnyking Drive Reisterstown, MD 21136



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



# Petition for Variance

### to the Zoning Commissioner of Baltimore County

for the property located at 3 Sunnyking Drive, Reisterstown, M. which is presently zoned R.C.-5 Old R-20

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) 1802.3.3 (old Regs. 205.2) to allow a front/side yard setback of 48 ft. to the street centerline and 23 ft. to the property line in lieu of the minimum required 65 ft. and 40 ft., respectively.

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

- 1. Uniqueness of property;
- 2: Size and shape of property; and
- 3. Such other and further reasons as presented at the hearing held in relation to this matter

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.

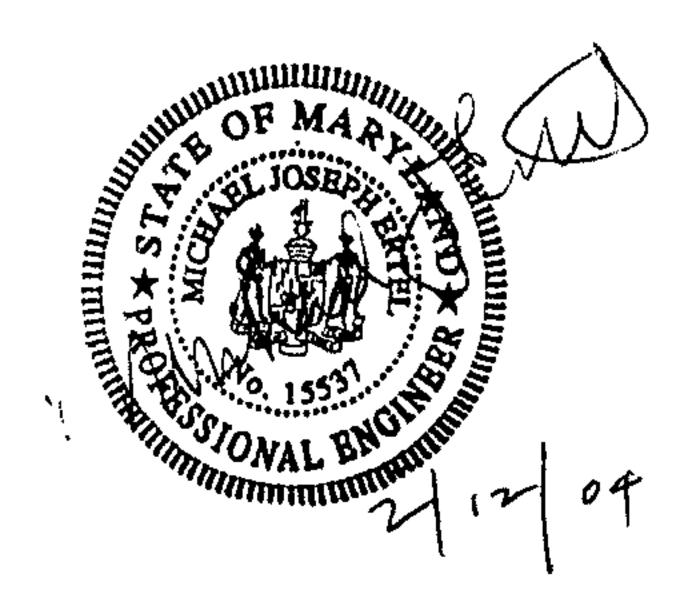
Contract Purchaser/Lessee:			<u>Legal Owner(s):</u>			
Name - Type or Print	4	· <del></del>	Louis K. Nielsen Name - Type or Print		······································	
Signature			Signature		· · · · · · · · · · · · · · · · · · ·	
Address		Telephone No.	Marilyn V. Niels Name - Type or Print	en .	o bald	
City <u>Attorney For Petitioner</u>	State	Zip Code	Signature  3 Sunnyking Dr. Address		410-833-7231 Telephone No.	
Francis X. Borgerdin Name - Type or Print	ng, Jr.		<u>Reisterstown</u> Cily	MD State	21136 Zip Code	
Signature			Representative to be Francis X. Borger			
409 Vashington Ave.	, #600	410-296-6820	Name 409 Washington A	ve., Ste. 600	410-296-6820	
Movement 1	MD	Telephone No. 21204	Address Towson	MD	Telephone No. 21204	
	State	Zip Code	City	State	Zip Code	
	76 A		OFFICE USE ONLY ESTIMATED LENGTH OF HEARING			
REV 9/15/98	~	Reviewed By	UNAVAILABLE FOR F	EARING 2-18-04	<del></del>	

# Description of # 3 Sunnyking Drive 4th Election District, Baltimore County Maryland

February 11, 2004

Beginning for the same at a point on the Northeast corner of the intersection of Sunnyking Drive and Sunwood Court and running with a curve to the left along the eastern right of way of Sunnyking Drive (1) R=410.00 feet, L=126.61 and thence turning away from the right of way line (2) S 76 degrees 11 minutes 31 seconds E, 202.76 feet thence (3) S 15 degrees 22 minutes 52 seconds E, 171.60 feet to intersect the north right of way line of Sunwood Court thence running along said right of way with a curve to the left (4) R=45.00 feet, L=22.57 thence with a curve to the right (5) R=45.00 feet, L=30.59 feet and continuing along the north right of way line (6) N 64 degrees 20 minutes 38 seconds west, 129.67 feet and thence with a curve to the right (7) R=25.00 feet, L=37.83 feet to the place of beginning.

