ORDER RECEIVE

IN RE: PETITION FOR VARIANCE S/S of Clarks Point Road, 500 ft. E of Bowleys Quarters Road 15th Election District 6th Councilmanic District (3711 Clarks Point Road, Lot 53) (3713 Clarks Point Road, Lot 52) (3715 Clarks Point Road)

> Patricia A. & Calvin D. Gilbert **Petitioners**

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 04-442-A CASE NO. 04-443-A CASE NO. 04-444-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

*

These matters come before this Deputy Zoning Commissioner as Petitions for Variance filed by the legal owners of the subject properties, Patricia A. and Calvin D. Gilbert. The Petitioners are requesting variance relief as follows:

Case No. 04-442-A: Property located at 3711 Clarks Point Road (Lot 53) in the eastern Variance relief is requested from Section 1B02.3.C.1 of the area of Baltimore County. Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling with side yard setbacks of 8 ft. 8 in. and 2 ft. respectively, in lieu of the minimum required 10 ft. each, and to permit an undersized lot.

Case No. 04-443-A: Property located at 3713 Clarks Point Road (Lot 52) in the eastern Variance relief is requested from Section 1B02.3.C.1 of the area of Baltimore County. Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement dwelling (Isabel Damage) with side yard setbacks of 8 ft. and 8 in. and 5 ft. respectively, in lieu of the minimum required 10 ft. each.

Case No. 04-444-A: Property located at 3715 Clarks Point Road in the eastern area of Variance relief is requested from Section 1B02.3.C.1 of the Baltimore ⇒Baltimore County.

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County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling with side yard setbacks of 8 ft. and 8 in. and 2 ft. respectively, in lieu of the minimum required 10 ft. each and to permit an undersized lot.

These properties were posted with Notice of Hearing on May 3, 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 May 4, 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. 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."

Section 304 of the B.C.Z.R. - Use of Undersized Single Family Lots (Reference Only)

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

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

A.Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;

- B.All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

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. 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 was received from the Department of Environmental Protection & Resource Management (DEPRM) dated April 14, 2004 stating that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof. A ZAC comment was also received from the Office of Planning dated April 14, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request was Edward Koplin, P.E. who prepared the site plan and Calvin and Patricia Gilbert, the Petitioners. Edward Covahey, Esquire represented the Petitioners. Ann and Victor Bassetti, John Steele, Christina Buedel and Clyde

Hargis appeared at the hearing in opposition to the Petition. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that lot 53 (3711 Clarks Point Road) which consists of 13,238 sq. ft. is in the "Bowley's Quarter, Plat 2", subdivision which was recorded in the land records of Baltimore County on April 16, 1921. In addition, Petitioners own Lot 52 (3713 Clarks Point Road) which consists of 12,029 sq. ft. and Lot 51 (3715 Clarks Point Road) which consists of 13,176 sq. ft. These properties are all companion cases. See Petitioners' Exhibit No. 2 for the Bowleys Quarter subdivision and Petitioners' Exhibit Nos. 1A, 1B and 1C for the plan to accompany for each case. These three lots are adjacent to one another, are generally vacant, and are zoned DR 5.5. The cases were heard contemporaneously with one another and by agreement, all evidence and testimony in these case is applicable to all three.

Mr. Gilbert testified that he owns all three lots and that he and his wife have struggled to improve a "handyman's special" home located on lot 52, the center lot, they purchased 14 years ago. In addition to the home on lot 52, the properties are improved by a garage/carport, which is located near the Clark's Point Road and straddles lots 53 and 52. Mr. Gilbert testified that in September 2003, the area was struck by the storm surge of Hurricane Isabel and both their home and garage suffered extensive damage. The home, which was closer to the water's edge of Seneca Creek, was damaged so greatly that it was not feasible to rebuild. Consequently, the Petitioners razed the home. Mr. Gilbert testified that the proceeds from his insurance were only enough to pay off the first mortgage on the home. He said he needed the variances requested so

that he could sell the adjacent lots and thus afford to rebuild his home because his flood insurance was inadequate.

However, on cross-examination by the protestants, he admitted that he had entered into but had not settled on a contract for sale for all three lots with the engineer working on this case, Edward Koplin. He stated that the contract was for \$375,000 and was not contingent on the success of these zoning cases. He finally admitted that he would not be living in the middle home after the contract for sale was settled.

Mr. Covahey proffered that each lot was 50 ft. wide and that the 10 ft. setbacks required by the DR 5.5 zoning resulted in a home on each lot that was only 30 ft. wide. He proffered that a 30 ft. home on waterfront property in this section of Baltimore County was unrealistic. He further explained that the home on lot 52 could be rebuilt on the still existing foundation and that such a home would be approximately 36 ft. wide and non-conforming because it was 8 ft. 8 in. from one lot line and 5 ft. from the other lot line. Thus, the previously existing home could not meet the DR 5.5 zoning setback requirements and that requiring the owner to reduce the home to do so would be a hardship and present a practical difficulty. See Petitioners' Exhibit No. 1B and note that the garage is separated from the rebuilt home so that although it is 5 ft. from the lot line, the garage does not need a variance as a accessory building.

Mr. Gilbert presented photographs of homes in the area which were developed on 50 ft. lots. See Petitioners' Exhibit No. 9. He also described the area next to his lot 53 as a low lying wetlands area into which storm water drained from his lot.

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Mr. Koplin, a registered professional engineer, who prepared the plan to accompany testified that the previously existing home on lot 52 was built in the 1950's and could not have

met the DR 5.5 zoning side yard setback requirements of 10 ft. as it existed. He described the proposed home on lot 51 (see Petitioners' Exhibit No. 1C), which is a 36 ft. wide home which was laid out with the same side yard setbacks of 8 ft. 8 in. and 5 ft., as the previously existing home on lot 52. The proposed home on lot 53 is identical to the proposed home on lot 51. See Petitioners' Exhibit No. 1A. Note that in both of these two designs the garage is attached to the home with the additional variance requested that the side yard setback be 2 ft. instead of 10 ft. He indicated that this was a reasonable design for a modern home on the waterfront but admitted on cross-examination that if he separated the garage from the home, he would not need this variance by simply reducing the width of the garage 1 ft. He pointed out that detached accessory buildings are required only to be 2.5 ft. from the property line. Finally, he noted that the three proposed homes would be set back from the water in line with one another so that the home on lot 49, the Buedel property would not lose its view of the water.

He also testified that the three lots were unique because they were lower in elevation than the lots to the west, Buedel etc., as these lots had been raised in height over the years by filling. Because they are the lower lots in the area, they received the storm water from the higher lots and in turn discharged storm water onto the lots to the east, the wetlands. He testified that modern homes require more width than 30 ft. and that all three homes would have to be raised approximately 6 ft. above present elevation to meet the County flood requirements for homes in the flood plain. This also presented a hardship and practical difficulty in the extra expense incurred which had to be reflected in a larger (wider) home than is allowed under the DR 5.5 regulations. He presented detailed elevations for each home, which he indicated met all County regulations except the setbacks noted. See Petitioners' Exhibit Nos. 12A, 12B and 12C.

