

IN RE: PETITION FOR ADMIN. VARIANCE

NW/Corner of Church Lane
and Saddle Back Lane
2nd Election District
4th Councilmanic District
(300 Church Lane)

Robert F. Bowersox, Jr. (Deceased)
& Helaine A. Bowersox, *Legal Owners*
and
Chad W. Hipsley, *Contract Purchaser*
Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

OF BALTIMORE COUNTY

*

CASE NO. 05-127-SPHA

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Variance filed by the legal owner of the subject property, Helaine A. Bowersox and Chad W. Hipsley, contract purchaser. The special hearing and variance requests are for property located at 300 Church Lane in the northwest area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for the approval of the reconstruction of a farm building (pole barn) to continue to house farm equipment sufficient to maintain the subject property (1 acre) and contiguous 3 acres. In addition, a variance is requested to permit a detached accessory structure up to 21 ft. high in lieu of the required 15 ft. height and be larger than the principal structure. 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 property was posted with Notice of Hearing on October 5, 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 October 7, 2004 to notify any interested persons of the scheduled hearing date.

RECEIVED FROM PLANNING
10/29/04
Ray

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 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 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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 October 6, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Karen Davis, POA for Helaine Bowersox and Chad Hipsley, Petitioners. Also attending the hearing on behalf of the Petitioners was George Mojzisek, the architect who prepared the site plan for the property.

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Date 10/29/04
By [Signature]

Terrence McCusker appeared at the hearing as an interested citizen in support of the Petition. 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 consists of 43,509 sq. ft., zoned D.R. 3.5. Mr. Mojzisek proffered that the lot is improved by an existing home, a garage and a pole barn, which is the subject of the Petition. He indicated that an old pole barn was located where the present structure stands but collapsed last year due to snow load. The Petitioners then razed the old barn and replaced it with a new barn of the same height and size on the same footprint as the old one. Mr. Hipsley indicated that he was not aware that he needed a permit to replace the old barn and, as it turned out, the pole barn was 21 ft. high and larger than the principal building (the home) was. County regulations require that such accessory structures be a maximum of 15 ft. high and smaller than the principal structure. Thus the request for variance.

In addition, the Petitioners requested a special hearing to confirm the reconstruction of the barn that was large enough to house farm equipment. This was done so that the Petitioners are able to maintain the subject 1-acre site and the adjoining 3-acre parcel, which are both owned by the same person. The Petitioners testified that the barn is used to store tractors and cutters used on both properties, as well as hay and riding equipment to maintain two horses owned by the Petitioner on the 3-acre parcel. Mr. Hipsley indicated that there was no room in the garage or house to store this material.

He also noted that the property slopes toward the rear (away from Church Lane) and that the home on the property is a two-story dwelling so that the greater height of the barn is not noticed. He also indicated that he did not intend in anyway to convert the barn into a dwelling or use it commercially as noted by the Office of Planning comments. After later consultation with Plans Review, the Petitioner added a note to Exhibit No. 1, the Plan to Accompany, which

delineates the right-of-way width of Church Lane as 40 ft. as was requested by Plans Review. Finally, Mr. Hipsley indicated that he would plant 20 large trees around the barn where no trees now exist, to soften the impact of the barn on the neighborhood.

Mr. McCusker who lives next door in the home designated "nearest dwelling" on Petitioner's Exhibit No. 1, testified in support of the Petition. He recounted the same history of the old barn's demise and its replacement by the new barn.

Findings of Fact and Conclusions of Law

In regard to the special hearing, I find the request to approve the reconstruction of the barn most reasonable under the circumstances and that it will not in any way be a detriment to the health, safety, or welfare of the community. The new barn houses equipment and feed material that supports the agricultural uses on this property and the adjacent property with the two horses.

I further find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This new barn simply replaces the one that collapsed. I also find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Petitioner has no other suitable place to store the equipment and feed material for the animals on this and the adjacent property. Finally, I find that these variances 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. In fact, the old barn was obviously a safety hazard now removed and replaced by the new barn.

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

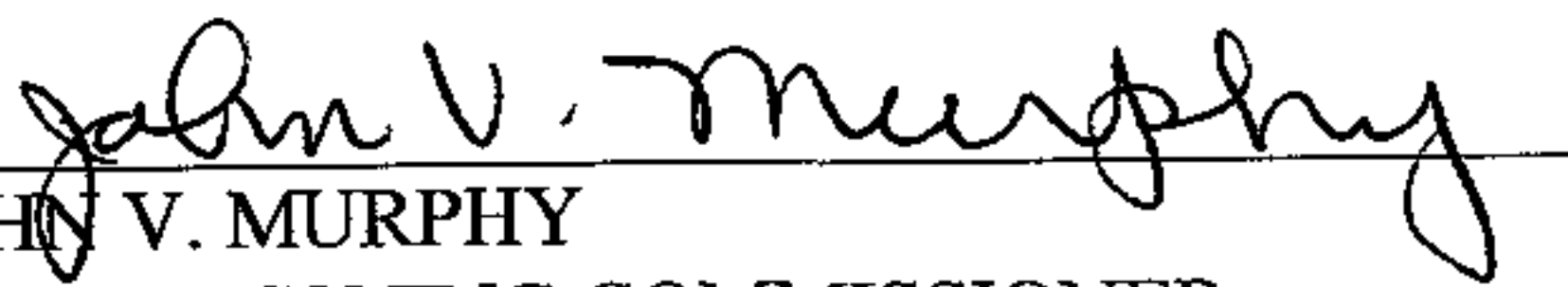
ORDER RECEIVED FOR FILING
Date 10/29/04
By Ray

THEREFORE, IT IS ORDERED, this 29 day of October, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for special hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for the approval of the reconstruction of a farm building (pole barn) to continue to house farm equipment sufficient to maintain the subject property (1 acre) and contiguous 3 acres, 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 her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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 the ZAC comments made by the Office of Planning dated October 6, 2004, a copy of which is attached hereto and made a part hereof.
3. The Petitioner shall plant at least twenty 20 large trees around the barn as the Petitioner proposed.
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.

IT IS FURTHER ORDERED, that the Petitioner's request for variance, to permit a detached accessory structure up to 21 ft. high that would also be larger than the principal building, in lieu of 15 ft. height and smaller than the principal structure required by the regulations, be and is hereby GRANTED.

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 10/29/04
By Raj

IN THE MATTER OF
THE APPLICATION OF
BONNER-JOPPA, LLC – PETITIONER
FOR SPECIAL HEARING ON PROPERTY LOCATED
ON THE SW/CORNER OF “C” STREET AND
AVONDALE ROAD (3015 E JOPPA ROAD)

11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 04-127-SPH

* * * * *

OPINION

This case comes to the County Board of Appeals as an appeal filed by the Office of People’s Counsel from a decision of the Deputy Zoning Commissioner’s decision issued on December 3, 2003, granting the special hearing request to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site for the purpose of providing emergency towing services under contract from Baltimore County from the subject property at 3015 East Joppa Road.

The Petitioner, Mr. Timothy Bonner, of Bonner-Joppa, LLC, was represented by F. Vernon Boozer, Esquire. Peter M. Zimmerman, People’s Counsel for Baltimore County, appeared on behalf of that office. The Board conducted a public hearing on September 22, 2004, and a public deliberation on November 4, 2004.

In his opening statement, Mr. Zimmerman described the zoning history of the subject site, which dates back to 1975. The lot is zoned for commercial use (B.L.-A.S.) but is surrounded by a residential neighborhood (D.R. 5.5). The most recent zoning decision is dated September 28, 2001. Mr. Zimmerman noted that a compromise agreement was reached at that time with the neighborhood which set 10 restrictions on the granting of the special exception. The instant case (Case No. 04-127-SPH) involves Restriction No. 9, which prohibited tow trucks from operating on the property.

The main issue in this case, according to Mr. Zimmerman, was whether an agreement that

was reached only a few years ago could be changed unless the situation had changed dramatically. He argued that residents needed to have confidence when entering into an agreement to a special exception that it is going to hold; otherwise, they will be disinclined to enter into such agreements.

Mr. Zimmerman also argued that the Deputy Zoning Commissioner should not have based his decision on the “emergency need” by the County for an additional tow truck operator, but on the special exception requirements set for in § 502.1 of the *Baltimore County Zoning Regulations* (BCZR).

In his opening statement, Mr. Boozer submitted Petitioner’s Exhibit 1, a copy of the decision in Case No. 02-066-SPHA dated September 28, 2001, which granted the Petitioner’s request to amend a previously approved special exception granted in Case No. 95-423-SPH (decision dated August 2, 1995), and a request for variance, subject to ten restrictions.

Testimony

The first witness called by the Petitioner was Mike Walkley, a Civil Engineer who prepared the site plan for the tow truck operation at the subject location. He testified that the tow truck would be stored on the west side of the building (known as Tim’s Auto), and that a fence would screen the truck. The truck would also be screened from Avondale Avenue by the building itself. Two parking spaces would be eliminated as a result. Petitioner’s Exhibit 2 was accepted into evidence showing a plan of the site.

Testimony was then given by Officer Ruark, of Baltimore County Traffic Management. Mr. Ruark had prepared a report for permitting a tow truck operation at 3015 Joppa Road, which was submitted as Petitioner’s Exhibit 3. Officer Ruark testified that the report recommended that

another towing operation was needed in the Harford Road corridor. However, Officer Ruark noted that the Police Department took a position of “neutrality” on whether Bonner-Joppa should be granted a towing license, stating that the report did not reach a conclusion as to whether this particular site filled the Department’s needs.

Mr. Timothy Bonner next testified regarding the subject property. He bought the property in September 2001, at which time it was an “old rundown garage” with two service bays. Because the building was dilapidated, he tore it down and went through the zoning process to rebuild. Petitioner’s Exhibits 4A-H were introduced to show the new building, the location of parked cars, the fence, and where the tow truck operation would be run.

Mr. Bonner was asked why he now wanted tow trucks on the site, when the original special exception included a condition prohibiting them. Mr. Bonner replied that he had originally intended to run the tow trucks from his first location in Baltimore City, but as his business on Joppa Road has grown, he needs the tow trucks to further expand. He further testified that he wanted the Police Department towing license and needed to be able to operate tow trucks from the subject site. Mr. Bonner stated that the agreement entered into 2 years ago is now limiting his business.

Mr. Bonner further testified that he owns a house in the nearby residential neighborhood on 6th Avenue, which he owns with his brother.

Upon cross-examination, Mr. Bonner admitted that he currently has a tow truck operation in Perry Hall. Mr. Zimmerman offered People’s Counsel Exhibits 2A-P, which Mr. Bonner identified. Exhibits 2A-C are photos showing Tim’s Auto on the subject site. Exhibit 2D shows vans from Tim’s Auto parked on Avondale Avenue, around the corner from the shop. Exhibit

2H and 2I show vehicles on C Street. Exhibit 2K shows a van on Avondale. Exhibit 2L show's Mr. Bonner's house and garage on Avondale.

