IN RE: PETITION FOR VARIANCE
S/S of Bay Drive, 140 ft. W
centerline of Chesapeake Avenue
15th Election District
6th Councilmanic District
(3551 Bay Drive)

Rosalie Rodgers & Frederick Conti Petitioners

- BEFORE THE
- \* DEPUTY ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- CASE NO. 04-505-A

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

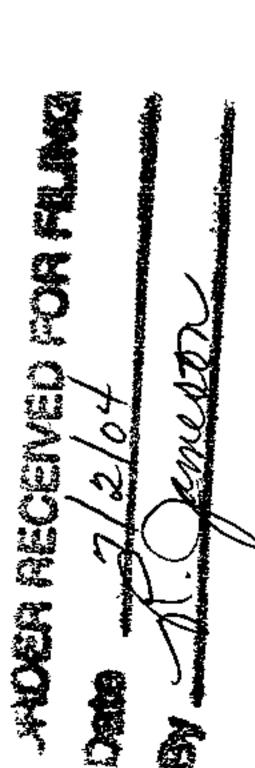
This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Rosalie Rodgers & Frederick Conti. The Petitioners are requesting variance relief for property located at 3551 Bay Drive in the eastern area of Baltimore County. The variance request is from Sections 1A04.3.B.2 and 102.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow side yard setbacks of 10 ft. and 13 ft. in lieu of the required 50 ft. each and to permit construction of a single-family dwelling on a lot containing 13,546 sq. ft. +/- in lieu of the minimum required 20,000 sq. ft. which does not have an in-fee access to a 30 ft. public right-of-way.

The property was posted with Notice of Hearing on June 8, 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 June 8, 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



Date RECEIVED FOR FILING

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 102.4

No dwelling, other than a multifamily building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in Section 26-266 of the Baltimore County Code, 1988 Edition, as revised.

# **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 May 27, 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 Bureau of Development Plans Review dated June 2, 2004 setting forth several federal and county code requirements the Petitioners must comply with for this project.

# **Interested Persons**

Appearing at the hearing on behalf of the variance request was David Billingsley, land surveyor for the Petitioners. No Protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

# Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.311 acres of land, more or less, zoned R.C.5. The subject property is now vacant. It is accessed in a most unusual way through a trapezoid of land owned by the Bowley's Quarters Improvement Association. See Petitioner's Plat to Accompany, exhibit 1. In addition the Association owns a lot to the west of the subject property leading to Chesapeake Bay from Bay Drive. The property is served by public water and sewer. The subject lot is lot 28A of the Bowley's Quarters Subdivision Plat 3 which was recorded among the land records of Baltimore County in 1930 much before the imposition of RC 5 zoning in 1979. See Petitioner's exhibit 2.

The Petitioner would like to sell the lot to the public. However, as it is only 13,546 sq. ft in area, it does not meet the 20,000 sq. ft requirement of Section 102.4 of the BCZR. In addition the lot does not abut a public road or a right of way which can be used by the public and is at least 30 feet wide. This last point however is confused by the fact that the trapezoidal parcel over which one must travel to get to the lot from Bay Drive is certainly 30 feet wide. Mr. Billingsley understands the 30 foot requirement to apply to the width of Bay Drive which is only a 25 foot right of way. In any case he indicates that the right of way over the Association land as noted in a deed dated March 31, 1999, reflects the history of this right of way in the Land Records of Baltimore County. See Petitioner's exhibit 3.

The Petitioner also requests side yard set back variances which in RC 5 zones are required to be 50 feet from any lot line. The proposed home is 30 feet wide and when placed on the lot so as to align with the distance to the water of the existing homes on this area of Bay Drive, the lot width is only 53 feet wide. Consequently the lot width at that point would not allow a home to be built on the lot. However Mr. Billingsley points out that the existing home on lot 27 A is in

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exactly the same situation. Lot 27 A is the mirror image of the subject lot. Obviously somehow the home on this lot came to be in spite of the regulations to the contrary.

### Findings of fact and conclusions of law

In regard to what was requested in terms of variance, I find that there are special circumstances or conditions existing, that are peculiar to the land or structure, which is the subject of the variance request. First the lot is oddly shaped having only 25 feet of width on the north end and 90 feet of width on the water. Clearly the lot can not provide the side yard setbacks required under RC 5 zoning. The lot was created in 1930 and had the RC 5 zoning requirements imposed on it in 1979. As this office has held many times, the imposition of RC zoning on these old subdivisions burdens lots in these subdivisions more harshly then lots created after the zoning was imposed making them legally unique.

In addition the access from bay Drive across the trapezoidal parcel owned by the Association is very unusual. Mr. Billingsley has supplied proof that the public can access the lot from Bay drive across its property to lot 27A.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There is simply no home which can be placed on this oddly shaped lot which when lined up with the adjoining homes, can meet the 50 foot setback requirements for the zone.