On cross-examination, he admitted that he was the contract purchaser of the three lots, and that he intended to sell all the homes to the public. He denied allegations by the protestants that lot 53 had substantial areas of wetlands and emphasized that the lots and proposed homes had been reviewed and approved by DEPRM including the impervious surface area. He also denied that a 30 ft. wide home was practical even if it could be constructed with more length to give a home of equivalent size to those proposed.

The protestants opposed the variances requested primarily on the grounds that although the subdivision was laid out in 50 ft. lots, the neighborhood was developed with homes on several lots. They testified that developing this small group of homes on 50 ft. lots would change the character of the neighborhood. See the aerial map, Petitioners' Exhibit No. 11. The protestants point out that lot 54 is vacant. The subject lots have a garage that spans lots 53 and 51 while the previously existing home on lot 52 is centered on the three lots. They testified that the Petitioners used all three lots and that their pier serviced all three lots. Lots 50, 49 and 48 are owned by the Buedels (one of the protestants) who have a rental home on lot 50 and a garage on lot 49 which serves the main home that straddles lots 49 and 48. While lot 47 is developed with a home on a 50 ft. lot, lots 46, 45 and 44 are developed as one home on lot 45 with accessory structures to serve the main house on lots 46 and 44. In addition, the protestants objected to lining up all three of the proposed homes as presented. Again, they say that this would change the neighborhood in which the homes are staggered with respect to the distance each was built from the water.

The protestants complained that the three homes would overtax the public sewer line, would increase storm water runoff from the properties onto the wetlands to the west which would

adversely affect wildlife in the wetlands, and that fire equipment could not get through homes to the water if placed so close together. They presented a letter dated September 18, 2000 from Keith Kelley of DEPRM and they argued that wetlands were present on lot 53 and that the required 35 ft. setback from wetlands had not been followed by the Petitioners in proposing a home on this lot. They emphasized that all the lots in this area of Bowley's Quarter were 50 ft. across and, therefore, not unique. They noted that all homes in the area had to be built up to pass flood surges and such economic difficulties did not constitute a hardship for variance cases.

Findings of Fact and Conclusions of Law

As this case will likely be appealed, I will make a detailed findings of fact and law to aid the appellate process. I will deny the variances requested for the following reasons:

Garage variance - 2 ft. in lieu of 10 ft.

As Mr Koplin indicated that he could avoid this variance by simply detaching the garage and reducing the size of the garage by 1 ft. Where there is a reasonable way to meet the zoning regulations there can not be a hardship by definition.

House variances - 8.6 ft and 5 ft in lieu of 10 ft.

It is true that this office has routinely approved and denied side yard setback variances similar to these requests for these waterfront properties in the eastern area of Baltimore County. We have held in approving these variances that when new zoning regulations are applied to recorded subdivisions and homes built according to old regulations, that in itself indicates "special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request" i.e. the property is unique. The reasoning for this is that the new regulations on old subdivisions impacts the old subdivisions differently than other subdivisions

which have been or could have been designed to the new standard. Typically an existing house in the old subdivision does not meet the new setback requirements and it is unreasonable to ask the owner to remove walls or reduce the size of the house to meet current standards. This office believes this finding is in accord with *Cromwell v Ward*, 102 MD 691, 651 A.2d 424. In that case the *Cromwell* Court cited with approval the definition of "unique" in the case of *North v. St. Mary's County*, 99 Md. App. at 512. The Cromwell Court said,

"In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

While many of the reasons given by the court have to do with physical attributes of the land such as the existence of stream, wetlands, etc. the court recognized that the historical significance of existing structures and property triggers the disparate impact of the new regulation on those structures and property and signifies that the properties are unique. Historical significance can be shown by demonstrating that the property has been listed on a government historic preservation list or is located in a county imposed historic district. By analogy, we have found the imposition of new zoning regulations on old subdivisions likewise indicates that the properties in the old subdivision are unique even if there are no unusual physical aspects of the properties.

That said, I note the Petitioners' argument that the lower elevation of the three lots constitutes a unique feature of the lots compared to surrounding lots. I find, as a matter of fact,

that the three lots are lower in elevation than the surrounding lots. One test for uniqueness has to do with the disparate impact of the zoning regulations because of a physical feature. Lower elevation would clearly relate to the need to build the new homes above the flood plain, which would not be as severe on other lots that were higher. However, the problem presented by the Petitioner is side yard set backs. An irregularly shaped lot for example could trigger a disparate impact of side yard set back, but I am not sure how a lower elevation would affect side yard set backs. Nevertheless, I find the lots are unique.

Ordinarily, I would have no difficulty finding hardship and practical difficulty for requests for side yard set backs for a lot with an existing home, or one razed by a natural disaster such as Hurricane Isabel inflicted on this whole area of shore properties. However, there can be no hardship when the same owner owns adjacent properties and the need for variance avoided by simple lot line adjustments. In this case, the Petitioners own 150 ft. of lot width and can avoid the side yard set back variances by making lot line adjustment. The obvious result may be that they would reduce the three lots to two lots (two 75 ft. widths) on which they can build homes up to 50 ft. in width without a variance. Also see Section 304.1.C above for similar reasoning for undersized lots.

I find that the lots and shoreline shown on Petitioners' Exhibit No. 11 define the area, which constitutes the neighborhood in this case. I further find that while there is evidence of single 50 ft. lots being developed in this "neighborhood", homes on single 50 ft. lots are not the predominate development pattern. Rather, I find that the neighborhood has generally been developed with homes on multiple lots that have accessory structures to serve those homes. The Petitioners' lots are a good example. The garage/carport spanned two lot lines while the home

was located on the center of the three lots. The pier clearly served the home and all three lots. I find that to allow development on 50 ft. lots in this neighborhood would fundamentally change the nature of the area and would violate the spirit and intent of the regulations and adversely affect the general welfare of the neighborhood.

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 requests should be denied.

THEREFORE, IT IS ORDERED, this _35 day of May, 2004, by this Deputy Zoning Commissioner, that the Petitioners' requests for variance relief as follows:

Case No. 04-442-A: Property located at 3711 Clarks Point Road (Lot 53) in the eastern area of Baltimore County. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling with side yard setbacks of 8 ft. 8 in. and 2 ft. respectively, in lieu of the minimum required 10 ft. each, and to permit an undersized lot.

Case No. 04-443-A: Property located at 3713 Clarks Point Road (Lot 52) in the eastern area of Baltimore County. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement dwelling (Isabel Damage) with side yard setbacks of 8 ft. and 8 in. and 5 ft. respectively, in lieu of the minimum required 10 ft. each.

Case No. 04-444-A: Property located at 3715 Clarks Point Road in the eastern area of Baltimore County. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed dwelling with side yard

setbacks of 8 ft. and 8 in. and 2 ft. respectively, in lieu of the minimum required 10 ft. each and to permit an undersized lot.

be and they are hereby DENIED.