When asked by Mr. Zimmerman how often the tow trucks would operate, Mr. Bonner testified that it would be a 24-hour operation, because towing could occur at all hours whenever a customer breaks down. Mr. Zimmerman pointed out that this would be contrary to Condition 7 of the original request for variance, which limits hours of operation to from 7 a.m. to 6 p.m. Monday through Friday and 8 a.m. to 3 p.m. on Saturdays. Mr. Bonner stated that he understood this restriction to mean those were the hours he could be open for business, but that this did not preclude him from towing a vehicle to his business.

Upon questioning by Panel Chairman Don Mohler, Mr. Bonner admitted that the towing operation would enable him to serve more customers, not just the Police Department.

Mr. Zimmerman introduced People's Counsel Exhibit 3, an aerial photo of the site and surrounding neighborhood, and People's Counsel Exhibit 4, a zoning map of the area, with the location of the site marked in yellow. People's Counsel Exhibit 5 is a copy of the decision granting a special exception to operate a service garage granted on June 4, 1975 to the original owner of the site (Case No. 75-262-X), and People's Counsel Exhibit 6 is a copy of the decision granting a Special Hearing in August 1995 to amend the 1975 Special Exception to remove Condition 2 (Case No. 95-423-SPH). Finally, Mr. Zimmerman introduced People's Counsel Exhibit 7, a letter from the Carney Improvement Association to Mr. Timothy Kotroco, the Deputy Zoning Commissioner for Baltimore County, dated September 21, 2001, in which the community association expressed support for Mr. Bonner's Petition for a Special Hearing on condition that certain restrictions be placed on the business.

The first witness called by People's Counsel, Marilyn Ryan, of 3414 Sixth Avenue in Carney, testified regarding her concern for the proposed towing operation. Her concern centered on the continued expansion of the business. She stated she was concerned that tow trucks would be running all night. She also testified that she was concerned about what would be done with cars towed to the site from accidents, since Tim's Towing was not allowed to do body work - one of the original conditions. She further testified that vehicles from the auto shop have been parked illegally on nearby vacant property and at the house that Bonner owns on 6th Avenue.

The second witness called by Mr. Zimmerman was Ruth Baisden, representing the Greater Parkville Council (People's Counsel Exhibit 10). She testified that, while the neighborhood wanted to see the property improved, it was initially concerned about the size and scope of the business, which was why the restrictions were originally placed on it in 2001. Ms. Baisden pointed out that the nearby area is all residential, and the community must constantly police Bonner's actions to enforce the current restrictions.

Other witnesses testified to seeing the commercial vans that Bonner's shop repairs parked on Avondale, where they are not allowed, and at Bonner's house on 6th Avenue (People's Counsel Exhibits 13A-E).

In his closing argument, Mr. Boozer pointed out that Mr. Bonner had eight tow trucks at his Perry Hall location and only wanted one at this location, and that he wanted the one at the subject location for his convenience and his customers. He argued that Mr. Bonner had complied with the original restrictions during the last two years, but because his business had grown, he now needs the restrictions amended to allow a tow truck on the site.

In his closing, Mr. Zimmerman argued that, although the Bonner property is zoned B.L.-

A.S., the surrounding area is residential zoning, D.R. 5.5. In order for his special exception request to be granted, Mr. Bonner had to meet the conditions placed on it to accommodate the residential neighborhood's concerns. Since the decision in 2001, Mr. Zimmerman argued, there had been no "substantial change in conditions" as to the facts or the law, as required by *Whittle v. Board of Zoning Appeals*, 211 Md. 36 (1956), for the Board to now modify the conditions placed on the subject property. Mr. Zimmerman pointed out that the only change has been that Bonner's business has grown, but that the original intent of the 2001 restrictions was to moderate the business. Mr. Zimmerman further argued that the special exception requirements of BCZR 502.1 require that the impact on the neighborhood be considered.

Mr. Boozer then argued that this was not a 502.1 case, because the special exception for a service garage had been made in 1975. The request now was for an amendment to the conditions made in 2001.

Decision

The history of this case dates back to 1952, when the special exception for a two-bay service station was first granted (Case No. 22435A). In 1975, a second Petition for Special Exception was filed. In his opinion in that case (Case No. 75-262-X), the Deputy Zoning Commissioner for Baltimore County, James Dyer, noted that "[t]estimony by several area residents established that the subject property has, in the past, been a blight on the neighborhood due to maintenance, junk, etc." (Peoples Counsel Exhibit 5, p. 1). Because the residents thought the new owner "was providing a service to the community," the Deputy Zoning Commissioner found that the use met the requisites of § 502.1 and granted the special exception with certain restrictions. Among the four restrictions were Restriction 2, which prohibited body or fender

work; and Restriction 3, which required that overnight storage of vehicles take place only behind a stockade fence.

Twenty years later, in 1995, the same owner, Antoni Horodowicz, petitioned for special hearing to amend the 1975 special exception to remove Restriction 2 and allow body and fender work to be performed on the site (Case No. 95-423-SPH). Area resident testimony again cited problems with the maintenance of the property. Although one witness for the neighborhood did not oppose the removal of the restriction, he did request that the “property be cleaned up and kept that way.” (Peoples Counsel Exhibit 6, p. 2). The Deputy Zoning Commissioner, Timothy Kotroco, granted the amendment, but again set four restrictions. Among those restrictions were Number 2, which requires that all wrecked or damaged vehicles be stored within the fenced/screened area on site; and Number 3, which required improvement and maintenance of the property, in accordance with the dictates of the Office of Planning and Zoning.

We then come to the first Petition for Special Hearing and Variance of September 2001 (Case No. 02-066-SPHA), requested by the current owner of the subject property, Bonner Joppa LLC/Tim’s Automotive, in conjunction with the original owner Antoni Horodowicz (Petitioner’s Exhibit 1). This petition requested permission to allow the construction of a new building on the subject property and grant a variance from § 409.8.4 of the BCZR to allow existing parking spaces to continue with a 0-foot setback from the street right-of-way in lieu of the required 10 feet. In his opinion in this case, Mr. Timothy Kotroco states, “In order to proceed with the redevelopment of this property, the special hearing request, as well as the variance request, are necessary.” (Petitioner’s Exhibit 1, p. 2) In granting the request, Mr. Kotroco goes on to state, “I believe it is necessary to place appropriate conditions and restrictions upon this Petitioner, in

order to protect the interests of the surrounding residential community.” (Petitioner’s Exhibit 1, p. 3)

A total of ten restrictions were placed upon the business as a condition for granting the special hearing and variance request. Among these restrictions are Number 5, which specifies that damaged vehicles should be stored on Petitioner’s property and that automobiles waiting for repair should be in designated spaces on the property; Number 7, which limits the hours of operation; and Number 9, which prohibits a towing operation and the storing of a tow truck, but does allow tow trucks to bring automobiles to the site for repair.

The petition before us now seeks to amend the Special Hearing and Variance of September 2001 by removing Restriction Number 9 and allowing a single tow truck to operate from the site.

The neighborhood thus has a 50-year history with the operation of a service station/garage on this site, and most of that history appears to have been negative from the neighborhood’s viewpoint.

Counsel for Petitioner argues that, because Mr. Bonner’s business has increased since 2001, conditions have changed as to allow the amendment of the restrictions placed upon the site.

People’s Counsel argues that the standard of *res judicata* applies. Mr. Zimmerman cites *Whittle v. Board of Zoning Appeals*, which states:

The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it *may properly grant such a permit only if there has been a substantial change in conditions* [emphasis added]. . . .

This rule seems to rest not strictly on the doctrine of res judicata, but upon the proposition that it would be arbitrary for the board to arrive at opposite conclusions on substantially the same state of facts and the same law.It is our view that where *the facts are subject to changes which might reasonably lead to an opposite result* from that arrived at in an earlier case, and if there have been *substantial changes in fact and circumstances between the first case and the second*, the doctrine of res judicata would not prevent the granting of the special permit sought by the appellees [emphasis added].

The Board finds that the Petitioner has not shown substantial change in fact and circumstances that would lead to approval of removing the restriction on a towing operation. The restrictions were originally placed on the service garage with the express purpose of protecting the neighborhood, which has suffered for at least 30, and possibly 50, years from poorly maintained service garages on this site. The argument that the business has grown and therefore needs to operate a tow truck from the premises, if anything, supports the community concerns that led to the initial restrictions. As Mr. Zimmerman pointed out in his closing arguments, the restrictions were intended to moderate the business, so it would not have a harmful impact on the surrounding residential community. In this respect, the changing circumstances of Mr. Bonner's business do not lead to an opposite result, but to the same result: the restrictions remain necessary to protect the surrounding community.

Testimony by Mr. Bonner and witnesses for People's Counsel seems to support the argument by the People's Counsel that removing Restriction 9 would, in effect, also remove Restriction 7 (regulating the hours of business), because the towing operation would potentially operate 24 hours.

In granting the special exception in 1975, and in amending and modifying that special exception subsequently, the zoning commissioners placed certain restrictions on the property in order to address the requirements of BCZR 502.1. Without these conditions, particularly the ten

placed on the property in 2001, the special exception and subsequent amendments might not have been granted. The relevant portions of BCZR 502.1 state:

Before any special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

- A. Be detrimental to the health, safety, or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets, or alleys therein;
- C. Create a potential hazard from fire, panic, or other dangers.

Based upon the testimony, which indicated that there was already congestion caused by vehicles awaiting repair parked on the public streets -- contrary to Restriction #5 -- and since a towing operation would potentially only increase the vehicles brought to the site, the Board finds that the proposed use would be detrimental to the health, safety or general welfare of the locality and would tend to create congestion in the roads, streets, or alleys therein. The Board voted unanimously against amending the restrictions.

Further, this Board is concerned with the precedent that would be set if an agreement between a community and a business were set aside within only 2 years of being reached. The community acted in good faith in not opposing Mr. Bonner's original petition in 2001 because he agreed to the ten conditions they requested. The community should not have to fight the same battle every 2 years.

Although the Deputy Zoning Commissioner, in his December 2003 decision, cited the Baltimore County Police Department's need for a towing operation in the Harford Road area, that is not one of the criteria for granting a special exception -- and, therefore, in this matter, it is not a criteria for amending the special exception.

Therefore, this Board will deny the special hearing request and will so order.

