

IN RE: PETITION FOR SPECIAL HEARING  
N/S Belclare Circle, 220' NE of the c/l  
Priceville Road  
(25 Belclare Circle)  
8<sup>th</sup> Election District  
3<sup>rd</sup> Council District

Brian O'Rourke, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 05-223-SPH

\*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Brian O'Rourke, and his wife, Susan V. O'Rourke. The Petitioners request a special hearing seeking approval of a waiver, pursuant to Section 500.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), of the requirements of Section 3112 of the Baltimore County Building Code, and Sections 32-4-414, 32-4-107(a)(2), and 32-8-301 of the Baltimore County Code, to permit construction of a floodwall in a riverine floodplain to protect that portion of the existing dwelling lying within the 100-year floodplain boundary and to permit construction of additions to the existing dwelling in areas of the property lying outside the 100-year floodplain of Western Run. 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 Brian and Susan O'Rourke, property owners. Also present was David L. Thomas, a Professional Engineer with Baltimore County's Department of Public Works. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the northwest side of Belclare Circle, just east of its intersection with Priceville Road in the historic subdivision known as "Belclare," which is located within the

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Date

By

12/29/04  
[Signature]

Western Run-Belfast Road Historic District in Sparks. The property contains a gross area of 0.789 acres, more or less, zoned R.C.40 and is improved with a two-story, single-family dwelling, which features an attached garage. The Petitioners have owned and resided on the property since 1996. Apparently, the house was constructed in 1958 and the Petitioners now propose to make extensive improvements. However, due to the location of the property, the requested waiver is necessary in order to proceed. As shown on the site plan, the property is located immediately adjacent to the Flood Control Preservation area for the Belclare subdivision. Moreover, a portion of the existing dwelling is located within the 100-year riverine floodplain of Western Run. The site plan shows this floodplain area and its impact on the subject property. The Petitioners propose converting the existing garage to living space and constructing two, one-story additions on either side of the existing garage space, one attached and one detached in areas of the property lying outside the 100-year floodplain. In addition, the Petitioners propose constructing a flood control wall along the southeast side of the existing home and proposed addition on that side of the garage space. Although the existing dwelling and proposed improvements are largely outside that area, the eastern edge of the home is located within the floodplain. Thus, the requested special hearing relief is necessary.

Brian O'Rourke appeared and testified concerning the proposed improvements and the site constraints associated with his property. He testified that he retained Jeffrey A. Tizard, II, a Professional Engineer, in April 2004 to establish the floodplain area for this site and provide consultation as to how best to make improvements to the subject property and preserve the aquatic resource. Mr. O'Rourke submitted sealed engineering evaluations prepared by Jeffrey A. Tizard, II, Professional Engineer, marked as Petitioner's Exhibits 3, 4 and 5, which describe in detail the methods proposed and indicate that the proposed flood control wall will improve existing conditions on the site.

Testimony was also received from David L. Thomas on behalf of Baltimore County's Department of Public Works. Mr. Thomas offered a written Zoning Advisory Committee (ZAC) comment, dated December 6, 2004, from Edward Adams, Director of Public Works, subsequent to

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Date

By

that agency's review of the model study outlined in the Supplemental Evaluation of the 100-year Floodplain Boundary prepared by Mr. Tizard. That comment indicates that the Petitioner's proposal complies with that agency's standards for floodplain studies and that the proposed floodwall will have no significant impact on the 100-year basal flood elevation, or be detrimental to the County's floodplain management programs. Mr. Thomas testified that he has worked in concert with Mr. John M. Joyce of the Maryland Department of the Environment, who concurs with their assessment and that they have no objection to the proposal. However, as noted within the ZAC comment, construction of the flood control wall is subject to review and approval under the building permit process of the Department of Permits and Development Management, since it is to be constructed on private property and will be privately maintained. Moreover, the Petitioners shall be required to apply for a Letter of Map Amendment from FEMA to amend the Federal Flood Insurance Rate Map prior to the issuance of any permits for the proposed additions.

