IN RE: PETITION FOR ADMIN. VARIANCE SW/S of Helena Avenue, 255 ft. SE of Eastern Avenue 15th Election District 7th Councilmanic District **(4 Helena Avenue)** William N. Bafitis *Petitioner*	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 05-072-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, William N. Bafitis. The administrative variance is requested for property located at 4 Helena Avenue in the eastern area of Baltimore County. The administrative variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to have a height of 26 ft. in lieu of the maximum permitted 15 ft. that is required for a garage and a proposed garage attic. The subject property and requested relief are more particularly described on Petitioner's 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 August 21, 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: A ZAC comment was received from the Office of Planning dated August 30, 2004, a copy of which is attached hereto and made a part hereof.

Applicable Law

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

ORDER RECEIVED FOR FILING
Date 9/14/04
By Rez

"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 posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, I find that the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, this 14th day of September, 2004, by this Zoning Commissioner, that the Petitioner's request for variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to have a height of 26 ft. in lieu of the maximum permitted 15 ft. that is required for a garage and a proposed garage attic, a copy of which is attached hereto

ORDER RECEIVED FOR FILING
Date 9/14/04
By

and made a part hereof, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions 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.

2. Compliance with any recommendations, if any, made by the Department of Environmental Protection & Resource Management (DEPRM).

3. Compliance with the ZAC comments submitted by the Office of Planning dated August 30, 2004, a copy of which is attached hereto and made a part hereof.

4. The garage shall be limited to uses accessory to the residential use of the property. It shall not be used to support a business or for commercial purposes. Moreover, the Petitioner shall not allow or cause the garage to be converted to a second dwelling unit and/or apartment. There shall be no living quarters contained therein, and no kitchen or bathroom facilities.

5. When applying for a building permit, the site plan field must reference this case and set forth and address the restrictions of this Order.

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

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

LES:raj

ORDER RECEIVED FOR FILING
Date 9/14/04
By Raj

CBCA

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 4 HELENA AVENUE

which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) SECTION 400.3, (BCZR) TO HAVE A HEIGHT OF 26' IN LIEU OF THE MAXIMUM PERMITTED 15' THAT IS REQUIRED FOR A GARAGE. AND A PROPOSED GARAGE ATTIC.

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:

N/A
Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

N/A
Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

WILLIAM N. BAFITIS
Name - Type or Print

Signature

Name - Type or Print

Signature

1249 ENGLEBERTH ROAD — 410-391-2448
Address — Telephone No.

BALTIMORE — MARYLAND — 21221
City — State — Zip Code

Representative to be Contacted:

BAFITIS & ASSOCIATES, INC., WILLIAM N. BAFITIS,P.E
Name

1249 ENGLEBERTH ROAD — 410-391-2336
Address — Telephone No.

BALTIMORE — MARYLAND — 21221
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.

FAX # 410-391-2448

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 9/14/04
By

CASE NO. 05-072-A

Reviewed By JNP **Date** 8/9/04

Estimated Posting Date 8/22/04

REV 10/25/01

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 4 HELENA AVENUE
Address

BALTIMORE MARYLAND 21221
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):

THE SECOND FLOOR OF THE GARAGE IS INTENDED TO BE USED AS STORAGE AND WORK SHOP. THE WORK SHOP EQUIPMENT NEEDS MORE HEIGHT AND AREA NORMALLY CONSISTED WITH A GARAGE ATTIC. THEREFORE, TO UTILIZE THIS AREA WE NEED THE ADDITIONAL HEIGHT TO THIS STRUCTURE.

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.

Signature

WILLIAM N. BAFITIS
Name - Type or Print

Signature

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6th day of August, 2004, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared William N. Bafitis the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Notary Public Linda Bafitis

My Commission Expires

REV 10/25/01

LINDA BAFITIS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires Oct. 1, 2006

05-072-

Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
No. 4 HELENA AVENUE
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the Southwest side of Helena Avenue, 35 feet wide, and 255 feet ± Southeasterly from the center line intersection of Eastern Avenue; which is 70 feet wide. NB

1) Thence running along Helena Avenue South 28°-45'-00" East 50.00 feet to a point; thence leaving said road the following three courses:
2) Thence South 61°-15'-00" West 125.00 feet to a point;
3) Thence North 28°-45'-00" West 50.00 feet to a point;
4) Thence North 61°-15'-00" East 125.00 feet to a point; on the Southside of Helena Avenue to the place of beginning.