I also find that such a variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. All the other lots along this section of Bay Drive all on 50 foot wide lots and so a home on this lot would not change the character of the neighborhood. The lot is served with public water and sewer and consequently there is no need for area for a septic system.

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 granted.

THEREFORE, IT IS ORDERED, this 3 day of July, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 1A04.3.B.2 and 102.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow side yard setbacks of 10 ft. and 13 ft. in lieu of the required 50 ft. each and to permit construction of a single-family dwelling on a lot containing 13,546 sq. ft. +/- in lieu of the minimum required 20,000 sq. ft. which does not have an in-fee access to a 30 ft. wide public right-of-way, be and it is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
- 2. Compliance with the ZAC comments submitted by DEPRM dated May 27, 2004, a copy of which is attached hereto and made a part hereof;
- 3. Compliance with the ZAC comments submitted by the Bureau of Development Plans Review dated June 2, 2004, a copy of which is attached hereto and made a part hereof;
- 4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

ORDER RECEIVE JVM:raj

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# **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

July 2, 2004

Mr. Frederick Conti Ms. Rosalie Rogers 6826 Everall Avenue Baltimore, Maryland 21206-1630

RE: PETITION FOR VARIANCE

S/S Bay Drive, 140' W of the Chesapeake Avenue

(3553 Bay Drive)

15<sup>th</sup> Election District – 6<sup>th</sup> Council District

Frederick Conti & Rosalie Rogers - Petitioners

Case No. 04-505-A

Dear Mr. Conti & Ms. Rogers:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

John V. MURPHY

Deputy Zoning Commissioner

for Baltimore County

JVM:raj

cc: Mr. Robert Infussi

P.O. Box 1043, Bel Air, Md. 21014

Chesapeake Bay Critical Areas Commission

1804 West Street, Suite 100, Annapolis, Md. 21401

DEPRM; Development Plans Review, DPDM; People's Counsel; Case File



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(indicate hardship or practical difficulty)

Recail Side VArds

# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at	3551	13AY	DRIVE
	presently zoned	Re.	- ح

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

1A04 3 B 2 & 102 4 (BCZR) 1A04.3.B.2. & 102.4 (BCZR)

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:

the Existing LOT width RANges from 25 feet To Gofeet, MAKING IT IMPOSSIBLE TO PRovide The

To allow side yards of 10-feet and 13-feet in lieu of the required 50-feet and to permit construction of a single-family dwelling on a lot containing 13,546 (+ or -) square feet in lieu of the minimum required 20,000 square feet which does not have an in-fee access to a 30-foot public right-of-way.

			I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:			Legal Owner(s):
		<b>-</b>	Frederick CONTi
lame - Type or Print		Name - 1	Type or Print Conto
ignature	· · · · · · · · · · · · · · · · · · ·	<del>-</del>	Signature
Address	Telephone No.	_	Name Type or Print
			20 Joselis Rogers
State	Zip Code	_	Signature // Common // Com
Attorney For Petitioner:			6826 Ever AU Ave Address Telephone No.
			BAUX. md Z1206-
lame - Type or Print	······································	City	State Zip Code
No	····	_	Representative to be Contacted:
Signature			Robert INFUSSi
ompany		-	Name
ddress	Telephone No.	_	10-13 410-8/2-27 Address Telephone No.
	resoprione rec.		Bel Air W. 21014
State	Zip Code	<b></b>	City State Zip Oode
			OFFICE USE ONLY
A - 01 - 0			ESTIMATED LENGTH OF HEARING
se No. 04-505-A	· <del>-</del> .		(ALAVATI ARI E FOR HEARTING)
	Reviewed	By <u>D.T</u>	HOMPSou Date 5 3 04
EV 9X15/98			/ · !

# DESCRIPTION TO ACCOMPANY PETITION FOR ZONING VARIANCE 3551 BAY DRIVE

Beginning at a point south of Bay Drive, said point distant the two following courses from the point formed by the intersection of the center of Bay Drive with the center of Chesapeake Avenue (1) southwesterly 140 feet along the center of Bay Drive and (2) southeasterly 55 feet, thence being all of lot 28A as shown on the plat entitled "Plat 3, Bowleys Quarters recorded among the plat records of Baltimore County in Plat Book 9, Folio 56. Containing 0.311 acre of land, more of less.

