

11/3/05

IN THE MATTER OF:
THE APPLICATION OF
BRYAN M AND LINDA G. ROBERTS -
LEGAL OWNERS/PETITIONERS
FOR SPECIAL HEARING AND
VARIANCE ON THE PROPERTY
LOCATED ON E/S HALETHORPE
AVENUE, 640' S/OF C/LINE OF
WASHINGTON BOULEVARD
(1919 HALETHORPE AVENUE)

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 05-137-SPHA

13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* * * * *

OPINION

This matter is before the Board on appeal from the Zoning Commissioner's Order in which a request for special hearing was denied and a request for variance was granted in part and dismissed in part as moot.

The Petitioners, Bryan M. Roberts and his wife Linda G. Roberts, by their attorney, J. Carroll Holzer, Esquire, requested a special hearing pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (B.C.Z.R.) to approve a waiver, pursuant to § 32-4-409(a)(2) of the *Baltimore County Code* (BCC) to allow a panhandle driveway and to confirm the use of an 8-foot wide in-fee strip along with a 20-foot wide easement for a proposed dwelling on Lot 2 consistent with §102.4 of the B.C.Z.R. and Section RM-1 of the Zoning Commissioner's Policy Manual (Z.C.P.M.). In addition, variance relief was requested from § 1B02.3.C of the B.C.Z.R. to allow a minimum front yard setback of 34 feet in lieu of the required 40 feet and a rear yard setback of 18 feet in lieu of the required 40 feet for the existing dwelling on Lot 1.

The Board held a hearing on May 24, 2005. Appellants/Petitioners were represented by J. Carroll Holzer, Esquire, and People's Counsel, Peter M. Zimmerman, Esquire, participated in

opposition. The parties filed Briefs in lieu of closing arguments on June 27, 2005. A Public Deliberation was held on August 10, 2005.

Background

Petitioners, Bryan and Linda G. Roberts, are developers who live in Ellicott City in Howard County, Maryland. They acquired 1919 Halethorpe Avenue in southwestern Baltimore County in 2001. It has an existing dwelling on the property. The property itself is .9619 acre in size (104 feet by 400 feet), and is zoned D.R.2, having been reclassified from D.R. 5.5 in 1996.

The Petitioners purchased the property with the intention of refurbishing the existing dwelling, and subdividing the property to create a second building lot to the rear. Lot #1 would remain 20,038 sq. ft. in area and the existing improvements on proposed Lot #2 would consist of 21,780 sq. ft. and would be developed with a single family dwelling. Access to Lot #2 would be provided via a panhandle driveway leading into the property from Halethorpe Avenue.

Petitioners commenced making renovations to the existing home and that home has been reoriented so that the door of the dwelling now faces the north side and the west side faces Halethorpe Avenue. Charles Crocken, a licensed professional engineer retained by the Roberts to prepare the development plan, found that when the minor subdivision plans were drafted, he learned that the D.R. 2 zoning of the property would require County approval to allow a panhandle driveway and that a minimum 20-foot wide in-fee strip was required pursuant to § 32-4-409(b) of the B.C.C. This panhandle strip would then jeopardize Lot #1's ability to meet the 20,000 sq. ft. requirement mandated by § 102.4 of the B.C.Z.R. Crocken stated that the special hearing was requested in order to confirm the use of an 8-foot wide in-fee strip for Lot #2 along with a 20-foot wide easement for access to and from Halethorpe Avenue to the proposed building to be located on Lot #2 at the rear of the property. He then stated that the request for the

8-foot wide strip was consistent with Baltimore County Zoning Policy set forth in the Zoning Commissioner's Policy Manual dated September 20, 1985 which stated

RM-1A Access Residential Regulation: 102.4 (Baltimore County Zoning Regulations). No dwelling shall be built on a lot containing less than 20,000 sq. ft. which does not abut on a right-of-way at least 30' wide over which the public has an easement of travel.

Policy:

- A. Pursuant to Section 102.4 (B.C.Z.R.) the Zoning Office will require in-fee access to a public road for all lots.
- B. Where more than one lot is involved several substandard panhandle in-fee strips "with a 2 ft. minimum width" may be established to meet this requirement.
- C. If the required in-fee strip is located in the only possible access area, the in-fee portion of the access or utility easement must be at least 8 ft. wide. A 12' or wider easement may be required for each lot by other agencies to provide for access or utilities.

(Section of policy manual submitted by the Petitioners as Petitioners' Exhibit No. 3.)

Mr. Crocken contended that a variance was requested for Lot #1 from § 1B02.3(c) of the B.C.Z.R. to allow a minimum front yard of 34 feet in lieu of the required 40 feet since the existing dwelling would be positioned on Lot #1 facing north towards the side of the proposed driveway. Petitioners proposed to reorient the front of the building on Lot #1 towards the north side of the property and this would be 34 feet from the proposed 8-foot strip rather than the required 40 feet if it is accepted that the front of the property is the north side of the building. Petitioners also requested a rear yard set back on the south side of the property of 18-foot in lieu of the required 40 feet for the existing drawing of Lot #1. The Zoning Commissioner granted the rear yard variance request and that was not a subject of appeal before the Board. Based upon the granting of that request, Petitioners took the position that the Zoning Commissioner had adopted

their position that the front of the building on Lot #1 was facing the north side of the property rather than towards Halethorpe as it was originally oriented.

The Planning Office, by way of a memo dated September 27, 2004 from the Director to Timothy Kotroco, Director of Permits and Development Management, stated:

Summary of Recommendations: The Office of Planning reviewed the subject minor subdivision and forwarded comments to the Petitioners on April 30, 2004. The content of the comments are as follows:

The subject property is not wide enough to be subdivided. The minimum lot width in the T.R. zone is 100'. Minus a 20-foot in-fee strip required for Lot 2, Lot 1 will have a front yard width of approximately 84'. This office will not support any variance to create a panhandle lot, or to create a substandard lot. The Petitioner currently proposes an 8-foot wide in-fee strip for Lot #2. Lot #1 will still not meet the minimum lot width requirement of 100'. As such, this office recommends that the Petitioners' request be denied.

Petitioners contended that the Planning Office did not consider the fact that the front of the building on Lot #1 has been reoriented towards the north side of the property. Petitioners contended that the issue with respect to the driveway was an access issue and that it was not a panhandle driveway issue. They contended that it was a question as to whether adequate access for Lots #1 and #2 from Halethorpe Avenue had been provided.

Petitioners called Lloyd Moxley, a technician of the Baltimore County Zoning Office, in support of its position with respect to the access issue. Mr. Moxley testified that he had reviewed the proposed plan of the Petitioners and discussed the matter with his superiors. He referred to the BCZR § 102.4 and the policy manual relevant thereto as noted in RM-1A Access Residential and Policy C. Moxley stated that in his opinion the plan met the zoning requirements and that the Zoning Office approved the plan. On cross-examination, Moxley admitted that Section RM-1A was no longer in the current policy manual which was adopted May 31, 1991 and amended in 1992. His opinion was that it was left out due to an oversight. He stated that

the policy, with respect to the 8-foot of access, was followed by his department. Moxley also agreed on cross-examination that the law would supersede the regulations if the law were more specific with respect to panhandle lots. In addition, he stated that he defers to the Office of Planning as to whether or not Lot #2 is a panhandle lot. He also agreed that the Planning Office had the primary jurisdiction over the orientation of a lot.

Decision

A. The Motion to Dismiss

At the beginning of the hearing, People's Counsel moved to dismiss the appeal with prejudice on the following basis:

- 1) The two letters of appeal, attached, were prepared and signed by Charles Crocken, P.E. as a representative of Bryan Roberts.
- 2) The letters were not signed by Petitioners or by an attorney.
- 3) Under these circumstances, the appeal does not comply with Code § 32-3-401, CBA Rule 3(a) 6 and Maryland Law because it is not directly filed by Petitioners and because an engineer is not qualified to file an appeal in a representative capacity.
- 4) The Code allows "a person aggrieved or feeling aggrieved" to file an appeal. To satisfy this law, either the individual person or his/her attorney may file the appeal. The CBA Rules limit representation to attorneys.
- 5) The appeal is a nullity. The County Board of Appeals lacks jurisdiction.
- 6) In any event, People's Counsel believes that the appeal is without merit.

The Panel Chair of the Board ruled that the Board would accept the appeal as filed, but would not allow Mr. Crocken, the engineer, to represent the Petitioners at the hearing, to examine and cross-examine witnesses and present evidence, except as a witness.

The Board affirms the decision made at the hearing. Section 32-3-401 of the B.C.C. entitled Appeals to the Board of Appeals states:

(a) In General. A person aggrieved or feeling aggrieved by a decision of the Zoning Commissioner or the Director of Permits and Development Management may appeal the decision or Order to the Board of Appeals.

This section does not prohibit an appeal from being filed by any person representing the Appellant, nor does that section require that the appeal be signed by the Appellant. Rule 3 of the Board's Rules states "a. no appeal shall be entertained by the Board of Appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal."

This does not require that the original Appellant sign the appeal. Mr. Crocken signed the appeal on behalf of Mr. and Mrs. Roberts and indicated that the appeal was taken with respect to the property of 1919 Halethorpe Avenue on behalf of Bryan Roberts, *et ux* – Petitioners. The Board would prefer that the appeal be signed by an attorney or by the actual individual effecting the appeal. However, there is no requirement under the Board rules that this be done.

Rule 6 of the Board's Rules covers the appearances and practice before the Board of Appeals. This rule allows any individual, who is a party to the proceeding, to appear in his own behalf and any member of a partnership may appear as representing said partnership if it is a party or a duly authorized officer of a corporation, trust, or an association as representing said body if it is a party to said proceedings. This rule also allows any party to be represented by an attorney at law admitted to practice before the Court of Appeals of Maryland. Section C states "no person shall appear before the Board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in Sections A and B above." As stated previously, the Board allowed the appeal to be accepted on the basis of filing by Mr. Cracken the engineer, but refused to allow Mr. Cracken to represent the Petitioners in the hearing before the Board. The Board considers that its position at that time was correct.

B. The Panhandle Lot Issue

The policy of the County Department of Permits and Development Management (PDM) follows the policy set forth in the Zoning Commissioner's Manual (RM-1A Access – Residential):

- c. If the required in-fee strip is located in the only possible access area, the in-fee portion of the access or utility easement must be at least 8-foot wide. (A 12' wide or wider easement may be required for each lot by other agencies to provide for access or utilities).

This is in direct contravention to B.C.C. Section 32-4-101(ee) and 32-4-409. Section 32-4-101(ee) defines *Panhandle lot*:

"Panhandle lot" means a lot shaped and situated so that the only frontage or access to a local street or collector street is a narrow strip of land that:

- (1) Is held in-fee, except as provided in Section 32-4-409 of this title;
- and
- (2) May contain a panhandle driveway, water and sewer lines, and other utilities.

Section 32-4-409 of the B.C.Z.R. entitled Panhandle Driveway states:

...(b) In-fee strip; required.

- (1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.
- (2) Panhandle fee strips shall be a minimum of:
 - i. 20 feet in width to serve one lot;
 - ii. 12 feet in width per lot where two lots are involved...."

Nothing in § 32-4-409 mentions an 8-foot wide in-fee strip. As stated by the Court of Appeals in *Vest v. Giant Food Stores*, 329 Md. 461, 476 (1993):

An agency cannot override the plain meaning of the statute or extend its provisions beyond the import of the language employed.

The *Baltimore County Code* does allow the Director of Permits and Development Management to adopt policies under Code § 32-3-105, but his authority is circumscribed. Any policies must be consistent with relevant legislation. Section 32-3-102 states:

The Director of Permits and Development Management shall interpret and enforce the Baltimore County Zoning Regulations to ensure the uses or buildings, including structures, landscaping, roads, and streets, conform to plans approved by the county.

This does not give the Director of Permits and Development Management the authority to substitute his interpretation of the zoning regulations for that of the Zoning Commissioner or the Board of Appeals.

The Board finds that the policy of the Director of Permits and Development Management in interpreting Section RM-1A of the Policy Manual is contrary to, and in conflict with, the *Baltimore County Code*. The special hearing to allow an 8-foot strip in lieu of the 20-foot strip required by § 32-4-101(e) and § 32-4-409 is denied.

C. The Variance Request

The Planning Office noted that the required panhandle strip of 20 feet wide would leave Lot #1 substandard both as to net area and front lot width under B.C.Z.R. 1B02.3.C, Small Lot Table Requirements for the D.R.2 zone. In this assessment, the Planning Office assumed that the orientation of the lot was fronting on Halethorpe Avenue. Petitioners contend that the orientation of the lot is now fronting toward the north side of the lot which would make the front of the lot nearly 200 feet wide and the width of the lot approximately 104 feet without the in-fee strip. Petitioners contend that since the Zoning Commissioner allowed the variance for what he considered to be the rear of the lot and this issue was never appealed, the question of the orientation of the building on the lot is a settled matter. The Board disagrees. The tax map and data search shows 1919 Halethorpe Avenue as Parcel 73, one of several lots in Halethorpe

Terrace. The building was constructed in 1873 (PC Exhibit 10). It is one of a group of five lots of about the same size with street frontage and driveways on Halethorpe Avenue. The GIS aerial photograph submitted by People's Counsel (PC Exhibit 1) confirms this layout and shows a walkway leading from Halethorpe Avenue to the building constructed on the property in question. This is in addition to the driveway that shows on the aerial photograph. Two neighbors, Donald Hawkins and David Howard, who have lived in the area for many years, both testified that prior to the Roberts' purchasing the house, the entrance to the house was on Halethorpe Avenue.

Petitioners contend that the entrance to the house is now on the north side of the building and opens into a center hall, with stairs going to the upstairs rooms. The living room is to the right of the entranceway and the dining room and kitchen are to the left of the entranceway. In addition, the Petitioners contend that the entrance to the cellar, by means of metal doors opening up from the south side of the building, confirms that the house is oriented towards the north.

The fact that the Petitioners may have re-oriented the entrance to the house facing north does not change the original orientation of the house and the fact that the house still has an address on Halethorpe Avenue. The situation is much different from the *Wilder* case (CBA Case No. 04-252-SPHA), recently decided by the Board and quoted by the Petitioners. In that case, the house in question, in Rodgers Forge, was an end-of-group home that was constructed with the main entrance oriented toward Pinehurst Road, although the address was on Murdock Road. It contained an entranceway on Pinehurst and a walkway to Pinehurst. The rear of that home was attached to the neighbor's home in a row of homes in Rodgers Forge.

In attempting to prove its point that the address was on Murdock Road, the Protestants in *Wilder* cited several instances where homeowners had re-oriented the main entrance to their

homes to the side, as was done in the instant case. However, despite the main entrance being on the side of the home, the front of the home and the address remained the same. The Board finds a definite difference between the house in question and the home in the *Wilder* case.

Having found that the 8-foot in-fee strip is invalid, the Board feels that the request for a variance is moot. However, in the event the 8-foot strip should be allowed, the Board feels that the issue of uniqueness as required in the case of *Cromwell v. Ward*, 102 Md. App. 691 (1995) has not been proven in this case. Tax maps and the aerial photograph submitted by People's Counsel shows that this property is a long rectangular piece of property very similar to other properties on Halethorpe Avenue and in the immediate vicinity. In *Cromwell v. Ward*, 102 Md. App. 691 at page 710, the Court stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic that is not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

Even assuming that the building is oriented towards the north side of the property, this does not make the property "unique." Therefore, the Petitioners' request for variance must be denied.

ORDER

THEREFORE, IT IS THIS 3rd day of November, 2005, by the County Board of Appeals of Baltimore County

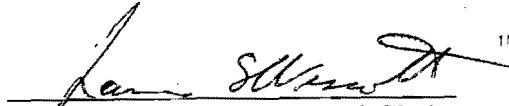
ORDERED that the Petition for Special Hearing to approve a waiver pursuant to § 32-4-409(a)(2) of the *Baltimore County Code* to allow a panhandle driveway and to confirm the use of an 8-foot wide in-fee strip along with a 20-foot wide easement for access to and from Halethorpe

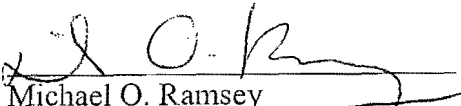
Avenue for a dwelling proposed on Lot #2 of the Development Plan consistent with § 102.4 of the B.C.Z.R. be and is hereby **DENIED**; and it is further

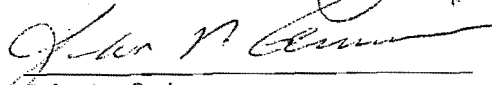
ORDERED that the Petition for Variance seeking relief from §B02.3.C of the B.C.Z.R. to allow a front yard setback of 34 feet in lieu of the required 40 feet be and is hereby **DENIED**.

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 COUNTY**


Lawrence S. Wescott, Panel Chair


Michael O. Ramsey


John P. Quinn



County Board of Appeals of Baltimore County

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

November 3, 2005

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Bryan and Linda Roberts* – Legal Owner/
Petitioner / Case No. 05-137-SPHA

Dear Mr. Holzer:

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

Enclosure

c: Bryan M. & Linda G. Roberts
Charles R. Crocken, P.E.
Mr. and Mrs. David Howard
Donald Hawkins
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



7/11/05

RE: PETITION FOR SPECIAL HEARING *
AND VARIANCE *

1919 Halethorpe Avenue
E/Side Halethorpe Avenue
640 Feet SC/Line of
Washington Boulevard, Route 1

13th ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

LEGAL OWNERS:
BRYAN M. AND LINDA G. ROBERTS

Petitioners

BEFORE

THE

COUNTY

BOARD OF APPEALS

FOR

BALTIMORE COUNTY

Case No.: 05-03-137-SPHA

RECEIVED

JUL 11 2005

BALTIMORE COUNTY
BOARD OF APPEALS

* * * * *

MEMORANDUM IN LIEU OF ORAL ARGUMENT

The Legal Owners of 1919 Halethorpe Avenue, *Bryan M. and Linda G. Roberts*,
Petitioners, by *J. Carroll Holzer*, Holzer & Lee, hereby submits this Memorandum in
Lieu of Oral Argument to the County Board of Appeals:

I.

STATEMENT OF THE CASE

Bryan M. and Linda G. Roberts, owners of 1919 Halethorpe Avenue filed a
Petition for Special Hearing and a Petition for Variance to permit the subject lot to be
subdivided consistent with the DR 2 zoning of the property.

The Petition for Special Hearing and Variance indicated that the subject property
is located on the East side of Halethorpe Avenue and is improved by an existing dwelling
which is being renovated by the owners. The property is approximately 104.5 x 404 feet,

large enough for two (2), 20,000 square foot lots. It is located in an older community which is undergoing a renaissance. The proposed improvements will serve to prompt the continued renewal and enhancement of the area. There are several dwellings in the neighborhood which are accessed by driveways which are consistent with the Petitioners proposal. The proposed lot orientation is common along Halethorpe Avenue as evidenced by the plats and tax maps.

There was no history of previous zoning cases associated with the property.

The Special Hearing was requested in order to confirm the use of an eight (8) foot wide in fee strip for Lot #2, along with a 20 foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling to be located on the lot at the rear of the property. This request for an eight (8) foot wide in fee strip was consistent with the Baltimore County Zoning Policy and the testimony of the Zoning Office representative – Lloyd Moxley.

A Variance was also requested for Lot #1, from §1B02.3.C of the Baltimore County Zoning Regulations to allow a minimum front yard of 34 feet in lieu of the required 40 feet. The existing dwelling on proposed Lot #1 faces North towards the proposed driveway. The requested variance was described as “internal only and will not affect in any adverse way either the subject property or the adjoining properties.” A variance to the rear (or South) yard setback was also requested.

The Baltimore County Planning Office issued comments on September 27, 2004 in which it is apparent that they misunderstood the orientation of the existing home on Lot #1 and what was the front of the house and therefore the Planning Office recommended denial. (Just weeks earlier in Case No.: 04-252-SPHA, *In RE: Wilder*, that Office had used the same criteria to determine that the front of a house in Rodgers Forge was determined by the entrance and the internal layout of the rooms. Here the Planning Office misunderstood the physical layout of 1918 Halethorpe Avenue).

The Zoning Commissioner, on November 24, 2004, denied the Petition for Special Hearing and further dismissed as moot the Petition for Variance to allow a front yard setback of 34 feet in lieu of the required 40 feet. The Zoning Commissioner however granted the Variance Request to permit a "rear yard setback of 18 feet in lieu of the required 40 feet for the existing dwelling on Lot #1."

The effect of the Zoning Commissioner's granting of the rear yard variance (which is final because it was not appealed by either party) clarifies that the orientation of the existing home on Lot #1 faces North and the front of the home is indicated by the existing entrance as shown on the Site Plan.

An appeal was taken from the Denial of the Petition for Special Hearing and from the Denial of the Variance for the front yard setback. No appeal was taken from the grant of the variance for the rear yard setback and it has become final.

The case of “In the Matter of: The Application of Paul Shriver, et ux., Case No.: 90 CG 2543” was decided by the Circuit Court of Baltimore County in April, 1991 and has been utilized for the basis that a specific appeal may be filed to a Zoning Commissioner’s decision and the issues before the Board are limited to this Special Hearing and the variance for the front yard setback. The Shriver case concludes that it is permissible (indeed, even proper) for an Appellant to appeal from that portion of the Zoning Commissioner’s decision which was not resolved in the Appellant’s favor and the appeal does not extend to those portions of the decision of the Zoning Commissioner that were favorable to the Petitioner. As a result in this case, the front of the property has clearly been determined to be the North side where the front entrance is and the rear has been determined by the Zoning Commissioner to be on the South side of the property of Lot #1 where the grant of the rear yard variance was permitted.

As a result, the front orientation of Lot #1 and the existing home is no longer an issue before the Board.

II.

STATEMENT OF FACTS

The People’s Counsel for Baltimore County prior to the beginning of the hearing filed a Motion to Dismiss the appeal based upon the fact that the two (2) Letters of Appeal were signed by Charles Crocken, Engineer, as a representative of the Roberts. After an oral response by the Petitioners, the Board ruled that the engineer, Crocken, had the right to file the appeal on behalf of his clients, the Roberts and denied the Motion to Dismiss.

Thereafter, the Petitioners presented their case to the Board.

Bryan Roberts testified that he and his wife purchased 1919 Halethorpe Avenue in December, 2001. The lot contained an existing house and that the front of the existing house faces North. When you enter the home, there is a foyer immediately after going through the front and only door, with a living room on the right, a dining room on the left, a kitchen and bedroom suite further to the left. On the second floor, there are two (2) bedrooms and a bath. He testified that there is a basement door on the South side leading out of the house which is consistent with the Zoning Commissioner's determination to grant the rear yard variance. He testified that the size of the existing lot would permit two (2) appropriate 20,000 square foot lots to be created. He testified that he was familiar with complaints from the neighbors in regard to drainage coming from off-site and access his property and he offered to provide whatever storm water management would assist in resolving the problem.

Mr. Charles R. Crocken from Charles R. Crocken & Associates, Inc., a civil engineering and land planning firm, located in Westminster, Maryland qualified before the Board as an expert at civil engineering and land development in Baltimore County. Crocken had been licensed Professional Engineer since August, 1971 and had worked for a number of engineering firms including Whitman, Requardt & Associates, G.W. Stevens and Leon Podolak & Associates before starting his own firm. He testified that the zone for the property was DR 2 which required 20,000 square foot lots. He testified that the

proposed subdivision of the lot would permit two (2), 20,000 square foot lots thereby meeting the density requirements. He testified that Lot #1 is oriented with the front to the North side of the property as depicted on the Site Plan which he prepared. He testified that the proposed Site Plan met the requirements of Baltimore County Zoning Regulations §102.4 and also complied with the Zoning Commissioner's Policy Manual designated as RM-1A Access – Residential, Policy C (attached hereto and incorporated herein).

Crocken testified that the Office of Planning's comments dated September 27, 2004 indicating that the subject property is not wide enough to be subdivided misses the point because the front of Lot #1, if determined to face North was approximately 200 feet wide which satisfied both the width and the area requirements under the Regulations. He testified that the Zoning Commissioner found that the rear of Lot #1 was on the South side and therefore the front of the lot would have to be on the North side where the entrance to Lot #1 was located. He further testified that no other appeal was taken to the grant of the variance for the rear yard setback and that has become final. Crocken further explained that the subject request is not a panhandle driveway issue, but is in fact a question of whether adequate access for Lots #1 and #2 from Halethorpe Avenue has been provided. Crocken believed that this is the issue misunderstood by the Planning Office as well as the Zoning Commissioner in his decision below. Crocken testified that the issue is not whether or not the driveway to Lot #2 is a panhandle (because it is not),

but whether it provides suitable access under the Zoning Regulations. He testified in reviewing the Policy Manual C that the proposed 8-foot in fee portion of the access meets the Zoning Commissioner's Policy Manual and Regulation 102.4. Furthermore, he testified that each lot would contain 20,000 square feet as required by Zoning Regulation 102.4. Thus the driveway is not subject to the panhandle regulations, nor is it a panhandle.

In regard to the variances, Crocken testified with knowledge of Zoning Regulation 307.1 that the subject lot is long, narrow and consists of an existing structure facing North which was constructed in the late 1800's. The existing home on Lot #1 predated the building codes. He testified that the property slopes evenly from Halethorpe Avenue to the rear, with approximately a 20 feet of drop-off. He testified that the property could otherwise be subdivided in that the density necessary for such subdivision is available. Further, that the variance does not increase the allowable density which is two (2) lots for the subject site. Crocken analyzed the neighborhood and found that the development of the two (2) lot subdivision was consistent with other similar development on the same street and in the immediate area. He testified that such subdivision was within the spirit and intent of the Zoning Regulations which provided for 20,000 square foot lots. Crocken further testified that there would be no negative impacts to the health, safety and welfare to the Community in that the current existing drainage problem would not be increased or aggravated by the development but could be addressed on the site. He testified referring to the tax maps and photographs that there were numerous lots in this neighborhood that had been subdivided in this fashion.

The Petitioners then called Lloyd Moxley, a technician in the Baltimore County Zoning Office. Mr. Moxley testified on direct examination that he had reviewed the proposed plan of the Petitioner and discussed the matter with his superiors. He referred to Baltimore County Zoning Regulations §102.4 and the Policy Manual relevant thereto as noted in RM-1A Access-Residential and Policy C. He testified in his office his opinion the Petitioner's plan met the zoning requirements and that the Zoning Office approved this Plan. Moxley was cross-examined by People's Counsel as to the orientation of the existing house. He confirmed that he did not accept the property owner's word, but verified the front of the property. (This case is similar to the case of "*In the Matter of Charles and Brigid Wilder*, Case No.: 04-252-SPHA," where this Board recently found that the "front" of an existing residence was dictated by the orientation of the front door and the internal room layout). In this case, since there is no door on Halethorpe Avenue, the case is even easier than the *Wilder* case to determine the orientation of the front. Moxley then testified that in his office's opinion the front orientation is north and that the depth of the lot is north and South. The width on Lot #1 therefore is approximately 200 feet and the depth is 100 feet. He further testified that for Lot #2, the front would face the West.

Then in testimony that was extremely significant, *he testified that the proposed driveway for Lot #2 was not a panhandle in the sense of the definition used by the Planning Office.* Rather, Moxley testified that this request is *not a panhandle request because it would not satisfy the panhandle requirement.* He testified it is an access – a residential access issue!

The two (2) Protestants include an adjoining property owner in the rear of the subject site and a representative of the local community association. The entire testimony of both Protestants consisted of concerns about existing storm water and drainage issues in the neighborhood. Many of the concerns related to storm waters improperly handled by the existing County system. The concern focused on the piping system utilized by the County to resolve drainage problems of water created as far away as Washington Boulevard which drained onto Halethorpe and ran across properties including Petitioners to ultimately impact Protestants property in the rear of the Petitioner's site. Crocken had previously testified that any drainage from the proposed Lots #1 and #2 would be resolved by storm water management corrective devices so that the proposed subdivision would not further aggravate the neighborhood problems. He testified that to subdivide, the Petitioners must not increase the amount of storm water flowing from their property and that would be reviewed by the County in the subdivision process.

III.

LEGAL ARGUMENT

Special Hearing. The Petitioner submits that the Planning Office, People's Counsel and the Zoning Commissioner in his Opinion did not understand Baltimore County Zoning Regulations §102.4. That Section requires that "no dwelling shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way of at least thirty (30) feet wide over which the public has an easement of travel."

The Policy Manual submitted known as RM-1A Access – Residential sets forth three (3) policies in regard to interpretation of this Regulation. First, in Paragraph A, the Policy Manual states “pursuant to §102.4 the Zoning Office will require in-fee access to a public road for all lots. This policy has been met by the proposed subdivision plan.” Secondly, Policy B states that “where more than one lot is involved, several substandard panhandle in-fee strips (with a two (2) foot minimum width) may be established to meet this requirement. That Policy is not applicable.” Third, Policy C states, “if the in-fee strip is located in the only possible access area, the in-fee portion of the access or utility easement must be at least eight (8) feet wide.” A twelve (12) foot or wider easement may be required for each lot by other agencies to provide for access or utilities). This Policy C has been met by the proposed Plan.

Contrary to People’s Counsel’s argument that this Plan shows a panhandle driveway, that is not the position of the Baltimore County Zoning Office as expressed by Lloyd Moxley.

The position of the Petitioner and the Zoning Office in this case in summary is, that the Question before the Board is whether we have adequate access for Lots #1 and #2 for Halethorpe Avenue and not whether we have a panhandle driveway and if we meet the Code for a panhandle driveway. The proposed driveway is not a panhandle..

The Zoning Office refused to use the term “panhandle driveway” because we are in fact constructing a “shared driveway” and not a panhandle driveway. In this case, a panhandle driveway would be a twelve (12) foot wide driveway constructed in a 20 foot

wide in-fee strip of land for the sole use of providing access to Halethorpe Avenue for Lot #2 only. Under the proposed plan, we are constructing a “shared driveway” twelve (12) feet wide with six (6) feet of the driveway to be constructed in an eight (8) foot wide in-fee strip for Lot #2 and six (6) feet constructed on Lot #1.

