

IN RE: PETITION FOR ADMIN. VARIANCE

W/S of Oak Summit Avenue,
500 ft. +/- N of Joppa Road
11th Election District
5th Councilmanic District
(9614A Oak Summit Avenue)

Cynthia A. & David P. Cunningham
Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 04-496-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Cynthia A. and David P. Cunningham. The variance request is for property located at 9614A Oak Summit Road in Baltimore County. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a rear yard setback of 14 ft. in lieu of the required 30 ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Administrative Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 8, 2004, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments submitted by the Office of Planning dated

May 18, 2004, a copy of which is attached hereto and made a part hereto.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

ORDER RECEIVED FOR FILING

Date 6/14/04

By R. J. Gammon

"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."

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

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 Petitioners' variance request should be GRANTED.

THEREFORE, IT IS ORDERED, this 4 day of June, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for administrative variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a rear yard setback of 14 ft. in lieu of the required 30 ft., be and it is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

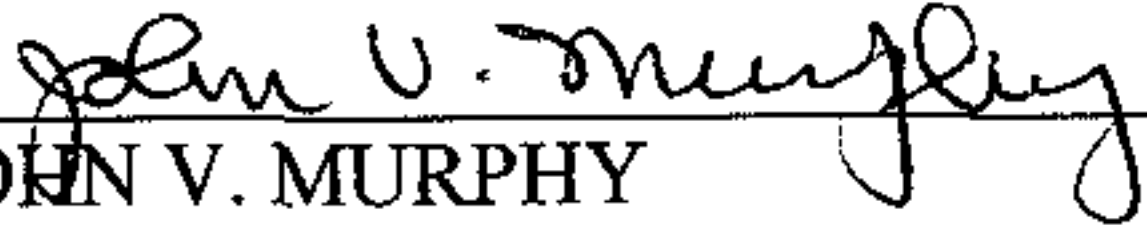
ORDER RECEIVED FOR FILING

Date 6/4/04

By R. J. [Signature]

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
2. Compliance with the ZAC comments submitted by the Office of Planning dated May 18, 2004, a copy of which is attached hereto and made a part hereof; and
3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

ORDER RECEIVED FOR FILING
6/4/04


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

June 4, 2004

Mr. & Mrs. David P. Cunningham
9614 A Oak Summit Road
Baltimore, Maryland 21234

Re: Petition for Administrative Variance
Case No. 04-496-A
Property: 9614A Oak Summit Road

Dear Mr. & Mrs. Cunningham:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

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

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure





Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9614 A Oak Summit
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) 1802.3.C.1 BCZR

To permit an addition with a rear yard setback of
14' in lieu of the required 30'.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 04 day of April, 2004 that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Legal Owner(s):

David P. Cunningham
Name - Type or Print

David P. Cunningham
Signature

Cynthia A. Cunningham
Name - Type or Print

Cynthia A. Cunningham
Signature

9614 A Oak Summit Ave 4106685000
Address Telephone No.

Belt - md 21234
City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

Zoning Commissioner of Baltimore County

CASE NO. 04-496-A

Reviewed By JRF Date 4-30-04

REV 10/25/01

Estimated Posting Date 5-9-04

ORDER RECEIVED FOR FILING

Date By

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at

Address 9614 DAK SUMMIT AVE
City BALTO State MD Zip Code 21234

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

Growing family w/ children requires more room at present Address.