Being known as 3551 Bay Drive and located in the 15<sup>th</sup> Election District, 5<sup>th</sup> Councilmanic District of Baltimore County, Maryland

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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: #04-505-A

3551 Bay Drive

S/side of Bay Drive, 140 feet w/of Chesapeake Avenue 15th Election District-6th Councilmanic District Legal Owner(s): Frederick Conti and Rosalie Rogers
Variance: to permit side yard setbacks of 10 feet and 13
feet in lieu of the required 50 feet each, also to permit a
lot, less than 20,000 sq. ft. not to have in-fee access to a
public right-of-way.
Hearing: Wednesday, June 23, 2004 at 2:00 a.m. in
Room 407, County Courts Building, 401 Bosley Ave-

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 6/660 June 8

# CERTIFICATE OF PUBLICATION

LEGAL ADVERTISING

# CERTIFICATE OF POSTING

RE: Case No.: 04-505-A Petitioner/Developer: FREDRICK CONTI Date of Hearing/Closing: JUNE 23, 2004 **Baltimore County Department of** Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204 ATTN: Kristen Matthews {(410) 887-3394} Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: \_\_ JUNE 8, The sign(s) were posted on (Month, Day, Year) Sincerely, (Signature of Sign Poster) SSG Robert Black (Print Name) 1508 Leslie Road (Address) Dundalk, Maryland 21222 (City, State, Zip Code) (410) 282-7940 (Telephone Number)

# Department of Permits and Development Management

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

May 17, 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: 04-505-A

3551 Bay Drive

S/side of Bay Drive, 140 feet w/of Chesapeake Avenue

15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District

Legal Owners: Frederick Conti and Rosalie Rogers

Variance to permit side yard setbacks of 10 feet and 13 feet in lieu of the required 50 feet each, also to permit a lot, less than 20,000 sq. ft. not to have in-fee access to a public right-of-way.

Hearing: Wednesday, June 23, 2004 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Frederick Conti & Rosalie Rogers, 6826 Everall Ave., Baltimore 21206 Robert Infussi, P.O. Box 1043, Bel Air 21014

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 8, 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 Tuesday, June 8, 2004 Issue - Jeffersonian

Please forward billing to:

Robert Infussi Expedite, LLC P.O. Box 1043-7043 Bel Air, MD 21014

410-812-2236

# **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: 04-505-A-**

3551 Bay Drive
S/side of Bay Drive, 140 feet w/of Chesapeake Avenue
15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District
Legal Owners: Frederick Conti and Rosalie Rogers

Variance to permit side yard setbacks of 10 feet and 13 feet in lieu of the required 50 feet each, also to permit a lot, less than 20,000 sq. ft. not to have in-fee access to a public right-of-way.

Hearing: Wednesday, June 23, 2004 at 2:00 p.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.

# ZONING HEARING FILE INTERNAL CHECKLIST Zoning Case No. 24-505-4

Date Completed/Initials	
5/17/04	PREPARE HEARING FILE (put case number on all papers; hole punch and place appropriately; put label and case number on folder; complete information on stamp on front of folder)
	DETERMINE HEARING DATE (schedule within 45 days of filing; post and advertise at least 15 days prior to hearing)
	TYPE HEARING NOTICE AND ADVERTISING NOTICE (type according to sample, taking billing information for advertising from advertising form in file; make appropriate copies; mail original and copies of hearing notice; place original advertising notice in Patuxent's box; file copies of both notices in hearing file; update ZAC in computer for hearing date, time and place)
	UPDATE ZONING COMMISSIONER'S HEARING CALENDAR (keep original in "red" folder; mail copy to zoning commissioner's office)
<u> </u>	COMPLETE FILE (write hearing date, time, and room on front of hearing folder; file in numerical order in cabinet next to copier until it is pulled for sending to zoning commissioner's office)
	POSTPONEMENTS (type postponement letter; make appropriate copies; mail original and copies; send copy to zoning commissioner; file copy in hearing file; update hearing calendar and ZAC in computer)
	RESCHEDULING (determine hearing date; type letter confirming new date; make appropriate copies; mail original and copies; file copy in hearing file; update hearing calendar and ZAC in computer; refile hearing folder)
<del></del>	INDEX CARDS (prepare index cards, according to sample; file cards in cabinet)
	ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)
<u> </u>	COMMENTS (check off agency comments received on front of hearing file; make copies; type comments letter; mail original to petitioner; file copy in hearing file)
	FILES TO ZONING COMMISSIONER'S OFFICE (pull the files for the following week every Friday and administrative files on Tuesday; verify that checklist on front of hearing file has been completed; secure all papers under clips in file; send files for hearings to zoning commissioner's office by noon on Friday and files for administrative

on Tuesday morning)

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper	· Advertising:	
Item Number or	Case Number: 04-505-A	
Petitioner:	CONTI	
Address or Loca	ntion: 3551 BAY DRIVE	
	•	
PLEASE FORW	ARD ADVERTISING BILL TO:	
Name:	ROBERT INFUSSI	
Address:	EXPEDITE LLC	
	P.O. BOX 1043-7043	
	BELAIR, MD 21014	
Telephone Num	A = A + A + A + A + A + A + A + A + A +	

# 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:	04-505-A
Petitioner MICHAEL AND DENIS	SE NOYAK
Address or Location: 355/ BAY (	
PLEASE FORWARD ADVERTISING BILL	TO:
Name: MICHAEL WQYAK	······································
Address: 236/ YANDERMAST L	LANE
Address: 236/ YANDERMAST L BALTO, MO. 21821	
Telephone Number:	

Revised 2/20/98 - SCJ

Legal Owner is Frederick Conti - Serd bill to above. Donna Thompson

# Department of Permanent 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

June 17, 2004

Frederick Conti Rosalie Rodgers 6826 Everall Avenue Baltimore, Maryland 21206-1630

Dear Mr. Conti and Ms. Rodgers:

RE: Case Number:04-505-A, 3551 Bay Drive

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 3, 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. Callibald

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: db

**Enclosures** 

c: People's Counsel
Robert Infussi P.O. Box 1043 Bel Air 21014



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

# 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

May 18, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: May 18, 2004

Item No.:

495, 502-511, 513-515, 517



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.

