

IN RE: PETITION FOR VARIANCE
S/S New Section Road, 873' E of the c/l
South Seneca Road
(3937 New Section Road)
15th Election District
5th Council District

James N. Hock, Jr., et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-031-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, James N. Hock, Jr., and his wife, Joanne T. Hock. The Petitioners request a variance from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 13 feet each in lieu of the required 50 feet, and a street centerline setback of 65 feet in lieu of the required 75 feet for a proposed dwelling. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were James and Joanne Hock, property owners, and David Billingsley, the consultant who prepared the site plan for this property. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped, unimproved waterfront parcel located on the south side of New Section Road with frontage on Seneca Creek in Middle River. The property is 60 feet wide and 185 feet deep and contains a gross area of 0.207 acres (9,000 sq.ft.), more or less, zoned R.C.5. Mr. & Mrs. Hock are desirous of developing the property with a single-family dwelling. As originally proposed, the dwelling will be 24' wide and 50' deep; however, at the hearing, the Petitioners indicated that they had changed their plans and now desire to increase the width of the house to 30'. Thus, the variance request was correspondingly amended to request side yard setbacks of 10 feet each in lieu of the required 50 feet. In view of the fact that the requested amendment would reduce the side

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Date

By

9/30/14

[Signature]

yard setbacks and increase the variance requested, the Petitioners were requested to obtain written consent from adjacent neighbors on both sides indicating that those individuals did not object to a 10-foot setback. Subsequent to the hearing, such correspondence was received and included in the case file.

As noted above, the property is zoned R.C.5, which requires a minimum 50-foot setback to a side property line. In view of the unusual configuration and size of the lot, compliance with that regulation is not practical or possible. Additionally, as waterfront property, the proposed development must comply with Chesapeake Bay Critical Area regulations, which require that the house be setback from the waterfront as great a distance as possible. Thus, variance relief to the street centerline is requested in order to comply with the spirit and intent of those regulations.

Based upon the testimony and evidence presented, I am persuaded to grant the requested relief. In my judgment, the Petitioners have satisfied the requirements of Section 307 of the B.C.Z.R. and Cromwell v. Ward, 307 Md. App. 691 (1995). The variances in this case are driven by the unusual shape, configuration and size of the lot. Additionally, strict compliance with the regulations would cause a practical difficulty upon the Petitioners in that a reasonable use of the land would not be permitted. Finally, I find that relief can be granted without detrimental impact to adjacent properties. In this regard, it is to be noted that many other houses in the community are built on similarly sized lots.

However, in granting the relief, I shall impose several conditions/restrictions to the approval. First, the Petitioners are reminded that they need comply with Chesapeake Bay Critical Areas regulations enforced by the Department of Environmental Protection and Resource Management (DEPRM). Secondly, prior to the issuance of any building permits, the Petitioners shall be required to submit building elevation drawings of the proposed dwelling to the Office of Planning for review and approval to insure that the proposed house is compatible with existing houses in the neighborhood. Finally, the Petitioners must comply with the relevant flood plain regulations. A Zoning Advisory Committee (ZAC) comment was received in this regard from Robert W. Bowling, Chief of the Bureau of Development Plans Review. That comment indicates

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Date

By

that the flood plain elevation for this site is 11.2 feet and any structure must be built at least 1 foot above that elevation in accordance with State and County law.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of September 2004 that the Petition for Variance seeking relief from Section 1A04.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 10 feet each in lieu of the required 50 feet, as amended, and a street centerline setback of 65 feet in lieu of the required 75 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and the same is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the ZAC comments submitted by DEPRM and the Bureau of Development Plans Review relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations for the protection of water quality, streams, wetlands and floodplains. Copies of those comments have been attached hereto and are made a part hereof.
- 3) Prior to the issuance of any permits, the Petitioners shall submit building elevation drawings of the proposed dwelling to the Office of Planning for review and approval to insure that the proposed house is compatible with existing homes in the area.
- 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.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 9/30/04
By [Signature]

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

September 30, 2004

Mr. & Mrs. James N. Hock, Jr.
10039 Crane Lane
Baltimore, Maryland 21220

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S New Section Road, 873' E of the c/l South Seneca Road
(3937 New Section Road)
15th Election District – 5th Council District
James N. Hock, Jr., et ux - Petitioners
Case No. 05-031-A

Dear Mr. & Mrs. Hock:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative 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,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. David Billingsley, Central Drafting & Design, Inc.
601 Charwood Court, Edgewood, Md. 21040
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
DEPRM; Development Plans Review, DPDM; Office of Planning
People's Counsel; Case File



C.B.C.A. / FLOOD

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 3937 NEW SECTION ROAD
which is presently zoned R.C. 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) 1A04.3 B. 2. TO ALLOW SIDE YARDS

OF 13 FEET IN LIEU OF THE REQUIRED 50 FEET AND A SETBACK
OF 65 FEET FROM A STREET SETBACK IN LIEU OF THE REQUIRED
75 FEET.
CENTERLINE

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) A DWELLING CAN NOT BE CONSTRUCTED ON THE
LOT WITH 50 FOOT SIDE YARDS

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):

JAMES N. HOCK, JR.
Name - Type or Print _____

Signature [Signature]

JOANNE T. HOCK
Name - Type or Print _____

Signature [Signature]

10039 CRANE LANE (410) 574-6464
Address Telephone No. _____

BALTIMORE MD. 21220
City State Zip Code _____

Representative to be Contacted:

DAVID BILLINGSLEY
CENTRAL DRAFTING AND DESIGN, INC.
Name _____

601 CHARWOOD COURT (410) 679-8719
Address Telephone No. _____

EDGEWOOD MD. 21040
City State Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D. THOMPSON Date 7/15/04

ORDER RECEIVED FOR FILING
DATE 7/15/04
BY [Signature]

Case No. 05-031-A

REV 7/15/98

**DESCRIPTION TO ACCOMPANY PETITION FOR
ZONING VARIANCE
3937 NEW SECTION ROAD**

Beginning for the same at a point on the south side of New Section Road (30 feet wide), distant 873 feet easterly of it's intersection with the center of S. Seneca Road (30 feet wide), thence being all of Lot 328 as shown on the plat entitled Second Addition to Plat 2, Bowleys Quarters recorded among the plat records of Baltimore County in plat book 10 folio 64.