Being the same ground known as lot 3 on the plat of SUNNYBROOK FARMS as recorded in the land records of Baltimore County in plat book 22, folio 77.



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#### 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 <u>Towson</u>. <u>Maryland</u> on the property identified herein as follows:

Case: #04-376-A

3 Sunnyking Drive
N/east corner of Sunnyking Drive and Sunwood Court
4th Election District — 4th Councilmanic District
Legal Owner(s): Louis and Marilyn Nielsen
Variance: to permit a front/side yard setback of 48 feet to
the street centerline and 23 feet to the Property line in lieu
of the minimum required 65 feet and 40 feet respectively:
Hearing: Tuesday, April 13, 2004 at 11:80 a.m. In Room
407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

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

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

3/357 Mar. 25

### CERTIFICATE OF PUBLICATION

3/25,2004
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 _3 25 ,2004.
The Jeffersonian .
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
S. Wilking

LEGAL ADVERTISING

#### Certificate Of Posting

RE: Case NO.: 04-376-4

Petitioner/Developer: Louis ?

MARILYN NIELSEN

Date of Hearing/Closing: 4/13/04

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

Attention:

Ladies and Gentlemen:

	ne penalties of perjury that the necessary osted conspicuously on the property
	SUNNYKING DRIVE
Ou,	NGS ND 21136
This sign(s) were posted on	3/27/04

(Month, Day, Year)

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Sincerely,

Walua Co 3/27/04

(Signature of Sign Poster and Date)

MARTIN OCLE

(Printed Name)

5016 CASTLESTONE DR

(Address)

ACTO MD. 21237

(City, State, ZipCode)

410 -933-9470

(Telephone Number)

Martin Oglo 3/27/04

# 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

March 2, 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: 04-376-A

3 Sunnyking Drive N/east corner of Sunnyking Drive and Sunwood Court 4<sup>th</sup> Election District – 4<sup>th</sup> Councilmanic District Legal Owners: Louis and Marilyn Nielsen

Variance to permit a front/side yard setback of 48 feet to the street centerline and 23 feet to the Property line in lieu of the minimum required 65 feet and 40 feet respectively.

Hearing: Tuesday, April 13, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

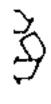
Director

TK:klm

C: Francis Borgerding, Jr., 409 Washington Ave., Ste 600, Towson 21204 Louis & Marilyn Nielsen, 3 Sunnyking Drive, Reisterstown 21136

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MARCH 29, 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.



TO: PATUXENT PUBLISHING COMPANY

Thursday, March 25, 2004 Issue - Jeffersonian

Please forward billing to:

Louis and Marilyn Nielsen 3 Sunnyking Drive Reisterstown, MD 21136-6124

410-296-6820

#### **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: 04-376-A

3 Sunnyking Drive N/east corner of Sunnyking Drive and Sunwood Court 4<sup>th</sup> Election District – 4<sup>th</sup> Councilmanic District

Legal Owners: Louis and Marilyn Nielsen

<u>Variance</u> to permit a front/side yard setback of 48 feet to the street centerline and 23 feet to the Property line in lieu of the minimum required 65 feet and 40 feet respectively.

Hearing: Tuesday, April 13, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

AUTODO B. BOMBOT

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 A  Item Number or C	ase Number: 04-376 A	
	Louisk Nielson and marlyn V. Nielson	
Address or Location	on: 3 sunny King Dr. Reistaston md 211	36-6124
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Revised 2/20/98 - SCJ

# Department of Permit 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

April 6, 2004

Francis X. Borgerding, Jr. 409 Washington Avenue, # 600 Towson, Maryland 21204

Dear Mr. Borgerding:

RE: Case Number:04-376-A, 3 Sunnyking Drive

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 18, 2004.