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

Neil J. Pedersen, Administrator

Robert L. Flanagan, Secretary

### MARYLAND DEPARTMENT OF TRANSPORTATION

Date:

5.17.04

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

RE:

**Baltimore County** 

Item No. 505

DT

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

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

TO:	Tim Kotroco
FROM:	John D. Oltman, Jr Joo
DATE:	May 27, 2004
SUBJECT:	Zoning Item # 04- 505 Address 3551 Bay Drive (Conti Property)
Zoning	Advisory Committee Meeting of May 17, 2004
	epartment of Environmental Protection and Resource Management has no ents on the above-referenced zoning item.
	epartment of Environmental Protection and Resource Management offers lowing comments on the above-referenced zoning item:
<del></del>	Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
	Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
	Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

# Groundwater Management Comments:

A building permit will not be issued until public sewer is available.

Reviewer:

Keith Kelley

Date: May 27, 2004

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

ORDER RECEIVED FOR FILING

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** June 23, 2004

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ZONING COMMISSIONEF

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

**SUBJECT:** 

3551 Bay Drive

**INFORMATION:** 

Item Number:

4-4505

Petitioner:

Frederick Conti

Zoning:

RC 5

Requested Action:

Variance

### SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided the following conditions are met:

- 1. Submit building elevations (all sides) to this office for review and approval prior to the issuance of any building permits.
- 2. The petitioner must demonstrate that he has the legal right to access the subject property via parcel currently owned by Bowleys Quarters Improvement Association.

Prepared by:

**Division Chief:** 

AFK/LL:MAC:

### BALTIMORE COUNTY, MARYLAND

### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** June 2, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor

Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For May 24, 2004 Item No. 505

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

This property must have a private easement (for water and sewer connections) through the adjacent property to Bay Drive.

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.

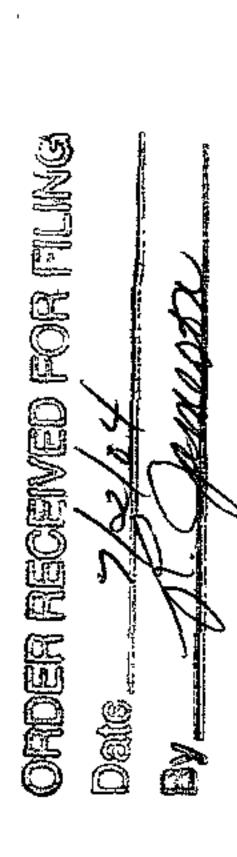
The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

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-05-24-2004-ITEM NO 505-06022004





PETITION FOR VARIANCE RE:

3551 Bay Drive; S/side of Bay Drive,

140' W of Chesapeake Avenue

15<sup>th</sup> Election & 6<sup>th</sup> Councilmanic Districts

Legal Owner(s): Frederick Conti &

Rosalie Rogers

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

04-505-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 19<sup>th</sup> day of May, 2004, a copy of the foregoing Entry of Appearance was mailed to Robert Infussi, P.O. Box 1043, Bel Air, MD 21014, Representative for Petitioner(s).

RECEIVED

MAY 1 9 2004

Per.....

Peter Mas Simulan PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

# MEMO TO FILE

04-505-A 3551 Bay Drive

PER THE REQUEST OF THE REPRESENTATIVE FOR APPLICANT - MR ROBERT INFUSSI – PLEASE SCHEDULE THIS HEARING BEFORE JULY 1, 2004.

- No portion of an alley shall be considered as any part of a side or rear yard.
- No dwelling, other than a multifamily building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in Section 26-266 of the Baltimore County Code, 1988 Edition, as revised. [Bill Nos. 172-1989; 2-1992]
- On a corner lot in any residential zone, no planting, fence, wall, building or other obstruction to vision more than three feet in height shall be placed or maintained within the triangular area bounded on two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections), each of which points is 25 feet distant from the point of intersection. At the intersection of a street and an alley, the dimension corresponding to the 25 feet noted above shall be 15 feet and 10 feet at the intersection of two alleys. Poles, posts and guys for streetlights and for other utility services shall not be considered obstructions to vision within the meaning of this section. [Resolution, November 21, 1956]
- No building permit shall be issued for any commercial, industrial or apartment development until the proposed plan for vehicular access thereto shall have been first approved by the Baltimore County Department of Permits and Development Management. [Resolution, November 21, 1956]
- Where development of a property includes both a special exception and a residential subdivision, the area allocated for use as a special exception shall not be included in the calculation of residential density. [Bill No. 74-2000]

