

IN RE: PETITION FOR ADMIN. VARIANCE
E/S of Dorchester Road, 170 ft. S
centerline of Kensington Road
1st Election District
1st Councilmanic District
(809 Dorchester Road)

Kevin R. Sowers
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-582-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Kevin R. Sowers. The administrative variance is requested for property located at 809 Dorchester Road in the "Kensington" subdivision of Baltimore County. The administrative variance request is from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection (proposed deck) with a side yard setback of 2 ft. in lieu of the required 7 ½ ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on June 27, 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: None.

Applicable Law

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

ORDER RECEIVED FOR FILING

Date

By

7/21/04
[Signature]

"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."

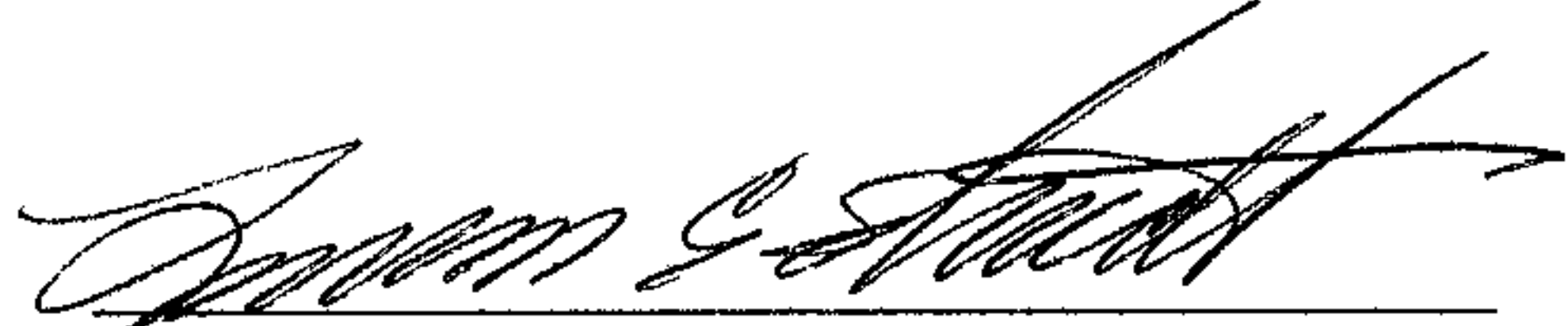
The Petitioner has filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the 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 Petitioner.

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

THEREFORE, IT IS ORDERED, this 21st day of July, 2004, by this Zoning Commissioner, that the Petitioner's request for variance from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection (proposed deck) with a side yard setback of 2 ft. in lieu of the required 7 ½ ft., be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition;

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



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

LES:raj

ORDER RECEIVED FOR FILING
Date 7/21/04
By Ray

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 21, 2004

Mr. Kevin R. Sowers
809 Dorchester Road
Baltimore, Maryland 21229

Re: Petition for Administrative Variance
Case No. 04-582-A
Property: 809 Dorchester Road

Dear Mr. Sowers:

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 black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

Lawrence E. Schmidt
Zoning Commissioner

LES:raj
Enclosure

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





Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 809 Dorchester Rd
which is presently zoned DR5-5

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) 1 B02.3.C.1 AND 301.1 to PERMIT AN OPEN PROJECTION (A PROPOSED DECK) WITH A SIDE SETBACK OF 2 FT. IN LINE OF 7 1/2 FT.

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 7/21/04 day of July, 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):

Name - Type or Print

Signature

Name - Type or Print

Signature

809 Dorchester Rd 410-242-3727
Address Telephone No.

Baltimore Co. MD 21229
City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

Zoning Commissioner of Baltimore County

CASE NO. 04582 A

REV 10/25/01

Reviewed By JL Date 6/15/04

Estimated Posting Date 6/27/04

ORDER RECEIVED FOR FILING

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

809 Dorchester Rd
Address
Baltimore Co. MD 21229
City State Zip Code

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):

As structure easements were only 2' when house and enclosed porches were constructed it is not possible to have proposed deck meet a doorway at the side porch with the current 7'6" easement requirement. To overcome this Practical Difficulty I am requesting an administrative variance to allow construction of a deck that would align 2' beyond the south end of the side porch within the property line and fencing. Deck would cover and make usable a 3' depression sloping down to the property line of #811 Dorchester RD, within the fencing line, that is currently not practical for use.