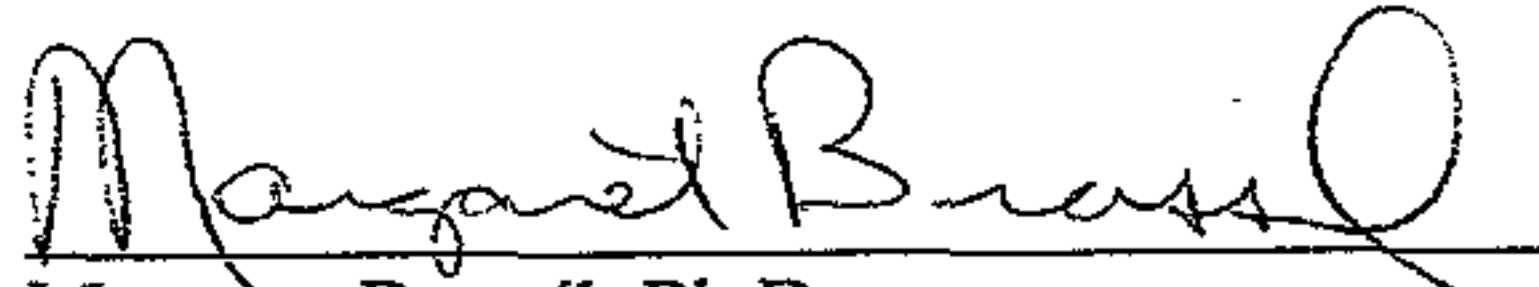
ORDER

THEREFORE, IT IS THIS 27th day of January, 2005 by the
County Board of Appeals of Baltimore County

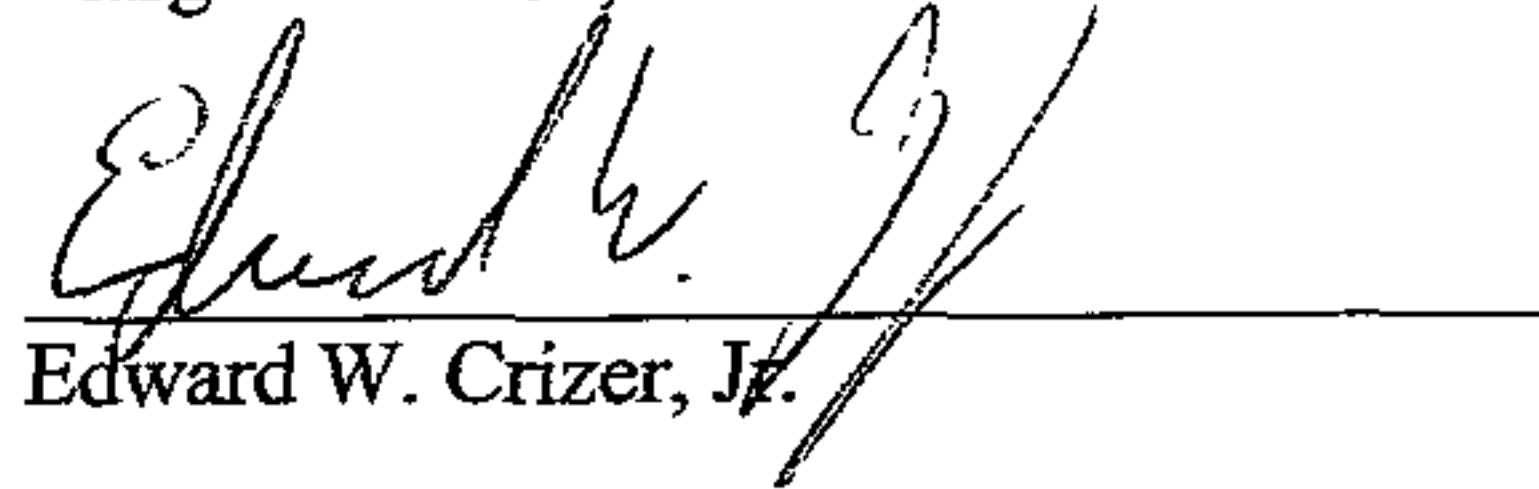
ORDERED that the Petitioner's special hearing request to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site be and the same is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY¹**



Margaret Brassil, Ph.D.



Edward W. Crizer, Jr.

¹ While the third member of this panel, Donald I. Mohler III, publicly deliberated and participated in reaching the above unanimous decision of the Board, Mr. Mohler resigned from the Board prior to signature of this Opinion and Order. Therefore, this written decision has been signed by the two remaining panel members.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

January 27, 2005

Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Bonner-Joppa, LLC* – Legal Owner/
Petitioner / Case No. 04-127-SPH

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator */trs*

Enclosure

c: F. Vernon Boozer, Esquire
Bonner-Joppa, LLC /Tim Bonner
Gene Bonner
Mike Walkley
Dennis Buchanan, Sr.
Ruth Baisden
Alice Baker
Meg O'Hare
Marianne Rush
Thomas Bosley
Marilyn K. Ryan
Pat Keller, Planning Director
William J. Wiseman III, Zoning Commissioner
Timothy M. Kotroco, Director /PDM



Jan 10/26

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 6, 2004

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

RECEIVED

OCT - 8 2004

SUBJECT: 300 Church lane
Case #: 5-127

ZONING COMMISSIONER

The Office of Planning does not oppose the petitioner's request reconstruct a farm building (pole barn) for the purpose of storing farm equipment provided the following conditions are met:

1. 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.
2. 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:



Section Chief:



AFK/LL: MAC

ORDER RECEIVED FOR FILING

Date

10/29/04

By



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
William J. Wiseman III, Zoning Commissioner

October 29, 2004

Mr. George Mojzisek
4005 Pinedale Drive
Baltimore, Maryland 21236

Re: Petitions for Special Hearing & Variance
Case No. 05-127-SPHA
Property: 300 Church Lane

Dear Mr. Mojzisek:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special hearing and variance have 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 that reads "John V. Murphy". The signature is written in a cursive style.

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Helaine A. Bowersox, 300 Church Lane, Baltimore, MD 21208
Chad W. Hipsley, 104 Sherwood Road, Baltimore, MD 21208
Karen Davis, 4808 Baughman Mill Rd., Lineboro, MD 21102
Terrence McCusker, 226 Church Lane, Pikesville, MD 21208

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





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 300 Church Lane
which is presently zoned DR 3.5

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

RECONSTRUCTION OF A
FARM BUILDING (BARN) TO CONTINUE TO HOUSE FARM EQUIPMENT
SUFFICIENT TO MAINTAIN THE SUBJECT PROPERTY (1 ACRE) &
CONTIGUOUS SITES OWNED BY OWNER OF SUBJECT PROPERTY
SEE EXHIBIT "A" ATTACHED

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

I, or we, agree to pay expenses of above Special Hearing, 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:

Mr. Chad W. Hipsley
Name - Type or Print
Signature *Chad Hipsley*
104 Sherwood Avenue 410-365-9327
Address Telephone No.
Baltimore, Maryland 21208
City State Zip Code

Legal Owner(s):

Mr. Robert F. Bowersox Jr. (DECEASED)
Name - Type or Print
Signature
Mrs. Helaine A. Bowersox
Name - Type or Print
Signature *Helaine A. Bowersox*
300 Church Lane
Address Telephone No.
Baltimore, Maryland 21208
City State Zip Code

Attorney For Petitioner:

N / A
Name - Type or Print
Signature
N / A
Company
Address Telephone No.
City State Zip Code

Representative to be Contacted:

Mr. George Mojzisek - Architect
Name
4005 Pinedale Drive 410-256-4968
Address Telephone No.
Baltimore, Maryland 21236
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 05-127-SPA-1

Reviewed By JDA Date 09-07-04

EXHIBIT A

RE: 300 Church Lane

1. The facts in this matter are:

- a) The pole barn is already constructed even though the lessee did not obtain a Building Permit, because of his lack of knowledge in matters such as these.
- b) There was an existing old dilapidated barn on the site (which was an eyesore according to the neighbors) so in the past winter (2003) the heavy snow caused it to fall (cave in). Once that happened, Chad Hipsley (the lessee) razed it completely and removed all debris from it, off the site. This was good news for the neighbors.
- c) He (the lessee) then promptly erected the current pole barn basically where the original one was located, and basically at the same size and height.
- d) The neighbors have no objection to its placement or looks, size or height. (Refer to submitted letters)

11. Owners

The owners are:

- a) Helaine A. Bowersox.
- b) Robert F. Bowersox Jr. who is deceased

111. Reference to Two Zoning Issues

a) Height of pole barn:

Zoning permits: 15'0"

Pole Barn (to ridge): 21'0"

- 1) The size of the pole barn is 42'x48'=2016 square feet. That size is necessary for the lessee to store his farm equipment. With this size, and the manufacturer standard pitch of 4 in 12, the ridge came to be 21 feet arithmetically.

b) Size of Pole Barn

Code requires that ancillary building not be larger than the principle dwelling

- 1) The pole barn does have a footprint larger than the 2-1/2 story dwelling.
- 2) The size of the pole barn is the size necessary for the lessee to store his farm equipment.
- 3) Basically the size of the pole barn is the same as the previous barn, which has been razed.

IV. Further Action by the Lessee

The lessee proposes the following to mitigate the height and size of the pole barn

- a) Plant at least ten large (20 foot) trees around the barn
- b) Since the site slopes downward toward the front of the barn, there is a grade differential between the area around the dwelling (elev. 448') and the front of the pole barn (elev. 440') of approximately 8'-0".

V. Finally

Please refer to the enclosed:

- a) Letters from neighbors
- b) Site Location Drawing; includes contours
- c) Zoning Description

CS-127 SPA 17
09 07 07



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 300 Church Lane

which is presently zoned D R 3.5

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)

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

SEE EXHIBIT "A" ATTACHED

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 Mr. Chad W. Hipsley

Signature [Signature]

Address 104 Sherwood Avenue Telephone No. 410-365-9327

City Baltimore, Maryland State MD Zip Code 21208

Attorney For Petitioner:

Name - Type or Print N / A

Signature N / A

Company N / A

Address N / A Telephone No. N / A

City N / A State N / A Zip Code N / A

Legal Owner(s):

Name - Type or Print Mr. Robert F. Bowersox Jr. (DECEASED)

Signature [Signature]

Name - Type or Print Mrs. Helaine A. Bowersox

Signature [Signature]

Address 300 Church Lane Telephone No.

City Baltimore, Maryland State MD Zip Code 21208

Representative to be Contacted:

Name Mr. George Mojzisek - Architect

Address 4005 Pinedale Drive Telephone No. 410-256-4968

City Baltimore, Maryland State MD Zip Code 21236

OFFICE USE ONLY

Case No. 05-127-SP4A

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By VRA Date 09-07-06

EXHIBIT A

RE: 300 Church Lane

1. The facts in this matter are:

- a) The pole bam is already constructed even though the lessee did not obtain a Building Permit, because of his lack of knowledge in matters such as these.
- b) There was an existing old dilapidated bam on the site (which was an eyesore according to the neighbors) so in the past winter (2003) the heavy snow caused it to fall (cave in). Once that happened, Chad Hipsley (the lessee) razed it completely and removed all debris from it, off the site. This was good news for the neighbors.
- c) He (the lessee) then promptly erected the current pole bam basically where the original one was located, and basically at the same size and height.
- d) The neighbors have no objection to its placement or looks, size or height. (Refer to submitted letters)

11. Owners

The owners are:

- a) Helaine A. Bowersox.
- b) Robert F. Bowersox Jr. who is deceased

111. Reference to Two Zoning Issues

a) Height of pole barn:

Zoning permits: 15'0"

Pole Barn (to ridge): 21'0"

- 1) The size of the pole barn is 42'x48'=2016 square feet. That size is necessary for the lessee to store his farm equipment. With this size, and the manufacturer standard pitch of 4 in 12, the ridge came to be 21 feet arithmetically.

b) Size of Pole Barn

Code requires that ancillary building not be larger than the principle dwelling

- 1) The pole barn does have a footprint larger than the 2-1/2 story dwelling.
- 2) The size of the pole barn is the size necessary for the lessee to store his farm equipment.
- 3) Basically the size of the pole barn is the same as the previous barn, which has been razed.