Since the Petitioner in this case is constructing only six (6) feet of the twelve (12) foot wide driveway on Lot #2, we do not need a twenty (20) foot wide in-fee strip for the driveway. This interpretation has obviously been reviewed on prior occasions and determined by the Zoning Office and included in the Zoning Commissioner’s Policy Manual prior to 1985 as shown on the information provided by the Zoning Office. There is nothing new presented by this minor subdivision plan that has not been acted upon under normal County review.

Since we are **NOT** constructing a driveway in a twenty (20) foot wide panhandle for the sole use of Lot #2, but rather a shared driveway located on Lots #1 and #2, Petitioners submit that this Plan does not come under Regulations for a panhandle driveway. Thus, Petitioners are not violating the County Code nor the Planning Department’s policy of not supporting variances for construction of panhandle driveways.

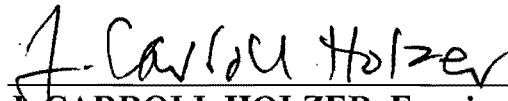
In the instant case, with this layout showing the shared driveway for Lots #1 and #2, Petitioners have satisfied the County’s criteria for adequate access to a public road in accordance with the Zoning Commissioner’s Policy Manual. Petitioners therefore submit that the Board should determine that adequate access pursuant to the Baltimore County Zoning Regulations and Policy Manual have been met by this Plan.

Variance. The Petitioner only seeks one variance from the minimum front yard setback of 34 feet in lieu of the required 40 feet. The rear yard setback has already been granted. As presented in the Statement of Facts, Mr. Crocken testified as to the Baltimore County Zoning Regulations, §307.1 requirements for a variance. The case of Cromwell v. Ward, 102 Md. App. 691 (1995) requires a unique or peculiar feature which makes the site itself unusual to support the grant of a variance. Crocken opined that the orientation of this property while shared by a few other lots in the neighborhood is of a character in dimensions, approximately 100 x 400 which makes it unique and unusual for purposes of developing two (2) lots which are permitted under the Zoning Regulation. Furthermore, a unique feature of the site is its slope of approximately 20 feet from front to rear.

Petitioners submit that Crocken's testimony supports the granting of this variance. Clearly, the **Zoning Commissioner below found the site unique** for purposes of the rear yard setback which he granted and which was not appealed by either People's Counsel or any Protestant in the neighborhood.

WHEREFORE, Petitioner requests this Board to grant the remaining variance in all that §301.7 criteria required by the Baltimore County Zoning Regulations have been satisfied and approve the Special Hearing for the reasons above mentioned.

Respectfully submitted,



J. CARROLL HOLZER, Esquire

Holzer & Lee

508 Fairmount Avenue

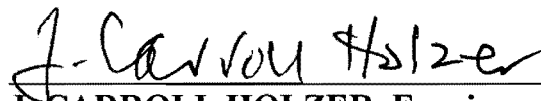
Towson, Maryland 21286

410-825-6961

Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July, 2005, a copy of the foregoing Memorandum in Lieu of Oral Argument was mailed, postage pre-paid to the following:
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse,
Room 47, 400 Washington Avenue, Towson, Maryland 21204.



J. CARROLL HOLZER, Esquire

7/11/05

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
AND VARIANCE		
1919 Halethorpe Ave; E/side Halethorpe Ave,	*	BOARD OF APPEALS
640' S c/line of Washington Blvd, Rt 1		
13 th Election & 1 st Councilmanic Districts	*	FOR
Legal Owner(s): Bryan M. & Linda G. Roberts		
Petitioner(s)	*	BALTIMORE COUNTY
	*	05-137-SPHA

* * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Statement of the Case I: The Petition and the Zoning Commissioner Decision

Petitioners Bryan and Linda Roberts are developers who live in Ellicott City in Howard County. They acquired 1919 Halethorpe Avenue in southwestern Baltimore County in 2001. It has an existing dwelling. The property is .9619 acres in size (104' x 400'). It is zoned D.R. 2, having been reclassified from D.R. 5.5 in 1996 (Issue 1-006).

Petitioners have filed two petitions to justify a proposed subdivision. The first is for a special hearing, and the second is for variances. The petition includes a statement, apparently prepared by engineer Charles Crocken. It requests:

"... to confirm the use of a eight foot wide in fee strip for Lot 2 along with a twenty foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling be to [sic] located on the lot at the rear of the property, consistent with Baltimore County zoning policy."

There is no genuine dispute that the proposed in-fee strip is for a panhandle lot and driveway. Code Secs. 32-4-101(ee), 32-4-409. P.C. Exh. 2, 6. The proposed in-fee strip is substandard. It conflicts irreconcilably with Baltimore County Code Sec. 32-4-409 provisions for panhandle driveways, the minimum width requirement of 20 feet for a

single lot, and the limited authority for the Director of Planning to grant waivers based on specified standards. Rather, Petitioners rely on an unpublished policy of the zoning office, presented by staff member Lloyd Moxley. Pet. Exh. 3. Moxley offered that the County Code is for other people to address, but of no concern to his office.

In addition, if a proper panhandle driveway were proposed, 20 feet in width (12 feet wider than the 8 proposed) and 200 feet long, the size of lot 1, now shown as 20,038 square feet, would be:

$$20,038 \text{ less } (12 \times 200) = 20,038 \text{ less } 2400 = 17,638$$

But minimum lot size under the BCZR 1B02.3.C small lot table is 20,000 square feet in the D.R. 2 zone. See P.C. Exh. 3. Therefore, the petition, at the same time, violates the County Code requirements on panhandle driveways and the minimum lot size for the D.R. 2 zone. A proper panhandle driveway would also leave the property with a front width along Halethorpe Avenue of just 84 feet (104 minus 20), which violates the minimum width of 100 feet. These violations contributed to the Office of Planning's opposition, originally expressed in October 27, 2004 ZAC correspondence. P.C. Exh. 15.

Correlatively, the proposal also appears to conflict with BCZR 102.2, which states:

"No yard space or minimum area required for a building or use shall be considered any part of the yard space or minimum area for another building or use."

There are other problems. Engineer Crocken's statement continues:

"A variance is requested for Lot 1 from Section 1BO2.3c of the B.C.Z.R. to allow a minimum front yard of 34 feet instead of the required 40 feet. ... The existing dwelling will be on proposed lot 1 facing north towards the side of the proposed driveway. Though the proposed front yard is 34 feet, the exiting dwelling is actually located 42 feet from property situate on the opposite side of the driveway eight foot in fee strip."

This obscures the unreasonable claim that the front of the property, which clearly and historically has been on Halethorpe Avenue, may now be called the side adjoining the easement and panhandle driveway. This claim, moreover, conflicts with County Code Sec. 32-4-409(g)(2), which governs "Dwelling orientation on panhandle lots:"

"The dwelling shall be oriented to establish a desirable relationship between:

- (i) Each of the proposed dwellings and existing adjacent homes; and
- (ii) The proposed dwellings themselves.

If the petition accurately named the front as Halethorpe Avenue, the proposal would fail to meet the minimum lot width of 100 feet for small lots in the D.R. 2 zone under the BCZR 1B02.3C table. P.C. Exh. 3. Even if the front is considered the easement and panhandle driveway area, the petition is misleading because the supposed front of the house is just 22 feet from the proposed easement. The petition for a rear yard variance for Lot 1 of 18 feet instead of the required 40 feet is also based on the assumption that the property fronts on the easement and driveway.

Crocken called the variances "internal only" and claimed that it "will not affect in any adverse way either the subject property or adjoining properties." He added that "many variances have been granted in a similar or same circumstance," but did not identify any specific cases. He concluded that, without approval, the petitioners would "suffer practical difficulty and unreasonable hardship" and that in fact "approval ... will actually enhance the property and adjoining neighborhood."

At the Zoning Commissioner's hearing, additional problems surfaced. Donald Hawkins of 1919 Woodside Avenue and David Howard of 1924 Woodside Avenue both appeared. Hawkins is President of the Halethorpe Terrace Community Association. Howard owns and resides on the property to the rear of the Roberts property. They described the persistent flooding problems in the area and the intent of the 1996 comprehensive rezoning to limit development in the area. They also emphasized that recent county storm water management projects had not alleviated the situation.

The Zoning Commissioner denied the petition for special hearing on November 24, 2004. He found the proposal violates the County Code requirements on panhandle driveways. He also acknowledged the Planning Office comment in a footnote.

Having denied the petition for special hearing, the Zoning Commissioner dismissed the request for front yard variance as moot. Nevertheless, he granted the rear yard variance for Lot 1. This latter approval was strange, since the house already existed.

Statement of the Case II: The Appeal; Posture and Scope of the *De Novo* Appeal

County Charter Sec. 603 provides that appeals to the County Board Appeals are *de novo* unless otherwise provided by statute. The appeal of a Zoning Commissioner decision under Code Sec. 32-4-281 is *de novo* because no other limit is there stated. This case comes to the CBA anew, as if there were no Zoning Commissioner decision. Pollard's Towing v. Berman's Body Frame & Mechanical 137 Md. App. 277 (2001).

On behalf of Petitioners, engineer Charles Crocken filed two appeal letters, both dated December 20, 2004 but stamped in on December 21 and 22 respectively. In the first letter, Crocken stated that he was appealing the denial of the special hearing. In the

second letter, he did not mention the special hearing, but stated that he was appealing the dismissal of the front yard variance and not the grant of the rear yard variance.

People's Counsel filed a Motion to Dismiss the Appeal on the ground that an engineer has no authority to file such appeals. Petitioners, represented at the hearing by counsel, argued essentially that the filing of an appeal is a mere form and need not be filed by the petitioners themselves or an attorney. The County Board of Appeals accepted that argument and denied the motion to dismiss. But the Chairman added that the CBA would not allow an engineer to try a case at the CBA.

People's Counsel wishes to preserve for the record its position on the Motion. If however, the appeal is allowed as a mere formal exercise, fit for an engineer, then the entire case comes up for a *de novo* hearing under Charter Section 603.

In the hearing on the merits, Petitioners' counsel took the contradictory position that Engineer Crocken's letters limited the appeal to the denial of the special hearing and dismissal of front yard variance. He argued that by not appealing the rear yard variance, the issue of the location of the front of the property was resolved and could not be litigated anew. Petitioners' counsel's argument is unfounded for a number of reasons.

First of all, if the engineer's appeal is permissible as a mere form, then he may not engage in legal strategy. An attempt to limit the appeal involves the engineer in such legal strategy. This is a function performed by attorneys. So, to allow this appeal to limit legal issues would reinforce the grounds for the Motion to Dismiss Appeal.

Secondly, if Crocken's "legal strategy" is taken seriously, his second appeal letter replaces the first. It does not purport to repeat or incorporate the first letter. Since the

second appeal letter does not mention any appeal of the petition for special hearing, then the denial of the special hearing is final and cannot be litigated again. In other words, the supposed cleverness of the engineer's filing of two appeal letters has been too clever by half. Petitioners have actually abandoned their Petition for Special Hearing.

Thirdly, even if the CBA finds that Crocken did not abandon the appeal of the special hearing denial, the location of the front of Lot 1 is a live issue in any event. The front yard variance depends on it, and this is an issue to be tried *de novo*.

Fourthly, if the CBA still believes that Crocken's letters could be construed as mere forms, then the entire case comes to the CBA *de novo*. Under this scenario, the CBA should disregard his (and Petitioner's current counsel's) attempt at gamesmanship.

Thus, with respect to procedure, Petitioners' counsel's attempt to use Crocken's letters to limit the appeal has these potential consequences for the CBA decision:

1. Reconsider the Motion to Dismiss Appeal because it is now apparent that Crocken was engaging in legal strategy, and not merely filing a form.
2. Make a ruling that Crocken's second letter omitted, and therefore abandoned, the appeal of the denial of the Petition for Special Hearing.
3. Rule, in any event, that all issues concerning the front yard variance, including the location of the front of the property, are live *de novo* issues in any event.
4. Treat Crocken's letters as if they were appeal forms, so that the entire case --- the special hearing, front yard, and rear yard variances --- comes to the CBA *de novo*.

The Merits of the Case I: The Substandard Panhandle Strip; Consequences

The special hearing for the substandard in-fee strip cannot stand. The informal zoning “policy” which supports it is in direct conflict with County Code Secs. 32-4-101(ee) and 32-4-409. Petitioners presented Lloyd Moxley of the Department of Permits and Development Management (PDM). Moxley testified as if his department could operate its own provincial legal system, independent of the county code. When questioned about a conflict with the panhandle driveway law, his reply was that it was the business of some other department, but not his department. This attitude is unacceptable.

The Court of Appeals said in Vest v. Giant Food Stores 329 Md. 461, 476 (1993):

“An agency ‘cannot override the plain meaning of the statute or extend its provisions beyond the clear import of the language employed.’”

This applies to unilateral actions, to policies, and to regulations. Even a published regulation must be “consistent with the letter and spirit of the law under which the agency acts.” Gleneagles v. Hanks 156 Md. App. 543, 554 (2004), quoting Lussier v. Md. Racing Comm’n 343 Md. 681, 687 (1996) and Christ v. Dep’t of Natural Resources 335 Md. 427, 437 (1994).

The Baltimore County Code does allow the Director of Permits and Development Management to adopt policies under Code Sec. 32-3-105, but his authority is circumscribed. First of all, any policies must be consistent with relevant legislation. The PDM Director has no legislative authority and may not usurp such authority. Secondly, the scope of his interpretation is limited. Sec. 32-3-102 states:

“The Director of Permits and Development Management shall interpret and enforce the Baltimore County Zoning Regulations to insure that uses, or buildings,

including structures, landscaping, roads, and streets, conform to plans approved by the county.”

This is essentially an implementation provision, so that PDM can perform the clerical function to assure uses and buildings conform to plans approved by the proper authorities, i.e. the Zoning Commissioner and the Hearing Officer. It does not allow, for example, for the PDM Director, or his subordinates, to substitute their interpretation for that of the Zoning Commissioner (and, on appeal, the County Board of Appeals). Maryland and Baltimore County laws entrust the Commissioner and CBA to determine issues of zoning law under the Express Powers Act, Art. 25A, Sec.5(U) of the Md. Code and Articles V and VI of the Baltimore County Charter. Moreover, these and the agencies to which special hearing authority is entrusted to render what amounts to declaratory judgments under BCZR 500.6 and 500.7. See Antwerpen Motor Cars v. People’s Counsel No. 2005). Thirdly, any policies must be published and promulgated under Code Sec. 32-3-105. That is a cornerstone of administrative law in an open democratic society.

Here, the Department of Permits and Development Management has abused its authority in each way. It has adopted a policy which conflicts with the plain language of Code Sec.32-4-409 on panhandle lots and driveways and has thus usurped the legislative authority. It has purported, under the guise of interpretation, to make policy and interpret land use law, thus usurping the authority of the Zoning Commissioner as Hearing Officer and/or the Planning Director to consider waivers under Code Secs. 32-4-409 and 32-4-107(a). This policy also invades the space separation required under BCZR 102.2,

allowing space required for the panhandle strip to be used as yard area. On top of that, it has generated and employed an unpublished policy.

The only good thing that PDM did was to advise the Petitioners to apply for a special hearing so that there would be some public review of its position. Had this not been done, PDM might well have approved the minor subdivision without a public hearing. It is unknown whether or not PDM has approved other minor subdivisions despite conflict with the panhandle law or other county laws and without a public hearing. The County Board of Appeals should deny the special hearing, and hold that the Department must adhere to the governing law and always refer legitimate issues of interpretation and/or waiver to the Zoning Commissioner (or Zoning Commissioner as Hearing Officer) for public hearing. Here, the Department has operated virtually as its own government, with but the saving grace of referring the matter for public hearing.

The Planning Office noted, and Dennis Wertz explained, that the required panhandle strip 20 feet wide would leave Lot 1 substandard both as to net area and front lot width under BCZR 1B02.3.C small lot table requirements for the D.R. 2 zone. P.C. Exh. 3. This is also unacceptable. Moreover, on this record, there has not been, and does not exist, any justification to waive the panhandle lot and in-fee strip requirements.

Merits of the Case II: The Front-Loaded Variance Requests

The requests for variances depend on approval of the panhandle strip. Therefore, the CBA may dismiss both variance requests as moot upon denial of the special hearing. In any event, the variance requests are without merit.

The customary analysis of the variance involves the two-pronged test of “uniqueness” and related “practical difficulty or unnecessary hardship under BCZR 307.1. In this case, however, it is necessary to address preliminarily the geometry of the property, and the accuracy of petitioners’ description of the front as the boundary facing the panhandle strip and easement. Petitioners have made this silly claim in order to assert that the front yard and rear yard variances for the existing dwelling are “internal,” as if they don’t matter. It so happens that the setback variances are not “internal;” they relate to adjacent properties, including the jointly owned in-fee strip. But the theory that the front faces what traditionally has been the side of the property must not go unchallenged.

The Tax Map shows 1919 Halethorpe Avenue as Parcel 73, one of several venerable lots in Halethorpe Terrace, with a building constructed in 1873. P.C. Exh. 10. It is one of a group of five lots of about the same size with street frontage and driveways on Halethorpe Avenue. The GIS aerial photograph confirms this layout. P.C. Exh. 1.

Petitioners propose to shift the main door from the Halethorpe Avenue front so that it faces the new easement/in-fee strip boundary. By this maneuver, they claim the front yard no longer is on Halethorpe Avenue. Moxley testified that the zoning office goes along with this idea, and added the strange observation that Lot 1 fronts on the easement/in-fee strip but that Lot 2 still fronts toward Halethorpe Avenue.

This manipulation conflicts with Code Sec. 32-4-409(g)(2), which requires the dwelling orientation on panhandle lots to establish a desirable relationship with existing dwellings and adjacent homes. In this context, the proposed Lot 1 is a panhandle lot, in that it is served by the proposed panhandle driveway and strip. It also is an integral part

of the panhandle development. Accordingly, it must comply with this standard. The developer's plan incongruously takes the dwelling on Lot 1 and attempts to shift its orientation away from Halethorpe Avenue.

This manipulation also subverts of the zoning law. One of the purposes of setback standards is to have consistent distances between houses and streets. Classically, as here, the required front yard setbacks are greater than side yard setbacks. This contributes to the purpose of zoning to preserve light and air, and maintain compatibility in a neighborhood. Code Sec. 32-3-101 states, in pertinent part:

(a) *Purpose of the zoning map and regulations.* For the purpose of promoting the health, safety, morals, and general welfare of the community, the zoning map and regulations shall be prepared in the manner provided under this title to regulate and restrict, within the county:

* * *

(4) The setback or distance of any buildings or structures from front or side lot, road, street, or alley line and other open spaces;

* * *

(b) *Comprehensive plan; design.*

(1) The zoning map and regulations shall be made in accordance with a comprehensive plan.

(2) The zoning map shall be designed to:

(iii) Promote health and the general welfare.

(iv) Provide adequate light and air;

(v) Prevent the overcrowding of land to avoid undue concentration of population.

1919 Halethorpe Avenue and the neighboring houses have fronted on Halethorpe Avenue for a century or more. Donald Hawkins and David Howard gave a good area history.

Petitioners, absentee newcomers, are trying to turn this around for a self-serving purpose. It is outrageous for the Zoning Office to accept this transparent subversion. This

is not a corner lot situation, where the location of the front of the house may be debatable. We have reviewed the Baltimore County Zoning Regulations and case law around the country. They do not support the Petitioners' position.

The BCZR 101 definitions for "Yard, Front" and "Yard, Rear" both contain the language: "extending along the full width of the lot". What, then, is the width? Webster's Third New International Dictionary definition states, in pertinent part:

Width: 1: a distance from side to side: measure taken at right angles to length: BREADTH <the ~ of a ribbon><the ~ of a printed letter> . . .

Customarily, the front width is ordinarily measured along the street frontage. Even where there is a corner lot, the orientation of neighboring lots is a significant factor.

The leading case of Bianco v. City Engineer & Building Inspector 187 N.E. 101 (Mass. 1933) involved a corner lot situated at the end of a row of rectangular lots bounded on the north by Quincy Street. The lot in question was bounded by Quincy Street on the north and Ashland Street on the west. The original building faced Quincy, but the new owner desired a new building facing and having an exclusive entrance on Ashland. He applied for a building permit for a building within 15 feet of the lot to the east. If this were judged to be the rear (the front being on Ashland), it would be in violation. But the building inspector reviewed the history and circumstances and found that the front was still on Quincy, like the neighboring lots. The neighboring property owner to the east filed a petition for mandamus to revoke the building permit, which was referred to an auditor. The case turned on the definition of "rear lot line." The auditor's

report essentially found the issue debatable, and did not recommend revocation of the permit. The Supreme Judicial Court sustained this decision. The Chief Justice wrote:

“The front line and the rear line of a lot cannot well be described by a hard and fast rule of law applicable to all cases. The determination of the question is largely a matter of fact. The general location, the manner in which the particular lots and its adjacent lots have been laid out, the customs of surveyors in that respect, the uses to which the lot has been put as well as those to which it is proposed to be put, the practices of public officer charged with duties respect it, and all the other pertinent facts touching the customs of the neighborhood, may be examined. To these factors is to be applied the meaning usually attached to the words ‘rear lot line’ according to the common and approved usages of the language.”

In Davis v. City of Abilene 250 S.W.2d 685 (Tex. App. 1952), upon advice of a City Engineer, appellants built a factory/apartment building facing an alley instead of the more natural 6th Street. They placed the building within 5 feet of 6th Street to avoid the minimum front yard setback of 25 feet. The City revoked the permit. On appeal, the Zoning Board required the building to be moved at least 21 feet from 6th Street, to match neighboring buildings. The property owners’ petitioned for injunction. But the Court agreed with the Zoning Board, rejecting the owners’ theory that the space between the building and 6th Street was a “side yard” as “not a reasonable one.” 250 S.W.2d, at 688.

The Bianco and Davis cases both involved corner lots. Even there, the courts decided that the location of the front should be consistent with street front orientation of neighboring lots. 1919 Halethorpe Avenue is an interior lot. We know of no decision to allow a property owner to change the normal orientation of an interior lot by moving a doorway to the sidewall. If this were allowed, it would play havoc with the consistency of the implementation of the setback laws. Properly understood, the attempt by the

Petitioners to switch the orientation of the lot by moving a doorway is not only legally unsustainable, but also detrimental to the public safety, health and welfare objectives of the zoning law.

Because the front of the property remains Halethorpe Avenue, the required variances are different from the variances requested. There would still be a requirement for a front yard variance for Lot 1, because the site plan shows the existing dwelling is just 30 feet from Halethorpe Avenue, less than the required 40 feet. There would also be a front lot width variance to justify proposed width of 84 feet instead of the required 100 feet, taking into account the required in-fee strip of 20 feet (alternatively, a proposal of 96 feet if Petitioners could get away with a substandard in-fee strip 8 feet wide).

The petition for variances is thus flawed not only because of the failure to take into account the required panhandle strip, but also because of the distorted description of the front of Lot One. In any event, as shown below, there is no legal justification for variances of any kind to support the proposed subdivision of this property. It has functioned well and fit in the neighborhood for many years with a single dwelling.

The Merits of the Case III: Traditional Variance Analysis

Implementation of the Variance Statute

The first inquiry under BCZR 307.1 is whether a property is peculiar or “unique” so that an unusual difficulty is presented. If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends. Riffin v. People’s Counsel 137 Md. App. 90, cert. denied 363 Md. 660 (2001). Umerley v. People’s Counsel 108 Md. App. 497, cert. denied 342 Md. 584 (1996); Cromwell v. Ward 102 Md. App. 691 (1995); Red Roof Inns v. People’s

Counsel 96 Md. App. 219 (1993) If this threshold is passed, the further question is whether the unique condition results in a “practical difficulty” particular to the site. Easter v. Mayor & City Council 191 Md. 395 (1950). The term “practical difficulty” is a term of art, with criteria defined in McLean v. Soley 270 Md. 208, 213-15 (1973).

The purpose of variance law is to allow relief so a property owner has some reasonable use of his property. See 3 Young, Anderson’s American Law of Zoning 4th, Sec. 20.02 (1996):

The underlying purposes of administrative relief have been discussed in an earlier chapter, but specifically, with respect to variances, it is said that a variance is ‘designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation.’

A key point is that the property owner’s inability to comply with zoning law for the purpose of a selected use does not justify a variance. Otherwise, a variance would have to be granted in every case; and zoning law would collapse. The Court addressed this issue in Umerley, *supra*. There, the property owner observed that he could not possibly expand the trucking facility without variances from the setback requirements set under the current zoning law. Judge Bishop observed, at 108 Md. App. 508:

“In their briefs, the Umerleys fail to point to any evidence that would support a finding that their property is “unique” within the meaning of Maryland case law and BCZR 307.1. The Umerleys only point to evidence that shows that their operations predate the 1976 trucking facility regulations, that their facility has always been in violation of those regulations, that their operations cannot comply with those regulations, and that their operation is important to the economy of both Baltimore County and the State of Maryland. Because the uniqueness requirement mandates that the subject property ‘have an *inherent* characteristic not shared by other properties in the area,’ such evidence cannot support a finding that the Umerleys’ property is unique within the meaning of

Maryland law. A review of the record fails to reveal any other evidence that would support such a finding.

Remarkably, there is even less justification for the variance here than in Umerley. The proof of uniqueness is lacking in both cases. As to alleged difficulty, Umerley could at least assert that he was providing a need and, in a sense, a service to the public. While this too did not justify a variance, at least there was something to say. All the Petitioners have to say here is that they bought a property with an existing dwelling for fair market value and would like to make more money by subdividing it, developing it, and selling it. They are indifferent to the concerns of neighbors that they will aggravate flooding problems an area with a documented history of difficulties.

Uniqueness Resulting in Difficulty: Standards

The word “unique” is defined strictly. Otherwise, anyone could make some sort of claim. The Court stated in Cromwell, 102 Md.App. at 710 (1995):

“In the zoning context the ‘unique’ aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.”

The uniqueness must also relate to a particular difficulty. As the Court said many years ago in Easter, *supra*:

"The burden of showing facts to justify an exception or variance rests upon the applicant, and it must be shown that the hardship affects the particular premises and is not common to other properties in the neighborhood."

Practical Difficulty: Standards

The criteria in McLean v. Soley, 270 Md. 208, 214-15 (1973) are:

"1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Application to the Present Case

Uniqueness Resulting in Difficulty

Here, there was no legally sufficient evidence that the property is unique. The statement accompanying the Petition for Variance lacks any indication that there is anything unique about the property. There is nothing in the site plan to indicate anything unique. There was nothing in the testimony of either Bryan Roberts or Crocken to suggest that the property is unique. Like other properties in the area, it slopes down away from Halethorpe Avenue towards the residential area along Woodside Road. Like many other properties in the area, it has been used happily for a single-family dwelling for many years.

Crocken is not an expert on zoning. Insofar as he is an engineer who can draw up plans and record property descriptions, he gave nothing to show anything unique. He did not undertake an evaluation of neighboring properties. On cross-examination, he admitted the obvious, that several neighboring lots with one dwelling are similarly situated, in size and location, to the Roberts property.

The case is reminiscent of Riffin, *supra*. There, the CBA denied the requested variances because the Greenside Drive property in Timonium was not unique. The Court of Special Appeals concluded its opinion by approving and quoting from the County Board of Appeals decision at 137 Md. App. 97-98:

"In denying the appellant's requests for variances, the Board explained:

Section 307.1 of the Baltimore County Zoning Regulations states, in pertinent part, as follows:

"...The County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area 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...Furthermore, any such variance shall be granted only if [*11] in strict harmony with the spirit and intent of said height, area .. regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare."

As well, this Board enjoys the guidance provided by the Court of Special Appeals in Cromwell v. Ward, 102 Md.App. 691, 651 A.2d 424 (1995). In requiring a pre-requisite finding of "uniqueness," the Court defined the term and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared

by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access, or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

...

It is this Board's finding that the proposed site is in no way unique, unusual or different from the other properties that are existent in this M.L.-I.M. zone. The Maryland Department [*12] of Assessments and Taxation, real Property System map, shows just how similar in size and shape all of the properties are along Greenspring Drive. Testimony by Mr. Patton indicated that this property was consistent with others in the community, and he noted that the gentle slope off of Greenspring Drive was consistent with other properties, further noting that some chose to fill in their properties before building and have entrances at the rear of their locations. ... At no time in the hearing did the appellant entertain any historical significance to the site nor were environmental or subsurface conditions documented. Mr. Riffin did testify as to the damage to the interior of his building but did not document the same with photographic exhibits, receipts for repairs or documentation by some authority regarding the nature or extent of this damage. There was no testimony or evidence regarding abutting properties restricting his activities or imposing any unique characteristics upon his site. In the absence of an initial finding of uniqueness, the inquiry under Section 307.1 stops and, in this case, the three variances must be denied. (Emphasis supplied).

We see no error."

* * *

Petitioners' counsel noted an apparent subdivision of property several lots away, where three lots are owned by Rider, Ohlin, and Bozeman. But there was no history provided. It likely predated the D.R. 2 zoning, so that variances were not required. It may have predated all zoning, so that it was nonconforming. The panhandle strip appears to be wide. Whatever the history of that property, it would not make the Roberts property unique in light of several similarly situated properties with existing single dwellings on both sides of the Roberts property.

Indeed, there is no record of any variances being granted for the subdivision of any other lots in the area. But even if there were, it would not justify a variance here. Generally, even violations or other variances in the immediate area do not justify a new or additional variance. In Park Shopping Center v. Lexington Park Theater Co. 216 Md. 271 (1958). Chief Judge Brune there wrote:

This Court has held that it is not proper to consider the existence of surrounding ill-advised or illegal variances as grounds for granting additional variances. As stated in Easter v. Mayor and City Council of Baltimore 195 Md. 395, 400 ... (1950), 'Prior exceptions granted by the adjustment board are not in themselves controlling. Ill-advised or illegal variances do not furnish grounds for a repetition of the wrong. If that were not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified.