Containing 9,000 square feet or 0.207-acre more or less.

Being known as 3937 New Section Road. Being located in the 15th Election District, 5th Councilmanic District of Baltimore County.



05-031-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 39169

DATE 7/15/04

ACCOUNT 0010000150

AMOUNT \$ 165.00

RECEIVED FROM:

JAMES N. HOUL

FOR: ITEM # 031 OS-021-A

2937 NEW SECTION RD BAL D THOMPSON

PAID RECEIPT

BUSINESS ACTIVITY TIME

7/15/2004 7/15/2004 10134108

REC 18304 WALKIN JOSH ROY

RECEIPT # 272427 7/15/2004

DATE 5 123 ZINING VERIFICATION

IN NO. 039148

Receipt Tot \$65.00

\$65.00 CR \$.00 CR

Baltimore County, Maryland

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

**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: #05-031-A
3937 New Section Road
S/side of New Section Road,
873 ft. east of centerline of S.
Seneca Road
15th Election District
6th Councilmanic District
Legal Owner(s): James N. and
Joanne T. Hock
Variance: to allow side
yards of 13 feet in lieu of
the required 50 feet and a
setback of 65 feet from a
street centerline setback in
lieu of the required 75 feet.
Hearing: Thursday, Sep-
tember 16, 2004 at 10:00
a.m. in Room 407, County
Courts Building, 401
Bosley Avenue

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible;
for special accommoda-
tions Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-4386.

(2) For information con-
cerning the File and/or
Hearing, Contact the Zon-
ing Review Office at (410)
887-3391.

JT/8/815 Aud. 31 19523

CERTIFICATE OF PUBLICATION

9/2/2004

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 8/31/2004.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

Certificate Of Posting

RE: Case NO.: 05-031-A

Petitioner/Developer: JAMES
JOANNE HOCK

Date of Hearing/Closing: 9/16/04

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

Attention:

Ladies and Gentlemen:

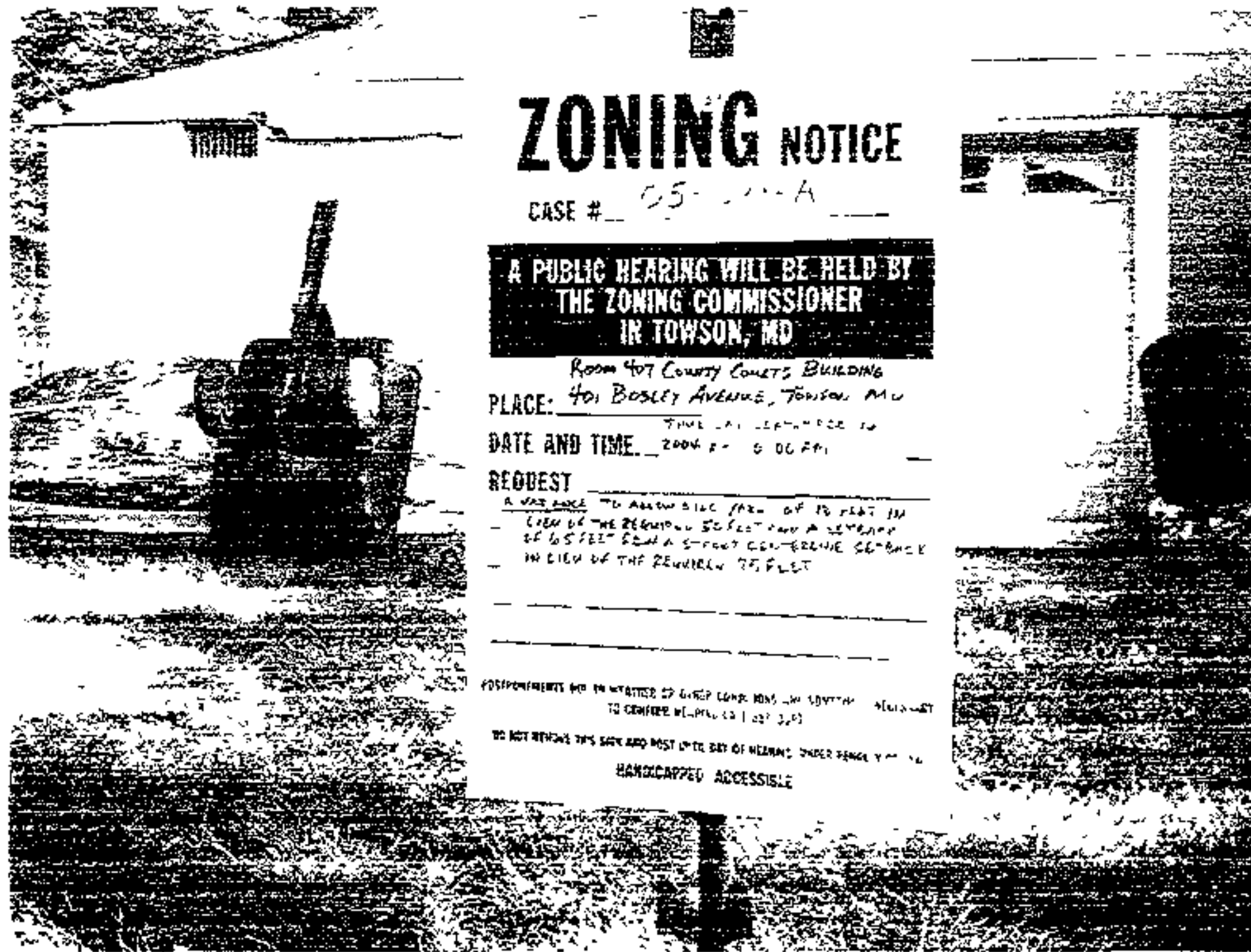
This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 3937 NEW SECTION ROAD

This sign(s) were posted on August 31, 2004
(Month, Day, Year)

Sincerely,

Martin Ogle 8/31/04
(Signature of Sign Poster and Date)

Martin Ogle
(Printed Name)
5016 Castlestone Drive
(Address)
Balto, MD 21237
(City, State, Zip Code)
(410)-933-9470
(Phone Number)