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. Carl Richall

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR: clb

**Enclosures** 

c: People's Counsel Louis K. and Marilyn V. Nielsen 3 Sunnyking Drive Reisterstown 21136

#### Fire Department

700 East Joppa Road Towson, Maryland 21286-5500 Tel. 410-887-4500



### Baltimore County

James T Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 March 1, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: March 1, 2004

Item No.:

349,

376-389

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.

6. 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

115

#### MARYLAND DEPARTMENT OF TRANSPORTATION

RE:

Date: 2.27.04

Baltimore County

Item No. 376

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

Dear. Ms.Matthews:

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

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

Very truly yours,

~

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

## BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

R. Bruce Seeley M5

DATE:

March 25, 2004

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of March 1, 2004

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-376

04-377

04-378

04-379

04-380

04-382

04-384

04-386

04-388

Reviewers:

Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

### 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

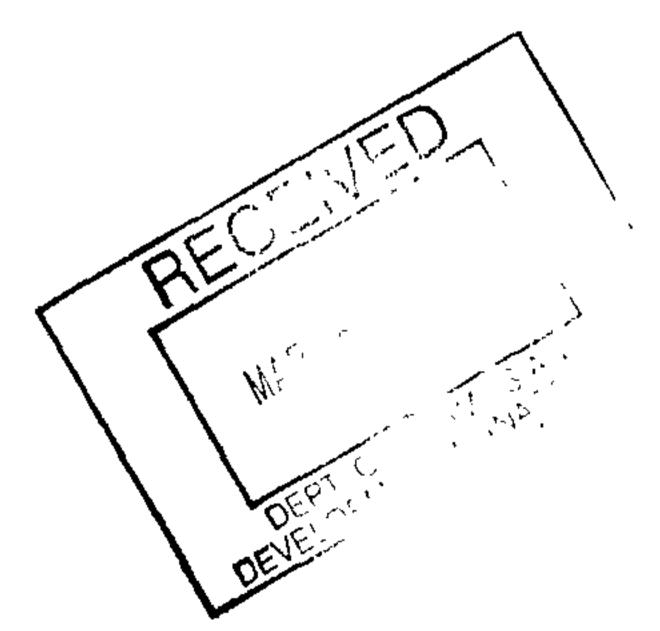
Zoning Advisory Petition(s): Case 4-336 and 4-376

**DATE:** March 19, 2004

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





#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

**DATE:** March 25, 2004

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For March 8, 2004 Item Nos. 349, 376, 377, 378, 379, 380, 381, 382, 384, 385, 388, and 389

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

RWB:CEN:jrb

cc: File

RE: PETITION FOR VARIANCE

3 Sunnyking Drive; NE corner of Sunnyking

Drive & Sunwood Court

4<sup>th</sup> Election & 4<sup>th</sup> Councilmanic Districts

Legal Owner(s): Louis & Marilyn Nielsen
Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

**BALTIMORE COUNTY** 

04-376-A

\* \* \* \* \* \* \* \*

#### ENTRY OF APPEARANCE

\*

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Caroles Demilio

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of March, 2004, a copy of the foregoing Entry of Appearance was mailed to, Francis X. Borgerding, Jr, Esquire, 409 Washington Avenue, Suite 600, Towson, MD, 21204, Attorney for Petitioner(s).

RECEIVED

MAR 0 8 2004

Per ....