Practical Difficulty Generally

Petitioner already has use of the property for the existing home. The statement in the Petition for Variance concludes that petitioners will suffer practical difficulty unless their proposal is approved. But it does not provide any reasons, and none were provided in Crocken's expert testimony. It appears that Petitioners have the idea that practical difficulty occurs whenever a developer is unable to do what the developer wants or to maximize growth and revenue on a particular property. That is not the law. There is no evidence that the Petition satisfies the first of the McLean criteria, that the law denies unreasonably the permitted use of their property for residential purposes.

To the extent that Petitioners rely on Crocken's testimony for support, it is helpful to remember Judge Moylan's admonition in People's Counsel v. Beachwood II L.P. 107 Md. App. 627, 650 (1995), cert. denied 342 Md. 572 (1996).

“A self-evident reason for rejecting as an effective catalyst an expert opinion that a mistake was made is the fact that the opinion is merely conclusory or is, at best, quasi-conclusory. Illustrative of the principle that the opinion of an expert is of little or no weight in the absence of strong supporting facts is Mayor & Council of Rockville v. Henley...”

Judge Moylan also explained that expert opinions should be rejected if based on a predicate which is immaterial. 107 Md. App. at 651-58.

In addition, there is undisputed affirmative evidence from Mr. Wertz, Mr. Hawkins, and Mr. Howard that there have been serious storm water problems in the neighborhood. These have not been resolved by improvement efforts so far. In this context, the function and purpose of the 1996 comprehensive zoning was to limit development in the area.

This brings into play the second and third criteria under McLean. It would be an injustice to the community and to neighboring property owners to allow any additional development in this immediate area. Furthermore, if these developers are allowed to subdivide here, then the property owners on both sides will likely demand variances to allow similar subdivisions. All of this is in direct conflict with the spirit and intent of the 1996 comprehensive zoning reclassification in this area. There will be an aggravation of storm water drainage problems and adverse impact on public safety and welfare.

From any and all perspectives, there is no legal justification to approve any variance in connection with the proposed subdivision of this property. The County Board of Appeals should find that it is obligated on this record to deny the Petition for Variances. The developers will still have the existing single-family dwelling, which was on the property when he purchased it. That is all to which he is entitled.

Conclusion

For the above reasons, the County Board of Appeals should, as a matter of law, deny all the Petition for Special Hearing and Petition for Variances.

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 11 day of July, 2005, a copy of the People's Counsel for Baltimore County's Memorandum was mailed Donald Hawkins, 1909 Woodside Avenue, Halethorpe, MD 21227 and J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

PETER MAX ZIMMERMAN
People's Counsel

July 11, 2005

CAROLE S. DEMILIO
Deputy People's Counsel

Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of the: Bryan & Linda Roberts
Case No.: 05-137-SPHA

Dear Ms. Bianco:

Enclosed please find People's Counsel for Baltimore County's Memorandum along with three copies of such for filing with regard the above-referenced case.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Peter Max Zimmerman /rmw".

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: J. Carroll Holzer, Esquire
Donald Hawkins

RECEIVED

JUL 11 2005

BALTIMORE COUNTY
BOARD OF APPEALS

5/23/05

RE: PETITION FOR SPECIAL HEARING
AND VARIANCE
1919 Halethorpe Ave; E/side Halethorpe Ave,
640' S c/line of Washington Blvd, Rt 1
13th Election & 1st Councilmanic Districts
Legal Owner(s): Bryan M. & Linda G. Roberts
Petitioner(s)

* BEFORE THE COUNTY
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* 05-137-SP

RECEIVED
MAY 23 2005

BALTIMORE COUNTY
BOARD OF APPEALS

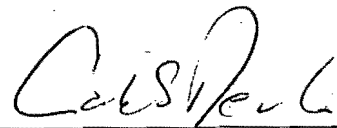
MOTION TO DISMISS APPEAL

People's Counsel for Baltimore County moves to dismiss the appeal with prejudice, and
states:

1. The two letters of appeal, attached, were prepared and signed by Charles Crocken, P.E., as a representative of Bryan Roberts.
2. The letters were not signed by Petitioners or by an attorney.
3. Under these circumstances, the appeal does not comply with Code Section 32-3-401, CBA Rule 3a and 6, and Maryland law because it is not directly filed by Petitioners and because an engineer is not qualified to file an appeal in a representative capacity.
4. The Code allows a "person aggrieved or feeling aggrieved" to file an appeal. To satisfy this law, either the individual person or his(her) attorney may file the appeal. The CBA Rules limit representation to attorneys.
5. The appeal is a nullity. The County Board of Appeals lacks jurisdiction.
6. In any event, People's Counsel believes that the appeal is without merit.

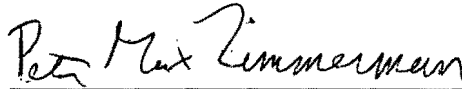
Wherefore, People's Counsel moves for dismissal of the appeal, with prejudice.


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel for Baltimore County

STATEMENT OF POINTS AND AUTHORITIES

Turkey Point Property Owners Ass'n v. Anderson 106 Md.App. 710 (1995); Ginn v. Farley 43 Md.App. 229, cert.denied sub nom.; Engel v. Farley 286 Md. 747 (1979); Lukas v. Bar Ass'n of Montgomery County 35 Md.App. 442, cert. denied 280 Md. 733 (1977).



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May, 2005, a copy of the Motion to Dismiss Appeal was mailed, postage prepaid, First Class United States Mail to Charles R. Crocken, P.E., P.O. Box 307, Westminster, MD 21158 and J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioners.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning
P.O. BOX 307
WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Special Hearing
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
FIRST APPEAL

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

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA regarding the denial of the request for approval of a eight foot wide in fee strip with a 20 foot easement for access to Lot No. 2 shown on the plat of the subject property which accompanied the original petition . We are attaching a check for payment of the appeal fee and posting the property.

Sincerely,



Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl1-let


DEC 21 2004

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning

P.O. BOX 307

WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Variance
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
SECOND APPEAL

RECEIVED

DEC 22 2004

BALTIMORE COUNTY
BOARD OF APPEALS

Attention, Timothy M. Kotroco, Director

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA Petition for variances regarding the dismissal as moot of the request for a variance from the front yard setback of 40 feet to 34 feet as shown on the plat of the subject property which accompanied the original petition. We are not appealing the granting of the variance for the rear yard setback which was approved. Attached is a check for payment of the appeal fee and posting of the property.

Sincerely,



Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl-2-let

(2) The appealing party shall file written notice of the appeal with the Department of Permits and Development Management within 15 days after the date of the Zoning Commissioner's final order with the required fee.

(3) The Board of Appeals shall:

(i) Schedule a public hearing for a date not more than 45 days after the notice of appeal is received by the Department of Permits and Development Management;

(ii) Provide notice of the date, time, and location of the public hearing and post the property at issue as provided in this Code; and

(iii) Issue its decision within 15 days after the conclusion of the public hearing.

(1988 Code, § 26-127) (Bill No. 18, 1990, § 2; Bill No. 91, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 103-02, § 2, 7-1-2004; Bill No. 75-03, § 5, 7-1-2004)

SUBTITLE 4. APPEALS

§ 32-3-401. APPEALS TO THE BOARD OF APPEALS.

(a) *In general.* A person aggrieved or feeling aggrieved by a decision of the Zoning Commissioner or the Director of Permits and Development Management may appeal the decision or order to the Board of Appeals.

(b) *Appeals by county agencies.*

(1) This subsection does not apply to the People's Counsel.

(2) An official, office, department, or board of the county aggrieved or feeling aggrieved by a decision of the Zoning Commissioner may not appeal the decision to the Board of Appeals without the prior approval of the County Administrative Officer and the County Attorney.

(c) *Notice and fee required for filing.* The appealing party shall:

(1) File notice of the appeal, in writing, with the Department of Permits and Development Management within 30 days after the final decision; and

(2) Pay the required fee.

(d) *Procedure for hearings.* The Board of Appeals shall hear and dispose of the appeal as provided in the charter and the rules of procedure established by the Board of Appeals.

(1988 Code, § 26-132) (Bill No. 18, 1990, § 2; Bill No. 116, 1990, § 2; Bill No. 4, 1992, § 1; Bill No. 103-02, § 2, 7-1-2004)

Annotations:

Remedy provided under title 34 of 1958 Code held to be an alternative to that afforded by this section, at least where it is affirmatively alleged that the Planning Board has violated zoning regulations and that a violation of either the zoning or the subdivision regulations was subject to an injunction under title 34. Lynn v. Goldman, 216 Md. 562, 141 A.2d 172 (1958).

County Council need not follow the recommendations of the Planning Board, and need not have any further or additional hearing in regard to any changes or amendments the County Council may see fit to make. Swathmore Company v. Kaestner, 258 Md. 517, 266 A.2d 341 (1970).

The people's counsel has the right to appeal zoning decisions. People's Counsel for Baltimore County v. Williams, 45 Md. App. 617, 415 A.2d 585 (1974).

Former § 26-132 (1988) cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).

SUBTITLE 5. ZONING RECLASSIFICATION THROUGH CYCLE ZONING

§ 32-3-501. DEFINITIONS.

(a) *In general.* In this subtitle, the following words have the meanings indicated.

(b) *Petition.* "Petition" means a petition for zoning reclassification.

(c) *Use.* "Use" includes development.

(d) *Zoning reclassification.*

(1) "Zoning reclassification" means:

(i) A change to a district or zone of a particular piece of property; or

(ii) A correction to the official Chesapeake Bay Critical Area Map adopted under § 33-2-105 of the Code.

(2) "Zoning reclassification" includes approval for the use of growth allocation in connection with paragraph (1)(i) and (ii) of this subsection.

(1988 Code, § 2-356) (Bill No. 103-02, § 2, 7-1-2004; Bill No. 75-03, § 5, 7-1-2004)

APPENDIX H
RULES OF PRACTICE AND PROCEDURE
OF THE BALTIMORE COUNTY BOARD OF APPEALS¹

Rule 1. General

- a. The county board of appeals shall select one of its members to be the chairman of the board, and he shall serve as chairman at the pleasure of the board. The chairman shall preside at all meetings of the county board of appeals, and in his absence he shall designate another member of the board to sit in his place as acting chairman.
- b. Meetings of the county board of appeals shall be held as determined by the chairman, but never less than weekly; and the board shall meet at such other times as the board may determine.
- c. Three (3) members of the board of appeals, as designated by the chairman, shall sit for the purpose of conducting the business of the board; and a majority vote of two (2) members shall be necessary to render a decision, except that, in the event of illness or death of a sitting member, upon agreement of counsel of record or parties or record, two (2) members may continue to sit for purposes of concluding any matter before the board of appeals.
- d. All appeals to the board from decisions of the zoning commissioner or deputy zoning commissioner shall be in conformance with the rules of the zoning commissioner of Baltimore County with respect to the form of appeal, and the filing fees shall be as established either by said rules of the zoning commissioner or by the Zoning Regulations of Baltimore County.

Rule 2. Notice.

- a. No hearing shall be conducted without at least ten (10) days' notice to all parties of record or their counsel of record, unless otherwise agreed to by all such parties or their counsel of record.
- b. Postponements and continuances will be granted at the discretion of the board only upon request in writing by an attorney of record, addressed to the board and with a copy to every other attorney of record, or party of record (if not represented by counsel) entitled to receive notice, in accordance with section 500.11 of the Baltimore County Zoning Regulations, setting forth good and sufficient reasons for the requested postponement.
- c. No postponement shall be granted within fifteen (15) days prior to the hearing date except in extraordinary circumstances and for a reason satisfactory to the board, given by the party requesting such postponement indicating that the circumstances requiring the postponement are of an unusual and ordinary nature.

¹ Editor's Note: These rules are included here as they appeared in Appendix G of the 1987 Edition of the Baltimore County Zoning Regulations, as amended.

- d. All records and dockets of the board shall be open to the public during normal business hours.
- e. In appeals from decisions of the zoning commissioner, formal notice of hearings, continuances and decisions of the board will be provided only to those persons entitled to receive same in accordance with section 500.11 of the Baltimore County Zoning Regulations.

Rule 3. Appeals.

- a. No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal.
- b. An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal.
- c. Unless otherwise provided for by statute, all appeals to the board of appeals, subject to and limited by statutory authority to hear appeals, shall be made within thirty (30) days from the date of the final action appealed. [Bill No. 141-1989]

Rule 4. Conduct of hearings.

- a. All hearings held by the county board of appeals shall be open to the public. No hearing shall be private even though all parties agree. The county board of appeals shall have the power to administer oaths, and all witnesses shall testify under oath.
- b. The chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.
- c. A hearing may be adjourned from time to time for good cause shown and if the time and place of reconvening the hearing is announced at adjournment, no further notice of reconvening shall be required. If the time and place of reconvening is not announced at adjournment, notice of time and place of reconvening shall be given as required in rule 2a.
- d. Depositions shall not be allowed unless by agreement of all parties or their counsel of record.

Rule 5. Subpoenas

- a. The county board of appeals shall have the power to compel the attendance of witnesses and to require the production of records and documentary or other tangible evidence.
- b. The board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party to any hearing; but subpoenas will not be issued upon application unless such application is in writing and sets forth the persons, records, books, papers or other documents to be produced and a general statement as to the purpose.

Rule 6. Appearances and practice before the board of appeals.

- a. Any individual who is a party to a proceeding before the board may appear in his own behalf; any member of a partnership may appear as representing said partnership if it is a party; a duly authorized officer of a corporation, trust or an association may appear as representing said body if it is a party to the proceedings; and a duly authorized officer or an employee of any political subdivision or body or department may represent the same in any proceeding before the board.
- b. Any party may be represented in any proceeding by an attorney-at-law admitted to practice before the Court of Appeals of Maryland.
- c. No person shall appear before the board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in sections a. and b. above.
- d. When an attorney wishes to appear in any proceeding in a representative capacity which involves a hearing before the county board of appeals, he shall file with the board a written notice of such appearance, which shall state his name, address, telephone number, and the names and addresses of the persons on whose behalf he has entered his appearance.

Rule 7. Evidence.

- a. Any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may be received; but the board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence, and the number of witnesses may be limited if it appears that their testimony may be merely cumulative.
- b. All evidence, including records and documents in the possession of the agency, of which it desires to avail itself, shall be offered and made part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- c. Prepared statements may be read by participants in the hearing if they include factual material and do not include argument, provided copies of said statements have been delivered to the board and opposing counsel at least five (5) days prior to hearing, and their admissibility ruled upon, the same as if the factual content were presented in the usual manner. "Prepared statements" within the meaning of this section shall not include factual reports, written summations, letters, expert opinions of professional expert witnesses and other such similar documents.
- d. Except as may otherwise be provided by statute or regulation, the proponent of action to be taken by the board shall have the burden of proof.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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400 Washington Ave.
Towson, MD 21204

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

PETER MAX ZIMMERMAN
People's Counsel

May 23, 2005

CAROLE S. DEMILIO
Deputy People's Counsel

Lawrence M. Stahl, Chairman
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED

MAY 23 2005

BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Bryan & Linda Roberts
Case No.: 05-137-SPHA

Dear Chairman Stahl:

Enclosed please find a Motion to Dismiss Appeal along with three copies of such for filing with regard the above-referenced case.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: J. Carroll Holzer, Esquire (sent via fax and first class mail)
Charles R. Crocken, P.E.

11/24/04

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE – E/S Halethorpe Avenue,
640' S of the c/l Washington Boulevard * ZONING COMMISSIONER
(1919 Halethorpe Avenue)
13th Election District * OF BALTIMORE COUNTY
1st Council District *
Case No. 05-137-SPHA
Bryan M. Roberts, et ux
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Bryan M. Robert, and his wife, Linda G. Roberts. The Petitioners request a special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a waiver, pursuant to Section 32-4-409(a)(2) of the Baltimore County Code (B.C.C.) to allow a panhandle driveway and to confirm the use of an 8-foot wide in-fee strip along with a 20-foot wide easement for a proposed dwelling on Lot 2, consistent with Section 102.4 of the B.C.Z.R. and Section RM-1 of the Zoning Commissioner's Policy Manual (Z.C.P.M.). In addition, variance relief is requested from Section 1B02.3.C of the B.C.Z.R. to allow a minimum front yard setback of 34 feet in lieu of the required 40 feet and a rear yard setback of 18 feet in lieu of the required 40 feet for the existing dwelling on Lot 1. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Bryan Roberts, property owner, d/b/a Southern Homes, LLC, and Charles Crocken, Professional Engineer who prepared the site plan for this property. Appearing as Protestants were David and Barbara Howard, who reside to the rear of the subject property, and Donald S. Hawkins, who also resides in the community and is President of the Halethorpe Terrace Community Association.

ORDER RECEIVED FOR FILING

ite

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located on the east side of Halethorpe Avenue, not far from Washington Boulevard in western Baltimore County. The property contains a gross area of 42,328 sq.ft., more or less, zoned D.R.2, and is improved with a single-family dwelling, which was apparently constructed in 1873. The property is approximately 103' wide by 400' deep in dimension and is located within an older subdivision known as Halethorpe Terrace. In this regard, the history of the zoning of the property is significant. Testimony indicated that the property was originally zoned D.R.5.5; however, was downzoned to D.R.2 in 1996. The Petitioners purchased the subject property in 2001. Testimony indicated that the Realtor informed them that the property represented an excellent investment as it was capable of being subdivided. Thus, Mr. Roberts, a home improvement contractor, purchased the property with the intention of refurbishing the existing dwelling, subdividing the property to create a second building lot to the rear, and developing new Lot 2 with a single-family dwelling. Lot 1 would contain 20,038 sq.ft. in area and the existing improvements and proposed Lot 2 will consist of 21,780 sq.ft. and would be developed with a single-family dwelling. Access to Lot 2 would be provided via a panhandle driveway leading into the property from Halethorpe Avenue.

Testimony indicated that the Petitioner commenced making renovations to the existing house and that it has since been reoriented so that the front of the dwelling now faces the north side, and the west side faces Halethorpe Avenue. Mr. Roberts testified that when the minor subdivision plans were drafted, he learned that the D.R.2 zoning of the property would require County approval to allow a panhandle driveway, and that a minimum 20-foot wide in-fee strip (See Section 32-4-409(b) of the B.C.C.) was required. This panhandle strip would then jeopardize Lot 1's ability to meet the minimum 20,000 sq.ft. requirement mandated by Section 102.4 of the B.C.Z.R. Thus, the Petitioners now come before me seeking approval of the relief set forth above so that they can proceed with their subdivision plans.

This proposal is not a big one, but rather modest, and the Petitioner is a small builder. He testified that the proposed improvements would have a positive influence on the community,

which is currently undergoing a renaissance. Mr. Crocken pointed to several existing houses in the neighborhood which are accessed by panhandle driveways. Thus, the subject proposal is consistent with other properties in the area. Additionally, the requested variances are "internal" only and will not adversely impact the subject or any adjoining property. Without the approval of the 8-foot in-fee strip and 20-foot easement and variance relief, the Petitioners argue that they would suffer a practical difficulty and unreasonable hardship.

The residents who appeared in opposition raised a number of issues. The primary concern relates to ongoing flooding problems in the area. As noted above, the Halethorpe Terrace development is an older community, which lacks sufficient storm water management infrastructure (i.e., storm drains, curb and gutter, etc.). The neighbors are concerned that the proposed development will further exacerbate the problem. The entire Halethorpe Terrace community, which encompasses approximately 167 acres, was downzoned from D.R.5.5 to D.R.2 in 1996 in an attempt to have the zoning more reflective of the actual land usage and slow the creation of additional impervious surfaces. Mr. Hawkins testified that flooding problems have existed in this community for nearly 100 years, due to the lack of infrastructure, and that the community association has worked with the County to develop a plan of action to control storm water runoff in the area. The rear of the Petitioners' property slopes toward the Howard's home and Woodside Avenue. The Howards indicated that they have continuing flooding problems and fear the proposed development will only aggravate existing conditions. In response to their concerns, Mr. Roberts and Mr. Crocken assured the Howards that they would pitch the proposed driveway to divert runoff away from their property, add a swale to the rear of the proposed home on Lot 2 to divert water, and run downspouts into stone drains to better dissipate water flow, etc.

The more difficult issue relates to the Petition for Special Hearing. As noted above, Section 32-4-409 of the B.C.C. establishes the standards for panhandle driveways. In pertinent part "The County may permit a panhandle lot, if the lot includes an "in-fee" strip of land...a minimum of 20-feet in width to serve one lot." This the Petitioners cannot do without rendering Lot 1 a sub-standard lot. The Petitioners' reliance on Section 102.4 of the B.C.Z.R. and Section

RM-1 of the Z.C.P.M. as a basis for granting a 20-foot easement in lieu of an in-fee strip is not persuasive or appropriate in this case. It is the Director of Planning who is vested with the authority to grant a waiver of the panhandle "in-fee" provisions.¹ Thus, under the circumstances, I am compelled to deny the Petition for Special Hearing as it is not in keeping with the D.R.2 zoning.

Having made that determination, the Petition for Variance to permit a minimum front yard setback of 34 feet in lieu of the required 40 feet becomes moot. This then leaves us with the second variance request, which seeks relief to allow a rear yard setback of 18 feet in lieu of the required 40 feet. This variance is necessary to bring the reorientation of the existing dwelling and lot size into compliance with the D.R.2 regulations. In this regard, the dimensions of the existing home did not change only the location of the front door.

Based upon the testimony and evidence presented, I am persuaded to grant this variance. I find that the Petitioners have met the requirements of Section 307 and Cromwell v. Ward, 102 Md. App. 691 (1995) for relief to be granted and that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship upon the Petitioners.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of November 2004 that the Petition for Special Hearing to approve a waiver, pursuant to Section 32-4-409(a)(2) of the Baltimore County Code (B.C.C.) to allow a panhandle driveway and to confirm the use of an 8-foot wide in-fee strip along with a 20-foot wide easement for access to and from Halethorpe Avenue for a dwelling on proposed Lot 2, consistent with

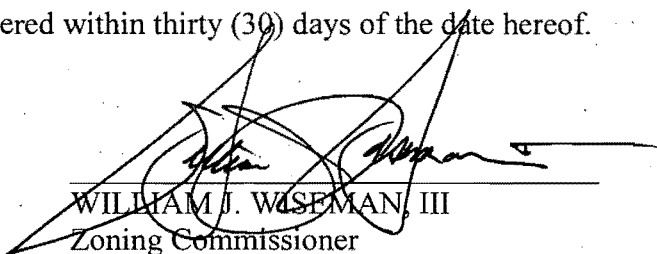
¹ In this case, as part of the Zoning Advisory Committee (ZAC) comments, the Office of Planning on September 27, 2004, stated "The subject property is not wide enough to be subdivided. The minimum lot width in the D.R.2 zone is 100 feet, minus the 20-foot wide in-fee strip required for Lot 2, Lot 1 will have a front yard width of approximately 84 feet. This Office will not support any variance to create a panhandle lot, or to create a sub-standard lot." This comment is attached hereto and made a part of the record.

Section 102.4 of the B.C.Z.R. and Section RM-1 of the Zoning Commissioner's Policy Manual, (C.Z.P.M.), in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1B02.3.C of the B.C.Z.R. to allow a front yard setback of 34 feet in lieu of the required 40 feet, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1B02.3.C of the B.C.Z.R. to permit a rear yard setback of 18 feet in lieu of the required 40 feet for the existing dwelling on Lot 1, be and is hereby GRANTED.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING
Date 11/24/04
By [Signature]

BW
10/27

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 27, 2004

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

RECEIVED

OCT - 6 2004

SUBJECT: 1919 Halethorpe Avenue

INFORMATION:

Item Number: 5-137

Petitioner: Bryan M. Roberts

Zoning: DR 2

Requested Action: Special Hearing

ZONING COMMISSIONER

SUMMARY OF RECOMMENDATIONS:

The Office of Planning reviewed the subject minor subdivision and forwarded comments to the petitioner on April 30, 2004. The content of the comment is as follows:

The subject property is not wide enough to be subdivided. The minimum lot with width in the DR 2 zone is 100 feet. Minus the 20-foot wide in-fee strip required for lot 2, lot 1 will have a front yard width of approximately 84 feet. This office will not support any variance to create a panhandle lot, or to create a sub-standard lot.

The petitioner currently proposes an 8-foot wide in-fee strip for lot 2. Lot 1 will still not meet the minimum lot width requirement of 100 feet. As such, this office recommends that the subject request be **DENIED**.

Prepared by:

Mark A. Cunningham

Division Chief:

John L. Sullivan

AFK/LL:MAC:

ORDER RECEIVED FOR FILING

Date

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

November 24, 2004

Mr. & Mrs. Bryan M. Roberts
10149 Reed Lane
Ellicott City, Maryland 21042-2239

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
E/S Halethorpe Avenue, 640' S of the c/l Washington Boulevard
(1919 Halethorpe Avenue)
13th Election District – 1st Council District
Bryan M. Roberts, et ux - Petitioners
Case No. 05-137-SPHA

Dear Mr. & Mrs. Roberts:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Wiseman III", is written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Charles Crocken, 902 Lee Avenue Sykesville, Md. 21784
Mr. & Mrs. David Howard, 1924 Woodside Avenue, Halethorpe, Md. 21227
Mr. Donald S. Hawkins, 1909 Woodside Avenue, Halethorpe, Md. 21227
People's Counsel; Case File





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1919 MALETHORPE AVE
which is presently zoned DR 2

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

(SEE 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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

BRYAN M. ROBERTS

Name - Type or Print

Signature

LINDA G. ROBERTS

Name - Type or Print

Signature

10149 REED LANE 461-6122

Address

Telephone No.

ELLKOTT CITY, MD. 21042-2239

State

Zip Code

Representative to be Contacted:

CHARLES R. CROCKEN P.E.

Name

P.O. Box 307 549-2708

Address

Telephone No.

WESTMINSTER, MD. 21158

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By

CTM

Date

9/13/04

ORDER RECEIVED FOR FILING

Case No. 05-137-SPHA

REV 9/15/98

Date 11/24/04

By [Signature]

REQUEST FOR SPECIAL HEARING AND VARIANCES
1919 HALETHORPE AVENUE, HALETHORPE, MARYLAND

The subject property is located on the east side of Halethorpe Avenue and is improved by an existing dwelling which is presently being renovated by the owner's Bryan and Linda Roberts who purchased the property in 2002 with the intent of renovating the existing dwelling, subdividing the property and constructing a new dwelling on the new lot. The property was zoned DR-5.5 but was rezoned to DR-2 prior to the Roberts purchasing the land.

The property is approximately 104.5 feet wide by 404 feet long, large enough for two 20,000 square lots. The property is located in an older community, which is under going a renaissance. The proposed improvements will only serve to prompt the continued renewal and enhancement of the area. There are several dwellings in the neighborhood, which are accessed by panhandle driveways. The proposed lots are consistent with other properties in the area.

There is no history of previous zoning cases associated with the property.

The special hearing is requested in order to confirm the use of a eight foot wide in fee strip for Lot 2 along with a twenty foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling be to located on the lot at the rear of the property, consistent with Baltimore County zoning policy. (See attached County diagram)

A variance is requested for Lot 1 from section 1B02.3c of the B.C.Z.R. to allow a minimum front yard of 34 feet in lieu of the required 40 feet. (see attached plan accompanying petition) The existing dwelling will be on proposed Lot 1 facing north towards the side of the proposed driveway. Though the proposed front yard is 34 feet, the existing dwelling is actually located 42 feet from property situate on the opposite side of the driveway eight foot in fee strip.

The requested variance is internal only and will not affect in any adverse way either the subject property or any adjoining properties. In fact, many variances have been granted in a similar or same circumstance.

Without the approval of the eight foot in fee strip and twenty foot easement and the requested variance, the petitioners, Bryan and Linda Roberts will suffer practical and unreasonable hardship and in fact approval of the above requests will actually enhance the property and adjoining neighborhood.

ORDER RECEIVED FOR FILING

Date

By

137



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1919 HALETHORPE AVE
which is presently zoned DR-2

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)

(SEE ATTACHED)

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

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

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____ City _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

BRYAN M. ROBERTS
Name - Type or Print _____
Signature Bryan M. Roberts _____
LINDA G. ROBERTS
Name - Type or Print _____
Signature Linda G. Roberts _____ (410)
10149 REED LANE 461-6122
Address _____ Telephone No. _____
ELLICOTT CITY, MD. 21042-2239
City _____ State _____ Zip Code _____

Representative to be Contacted:

CHARLES R. CROCKEN, P.E.
Name _____ (410)
P.O. Box 307 549-2708
Address _____ Telephone No. _____
WESTMINSTER MD. 21158
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By LTM Date 9/13/04

Case No. OS-137-SPHA

ORDER RECEIVED FOR FILING
Date 11/24/04
By [Signature]

REQUEST FOR SPECIAL HEARING AND VARIANCES
1919 HALETHORPE AVENUE, HALETHORPE, MARYLAND

The subject property is located on the east side of Halethorpe Avenue and is improved by an existing dwelling which is presently being renovated by the owner's Bryan and Linda Roberts who purchased the property in 2002 with the intent of renovating the existing dwelling, subdividing the property and constructing a new dwelling on the new lot. The property was zoned DR-5.5 but was rezoned to DR-2 prior to the Roberts purchasing the land.

The property is approximately 104.5 feet wide by 404 feet long, large enough for two 20,000 square lots. The property is located in an older community, which is under going a ressanse. The proposed improvements will only serve to prompt the continued renewal and enhancement of the area. There are several dwellings in the neighborhood, which are accessed by panhandle driveways. The proposed lots are consistent with other properties in the area.

There is no history of previous zoning cases associated with the property.

1 - The special hearing is requested in order to confirm the use of a eight foot wide in fee strip for Lot 2 along with a twenty foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling be to located on the lot at the rear of the property consistent with Baltimore County zoning policy. (See attached County diagram)

2 - A variance is requested for Lot 1 from section 1B02.3c of the B.C.Z.R. to allow a minimum front yard of 34 feet in lieu of the required 40 feet. (see attached plan accompanying petition) ~~The existing dwelling will be on proposed Lot 1 facing north towards the side of the proposed driveway. Though the proposed front yard is 34 feet, the existing dwelling is actually located 42 feet from property situate on the opposite side of the driveway eight foot in fee strip.~~

The requested variance is internal only and will not affect in any adverse way either the subject property or any adjoining properties. In fact, many variances have been granted in a similar or same circumstance.

