

IN RE: PETITION FOR ADMIN. VARIANCE
W/S of Gwynndale Avenue, 246 ft. S
Centerline of Kelox Road
2nd Election District
4th Councilmanic District
(5631 Gwynndale Avenue)

Mary J. King
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-230-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Mary J. King. The variance request is for property located at 5631 Gwynndale Avenue in the "Kelox West" subdivision of Baltimore County. The variance is requested from Section 301.1A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection (deck) to be located 6 ft. from the rear yard in lieu of the required 15 ft. (10 ft. rear yard setback was granted per Case No. 98-399-A). The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on November 13, 2004, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict

ORDER RECEIVED FOR FILING

Date

By

11/11/05

Ray

compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 11 day of January, 2005, that a variance from Section 301.1A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection (deck) to be located 6 ft. from the rear yard in lieu of the required 15 ft. (10 ft. rear yard setback was granted per Case No. 98-399-A), be and it is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition;

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING

1/11/05

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

January 11, 2005

Ms. Mary J. King
5631 Gwynndale Avenue
Baltimore, Maryland 21207

Re: Petition for Administrative Variance
Case No. 05-230-A
Property: 5631 Gwynndale Avenue

Dear Ms. King:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

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



Printed on Recycled Paper



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 5631 Gwynndale Ave
which is presently zoned DR-5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

301.1A to permit an open
projection (deck) be located 6 ft. from the rear yard in lieu
of the required 15 ft. (10 ft. rear yard setback was granted per
Case 98-399-A).

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 11/11/04 day of Nov, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

Zoning Commissioner of Baltimore County

CASE NO.

05-230-A

Reviewed By BIC

Date

11/5/04

Estimated Posting Date

11/14/04

REV 10/25/01

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

Address 5631 Gwynndale Ave.
City BALTIMORE State MD. Zip Code 21207

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

I AM REQUESTING TO CORRECT MY REAR SETBACK FROM THE PRESENT 6 FT. TO THE ALLOWED 10 FT., SO I MAY BE WITHIN THE BALTIMORE COUNTY CODE, AND BE ALLOWED TO GO FORTH WITH MY SCREEN IN ENCLOSURE AND APPLY FOR MY BUILDING PERMIT. THEREFORE I AM REQUESTING A 6 FT. VARIANCE.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature Mary J. King
Name - Type or Print MARY J. King

Signature _____
Name - Type or Print _____

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 3 day of November, 2004, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Mary King
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Notary Public [Signature]

My Commission Expires 1/8/07

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

Address 5631 Gwynndale Ave.
City BALTIMORE State MD. Zip Code 21207

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (Indicate hardship or practical difficulty):

I AM REQUESTING TO CORRECT MY REAR SETBACK FROM THE PRESENT 6 FT. TO THE ALLOWED 11 FT. SO I MAY BE WITHIN THE BALTIMORE COUNTY CODE AND BE ALLOWED TO GO FORTH WITH MY SCREEN IN ENCLOSURE AND TO APPLY FOR MY BUILDING PERMIT. THEREFORE I AM REQUESTING A 6 FT. VARIANCE.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature Mary J. King
Name - Type or Print MARY J. KING

Signature _____
Name - Type or Print _____

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 3 day of November, 2004, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Mary King
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Notary Public [Signature]
My Commission Expires 1/8/07



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 5631 Gwynndale Ave.
which is presently zoned DR-S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

301.1A to permit an open projection (deck) be located 6 ft. from the rear yard in lieu of the required 15 ft. (10 ft. rear yard setback was granted per Case 98-399-A).

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

Zoning Commissioner of Baltimore County

CASE NO. 05-230-A

Reviewed By BR Date 11/5/04

Estimated Posting Date 11/14/04

ZONING Description FOR 5631 Gwynndale Ave.