ZONING NOTICE

CASE # 05-111-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

ROOM 407 COUNTY COMETS BUILDING
PLACE: 401 BOSLEY AVENUE, TOWSON, MD

DATE AND TIME: THURSDAY, SEPTEMBER 16, 2004 5:00 PM

REQUEST

A REQUEST TO ALLOW SIGN (MAX. OF 10 FEET IN
VIEW OF THE REAR OF SUBJECT AND A SIGNIFY
OF 6 FEET FROM A 5-FOOT CENTERLINE SETBACK
IN VIEW OF THE REAR OF 75 FEET

POSTPONEMENTS MAY BE REQUESTED BY WRITING TO THE ZONING COMMISSIONER
TO CONSIDER RE-OPENING THE MATTER

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF
HANDICAPPED ACCESSIBLE

Martin Dgl 8/31/04

**Department of Permits and
Development Management**

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



Baltimore County

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

July 22, 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: 05-031-A

3937 New Section Road

S/side of New Section Road, 873 ft. east of centerline of S. Seneca Road

15th Election District – 6th Councilmanic District

Legal Owners: James N. and Joanne T. Hock

Variance to allow side yards of 13 feet in lieu of the required 50 feet and a setback of 65 feet from a street centerline setback in lieu of the required 75 feet.

Hearing: Thursday, September 16, 2004 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: James & Joanne Hock, 10039 Crane Lane, Baltimore 21220
David Billingsley, Central Drafting & Design, Inc., 601 Charwood Ct., Edgewood 21040

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPTEMBER 1, 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, August 31, 2004 Issue - Jeffersonian

Please forward billing to:
Mr. & Mrs. James Hock, Jr.
10039 Crane Lane
Baltimore, MD 21220

410-574-6464

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: 05-031-A

3937 New Section Road
S/side of New Section Road, 873 ft. east of centerline of S. Seneca Road
15th Election District – 6th Councilmanic District
Legal Owners: James N. and Joanne T. Hock

Variance to allow side yards of 13 feet in lieu of the required 50 feet and a setback of 65 feet from a street centerline setback in lieu of the required 75 feet.

Hearing: Thursday, September 16, 2004 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



LAWRENCE E. SCHMIDT

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The 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: 05-031-A

Petitioner: HOCK, JR.

Address or Location: 3937 NEW SECTION RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MR. + MRS. JAMES N. HOCK, JR.

Address: 10039 CRANE LANE
BALTO. MD 21220

Telephone Number: 410-574-6464

Revised 2/20/98 - SCJ

**Department of Permit
Development Management**

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



Baltimore County

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

September 7, 2004

James N. Hock, Jr.
Joanne T. Hock
10039 Crane Lane
Baltimore, Maryland 21220

Dear Mr. and Mrs. Hock:

RE: Case Number: 05-031-A, 3937 New Section Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 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." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
David Billingsley Central Drafting & Design, Inc. 601 Charwood Court Edgewood 21040

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

July 22, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: July 26, 2004

Item No.: 017-035

Dear Ms. Mathews:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

6. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File

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



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

Maryland Department of Transportation

Date: 7.23.04

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

RE: Baltimore County
Item No. 031 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,

Steven D. Foster, Acting Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED

AUG 11 2004

ZONING COMMISSIONER

TO: Tim Kotroco

FROM: John D. Oltman, Jr. *JDO*

DATE: August 10, 2004

SUBJECT: Zoning Item # 05-031
Address 3937 New Section Road (Hock Property)

Zoning Advisory Committee Meeting of July 26, 2004.

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ 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).

X 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).

Additional Comments:

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

Reviewer: Keith Kelley

Date: August 10, 2004

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

ORDER RECEIVED FOR FILING

Date

By

9/30/04

[Signature]

hs
9/16

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 19, 2004

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 5-031 and 5-057**

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:

Mark A. Cunningham

Division Chief:

Lynn Ferber

MAC/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For August 2, 2004
Item No. 031

DATE: August 4, 2004

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

Minimum 40-foot right-of-way for New Section Road shall be shown.

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-08-02-2004-ITEM NO 031-08042004

ORDER RECEIVED FOR FILING

Date

By

RE: PETITION FOR VARIANCE * BEFORE THE
3937 New Section Road; S/side New Section
Road, 873' E c/line of S Seneca Road * ZONING COMMISSIONER
15th Election & 6th Councilmanic Districts
Legal Owner(s): James & Joanne Hock * FOR
Petitioner(s) * BALTIMORE COUNTY
* 05-31-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.

RECEIVED

JUL 30 2004

Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO

Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to, David Billingsley, Central Drafting & Design, Inc, 601 Charwood Court, Edgewood, MD 21240, Representative for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CENTRAL DRAFTING AND DESIGN, INC.

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

September 20, 2004

Mr. Lawrence E. Schmidt, Zoning Commissioner
Office of the Zoning Commissioner
Baltimore County Courts Building
Towson, Maryland 21204

RE: 3937 NEW SECTION ROAD
CASE NO. 05-031-A

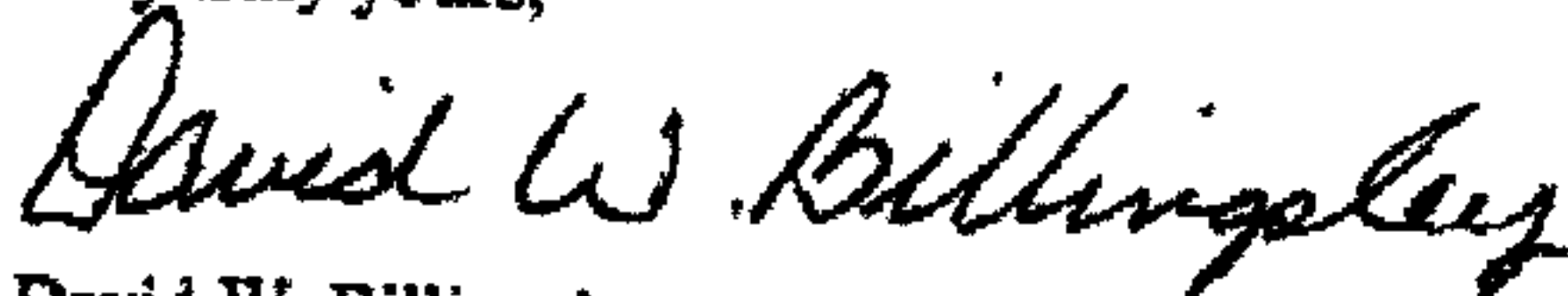
Dear Commissioner Schmidt:

As we discussed during the hearing for the referenced case, I am enclosing documentation that the adjacent property owners have no objection to approval of a reduction in the requested side yard variance from 13 feet to 10 feet.