# Section 103 Application of Zoning Regulations [BCZR 1955]

These regulations shall apply as of the date of their adoption but the provisions pertaining to use, height, area and density of population shall not apply to any development, subdivision or parcel of land, the preliminary plan for which was originally submitted to the (then) Baltimore County Planning Commission (now Planning Board) and approved or tentatively approved (including any approval made subject to any condition or conditions) under the then existing official procedure in Baltimore County, prior to the adoption of these regulations. The Zoning Regulations applicable to any such development, subdivision or parcel of land as aforesaid shall be the Zoning Regulations in effect at the time such plan, as aforesaid, was originally submitted to the Baltimore County Planning Commission.

Provided further, however, that the use and development of land in M.L. Zones shall not be affected by the foregoing provision, but development is permitted in accordance with any preliminary development plan approved by the Office of Planning before the effective date of this further proviso, even though such development may be counter to then-current regulations for M.L. Zones, if, on the

<sup>&</sup>lt;sup>5</sup> Editor's Note: Refers to the Baltimore County Zoning Regulations (BCZR) adopted March 30, 1955.

# 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 28, 2004

Mr. David Billingsley 601 Charwood Court Edgewood, Maryland 21040

> Re: Petition for Variance Case No. 04-505-A Property: 3551 Bay Drive

Dear Mr. Billingsley:

With reference to the above-captioned case and as agreed to at the hearing, I will keep the record open to receive proof of the following:

- 1. Proof of the date that Lot 2A was recorded among the Land Records of Baltimore County;
- 2. Written permission from the Bowleys Quarters Improvement Association of the public's right to cross their property to access Lot 27-A from Bay Drive; and
- 3. A description of this right-of-way, especially as to its width.

Once I receive this information from you, I can issue my order in this case.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj



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

# CENTRAL DRAFTING AND DESIGN, INC.

601 CHARWOOD COURT EDGEWOOD, MARYLAND 21040 (410) 679-8719 FAX (410) 538-6160

June 28, 2004

Mr. John V. Murphy Deputy Zoning Commissioner for Baltimore County Baltimore County Courts Building Towson, Maryland 21204

RE: 3551 BAY DRIVE CASE NO. 04-505-A

RECEIVED ZONING COMMISSIONER

Dear Mr. Murphy:

As you will recall, during the hearing for the referenced case, you requested that I provide some additional information prior to you rendering a decision. I trust the information below will suffice,

- 1. Plat No. 3 of Bowleys Quarters was recorded in 1930, therefore, the subject lot was created prior to the R.C.5 zoning classification.
- 2. I spoke to Carl Richards about the interpretation of Section 102.4. Based on policy, a lot less than 20,000 square feet must have in-fee frontage on a public street. The in-fee frontage can be as narrow as two (2) feet provided an easement or right-of-way with at least enough width to construct a driveway exists. Since the subject lot has the use of a right-of-way of sufficient width for the construction of a driveway, the request for a variance from the requirement to have in-fee frontage on a public road is correct and is the only variance required relative to access. Carl said to call him if you needed clarification on this issue.
- 3. Access to Bay Drive will be provided through a parcel to the north which is owned by the Bowleys Quarters Improvement Association. I have enclosed a copy of the deed for lot 27A which clearly mentions that lot 27A, lot 28A and the parcel between them have a right-of-way over the parcel to the north for ingress and egress to Bay Drive.

I trust the above will address your concerns. Should you need any additional information, please do not hesitate to contact this office.