IV. Further Action by the Lessee

The lessee proposes the following to mitigate the height and size of the pole bam

- a) Plant at least ten large (20 foot) trees around the bam
- b) Since the site slopes downward toward the front of the bam, there is a grade differential between the area around the dwelling (elev. 448') and the front of the pole bam (elev. 440') of approximately 8'-0".

V. Finally

Please refer to the enclosed:

- a) Letters from neighbors
- b) Site Location Drawing; includes contours
- c) Zoning Description

CS-127-SPA 14
09 07 09

ZONING DESCRIPTION FOR 300 CHURCH LANE, PARCEL ONE.

Beginning at a point on the north side of Church Lane which has a 30' right-of-way on the north side and at the intersection of Saddleback and Church Lane as recorded in its records of Baltimore County Liber No. 445, folio 503 (currently referred to as LIBER 2651 page 132) which was granted and conveyed by Robert F. Corbett to Robert F. Bowersox Sr. and Miranda Bowersox, his wife and containing 43, 509 square feet on February 3, 1955.

Also known as 1st Parcel; G.L.B. 2651/132 located in the 2nd Election District; and 4th Councilmanic District; NORTHWEST all as further outlined in accompanying "Location Drawing/Survey" as prepared by KCL Engineers and Planners dated 6/16/2003
#01-042778-01

OS-127-SPA
- 1577-09-07-02

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: #05-127-SPHA

300 Church Lane

N/west corner of Church Lane and Saddle Back Lane

3rd Election District — 2nd Councilmanic District

Legal Owner(s): Robert F. Bowersox (Deceased) and

Helaine A. Bowersox

Contract Purchaser: Chap W. Hipsley

Special Hearing: to allow reconstruction of a farm building (barn) to continue to house farm equipment sufficient to maintain the subject property (1 acre) and contiguous 3 acres. Variance: to permit a detached accessory structure to 21 feet high also larger than the principal building, in lieu of 15 feet height and smaller than the principal structure.

Hearing: Tuesday, October 26, 2004 at 11:00 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 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.

10/014 October 7

24548

CERTIFICATE OF PUBLICATION

10/7/2004

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 10/7/2004.

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

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 40912

DATE

09/07/04

ACCOUNT

R-001-0066150

AMOUNT

\$ 130.00

RECEIVED FROM:

T-C Lewis (Baltimore)

FOR:

SP-CLERK

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME

9/09/2004 9/07/2004 13:47:51

REC NO. 000112

RECEIPT # 200345 9/07/2004

ISSUE 5 528 ZONING VERIFICATION

PR NO. 040912

PAID TO

\$130.00

\$130.00 CR

\$1.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

T&C Lawn and Landscaping, Inc. 07/96
104 Sherwood Avenue
Pikesville, MD 21208-4828
410-484-1596

BRANCH BANKING AND TRUST COMPANY
PIKESVILLE, MD 21208
65-330/550

1872

9/1/04

PAY TO THE
ORDER OF

Baltimore County Government

\$ 130.00

ONE Hundred Thirty Dollar

DOLLARS

MEMO

300 Church and Filing Fee

Paul J. Psley

⑈001872⑈ ⑆055003308⑆5150724556⑈

T&C Lawn and Landscaping, Inc. 07/96
104 Sherwood Avenue
Pikesville, MD 21208-4828
410-484-1596

BRANCH BANKING AND TRUST COMPANY
PIKESVILLE, MD 21208
65-330/550

1872

9/1/04

PAY TO THE
ORDER OF

Baltimore County Government

\$ 130.00

ONE Hundred Thirty Dollar

DOLLARS

MEMO

300 Church and Filing Fee

Paul J. Psley

⑈001872⑈ ⑆055003308⑆5150724556⑈

05-127-Sp#A

CERTIFICATE OF POSTING

RE: Case No.: 05-127-SPHA

Petitioner/Developer: _____

Helaine Bowersox

Date of Hearing/Closing: 10-26-04

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

Attention: Kristen Matthews

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 300 Church Lane
Baltimore, MD 21208

October 5, 2004

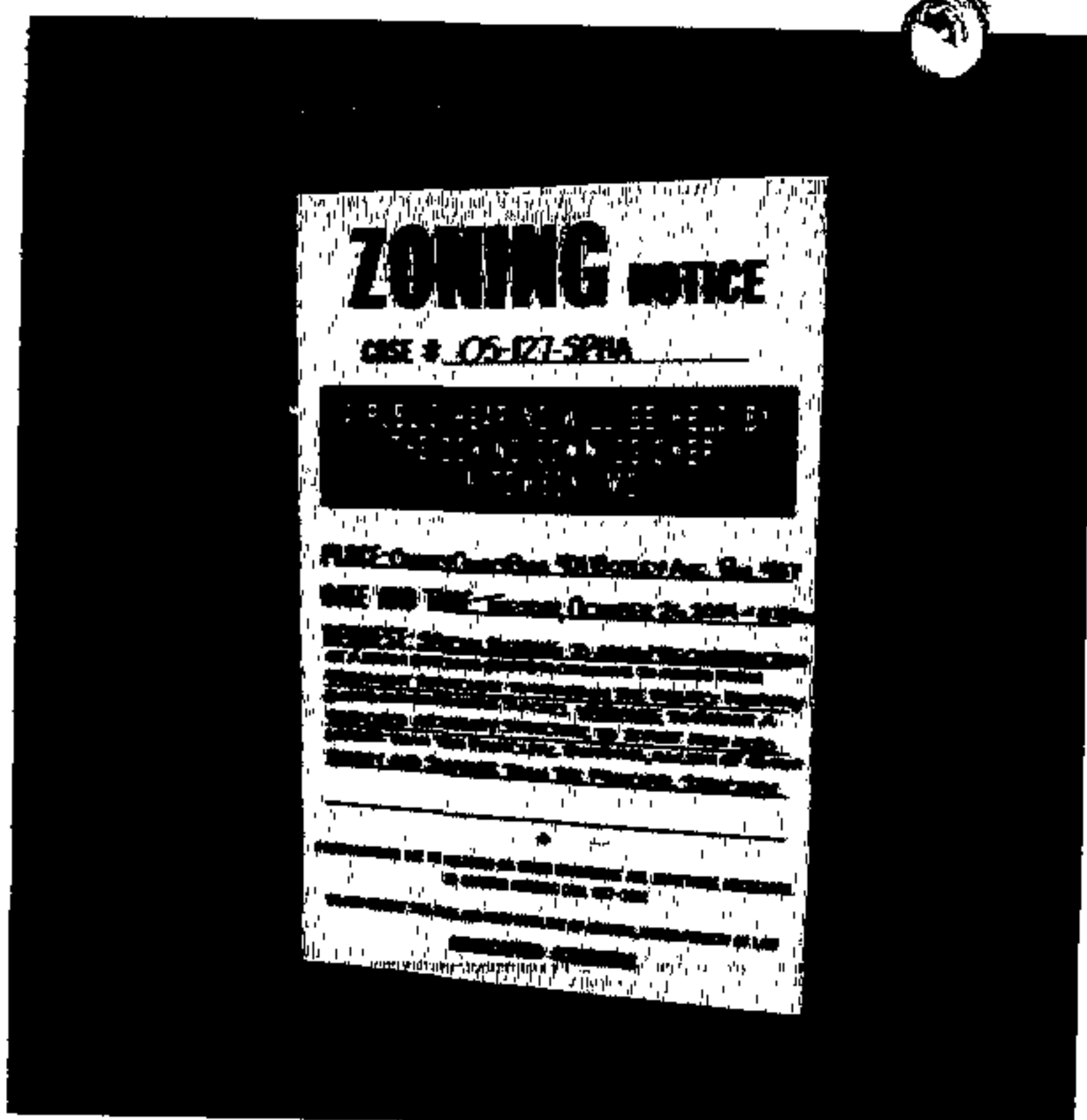
(Month, Day, Year)

Sincerely,

Stacy Gardner 10/5/04
(Signature of Sign Poster and Date)

Stacy Gardner

SHANNON BAKER SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD 21784
1-800-368-2295





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

September 20, 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: 05-127-SPHA

300 Church Lane

N/west corner of Church Lane and Saddle Back Lane

3rd Election District – 2nd Councilmanic District

Legal Owners: Robert F. Bowersox (Deceased) and Helaine A. Bowersox

Contract Purchaser: Chap W. Hipsley

Special Hearing to allow reconstruction of a farm building (barn) to continue to house farm equipment sufficient to maintain the subject property (1 acre) and contiguous 3 acres. Variance to permit a detached accessory structure to 21 feet high also larger than the principal building, in lieu of 15 feet height and smaller than the principal structure.

Hearing: Tuesday, October 26, 2004 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue -

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Mrs. Helaine Bowersox, 300 Church Lane, Baltimore MD 21208
Chad Hipsley, 104 Sherwood Ave., Baltimore 21208
George Mojzisek, 4005 Pinedale Drive, Baltimore 21236

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, OCTOBER 11, 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
Thursday, October 7, 2004 Issue - Jeffersonian

Please forward billing to:

Chad Hipsley
104 Sherwood Avenue
Baltimore, MD 21208

410-365-9327

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: 05-127-SPHA

300 Church Lane

N/west corner of Church Lane and Saddle Back Lane

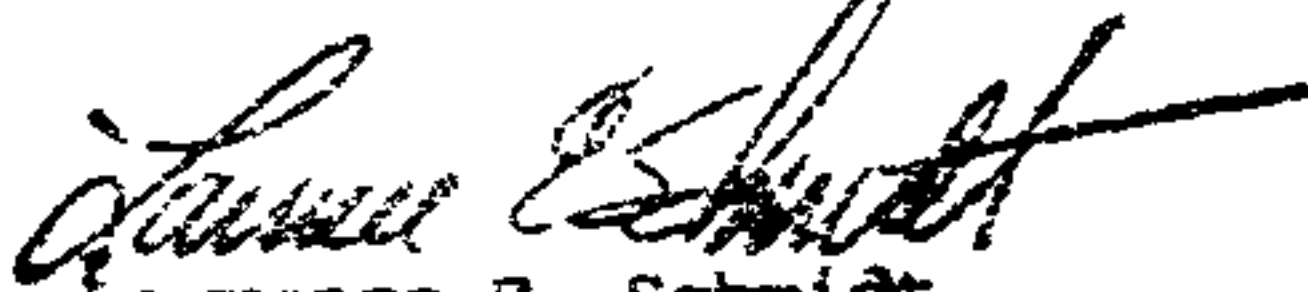
3rd Election District – 2nd Councilmanic District

Legal Owners: Robert F. Bowersox (Deceased) and Helaine A. Bowersox

Contract Purchaser: Chap W. Hipsley

Special Hearing to allow reconstruction of a farm building (barn) to continue to house farm equipment sufficient to maintain the subject property (1acre) and contiguous 3 acres. Variance to permit a detached accessory structure to 21 feet high also larger than the principal building, in lieu of 15 feet height and smaller than the principal structure.