Based upon the cumulative testimony and evidence offered, I am persuaded to grant the requested waiver. In my judgment, the Petitioners have satisfied the requirements for such relief as set forth in Section 32-4-107 of the Baltimore County Code. Indeed, it appears that the property owners have taken great effort to comply with the recommendations made by Mr. Thomas and that the proposed improvements will result in a better management of this site. In this regard, testimony was offered that the flood control wall and planned additions will have no adverse impacts upon downstream properties. Thus, the relief requested shall be granted, subject to the Petitioners' compliance with the recommendations made within the ZAC comments submitted by the Department of Public Works, as set forth above and as discussed at the hearing.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29<sup>th</sup> day of December 2004 that the Petition for Special Hearing seeking approval of a waiver, pursuant to Section 500.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), of the requirements of Section 3112 of the Baltimore County Building Code, and Sections 32-4-414, 32-

4-107(a)(2), and 32-8-301 of the Baltimore County Code, to permit construction of a floodwall in a riverine floodplain to protect that portion of the existing dwelling lying within the 100-year floodplain boundary, and to permit construction of additions to the existing dwelling in areas of the property lying outside the 100-year floodplain of Western Run, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit for the proposed flood control wall and be granted same upon receipt of this Order. However, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The construction of the flood control wall shall be subject to the review and approval of the Department of Permits and Development Management, since it is to be constructed on private property and will be privately maintained.
- 3) Prior to the issuance of any permit(s) for the proposed additions in areas located outside the 100-year floodplain, the Petitioners shall apply for a Letter of Map Amendment from the Federal Emergency Management Agency (FEMA) to amend the Federal Flood Insurance Rate Map. Upon certification that the floodplain designation has been removed from the dwelling by means of an approved FEMA Letter of Map Amendment, the Petitioners may obtain their permit(s) to construct the proposed additions.
- 4) The proposed improvements shall be constructed substantially in accordance with the site plan submitted and marked into evidence as Petitioner's Exhibit 1.
- 5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

  
WILLIAM L. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING  
Date 12/29/04  
BY [Signature]

## Zoning Commissioner

Suite 405, County Courts Building  
401 Bosley Avenue  
Towson, Maryland 21204  
Tel: 410-887-3868 • Fax: 410-887-3468



## Baltimore County

James T. Smith, Jr., County Executive  
William J. Wiseman III, Zoning Commissioner

December 29, 2004

Mr. & Mrs. Brian O'Rourke  
25 Belclare Circle  
Sparks, Maryland 21152

RE: PETITION FOR SPECIAL HEARING  
N/S Belclare Circle, 220' NE of the c/l Priceville Road  
**(25 Belclare Circle)**  
8<sup>th</sup> Election District – 3<sup>rd</sup> Council District  
Brian O'Rourke, et ux - Petitioners  
Case No. 05-223-SPH

Dear Mr. & Mrs. O'Rourke:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill Wiseman", is written over a circular stamp. The stamp contains the text "WILLIAM J. WISEMAN, III".

WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:bjs

cc: Mr. David L. Thomas, DPW; People's Counsel; Case File

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)





# FLOOD / HISTORIC

## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 25 Belclare Circle, Sparks MD 21152  
which is presently zoned RC-40

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

~~Special Hearing for a waiver pursuant to Section 500.6 BCZR, (Section 3112.0, Building Code) and Sections 32-4-414, 32-4-107(A)(2)~~  
~~32-8-301 BCC to permit the construction of a floodwall in a riverine floodplain. The purpose of the floodwall is to protect~~  
that portion of the existing residence lying within the 100 yr floodplain boundary (see attached report, ESTIMATION OF 100-YEAR FLOOD PLAIN BOUNDARY) from potential water damage. A second objective of the floodplain waiver request is to permit the construction of additions adjoining the house in areas of the property lying outside the 100-year floodplain. Floodwall and additions will be located as described on the accompanying plat drawing. Floodwall will be built to a height 2 feet above the basal flood elevation and will be constructed in accordance with all pertinent building regulations. The proposed floodwall will have no significant impact on the 100-year basal flood elevation, as verified by the model study provided in the SUPPLEMENTAL EVALUATION OF 100-YEAR FLOODPLAIN BOUNDARY.

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:

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

### Attorney For Petitioner:

N/A  
Name - Type or Print City  
Signature  
Company

Address Telephone No.  
City State Zip Code

### Legal Owner(s):

Brian O'Rourke  
Name - Type or Print  
Signature  
Susan V. O'Rourke  
Name - Type or Print  
Signature  
25 Belclare Circle, (410-472-0114)  
Address Telephone No.  
Sparks, MD 21152  
State Zip Code

### Representative to be Contacted:

Name  
Address Telephone No.  
City State Zip Code

### OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING \_\_\_\_\_

Reviewed By 8007 Date 11-1-02

ORDER RECEIVED FOR FILING

Date 12/29/04

By [Signature]