Additionally, we met with Mark Cunningham of the Office of Planning and he has no objection to the reduction. He also said building plans or elevations will not be required.

Thank you for your cooperation in this matter. Should you need any additional information, please do not hesitate to contact this office.

Very truly yours,



David W. Billingsley

enclosures

cc: James and Joanne Hoch

Attn:
Mr. Lawrence Schmidt
Zoning Commissioner

3937 New Section Rd
Case # 05-031-A

Thomas M. White
3937 New Section Rd
Baltimore MD 21220

As Neighbor to property
3937; I Thomas White
Do not have a problem with
a change in variance from
13 feet to 10 feet on side yard.

Thomas White
Thomas M. White
9/19/04

3935 New Section Road
Baltimore, Maryland 21220

September 17, 2004

Via facsimile 410-687-3468

Mr. Lawrence Schmidt
Zoning Commissioner

Re: Case No. 65-631-A
3937 New Section Road
Baltimore, Maryland 21220

Dear Mr. Schmidt:

I have no objection to a ten foot versus thirteen foot side yard set back.

Sincerely,



Patricia J. Lampkin



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

RECEIVED

OCT 15 2004

ZONING COMMISSIONER

PETER MAX ZIMMERMAN
People's Counsel

October 15, 2004

CAROLE S. DEMILIO
Deputy People's Counsel

William Wiseman, Zoning Commissioner
John V. Murphy, III, Deputy Zoning Commissioner
401 Bosley Avenue, 4th Floor
Towson, MD 21204

Re: Petition for Variance
Mr. & Mrs. James Hock, Jr.
3937 New Section Road
Case No.: 05-031-A

Dear Messrs. Wiseman and Murphy:

Please accept this letter as a Motion for Reconsideration pursuant to Rule 4K. The record shows that the Petitioners requested residential side yard setback variances of 13 feet each instead of 50 feet and then, at the hearing, expanded the request so that the setbacks would be only 10 feet each. The amendment of a variance which magnifies the request requires a new public notice prior to the hearing. It is plausible that members of the public would object to the enhanced variances. It is also an important principle of law that an expansion of a zoning request requires a new notice. See Cassidy v. Board of Zoning Appeals, 218 Md. 418 (1958). Indeed, adequate notice is a jurisdictional prerequisite. *Ibid.* See, e.g. 4 Anderson, American Law of Zoning 4th, Secs. 22.17 to 22.21 (1997). The amendment brings into play anew all the variances. Thus, the notice is inadequate as to the entire petition.

Accordingly, we request that the Zoning Commissioner rescind the Order dated September 30, 2004 granting all of the variances because of the lack of adequate notice.

The Zoning Commissioner should require:

1. That the Petition be amended;
2. That it be reviewed again by the Zoning Advisory Committee;
3. That a new hearing be scheduled; and
4. That there be a new public notice published in the newspapers and a new posting of the property.

Very truly yours,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S. Demilio

Deputy People's Counsel for Baltimore County

cc: David Billingsley, Central Drafting & Design, Inc
Mr. & Mrs. James N. Hock, Jr
W. Carl Richards, Jr., Zoning Supervisor



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

October 21, 2004

Hand-Delivered

William J. Wiseman, Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Re: James & JoAnn Hock
Case No.: 05-031-A

Dear Mr. Wiseman,

Upon further review of this case, we are withdrawing the motion for reconsideration dated October 15, 2004 because we no longer find it is necessary in the public interest.

We have taken into consideration that the adjacent neighbors have stated in writing that they have no objection to the amendment so that the side yard setbacks are ten feet instead of thirteen feet. We also note that there does not appear to be any objection from the office of planning.

In addition, Michael Vivirito, President of the Bowleys Quarters Community Association, has communicated with our office to express the association's support for the amendment. He also emphasized that this is an area affected by Hurricane Isabel and that time is of the essence for the Hocks to move forward. The Association has participated constructively in many zoning cases and is worthy of respect.

On top of this, it appears the amendment likely resulted from a technical error in the application. It clearly did not involve any attempt at deception.

Considering all of this, while it is ordinarily inappropriate and a violation of notice law to amend a petition at a hearing so as to expand a request, it appears, based on all of the information now available, that there is no reason to oppose the petition for variance or to hold a further hearing.

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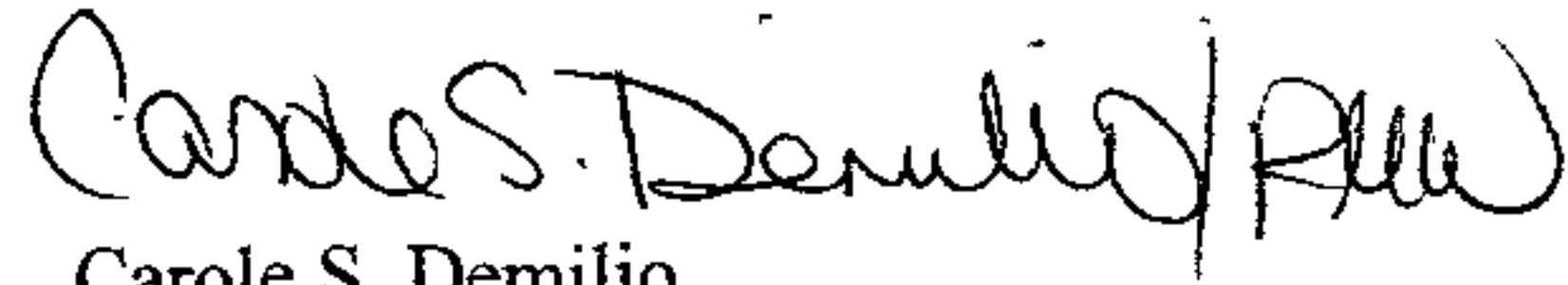
OCT 21 2004

ZONING COMMISSIONER

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel for Baltimore
County

PMZ/CSD/rmw

cc: David Billingsley, Central Drafting & Design, Inc
James & JoAnn Hock
Arnold "Pat" Keller, Director of Planning
Timothy Kotroco, Director of PDM
Michael Vivirito

Westlaw

146 A.2d 896
 218 Md. 418, 146 A.2d 896
 (Cite as: 218 Md. 418, 146 A.2d 896)

Page 1

▷

Court of Appeals of Maryland.