Very truly yours,

Laured W. Billingsley

David W. Billingsley

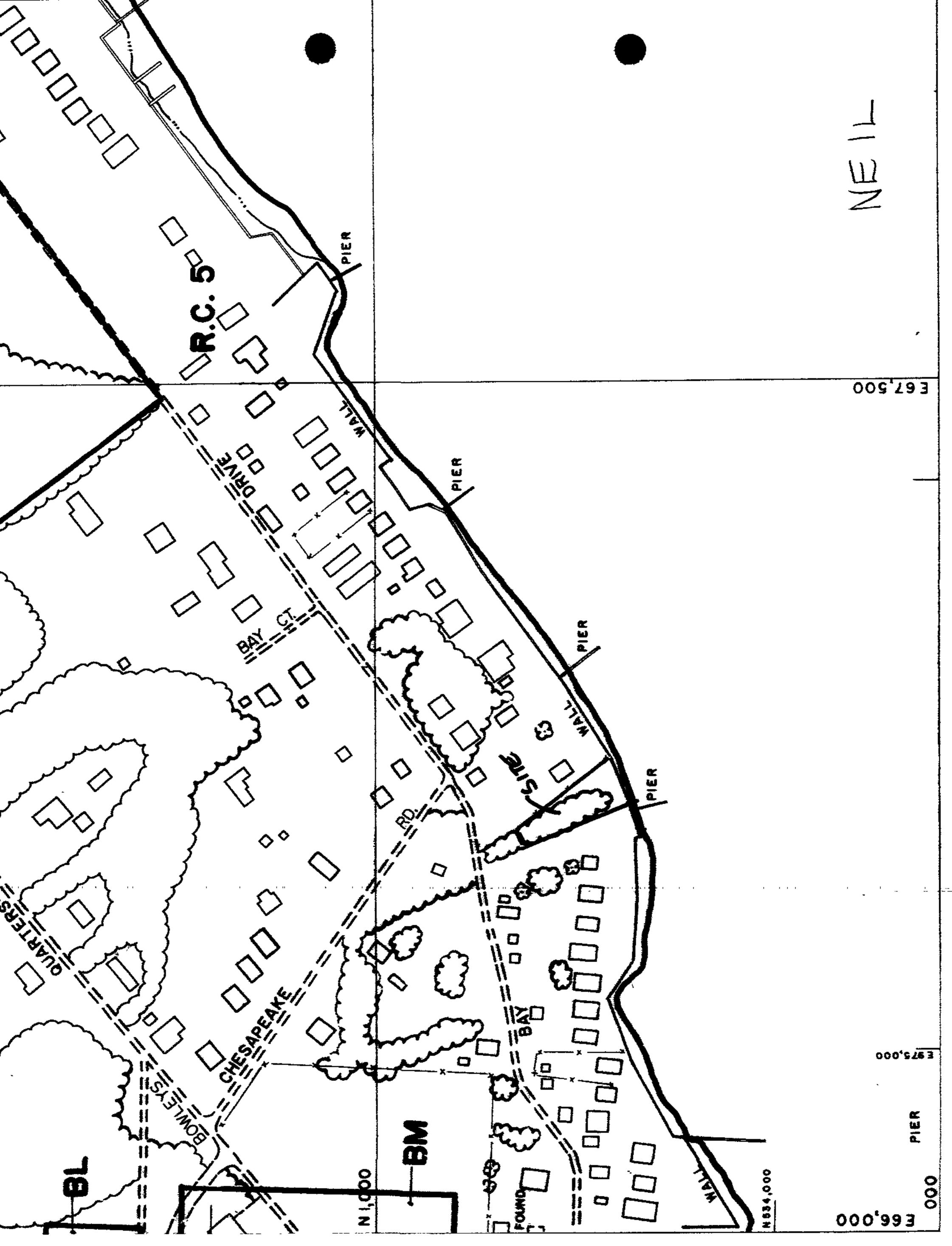
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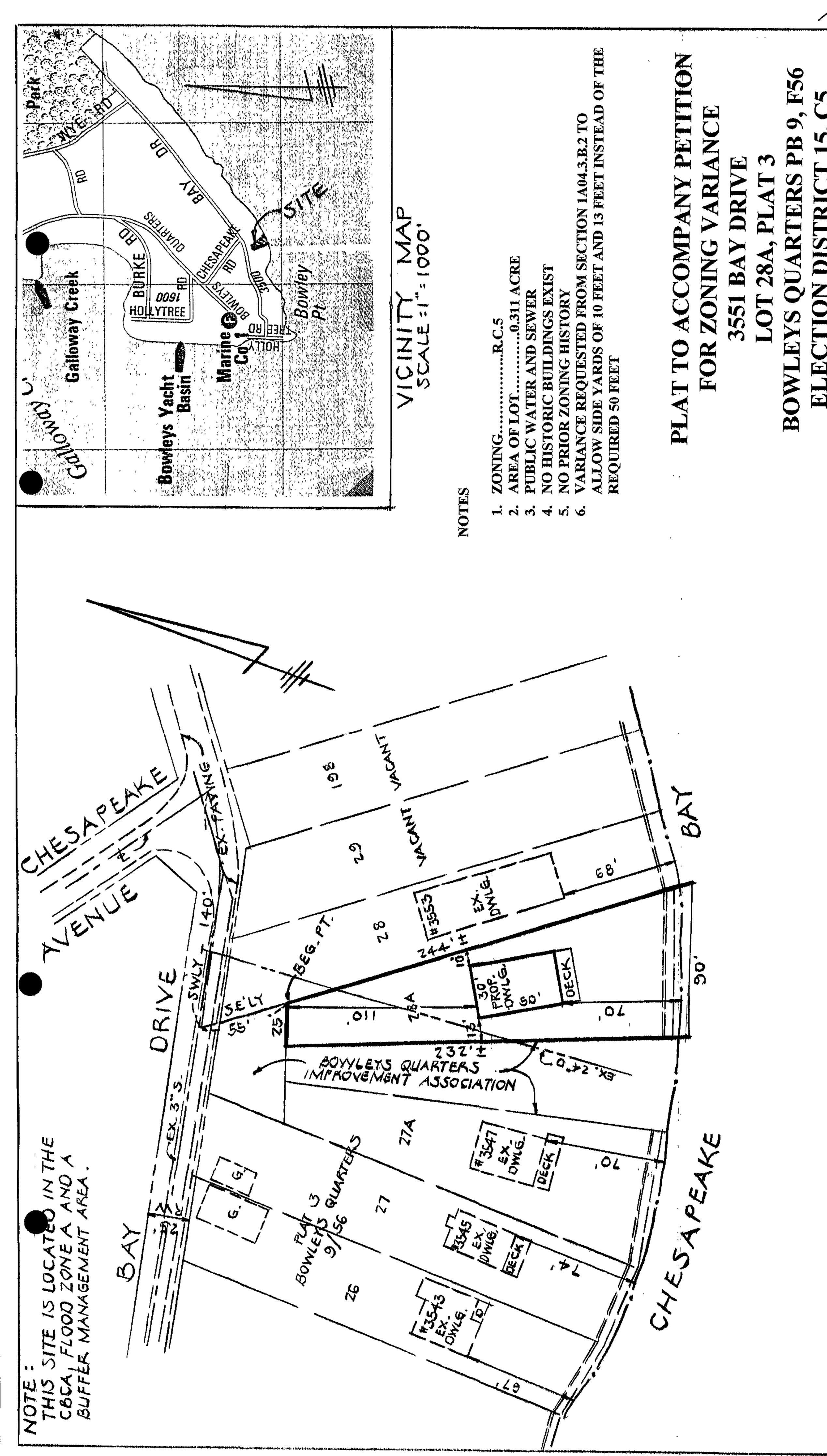
cc: Robert Infussi Michael Novak 6/23/04.04-505-A lat to accompany vacant-RC-5work Bawley 9 Imp assoc community locall failed-allownery side yord empossible - side you 10/13 - can't make 50 gal mong megliborhood so pat utilize & lot BQJas Lot 37 A - deed does (not) Day
Together with the right