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

David P. Cunningham
Signature

David P. Cunningham
Name - Type or Print

Cynthia A. Cunningham
Signature

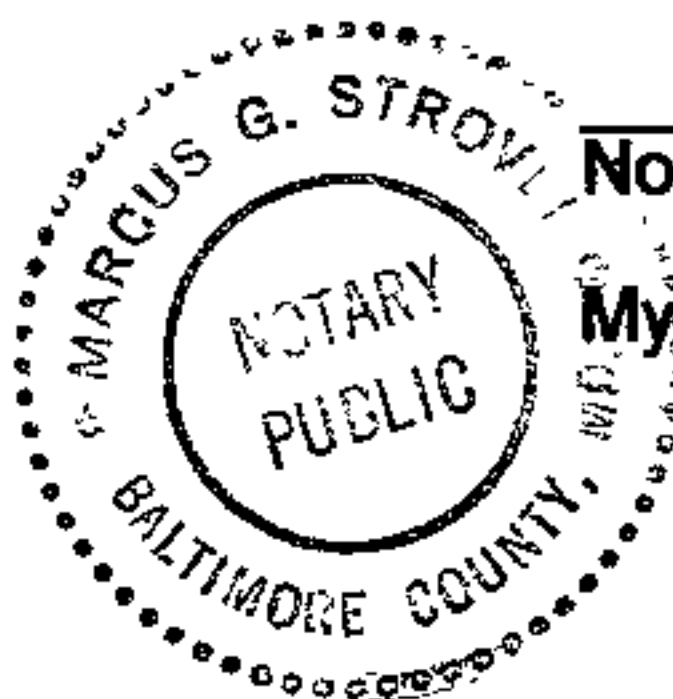
Cynthia A. Cunningham
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 14 day of April, 2004, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

DAVID P. + CYNTHIA A. CUNNINGHAM
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



Marcus Stovall
Notary Public

My Commission Expires 7-1-06

BEGINNING FOR THE SAME at a point on the West side of Oak Summit Avenue, 30 feet wide, and at the division line between Lots 38 and 39 as shown on the plat of "Oak Summit", recorded among the Land Records of Baltimore County in Plat Book 7, Part 1, Folio 84; thence leaving Oak Summit Avenue and binding along said division line between Lot 38 and 39, referring all courses to the True Meridian as established for the Baltimore County Metropolitan District; 1) South 87 degrees 48 minutes 00 seconds West 154.57 feet to intersect the Westerly outline of Oak Summit; thence binding along to a part of said outline 2) South 00 degrees 30 minutes 00 seconds West 200.77 feet to a point at the beginning of the firstly hereindescribed parcel in the Deed from William Lombardi to Frank P. Chase and Gail L. Chase dated May 31, 1984 and recorded in Liber 6734 page 514; thence running with the first and a part of the second line of said Deed 3) North 89 degrees 30 minutes 00 seconds West 135.80 feet and 4) North 00 degrees 30 minutes 00 seconds East 120.00 feet; thence running for the new lines of division through said parcel 4) South 89 degrees 30 minutes 00 seconds East 95.80 feet 5) North 45 degrees 30 minutes 00 seconds East 28.28 feet 6) North 00 degrees 30 minutes 00 seconds East 72.34 feet to a point in line with the center of Lot 39, Oak Summit; thence running to and through the center of said Lot 39 7) North 87 degrees 48 minutes 00 seconds East 174.00 feet to intersect the West side of Oak Summit Avenue; thence binding thereon 8) South 02 degrees 12 minutes 00 seconds East 12.50 feet to the point of beginning; containing 10, 280 square feet or 0.4656 acres more or less.

BEING AND COMPRISING: 1) northerly half of the hereinmentioned Lot 39, Oak Summit and 2) part of the firstly hereinmentioned Deed from William Lombardi to Frank P. Chase and Gail L. Chase, his wife, dated May 31, 1984 and recorded in Liber 6734, folio 514;

BEING also Lot 2, as shown on the Minor Subdivision of the Chase Property prepared by APR Associates, Inc. and dated November 28, 1994.

BEING all that lot of ground which by Deed dated June 14, 1999 and recorded among the Land Records of Baltimore County in Liber 0013837 folio 453 was granted and conveyed by Mary F. Cunningham into Wayne Edwards and Patricia Edwards, the Grantor, herein.