Containing 6,250 Sq. Ft. or 0.143 acres more or less.

Being known as Lot 34 shown on a plat entitled "Section 2, Mount Holly Terrace" recorded among the Land Records of Baltimore County, Maryland, Plat Book 8, Folio 25.

STATE OF MARYLAND
WILLIAM N. BAFITIS
No. 11641
REGISTERED PROFESSIONAL ENGINEER

William N. Bafitis, P.E. Md. Reg.#11641

8/6/04
Date

05-072-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 39397

DATE 8/9/04 ACCOUNT R 001-006-6150

AMOUNT $ 65.00

RECEIVED FROM: Bertis & Associates, Inc

FOR: Alm. Var. - 4 Helena Avenue (05-072-A)

William N. Bertis

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

ITEMS	ACTUAL	TIME	PAID
8/09/2004	8/09/2004	09:39:13	2

REG WGT	MAIL	DEVA INT
>RECEIPT # 356576	8/09/2004	OFLM

Dept 5 528 ZONING VERIFICATION
CO NO. 039397

Recpt Tot 65.00
65.00 CK 0.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 05-072-A

Petitioner/Developer: BAFITIS

Date of Hearing/Closing: 9/6/04

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}

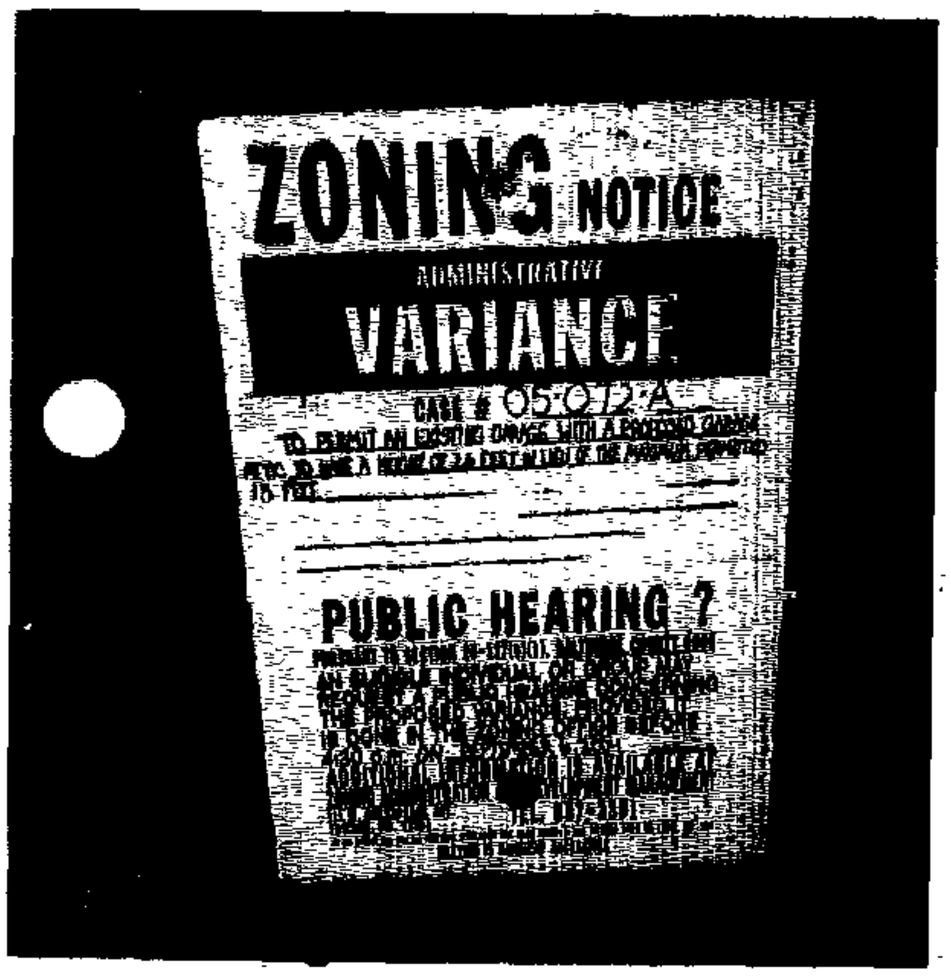
Ladies and Gentlemen:

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:

4 HELENA AVE

The sign(s) were posted on 8/21/04
(Month, Day, Year)

Sincerely,



Robert Black 8/23/04
(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)

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 05-072 -A Address 4 HELENA AVENUE

Contact Person: Jeffrey Perlow Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 8/9/04 **Posting Date:** 8/22/04 **Closing Date:** 9/6/04

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 05-072 -A Address 4 HELENA AVENUE

Petitioner's Name BAFITIS Telephone 410-391-2448

Posting Date: 8/22/04 **Closing Date:** 9/6/04

Wording for Sign: To Permit an existing garage with a proposed garage attic to have a height of 26 feet in lieu of the maximum permitted 15 feet.

WCR - Revised 6/25/04

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: 05-072-A

Petitioner: WILLIAM N. BAFITIS

Address or Location: 4 HELENA AVENUE, BALTIMORE, MARYLAND 21221

PLEASE FORWARD ADVERTISING BILL TO:

Name: WILLIAM N. BAFITIS

Address: 1249 ENGLEBERTH ROAD

BALTIMORE, MARYLAND 21221

Telephone Number: 410-391-2448

Revised 2/20/98 - SCJ

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

September 7, 2004

William N. Baftis
1249 Engleberth Road
Baltimore, Maryland 21221

Dear Mr. Baftis:

RE: Case Number:05-072-A, 4 Helena Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 9, 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,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

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

August 24, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: August 16, 2004

Item No.: 061-069, 071, 072, 074, 076-080

Pursuant to your request, the referenced plan(s) have been reviewed 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*

SHA State Highway Administration
Driven to Excel
Maryland Department of Transportation

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

Date: 8.13.04

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

RE: Baltimore County
Item No. 072 JHP

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,

S. D. Foster

Steven D. Foster, Acting Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: September 3, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of August 16, 2004

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

05-061
04-062
04-063
04-065
04-067
04-068
04-069
04-071
04-072
04-077
04-079
04-080
04-081

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 30, 2004

RECEIVED
SEP - 3 2004
ZONING COMMISSIONER

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

SUBJECT: Zoning Advisory Petitions – Administrative Variances

Case #: **5-072**

The Office of Planning does not oppose the petitioner's request to permit an accessory structure with a height of 26 feet in lieu of the maximum permitted 15 feet provided the following conditions are met:

1. Submit elevations of the proposed structure to this office for review and approval. The structure should be compatible with the existing principal structure.
2. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.

For further information concerning the matters stated herein, please contact Mark Cunningham at 410-887-3480.

Prepared by: Mark A Cunningham

Section Chief: Diane Mitchell for Jeff Mayhew

AFK/LL: MAC

ORDER RECEIVED FOR FILING
Date 9/14/04
By Pat

\\NCH_NW\VOL3\WORKGRPS\DEVREV\ZAC\Accessory Structures- Height doc doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: September 1, 2004