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

JOHN W. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

Zoning Commissioner

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



Baltimore County

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

May 27, 2004

Ed Covahey, Esquire 614 Bosley Avenue Towson, Maryland 21204

Re: Petitions for Variance

Case Nos. 04-442-A, 04-443-A & 04-444-A

Properties: 3711 Clarks Point Road,

3713 Clarks Point Road & 3715 Clarks Point Road

Dear Mr. & Mrs. Gilbert:

Enclosed please find the decision 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



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

Copies to:

Mr. & Mrs. Calvin D. Gilbert 7110 Belair Road, Suite 200 Baltimore, Maryland 21206

Edward C. Koplin, P.E. 7110 Belair Road Baltimore, MD 21206

Ann Marie & Victor Bassetti 3751 Clarks Point Road Baltimore, MD 21220

John Steele 3749 Clarks Point Road Baltimore, MD 21220

E. Christina Buedel Clyde Hargis, Jr. 3719 Clarks Point Road Baltimore, MD 21220



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3713 CLARKS POINT ROAD LOT 52 which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 18 02,3 6.1, BCZR, to permit a proposed replacement dwelling (Isabel damage) with side yard setbacks of 8 feet8 inches and 5 feet, respectively, in lieu of the minimum required 10 feet each.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) owners were flooded out in the tricaine Isabel, house was condemned, and they had no content insurance and IN ADEQUATE Flood insurance. VARIANCE IS REQUESTED FOR LOT 52 to BEABLE TO CONSTRUCT A HOUSE THAT IS CONSISTENT WITH MODERN ARCHITECTURAL STANDARDS, LIVING PATERNS, AND IS SIMULTANEOUSLY CONSISTENT WITH THE CURRENT VALUE OF A WATER FRONT LOT.

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>
		Calvin David Gilbert
Name - Type or Print	· · · · · · · · · · · · · · · · · · ·	Name - Type or Print
Signature		Signature / //
Address	Telephone No.	Name - Type or Print
City	Zip Code	Signature Name - Type or Print Signature
Attorney For Petitioner:		7110 BelaIR ROAD SUITE 200 410-665 1406
		BALTIMORE MD 21206
Name - Type or Print		City State Zip Code
natur		Representative to be Contacted: ENGR
		JACK DALE ASSOC. EDWARD. C. KOPlin, PE Name
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Marie St.	Telephone No.	/c ⊃ 30 ·
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Case No. 17477	Reviewed By	UNAVAILABLE FOR HEARING J ルチ Date 3/2004
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Zoning Description

ZONING DESCRIPTION FOR <u>3713 CLARKS POINT ROAD - LOT 52</u>

Beginning at a point on the <u>south</u> side of <u>Clarks Point Road</u> which is <u>thirty (30)</u> feet wide at the distance of <u>550</u> east of the centerline of the nearest improved intersecting street <u>Bowleys Quarters Road</u> which is <u>approx 30 feet</u> wide. Being <u>Lot # 52</u> in the subdivision of <u>Bowley's Quarters</u> as recorded in Baltimore County Plat Book #2, Folio #<u>598</u>, containing <u>12,029 sq. ft</u>. Also known as <u>3713 Clarks</u> <u>Point Road</u> and located in the <u>15th Election District</u>, <u>6th Councilmatic District</u>.

04-443-A

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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 Towson, Maryland on the property Identified herein as follows.

Case: #04-443-A
3713 Clarks Point Road, Lot 52
S/side of Clarks Point Road, 500-feet East of Bowleys Quarters Road.

15th Election District - 6th Councilinante District Legal Owner(s): Calvin and Patricia Gilbert

Variance: to permit a proposed replacement dwelling (Isabel Damage) with side yard setbacks of 8 feet 8 inches and 6 feet respectively, in lieu of the minimum required 10 feet each.

Hearing: Tuesday, May 18, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

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

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

JT 5/615 May 4

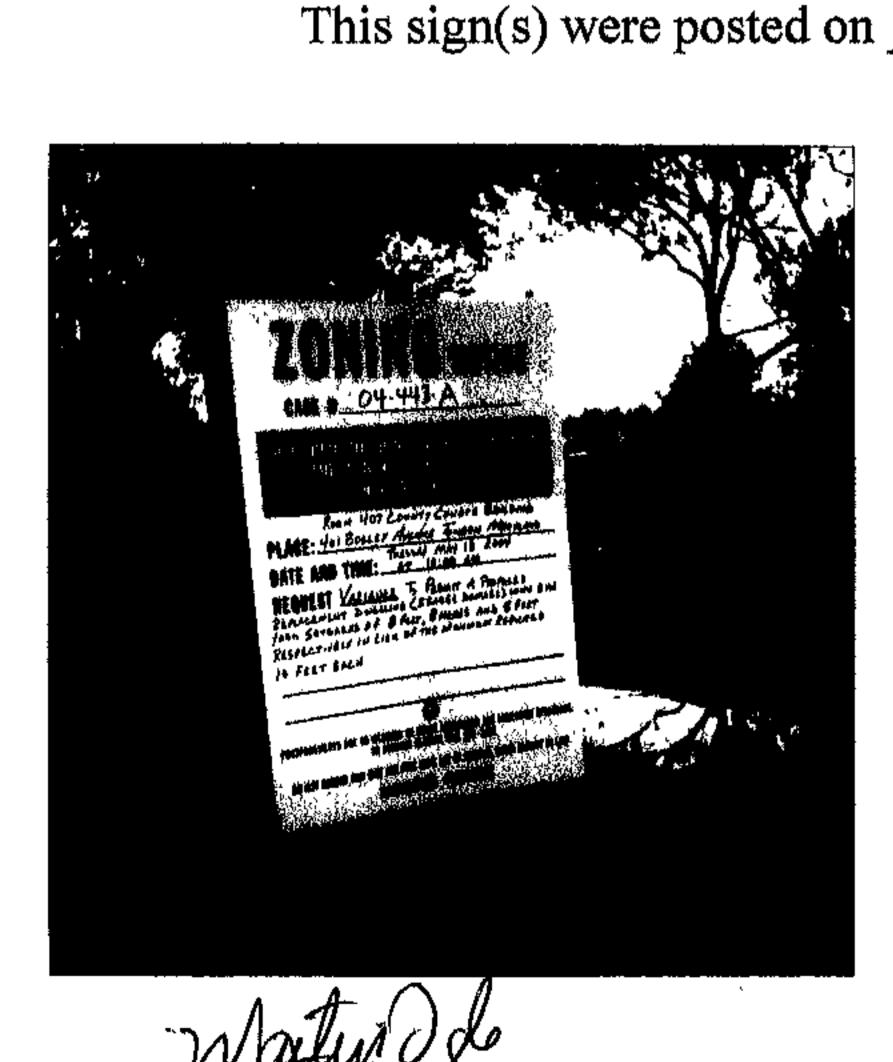
CERTIFICATE OF PUBLICATION

5 5 5 , 20 <u>0</u> L
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
nce in each ofsuccessive weeks, the first publication appearing
$\frac{5}{4}$,2004.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

Certificate Of Posting

		RE: Case NO.: 04-443-A
]	Petitioner/Developer:
		EDWARS C. KUPLIN
		of Hearing/Closing: 5/18/04
Baltimore County Department of Permits and Development Mana County Office Building, Room 111 West Chesapeake Avenue Towson, MD 21204	agement	
Attention:	•	
Ladies and Gentlemen:		
This letter is to certify under the sign(s) required by law were post at 37/3		
at 3/13	CLARKS	POINT KD.
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FELT SALA	<u>(41</u>	<u>0)-933-9470</u>
Marie and Marie	(Pł	one Number)



RE: PETITION FOR VARIANCE

3713 Clarks Point Road; S/side of Clarks
Point Road, 550' E of Bowleys Quarters Rd *
15th Election & 6th Councilmanic Districts
Legal Owner(s): Calvin & Patricia Gilbert *

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

04-443-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

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2004, a copy of the foregoing Entry of Appearance was mailed to, Edward C Koplin, PE, Jack Dale Associates, 7110 Belair Road, St 200, Baltimore, MD 21206, Representative for Petitioner(s).