Hearing: Tuesday, October 26, 2004 at 11:00 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 05-127-SP4A
Petitioner CHAD HIPSLEY
Address or Location: 300 CHURCH LN. BACT. MD 21208

PLEASE FORWARD ADVERTISING BILL TO

Name CHAD HIPSLEY T.A.
Address 300 CHURCH LN.
BACT. MD 21208
Telephone Number: _____

-05-127-SP4A

**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

October 20, 2004

Mr. Robert F. Bowersox, Jr.
Mrs. Helaine A. Bowersox
300 Church Lane
Baltimore, Maryland 21208

Dear Mr. and Mrs. Bowersox:

RE: Case Number:05-127-SPHA , 300 Church Lane

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 7, 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." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Mr. Chad W. Hipsley 104 Sherwood Avenue Baltimore 21208
Mr. George Mojzisek 4005 Pinedale Drive Baltimore 21236

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



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 6, 2004

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

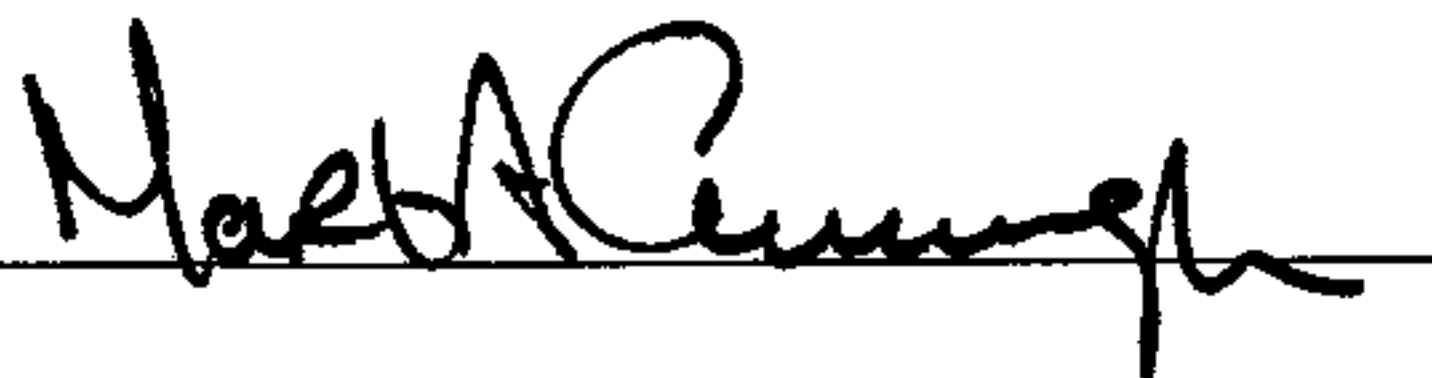
SUBJECT: 300 Church lane
Case #: 5-127

The Office of Planning does not oppose the petitioner's request reconstruct a farm building (pole barn) for the purpose of storing farm equipment provided the following conditions are met:

1. 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.
2. 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:



Section Chief:



AFK/LL: MAC

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



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

Maryland Department of Transportation

Date: 9.17.09

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

RE: Baltimore County
Item No. 127 JRA

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

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

September 21, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: September 20, 2004

Item No.: 125, 127, 130, 132-137

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

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

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: October 4, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For September 27, 2004
Item No. 127

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

The right-of-way for a public road is 40 feet.

RWB:CEN:jrb

cc: File

Jm
10/26

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED

OCT 27 2004

ZONING COMMISSIONER

TO: Tim Kotroco

FROM: John D. Oltman, Jr ^{you}
DEPRM

DATE: October 22, 2004

SUBJECT: Zoning Item # 05-127
Address 300 Church Lane (Bowersox Property)

Zoning Advisory Committee Meeting of September 20, 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).

_____ 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:

As presented in Exhibit A, trees must be planted around the Pole Barn. No further development can continue on the property without compliance with Regulations for the Protection of Water Quality, Streams, Wetlands, and Floodplains.

Reviewer: Brian Lindley

Date: October 22, 2004

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE *
300 Church Lane; NW corner of Church * ZONING COMMISSIONER
Lane and Saddle Back Lane *
3rd Election & Councilmanic Districts * FOR
Legal Owner(s): Robert F. Bowersox, Jr *
(deceased), Helaine A Bowersox * BALTIMORE COUNTY
Contract Purchaser(s): Chad Hipsley *
Petitioner(s) * 05-127-SPHA

* * * * *

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

SEP 22 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 22nd day of September, 2004, a copy of the foregoing Entry of Appearance was mailed to George Morzisek, 4005 Pinedale Drive, Baltimore, MD 21236, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

*John R. Starr
224 Church Lane
Pikesville, Maryland 21208
(410) 486-6759*

July 21, 2004

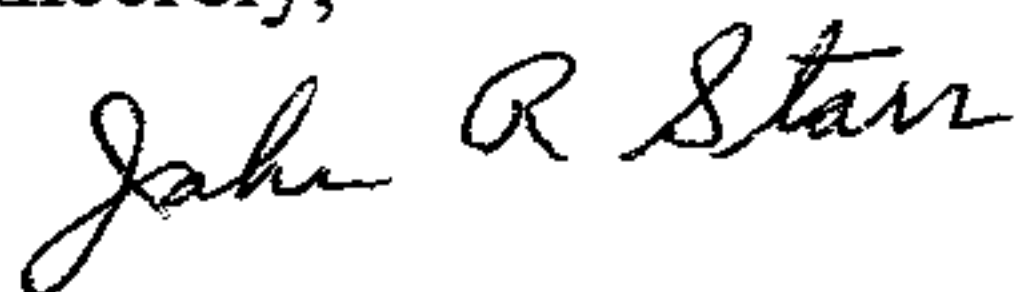
RE: 300 Church Lane

Baltimore County Zoning Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

To Whom It May Concern:

I own the property located at 224 Church Lane two (2) properties to the east of the aforementioned property. I have been a neighbor to the Bowersox's for approximately 56 + years. My property directly overlooks the primary residence and pasture land of 300 Church Lane owned by Robert Bowersox Jr. (deceased) and Helaine Bowersox. Their grandsons Troy S. Hipsley and Chad W. Hipsley have always done an excellent job on the upkeep of the property since the passing of their grandfather. I am writing this letter to you on their behalf. They have explained to me what is going on with the zoning issues with regards to the new pole barn on their property. The old barn that collapsed during the snow storm was an eyesore and a safety hazard. The new pole barn is an improvement to the looks of the property and the neighborhood. I have no objection to the size or height of the new barn.

Sincerely,



John R. Starr

OS-127-SP47
09-07-04

Barbara E. Medary
303 Church Lane
Pikesville, Md. 21208
(410) 486-2136

RE: 300 Church Lane
Baltimore County Zoning Office
County Office Building
111 West Chesapeake Avenue
Towson Maryland 21204

To Whom It May Concern

I lived on Church Lane for 41 years and had
no problem with the lane on 300 Church Lane in fact
I like when the horses were in the field, with
the barn, the barn was old and fell in, the
new building is great, I have been with the
Bowersos, they were very good people and
Chad W. Hipsey & Troy S. Hipsey are great people
they will help you, when you need the help.
The barn is an improvement to the look of
the property and the neighborhood.

Sincerely
Barbara E. Medary
Barbara E. Medary

OS-127 SpA

09-07 06

PAT McCUSKER
226 CHURCH LANE
PIKESVILLE, MD 21208

July 23/04

Dear Sir,

I'm a resident of 226 Church Lane writing in regard of Tracy & Chad Hipsley. My land is adjacent to the Bowersox property. I have no objections to the structure that was built ~~at~~ the bottom of their property when the barn was for years.

We have lived next to the Bowersox's 58 years never had any trouble in all these years. We think the building is in good taste.

The boys are hard working, polite. Honest we are proud to know them.

Sincerely,
Pat McCusker

OS-127 SP47

09.07-04

June 21, 2004

Zoning Commission
County Office Building
Towson, MD 21204

To Whom It May Concern:

We own the property at 309 Church Lane and we are writing on behalf of Mr. Chad Hipsley and Mr. Troy Hipsley, who are seeking a permit for a building which will replace the barn on the property at 300 Church Lane.

The barn was in total disrepair and was an eyesore because of age and storm damage. The new building will be an improvement.

We have no objection to the height and size of the building as it is.

Sincerely,



Eugene Cassaday



Margaret Cassaday
309 Church Lane
Pikesville, MD 21208
410-486-2907

OS-127 Sp4A
09-07-04

Bruce C. Turrall

301 Church Lane • Baltimore, Maryland 21208 • (410) 486-4395

July 19, 2004

Baltimore County

Re: 300 Church Lane
Baltimore, Maryland 21208

Dear County Commissioner
or Whom It May Concern:

A building was constructed on the above-referenced property, which is directly across the street from my property. In no way, shape, or form has this building or construction of said building been a problem.

The Bowersox family have been lifelong residents of Church Lane and are responsible property owners. The new building, as with all aspects of their property, is attractive and well suited to our neighborhood.

As residents of Church Lane for three generations, the Watts/Turrall family has never had issues with the Bowersox property including the construction of the new building.

Sincerely,

Bruce C. Turrall

Bruce C. Turrall

05-127-SP4A
09.07.04

***John R. Starr
224 Church Lane
Pikesville, Maryland 21208
(410) 486-6759***

July 21, 2004

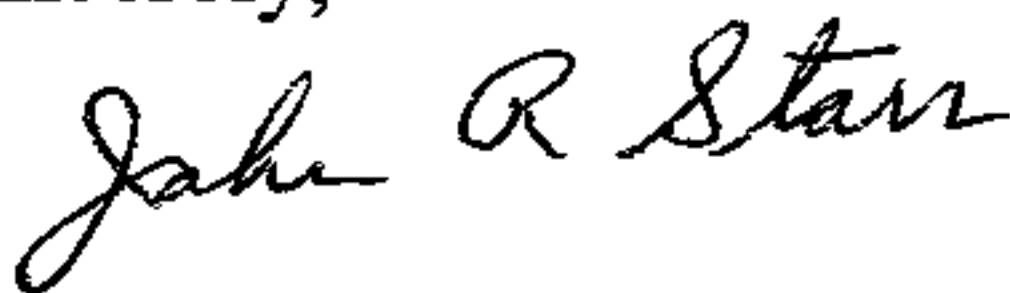
RE: 300 Church Lane

Baltimore County Zoning Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

To Whom It May Concern:

I own the property located at 224 Church Lane two (2) properties to the east of the aforementioned property. I have been a neighbor to the Bowersox's for approximately 56 + years. My property directly overlooks the primary residence and pasture land of 300 Church Lane owned by Robert Bowersox Jr. (deceased) and Helaine Bowersox. Their grandsons Troy S. Hipsley and Chad W. Hipsley have always done an excellent job on the upkeep of the property since the passing of their grandfather. I am writing this letter to you on their behalf. They have explained to me what is going on with the zoning issues with regards to the new pole barn on their property. The old barn that collapsed during the snow storm was an eyesore and a safety hazard. The new pole barn is an improvement to the looks of the property and the neighborhood. I have no objection to the size or height of the new barn.