CASE NAME 355/ BAY DRIVE CASE NUMBER 04-505-A DATE JUNE 23, 7004

# PETTIONER'S SIGN-IN SHEET

drib 0209 a Yakoo. Com.	EDGEWOOD, MD. 21040	GOI CHARWOOD GT.	DAYID BILLINGSLEY
E- MAIL	CITY, STATE, ZIP	ADDRESS	NAME





PURCHASER 2361 VANDERMAST LANE

MICHAEL AND DENISE NOVAK BALTIMORE, MD. 21221 CONTRACT

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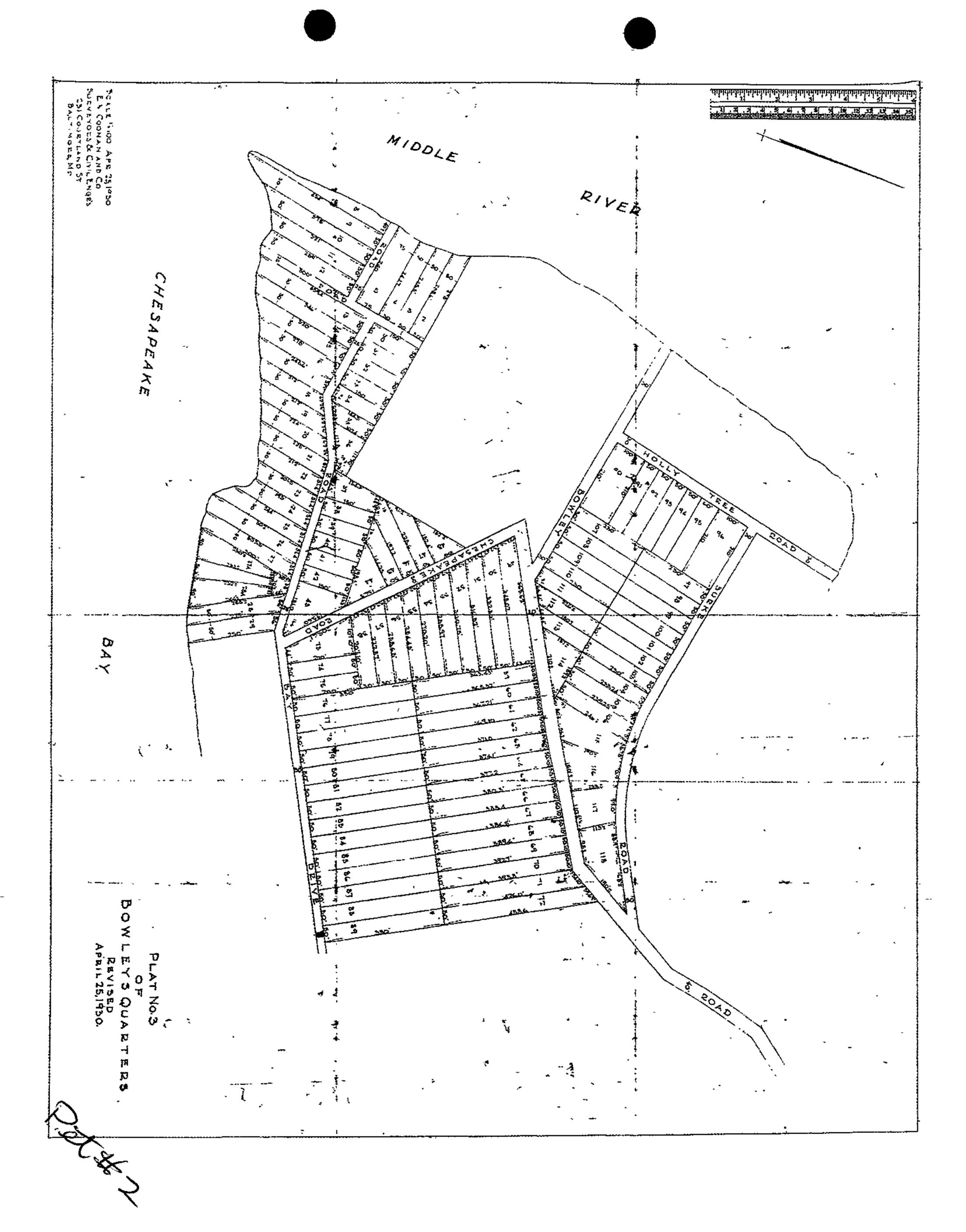
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(410)679