Edward T. CASSIDY et al.

v.

COUNTY BOARD OF APPEALS OF
 BALTIMORE COUNTY and Baltimore Gas and
 Electric
 Company.

No. 125.

Dec. 22, 1958.

Appeal from decree of the Circuit Court for Baltimore County, John E. Raine, Jr., J., affirming order of county board of appeals granting utility special exception authorizing construction of steam electric generating station and related facilities. The Court of Appeals, Prescott, J., held that notice which stated that public hearing would be held upon utility's petition for a change or reclassification constituted substantial compliance with county zoning regulation, notwithstanding fact that notice did not specifically state that a request for a special exception had been made.

Affirmed.

West Headnotes

[1] Administrative Law and Procedure ⚡453

15Ak453 Most Cited Cases

Failure of an administrative official or board to give a proper notice of a hearing required by law is fatal to jurisdiction of official or board to conduct hearing.

[2] Zoning and Planning ⚡195

414k195 Most Cited Cases

(Formerly 104k211/2)

Where notice given by county zoning commissioner stated that a public hearing would be held on petition of utility for a change or reclassification of certain property, notice constituted sufficient compliance with zoning regulation notwithstanding fact that it failed to call

attention to fact that a special exception was sought.

[3] Zoning and Planning ⚡514

414k514 Most Cited Cases

(Formerly 104k211/2)

County zoning commissioner and county zoning board of appeals had jurisdiction to grant public utility special exception to permit erection of electric steam generating plant and related facilities in residence zone permitting one and two family dwellings.

[4] Zoning and Planning ⚡514

414k514 Most Cited Cases

(Formerly 104k211/2)

County zoning regulation permitting granting of special exceptions in residential zones for "public utility uses" comprehended a steam electric generating plant and related facilities.

[5] Zoning and Planning ⚡539

414k539 Most Cited Cases

(Formerly 104k211/2)

[5] Zoning and Planning ⚡747

414k747 Most Cited Cases

(Formerly 104k211/2)

On appeal from decree of circuit court affirming order of county zoning board of appeals granting public utility special exception which authorized construction of a steam electric generating station in residential zone, there was substantial evidence to support board's finding that use would not be detrimental to the locality involved.

[6] Zoning and Planning ⚡539

414k539 Most Cited Cases

(Formerly 104k211/2)

[6] Zoning and Planning ⚡646

414k646 Most Cited Cases

(Formerly 104k211/2)

In review of order of county board of appeals granting special exception to public utility to permit erection of steam electric generating plant and related facilities in residential zone, there was substantial evidence to justify granting of special exception without resort being had to any principle of preferential treatment for public utility.

[7] Zoning and Planning ⚡709

414k709 Most Cited Cases

Copr. © 2004 West. No Claim to Orig. U.S. Govt. Works.