RECEIVED

APR 8 8 2004

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per.....

TO: PATUXENT PUBLISHING COMPANY Tuesday, May 4, 2004 Issue - Jeffersonian

Please forward billing to:

Mary Beth Koplin Jack Dale Assoc. 7110 Belair Road, Ste. 200 Baltimore, MD 21206

410-665-9400 ext. 327

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: 04-443-A

3713 Clarks Point Road, lot 52 S/side of Clarks Point Road, 550

S/side of Clarks Point Road, 550 feet east of Bowley's Quarters Road 15th Election District – 6th Councilmanic District

Legal Owners: Calvin and Patricia Gilbert

Variance to permit a proposed replacement dwelling (Isabel Damage) with side yard setbacks of 8 feet, 8 inches and 5 feet respectively, in lieu of the minimum required 10 feet each.

Hearing: Tuesday, May 18, 2004, at 10:00 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 at Development Management

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



Baltimore County

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

March 30, 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: 04-443-A

3713 Clarks Point Road, lot 52

S/side of Clarks Point Road, 550 feet east of Bowley's Quarters Road 15th Election District – 6th Councilmanic District

Legal Owners: Calvin and Patricia Gilbert

Variance to permit a proposed replacement dwelling (Isabel Damage) with side yard setbacks of 8 feet, 8 inches and 5 feet respectively, in lieu of the minimum required 10 feet each.

Hearing: Tuesday, May 18, 2004, at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Calvin & Patricia Gilbert, 7110 Belair Road, Ste. 200, Baltimore 21206 Jack Dale, Edward Koplin, PE, 7110 Belair Rd., Ste. 200, Baltimore 21206

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

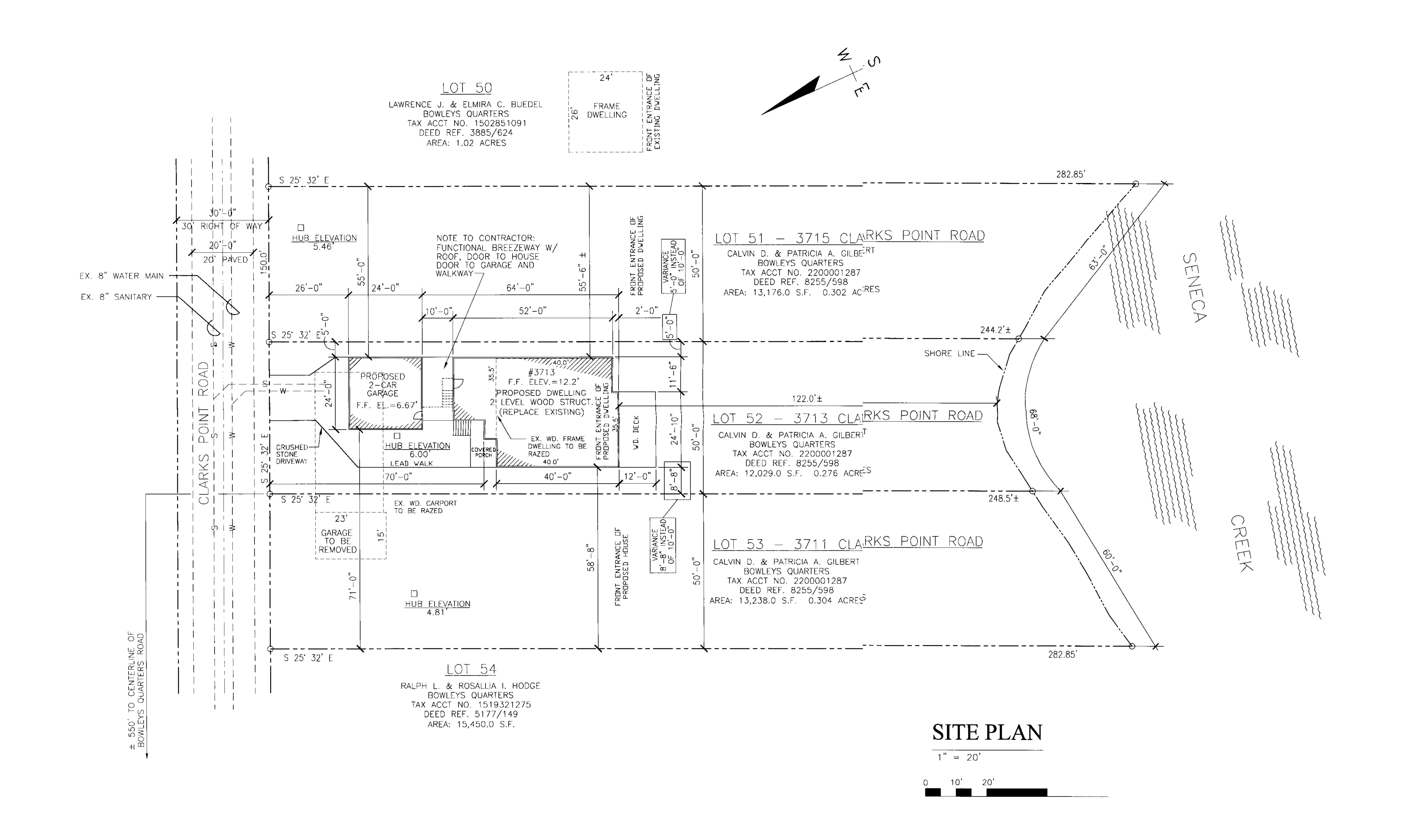
Zoning Review will ensure that the legal requirements for advertising are satisfied However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted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

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

For Newspaper Advertising:
Item Number or Case Number 04443-A PetitionerGILBERT
Address or Location 3713 CLARKS POINT ROAD
PLEASE FORWARD ADVERTISING BILL TO JACK DALE ASSOC. Name. ATTN: Mary Beth Koplin Address 1110 Belair Road Suite 200 Ballimore, MD 21206
Telephone Number: 410. 665 9400 × 327







LOT #52 3713 CLARKS POINT ROAD PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE & UNDERSIZED LOT