1496

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 36087

DATE 4-30-04

ACCOUNT

001-006-6150

AMOUNT

\$ 65.00

RECEIVED

FROM: Joe Peruch

FOR:

9614 A Oak Summit Ave
Admin. Var.

Item 426

PAID RECEIPT

BUSINESS ACTUAL TIME

4/30/2004 4/30/2004 09:28:27

000 MS04 WALKIN DRCL DND

RECEIPT # 264052 4/30/2004

DEPT: 0 528 ZONING VERIFICATION

IN IN: 036087

Receipt for

\$65.00

\$65.00 CA

Baltimore County, Maryland

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

Date: 5/16/04

RE: Case Number: 04-496-A

Petitioner/Developer: DAVID CUNNINGHAM

Date of Hearing/Closing: 5/24/04

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 9614 A OAK SUMMIT AVE

The sign(s) were posted on 5/8/04
(Month, Day, Year)



Charles E. Merritt
(Signature of Sign Poster)

Charles E. Merritt
9831 Magledt Road
Baltimore, MD 21234
410-665-5562

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 04- 496 -A Address 9614 A Oak Summit Ave

Contact Person: J. Fernando Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 4-30-04 Posting Date: 5-9-04 Closing Date: 5-24-04

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

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

(Detach Along Dotted Line)

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

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 04- 496 -A Address 9614 A OAK SUMMIT AVE
Petitioner's Name David & Cynthia Cunningham Telephone 410-668-5088
Posting Date: 5-9-04 Closing Date: 5-24-04
Wording for Sign: To Permit an addition with a rear yard setback of
14' in lieu of the required 30'.

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Item Number or Case Number: 04-496-A

Petitioner: David Cunningham

Address or Location: 9614 A Oak Summit Ave

PLEASE FORWARD ADVERTISING BILL TO:

Name: David Cunningham

Address: 9614 A Oak Summit Ave.

Telephone Number: (410) 668-5088

**Department of Permits and
Development Management**

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



Baltimore County

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

May 24, 2004

David P. Cunningham
Cynthia A. Cunningham
9614 A Oak Summit Road
Baltimore, Maryland 21234

Dear Mr. and Mrs. Cunningham:

RE: Case Number:04-496-A, 9614 A Oak Summit Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 30, 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,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

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



Printed on Recycled Paper



Baltimore County
Fire Department

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

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

May 10, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: May 10, 2004

Item No.: 472, 488, 490-501

496

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

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 18, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For May 17, 2004
Item Nos. 472, 488, 489, 490, 492, 494,
496, 497, 498, 499, 500, and 501

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

TO: Tim Kotroco

FROM: R. Bruce Seeley *JDO/RBS*

DATE: May 18, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 3, 2004

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

04-472

04-488

04-489

04-490

04-491

04-493

04-494

04-496

04-496

04-497

04-498

04-499

04-500

04-501

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 18, 2004

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

RECEIVED

MAY 20 2004

SUBJECT: 9614 A Oak Summit

INFORMATION:

Item Number: 4-496

Petitioner: David Cunningham

Zoning: DR 5.5

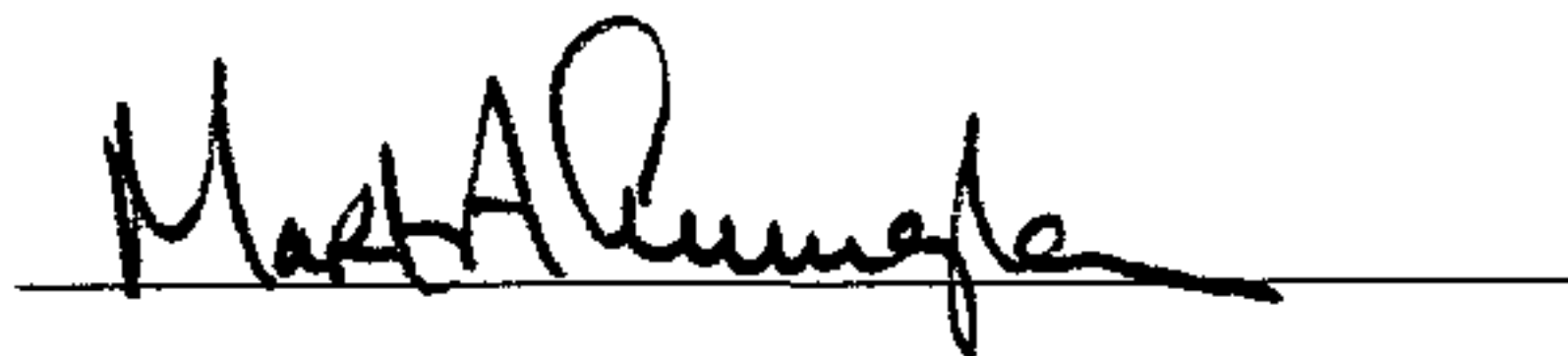
Requested Action: Administrative Variance