CASE NAME 3937 NEW SECTION RD
CASE NUMBER 05-031-A

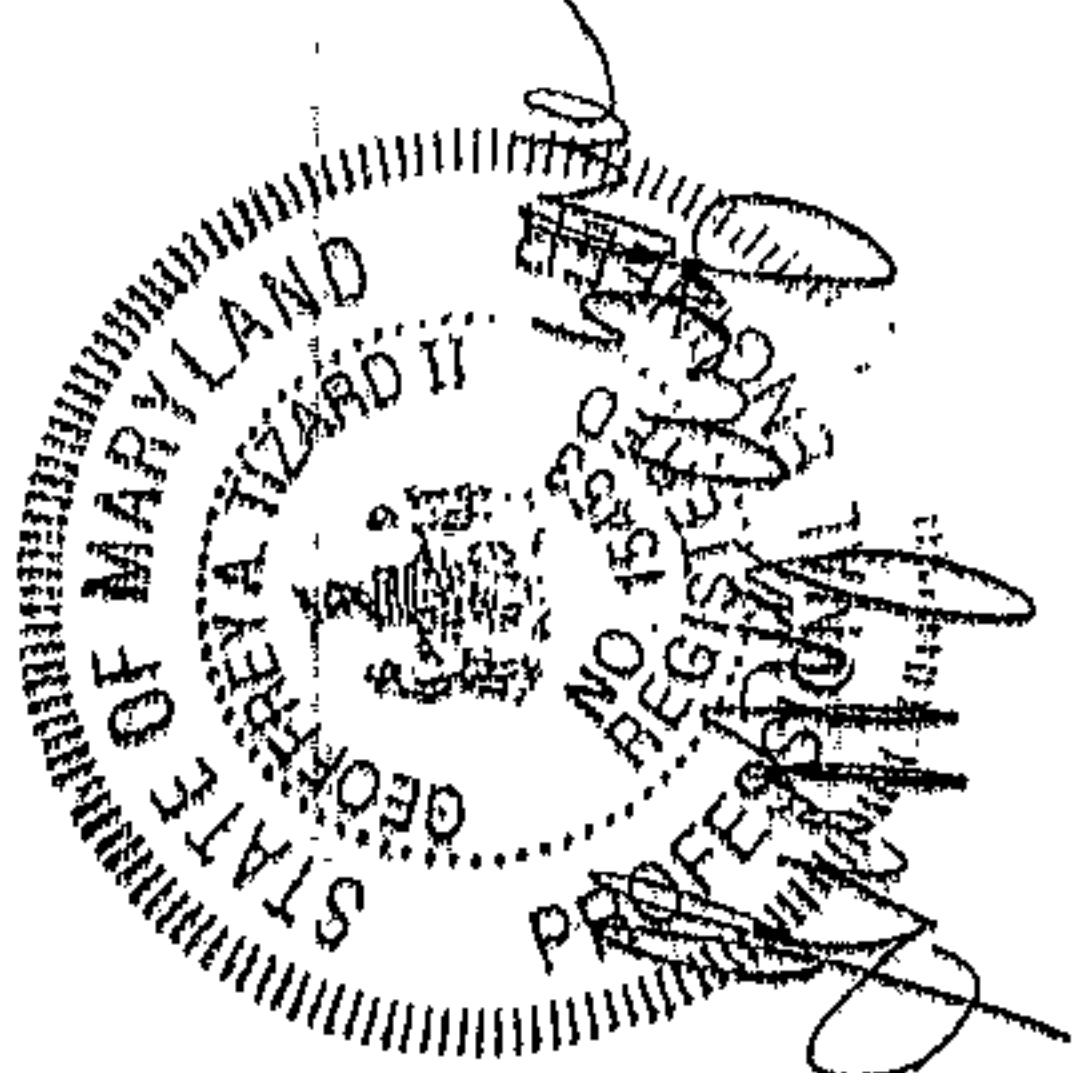
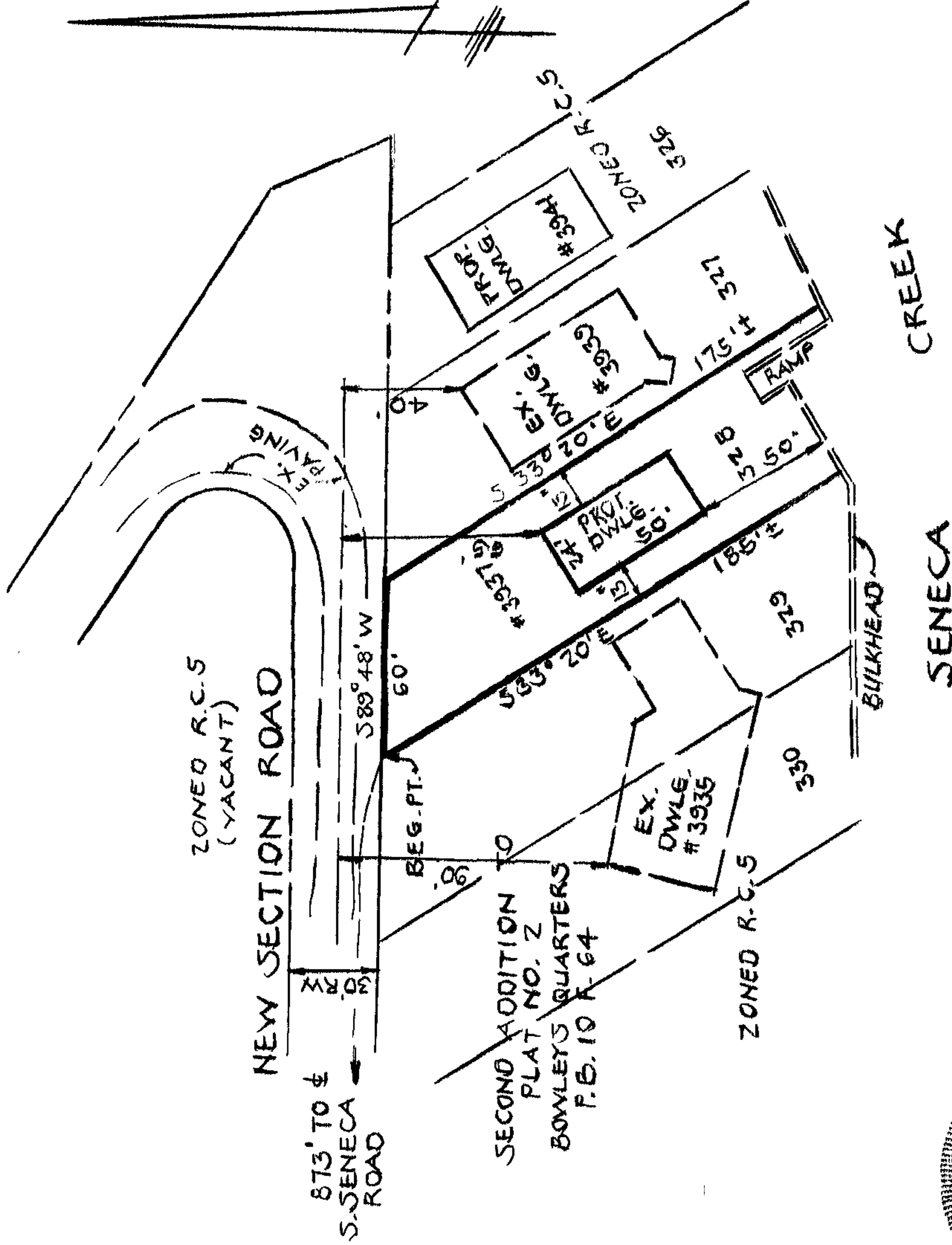
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NAME _____