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.

Kevin R. Sowers
Signature

Signature

KEVIN R. SOWERS
Name - Type or Print

Name - Type or Print

KEVIN R. SOWERS

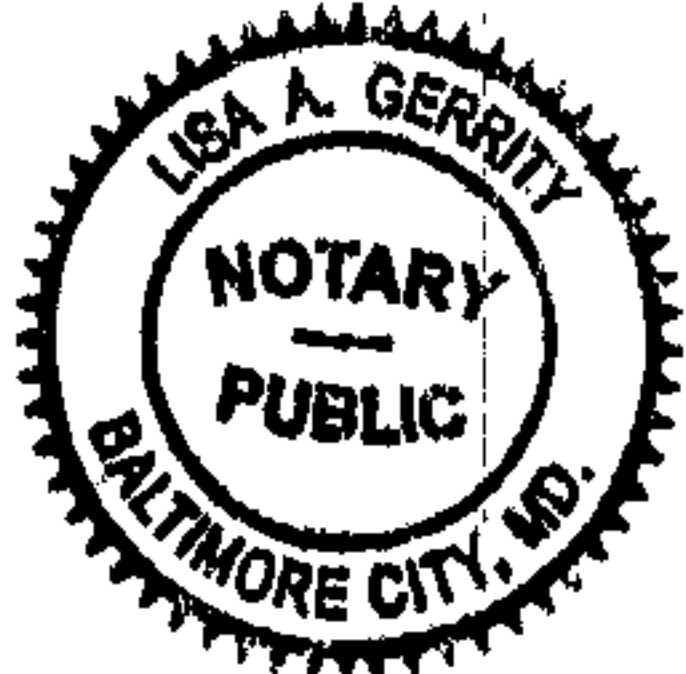
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 15 day of JUNE, 2004, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

KEVIN R. SOWERS

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



[Signature]
Notary Public
My Commission Expires 18 October 2006

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

809 Dorchester Rd
Address
Baltimore Co MD 21229
City State Zip Code

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):

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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.

Kevin R. Sowers
Signature

Signature

Kevin R. Sowers
Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 15th day of JUNE, 2007, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

KEVIN R SOWERS
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



[Signature]
Notary Public
My Commission Expires 18 October 2008



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 809 Dorchester Rd
which is presently zoned DZS.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) 1B02.3C.1 AND 301.1 TO PERMIT AN OPEN PROJECTION (A PROPOSED DECK) WITH A SIDE SETBACK OF 2 FT. IN LIEU OF 7 1/2 FT.

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 _____

Legal Owner(s):

KEVIN R. SOWERS
Name - Type or Print _____
Kevin R. Sowers
Signature _____
Name - Type or Print _____
Signature _____
809 Dorchester Rd 410-242-3727
Address _____ Telephone No. _____
Baltimore Co. MD 21229
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
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 _____ day of _____ 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.

CASE NO. 04 582 A

REV 10/25/01

Zoning Commissioner of Baltimore County
Reviewed By JL Date 6/15/04
Estimated Posting Date 6/27/04

Zoning Description

809 ~~St.~~ DORCHESTER RD.

BEGINNING AT A POINT ON THE EAST SIDE OF ~~St.~~ DORCHESTER RD,
A 50' RW, AT A DISTANCE OF 170 FT, SOUTH OF THE CENTER LINE OF
KENSINGTON RD, A 50' R/W, BEING LOTS 24 - 26, SECT. 1, AS RECORDED ✓
IN THE SUBDIVISION OF KENSINGTON RECORDED IN PLAT BOOK 8 FOLIO 46

I the undersigned accept responsibility
for all information drawn by BALTO. Co.
in relation to this zoning petition.