ZONING COMMISSIONER

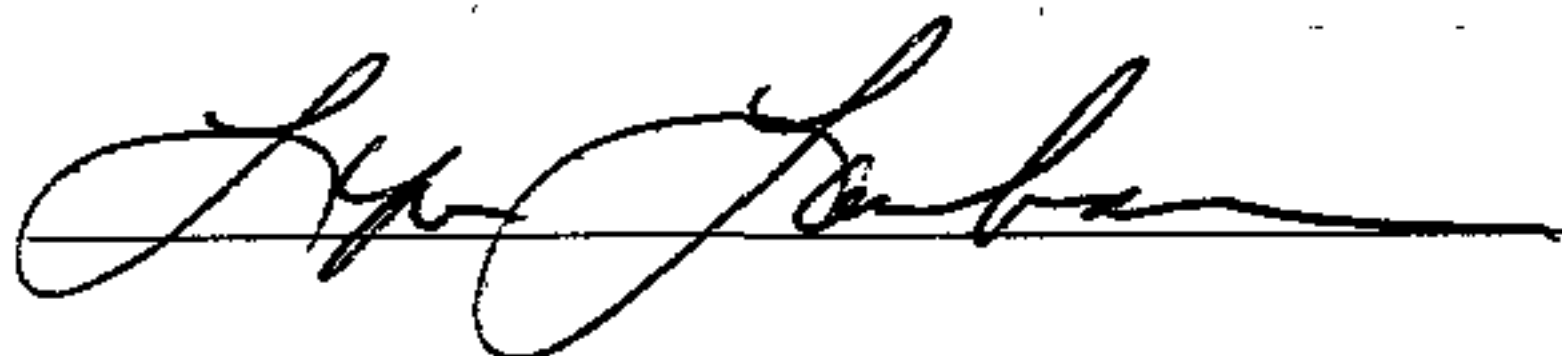
SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provide all debris and refuse are removed from the rear yard of the subject property.