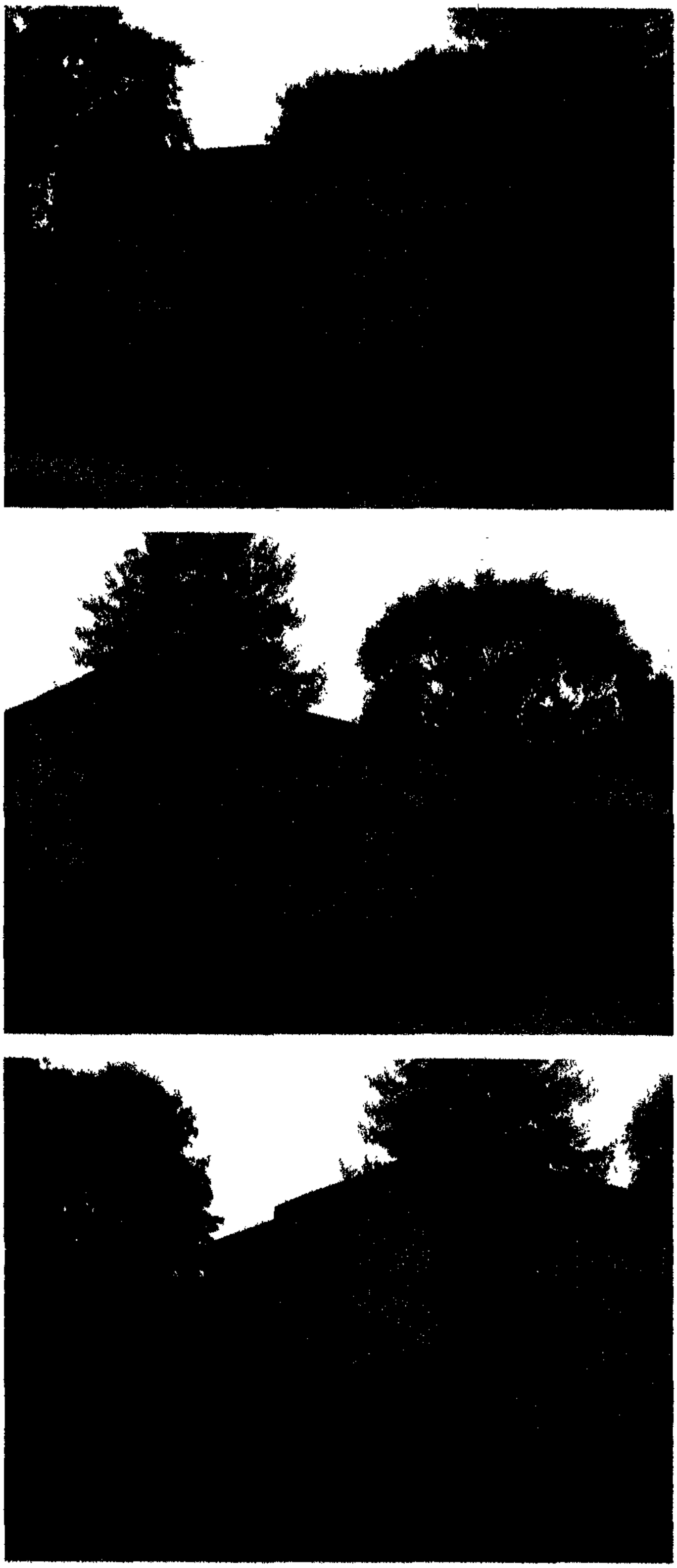
FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For August 23, 2004
Item Nos. 061, 062, 063, 064, 065,
066, 067, 068, 069, 070, 072, 074, 075,
076, 077, 079, 080, and 081