Ken H. Brown

582

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

DATE

6/15/04

ACCOUNT

001 006 6150

AMOUNT \$

65.00

RECEIVED
FROM:

SWERS

FOR:

Ree. Verance
809 S. Dorchester Rd.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME INW
6/16/2004 6/15/2004 14:47:39 2

REG #504 WALKIN DICK DMD

>> RECEIPT # 268758 6/15/2004 OFLN

Dept 5 528 ZONING VERIFICATION

CR NO. 035903

Receipt Tot \$65.00

\$65.00 OK \$.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 04-582-A

Petitioner/Developer: KEVIN

GOWERS

Date of Hearing/Closing: JULY 12, 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:

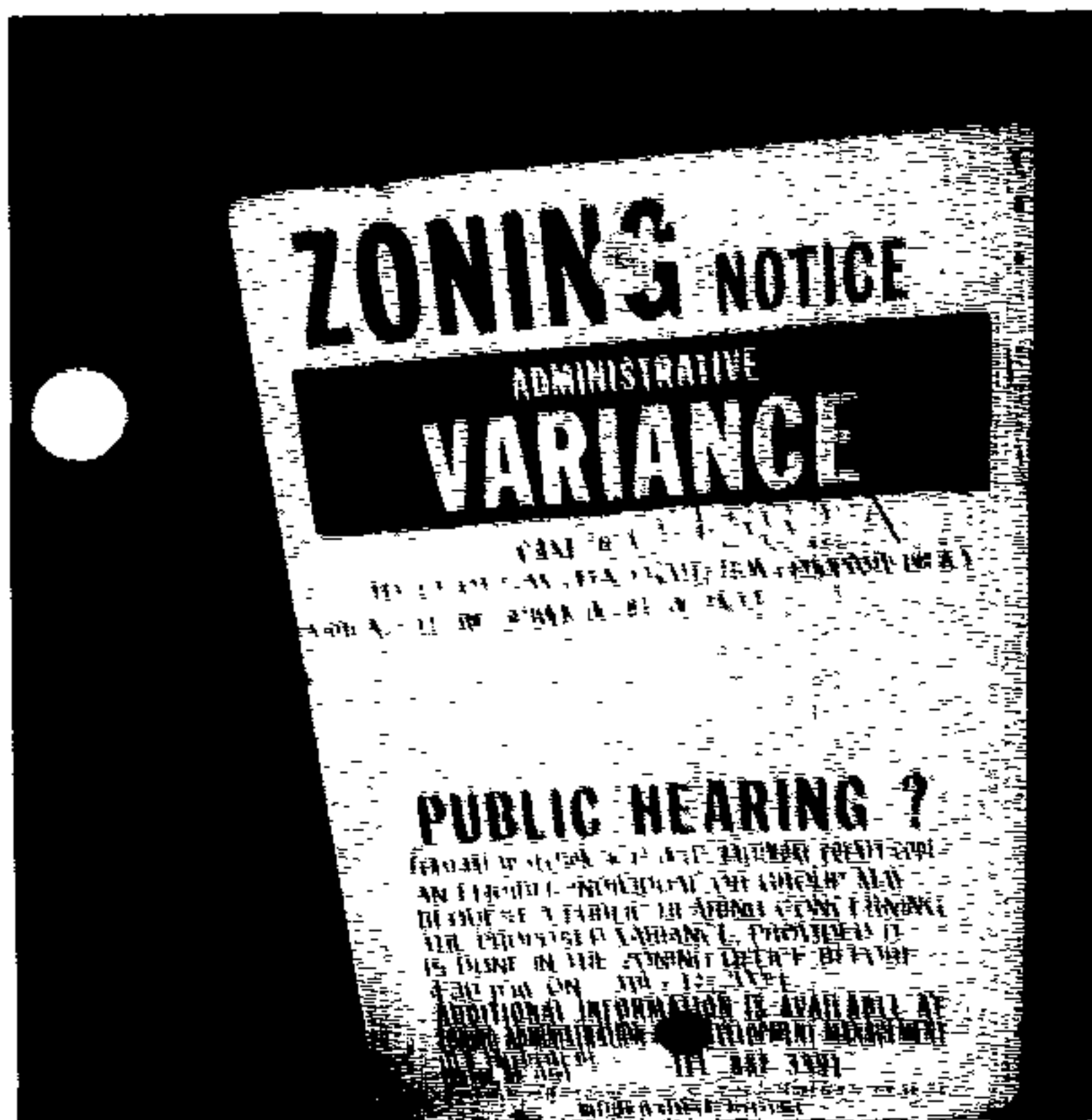
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

809 S. DORCHESTER RD

The sign(s) were posted on _____

6/27/04
(Month, Day, Year)

Sincerely,



Robert Black 6/27/04
(Signature of Sign Poster) (Date)