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*

Date: 5.11.04

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

RE: Baltimore County
Item No. 496 JRF

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

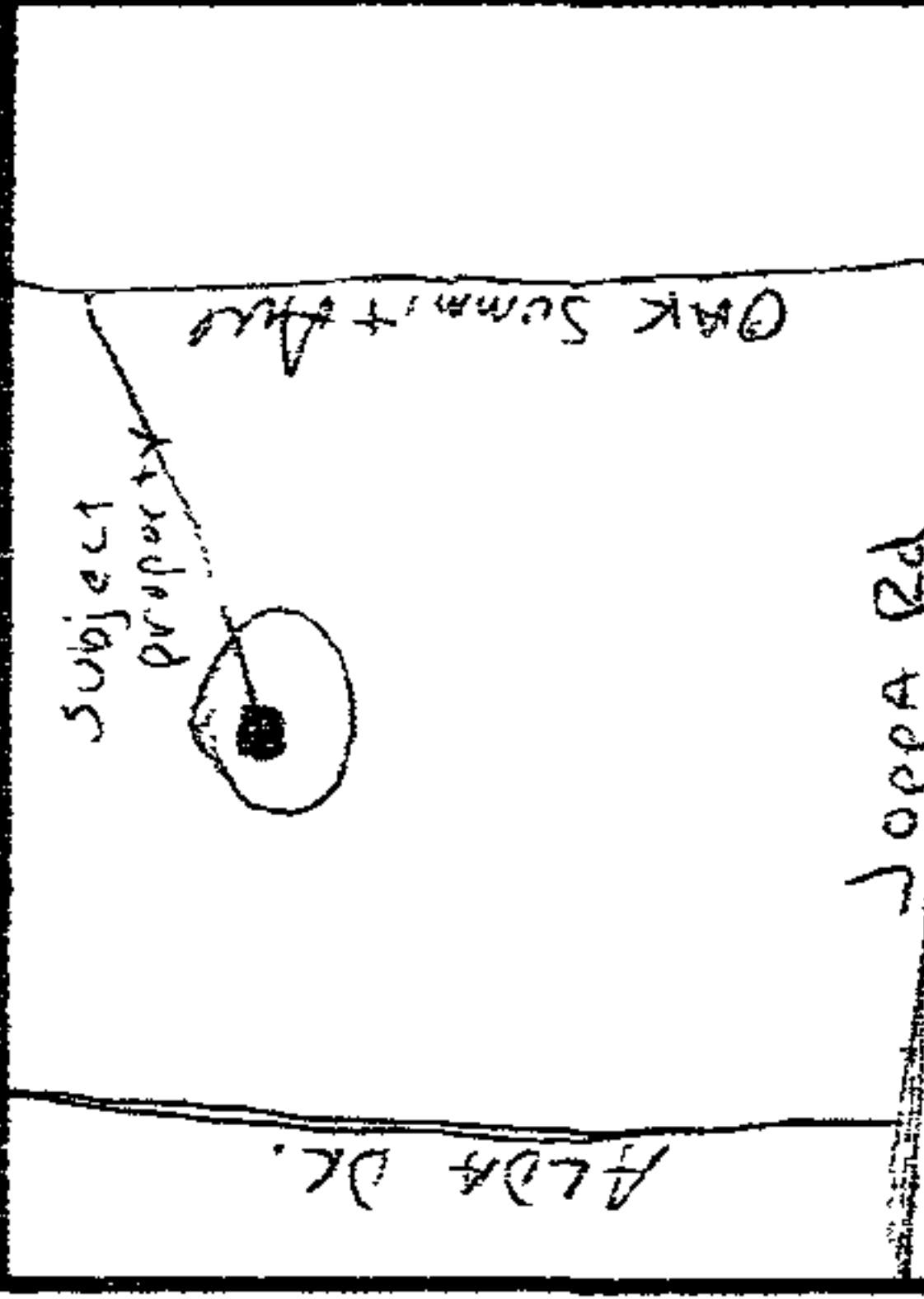
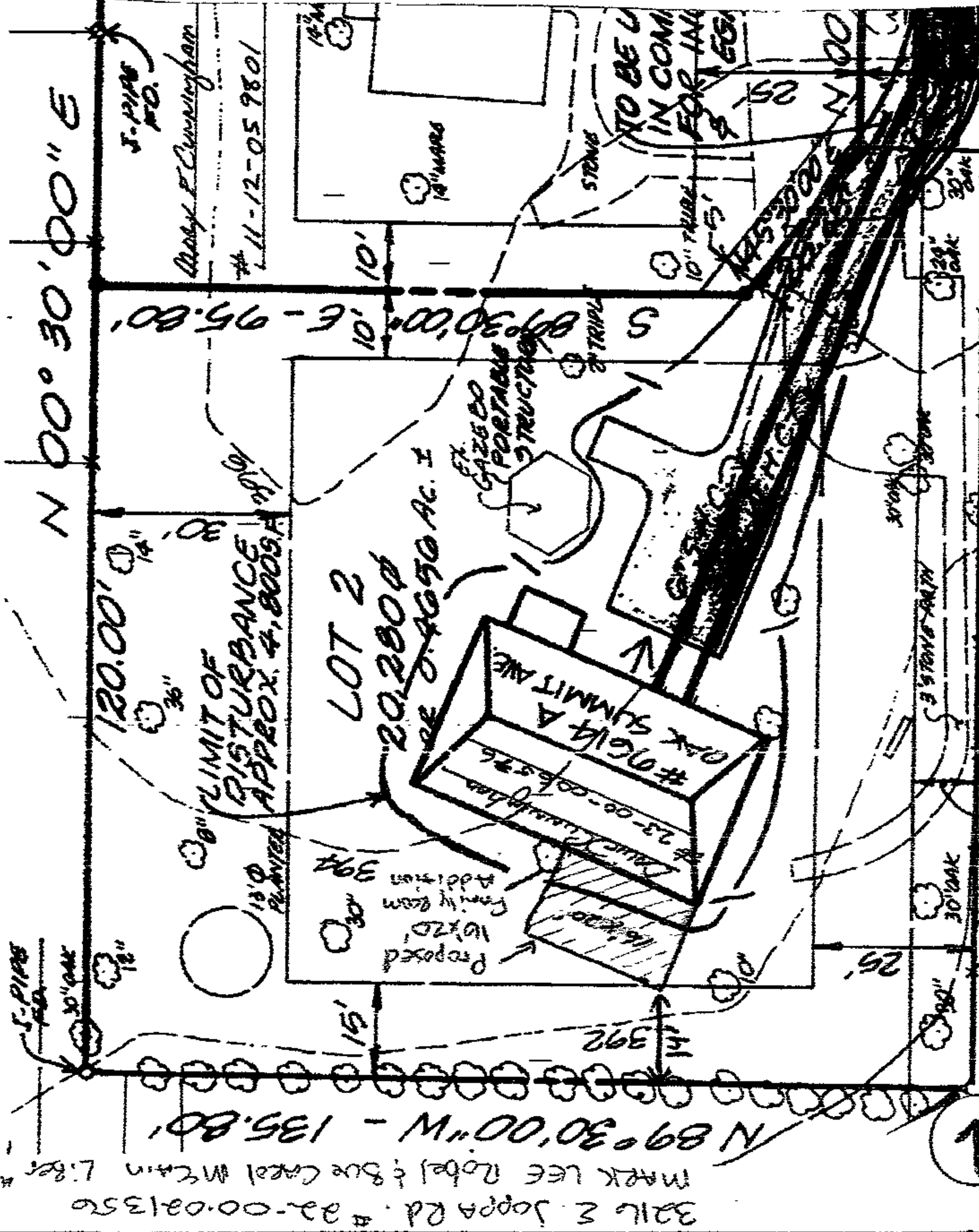
PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 3216 E Joppa Rd. # 22-00-001356 SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME CHASE PROPERTY