CITY, STATE, ZIP

E-MAIL

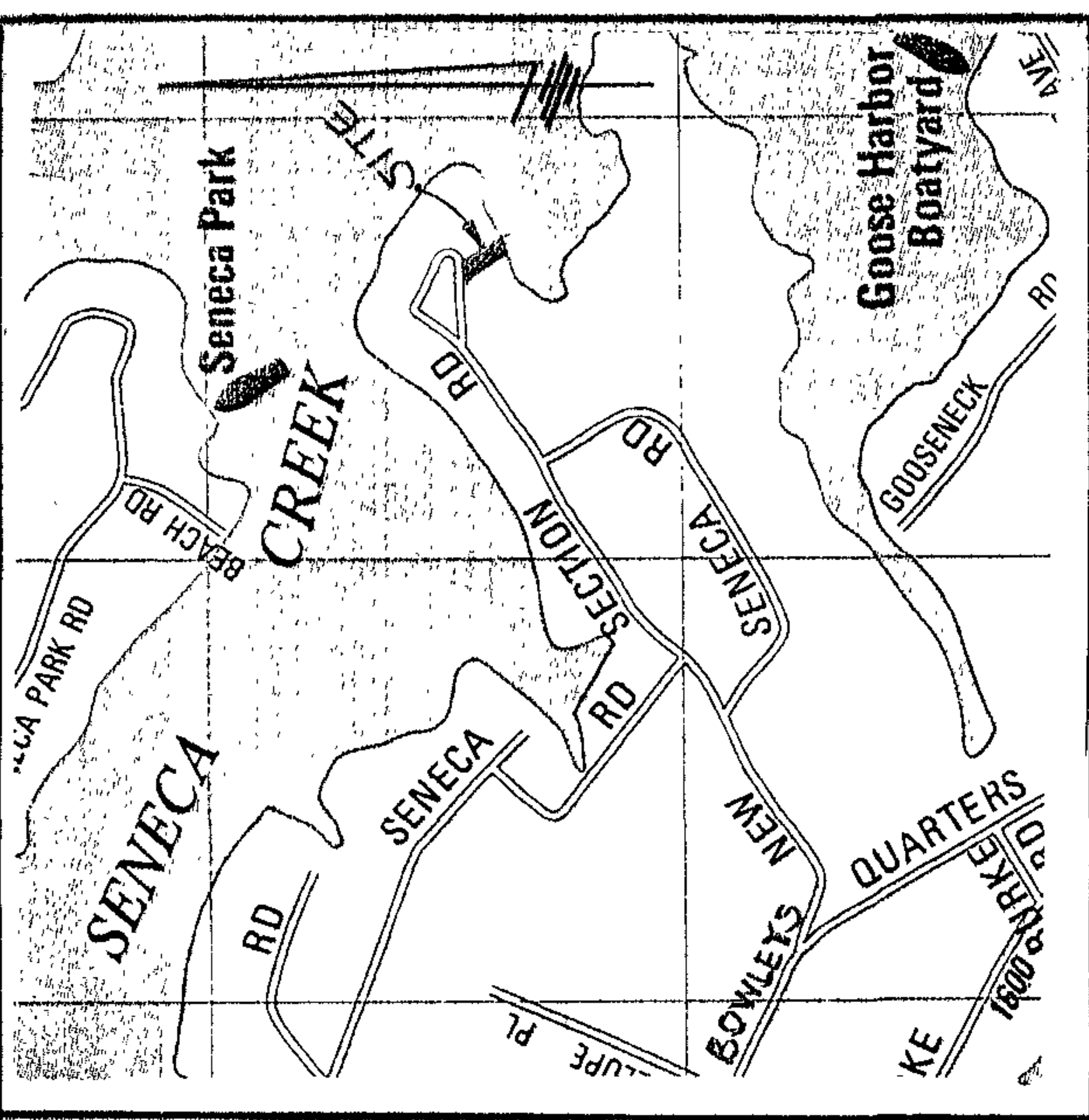
D BILLINGSLEY	606 CHERRYWOOD CT.	EDGEWOOD, MD 21046	
Jim Hoek	10039 CHANE LANE	BALTO. MD. 21220	
Joanne T. Hoek	10039 Crane Lane	BALTO. MD 21220	



CENTRAL DRAFTING & DESIGN, INC.
 601 CHARWOOD COURT
 EDGEWOOD, MD 21040
 (410) 679-8719

OWNER

JAMES N. HOCK, JR.
 JOANNE T. HOCK
 10039 CRANE LANE
 MIDDLE RIVER, MD 21220
 DEED REF. L.13729 F.243
 ACCT. NO. 1518473320



VICINITY MAP
 SCALE: 1" = 1000'

NOTES:

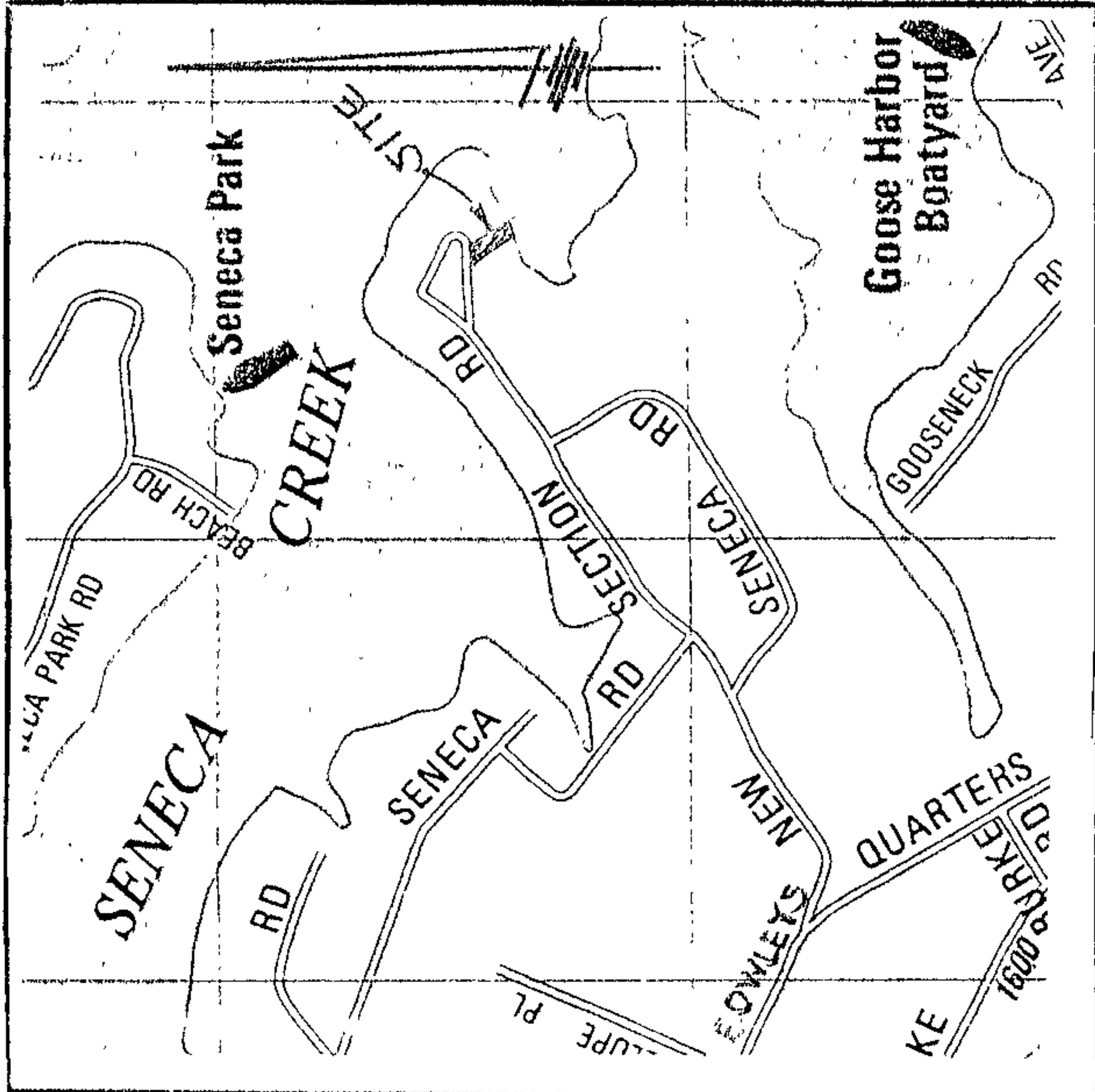
1. ZONING.....R.C.5 (NE 2-L)
2. AREA = 9,000 S.F. = 0.207 AC. +/-
3. SITE IS LOCATED IN THE CBCA, 100 YEAR FLOOD PLAIN AND FLOOD ZONE A.
4. PUBLIC WATER EXISTS. PUBLIC SEWER IS PROPOSED.
5. NO HISTORIC BUILDINGS OR ZONING HISTORY