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
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: 04-582-A
Petitioner: 1 Kevin R. Sowers
Address or Location: 1 809 S. Dorchester Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Kevin R. Sowers
Address: 809 S. Dorchester Rd
Baltimore MD 21229
Telephone Number: 410 242 3727

CLOSING
DATE CHANGE
CALLED MR
SOWERS
6/17/04
ADVISED
ON MSG
MACHINE**ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES**Case Number 04- 582 -AAddress 809 S. DORCHESTER RD.Contact Person: JOHN LEWIS
Planner, Please Print Your Name

Phone Number: 410-887-3391

Filing Date: 6/15/04Posting Date: 6/27/04Closing Date: 7/12/04

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- 582 -AAddress 809 S. DORCHESTER RD.Petitioner's Name KEVIN SOWERSTelephone 410 242 3727Posting Date: 6/27/04Closing Date: 7/12/04Wording for Sign: To Permit AN OPEN PROJECTION (PROPOSED DECK) WITH
A 2 FT SIDE SETBACK IN LIEU OF 7 1/2 FT

**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*

July 12, 2004

Kevin R. Sowers
809 Dorchester Road
Baltimore, Maryland 21229

Dear Mr. Sowers:

RE: Case Number:04-582-A, 809 Dorchester Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 15, 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.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

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



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

June 29, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: June 28, 2004

Item No.: ⁵⁸⁰
580-591

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

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6.29.04

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

RE: Baltimore County
Item No. 582 JLL

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

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street Baltimore, Maryland 21202 Phone: 410.545.0300 www.marylandroads.com

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 7, 2004

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

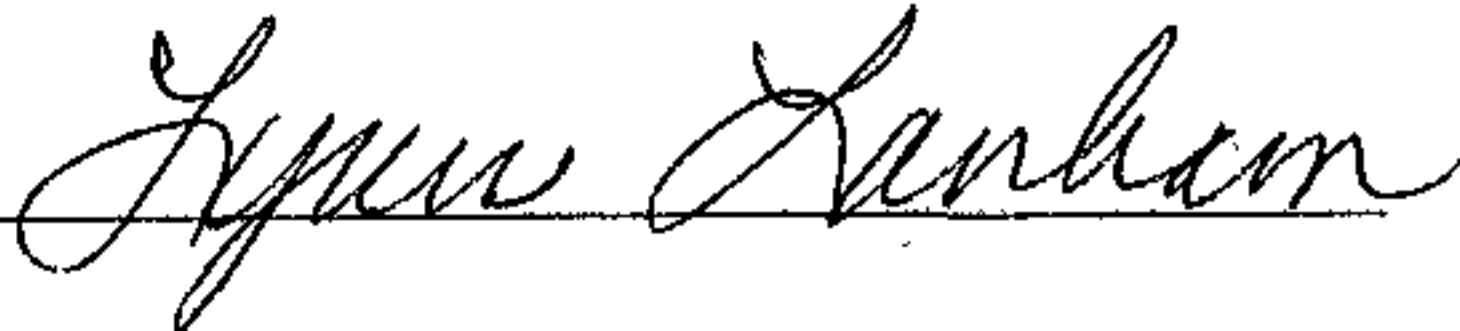
SUBJECT: Zoning Advisory Petition(s): **Case 4-582 – Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:



MAC/LL

RECEIVED

JUL - 7 2004

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 23, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For July 6, 2004
Item Nos. 580, 581, 582, 583, 584,
586, 587, 588, 589, 590, and 591

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

RWB:CEN:jrb

cc: File

PET.
EXHIBIT
#582

June 5, 2004

To the Zoning Commissioner of Baltimore County:

I have seen the plans for a proposed backyard deck at 809 Dorchester Road, which is adjacent to my property, and I support the petition for a variance to allow the southern edge of the deck to exceed the 7.5-foot easement requirement.