PLAT BOOK # 7 FOLIO # 84 LOT # 2 SECTION # 3

OWNER DAVID CUNNINGHAM



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 11th
COUNCILMANIC DISTRICT 6th

1" = 200' SCALE MAP # NE 9-E

ZONING D-2 S-5

LOT SIZE 0.4650 ACRES 20,280 SQUARE FEET

SEWER ☒ PUBLIC ☒ PRIVATE ☐

WATER ☒

CHESAPEAKE BAY CRITICAL AREA YES ☐ NO ☒

100 YEAR FLOOD PLAIN YES ☐ NO ☒

HISTORIC PROPERTY / BUILDING YES ☐ NO ☒

PRIOR ZONING HEARING NONE

ZONING OFFICE USE ONLY
REVIEWED BY STAR JF ITEM # 496 CASE #

PREPARED BY J.A.P. SCALE OF DRAWING: 1" = 30'

David Cunningham



496



496



496



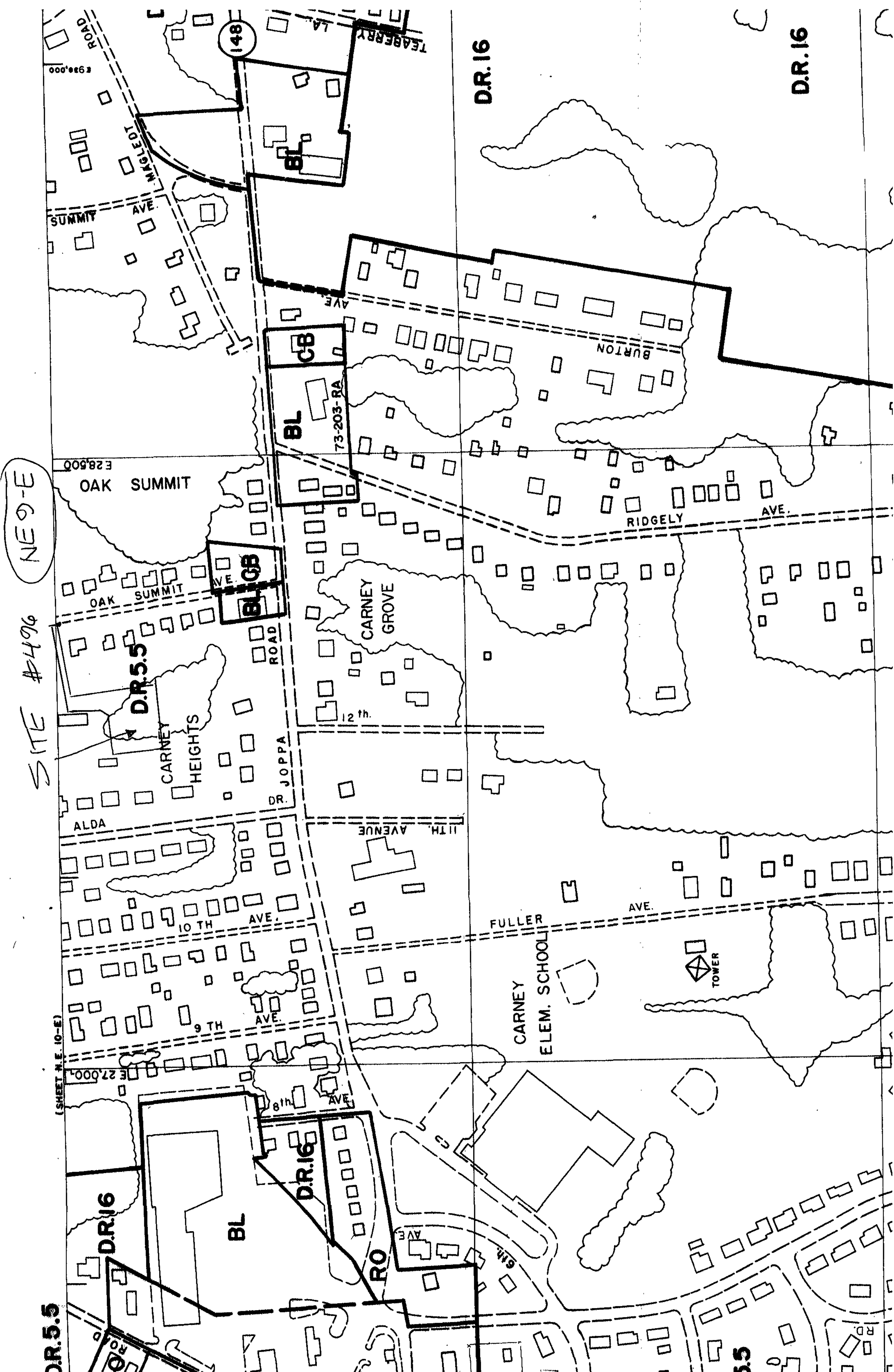
496



496



496



SITE #496 NE 9-E

148

D.R. 16

D.R. 16

D.R. 5.5

D.R. 16

D.R. 5.5

(SHEET N.E. 10-E)

29,000

27,000

28,500

SUMMIT

OAK SUMMIT

OAK SUMMIT

CARNEY HEIGHTS

CARNEY GROVE

CARNEY ELEM. SCHOOL

TOWER

BURTON

RIDGELY

AVE.

AVE.

73-203-RA

12th

11TH AVENUE

9TH AVE.

10TH AVE.

DR. JOPPA

ALDA

BL

BL

CB

BL

RO

AVE.

AVE.

RD.