Without the approval of the eight foot in fee strip and twenty foot easement and the requested variance, the petitioners, Bryan and Linda Roberts will suffer practical and unreasonable hardship and in fact approval of the above requests will actually enhance the property and adjoining neighborhood.

ORDER RECEIVED FOR FILING

Date

By

#137

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: #05-137-SPHA

1919 Halethorpe Avenue

E/side of Halethorpe Avenue, 640 feet south of centerline of Washington Blvd., Rte. 1

13th Election District — 1st Councilmanic District

Legal Owner(s): Bryan M. and Linda G. Roberts

Special Hearing: to allow the use of an 8 foot wide in fee strip for Lot 2 only and to allow a 20' foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling to be located on the lot at the rear of the property. **Variance:** to permit a minimum front yard of 34 feet in lieu of the required 40 feet for Lot 1 only.

Hearing: Wednesday, October 27, 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.

JT-10/665 Oct. 12

254R5

CERTIFICATE OF PUBLICATION

10/14/ 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 10/12/ 2004.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 05-137-SAHA

Petitioner/Developer:

Bryan + Linda Roberts

Date of Hearing/Closing: 10/27/04

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

Attention:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1919 Halethorpe Ave.

Halethorpe, MD 21227

October 5, 2004

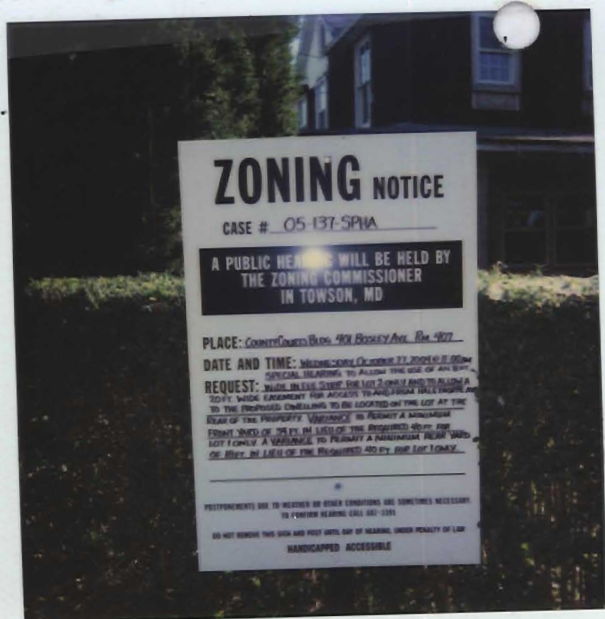
(Month, Day, Year)

Sincerely,

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

SHANNON BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD 21784

~~1-800-368-2295~~
(Address)



APPEAL SIGN POSTING REQUEST

CASE NO.: 05-137-SPHA

42B10

BRYAN AND LINDA ROBERTS - LEGAL OWNER

1919 HALETHORPE AVENUE

13TH ELECTION DISTRICT
RECEIVED AT BOARD ON 1/31/2005

APPEALED: 12/21/04

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1).

*******COMPLETE AND RETURN BELOW INFORMATION*******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 05-137-SPHA

Petitioner/Developer:

BRYAN AND LINDA ROBERTS

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

1919 HALETHORPE AVENUE

The sign was posted on 3/17, 2005

By:

Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

**Department of Permits and
Development Management**

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



Baltimore County

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

September 13, 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: 05-137-SPHA

1919 Halethorpe Avenue
E/side of Halethorpe Avenue, 640 feet south of centerline of Washington Blvd., Rte. 1
13th Election District – 1st Councilmanic District
Legal Owners: Bryan M. and Linda G. Roberts

Special Hearing to allow the use of an 8 foot wide in fee strip for Lot 2 only and to allow a 20 foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling to be located on the lot at the rear of the property. Variance to permit a minimum front yard of 34 feet in lieu of the required 40 feet for Lot 1 only.

Hearing: Wednesday, October 27, 2004 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

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

Timothy Kotroco
Director

TK:klm

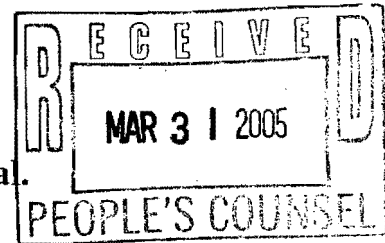
C: Bryan & Linda Roberts, 10149 Reed Lane, Ellicott City, 21042-2239
Charles Crocken, P.O. Box 307, Westminster 21158

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 12, 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.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Telephone: 887-2628

In the Matter of Frieda G. Schaefer, et al.
Case No. 03-C-04-7824



ASSIGNMENT OF TRIAL OR HEARING DATE

Trial\Hearing upon Open Issues (1 hour) will be held on Wednesday, May 18, 2005, at 9:30 a.m. in Courtroom 17, Judge Ruth Jakubowski presiding.

By Order of the Circuit
Court for Baltimore County

A handwritten signature in black ink, appearing to be "RJ", written over a horizontal line.

Ruth Jakubowski
Judge

Date signed: March 31, 2005

Copies to:

✓ Peter Max Zimmerman
People's Counsel for Balto. County

F. Vernon Boozer, Esq.
Bruce Covahey, Esq.

Louis Miller
County Board of Appeals

Civil Department
Central Assignment



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 25, 2005

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 05-137-SPHA

IN THE MATTER OF: BRYAN M & LINDA G. ROBERTS -
Legal Owners /Petitioners 1919 Halethorpe Avenue
13th Election District; 1st Councilmanic District

11/24/04 – Z.C.'s Order in which special hearing request was DENIED;
variance request GRANTED in part and DISMISSED in part as
moot.

which was assigned to be heard on 5/18/05 has been **POSTPONED** at the request of People's Counsel due to
Circuit Court schedule conflict; and, without objection by Counsel for Petitioners, has been

REASSIGNED FOR: TUESDAY, MAY 24, 2005 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : J. Carroll Holzer, Esquire
Appellants /Petitioners : Bryan M. & Linda G. Roberts

Charles R. Crocken, P.E.

Mr. and Mrs. David Howard
Donald Hawkins

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 15, 2005

*PP'd to 5/24/05-
reg. of P.C.
no objection*

NOTICE OF ASSIGNMENT

CASE #: 05-137-SPHA

IN THE MATTER OF: BRYAN M & LINDA G. ROBERTS -
Legal Owners /Petitioners 1919 Halethorpe Avenue
13th Election District; 1st Councilmanic District

11/24/04 – Z.C.'s Order in which special hearing request was DENIED;
variance request GRANTED in part and DISMISSED in part as
moot.

ASSIGNED FOR:

WEDNESDAY, MAY 18, 2005 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners
Appellants /Petitioners

: J. Carroll Holzer, Esquire
: Bryan M. & Linda G. Roberts

Charles R. Crocken, P.E.

Mr. and Mrs. David Howard
Donald Hawkins

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 25, 2005

Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED

APR 25 2005

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Bryan & Linda Roberts
Case No.: 05-137-SPHA

Dear Ms. Bianco:

I am writing to request a postponement of the hearing set for May 18, 2005 at 10:00 a.m. I am currently scheduled to be in the Circuit Court for Baltimore County in the Matter of Frieda G. Schaefer, et al., Case No.: 03-C-4-7824 on that day. There is no objection to the postponement by the other side's attorney, J. Carroll Holzer. After checking with all interested parties, we have come to the conclusion that we are all available for the May 24th date you suggested.

Thank you in advance for your anticipated consideration.

Sincerely,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel

PMZ/rmw

cc: J. Carroll Holzer, Esquire



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 25, 2005

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 05-137-SPHA

IN THE MATTER OF: BRYAN M & LINDA G. ROBERTS -
Legal Owners /Petitioners 1919 Halethorpe Avenue
13th Election District; 1st Councilmanic District

11/24/04 – Z.C.'s Order in which special hearing request was DENIED;
variance request GRANTED in part and DISMISSED in part as
moot.

which was assigned to be heard on 5/18/05 has been **POSTPONED** at the request of People's Counsel due to
Circuit Court schedule conflict; and, without objection by Counsel for Petitioners, has been

REASSIGNED FOR:

TUESDAY, MAY 24, 2005 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners
Appellants /Petitioners

: J. Carroll Holzer, Esquire
: Bryan M. & Linda G. Roberts

Charles R. Crocken, P.E.

Mr. and Mrs. David Howard
Donald Hawkins

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

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

May 24, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

BRYAN M. AND LINDA G. ROBERTS
Legal Owners /Petitioners
Case No. 05-137-SPHXA

Having heard this matter on 5/24/05, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **WEDNESDAY, AUGUST 10, 2005 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on Monday, June 27, 2005
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : J. Carroll Holzer, Esquire
Appellants /Petitioners : Bryan M. & Linda G. Roberts

Charles R. Crocken, P.E.

Mr. and Mrs. David Howard
Donald Hawkins

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FYI: 3-4-6





County Board of Appeals of Baltimore County

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

June 22, 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: Bryan and Linda Roberts* - Petitioners
Case No. 05-137-SPHA /Extension of Time

Dear Mr. Zimmerman:

In response to your letter received this date, and without opposition by Mr. Holzer, your request for an extension for filing of memoranda in the subject matter has been granted. **Briefs are now due from all parties on Monday, July 11, 2005** in lieu of the previously designated June date.

The public deliberation will take place as originally assigned on **August 10, 2005** at 9:00 a.m.

Should you have any questions, please call me.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: J. Carroll Holzer, Esquire / **VIA FAX AND U.S. MAIL**
Donald Hawkins





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

June 22, 2005

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED
JUN 22 2005

BALTIMORE COUNTY
BOARD OF APPEALS

Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of the: Bryan & Linda Roberts
Case No.: 05-137-SPHA

Dear Ms. Bianco:

Because of other scheduling matters and deadlines, I am requesting a postponement of the deadline for filing memoranda in this case from June 27th to July 11, 2005. This should not affect the deliberation date, which is set for August 10th. I have spoken with J. Carroll Holzer, Attorney for Petitioners, and he does not oppose this request.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Peter Max Zimmerman". The signature is written in a cursive, flowing style.

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286
Donald Hawkins, 1909 Woodside Avenue, Halethorpe, MD 21227

**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

Bryan M. Roberts
Linda G. Roberts
10149 Reed Lane
Ellicott City, Maryland 21042-2239

Dear Mr. and Mrs. Roberts:

RE: Case Number: 05-137-SPHA, 1919 Halethorpe Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 13, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Charles Crocken, P.E. P.O. Box 307 Westminster 21158



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



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

Maryland Department of Transportation

Date: 9.17.04

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

RE: Baltimore County
Item No. 137 LTM

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

My telephone number/toll-free number is _____

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

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

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: William Wiseman
Zoning Commissioner

FROM: R. Bruce Seeley *RBS*
Natural Resource Manager

DATE: November 5, 2004

SUBJECT: Zoning Item # 05-137
Address 1919 Halethorpe Avenue

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

Prior to issuance of a building permit, Stormwater Management must be addressed. This would include providing verification of a suitable outfall.

Reviewer: Tony Okechukwu

Date: November 5, 2004

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive
John J. Holman, 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



Printed on Recycled Paper

AND AN EXISTING REAR YARD S B OF
18' 12 OF 200 40' LOT ONE.

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 Nos. 125, 130, 133, 135, and 137

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: July 26, 2002

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

SUBJECT: 1921 Halethorpe Avenue

INFORMATION:

Item Number: 03-008

Petitioner: John Butcher

Zoning: DR 2

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The subject property was part of CZMP issue 1-006 (1996) in which 167± acres of the Halethorpe Terrace subdivision were rezoned from DR 5.5 to DR-2. The Office of Planning submitted the rezoning petition in an attempt to have the zoning be more reflective of the actual land usage and to slow the creation of additional impervious surfaces.

The subject site is the location of a Historical African American Settlement that has endured tremendous flooding for nearly 100 years due to a lack of modern intervention. Due to the fact that this settlement is located at lower elevations than the adjoining communities, when newer subdivisions are developed (in a number of instances without adequate storm water or sediment controls) water run-off from them would flood the settlement.

In an effort to improve the flooding problem, the Department of Public Works, the Office of Community Conservation, the Office of Planning and the Halethorpe Terrace Community Association (Halethorpe Civic League) worked together to develop and implement a plan of action. The storm water controls developed by the plan are still under construction and will in all probability not be completed for at least another year. The additional impervious surfaces associated with the undersized lot will further exacerbate current problems with flooding.

Furthermore, it was the intent of the County Council's rezoning to allow new in-fill development to occur in the Halethorpe Terrace subdivision at the DR-2 density. The Variances requested are not in keeping with the DR-2 zoning.

Considering the aforementioned, the Office of Planning recommends the that the petitioner's request be **DENIED**.

Prepared by:

Mack A. Cunningham

Section Chief:

Lynne J. J. J.

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr *JO*

DATE: October 27, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of September 20, 2004.

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

05-125

04-133

04-135

04-136

04-137

Reviewers: Sue Farinetti, Dave Lykens

SECTION

1102.3.C.2 - SMALL LOT TABLE APPLICATIONS

- a. Between September 19, 1970 (Bill 100) and September 25, 1981 (Bill 124), if a tract of land qualified to be subdivided under the small lot table, the residential transition use and area charts would not have been used. Density and the 75 foot setback in D.R. 16 would also not have been applied. However, the transition use chart was used partially as a guide as follows:

- i. If the zoning was D.R. 1, 2, 3.5, 5.5 it was determined that the intent was to permit single family detached dwellings only. And this use limitation was carried over to a small lot table.
- ii. If the zoning was D.R. 10.5 or 16 it was determined that the intent was to permit townhouses or apartments, but the transition use chart was used partially as a guide so as not to conflict with existing developments or adjacent properties.

Bill 124-01 (effective September 25, 1981) deleted the limitation of only one principal dwelling on a lot, the Residential Transition Area chart, and also deleted the 75 foot setback in D.R. 16.

- b. Subsequently, any tract of land that qualifies for the small lot table would continue to use the bulk regulations of the chart and the concept of the use regulations would be applied as before under a.. The difference being that more than one dwelling could occupy the same lot provided that planning would not require subdivision and the combined area, setbacks, lot width, and distances between principal buildings are complied with.

c. METHOD OF MEASURING SETBACKS

- Street Frontage & Building to Lot Line Orientation

- i. The front setback distance is measured radial or perpendicular to the road or front right-of-way.
- ii. Side and rear setback distances are measured by extending the foundation wall lines to the nearest intersection of the property line.
- iii. The building line setback required by the lot's zoning classification must be maintained from all abutting street frontages.
- iv. Additionally, if a building is oriented so as to face or front a lot line other than a street, applicable front, side and rear setbacks relative to the building's front must also be maintained as required by the property's class.

*RM-1A
Not in current
ZCPM manual
was dropped out
But will return
on reprint.*

ZAC 5-137
1919 Hallett Ave

- 155 acres downzoned from DR5.5 to DR2 by the County Council in 1996.
- Area characterized by
 - Substandard streets
 - Severe drainage problems
 - Low density development
- Area rezoned DR2 to:
 - Decrease the amount and intensity of infill development
 - Limit the creation of impervious surfaces
- Proposal does not comply with:
 - Maximum permitted density specified for the DR2 Zone
 - Development standards for small lots or tracts (lot width)
 - Standards for parhandle lots (width of in-fee strip)

Date Purchased 1/17/01 - 901K

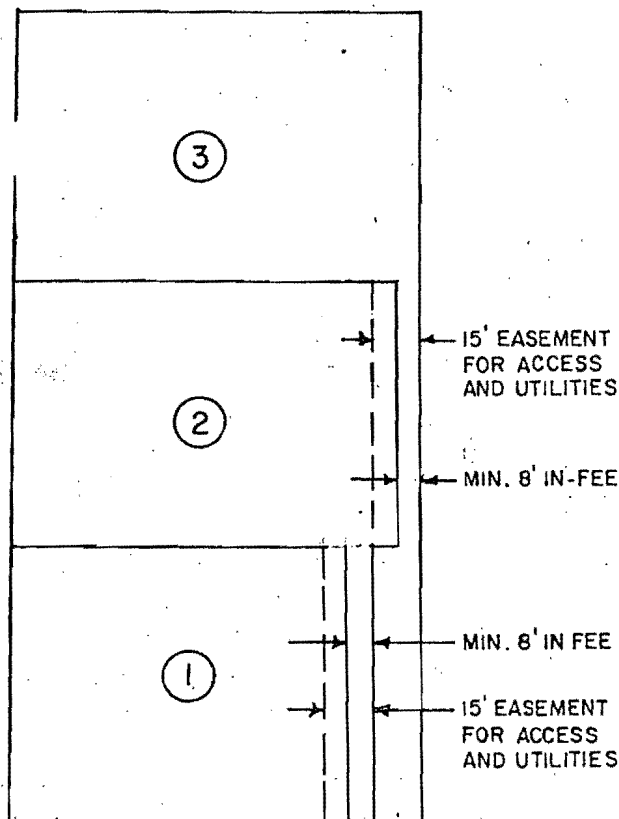
RM-1A ACCESS-RESIDENTIAL

(new policy 11/20/85)

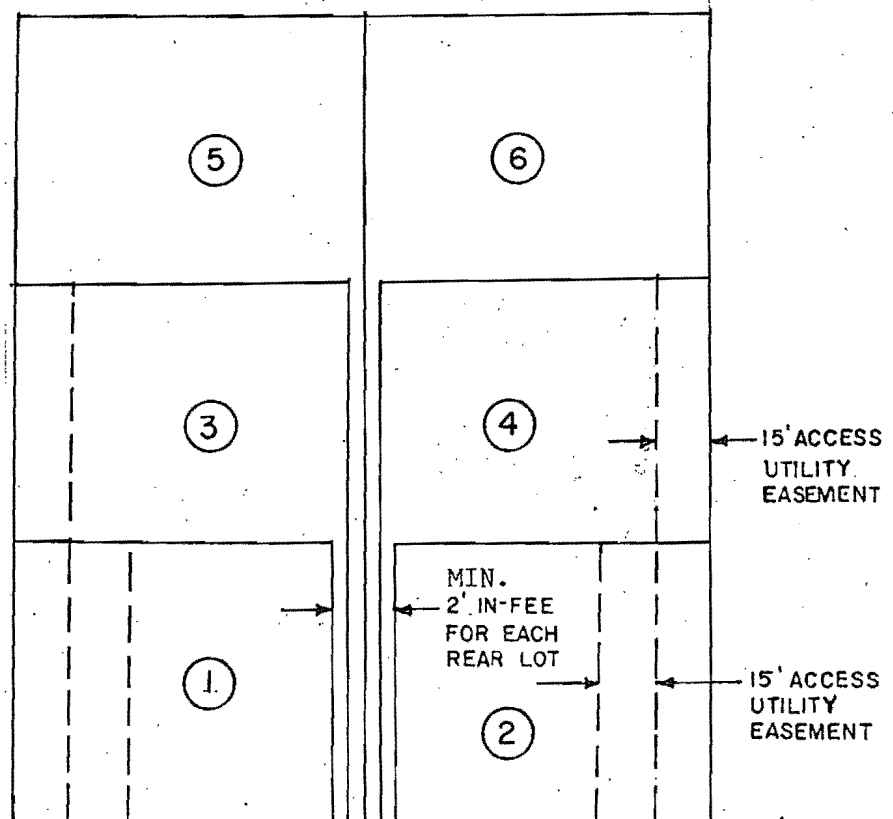
Regulation: 102.4 (Baltimore County Zoning Regulations)

No dwelling shall be built on a lot containing less than 20,000 Sq. ft. which does not abut on a right-of-way at least 30 ft. wide over which the public has an easement of travel.

- Policy :
- A. Pursuant to § 102.4 (B.C.Z.R.) the zoning office will require in-fee access to a public road for all lots
 - B. Where more than one lot is involved, several substandard panhandle in-fee strips (with a 2 ft. minimum width) may be established to meet this requirement.
 - C. If the required in-fee strip is located in the only possible access area, the in-fee portion of the access or utility easement must be at least 8 ft. wide. (A 12 ft. or wider easement may be required for each lot by other agencies to provide for access or utilities.



PUBLIC R/W MIN. 30' WIDE



PUBLIC R/W MIN. 30' WIDE

ONLY ONE (1) POSSIBLE
A. AREA FOR LOTS
NOS. 2 and 3

NOT THE ONLY POSSIBLE
ACCESS AREA FOR LOTS
NOS. 3-6

102.4 32-4-409 A ✓
 ZCPM Sect (RM-??)

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
 BALTIMORE COUNTY
 Real Property Data Search

Go Back
 View Map
 New Search
 Ground Rent

Account Identifier: District - 13 Account Number - 1316000051

Owner Information

Owner Name: ROBERTS BRYAN M
 ROBERTS LINDA G Use: RESIDENTIAL
 Principal Residence: NO
 Mailing Address: 10149 REED LN
 ELLICOTT CITY MD 21042-2239 Deed Reference: 1) /14924/ 409
 2)

Location & Structure Information

Premises Address
 1919 HALETHORPE AVE

Legal Description
 LT ES HALETHORPE AV
 1919 HALETHORPE AVE
 645 SE OF WASHINGTON BL

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
108	12	373						80	Plat Ref:

Special Tax Areas
 Town
 Ad Valorem
 Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1873		42,328.00 SF	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	ASBESTOS SHINGLE

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	40,830	40,830		
Improvements:	0	0		
Total:	40,830	40,830	40,830	40,830
Preferential Land:	0	0	0	0

Transfer Information

Seller: PASKY MARGUERITE L	Date: 01/17/2001	Price: \$90,000
Type: NOT ARMS-LENGTH	Deed1: /14924/ 409	Deed2:
Seller: PASKY LEONARD J	Date: 08/06/1997	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /12313/ 6	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
 Exempt Class:

Special Tax Recapture:

* NONE *

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE
1919 Halethorpe Ave; E/side Halethorpe Ave,* ZONING COMMISSIONER
640' S c/line of Washington Blvd, Rt 1
13th Election & 1st Councilmanic Districts * FOR
Legal Owner(s): Bryan M. & Linda G. Roberts
Petitioner(s) * BALTIMORE COUNTY
* 05-137-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 Charles R. Crockery, P.E., P.O. Box 307, Westminster, MD 21158, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

**Department of Permits and
Development Management**

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



Baltimore County

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

January 28, 2005

Bryan M. Roberts
Linda G. Roberts
10149 Reed Lane
Ellicott City, MD 21042-2239

RECEIVED
JAN 31 2005

Dear Mr. & Mrs. Roberts:

**BALTIMORE COUNTY
BOARD OF APPEALS**

RE: Case: 05-137-SPHA, 1919 Halethorpe Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on December 21, 2004 on your behalf by September 13, 2004. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

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

Timothy Kotroco
Director

TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. Charles Crocken, 902 Lee Avenue, Sykesville 21784
Mr. & Mrs. David Howard, 1924 Woodside Avenue, Halethorpe 21227
Mr. Donald Hawkins, 1919 Woodside Avenue, Halethorpe 21227



APPEAL

Petition for Special Hearing & Variance
1919 Halethorpe Avenue
E/s Halethorpe Ave., 640' s/of c/line of Washington Blvd.
13th Election District – 1st Councilmanic District
Bryan M. & Linda G. Roberts - Petitioners

Case No.: 05-137-SPHA

RECEIVED

JAN 31 2005

BALTIMORE COUNTY
BOARD OF APPEALS

- ✓ Petition for Special Hearing/Variance (September 13, 2004)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (September 13, 2004)
- ✓ Certification of Publication (The Jeffersonian – October 12, 2004)
- ✓ Certificate of Posting (October 5, 2004) by Stacy Gardner
- ✓ Entry of Appearance by People's Counsel (September 22, 2004)
- ✓ Petitioner(s) Sign-In Sheet – One Sheet
- ✓ Protestant(s) Sign-In Sheet - None
- ✓ Citizen(s) Sign-In Sheet – One Sheet
- ✓ Zoning Advisory Committee Comments 10-20-04
EXHIBIT Sheet
Petitioners' Exhibit
 - ✓ 1. Plat to accompany Special Hearing and Variance
 - 2. Drawings & Aerial Photographs & Regular Photographs
 - 3. A – C Photos
- ✓ Protestants' Exhibits – None
- ✓ Miscellaneous (Not Marked as Exhibit)
 - ✓ 1. Zoning Commissioner's Policy Manual
 - ✓ 2. ZAC 5-137
 - ✓ 3. RM – 1A Access- Residential
 - ✓ 4. Real Property Assessment & Taxation
- ✓ Zoning Commissioner's Order (Special Hearing – DENIED / Variance – GRANTED – 11/24/04)
- ✓ Notice of Appeal received on December 21, 2004 from Charles Crocken on behalf of Petitioners

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Mr. & Mrs. Bryan Roberts, 10149 Reed Lane, Ellicott City 21042
Mr. Charles Crocken, 902 Lee Avenue, Sykesville 21784
Mr. & Mrs. David Howard, 1924 Woodside Avenue, Halethorpe 21227
Mr. Donald Hawkins, 1909 Woodside Avenue, Halethorpe 21227

date sent January 28, 2005, klm

BRYAN M ROBERTS
* LINDA G ROBERTS
10149 REED LANE
ELLCOTT CITY, MD 21042-2239
PETITIONERS/APPELLANTS

CHARLES R. CROCKEN, P.E., PRESIDENT
CHARLES R. CROCKEN & ASSOCIATES, INC.
PO BOX 307
WESTMINSTER, MARYLAND 21158
ENGINEER FOR PETITIONERS/APPELLANTS

MR AND MRS DAVID HOWARD
1924 WOODSIDE AVENUE
HALETHORPE, MD 21227
PROTESTANT

MR. DONALD HAWKINS
1909 WOODSIDE AVENUE
HALETHORPE, MD 21227
PROTESTANT

Counsel for Petitioners /Appellants:

* J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286
410-825-6961

SPH – To allow panhandle driveway and to confirm use of 8' wide in-fee strip with a 20' wide easement for proposed dwelling on Lot 2

VAR -- To allow minimum front yd setback of 34' ilo req'd 40' and rear yd setback of 18' ilo req'd 40' for existing dwelling on lot 1.

11/24/04 – Z.C.'s Order in which special hearing request was DENIED; variance request GRANTED as to rear yard setback of 18' ilo 40'; DISMISSED as moot as to front yard setback request.

NOTE: Appeal filed by Petitioner from denial of SPH and dismissal of front yard setback variance. Grant of rear yard setback for existing dwelling was not appealed.

Case No. 05-137-SPHA /Bryan and Linda Roberts

2/09/05 – Letter – entry of appearance – filed by J. Carroll Holzer, Esquire on behalf of the Roberts. File noted this date. Response sent to Mr. Holzer.

4/15/05 – Notice of Assignment sent to parties; case assigned for hearing on Wednesday, May 18, 2005 at 10 a.m.

4/19/05 – Case pulled from 5/18/05 per T/C from Mr. Zimmerman – he will be unavailable on 5/18/05 – scheduled to be in Circuit Court that day. Advised him that we will have 5/24/05 open, if both sides can make it that day. He will check with Mr. Holzer and get back to us. Will hold 5/24/05 for this matter.

4/25/05 – Letter from P. Zimmerman – requesting the postponement in writing; everyone is available on 5/24/05 date.

-- Notice of PP and Reassignment sent to parties; reassigned to Tuesday, May 24, 2005 at 10:00 a.m.

5/23/05 – Motion to Dismiss Appeal filed by Peter M. Zimmerman, People's Counsel for Baltimore County.

5/24/05 – Board convened for hearing (Wescott, Ramsey, Quinn); copies of PC Motion to Dismiss distributed to 3-4-6 (Motion denied by Board on record); completed hearing this date; memos due from counsel on 6/27/05; deliberation on 8/10/05; notice of deliberation to be sent to parties.

5/25/05 – Notice of Deliberation sent to parties; assigned for Wednesday, August 10, 2005 at 9:00 a.m. FYI copy to 3-4-6.

6/22/05 - Letter from P. Zimmerman – requesting postponement /extension of time for filing memos – to 7/11/05 from the 6/27/05 assigned date; he has contacted C. Holzer who has no objection to this extension request.

- Letter to P. Zimmerman, copy to Mr. Holzer via USPS and FAX; extension request granted; memos due from parties on Monday, July 11, 2005; deliberation remains as originally assigned for 8/10/05.

7/11/05 – People's Counsel for Baltimore County's Memorandum filed by P. Zimmerman.

- Memorandum in Lieu of Oral Argument filed by J. Carroll Holzer, Esquire, on behalf of Petitioners.

7/12/05 – Copies to 3-4-6 (3 in office this date; 4 and 6 on 7/13/05 in office).

IN THE MATTER OF

*

BEFORE THE

BRYAN & LINDA ROBERTS

*

COUNTY BOARD OF APPEALS

1919 Halethorpe Ave.

*

BALTIMORE COUNTY

1st Councilmanic District

*

Case No. 05-137-SPHA

13th Election District

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday, May 24, 2005 at 10:0 a.m. at Room 48, located at Basement, Old Courthouse, 400 Washington Ave., Towson and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Lloyd Moxley, Zoning

Address: County Office Bldg.

Towson, MD 21204

Name: J. Carroll Holzer (See attached Notice)

Firm: Holzer & Lee

• Address: 508 Fairmount Ave. Towson, 21286 410-825-6961

The witness named above is hereby ordered to so appear before the County Board of Appeals and bring any and all files and documents referenced in above cases. The Board requests the Sheriff to issue the summons set forth herein.


County Board of Appeals of
Baltimore County

Cost: \$

Summoned: _____, 200

Not Served: _____, 200

Sheriff of Baltimore County

C:Subpoenas 2005-Lloyd Moxley

RECEIVED
MAY 17 2005
BALTIMORE COUNTY
BOARD OF APPEALS



County Board of Appeals of Baltimore County

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

February 9, 2005

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Bryan & Linda Roberts*
Case No. 05-137-SPHA

Dear Mr. Holzer :

This will acknowledge receipt of your entry of appearance in the subject matter as counsel for Bryan and Linda Roberts filed February 9, 2005.