Case No. OS-223-SPU

REV 9/15/98

31501214

01001



## **ZONING DESCRIPTION FOR #25 BELLCLARE CIRCLE**

**BEGINNING at a point on the north side of Bellclare Circle which is 50 feet wide at the distance of 220 feet northeast of the centerline of Priceville Road which is 50 feet wide. Being part of Lot No. 1, Block "A" in the subdivision of "Bellclare" as recorded in Baltimore County Plat Book No. 23, folio 39, containing 34,410 square feet. Also known as #25 Bellclare Circle and located in the 8th. Election District, 3rd. Councilmanic District.**



**Michael V. Moskunas**

**Site Rite Surveying, Inc.  
200 E. Joppa Road  
Suite 101  
Towson, MD 21286  
(410)828-9060**

OS-223-SPA

BALTIMORE COUNTY, MARYLAND  
OFFICE OF BUDGET & FINANCE  
MISCELLANEOUS RECEIPT

DATE 11/1/04

ACCOUNT

TR 0610066130

AMOUNT \$

65.00

RECEIVED  
FROM

William? Susan O'Connell

FOR

Rec. Special Home (Quarantine)  
715 Beaucor Circle

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

SDM

PAID RECEIPT

BUSINESS ACTION THE BW  
11/01/2004 11/01/2004 15:57:19 2

RECEIPT # 37876 10/31/2004 DEBIT

Dept 5 5/2 ZONING UNIFICATION

TR NO. 042046

Receipt Tot 65.00

65.00

Baltimore County, Maryland

CASHIER'S VALIDATION

#### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #05-223-SPH

25 Belclare Circle

N/side of Belclare Circle, 220 ft. n/east of Priceville Road

8th Election District — 3rd Councilmanic District

Legal Owner(s): Brian and Susan O'Rourke

**Special Hearing:** for a waiver to permit the construction of a floodwall in a riverine floodplain and to permit the construction of additions adjoining the house in areas of the property lying outside the 100 year floodplain.

**Hearing:** Friday, December 10, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

WILLIAM WISEMAN

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4388.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 11/808 Nov. 23

30990

## CERTIFICATE OF PUBLICATION

11/24/2004

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 11/23/2004.