ATTACHED PLANS TO ACCOMPANY THIS PLAN:

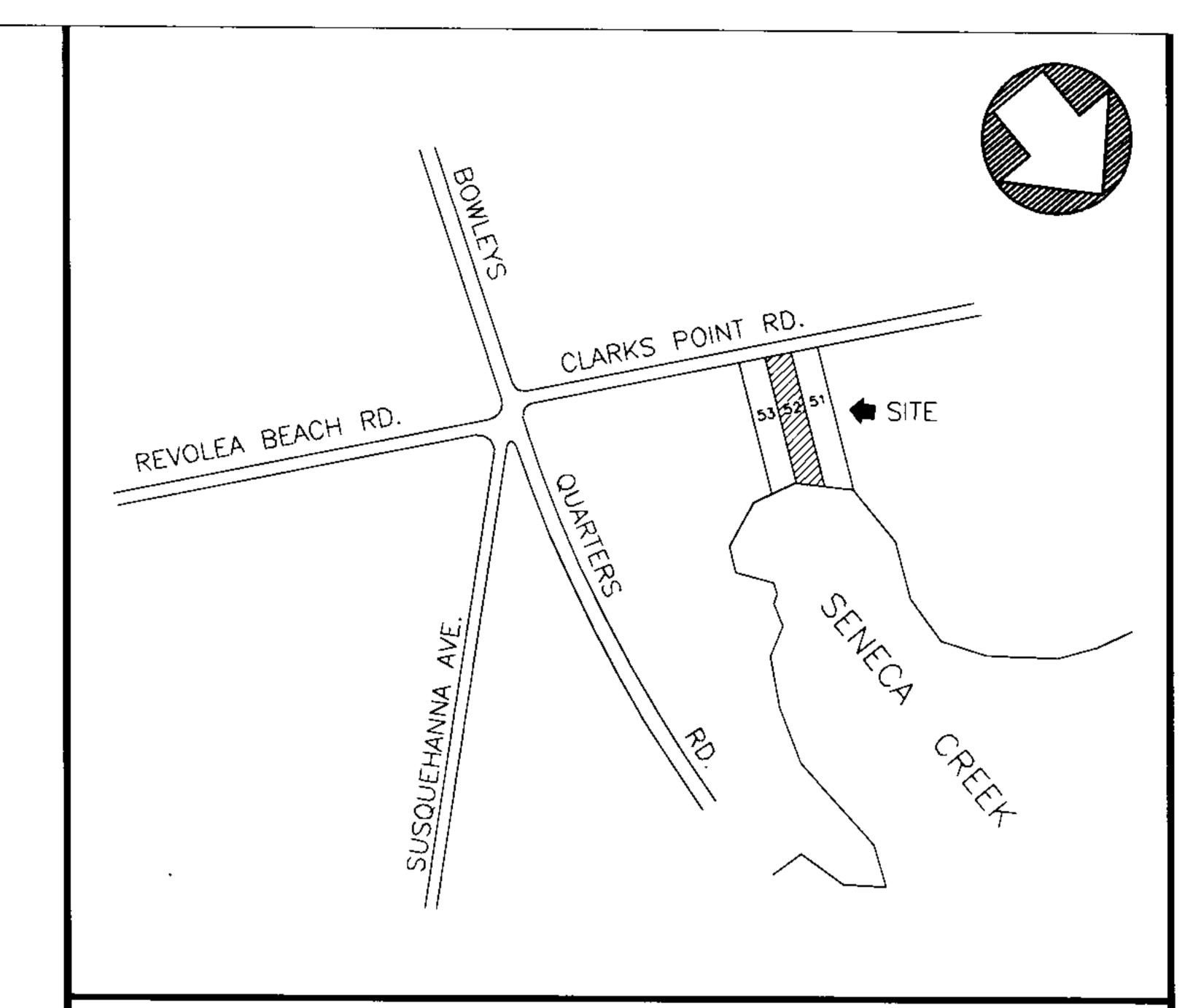
PHOTOGRAMMETRIC MAP - TITLED: BOWLEYS QUARTERS, DATED 1954 (REVISED 2/3/1983)

CHESAPEAKE BAY CRITICAL AREA LAND USE AREA MAP NUMBER 98 (DATED 7/12/1988)

REFERANCE MATERIAL:

DEPT. OF PUBLIC WORKS — SANITARY SEWER: 860 S, I—SE, 6 OF 12 DEPT. OF PUBLIC WORKS — WATER MAIN: DEPT. OF PUBLIC WORKS — STORMWATER: N/A

FRONT ORIANTATION OF ALL HOUSES WITHIN 200' FACE THE WATER
THUS THE GARAGE MAY BE A MINIMUM OF 25' OF THE STREET RIGHT OF WAY.



LOCATION MAI SCALE: 1" = 400'

OPERTY OWNER: GILBERT CALVIN D.

GILBERT PATRICIA A.

Y TELEPHONE: 410-241-8750

DAY FAX: 410-780-8867 DWNER ADDRESS: 3715 CLARKS POINT ROAD

BALTIMORE COUNTY BALTIMORE, MD. 21220-4002

PROPERTY USE: RESIDENTIAL PRINCIPAL—YES

TAX ACCOUNT NO.: 2200001287

ELECTON DISTRICT: 15th.

COUNCILMATIC DISTRICT: 6th.

LOT NUMBER: NO. 52

SUBDIVISION NAME: "BOWLEYS QUARTERS"

LIBER: NO. 2

FOLIO: NO. 598
ZONING: D.R.5.5

LAND AREA: 0.276 ACRES OR 12,029 S.F.

IMPERVIOUS AREA: 20%

CHESAPEAKE BAY CRITICAL LAND USE:

LIMITED DEVELO

LIMITED DEVELOPMENT AREA

FLOODPLAIN CERTIFICATION NOTE:

THE WALKOUT BASEMENT FLOOR OF THE PROPOSED STRUCTURE SHALL MEET OR EXCEED THE REQUIRED ELEVATION NEEDED TO COMPLY WITH THE 100 YR. FLOODPLAIN DATUM.

DECK SHALL BE 6.0' FEET ABOVE EXISTING ADJACENT GRADE.
DRAWING DEPICTS APPROXIMATE ELEVATION OF HOUSE
TO COMPLY WITH 11.2' ABOVE FLOOD PLAIN ELEVATION.

PRIOR TO CONSTRUCTION, THE CONTRACTOR TO VERIFY FLOOR ELEVATION WITH A REGISTERED SURVEYOR.