As of today, a hearing date has not been assigned. However, the file has been noted, and all future notices and communications will be sent to you in this matter.

Please call me if I can be of any further assistance.

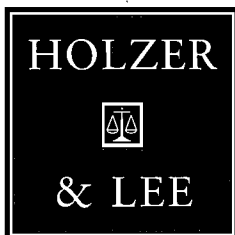
Very truly yours,

A handwritten signature in cursive script that reads "Kathleen C. Bianco".

Kathleen C. Bianco
Administrator

c: Mr. & Mrs. Bryan Roberts
Charles R. Crocken, P.E.
Office of People's Counsel





LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

February 8, 2005

#7525

Ms. Kathleen Bianco
Administrator
Board of Appeals
400 Washington Avenue
Room 49
Towson, Maryland 21204

*RE: Case No.: 05-137-SPHA
Appellants: Bryan & Linda Roberts
1919 Halethorpe Avenue*

Dear Ms. Bianco:

Please enter my appearance on behalf of the Roberts in the above-captioned case. I would appreciate your advising me as to the date that the Board schedules this case.

Very truly yours,

A handwritten signature in black ink, appearing to be "JCH", is written over the typed name "J. Carroll Holzer".

J. Carroll Holzer

JCH:mlg

cc: Mr. & Mrs. Bryan Roberts
Mr. Charles Crocken

RECEIVED
FEB 09 2005
BALTIMORE COUNTY
BOARD OF APPEALS

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning

P.O. BOX 307

WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Variance
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
SECOND APPEAL

RECEIVED
DEC 22 2004

BALTIMORE COUNTY
BOARD OF APPEALS

Attention, Timothy M. Kotroco, Director

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA Petition for variances regarding the dismissal as moot of the request for a variance from the front yard setback of 40 feet to 34 feet as shown on the plat of the subject property which accompanied the original petition. We are not appealing the granting of the variance for the rear yard setback which was approved. Attached is a check for payment of the appeal fee and posting of the property.

Sincerely,



Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl-2-let

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning

P.O. BOX 307

WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Special Hearing
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
FIRST APPEAL

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

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA regarding the denial of the request for approval of a eight foot wide in fee strip with a 20 foot easement for access to Lot No. 2 shown on the plat of the subject property which accompanied the original petition . We are attaching a check for payment of the appeal fee and posting the property.

Sincerely,



Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl1-let


DEC 21 2004

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning

P.O. BOX 307

WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Variance
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
SECOND APPEAL

Attention, Timothy M. Kotroco, Director

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA Petition for variances regarding the dismissal as moot of the request for a variance from the front yard setback of 40 feet to 34 feet as shown on the plat of the subject property which accompanied the original petition. We are not appealing the granting of the variance for the rear yard setback which was approved. Attached is a check for payment of the appeal fee and posting of the property.

Sincerely,



Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl-2-let

March 30, 2005

Boards of Appeals
400 Washington Avenue
Old Court House
Room 49
Towson, Maryland 21204

RE: Case #05-137-SPHA, 1919 Halethorpe Avenue
Bryan M. Roberts and Linda G. Roberts

Dear Sir:

We have been advised that the above-mentioned parties have filed an appeal in the above reference case.

There is a sign on the property, but there is no date of the appeal hearing. We were present at the first hearing, and we are requesting that we be notified of the date and time of any appeal hearing regarding this property.

Thanking you for your assistance.

Sincerely,

David Howard

Barbara Howard

1924 Woodside Avenue
Halethorpe, Maryland 21227

RECEIVED

APR 6 - 2005

BALTIMORE COUNTY
BOARD OF APPEALS

BOARD OF APPEALS OF BALTIMORE COUNTY

FILE COPY

MINUTES OF DELIBERATION

IN THE MATTER OF: Bryan M. and Linda G. Roberts
Legal Owners/Petitioners
Case No.: 05-137-SPHXA

DATE : August 10, 2005

BOARD/PANEL: Larry S. Wescott
Michael O. Ramsey
John P. Quinn

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate requests for Petitioners appeal of the Zoning Commissioners decisions: 1) with respect to a Petition for Special Hearing to confirm the use of an 8-foot wide in-fee strip for Lot #2 along with a 20-foot wide easement for access to and from Halethorpe Avenue to a proposed dwelling; and 2) Petition for Variance filed by Petitioners for Lot #1 with respect to Section 1B02.3(c) of the B.C.Z.R to allow a minimum front yard of 34-feet in lieu of the required 40-feet.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

Property was purchased by Petitioners in 2001.

It was felt that this property is indeed a panhandle lot.

Panhandle in-fee strips shall be a minimum of 20' for one lot and 12' for two or more lots.

Property faces street and would impede a second entrance.

Testimony of witness(es) who stated that house had always been entered from Halethorpe Avenue.

There is nothing unique about the property.

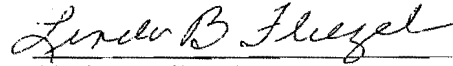
References made with respect to Section 32-4-409(d)(3) which states:
"Front lots are not required to be part of the panhandle driveway development."

DECISION BY BOARD MEMBERS

FINAL DECISION: The Board members, after a through review and consideration of the facts and law, unanimously decided to ***DENY*** Petitioners requests.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

A handwritten signature in cursive script, reading "Linda B. Fliegel", written over a horizontal line.

Linda B. Fliegel
County Board of Appeals

CASE NAME _____
CASE NUMBER 05-137-SPHA
DATE Oct. 27, 2004

[illegible]

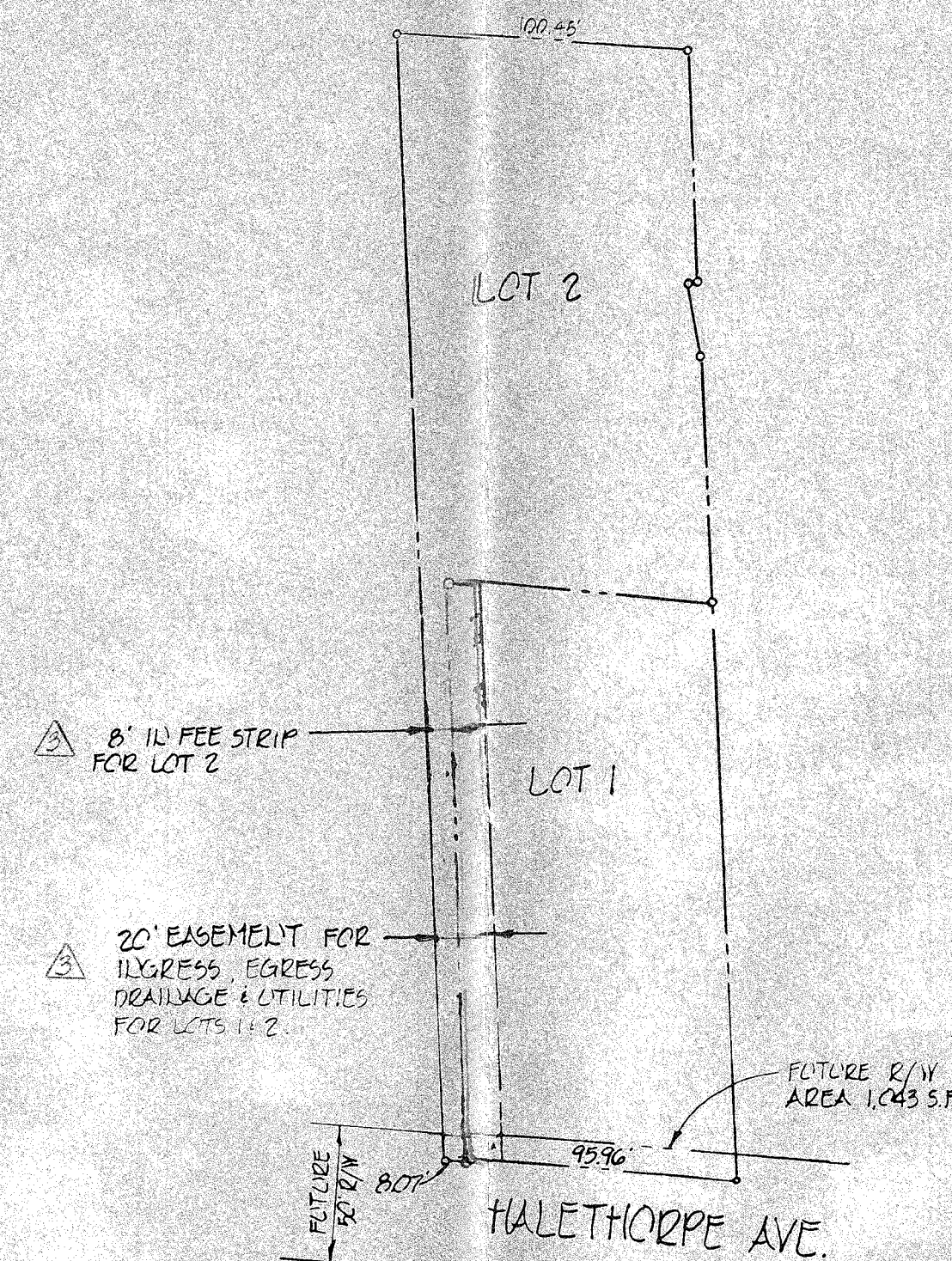
CASE NAME 05-137 SPHA
CASE NUMBER _____
DATE _____

CASE NAME 05-137 SPHA
CASE NUMBER _____
DATE _____

[illegible]

[illegible]

A hand-drawn cross-section diagram of a driveway. The driveway is shown as a rectangular area with a width of 10'. It has a 2% slope indicated by a horizontal line and a vertical line with a '2%' label. The driveway is bordered by a 2' wide grass swale on the right side. The side slopes are labeled as 3:1. The top of the driveway is labeled 'PROPOSED GRADE' and the bottom is labeled 'EX. GROUND'. The diagram is titled 'X-SECTION DRIVEWAY' and '1/8" SCALE'.



1. THE DRIVEWAY ENTRANCES SHOWN HEREON ARE RESTRICTED TO THE LOCATION SHOWN ON THE PLAN.
2. ALL DRIVEWAY ENTRANCES SHALL BE CONSTRUCTED IN ACCORDANCE WITH D.A.T. CO. STD. R-B "TYPICAL DRIVEWAY ENTRANCE FROM ROAD WITHOUT CURB AND GUTTER."

THERE ARE NO EXISTING WETLANDS AND/OR FLOODPLAINS WITHIN THE LIMITS OF THE PROPOSED LOTS OR IN THE VICINITY OF THE PROPOSED WORK

1. ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE CATCHMENT WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE OR WETLAND, STORAGE DRAIN OR ADJACENT PROPERTY.
2. TOTAL AREA OF LAND DISTURBANCE MUST BE NOTED ON PLAN LIMITS OF DISTURBANCE MUST BE DELINEATED.
3. ALL INTERVIEWS AREAS SHOULD BE LIMITED TO 30% OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATION OR CAUSING EROSION.
4. FLOOD DOWN SPOTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHEN FEASIBLE.
5. ADDITIONAL SUBDIVISION ON THESE PARCELS AND/OR LOTS WILL REQUIRE SWM CONTROLS FOR THIS SITE AND THE ADDITIONAL SUBDIVISION.

SOL (SYM)	BLDG W/BSMT	BLDG W/O BSMT	PK LOT	SOL C.E.
CD	SLIGHT TO MODERATE	SLIGHT TO MODERATE	SEVERE	

THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, ANY PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

"THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD IN TRACT SINCE 1966. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS."

2/4 THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE DAIRY FARM COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

1/4 2. ANY FOREST CONSERVATION EASEMENT SHOWN HEREIN IS SUBJECT TO PROTECTIVE CONDITIONS WHICH MAY BE FOUND IN THE LAND RECORDS OF DAIRY FARM COUNTY AND WHICH REDUCE/RESTRICT DISTURBANCE AND USE OF THESE AREAS.

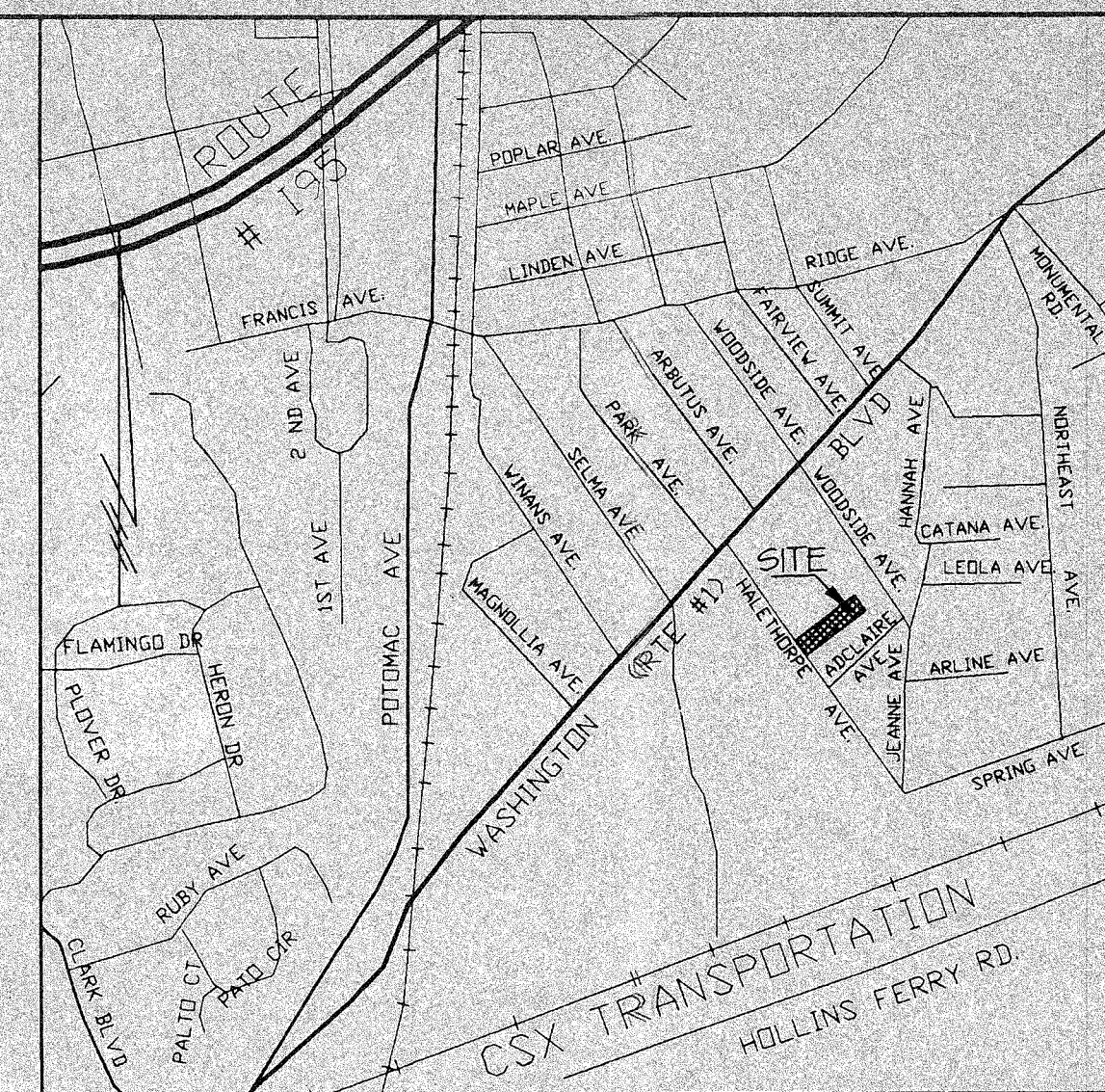
3. THE FOREST CONSERVATION OBLIGATION FOR AFForestation, INCURRED BY THIS SUBDIVISION SHALL HEREON, 210 ACRES SHALL BE SATISFIED BY PURCHASING CREDIT IN AN APPROVED FOREST RETENTION BANK.

SCHOOL DISTRICT:
HALETHORPE ELEMENTARY SCHOOL
ARBUTUS MIDDLE
LANDSCOWNE H.S.

THIS PROPERTY AS SHOWN ON THE PLAT HAS BEEN HELD INTACT SINCE 1968. THE DEVELOPERS SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAT HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS SELSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.

- 1 FOR PROPOSED LOT 1 A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 34 FT. MIN. FRONT YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. FRONT YARD.
- 2 FOR PROPOSED LOT 1, A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 18 FT. REAR YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. REAR YARD.

THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO ANY PRIOR ZONING CASES.



SCALE: 1" = 100'

- A. AREA OF TRACT CROSS = 0.949 ACRES
- B. ZONING-RES. 200 SCALE MAP = S1H G1D
- C. DENSITY CALCULATIONS
 - 1. LOTS ALLOWED (1 X 0.949 = 2)
 - 2. LOTS PROPOSED = 2
- D. BRYAN M. & LINDA G. ROBERTS
- E. 1049 REED LANE
- F. ELLICOTT CITY, MD 21042-3293
- G. 773-7440 FAX 773-7440
- H. TAX ACCOUNT # 10400090
- I. DEED REFERENCE LINDER 1974, FOLIO 4093
- J. TAX MAP 105, G1D 12 PARCEL 37B

1994
 REGIONAL PLANNING DISTRICT 325A
 SCHOOL DISTRICT (SEE NOTE)
 VARIOUS DISTRICTS
 MAP GENERATED BY

NOTE:
THE PALMADULE SHALL BE PAID WITHIN ONE YEAR OF THE ISSUANCE OF THE OCCUPANCY PERMIT.

12/21/04 CRC

PLAT TO ACCOMPANY SPECIAL HEARING
AND HEARING FOR ZONING VARIANCE
FOR MINOR SUBDIVISION
1919 HALETHORPE AVENUE

OWNER/DEVELOPER
DRYAN M. & LINDA G. ROBERTS
10149 REED LANE
ELLICOTT CITY, MD. 21042-2299
PHONE # 410 461-6122

DEED REFERENCE
LIDER 14924, F.O. 409
ML PASKY TO
DM & LG ROBERTS
1/17/2004

PD12 # 03-042-M

1919 HALETHORPE AVE

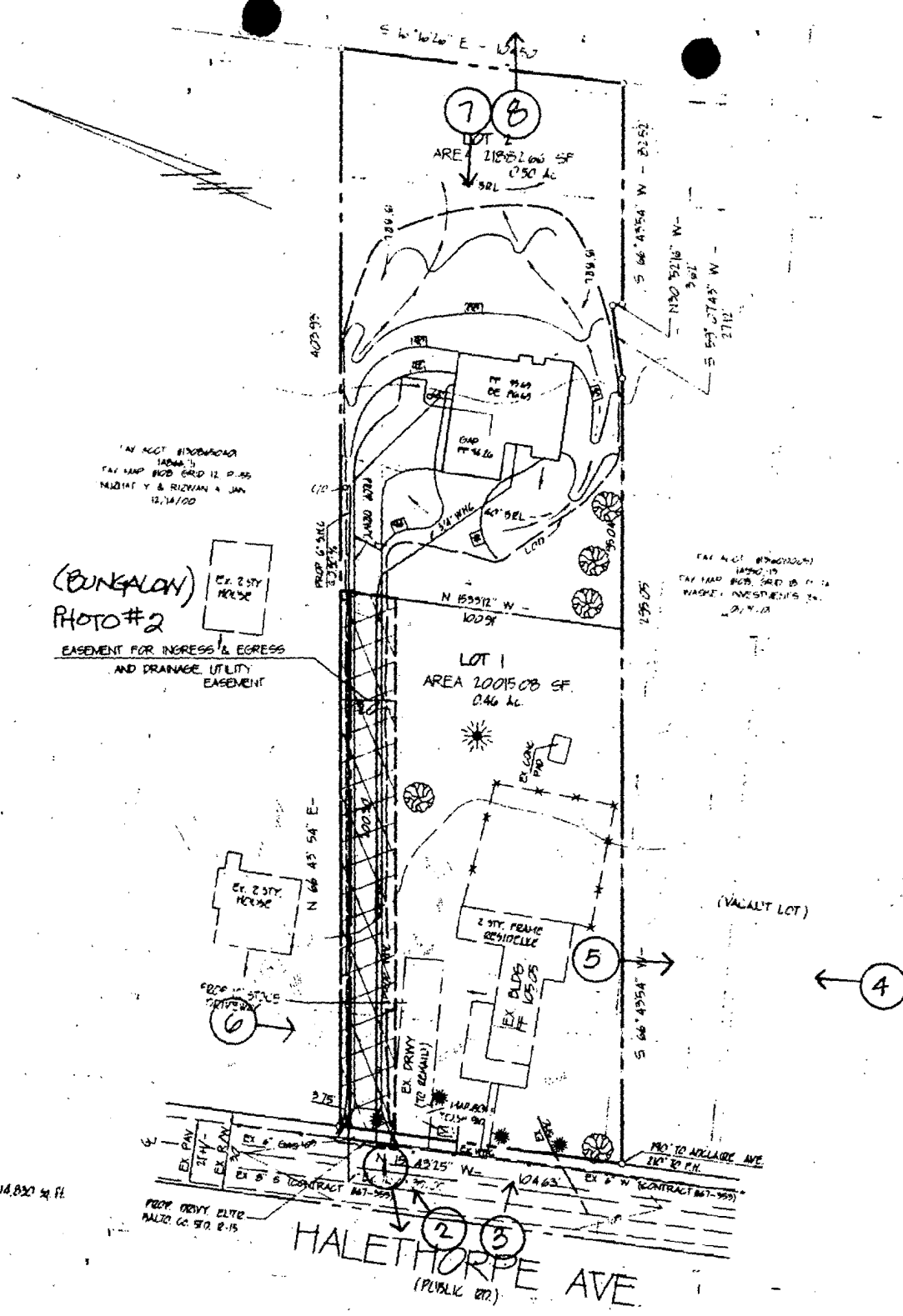
Case No.: 05-137 SPHA

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	PLAT - Charles CROCKEN & Assoc MINOR SUBDIVISION - 1919 Halethorpe	
No. 2	Aerial Photograph Showing Lot Lines + Photographs	
No. 3	Photo's of existing Home 3A B + C	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER'S EXHIBIT 2

#137

2-LOT MINOR SUBDIVISION
PHOTO-LOCATIONS.

1"=100'

6-04-03



PETITIONER'S
EXHIBIT 3A

U.S. AIR FORCE JAGCORP NIN4 D 4803

(No. 10)



PETITIONER'S
EXHIBIT 3B

020 NH 040404 NH 0 4007

(No. 5)



PETITIONER'S
EXHIBIT

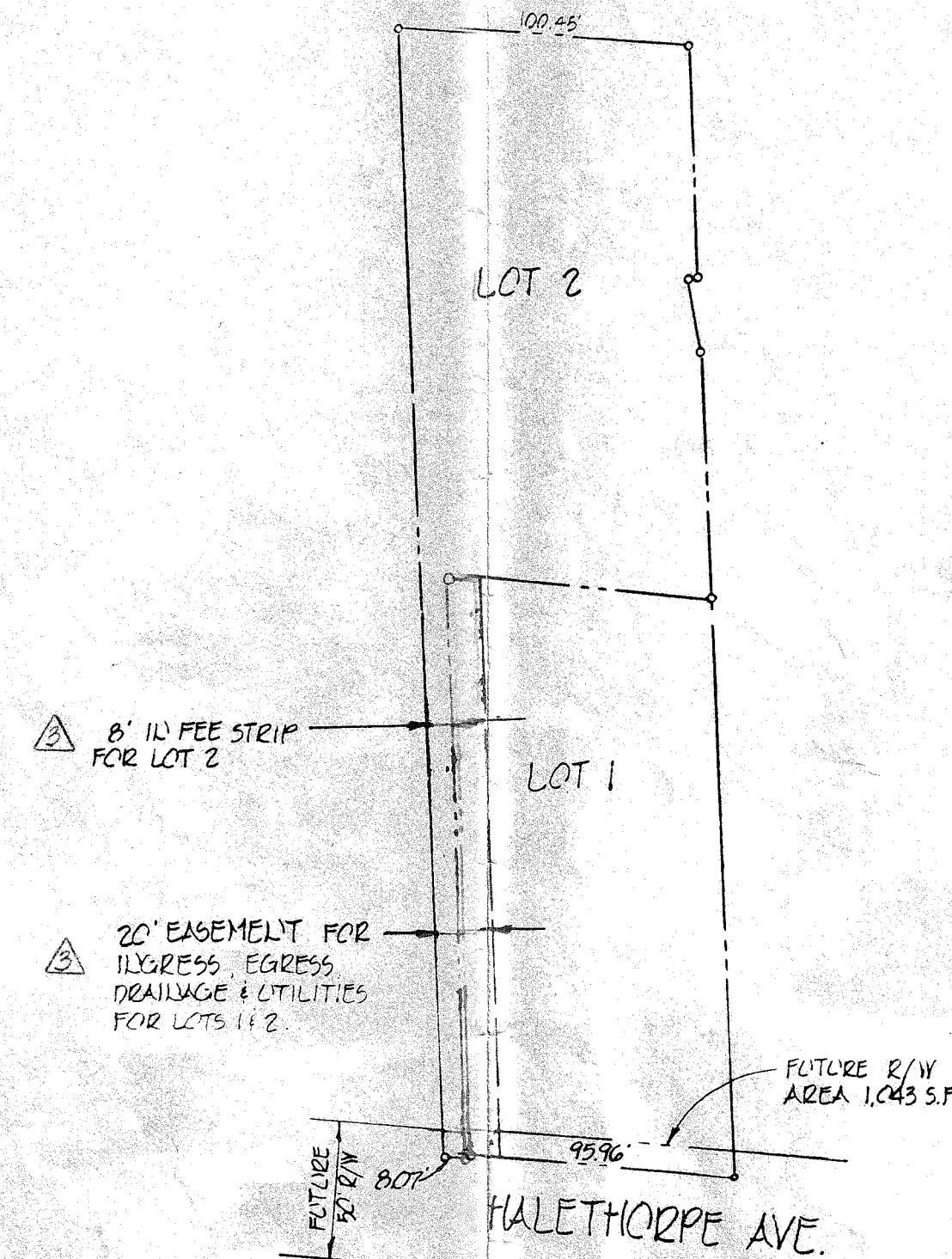
3602
3C

No. 7

[illegible]

Diagram illustrating a cross-section of a driveway and its surrounding terrain. The diagram shows a proposed grade (dashed line) and existing ground (solid line). The driveway is shown with a 12% driveway slope and a 2% slope. The existing ground is labeled "EX. GROUND". The driveway is labeled "12% DRIVEWAY" and "2%". The existing ground is labeled "GRASS SHALE MRY d=3'e 3:1 SLOPE". The driveway is labeled "2'".

X-SECTION DRIVEWAY
1/2" SCALE



1. THE DRIVEWAY ENTRANCES SHOWN HEREON ARE RESTRICTED TO THE LOCATION SHOWN ON THE PLAN
2. ALL DRIVEWAY ENTRANCES SHALL BE CONSTRUCTED IN ACCORDANCE WITH DALTO. CO. STD. R-15 "TYPICAL DRIVEWAY ENTRANCE FROM ROAD WITHOUT CURB AND GUTTER"

THERE ARE NO EXISTING WETLANDS AND/OR FLOODPLAINS WITHIN THE LIMITS OF THE PROPOSED LOTS OR IN THE VICINITY OF THE PROPOSED WORK

- 1. ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORAGE OR ADJACENT PROPERTY.
- 2. TOTAL AREA OF LAND DISTURBANCE MUST BE NOTED ON PLANN LIMITS OF DISTURBANCE MUST BE DELINEATED.
- 3. ALL INTERVIEWS AREAS SHOULD BE LIMITED TO 30% OF CLEARED AREA AND CONVEYED AS SHEET FLOW THROUGH VEGETATED AREAS WITHOUT CONCENTRATION OR CHANNEL EROSION.
- 4. HAUSE DOWN SPOTS ARE TO BE DISCHARGED ONTO PERVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
- 5. ADDITIONAL SUBDIVISION ON THESE PARCELS AND/OR LOTS WILL REQUIRE SWM CONTROLS FOR THIS SITE AND THE ADDITIONAL SUBDIVISION.

SOL (SYM)	BLDG. W/BSMT.	BLDG. W/O BSMT.	PK. LOT	SOL CLS
CD	SLIGHT TO MODERATE	SLIGHT TO MODERATE	SEVERE	

THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, ANY PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

"THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD IN TRACT SINCE 1961. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS."

1) 4. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE DALLAM COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

1) 5. 2. ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE EASEMENTS WHICH MAY BE IN PLACE AND RECORDS OF DALLAM COUNTY, TEXAS, AND WHICH REDISTRIBUTE DISTURBANCE AND USE OF THESE AREAS.