M

EDGEWOOD,

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# THIS DEED

15-19-001511
Tax Account No./Parcel Identifier

Made this 31st day of March. 1999, by and between Barbara J. Reed and Charles W. Reed parties of the first part, and Charlene M. Taylor, party of the second part.

WITNESSETH, that in consideration of the sum of \$215,000.00, receipt of which is hereby acknowledged and which parties of the first part certify under the penalties of perjury as the actual consideration paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said parties of the first part do grant and convey unto the party of the second part in Fee Simple as tenants by the entirety, all that property situate in Baltimore County, State of Maryland, described as:

BEGINNING for the same on the southeasternmost outline of Lot No.27 as shown on plat No. 3 of Bowley's Quarters at the distance of 50 feetsouth 10 degrees 11 minutes west from the northeast, corner of said lot, said corner being on the southside of Bay Drive at the distance of 150 feet south 86 degrees 49 minutes west from a stone in the northeast corner of Lot No. 29 on said Plat and running thence south 10 degrees 11 minutes west, binding on Lot No. 27 a distance of 249.75 feet to the water of Chesapeake Bay, thence binding on said water north 78 degrees 11 minutes east 90 feet thence north 4 degrees 46 minutes west 233.1 feet to a point distant 25 feet on a line drawn north 79 degrees 14 minutes east from the beginning of this description and thence south 79 degrees 14 minutes west binding reversely on said line so drawn 25 feet to the place of beginning.

BEING Lot No. 27A on Plat No. 3 of Bowleys Quarters revised April 25, 1930 and recorded in Plat Book L.McL.M. No. 9, folio 56, Togetherwith a Right of Way for the purpose of ingress and egress from Bay Drive to said Lot No. 27A above described over a lot of ground adjoining the above described lot to the north which is particularly described as follows:

BEGINNING for the same on the south side of Bay Drive 25 feet wide as shown on the plat No. 3 of Bowleys Guarters at the distance of 112 feet westerly from a stone on the south side of Bay Drive at a bend in said drive at the northeast corner of Lot No. 29 as shown on said plat said place of beginning being at the northwest corner of Lot No. 28 as shown on said plat and running thence south 86 degrees 49 minutes west binding on said Drive 38 feet to the northeast corner of Lot No.27 on said plat, thence south 10 degrees 11 minutes west binding on said lot 50 feet thence north 79 degrees 14 minutes east 69.32 feet to Lot No. 28 afore-said, thence north 29 degrees 19 minutes west binding thereon 44 feet to the place of beginning.

It is distinctly understood and agreed between the parties hereto and the owners and occupants of the other 2 lots shown on said plat No.3 of Bowleys Quarters as binding on the north 79 degrees 14 minutes east 69.32 feet line on the above described lot that they shall have a Right of Way over said lot above described for the purpose of ingress and egrees to Bay Drive from 2 said lots.

The said Charles William Reed having departed this life on 1/1/2 in

BEING the same lot of ground which by Deed dated February 23, 1971, and recorded among the Land Records of Baltimore County, Maryland at Liber 5168, folio 312 was granted and conveyed by Richard Sauers and Patricia Sauers to Charles W. Reed and Barbara J. Reed.

Landtech Support Services form 5.92 701.188

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