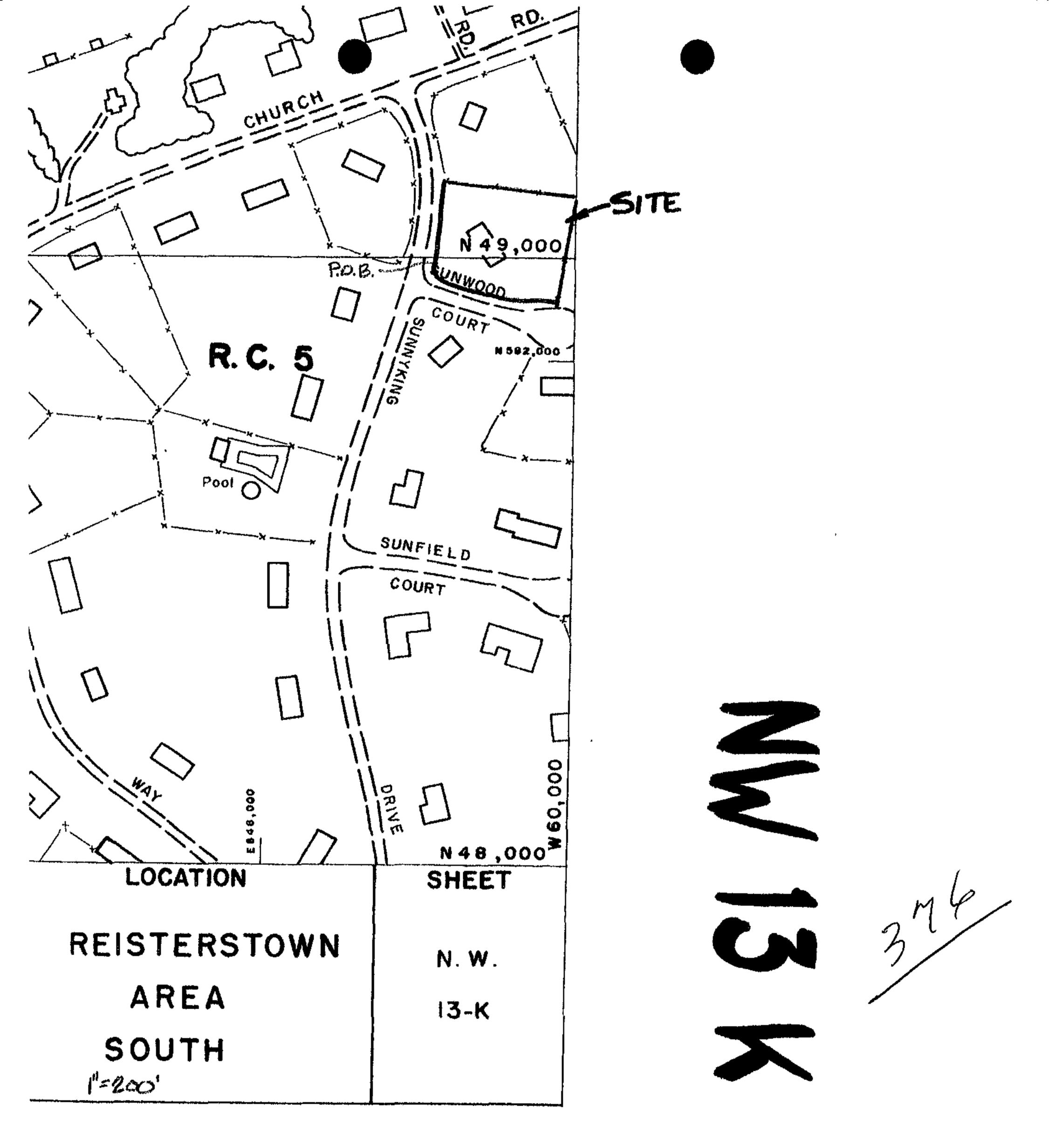
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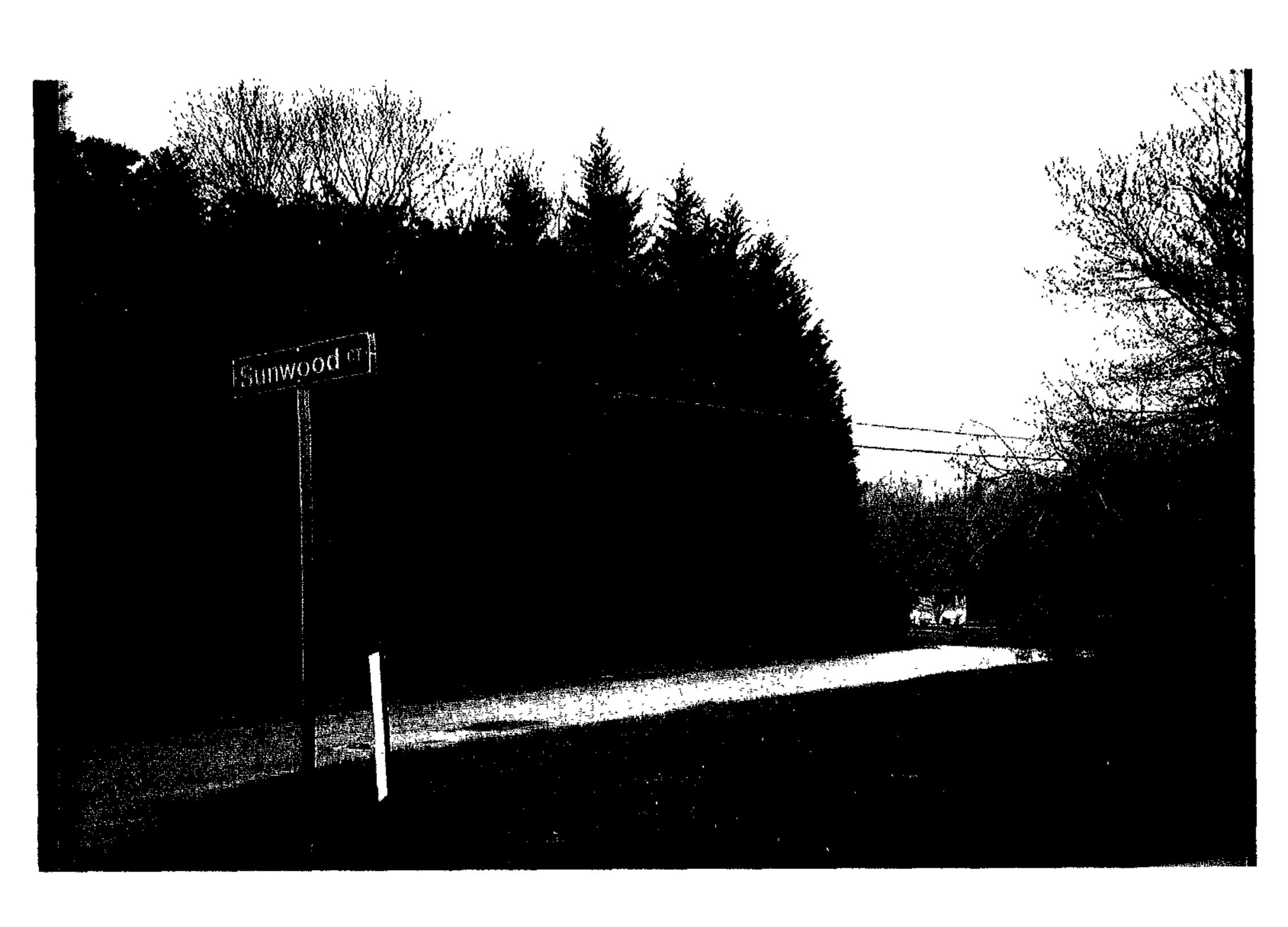
People's Counsel for Baltimore County

CASE NAME	3 Survey	Ene Ct.
CASE NUMBI	ER 04-376	<u> </u>
DATE 4	13/04	

### PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Louis K. Nielson	3 Sunnuking Dr.	Reisterstown, MD 21136	
MICHAEL J. ERTEL	208 WASHINGTON AVE 2	nd Fl - Towson MD 21204	miconsultingince
(Mj CONSVITING, INC.	)	<u> </u>	comeast.net
Frank Dorgerding 204			
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