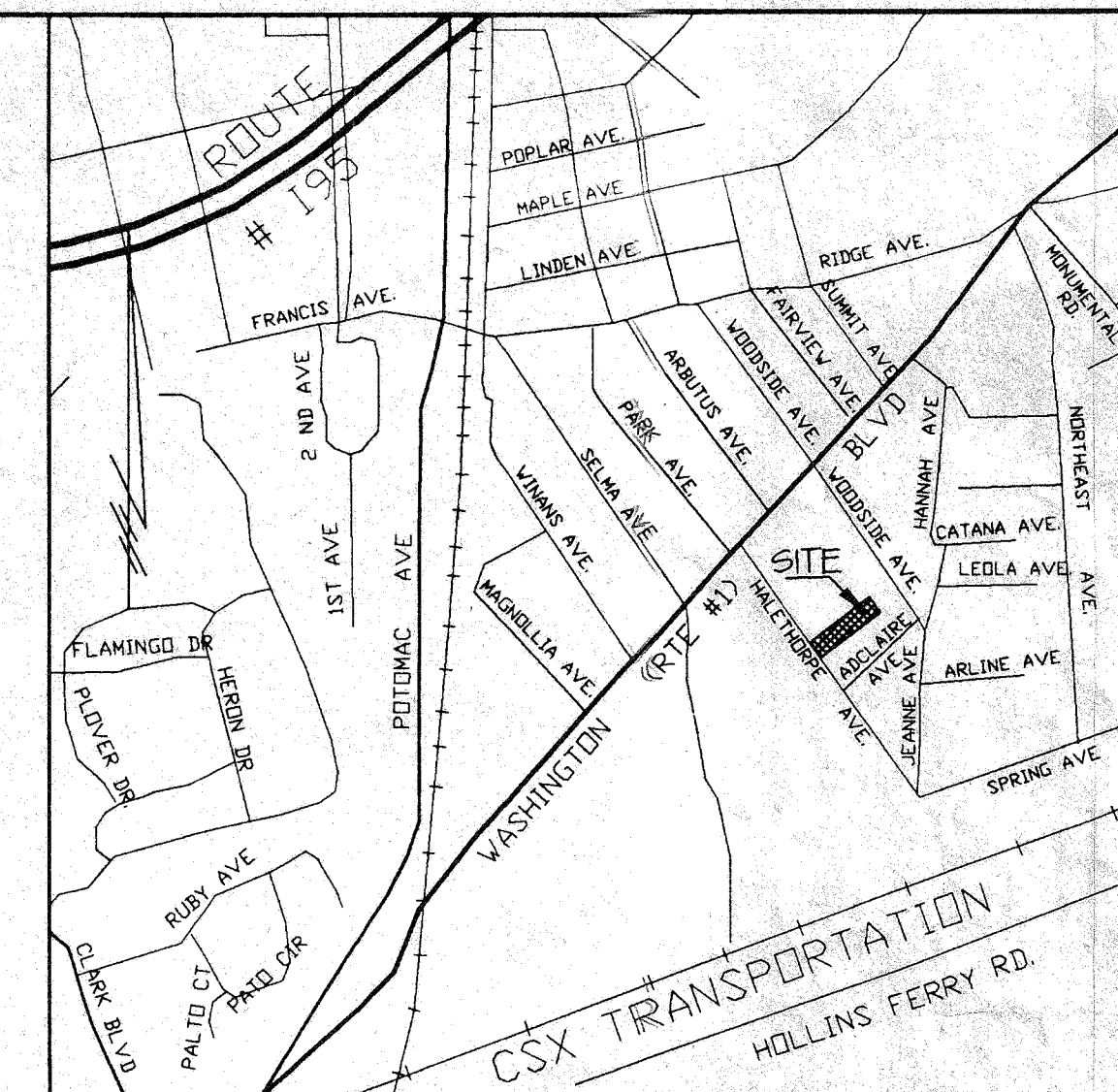
3. THE FOREST CONSERVATION OBLIGATION FOR AFForestation, ALLUVERED BY THIS SUBDIVISION SHOWN HEREON, 210 ACRES SHALL BE SATISFIED BY PURCHASING CREDIT IN AN APPROVED FOREST RETENTION BANK.

SCHOOL DISTRICT:
HACETHORPE ELEMENTARY SCHOOL
ARBUTUS MIDDLE
LAUDERDALE H.S.

THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE 1960. THE DEVELOPERS SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.

- 1 FOR PROPOSED LOT 1 A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 34 FT. MIN. FRONT YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. FRONT YARD.
- 2 FOR PROPOSED LOT 1, A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 18 FT. REAR YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. REAR YARD.

THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO ANY PRIOR ZONING CASES.



SCALE: 1" = 1000'

- A. AREA OF TRACT ORSOS = 0.940 ACRES
NET = 0.909 ACRES
- B. ZONING-PDS2, 200 SCALE MAP @ S.W. Q10
- C. DENSITY CALCULATIONS:
 - 1. LOTS ALLOWED (2 x 0.940 = 2)
 - 2. LOTS PROPOSED = 2
- D. BRYAN M. & LINDA G. ROBERTS
1049 REED LANE
ELUGGITT CITY, MD 21041-3230
703-410 440 1400
- E. TAX ACCOUNT # 1960000929
- F. FEED REFERENCE LINDER WALK, FOLD A05
- G. TAX MAP 108, GRID 18, PARCEL 373
- H. GENUS TRACT DISTRICT
REGIONAL PLANNING DISTRICT 325 A
SCHOOL DISTRICT 555 (DTP)
WATKINS PARK (P&Z)

NOTE:
THE PALMADULE SHALL BE PAID WITHIN ONE YEAR OF THE ISSUANCE
OF THE OCCUPANCY PERMIT.

PLAT TO ACCOMPANY SPECIAL HEARING
AND HEARING FOR ZONING VARIANCE
FOR MINOR SUBDIVISION
1919 HALETHORPE AVENUE
PETITIONER'S
EXHIBIT 1

OWNER/DEVELOPER
BRYAN M. & LINDA G. ROBERTS
10149 REED LANE
ELLICOTT CITY, MD. 21042-2239
PHONE # 410 461-6122

DEED REFERENCE
LIBER 14924, FOLIO 409
ML PASKY TO
DM & LG. ROBERTS
1/17/2001

	7-8-04	REVISED BALTIMORE LOT 2 (8" WIDE)	
	9-8-05	COMMENTS	
NO	DATE	REVISION	
#1919 MALETHORPE AVE. TAX MAP 108, GRID 12, PARCEL 373 MINOR SUBDIVISION # 1ST CONCUNNING DISTRICT. BALTIMORE COUNTY, MARYLAND			
10TH ELECTION DISTRICT.		1ST CONCUNNING DISTRICT.	
7-13-04  <i>Charles R. Crocken</i>		Prepared by: CHARLES R. CROCKEN AND ASSOCIATES, INC. Civil Engineering — Land Planning PO Box 207 Westminster, MD 21157 Tel. (410) 549-2708 Fax: (410) 549-9063	
TAX MAP 108		PARCEL 373	PROJECT NO:
DESIGNED BY:		DATE APRIL, 2004	
DRAWN BY: CHC		SCALE: 1" = 30'	
DRAWING NO. 1 OF 1			

LTM #137 PDM # 03-042-M

Verified
5.24.05

People
Protestant Exhibits.

Bryan + Linda Roberts

(P.C.)

- ✓ 1) Aerial Photo April 2002 - Taken
Date 2005 order date
- ✓ 2) Regulation on parkhandels requirements 32-4-409
- ✓ 3) Density Residential Zone Regulation.
- ✓ 5#) Page 2614 definition of "width"
- ✓ 4) P. 101 Co. Zoning Reg req yard front, side, etc
- ✓ 6) Balt. Co Code req Parkhandel Lot, p. 65
- ✓ 7) Article 6 - Interpretation + Validity Sect 600 p 6-1
- ✓ 8) 2004 Zoning Map.
- ✓ 9) Map 48
- ✓ 10) TAX ASSESSMENT PAGE (3 pages)
- ✓ 11) Affidavit (3 pages)
- ✓ 12 ID Comp Zoning
- ✓ 13 ID Letter 9/18/96
- ✓ 14 ID Change in Zoning Comp Zoning Maps Truss.
- ✓ 15 inter office Memo - Comments re case from Kelb



(2) The total number of signs to be kept to a minimum; and

(3) Informational signs not to be placed or be of such a number or design as to distract drivers' attention from traffic-control signs or devices.

(c) *Benches and street lighting.*

(1) The county may require benches and other outdoor furniture to be grouped and to be of a "break-away" design.

(2) The county shall require street lighting to be of a type and size that is adequate for safety and appropriate to the vicinity.

(d) *Transit facilities.* The county may require transit facilities, such as bus turnouts, for sites to be served by public transit.

(1988 Code, § 26-264) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-409. PANHANDLE DRIVEWAYS.

(a) *In general.*

(1) The county may only allow a panhandle lot:

(i) To achieve better use of irregularly shaped parcels;

(ii) To avoid development in environmentally sensitive areas;

(iii) Where the lot will not be detrimental to adjacent properties; and

(iv) Where the lot will not conflict with efforts to provide for public safety and general welfare.

(2) The county may only allow a panhandle driveway where necessary to provide access to interior lots where a public road is neither feasible nor desirable.

(b) *In-fee strip; required.*

(1) Except as provided in subsection (c) of this section, the county may permit a panhandle lot if the lot includes an in-fee strip of land for access to the local street.

(2) Panhandle fee strips shall be a minimum of:

(i) 20 feet in width to serve one lot;

(ii) 12 feet in width per lot where two lots are involved;

Bo B
Pamela C.
#2

1B02.3 Special regulations for certain existing developments or subdivisions and for small lots or tracts in D.R. Zones.

- A. In D.R. Zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy and development of; alteration or expansion of structures upon; and administrative procedures with respect to:
1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Planning Commission and which has been used, occupied or improved in accordance with the approved subdivision plan;
 2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect and which has not been used, occupied or improved in accordance with such plan;
 3. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. Zone in which such tract is located;
 4. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is less than one-half acre in area, regardless of the number of dwelling or density units permitted at the maximum permitted density in the zone in which it is located; or
 5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.
- B. Standards applicable to existing developments, etc. The minimum standards for net area, lot width, front yard depth, single-side-yard width, sum of widths of both side yards, rear yard depth and height with respect to each use in a development described in Subsection A.1 above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subsection A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subsection A.3, A.4 or A.5 shall be as set forth in Subsection C below.
- C. Development standards for small lots or tracts.
1. Any dwelling hereafter constructed on a lot or tract described in Subsection A.3 or A.4 shall comply with the requirements of the following table:

wireless telecommunications towers and personal wireless service facilities. [Bill No. 30-1998]

WIRELESS TELECOMMUNICATIONS TOWER — A self-supporting, guyed or freestanding structure that is designed and constructed for the purpose of supporting one or more wireless telecommunications antennas for telephone, radio and similar communication purposes, whether such support is the primary or secondary purpose of the structure. The term includes self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, and cellular telephone towers. [Bill Nos. 30-1998; 9-2002²⁰]

YARD — Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

YARD, FRONT — A yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building.

YARD, REAR — A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building.

YARD, SIDE — A yard extending from the front yard to the rear yard, between the side lot line and the side foundation wall of the main building.²¹

Section 101A

Critical Area Definitions

[Bill Nos. 32-1988; 9-1996²²]

In addition to the terms and words defined in Section 101, the following words and terms as used in these regulations have the meanings indicated for application within the Chesapeake Bay Critical Area. Except as otherwise noted, these definitions are applicable only within the Chesapeake Bay Critical Area and shall supersede all other definitions. For the definitions in these regulations of words not defined in this section, refer to Section 26-438 of the Baltimore County Code, 1988 Edition, as revised, and COMAR, Title 27, Subtitle 01, Chapter 01. Any word or term not defined in Section 101, Section 101A, Section 26-438 of the Baltimore County Code, or in COMAR, Title 27, Subtitle 01, Chapter 01, shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

AGRICULTURE — All methods of production, processing, storage and management of livestock, crops, vegetation and soil. This includes but is not limited to the related activities

²⁰ Editor's Note: This bill also provided that it would take effect on March 11, 2002, and would apply to any application for permit or special exception which had not received final approval as of March 11, 2002.

²¹ Editor's Note: The definition of "zone" which followed this definition was repealed by Bill No. 40-1967.

²² Editor's Note: This bill repealed and amended a number of definitions in this section. For a complete listing of the former definitions, see Bill No. 9-1996.

Repeal Exhibit
4

[illegible][illegible]

Neoplen
Exhibit
5

- 32-4-503. Initial review and approval of plan
- 32-4-504. Planning Board action
- 32-4-505. Amendment or renewal of reclamation plan
- 32-4-506. Use and development of reclamation property

SUBTITLE 1. IN GENERAL

§ 32-4-101. DEFINITIONS.

(a) *In general.* In this title the following words have the meanings indicated.

(b) *Accessory structure.*

(1) "Accessory structure" means a building or other improvement to property that has a use or an intended use that is subordinate or customarily incidental to the use of the principal building on the same lot, parcel, or tract.

(2) "Accessory structure" includes additions or modifications to the principal building.

(c) *Agricultural purpose.* "Agricultural purpose" means any use of land that directly contributes to the production, processing, or storage of agricultural products.

(d) *Alley.* "Alley" means a right-of-way that is:

(1) 20 feet or less in width for residential property and 26 feet or less for non-residential property and provides service access for vehicles to the side or rear of abutting property; and

(2) Designated as an alley on either an unrecorded or recorded plat or dedicated as an alley by deed.

(e) *Applicant.* "Applicant" means a person who is an owner, contract purchaser, or the legally authorized representative of an owner or contract purchaser requesting approval of development under this title.

(f) *Arterial street.*

(1) "Arterial street" means a motorway or portion of a motorway that:

(i) Is intended for travel to or from major activity centers, such as town centers; and

(ii) Is designed to give priority to traffic movement as opposed to providing direct access to land.

*People
Gibbit
#6*

BALTIMORE COUNTY ZONING REGULATIONS

ARTICLE 6

INTERPRETATION AND VALIDITY

Section 600 Interpretation [BCZR 1955]

In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare. Where these regulations impose a greater restriction on the use of buildings or land or on the height of buildings, or require larger yards, courts or other open spaces, or impose other higher standards than are imposed by the provisions of any law, ordinance, regulation or private agreement, these regulations shall control. When greater restrictions are imposed by any law, ordinance, regulation or private agreement than are required by these regulations, such greater restrictions shall not be affected by these regulations.

Section 601 Validity [BCZR 1955]

If any section, paragraph, subdivision, clause or provision of these regulations shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provisions so adjudged, and the remainder of the regulations shall be deemed valid and effective.

The Board of County Commissioners of Baltimore County hereby declares that it would have adopted these regulations and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

APPENDIX

DISPOSITION LIST

INCL

*People Exhibit
#7*



Plan Sheet: 108C2

Note:
Section 32-3-2012 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

- Zoning
- Streams
- Vegetation
- Buildings
- Roads

Baltimore County Office of Planning and Zoning Official Zoning Map

108A1	108B1	108C1	109A1	109B1
108A2	108B2	108C2	109A2	109B2
108A3	108B3	108C3	109A3	109B3

Scale

1" = 200'

0 100 200 400 Feet

1

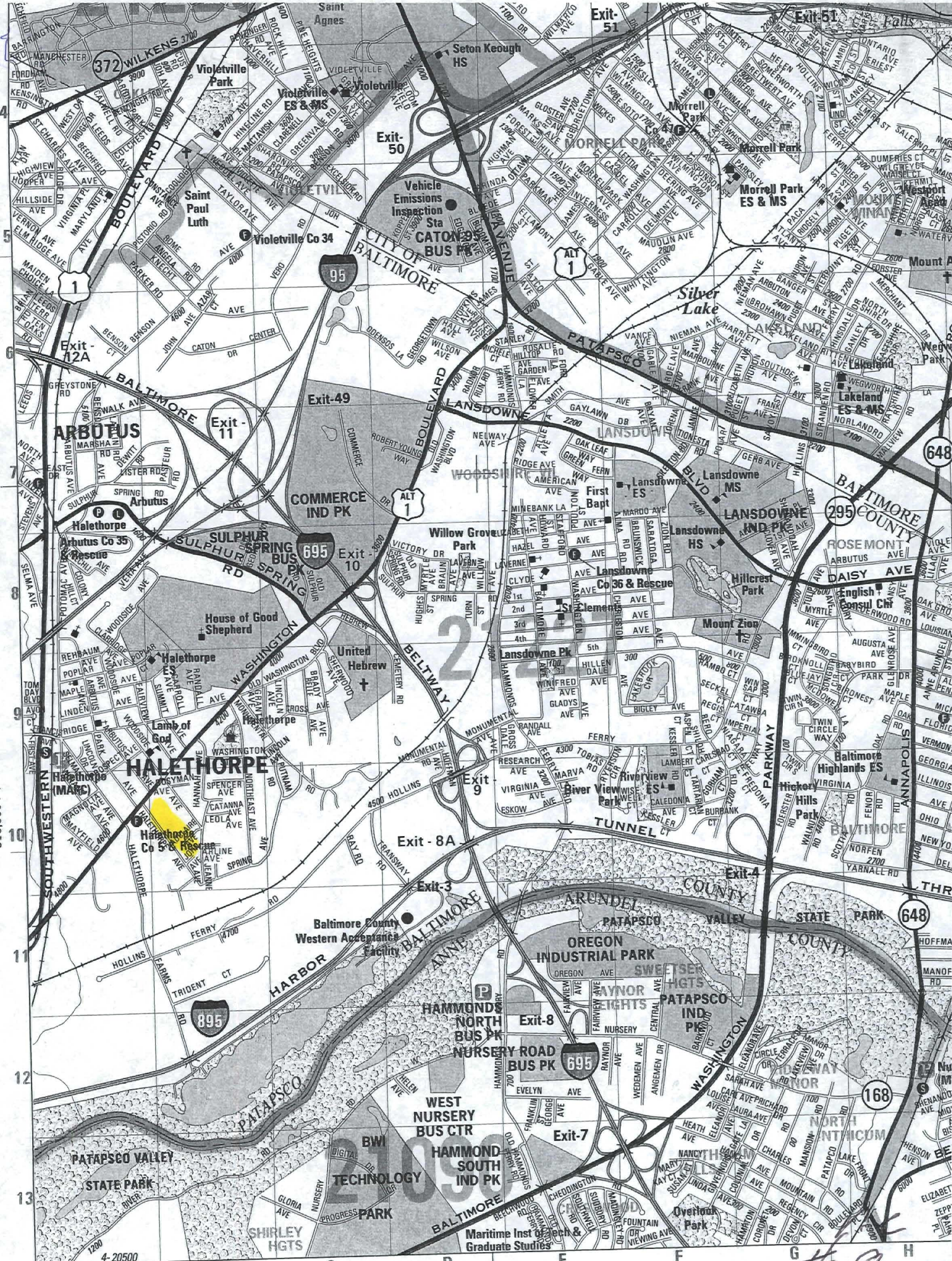
Data Sources:
Planimetric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

PC #8

520,000 FT

Joins Map 41 39°15'00"

510,000 FT





Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 13 Account Number - 1316000051

Owner Information

Owner Name: ROBERTS BRYAN M
ROBERTS LINDA G

Use: RESIDENTIAL

Principal Residence: NO

Mailing Address: 10149 REED LN
ELLCOTT CITY MD 21042-2239

Deed Reference: 1) /14924/ 409
2)

Location & Structure Information

Premises Address
1919 HALETHORPE AVE

Legal Description
LT ES HALETHORPE AV
1919 HALETHORPE AVE
645 SE OF WASHINGTON BL

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
108	12	373						80	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built
1873

Enclosed Area

Property Land Area
42,328.00 SF

County Use
04

Stories
2

Basement
YES

Type
STANDARD UNIT

Exterior
ASBESTOS SHINGLE

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	40,830	40,830		
Improvements:	0	0		
Total:	40,830	40,830	40,830	40,830
Preferential Land:	0	0	0	0

Transfer Information

Seller: PASKY MARGUERITE L	Date: 01/17/2001	Price: \$90,000
Type: NOT ARMS-LENGTH	Deed1: /14924/ 409	Deed2:
Seller: PASKY LEONARD J	Date: 08/06/1997	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /12313/ 6	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

P.C.
#10

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a
duly elected member of the (Board of Directors) (Zoning Committee)
of the HALETHORPE CIVIC LEAGUE INC. Association.

PRESIDENT DONALD S. HAWKINS

ATTEST:

HALETHORPE CIVIC LEAGUE INC.
Association

David M. Cottrell
Secretary

Donald S. Hawkins
President

DATE: MAY 19, 2005

PC#11



Baltimore County Office of Planning
401 Bosley Avenue Towson Maryland, 21204
(410) 887-3480

1996 COMPREHENSIVE ZONING MAP APPLICATION

This form and required material must be presented in person

Issue No. <u>1-006</u>		OFFICE USE ONLY	
Council District <u>1st</u>	Planner <u>Stephany</u>	Received on <u>1/1/</u>	Fee (non-refundable) <u>N/A</u>
		Receipt No. <u>N/A</u>	

APPLICANT INFORMATION

1. Name <u>Planning staff</u>	6. Attorney or Representative _____
2. Organization (if applicable) _____	Firm name (if applicable) _____
3. Mailing Address _____	Address _____
4. City, State, Zip _____	City, State, Zip _____
H () _____	Business Phone Number _____
B () _____	
5. Home, Business Phone _____	

PROPERTY INFORMATION

7. Property Owner's Name <u>See Attached</u>	8. Property Street Address <u>S. side Washington Blvd</u>	Zip <u>Between Brady Monumental</u>
9. Acreage of Property <u>167 acres</u>	10. Distance to nearest street/intersection (name street) <u>Maps 108 & 109</u>	<u>Halethorpe Ra</u>
11. Election Dist. (2 digit) _____	Property tax number (10 digit) _____	12. Property tax map number / parcel number _____
Election Dist. (2 digit) _____	Property tax number (10 digit) _____	Property tax map number / parcel number _____
Election Dist. (2 digit) _____	Property tax number (10 digit) _____	Property tax map number / parcel number _____

RECLASSIFICATION INFORMATION

13. Acreage of land requested for rezoning <u>154.4 DRS-5; 11.6 BR-45; 1.0 BR</u>	14. Zoning History (issue/case #, year, type) <u>167 acres, DR-2</u>
15. Existing zoning (acres per zone) <u>Residential & Commercial</u>	16. Requested zoning (acres per zone) <u>Residential & Commercial</u>
17. Existing Use of Parcel <u>1</u>	18. Proposed Use of Site <u>SW 60 & 60</u>
19. 1000' scale zoning map no. <u>7D</u>	200' scale zoning map no. <u>7D</u>

THE INFORMATION SHOWN ON THIS FORM IS ACCURATE
AND COMPLETE TO THE BEST OF MY KNOWLEDGE

(SIGNATURE)

OWNER ACKNOWLEDGEMENT: Are you the owner? N ___ Y ___ If yes, review and sign below.

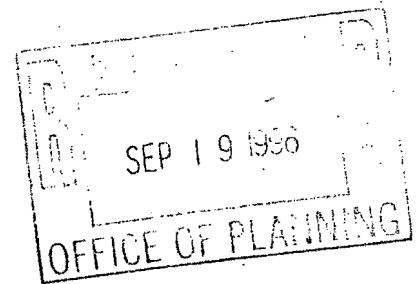
- I hereby grant permission to Baltimore County for any required inspections of my property in regard to the subject zoning request.
- I hereby acknowledge that if any rezoning occurs, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible. Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all County, State, and Federal requirements in effect at that time must be satisfied.
- I hereby acknowledge that the raising of an issue in no way guarantees that the requested zoning will be applied to the parcel by the County Council upon adoption of the Comprehensive Zoning Map.

Owner Name (Please Print)

Signature

L.D
#12

114 Forest Drive
Catonsville, MD 21228
September 18, 1996



Ms. Marilyn Howard
4512 Spring Avenue
Halethorpe, Maryland 21227

CZMP Issues 1-006

Dear Ms. Howard,

I am sending this letter, per your request, to document our telephone conversation last week. In previous correspondence to myself and Councilman Moxley, you had requested that your family's property at 4512 Spring Avenue in Halethorpe be exempted from Comprehensive Zoning Map Process (CZMP) issue 1-006, which was an issue raised by the County Planning staff. As I told you during our telephone conversation, issue 1-006 was considered as an entire area and no exemption request was initiated for any individual properties within the issue area during the Planning Board review process. There were several important reasons why I did not request that your family's property be exempted.

First, I do not feel that it would be fair that only your property be exempted. I felt that all property within the issue area should be treated equitably, regardless of whether or not they had conveyed their particular circumstances to me. I believe that there are other situations similar to yours in the issue area and, to treat them differently, I believe, would not be prudent. In addition, I believe that to exempt your property from a change, while changing the zoning on other properties that may be in similar circumstances, would be paramount to "spot zoning", which is illegal.

In addition, exempting your property would be counter-productive to the community conservation initiatives of the county, which I strongly support. Allowing increased development in areas that do not possess the required infrastructure to support such development causes additional problems for the existing residents and the county. Elements that must be considered when making such judgements include emergency services, such as fire, police, and ambulance/EMT, school capacities and enrollment, road condition and capacity, storm water management, and water and sewer capacities. As you are aware, storm water management, in particular, has been a concern in the Halethorpe area and the county has budgeted more than one million dollars to identify and remedy the cause. In my judgement, the lower density zoning is the best action while this work is proceeding.

During our conversation you stated that it is too late to do anything now because of recent development in the area. I do not agree that it is too late. If the development that you

1 D
#13

Baltimore County 1996 Comprehensive Zoning Map Issues

October 8, 1996

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
1-005	Staff Issue	West side of Washington Blvd., between Ridge Ave. and Southwest Blvd.	BR AS 18.800 Total 18.800	DR 5.5 BL 18.800 BR Total 18.800	DR 5.5 9.400 BL 3.100 BR 6.300 Total 18.800	DR 5.5 9.100 BL 2.560 BR AS 1.060 BR 6.080 Total 18.800	See Issue 1-006 and 1-007. Overlay adopted.
1-006	Staff Issue	South side of Washington Blvd., between Brady, Monumental and Halethorpe Roads.	DR 5.5 154.400 BR 1.000 BR AS 11.600 Total 167.000	DR 2 167.000 Total 167.000	DR 2 155.500 BR 11.500 Total 167.000	DR 2 155.500 BR 11.500 Total 167.000	See Halethorpe Action Plan. See Issue 1-005 and 1-007.
1-007	Staff Issue	West side of Washington Blvd., north side of Ridge Ave.	DR 5.5 30.000 BR AS 6.300 BR 8.500 Total 44.800	DR 2 38.500 BL 6.300 Total 44.800	DR 3.5 31.100 BLR 10.000 BR 3.700 Total 44.800	DR 5.5 30.000 BR AS 2.300 BR 12.500 Total 44.800	See Issue 1-005 and 1-006. Overlay adopted.
1-008	Staff Issue	North side of Sulphur Spring Road, east of Shelbourne Road.	DR 5.5 26.800 Total 26.800	DR 3.5 26.800 Total 26.800	DR 3.5 26.800 Total 26.800	DR 3.5 26.800 Total 26.800	110 114

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 27, 2004

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

SUBJECT: 1919 Halethorpe Avenue

INFORMATION:

Item Number: 5-137

Petitioner: Bryan M. Roberts

Zoning: DR 2

Requested Action: Special Hearing

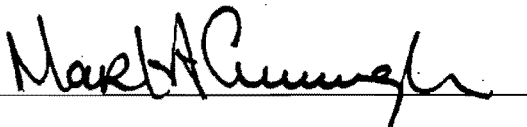
SUMMARY OF RECOMMENDATIONS:

The Office of Planning reviewed the subject minor subdivision and forwarded comments to the petitioner on April 30, 2004. The content of the comment is as follows:

The subject property is not wide enough to be subdivided. The minimum lot with width in the DR 2 zone is 100 feet. Minus the 20-foot wide in-fee strip required for lot 2, lot 1 will have a front yard width of approximately 84 feet. This office will not support any variance to create a panhandle lot, or to create a sub-standard lot.

The petitioner currently proposes an 8-foot wide in-fee strip for lot 2. Lot 1 will still not meet the minimum lot width requirement of 100 feet. As such, this office recommends that the subject request be **DENIED**.

Prepared by:



Division Chief:



AFK/LL:MAC:

13. C
#15

Verified
5-24-2005

~~Exhibit~~

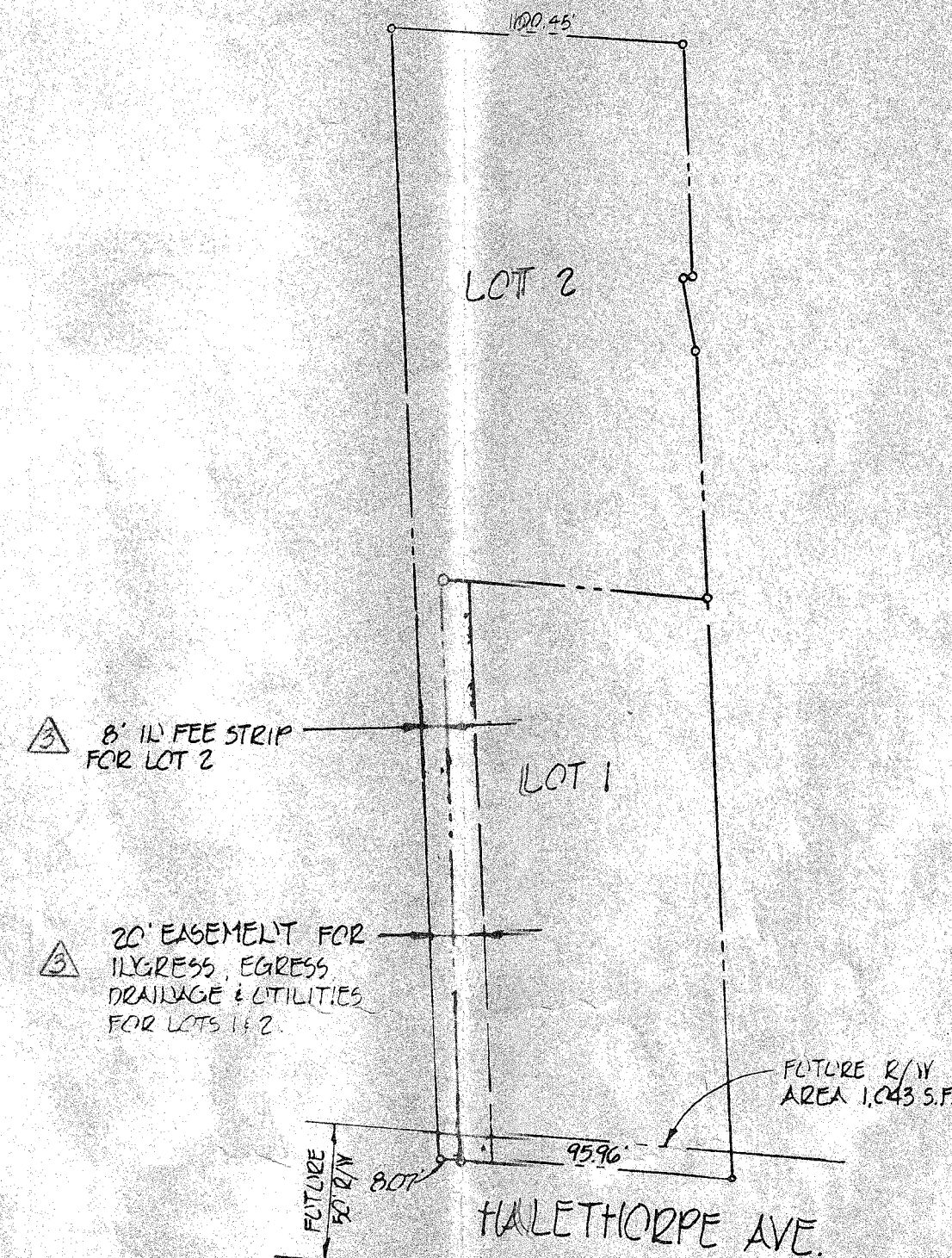
Bryan & Linda Roberts

Exhibit - Petitioner

- ✓ 1) Plat of site
- ✓ 2 (A) Photo of N. Side of Home on property
(B) " " Home on west side
- ✓ 3. Policy Manual 3 pages ^{Sept.} 12.4 of 1985
- ✓ 4. (2 pages) Zoning Map & Neighborhood Plan

[illegible]

A hand-drawn cross-section diagram of a driveway. The driveway is shown as a rectangular area with a 2% slope. The length of the driveway is labeled as 12'. Below the driveway, there is a layer labeled '1' ex. ground'. To the right of the driveway, there is a grassy area labeled 'GRASS SHALE INQ.' with a 3:1 side slope. The diagram is titled 'X-SECTION 11 DRIVEWAY' and '10' SCALE'.