Sincerely,



John R. Starr

OS-127. SPHA

Barbara E. Medaury
303 Church Lane
Pikesville, Md. 21208
(410) 486-2136

RE: 300 Church Lane
Baltimore County Zoning Office
County Office Building
111 West Chesapeake Avenue
Towson Maryland 21204

To Whom It May Concern

I lived on Church Lane for 41 years and had
no problem with the lane on 300 Church Lane in fact
I like when the horses were in the field, with
the lane, the lane was old and fell in, the
new building is great, I have been with the
Bowersop, they were very good people and
Chad W. Hipsey & Troy S. Hipsey are great people
they will help you, when you need the help.
The lane is an improvement to the look of
the property and the neighborhood.

Sincerely
Barbara E. Medaury

Barbara E. Medaury

OS-127-SPHA

PAT McCUSKER
226 CHURCH LANE
PIKESVILLE, MD 21208

July 23/04

Dear Sir,

I'm a resident of 226 Church Lane writing in regard of Troy & Chad Hipsley. My land is adjacent to the Broussard property. I have no objections to the structure that was built at the bottom of their property when the barn was for years.

We have lived next to the Broussard's 58 years never had any trouble in all these years. We think the building is in good taste.

The boys are hard working, polite & honest we are proud to know them.

Sincerely,
Pat McCusker

OS-127 SP4A

June 21, 2004

Zoning Commission
County Office Building
Towson, MD 21204

To Whom It May Concern:

We own the property at 309 Church Lane and we are writing on behalf of Mr. Chad Hipsley and Mr. Troy Hipsley, who are seeking a permit for a building which will replace the barn on the property at 300 Church Lane.

The barn was in total disrepair and was an eyesore because of age and storm damage. The new building will be an improvement.

We have no objection to the height and size of the building as it is.

Sincerely,



Eugene Cassaday



Margaret Cassaday
309 Church Lane
Pikesville, MD 21208
410-486-2907

OS-127 SFA

Bruce C. Turrall

301 Church Lane • Baltimore, Maryland 21208 • (410) 486-4395

July 19, 2004

Baltimore County

Re: 300 Church Lane
Baltimore, Maryland 21208

Dear County Commissioner
or Whom It May Concern:

A building was constructed on the above-referenced property, which is directly across the street from my property. In no way, shape, or form has this building or construction of said building been a problem.

The Bowersox family have been lifelong residents of Church Lane and are responsible property owners. The new building, as with all aspects of their property, is attractive and well suited to our neighborhood.

As residents of Church Lane for three generations, the Watts/Turrall family has never had issues with the Bowersox property including the construction of the new building.

Sincerely,

Bruce C. Turrall

Bruce C. Turrall

OS-127 SP4A.

1. \$130 Application Fee OK
TO BACT. CO. GOVT.
2. Remove Seal & Title
OF EDGE FROM PLANS OK
UNLESS THEY DID THE
MODIFICATIONS
3. Tell Me Name & Address
OF WHO TO Bid For News
Publication
4. Need 10 more COPIES OF
LARGE SITE PLAN OK

Called.
1. AT THE RECEIVED
2. APPROX 8-16 OK

Chad Hipley
410-484-1596

John A

George Mosischeck
w/ returned your call
Husband out of Country
Return Aug. 30th
410-256-4968

Jump

(410) 256 9968

OS-177-SP47

CASE NAME 300 Church Lane
CASE NUMBER 05-127-S PHA
DATE 10/26/04

[illegible]

CASE NAME 300 Church Lane
CASE NUMBER 05-127-SPHA
DATE 10/26/04

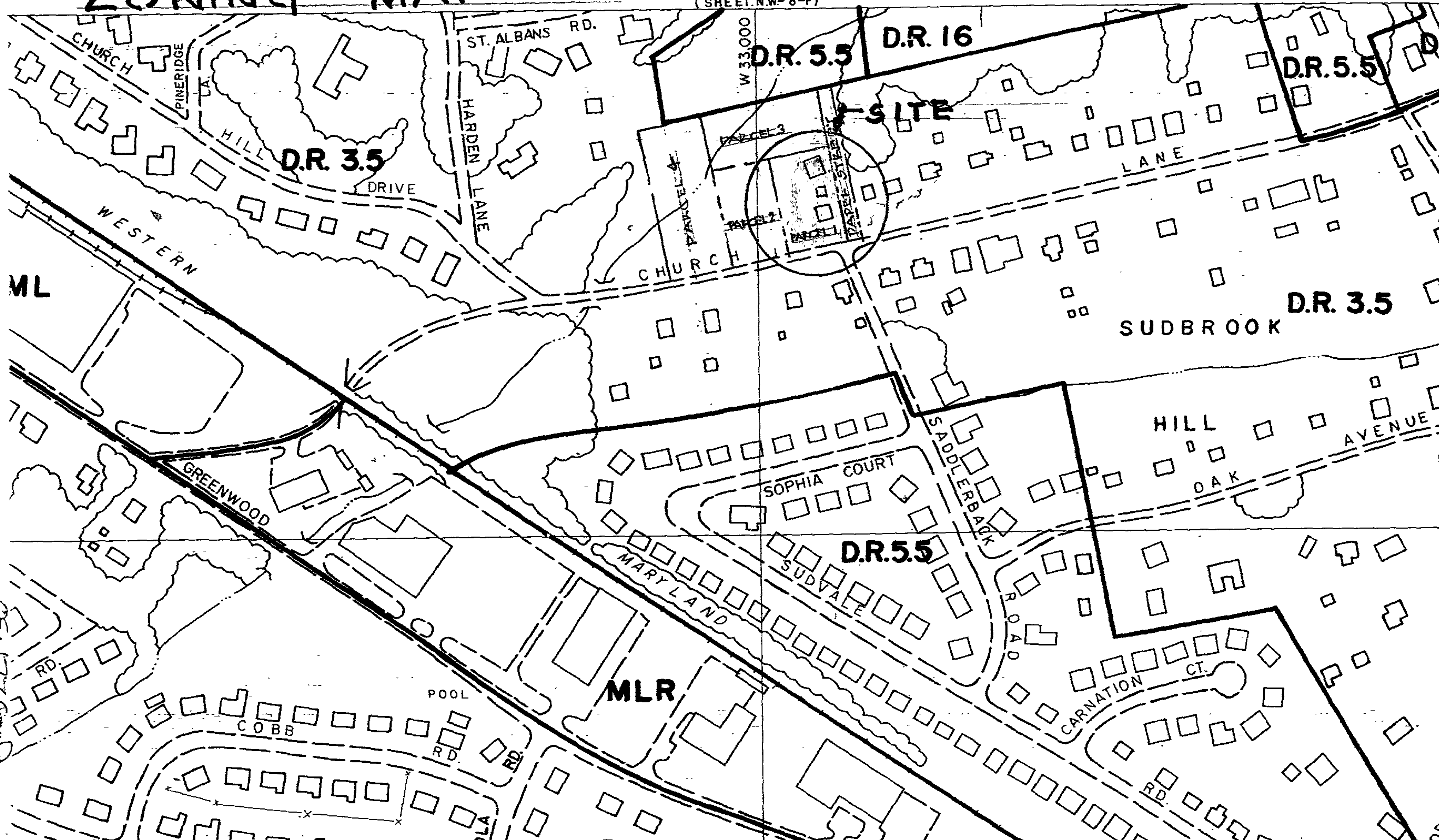
CASE NAME 300 Church Lane
CASE NUMBER 05-127-SPHA
DATE 10/26/04

[illegible]

ZONING MAP

RE: 300 CHURCH LANE

(SHEET NW-8-F)