Beginning at point on the WEST side of

Gwynndale Ave which is 70 FT. wide at

The distance of 246 FT. South of the

centerline of the nearest improved intersecting

street Kelox Road which is 30 FT. wide,

*Being LOT # 83 Block —, Section — in the

subdivision of Kelox West, as recorded in

Baltimore County Plat Book # 71, Folio # 33

containing 2890 Sq FT. Also known as

5631 Gwynndale Ave. and located in the 2nd

Election District, 4th Councilmanic District.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

NO. 42652

DATE

4/5/68

ACCOUNT

18007-006-6152

AMOUNT

\$ 65.00

RECEIVED FROM

Mary King

FOR

Household Expenses

PAID RECEIPT

QUANTITY

UNIT

11/10/2000 11/10/2000

11/10/2000 11/10/2000

11/10/2000 11/10/2000

11/10/2000 11/10/2000

11/10/2000

Receipt for

1.00

45.00

Baltimore County, Maryland

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

Certificate Of Posting

RE: Case NO.: 05-230-A

Petitioner/Developer: _____

MARY KING

Date of Hearing/Closing: 11/29/04

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

Attention:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 5631 GWYNDALE AVE

This sign(s) were posted on November 13, 2004
(Month, Day, Year)

Sincerely,

Martin Ogle 11/13/04
(Signature of Sign Poster and Date)

Martin Ogle

(Printed Name)

5016 Castlestone Drive

(Address)

Balto, MD 21237

(City, State, Zip Code)

(410)-933-9470

(Phone Number)

im000113 (1152x864x24b jpeg)



W. J. Jacobson 11/13/04

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 05- 230 -A

Address 5631 Guyndale Ave.

Contact Person: Bruno Rudaitis
Planner, Please Print Your Name

Phone Number: 410-887-3391

Filing Date: 11/5/04

Posting Date: 11/14/04

Closing Date: 11/29/04

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 05- 230 -A

Address 5631 Guyndale Ave.

Petitioner's Name Mary King

Telephone 410-944-2877

Posting Date: 11/14/04

Closing Date: 11/29/04

Wording for Sign: To Permit a rear yard setback of 6 ft. in lieu of
the required 7.5 ft. for an open projection (deck) as approved
in case 98-399-A.

WCR - Revised 6/25/04

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

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: OS - 230 - A
Petitioner: MARY KING
Address or Location: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: MARY KING
Address: 5631 Gwynndale Ave.
BALTIMORE MD 21207
Telephone Number: 410-944-2877

**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*

November 29, 2004

Mary J. King
5631 Gwynndale Avenue
Baltimore, Maryland 21207

Dear Ms. King:

RE: Case Number:05-230-A , 5631 Gwynndale Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 5, 2004.

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

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

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

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



Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

November 22, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: November 22, 2004

Item No.: 230 227-241, 243, 245-249

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



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BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: December 7, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For November 29, 2004
Item Nos. 227, 228, 229, 230, 231, 232,
233, 234, 237, 238, 239, 240, 241, 242,
243, 244, 246, and 248

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
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
PDM

FROM: John D. Oltman, Jr JPO
DEPRM

DATE: December 10, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of November 22, 2004.

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

05-227
05-229
05-230
05-232
05-233
05-234
05-235
05-238
05-239
05-240
05-241
05-242
05-243
05-244
05-245
05-246
05-247
05-248

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 26, 2004

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

SUBJECT: Zoning Advisory Petition(s): Case(s) 5-230 – Administrative Variance

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared By: Mark A. Cunningham

Division Chief: Lynne L. Lerner

MAC/LL

hs
6/8

IN RE: PETITION FOR VARIANCE * BEFORE THE DEPUTY
 Kelox Road and Gwynndale Avenue * ZONING COMMISSIONER
 2nd Election District * OF BALTIMORE COUNTY
 2nd Councilmanic District * Case No.: 98-399-A

 Kelox West, LLC, *
 Property Owner, *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the contract purchaser of the subject property, Grayson Homes at Gwynndale Manor, LLC ("Grayson"), and the legal owner of the property, Kelox West, LLC ("Kelox"), through their attorney, Robert A. Hoffman, Esquire. Since the filing of the Petition for Variance, Kelox has been acquired by Grayson.

The Petitioner seeks the following variances for the property: Variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") and Comprehensive Manual of Development Policies ("C.M.D.P.") Section V.B.3, pursuant to B.C.Z.R. Section 504, to permit 15 ft. building to adjoining lot garage separation in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft.; to permit 15 ft. building to building separation in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft.; to permit 15 ft. garage to adjoining lot garage separation in lieu of the required 16 ft. for building heights between 0 ft. and 20 ft. for Lots 1-15, 64-73 and 98; Variance from B.C.Z.R. Section 1B01.2.C.1 and C.M.D.P. Section V.B.3, pursuant to