1. THE DRIVEWAY ENTRANCES SHOWN HEREON ARE RESTRICTED TO THE LOCATION SHOWN ON THE PLAN.

2. ALL DRIVEWAY ENTRANCES SHALL BE CONSTRUCTED IN ACCORDANCE WITH DALT 60 STD. R-15 "TYPICAL DRIVEWAY ENTRANCE FROM ROAD WITHOUT CURB AND GUTTER."

THERE ARE NO EXISTING WETLANDS AND/OR FLOODPLAINS WITHIN THE LIMITS OF THE PROPOSED LOTS OR IN THE VICINITY OF THE PROPOSED WORK.

1. ALL SITE RUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL WITHOUT IMPOSING AN ADVERSE IMPACT ON THE RECEIVING WATERBODY, WATERCOURSE, WETLAND, STORAGE DAM OR ADJACENT PROPERTY.
2. TOTAL AREA OF LAND DISTURBANCE MUST BE NOTED ON PLAN. LIMITS OF DISTURBANCE MUST BE DELINEATED.
3. ALL INTERVIEWS AREAS SHOULD BE LIMITED TO 30% OF CLEARED AREA AND CONVEYED AS SHEET FLOW THOUGH VEGETATED AREAS WITHOUT CONCENTRATING OR CAUSING EROSION.
4. HOUSE DOWN SPOTS ARE TO BE DISCHARGED ONTO PREVIOUS AREAS OR INTO DRY WELLS WHERE FEASIBLE.
5. ADDITIONAL SUBDIVISION ON THESE PARCELS AND/OR LOTS WILL REQUIRE SWM CONTROLS FOR THIS SITE AND THE ADDITIONAL SUBDIVISION.

SOL (SYM)	BLDG W/BSMT	BLDG W/O BSMT	PK LOT	SOIL CLS
CD	SLIGHT TO MODERATE	SLIGHT TO MODERATE	SEVERE	

THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, ANY PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

"THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD IN TACT SINCE 1961. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS."

4/4 1. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION IN THE FOREST CONSERVATION EASEMENT EXCEPT AS PERMITTED BY THE DALLAMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

1/4 2. ANY FOREST CONSERVATION EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND ON THE RECORDS OF DALLAMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

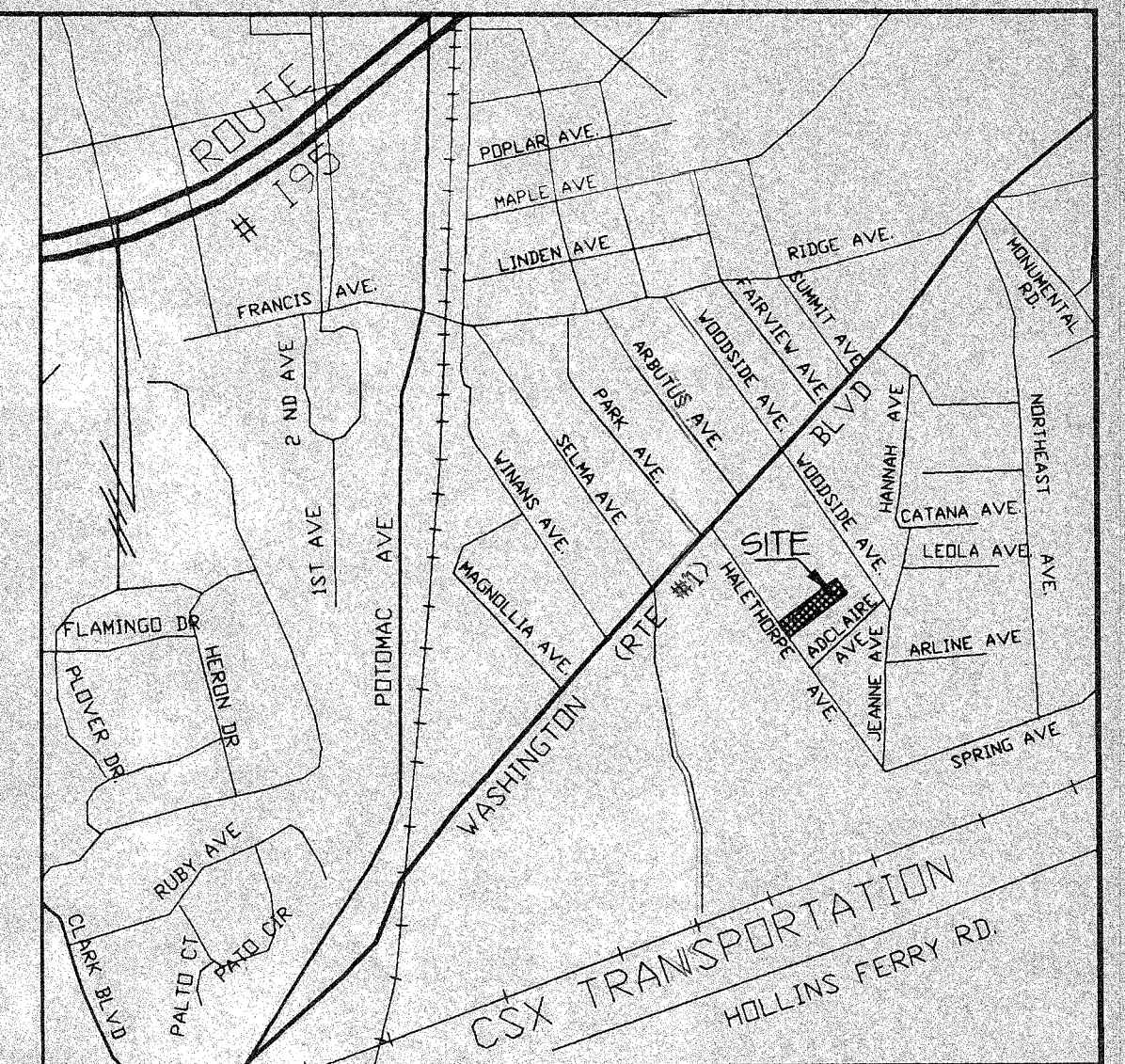
3. THE FOREST CONSERVATION OBLIGATION FOR AFForestation, INCURRED BY THIS SUBDIVISION SHOWN HEREON, 610 ACRES SHALL BE SATISFIED BY PURCHASING CREDIT IN AN APPROVED FOREST RETENTION BANK.

SCHOOL DISTRICT:
HALETHORPE ELEMENTARY SCHOOL
ARBUS MIDDLE
LANDSDOWNE H.S.

THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN FIELD INTACT SINCE 1968. THE DEVELOPERS SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.

- 1 FOR PROPOSED LOT 1 A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 34 FT. MIN. FRONT YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. FRONT YARD.
- 2 FOR PROPOSED LOT 1, A VARIANCE IS REQUESTED FROM SECTION 1802.3C B.C.Z.R. FOR A 18 FT. REAR YARD IN LIEU OF THE REQUIRED 40 FOOT MIN. REAR YARD.

THE PROPERTY SHOWN HERON IS NOT SUBJECT TO ANY PRIOR ZONING CASES.



VICINITY MAP
SCALE: 1" = 1000'

- A AREA OF TRACT BROGS - 0.340 ACRES
NET - 0.340 ACRES
- B ZONING-DR, 100 SCALE MAP & 5% G.D
- C DENSITY CALCULATIONS
1 LOTS ALLOWED (2 x 0.340 = 2)
2 LOTS PERMITTED = 1
- D DRYAN M & LINDA G ROBERTS
1040 REED LANE
ELLIOTT CITY, MD 21601-2299
7070 7070 7070 441 076
- E TAX ACCOUNT # 106000001
- F REFERENCE - LEADER W/34 POLLO A09
- G TAX MAP 105, GRID 1E, PARCEL 370
- H LEGAL TRACT 3204
REGIONAL PLANNING DISTRICT 325A
SCHOOL DISTRICT (56' LOTTE)
WATERED PATROLLED
NO REVERSE

NOTE:
THE PAIDHOLDLE SHALL BE PAVED WITHIN ONE YEAR OF THE ISSUANCE
OF THE OCCUPANCY PERMIT.

Ref Exh #1

OWNER/DEVELOPER
DRYAN M & LINDA S ROBERTS
10149 REED LANE
ELLKOTT CITY, MD. 21042-2299
PHONE # 410 461-6122

DEED REFERENCE:
LIBER 14924, FOLIO 403
ML PASKY TO
DM & LG. ROBERTS
1/17/2001

7-6-04	REVISED PALMAYVILLE LOT 2 (8 WIDE)		
7-8-05	COMMENTS		
NO	DATE	REVISION	
#193 MALETHORPE AVE. TAX MAP 108, GRID 12, PARCEL 373 MINOR SUBDIVISION # 10TH ELECTION DISTRICT. 1ST CONGRESSIONAL DISTRICT. BALTIMORE COUNTY, MARYLAND			
7-13-04  <i>William H. Miller</i>	Prepared by CHARLES R. CROCKEN AND ASSOCIATES, INC. Civil Engineering - Land Planning PO Box 307 Westminster, MD 21157 Tel. (410) 549-2108 Fax. (410) 549-9063		
TAX MAP 108	PARCEL 373	PROJECT NO.	
DESIGNED BY	DATE		APRIL, 2004
DRAWN BY CHC	SCALE		1" = 30'
DRAWING NO. 1 OF 1			

P.D.M. # 03-042-M

County Board of Appeals of Baltimore County

ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Address Service Requested

Petitioner's #2 A & B (2 photos)

Roberts
05-137-SPHXA



Proth. Humen
13. 10
5
10

0023 N4 000000 NNN 0 4007

<No. 2>

56030

Spring
04

[Signature]



0021 NA OFFICIAL NAH 0 4007

<No. 4>

56028

132t.
BC12
HIA



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

SUBJECT: POLICY MANUAL

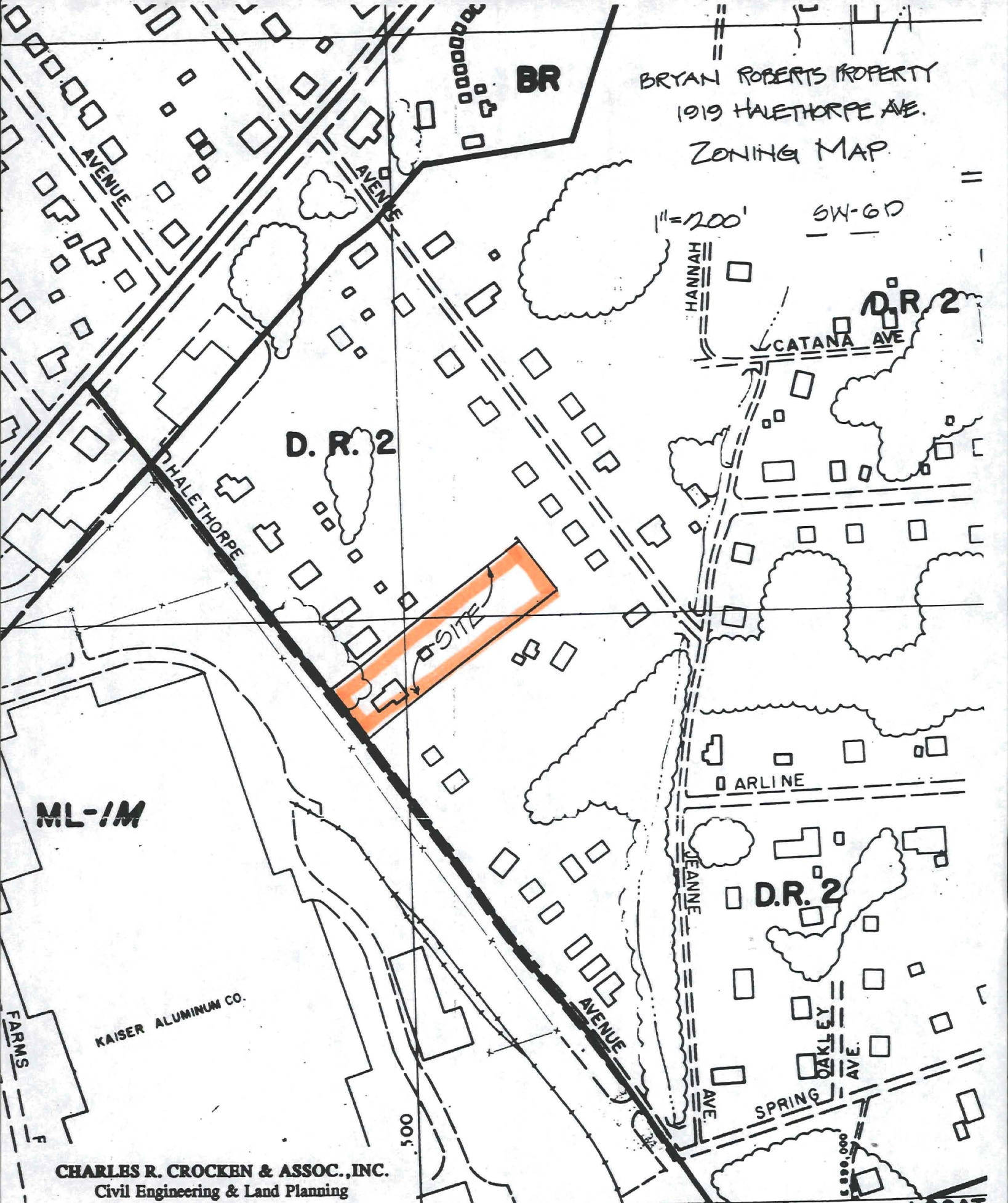
DATE: 9/20/85

This POLICY MANUAL is a compilation of legislative, executive, and administrative public policies. These policies are promulgated by the Zoning Commissioner of Baltimore County, pursuant to the Baltimore County Charter, §522.1, and the Baltimore County Zoning Regulations, §500.8. The principles enunciated herein have the limited purposes of facilitating and improving the implementation of procedures throughout the Baltimore County Department of Planning & Zoning Administrative Offices.

The policies organized here are subject to alteration, modification, or revision in accordance with the authority under which they are initially adopted. As such, the policies have no binding effect within a Court of law, although they may be utilized by the Courts to interpret and construe pertinent zoning regulations. Hofmeister v. Frank Realty Co., Inc., 373 A 2d 273 (1977); Farber's, Inc. v. Comptroller of the Treasury of the State of Maryland, 266 Md 44 (1972).

This Manual could not have been prepared without the experience and knowledge of James Dyer, Zoning Supervisor; Diana Itter; Douglas Swam; and Nicholas Commodari, Zoning Coordinator; and especially without the time, effort and ability of Carl Richards.

B-1A
Pet #3



BRYAN ROBERTS PROPERTY
1919 HALETHORPE AVE.
ZONING MAP

1" = 200' SW-6D

D.R. 2

CATANA AVE

D.R. 2

SITE

ML-1M

ARLINE

D.R. 2

JEANNE AVE

OAKLEY AVE

SPRING AVE

KAISER ALUMINUM CO.

CHARLES R. CROCKEN & ASSOC., INC.
Civil Engineering & Land Planning
P.O. Box 307
Westminster, Maryland 21157
Tel. (410) 549-2708

SCALE

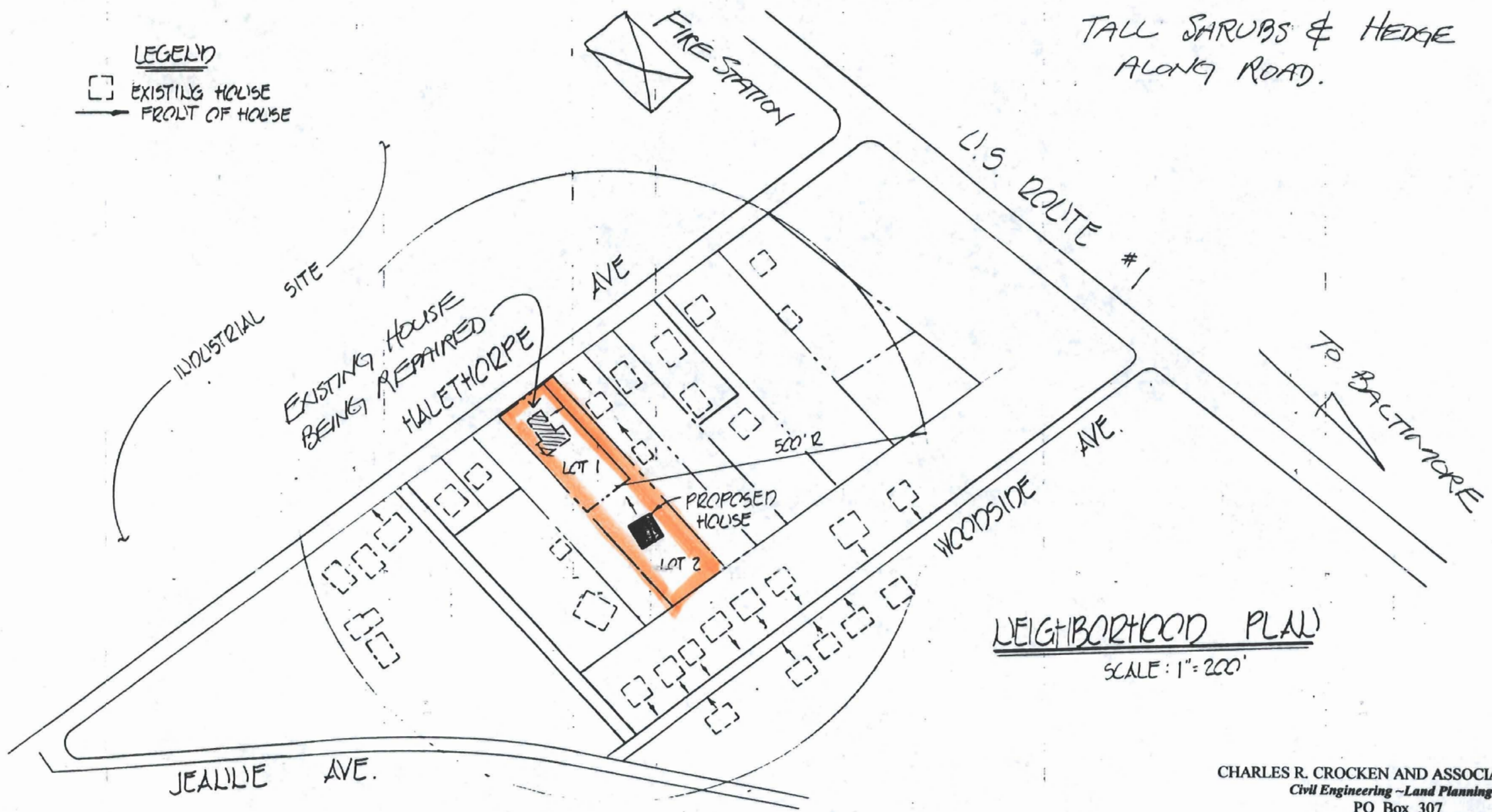
1" = 200' ±

LOCAT

SW 1" = 200' 6D

LEGEND
 □ EXISTING HOUSE
 — FRONT OF HOUSE

TALL SHRUBS & HEDGE
 ALONG ROAD.



NEIGHBORHOOD PLAN
 SCALE: 1" = 200'

CHARLES R. CROCKEN AND ASSOCIATES, INC
 Civil Engineering - Land Planning
 PO Box 307
 Westminster, Maryland 21157
 Tel. (410) 549-2708

Ref 24/4

**ZONING DESCRIPTION
1919 HALETHORPE AVENUE
BRYAN M. & LINDA G. ROBERTS PROPERTY**

Beginning for the same at a point on the east side of Halethorpe Avenue which is 30 feet wide at a distance of 640' south of the centerline intersection of Washington Blvd., U.S. Rte. One, 100 feet wide, as recorded in Deed Liber 14924, Folio 409. the following courses and distances 1.) N 66°43'54" E - 403.93' thence 2.) S 16°16'26" E - 104.50' thence 3.) S 66°43'54" W - 82.52' thence 4.) N 30°52'16" W - 3.62' thence 5.) S 59°07'43" W - 27.12' thence 6.) S 66°43'54" W - 295.05' thence 7.) N 15°43'25" W 104.63' to the point of beginning, containing 41,900.36 feet. Also known as 1919 Halethorpe Avenue and located in the 13 th. Election District, 1 st. Councilmanic District.

hal desc

137

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 40921

DATE 01/13/04

ACCOUNT Pool 000000150

AMOUNT \$ 130.00

RECEIVED FROM:

C. R. CITROEN - Assoc.

FOR:

05-187-SP4A

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

BALANCE ACTUAL

1712

9/10/2004 9/13/2004 18126194

2

903 0002 MAIL JEVA JES

09/10/04 9/13/2004 18126194

5 500 20000 VERIFICATION

9/10/04 18126194

Receipt Tot

\$130.00

\$130.00 CR

\$1.00 GR

Baltimore County, Maryland

CASHIER'S VALIDATION

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 12, 2004 Issue - Jeffersonian

Please forward billing to:
Charles Crocken
902 Lee Avenue
Sykesville, MD 21784

410-549-2708

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: 05-137-SPHA

1919 Halethorpe Avenue

E/side of Halethorpe Avenue, 640 feet south of centerline of Washington Blvd., Rte. 1

13th Election District – 1st Councilmanic District

Legal Owners: Bryan M. and Linda G. Roberts

Special Hearing to allow the use of an 8 foot wide in fee strip for Lot 2 only and to allow a 20 foot wide easement for access to and from Halethorpe Avenue to the proposed dwelling to be located on the lot at the rear of the property. Variance to permit a minimum front yard of 34 feet in lieu of the required 40 feet for Lot 1 only.

Hearing: Wednesday, October 27, 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 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/neighbors 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 OS-137-SPHA
Petitioner BRYAN M. & LINDA G. ROBERTS.
Address or Location: ~~1919~~ 1919 HALETHORPE AVENUE.

PLEASE FORWARD ADVERTISING BILL TO

Name CHARLES R. CROCKEN & ASSOC
Address 902 LEE AVENUE
SPRINGVILLE, MD. 21784
Telephone Number 410-549-2708

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 27, 2004

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

SUBJECT: 1919 Halethorpe Avenue

INFORMATION:

Item Number: 5-137

Petitioner: Bryan M. Roberts

Zoning: DR 2

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning reviewed the subject minor subdivision and forwarded comments to the petitioner on April 30, 2004. The content of the comment is as follows:

The subject property is not wide enough to be subdivided. The minimum lot width in the DR 2 zone is 100 feet. Minus the 20-foot wide in-fee strip required for lot 2, lot 1 will have a front yard width of approximately 84 feet. This office will not support any variance to create a panhandle lot, or to create a sub-standard lot.

The petitioner currently proposes an 8-foot wide in-fee strip for lot 2. Lot 1 will still not meet the minimum lot width requirement of 100 feet. As such, this office recommends that the subject request be **DENIED**.

Prepared by:



Division Chief:



AFK/LL:MAC:

Bu
10/27

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED

OCT 27 2004

ZONING COMMISSIONER

TO: Tim Kotroco

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

DATE: October 27, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of September 20, 2004.

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

05-125

~~04~~-133

~~04~~-135

~~04~~-136

~~04~~-137

Reviewers: Sue Farinetti, Dave Lykens

**Department of Permits and
Development Management**

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



Baltimore County

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

January 28, 2005

Bryan M. Roberts
Linda G. Roberts
10149 Reed Lane
Ellicott City, MD 21042-2239

Dear Mr. & Mrs. Roberts:

RE: Case: 05-137-SPHA, 1919 Halethorpe Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on December 21, 2004 on your behalf by September 13, 2004. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. Charles Crocken, 902 Lee Avenue, Sykesville 21784
Mr. & Mrs. David Howard, 1924 Woodside Avenue, Halethorpe 21227
Mr. Donald Hawkins, 1919 Woodside Avenue, Halethorpe 21227

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

APPEAL

Petition for Special Hearing & Variance
1919 Halethorpe Avenue
E/s Halethorpe Ave., 640' s/of c/line of Washington Blvd.
13th Election District – 1st Councilmanic District
Bryan M. & Linda G. Roberts - Petitioners

Case No.: 05-137-SPHA

Petition for Special Hearing/Variance (September 13, 2004)

Zoning Description of Property

Notice of Zoning Hearing (September 13, 2004)

Certification of Publication (The Jeffersonian – October 12, 2004)

Certificate of Posting (October 5, 2004) by Stacy Gardner

Entry of Appearance by People's Counsel (September 22, 2004)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plat to accompany Special Hearing and Variance
2. Drawings & Aerial Photographs & Regular Photographs
3. A – C Photos

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibit)

1. Zoning Commissioner's Policy Manual
2. ZAC 5-137
3. RM – 1A Access- Residential
4. Real Property Assessment & Taxation

Zoning Commissioner's Order (Special Hearing – DENIED / Variance – GRANTED – 11/24/04)

Notice of Appeal received on December 21, 2004 from Charles Crocken on behalf of Petitioners

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Mr. & Mrs. Bryan Roberts, 10149 Reed Lane, Ellicott City 21042
Mr. Charles Crocken, 902 Lee Avenue, Sykesville 21784
Mr. & Mrs. David Howard, 1924 Woodside Avenue, Halethorpe 21227
Mr. Donald Hawkins, 1909 Woodside Avenue, Halethorpe 21227

date sent January 28, 2005, klm

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE
1919 Halethorpe Ave; E/side Halethorpe Ave,* ZONING COMMISSIONER
640' S c/line of Washington Blvd, Rt 1
13th Election & 1st Councilmanic Districts * FOR
Legal Owner(s): Bryan M. & Linda G. Roberts
Petitioner(s) * BALTIMORE COUNTY
* 05-137-SPHA

* * * * *

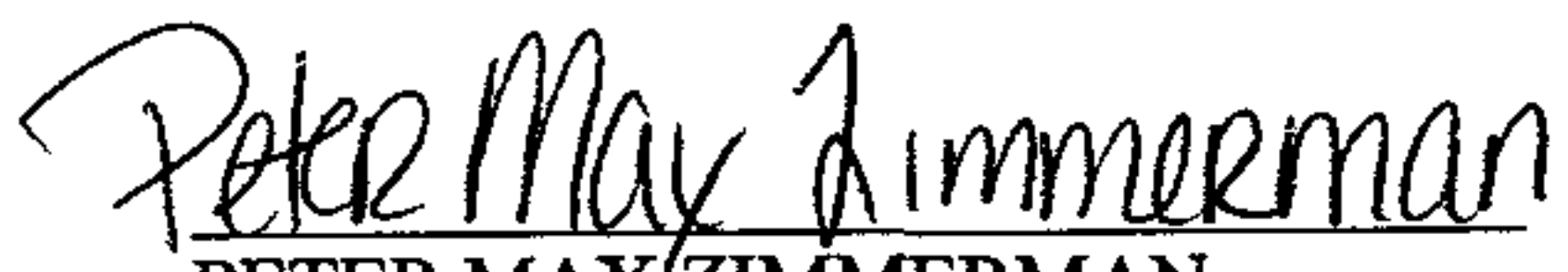
ENTRY OF APPEARANCE

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
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of September, 2004, a copy of the foregoing Entry of Appearance was mailed to Charles R. Crockery, P.E., P.O. Box 307, Westminster, MD 21158, Representative for Petitioner(s).


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering and Land Planning

P.O. BOX 307

WESTMINSTER, MARYLAND 21158

December 20, 2004

Baltimore County
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

SUBJECT: Petition for Variance
Case No. 05-137-SPHA
1919 Halethorpe Avenue
Bryan M. Roberts, et ux-Petitioners
SECOND APPEAL

Attention, Timothy M. Kotroco, Director

Please be advised we are writing on behalf of our client, the petitioner Mr. Bryan Roberts, to appeal the decision by the Zoning Commissioner in Case No. 05-137-SPHA Petition for variances regarding the dismissal as moot of the request for a variance from the front yard setback of 40 feet to 34 feet as shown on the plat of the subject property which accompanied the original petition. We are not appealing the granting of the variance for the rear yard setback which was approved. Attached is a check for payment of the appeal fee and posting of the property.