CHESAPEAKE BAY CRITICAL AREA

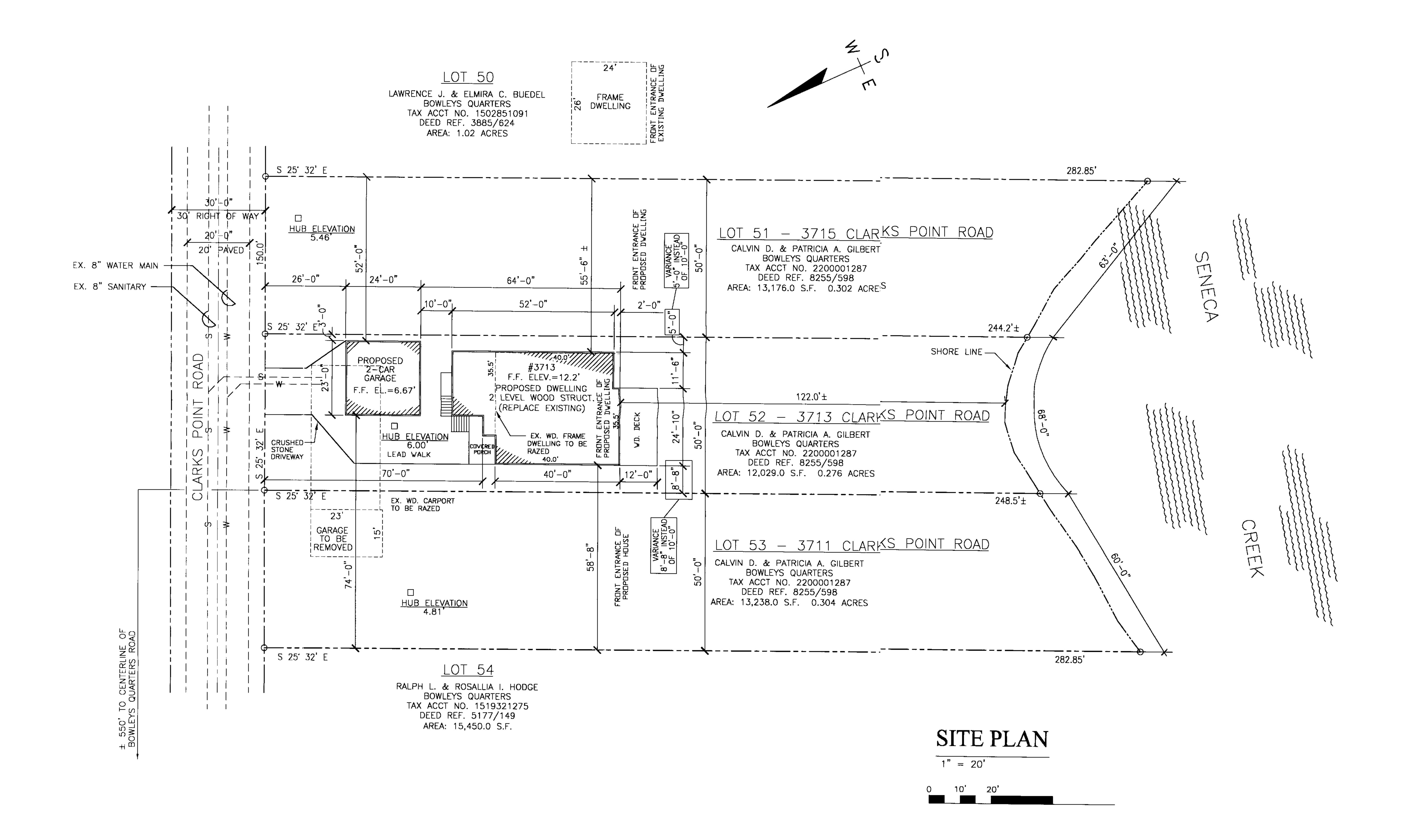
100 YEARS FLOOD PLAIN

HISTORIC PROPERTY/ BUILDING

PRIOR ZONING HEARING



REVISIONS	description: 3713 Clarks Point Road-Lot 5	DATE: 3/17/04
DATE REV. NO. DESCRIPTION	SITE PLAN	SCALE: 1"=20'
/07/04 1 24'-0" GARAGE, 5'-0" SIDEYARD	SHE PLAN	
	PROPOSED NEW STRUCTURE	DRAWN BY: M.M.
	3713 CLARKS POINT ROAD	DRAWING NO.
	BALTIMORE COUNTY, MARYLAND	\sim 1
	DALIMORE COUNT, MARTLAND	



LOT #52 3713 CLARKS POINT ROAD PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE & UNDERSIZED LOT

ATTACHED PLANS TO ACCOMPANY THIS PLAN:

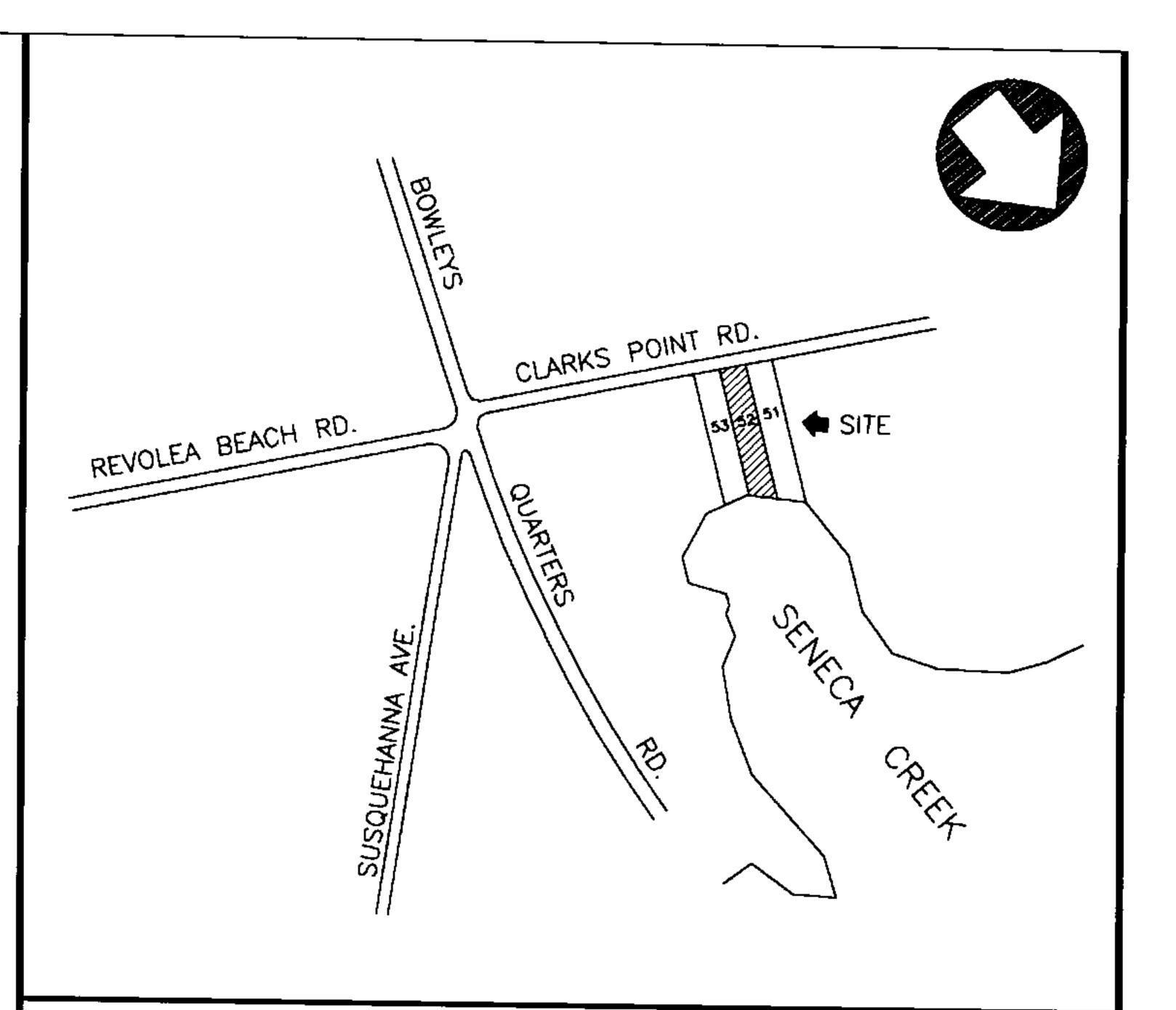
PHOTOGRAMMETRIC MAP - TITLED: BOWLEYS QUARTERS, DATED 1954 (REVISED 2/3/1983)