B.C.Z.R. Section 504, to permit a building separation of 20 ft. in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft. for Lots 16-48, 50-61, 80-87, and 90-97; Variance from B.C.Z.R. Section 1B01.2.C.2.4 and C.M.D.P. Section V.B.5.A, pursuant to B.C.Z.R. Section 504, to permit window to tract boundary separations of 30 ft. in lieu of the required 35 ft. for Lots 15-18; Variance from Section B.C.Z.R. 1B01.2.C.2.A and C.M.D.P. Section V.B.5.A, pursuant to B.C.Z.R. Section 504, to permit window to tract boundary separations of 20 ft. in lieu of the required 35 ft. for Lots 19 - 48; Variance from B.C.Z.R. Section 1B01.2.C.2.B and C.M.D.P. Section V.B.6.C, pursuant to B.C.Z.R. Section 504, to permit window to window separations of 15 ft. in lieu of the required 40 ft. for Lots 1-15, 64-73, and 98; Variance from B.C.Z.R. Section 1B01.2.C.2.B and C.M.D.P. Section V.B.6.C, pursuant to B.C.Z.R. Section 504, to permit window to window separations of 20 ft. in lieu of the required 40 ft. for Lots 16-48, 50-61, 80-87, and 90-97; Variance from C.M.D.P. Section V.B.6.B, pursuant to Section 504 B.C.Z.R., to permit window to property line separations of 7.5 ft. in lieu of the required 15 ft. for Lots 1-14, and 65-72; Variance from C.M.D.P. Section V.B.6.B, pursuant to B.C.Z.R. Section 504, to permit window to property line separations of 10 ft. in lieu of the required 15 ft. for Lots 15-64 and 73-98; Variance from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a side window to street right-of-way setback of 10 ft. in lieu of the required 25 ft. for Lots 11, 71, 79, and 88; Variance from B.C.Z.R. Section 1B01.2.C.6 and C.M.D.P. Section V.B.5.B, pursuant to B.C.Z.R. Section 504, to permit a building to tract boundary setback of 20 ft. in lieu of the required 30 ft. for Lots

19-48; Variance from C.M.D.P. Section V.B.8, pursuant to B.C.Z.R. Section 504, to permit a 22 ft. front street right-of-way setback for Lots 1-98; Variance from B.C.Z.R. Section 1B01.2.C and C.M.D.P. Section V.B.5, pursuant to B.C.Z.R. Section 504, to permit a rear window to property line setback of 10 ft. in lieu of the required 15 ft. for Lots 79-88; Variance from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a rear window to street right-of-way setback of 15 ft. in lieu of the required 25 ft. for Lot 87; Variance from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a rear window to street right-of-way setback of 10 ft. in lieu of the required 25 ft. for Lot 88; Variance from B.C.Z.R. Section 301.1.A to allow the 25% extension into the varianced setbacks in lieu of the required setbacks for Lots 1-98; and, to amend the approved Final Development Plan to permit building setbacks of 15 ft. to open space and stormwater management in lieu of the required 35 ft. for Lots 1-14. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

At the hearing before the Zoning Commissioner, Robert A. Hoffman, Esquire appeared as the attorney for the Petitioner. Also appearing on behalf of the Petitioner were Cynthia McAuliffe and Don Travers of Grayson; Richard Matz of Colbert, Matz, Rosenfelt, Inc., the engineering firm that prepared the site plan for this project; and Wayne Caples of Koren Development Company, consultant on this project. There were no Protestants present.

The testimony and evidence offered by the Petitioner revealed that the subject site consists of a gross area of 18.8929 acres, zoned D.R.5.5. The property is located on the southwest side of Gwynndale Road, south of Kelox Road and north of Flannery Lane in Woodlawn. The Petitioner proposes to construct 27 single-family detached homes and 76 single-family semi-detached homes on this site.

Testimony indicated that, prior to purchase by Kelox and Grayson, the property had been subdivided for development, and plats for the lots had been recorded. Grading permits had been issued, and a portion of the property had, in fact, been graded in preparation for development. The prior owner had also designed and completed utility drawings for the site. Prior to actual construction, though, the project was brought to a halt as it was determined that the proposed product was not marketable. The property was purchased in this condition by Kelox and Grayson.

The single-family detached homes and single-family semi-detached homes that Grayson proposes to construct, as described in an exhibit submitted at the hearing as Exhibit 2, will not fit on the lots as developed by the prior owner without violating the setback restrictions contained in the Baltimore County Zoning Regulations and the Comprehensive Manual of Development Policies. Therefore, in order to utilize this site for the proposed construction, Grayson requires certain variances, as outlined earlier in this order.