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

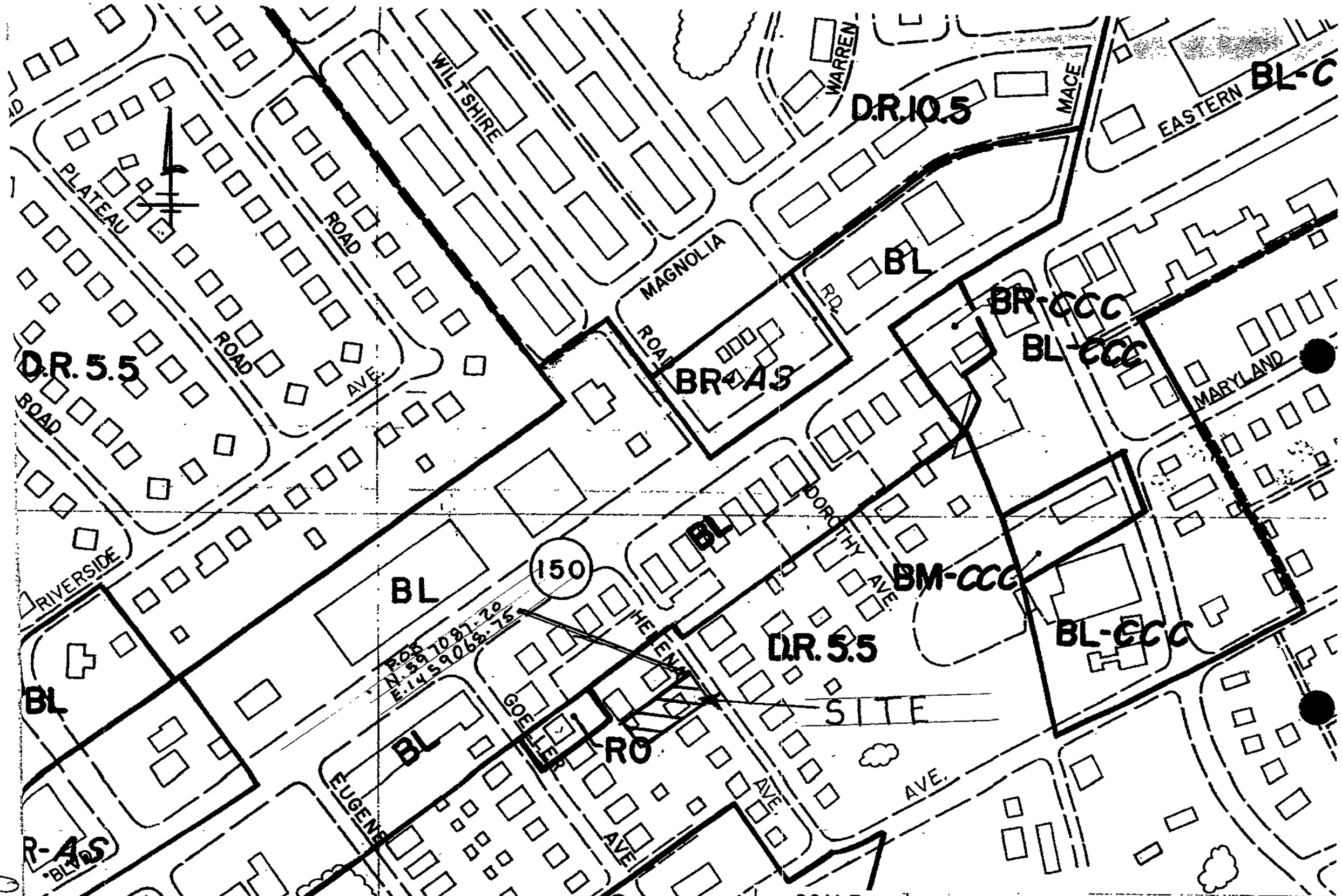
RWB:CEN:jrb

cc: File



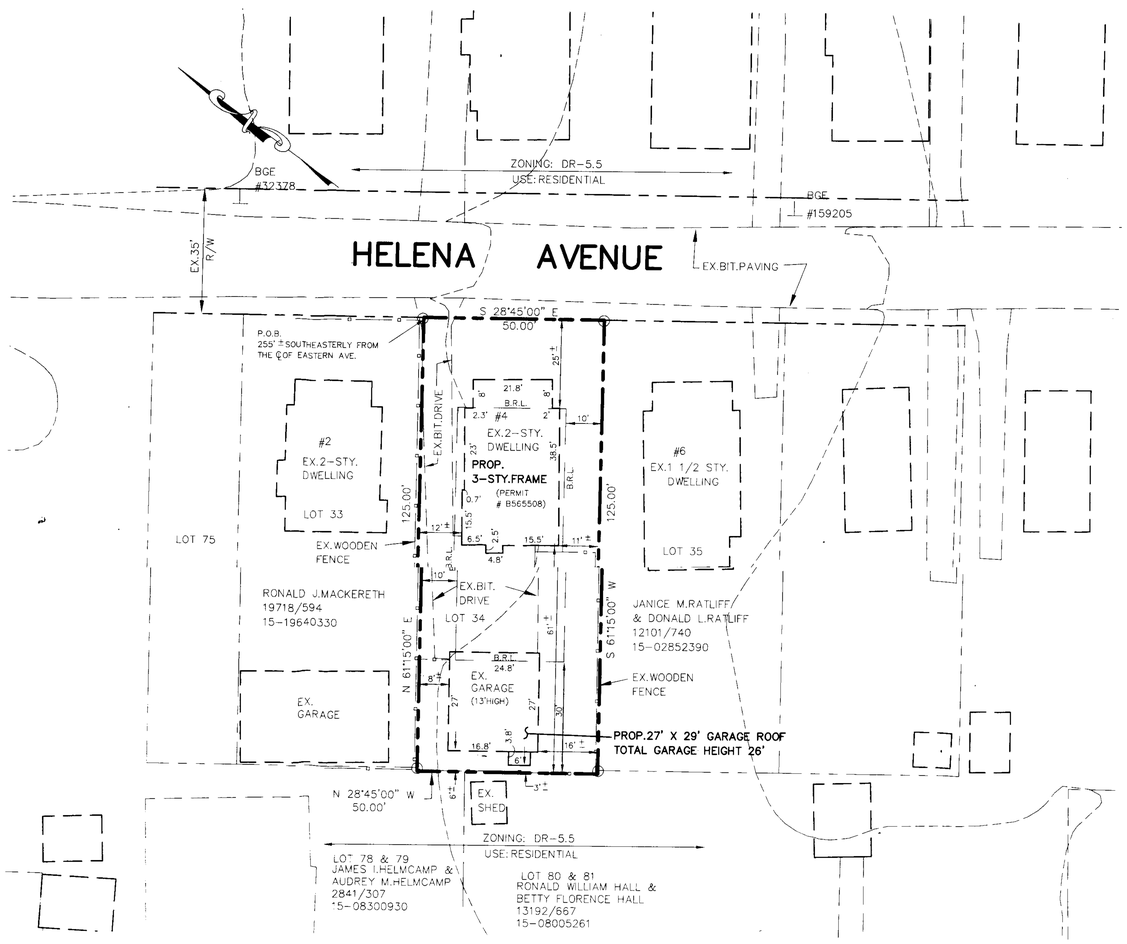
In Back of Yard Looking at garage.