Sincerely,

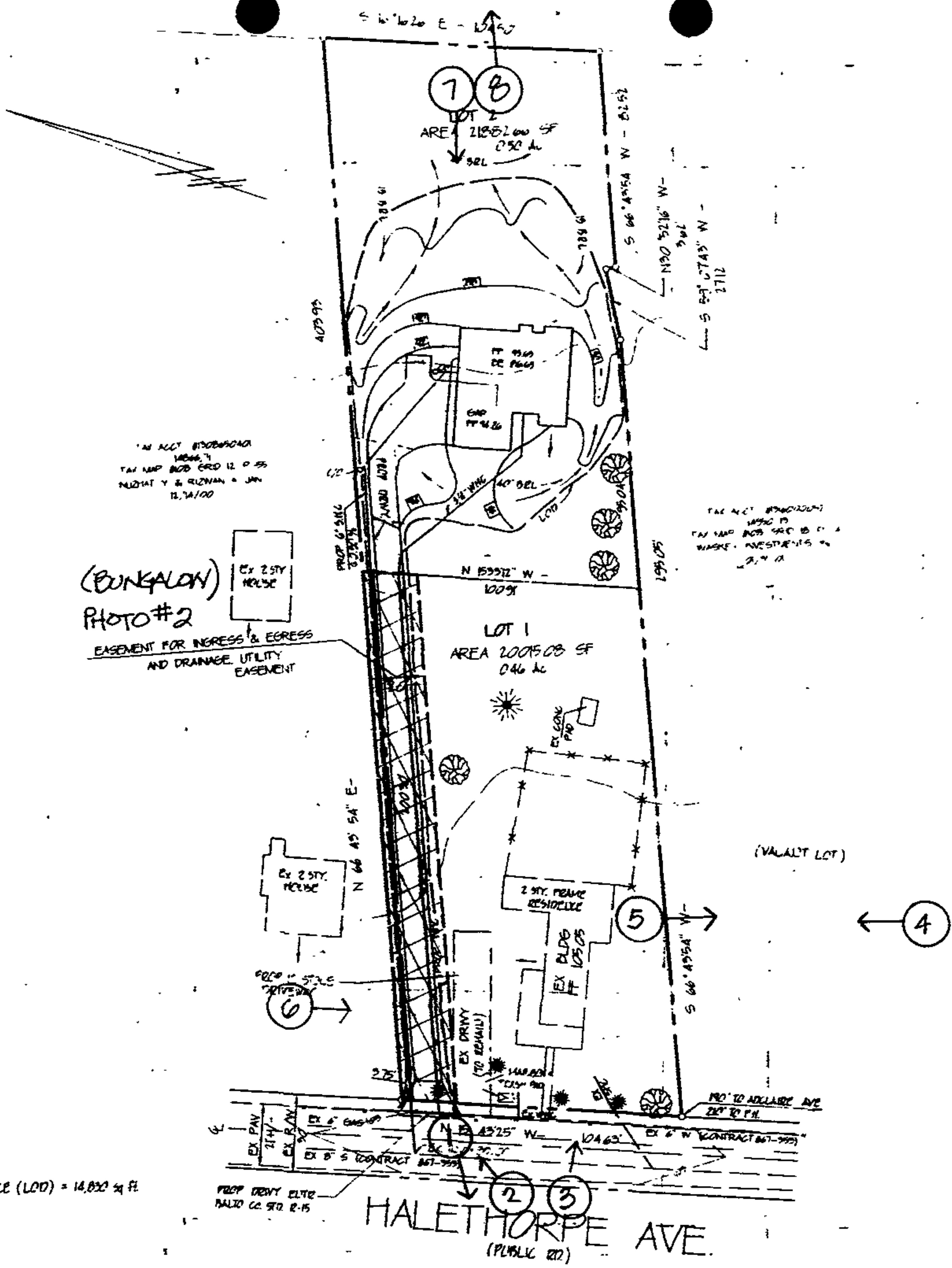


Charles R. Crocken P.E.
President

cc Kathy Bianco, Adm.
Board of Appeals

hal apl-2-let





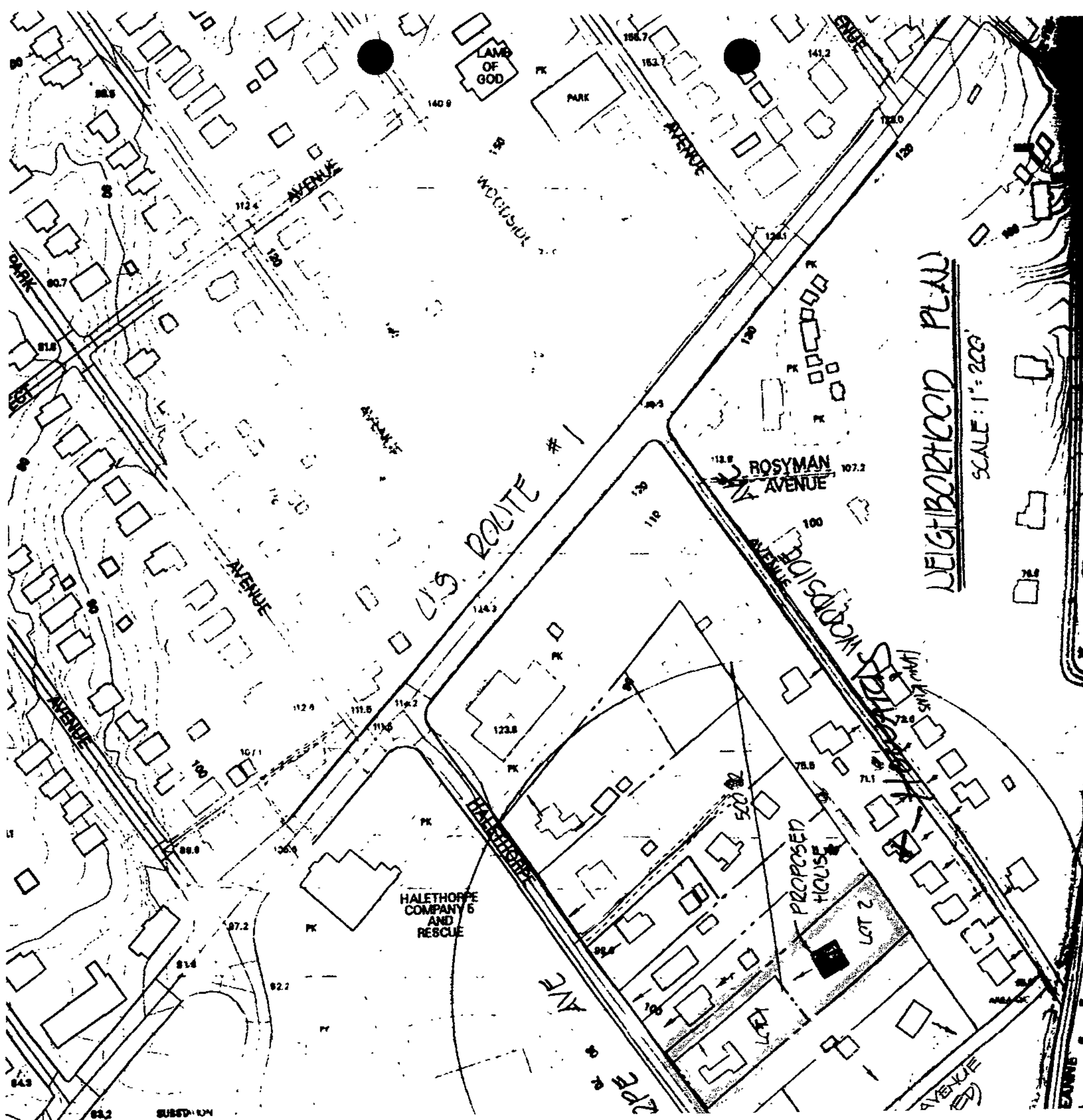
PETITIONER'S EXHIBIT 2

#137

2-LOT MINOR SUBDIVISION
PHOTO-LOCATIONS.

1"=100'

6-04-03



CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering & Land Planning

P.O. BOX 307

WESTMINSTER, MD 21157

JOB _____

SHEET NO. _____

OF _____

CALCULATED BY _____

DATE _____

CHECKED BY _____

DATE _____

SCALE _____



LOOKING WEST FROM EXIST. DRWY TOWARDS
VINE COVERED CHAIN LINK FENCE



LOOKING EAST AT EXIST. DRWY AND ADJOINING
PROPERTY NOTE BUNGALOW BEHIND DWELLING

#137

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering & Land Planning

P.O. BOX 307

WESTMINSTER, MD 21157

JOB

HAR HORPE AVE.

SHEET NO.

OF

CALCULATED BY

DATE

CHECKED BY

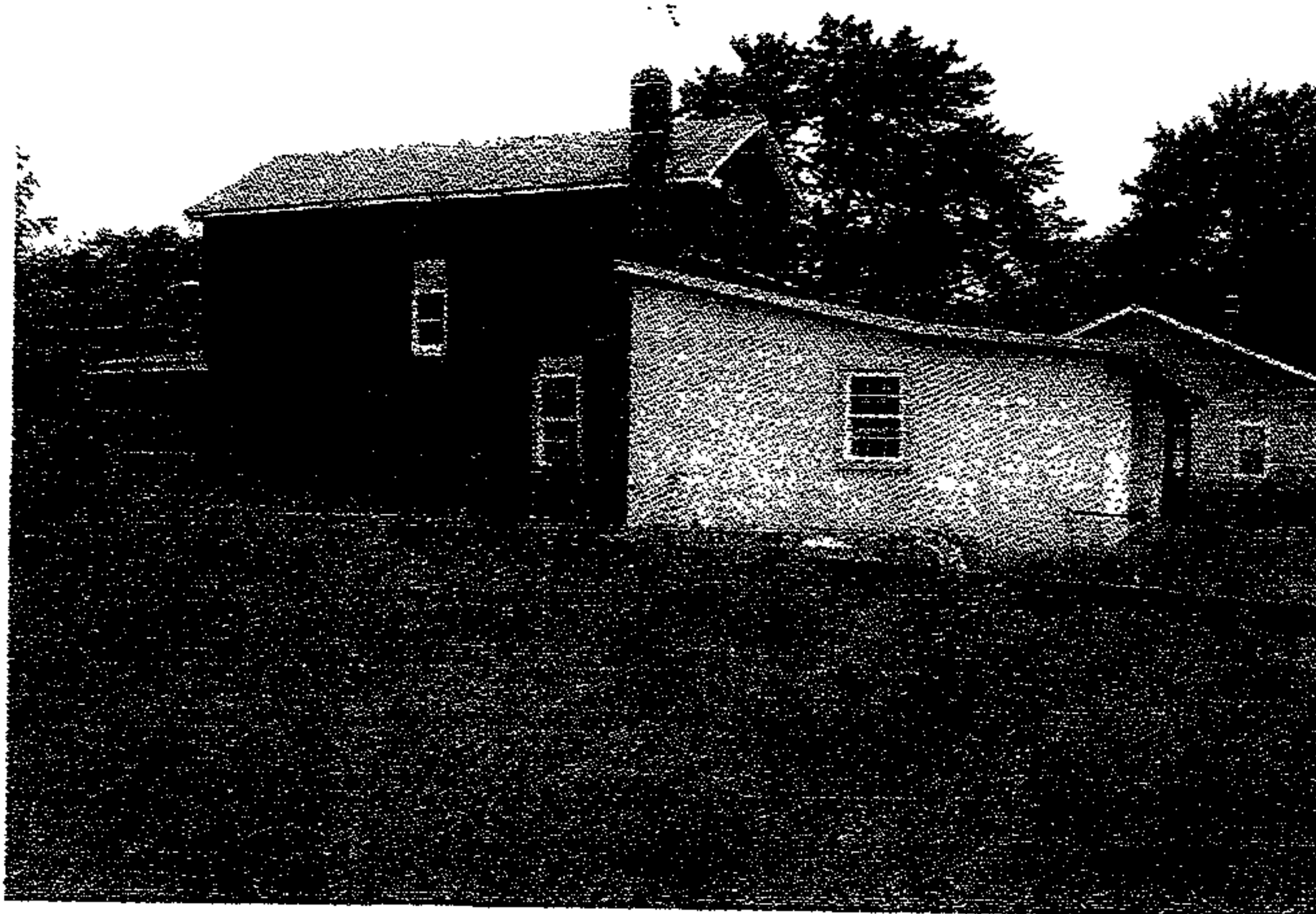
DATE

SCALE



③

LOOKING EAST AT EXISTING DWELLING AND
SHURBS ON SITE.



④

LOOKING NORTH AT SOUTHSIDE OF EXISTING
DWELLING FROM VACANT LOT.

H 177

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering & Land Planning

P.O. BOX 307

WESTMINSTER, MD 21157

JOB

HAERPE AVE

SHEET NO.

OF

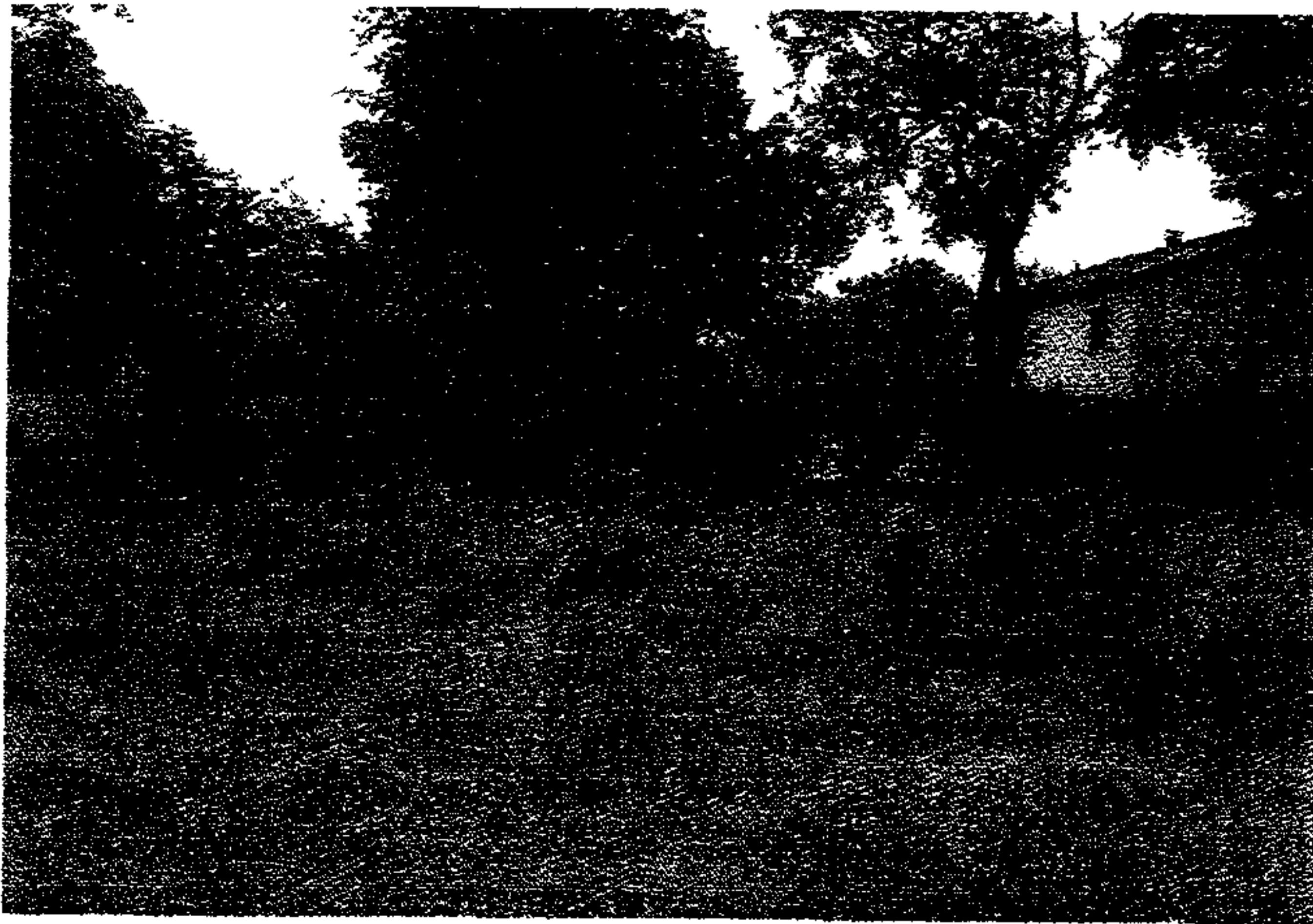
CALCULATED BY

DATE

CHECKED BY

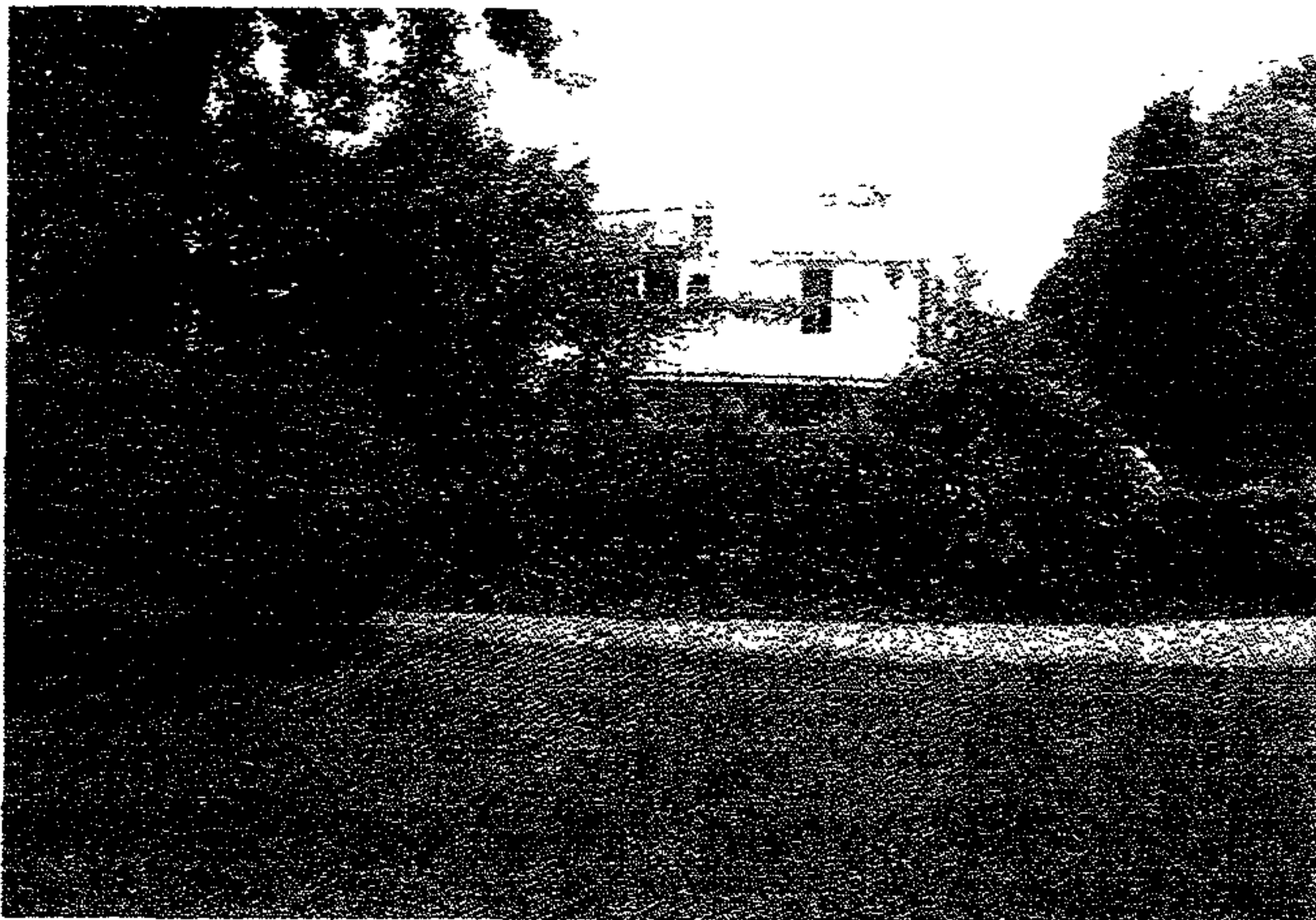
DATE

SCALE



⑤

LOOKING SOUTH AT ADJOINING VACANT LOT
FROM SOUTHSIDE OF PROPERTY.



⑥

LOOKING SOUTH AT NORTHSIDE OF EXISTING
DWELLING & SHRUBS ALONG PROPERTY LINE.

\$127

CHARLES R. CROCKEN & ASSOCIATES, INC.

Civil Engineering & Land Planning

P.O. BOX 307

WESTMINSTER, MD 21157

JOB

HA HORPE AVE

SHEET NO.

OF

CALCULATED BY

DATE

CHECKED BY

DATE

SCALE

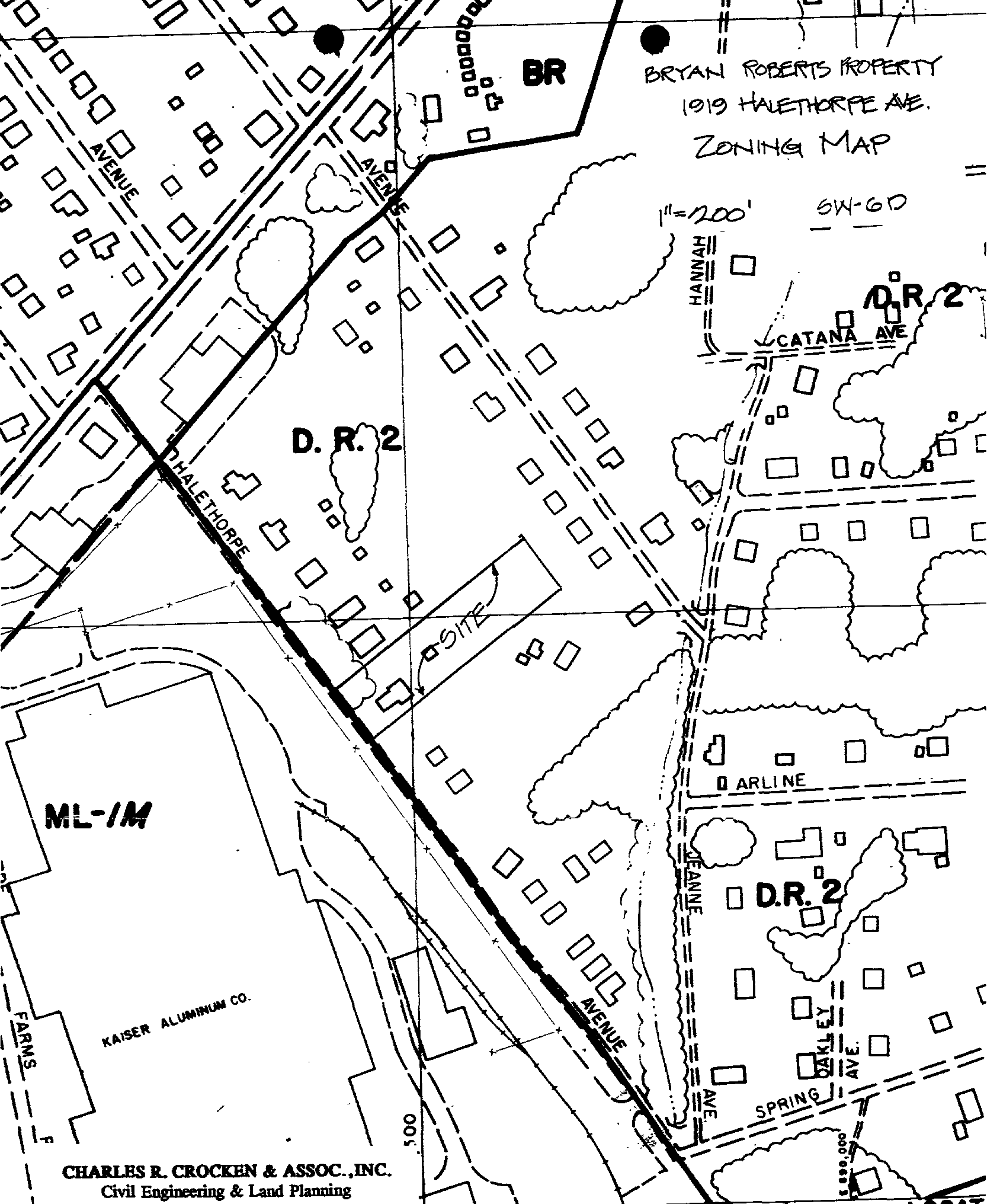


LOOKING WEST AT REAR OF EXISTING HOUSE



LOOKING EAST FROM REAR OF SITE.
AT ADJOINING PROPERTY.

#137



BRYAN ROBERTS PROPERTY
1919 HAETHORPE AVE.
ZONING MAP

1" = 200' SW-6D

HANNAH

D.R. 2

CATANA AVE

D. R. 2

SITE

ARLINE

D.R. 2

ML-1M

KAISER ALUMINUM CO.

CHARLES R. CROCKEN & ASSOC., INC.
Civil Engineering & Land Planning
P.O. Box 307
Westminster, Maryland 21157
Tel. (410) 549-2708

SCALE

1" = 200' ±

LOCAT.

SW 1" = 200' 6D

137

**Maryland Department of Assessments and Taxation 1****Taxpayer Services Division**

301 West Preston Street W Baltimore, Maryland 21201

(Charter/Personal Property)**Business Entity Information****Taxpayer Services Division****Entity Name: SOUTHERN HOMES, LLC****Dept. ID #: W06714117****General Information**10149 REED LANE
ELLCOTT CITY, MD 21042BRYAN M. ROBERTS
10149 REED LANE
ELLCOTT CITY, MD 21042

ACTIVE

Good Standing:

No

Business Code:

Other

03/19/2002

MD

N/A

Unknown

Link Definition**General Information**

General information about this entity

Amendments

Original and subsequent documents filed

Personal PropertyPersonal Property Return Filing Information and Personal
Property Assessments**Certificate of Status**

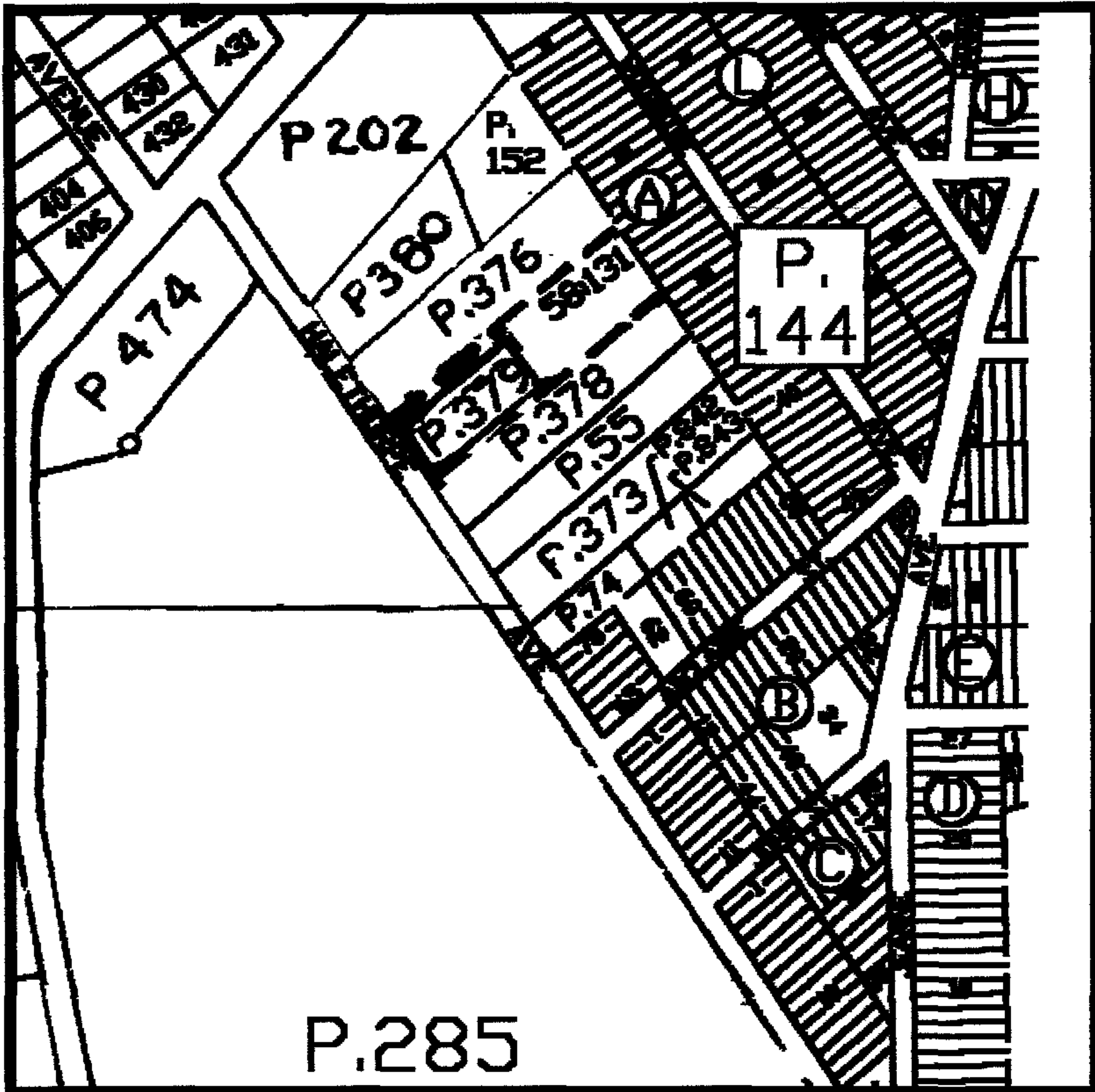
Get a Certificate of Good Standing for this entity.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[View Map](#)

District - 13 Account Number - 1316000051



Property maps provided courtesy of the Maryland Department of Planning ©2001 - 2002.
 For more information on electronic mapping applications, visit the Maryland Department of Planning
 web site at