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

S. Wilkinson

LEGAL ADVERTISING

# CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

RE: Case Number 05-223-SPH Date November 28, 2004

Petitioner/Developer BRIAN + SUSAN O'ROURKE

Date of (Hearing)/Closing DECEMBER 10, 2004

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 25 BELLCLARE CIRCLE

The sign(s) were posted on November 23, 2004

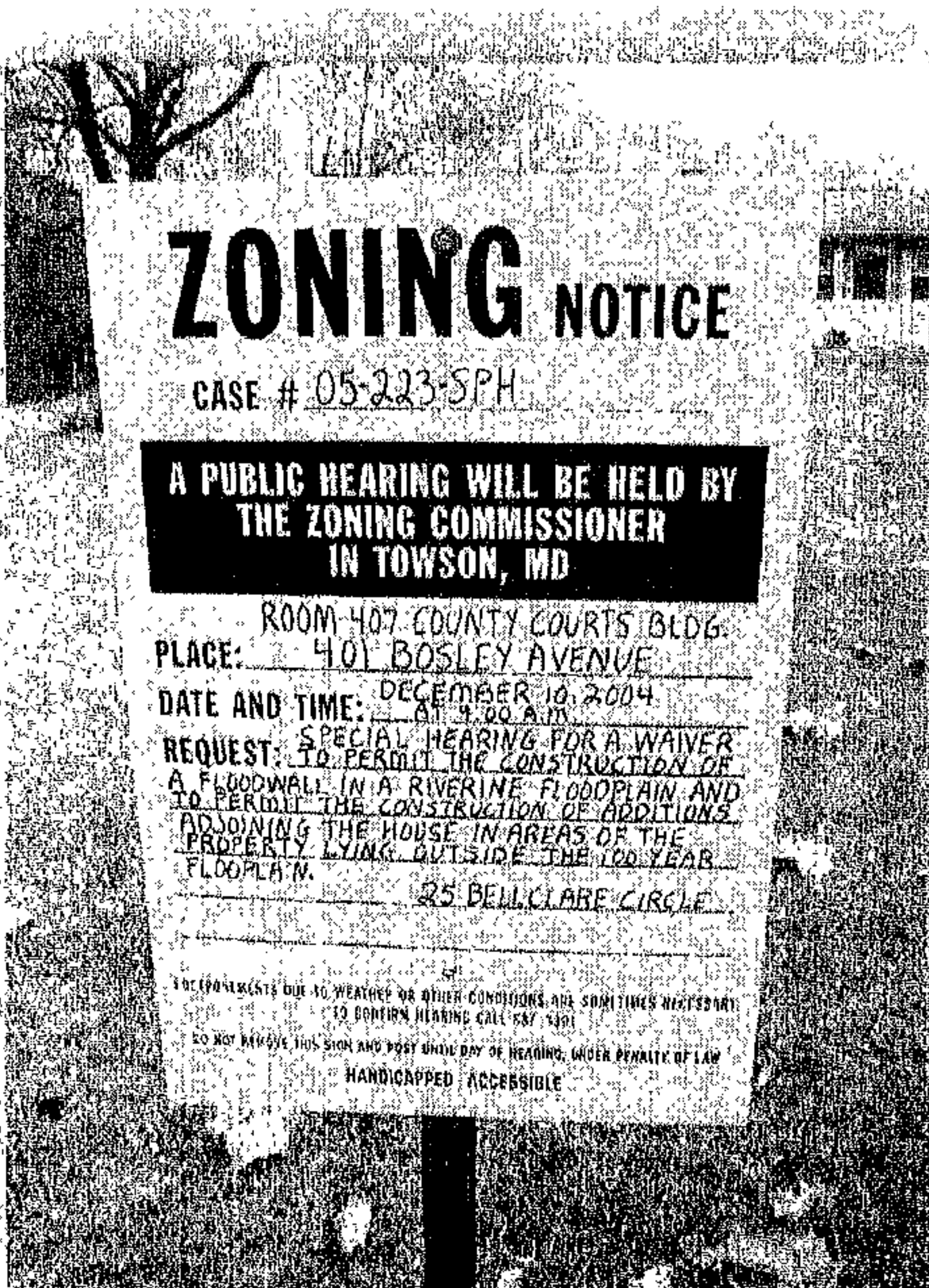
Linda O'Keefe  
(Signature of Sign Poster)

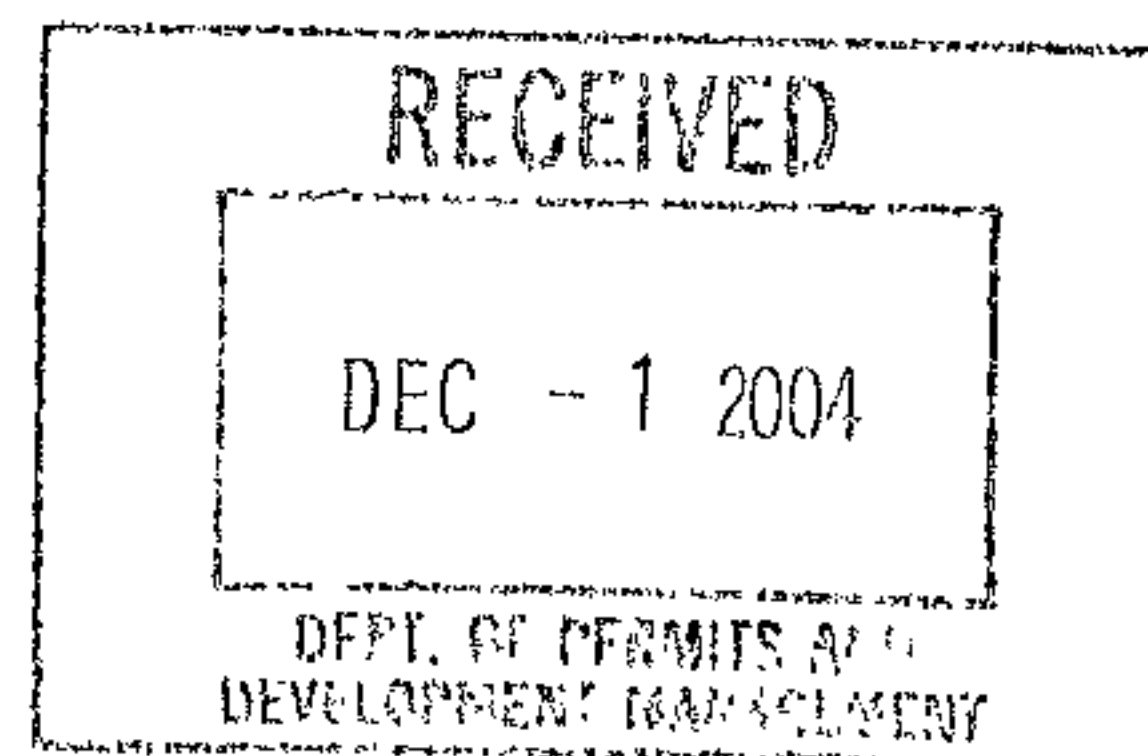
Linda O'Keefe  
(Printed Name of Sign Poster)