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DEPT. OF PUBLIC WORKS — STORMWATER: N/A

FRONT ORIANTATION OF ALL HOUSES WITHIN 200' FACE THE WATER THUS THE GARAGE MAY BE A MINIMUM OF 25' OF THE STREET RIGHT OF WAY.



LOCATION MAP SCALE: 1" = 400'

OPERTY OWNER: GILBERT CALVIN D.
GILBERT PATRICIA A.
TELEPHONE: 410-241-8750

DAY TELEPHONE: 410-241-8750 DAY FAX: 410-780-8867

OWNER ADDRESS: 3715 CLARKS POINT ROAD
BALTIMORE COUNTY
BALTIMORE, MD. 21220-4002

PROPERTY USE: RESIDENTIAL PRINCIPAL-YES

TAX ACCOUNT NO.: 2200001287

ELECTON DISTRICT: 15th.

COUNCILMATIC DISTRICT: 6th.

LOT NUMBER: NO. 52

SUBDIVISION NAME:

PLAT BOOK NO.: NO. 2 LIBER: NO. 82

LIBER: NO. 8255

FOLIO: NO. 598

ZONING: D.R.5.5 /

D.R.5.5 (んど 3 - 14)

LAND AREA: 0.276 ACRES OR 12,029 S.F.

IMPERVIOUS AREA: 20%

CHESAPEAKE BAY CRITICAL LAND USE:

LIMITED DEVELOPMENT AREA

"BOWLEYS QUARTERS"

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CHESAPEAKE BAY CRITICAL AREA Y

100 YEARS FLOOD PLAIN

100 YEARS FLOOD PLAIN
HISTORIC PROPERTY/ BUILDING

PRIOR ZONING HEARING



REVISIONS
DESCRIPTION: 3713 CLARKS POINT ROAD—LOT 52 DATE:3/17/04
SITE PLAN
PROPOSED NEW STRUCTURE
3713 CLARKS POINT ROAD
BALTIMORE COUNTY, MARYLAND
C—1

Department of Permits Development Management

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





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

May 10, 2004

Calvin David Gilbert Patricia Ann Gilbert 7110 Belair Road, Suite 200 Baltimore, Maryland 21206

Dear Mr. and Mrs. Gilbert:

RE: Case Number:04-443-A, 3713 Clarks Point Road, Lot 52

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 26, 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. Callibal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel Jack Dale & Associates Edward Koplin 7110 Belair Road, Suite 200 Balitmore 21206



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

Fire Department



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





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 31, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: March 31, 2004

Item No.:

436-449

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



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: May 18, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For April 12, 2004 Item No. 443

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 the requirement of B.O.C.A. International Building Code adopted by the county.

RWB:CEN:jrb

cc: File

ZAC-04-12-2004-ITEM NO 443-05182004

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:	Tim Kotroco				
FROM:	R. Bruce Seeley assign				
DATE:	April 14, 200				
SUBJECT:	Zoning Item Address	# 04-443 3713 Clarks Point Rd. (Lot 52 – Gilbert Property)			
Zoni	ng Advisory Cor	mmittee Meeting of April 5, 2004			
· 	•	Invironmental Protection and Resource Management has no ove-referenced zoning item.)		
	_	Invironmental Protection and Resource Management offers ents on the above-referenced zoning item:			
	Protection of	of the property must comply with the Regulations for the Water Quality, Streams, Wetlands and Floodplains (Section the 14-350 of the Baltimore County Code).	าร		
	Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).				
X	Critical Area	of this property must comply with the Chesapeake Bay Regulations (Sections 26-436 through 26-461, and other he Baltimore County Code).			
Addi	tional Comment	<u>'S:</u>			
Man-	made imperviou	is areas are limited to 25% of the lot.			

Reviewer:

Kieth Kelly

Date: April 13, 2004



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

RECEIVED

DATE: April 14, 2004

SUBJECT:

3711, 3713, and 3715 Clarks Point Road

APR 1 4 2004

INFORMATION:

Item Number:

4-442, 4-443 and 4-444

ZONING COMMISSIONER

Petitioner:

Calvin David Gilbert

Zoning:

DR 5.5

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

It appears that the petitioner owns 3711, 3713, and 3715 Clarks Point Road. Theses are all adjoining lots and when combined, has sufficient land to conform to the width and area requirements contained in the BCZR. As such, the petitioner does not meet the requirements stated in Section 304.1.C of the BCZR. However, there is a mixture of lot sizes in the neighborhood, many of which are 50 feet wide.

The Office of Planning has reviewed the building elevations and photographs submitted by the petitioner and finds that the proposed dwelling is compatible with those existing in the neighborhood.

This office does not oppose the petitioner's request to construct a single family dwelling with an 8-foot 8-inch side yard setback. However, this office does not support the 2-foot side yard setback associated with 3711, and 3715 Clarks Point Road or the 5-foot side yard setback associated with 3713 Clarks Point Road. The petitioner should revise the plans so that there is minimum 10-foot side yard setback along these side property lines.

Prepared by:

Division Chief: AFK/LL:MAC:



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4.5.04

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

RE:

Baltimore County

Item No. 443

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

Mr. Timothy M. Kotroco, Director Department of Permits & Development Management County Office Building - Room 111 111 West Chesapeake Avenue Towson, Maryland 21204

> Reference: case numbers-04443A 04444A and 04442A-

zoning variances

e semble de l'agrandant de la company de l'estable de la company de l'agrandant de l'agrandant de l'agrandant d L'agrandant de la company de la company

Dear Mr. Kotroco:

This letter is being written in regard to the above mentioned zoning variances.

I feel that it is necessary to protest granting of these variances for several reasons.

It is my understanding that the granting of a variance is limited to a showing of "hardship". I do not feel that is present in this situation.

The property lies within the critical area. Also, the characteristics of this property are not unique compared to others in the area.