Section 307.1 of the Baltimore County Zoning Regulations outlines a two-step process for the granting of variances. That two-step process was discussed by the Court

of Special Appeals in Cromwell v. Ward, 102 Md. App. 691 (1995). In that opinion, the Court interpreted the Baltimore County Zoning Regulations to require the applicant to establish the following:

First, the Petitioner must prove, and the Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself -- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual, and different from properties surrounding the subject site so as to cause the relevant setback requirements to impact disproportionately upon this particular parcel of land. As indicated above, the property is unique in that it had been subdivided prior to purchase by Grayson, and the lots had already been recorded. Certain grading had been completed, and the utilities had been designed and approved. Therefore, Grayson was left without the ability to create lots that would suit the product it was seeking to construct and sell. Rather, Grayson had to work with the unique features of this property as existed at the time of sale to the Petitioner and make its products fit within a scheme developed by the prior owner for use with a lesser product. Based upon this evidence, therefore, I find that Grayson satisfied the "first step" of showing uniqueness relating to the property.

Having satisfied this “first step,” the Petitioner must proceed to the “second step” of this variance process, which is to demonstrate that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guideline set forth in B.C.Z.R. Section 307.1 has been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings & Loan Assoc. v. Buschman, 227 Md. 243 (1961), the Court of Appeals considered the identical regulation. As the Court noted: “Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive.” Id. at 248-250. Thus, by the use of the term “or,” Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard. The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, 22 Md. App. 28 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. Id. at 40-41.

Compared with this burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions, and would not affect the property’s use. The

Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser standard of practical difficulty applies. The prongs of that standard which must be satisfied by the Petitioner are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonable 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 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; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, 22 Md. App. at 39. See also McLean v. Soley, 270 Md. 208, 214-215 (1973).

I find that, based on the testimony and evidence provided at the hearing before me, the Petitioner has, in fact, proven the practical difficulty standards as set forth above and that the variances requested should be granted. Grayson has demonstrated that requiring it to comply with B.C.Z.R. Section 1B01.2.C, C.M.D.P. Section V.B, and related provisions would be unnecessarily burdensome. Without the requested variances, Grayson would be unable to develop a marketable product on the site. Additionally, I find that the granting of these variances will do substantial justice to the Petitioner, the neighboring property owners, and others. The evidence confirms that there will be no adverse impact from the variances. I further find that the grant of these variances is

consistent with the spirit of the ordinance and is accomplished without injury to the public health, safety, or general welfare.

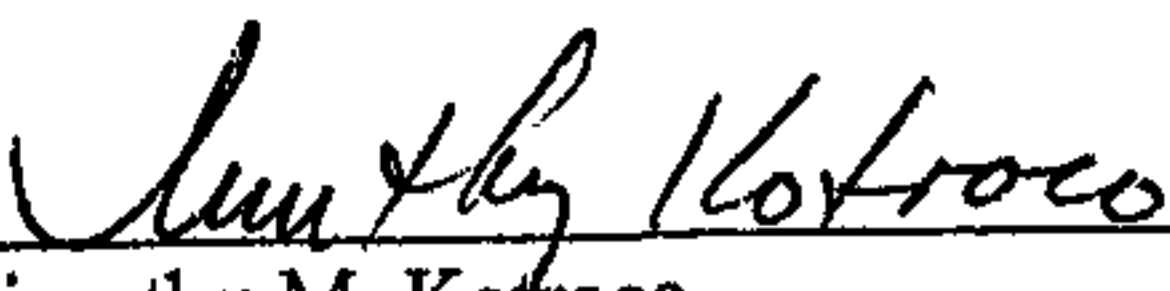
Pursuant to the advertising, posting of the property, and public hearing on this Petition, and for the reasons set forth above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of June, 1998, that the Petition for Variance, seeking relief from the following: Variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Comprehensive Manual of Development Policies ("C.M.D.P.") Section V.B.3, pursuant to B.C.Z.R. Section 504, to permit 15 ft. building to adjoining lot garage separation in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft.; to permit 15 ft. building to building separation in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft.; to permit 15 ft. garage to adjoining lot garage separation in lieu of the required 16 ft. for building heights between 0 ft. and 20 ft. for Lots 1-15, 64-73 and 98; Variance from B.C.Z.R. Section 1B01.2.C.1 and C.M.D.P. Section V.B.3, pursuant to B.C.Z.R. Section 504, to permit a building separation of 20 ft. in lieu of the required 30 ft. for building heights between 25 ft. and 30 ft. for Lots 16-48, 50-61, 80-87, and 90-97; Variance from B.C.Z.R. Section 1B01.2.C.2.4 and C.M.D.P. Section V.B.5.A, pursuant to B.C.Z.R. Section 504, to permit window to tract boundary separations of 30 ft. in lieu of the required 35 ft. for Lots 15-18; Variance from Section B.C.Z.R. 1B01.2.C.2.A and C.M.D.P. Section V.B.5.A, pursuant to B.C.Z.R. Section 504, to permit window to tract boundary separations of 20