VARIANCE REQUEST

SECTION 1A04.3.B.2 TO ALLOW SIDE YARDS OF 13 FEET IN LIEU OF THE REQUIRED 50 FEET AND A SETBACK OF 65 FEET FROM A STREET CENTERLINE IN LIEU OF THE REQUIRED 75 FEET

**PLAT TO ACCOMPANY PETITION
 FOR VARIANCE**

**3937 NEW SECTION ROAD
 ELECTION DISTRICT 15,C-5
 BALTIMORE COUNTY, MARYLAND
 SCALE: 1 INCH = 50 FEET JUNE 24, 2004**



VICINITY MAP
SCALE: 1" = 1000'

NOTES:

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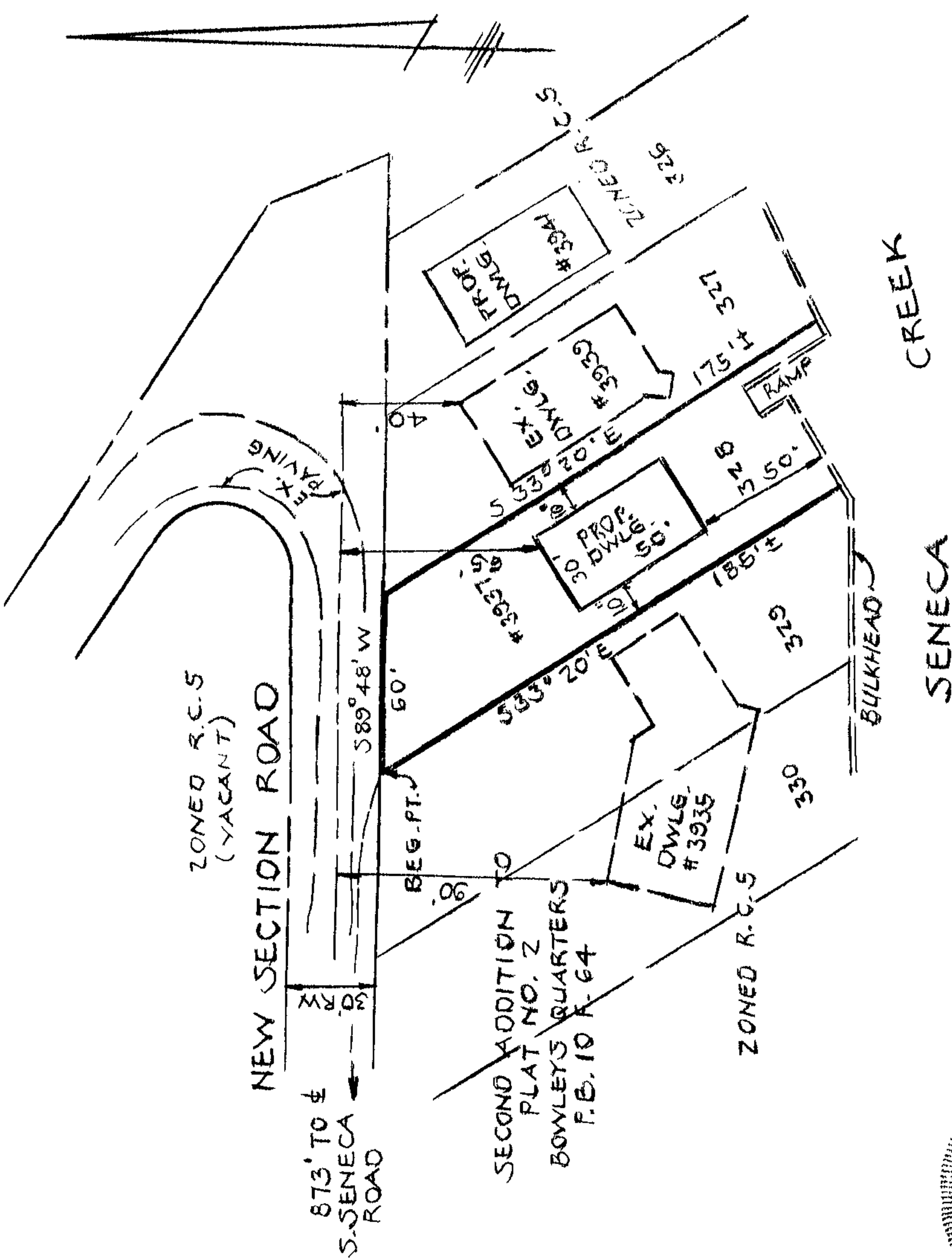
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REVISED

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FOR VARIANCE

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ELECTION DISTRICT 15,C-5
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 50 FEET JUNE 24, 2004



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