The applicant is not planning to reside at this address. According to the paperwork that I have received, the property has been sold, with settlement due to take place in June, 2004. Also, the adjoining property, lot number 54, is for sale.

My property is on the opposite side, and we have continual problems with water in the road from the existing construction.

There are several other matters that I can testify to, also.

If these variances are granted, I feel that it will establish a troublesome precedent.

I am prepared to attend these hearings.

Sincerely,

E. Christme Bladel

E. Christina Buedel

CC: BQ Improvement Assoc. file

compliant screen.



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

Go Back View Map New Search

Account Identifier:

District - 15 Account Number - 2200001287

Owner Information

Owner Name:

GILBERT CALVIN D

GILBERT PATRICIA A

BALTIMORE MD 21220-4002

Use:

RESIDENTIAL

Principal

YES

Residence:

Deed Reference:

1) / 8255/ 598

Location & Structure Information

Premises Address

Grid

Map

3715 CLARKS POINT RD

Zoning

Legal Description

LTS 51-52-53 .6376

550 SE BOWLEYS QTRS RD

BOWLEYS QUARTERS

82

Block Lot Group Plat No:

150 91 22

Primary Structure Built

Parcel

Mailing Address: 3715 CLARKS POINT RD

Town Ad Valorem

Tax Class

Special Tax Areas

Enclosed Area

Property Land Area

51

County Use

04

7/ 13

1959

1,440 SF

Subdivision

27,775.00 SF Type

Exterior

Stories

Basement NO

STANDARD UNIT

Section

FRAME

Plat Ref:

Value Information

Base Value

Sub District

Value Phase-in Assessments As Of

As Of

As Of

Land:

88,190

01/01/2003 07/01/2003 07/01/2004 107,190

Improvements: 72,680 Total: 160,870 90,020

197,210

172,983

185,096

04/17/1990

Preferential Land:

Transfer Information

Seller:

Type: NOT ARMS-LENGTH

Date: Deed1: / 8255/ 598 Price:

Seller:

Date:

Deed2: Price:

Type:

Deed1:

Deed 2:

Seller:

Date:

Price:

Type:

Deed1:

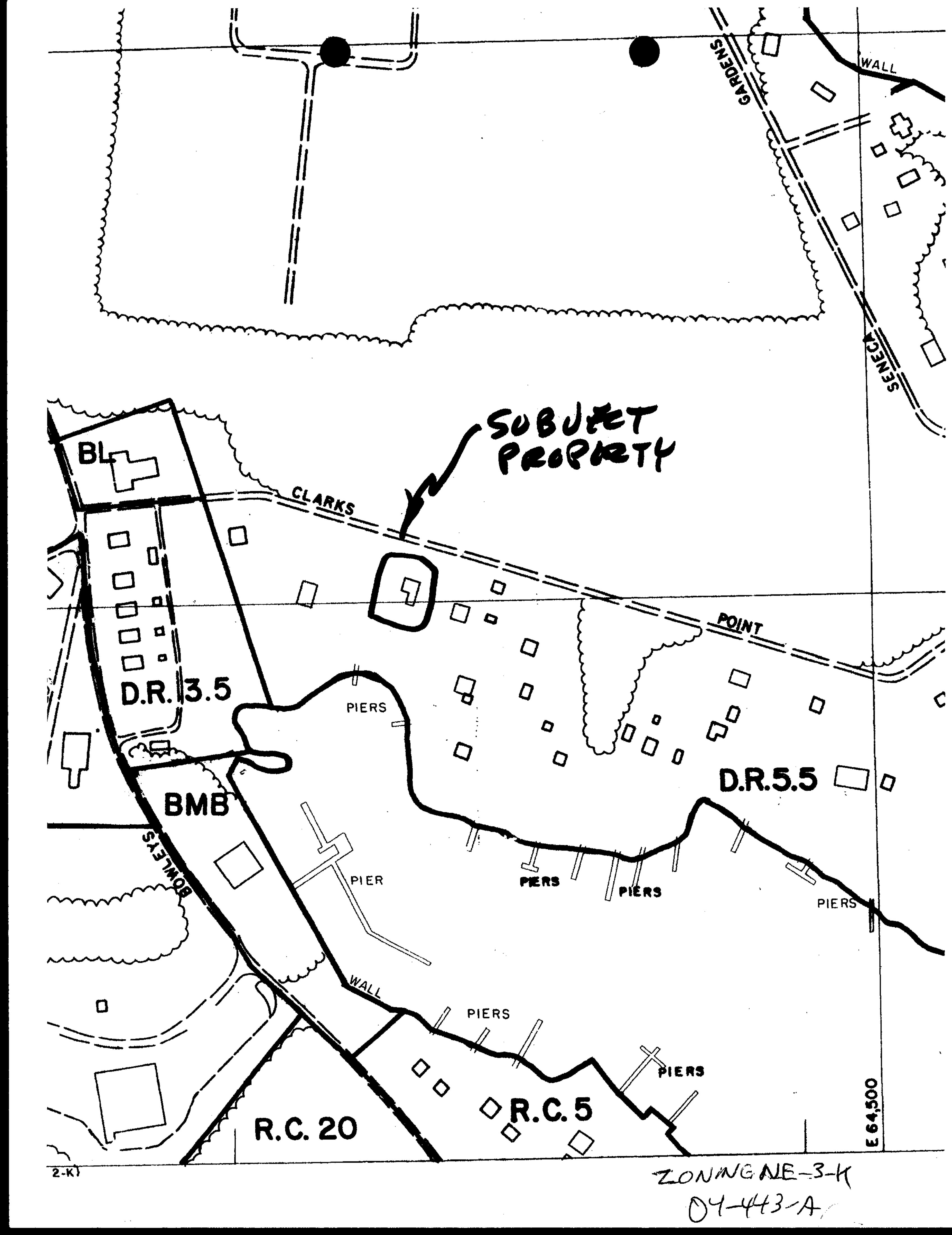
Deed2:

http://sdatcert3.resiusa.org/rp_rewrite/results.asp?streetNumber=3715+&streetName=clarks+point&...

9/27/03



94-443-A





Lot 42
3739 Clarks Point Road
2 Single Family Dwellings on 50' lot (another dwelling is behind this house on this lot)

()4-443-A



Lot 43
3737 Clarks Point Road
Single family dwelling on 50' lot



Lot 44
3735 Clarks Point Road
Single Family Dwelling and large garage on a 50' lot



Lot 45
3733 Clarks Point Road
Multiple Out buildings
New construction of a single family dwelling on a 50' lot



Lot 46
Single family dwelling behind tress



Lot 47
3727 Clarks Point Road
Single family dwelling on a 50' lot



Lot 48
Single family dwelling on a 50' lot



Lot 49
Single family dwelling (on left) and large garage (on right) on a 50' lot



Lot 50 ks Point Road Single family dwelling on a 50' lot (lot 50 is not shown on the Real Property Data Search)



Lot 51
Subject property – 50' building lot



Lot 52
Subject property –
Single family dwelling on a 50' lot



Lot 53
Subject property – 50' building lot



Lot 54 50' building lot