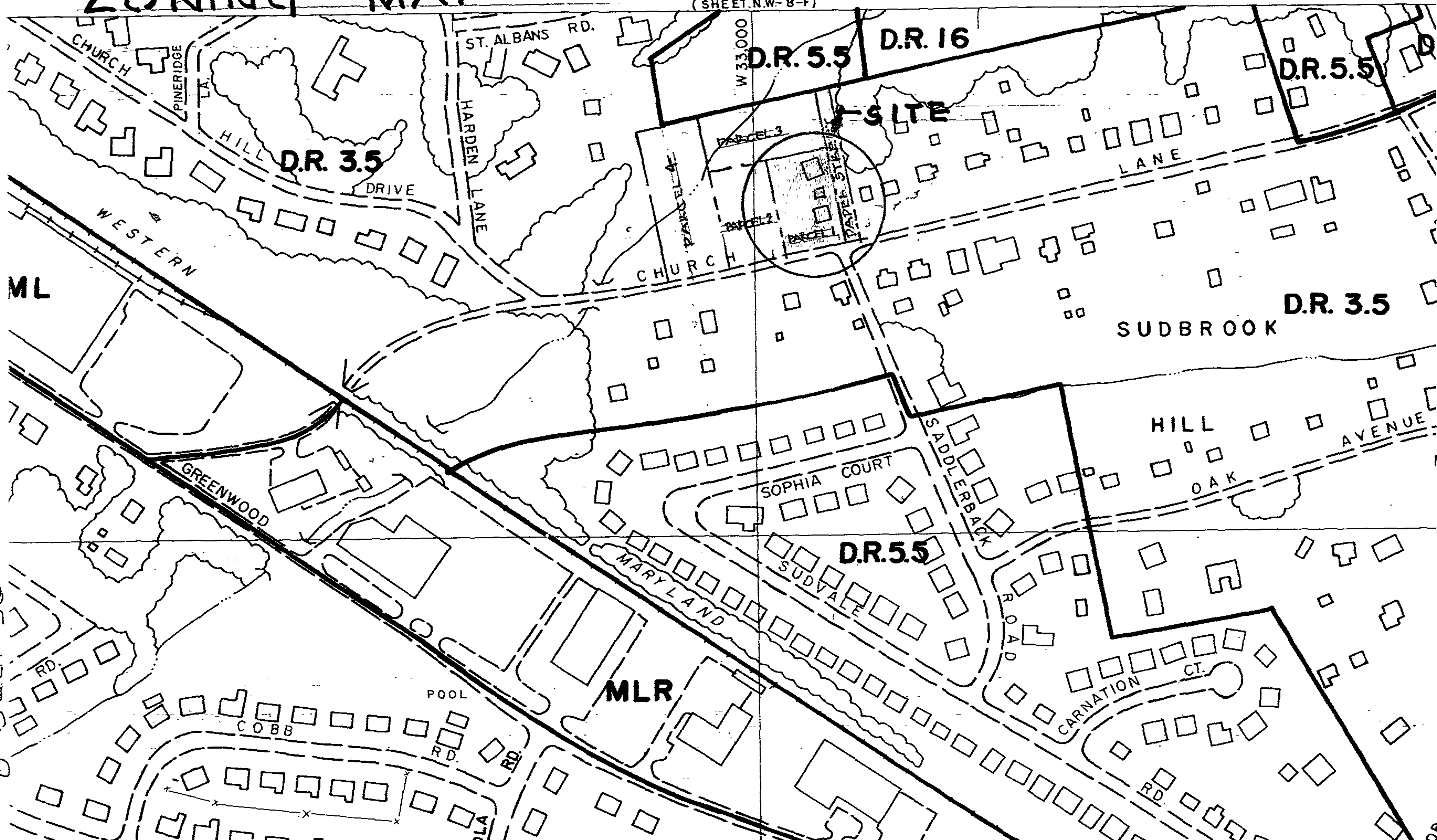


OS. 127.500

ZONING MAP

RE: 300 CHURCH LANE

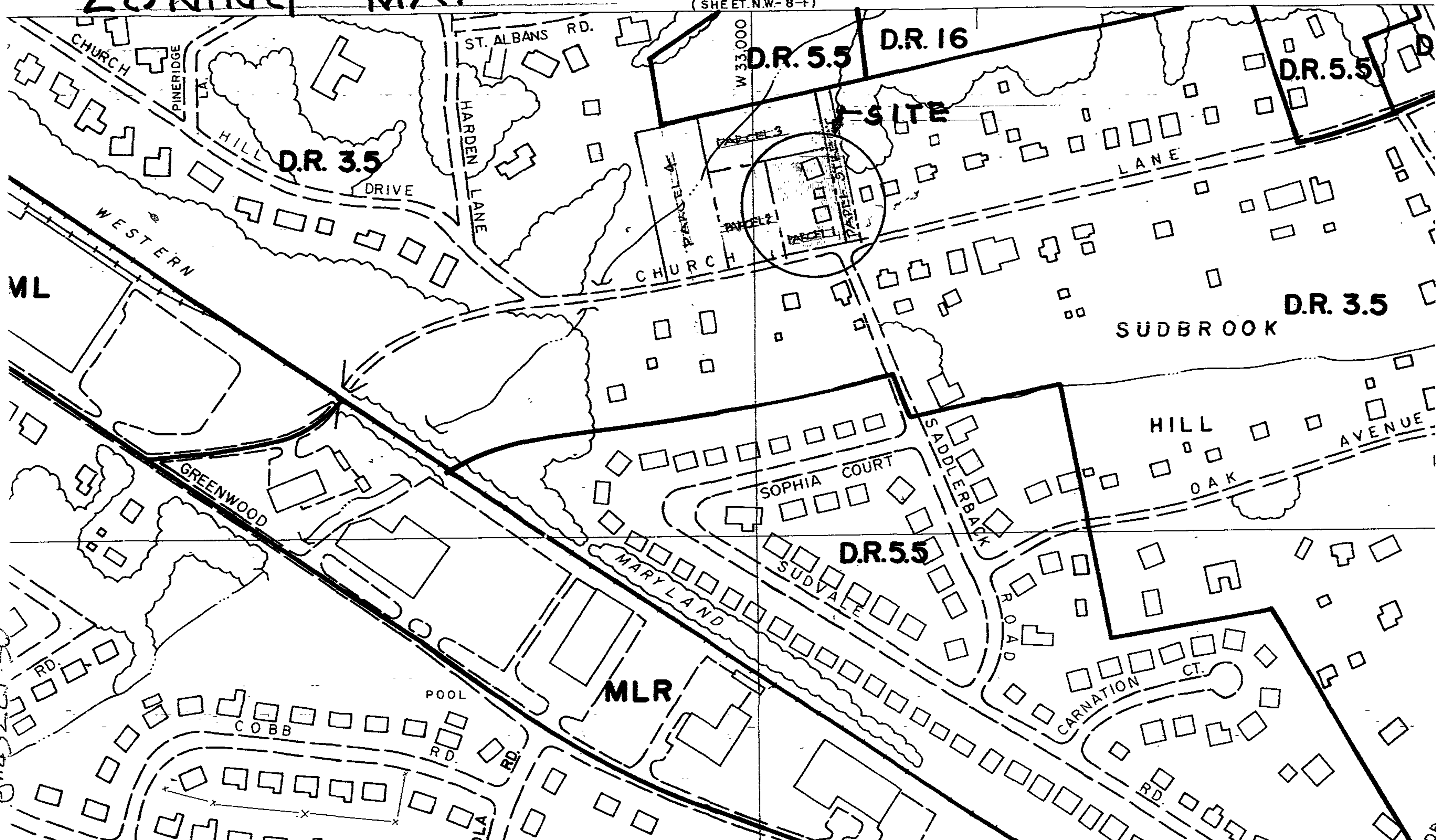
(SHEET N.W.-8-F)

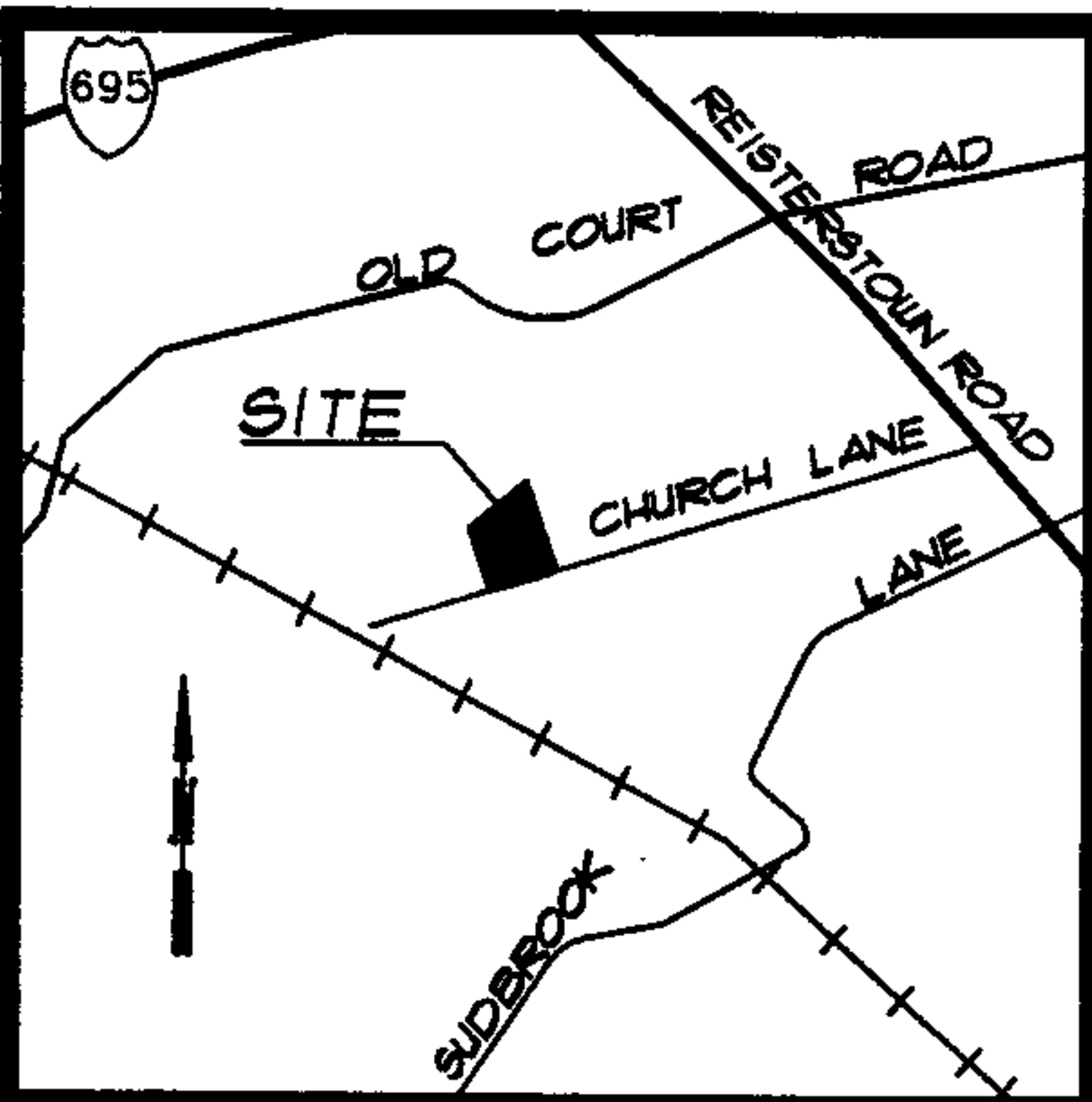


ZONING MAP

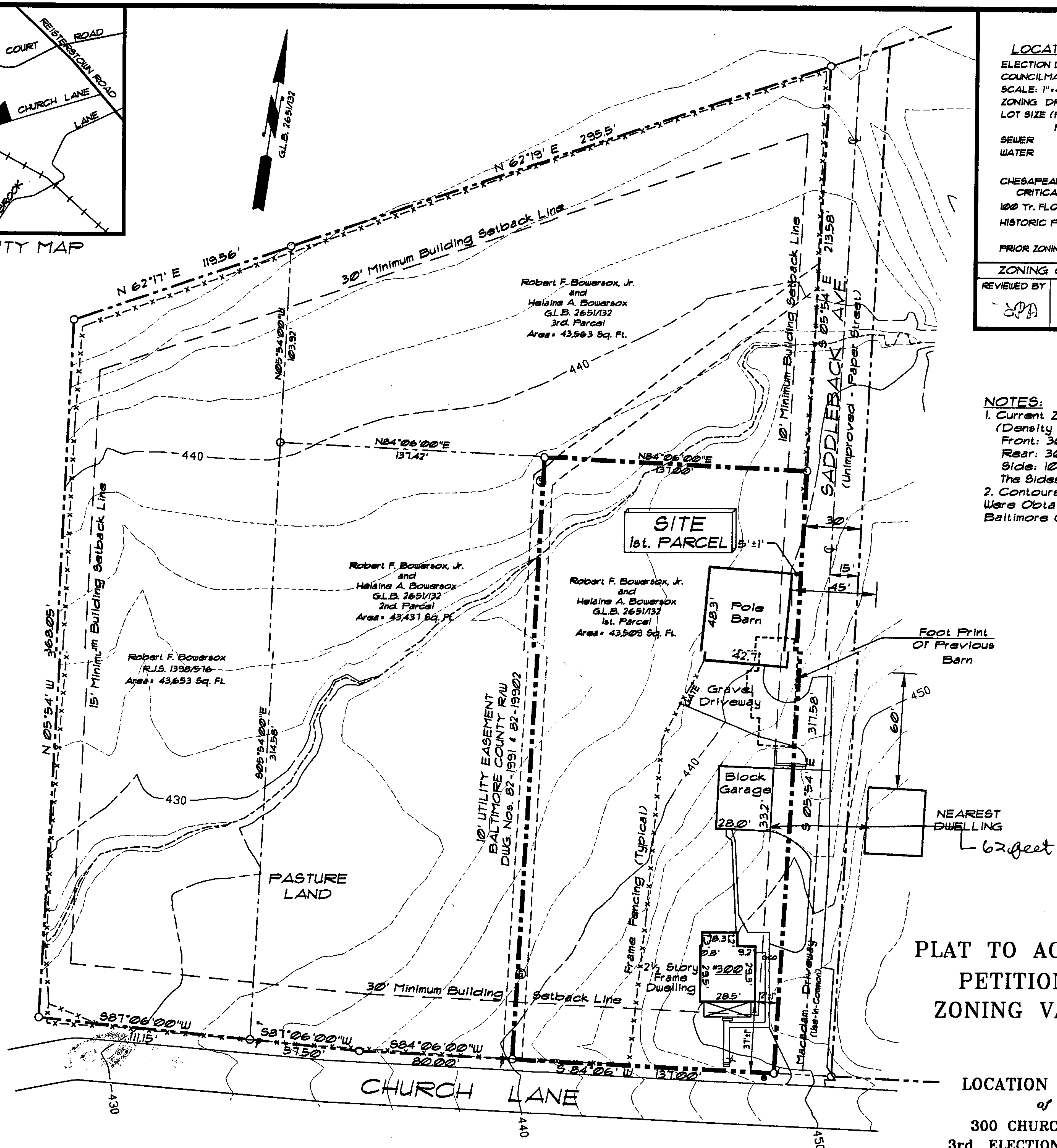
RE: 300 CHURCH LANE

(SHEET N.W.-8-F)





VICINITY MAP



LOCATION INFORMATION

ELECTION DISTRICT 2		
COUNCILMANIC DISTRICT 4		
SCALE: 1"=40'		
ZONING DR 35		
LOT SIZE (Parcel No. 1) 43,509 Sq. Ft.		
	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 Yr. FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒
PRIOR ZONING HEARING	☐	☒

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM No.	CASE No.
<i>[Signature]</i>		05.127.511

NOTES:

- Current Zoning: DR 3.5 (Density Residential)
Front: 30'
Rear: 30'
Side: 10' With The Sum Of The Sides Not Less Than 25'
- Contours Shown Hereon Were Obtained From The Baltimore County G.I.S.