05-072-A



SCALE	LOCATION	SHEET
1" = 200'±	ESSEX	N.E. I-G
DATE OF PHOTOGRAPHY	#4 HELENA AVENUE	

05-0742-A



NOTES

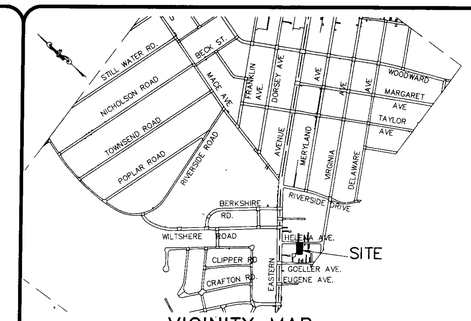
1. PUBLIC WATER AND SANITARY SEWER SERVICES THIS SITE.
2. THERE ARE NO STREAMS,STORM WATER MANAGEMENT SYSTEMS DRAINAGE,PIPE SYSTEMS AND 100 YR. FLOODPLAIN ON OR WITHIN 50'OF THIS SITE.

ZONING HISTORY

THERE ARE NO ZONING CASES FOR THIS SITE.

ZONING REQUEST

1) SECTION 400.3,(BCZR) TO HAVE A HEIGHT OF 26' IN LIEU OF THE PERMITTED 15' THAT IS REQUIRED FOR A GARAGE.



VICINITY MAP
(SCALE: 1" = 1000')

SITE DATA

1) OWNER: WILLIAM N. BAFITIS
#1249 ENGLEBERTH ROAD
BALTIMORE COUNTY,MARYLAND 21221
2) DEED REF: (OLD DEED) 17430/092
3) TAX ACC. NO.: 15-06100900
4) TAX MAP: 97 PARCEL: 436 LOT: 34
5) PLAT REF: MOUNT HOLLY TERRACE BOOK 8 FOLIO 25
6) PLAT RECORDED: OCT.15,1925
7) ELECTION DISTRICT: 15TH
8) CONCILMANIC DISTRICT: 7TH
9) REGIONAL PLANNING DISTRICT: 330
10) CENSUS TRACT: 4524
11) ZONING: DR-5.5
12) ZONING MAP: MAP NE-1G
13) USE: EXISTING: RESIDENTIAL,SINGLE FAMILY
14) SITE AREA: 6,250 S.F. OR 0.143 AC.

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE FOR # 4 HELENA AVENUE

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND
WILLIAM N. BAFITIS
No. 11641
REGISTERED PROFESSIONAL ENGINEER

WILLIAM N. BAFITIS, P.E.

1

SHEET 1 OF 1

SCALE: 1" = 20'

JOB ORDER NO: 20438

DATE: 08/06/04

NO.	REVISIONS	DATE

C:\SDSK\HELENA.dwg Fri Aug 06, 15 5/4 30 2004

Pet Ex #1