Property owner

Address

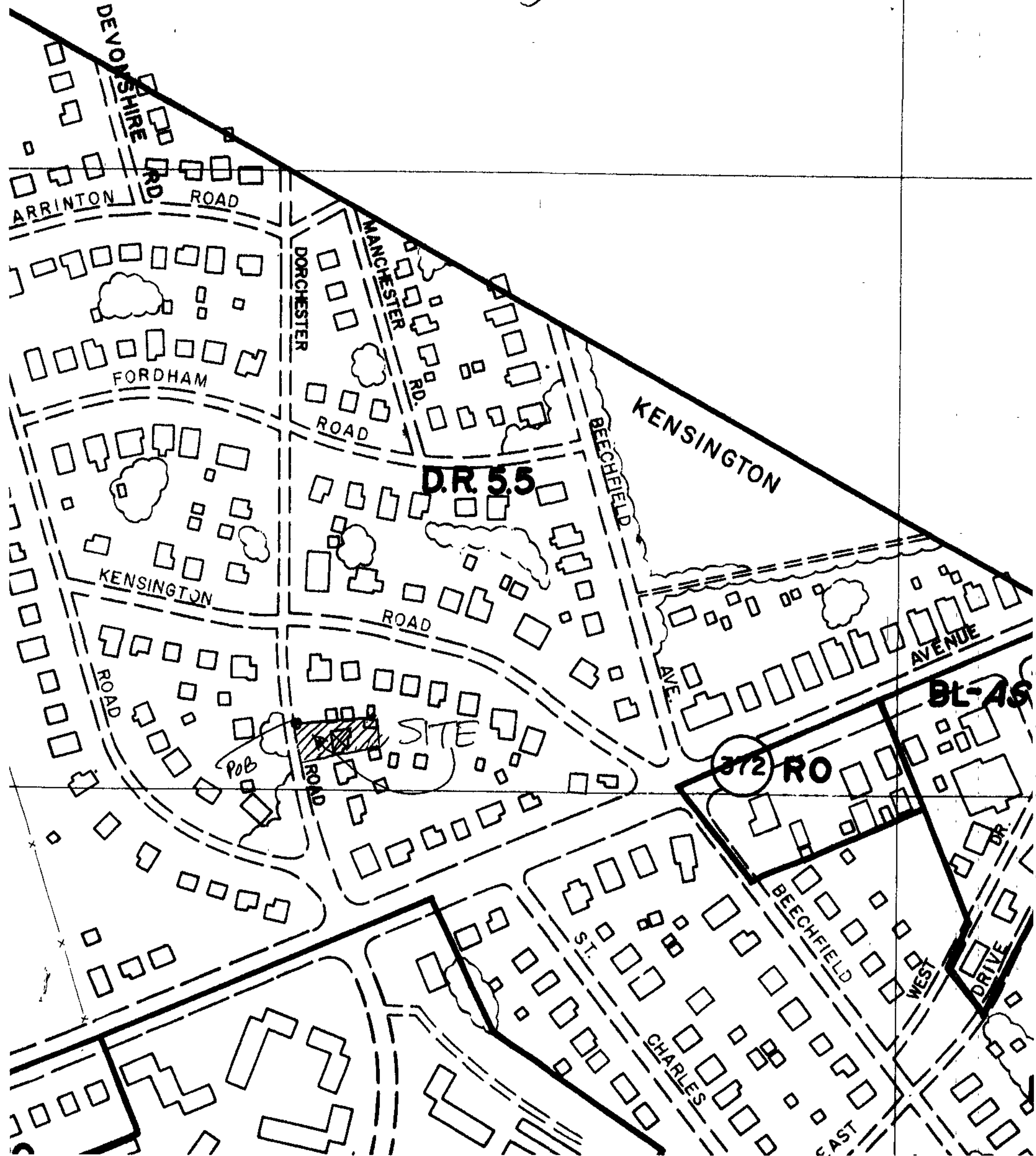
Signature

Date

<u>Randy W. Ayer</u>	<u>4217 KENSINGTON</u>	<u>Randy W. Ayer</u>	<u>6/5/04</u>
<u>B. M. Kell</u>	<u>4215 Kensington</u>	<u>B. M. Kell</u>	<u>6/6/04</u>
<u>Thelma D. Dicks</u>	<u>4219 KENSINGTON RD.</u>		<u>6/8/04</u>
<u>Charles Riebling</u>	<u>811 Dorchester RD</u>	<u>Charles Riebling</u>	<u>6/11/04</u>

SW 3D
11-200

582



582
809 S. Dorchester Road



Front of house and adjacent properties on south and north sides



Rear of house and adjacent properties on south and north sides



Rear of house - site of proposed deck