523 Penny Lane  
(Street Address of Sign Poster)

Hunt Valley Maryland 21030  
(City, State, Zip Code of Sign Poster)

410-666-5366  
(Telephone Number of Sign Poster)





TO: PATUXENT PUBLISHING COMPANY  
Tuesday, November 23, 2004 Issue - Jeffersonian

Please forward billing to:  
Brian O'Rourke  
25 Belclare Circle  
Sparks, MD 21152

410-472-0114

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## 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: 05-223-SPH**

25 Belclare Circle

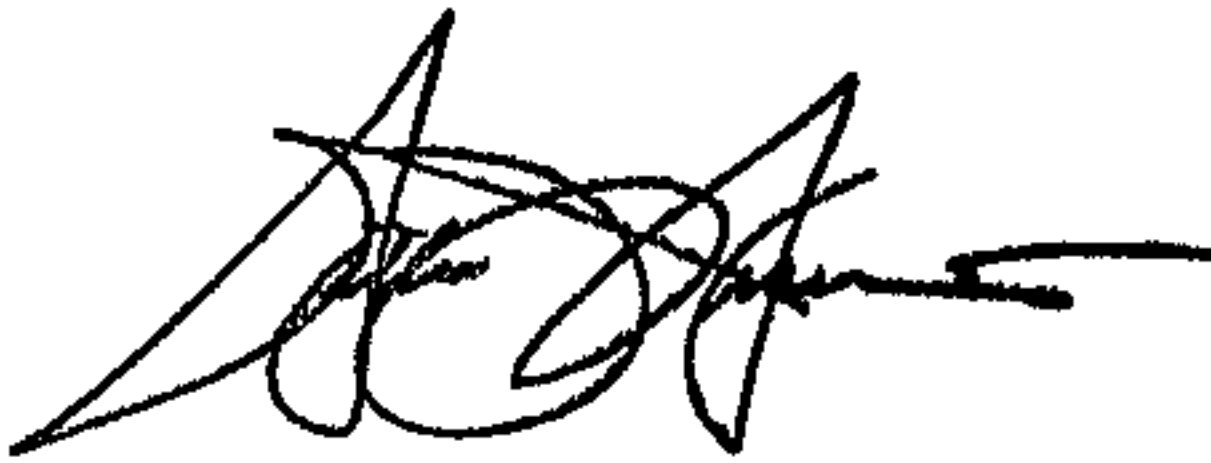
N/side of Belclare Circle, 220 ft. n/east of Priceville Road

8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owners: Brian and Susan O'Rourke

Special Hearing for a waiver to permit the construction of a floodwall in a riverine floodplain and to permit the construction of additions adjoining the house in areas of the property lying outside the 100 year floodplain.

Hearing: Friday, December 10, 2004 at 9:00 a.m. in Room 407, County Courts Building,  
401 Bosley Avenue, Towson 21204



WILLIAM WISEMAN  
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**



**Baltimore County**

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

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

November 16, 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: 05-223-SPH**

25 Bellclare Circle

N/side of Bellclare Circle, 220 ft. n/east of Priceville Road

8<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owners: Brian and Susan O'Rourke

Special Hearing for a waiver to permit the construction of a floodwall in a riverine floodplain and to permit the construction of additions adjoining the house in areas of the property lying outside the 100 year floodplain.

Hearing: Friday, December 10, 2004 at 9:00 a.m. in Room 407, County Courts Building,  
401 Bosley Avenue, Towson 21204

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

Timothy Kotroco  
Director

TK:klm

C: Brian & Susan O'Rourke, 25 Bellclare Circle, Sparks 21152

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 24, 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.**

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)



# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

## ZONING REVIEW

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

**OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.**

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#### For Newspaper Advertising:

Item Number or Case Number: OS. 223. SP4.

Petitioner: Brian O'Rourke

Address or Location: 25 Belclare Circle

#### PLEASE FORWARD ADVERTISING BILL TO:

Name: Brian O'Rourke

Address: 25 Belclare Circle

Sparks, MD 21152

Telephone Number: (410) 472-0114

OS. 223. SP4