PLAT TO ACCOMPANY
PETITION FOR
ZONING VARIANCE

LOCATION DRAWING
of

300 CHURCH LANE
3rd. ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

ENGINEERS AND PLANNERS
10 NORTH PARK DRIVE
HUNT VALLEY, MD. 21030-1888
(410) 318-7800



TITLE CO.	Grim	Tyler	1" = 40'	6/16/03
DRAWN BY		CHECKED	SCALE	DATE

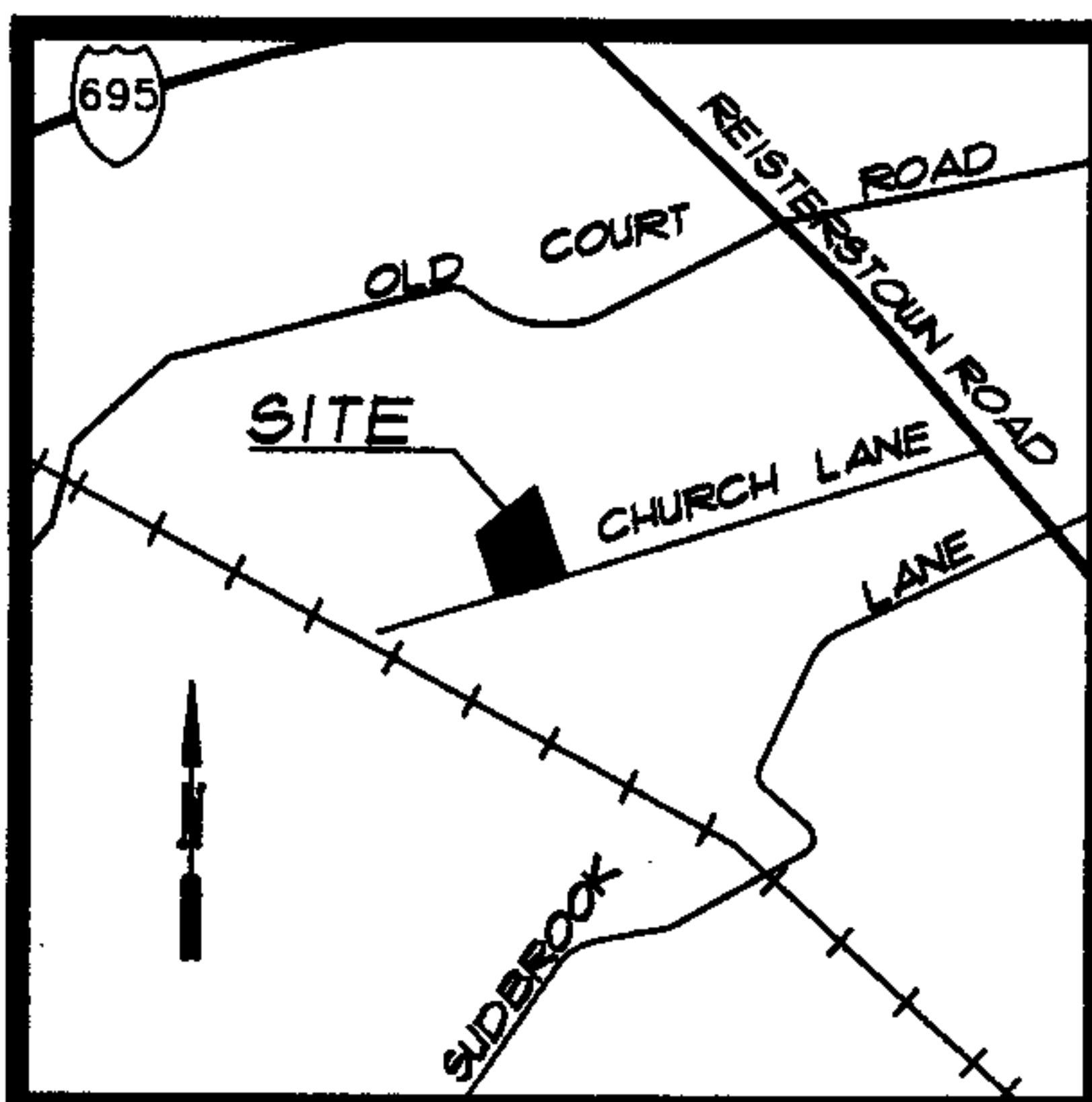
NOTE:

I. THIS LOCATION DRAWING (1) IS OF THE BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. (II) THIS DRAWING IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVEMENTS. (III) THIS DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.

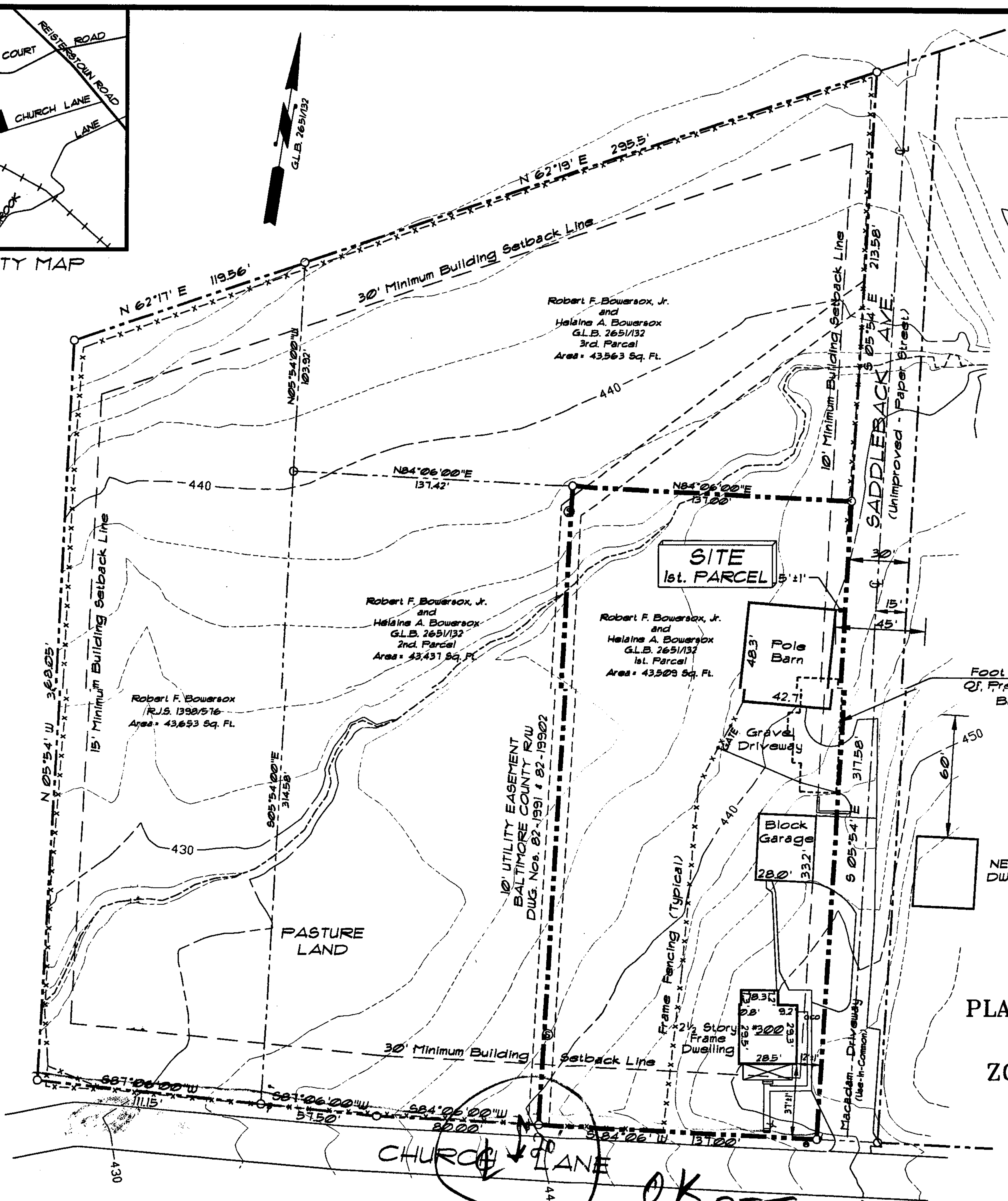


Robert P. Grim 25 Sept. '04
FOR KCI TECHNOLOGIES, INC.
ROBERT P. GRIM
REG. PROP. LINE SURVEYOR
MARYLAND REG. No. 354

01-042778-001



VICINITY MAP



LOCATION INFORMATION

ELECTION DISTRICT	2
COUNCILMATIC DISTRICT	4
SCALE:	1"=40'
ZONING	DR 3.5
LOT SIZE (Parcel No. 1)	43,509 Sq. Ft.
	PUBLIC PRIVATE
SEWER	☒ ☐
WATER	☒ ☐
CHESAPEAKE BAY	☐ YES ☒ NO
CRITICAL AREA	☐ ☒
100 Yr. FLOOD PLAIN	☐ ☒
HISTORIC PROPERTY/ BUILDING	☐ ☒
PRIOR ZONING HEARING	☐ ☒

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM No.	CASE No.

NOTES:

- Current Zoning: DR 3.5 (Density Residential)
Front: 30'
Rear: 30'
Side: 10' With The Sum Of The Sides Not Less Than 25'.
- Contours Shown Hereon Were Obtained From The Baltimore County G.I.S.

PLAT TO ACCOMPANY
PETITION FOR
ZONING VARIANCE

LOCATION DRAWING
of

300 CHURCH LANE
3rd. ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

ENGINEERS AND PLANNERS
10 NORTH PARK DRIVE
HUNT VALLEY, MD. 21030-1888
(410) 318-7800



TITLE CO.	Grim	Tyler	1" = 40'	6/16/03
DRAWN BY		CHECKED	SCALE	DATE

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Robert P. Grim 25 Sept. '04
FOR KCI TECHNOLOGIES, INC.
ROBERT P. GRIM
REG. PROP. LINE SURVEYOR
MARYLAND REG. No. 354