ft. in lieu of the required 35 ft. for Lots 19 - 48; Variance from B.C.Z.R. Section 1B01.2.C.2.B and C.M.D.P. Section V.B.6.C, pursuant to B.C.Z.R. Section 504, to permit window to window separations of 15 ft. in lieu of the required 40 ft. for Lots 1-15, 64-73, and 98; Variance from B.C.Z.R. Section 1B01.2.C.2.B and C.M.D.P. Section V.B.6.C, pursuant to B.C.Z.R. Section 504, to permit window to window separations of 20 ft. in lieu of the required 40 ft. for Lots 16-48, 50-61, 80-87, and 90-97; Variance from C.M.D.P. Section V.B.6.B, pursuant to Section 504 B.C.Z.R., to permit window to property line separations of 7.5 ft. in lieu of the required 15 ft. for Lots 1-14, and 65-72; Variance from C.M.D.P. Section V.B.6.B, pursuant to B.C.Z.R. Section 504, to permit window to property line separations of 10 ft. in lieu of the required 15 ft. for Lots 15-64 and 73-98; Variance from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a side window to street right-of-way setback of 10 ft. in lieu of the required 25 ft. for Lots 11, 71, 79, and 88; Variance from B.C.Z.R. Section 1B01.2.C.6 and C.M.D.P. Section V.B.5.B, pursuant to B.C.Z.R. Section 504, to permit a building to tract boundary setback of 20 ft. in lieu of the required 30 ft. for Lots 19-48; Variance from C.M.D.P. Section V.B.8, pursuant to B.C.Z.R. Section 504, to permit a 22 ft. front street right-of-way setback for Lots 1-98; Variance from B.C.Z.R. Section 1B01.2.C and C.M.D.P. Section V.B.5, pursuant to B.C.Z.R. Section 504, to permit a rear window to property line setback of 10 ft. in lieu of the required 15 ft. for Lots 79-88; Variance from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a rear window to street right-of-way setback of 15 ft. in lieu of the required 25 ft. for Lot 87; Variance

from C.M.D.P. Section V.B.6.A, pursuant to B.C.Z.R. Section 504, to permit a rear window to street right-of-way setback of 10 ft. in lieu of the required 25 ft. for Lot 88; Variance from B.C.Z.R. Section 301.1.A to allow the 25% extension into the varianced setbacks in lieu of the required setbacks for Lots 1-98; and, to amend the approved Final Development Plan to permit building setbacks of 15 ft. to open space and stormwater management in lieu of the required 35 ft. for Lots 1-14, be and hereby is GRANTED, subject to the following restrictions:

- 1) The homes to be constructed on the subject property shall be in substantial conformity with the sizes and styles of homes described in Petitioner's Exhibit 2; and
- 2) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.



Timothy M. Kotroco,
Deputy Zoning Commissioner for
Baltimore County

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 5631 Guyardale Ave.

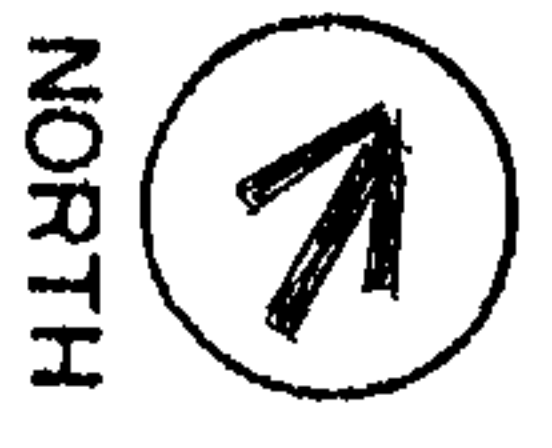
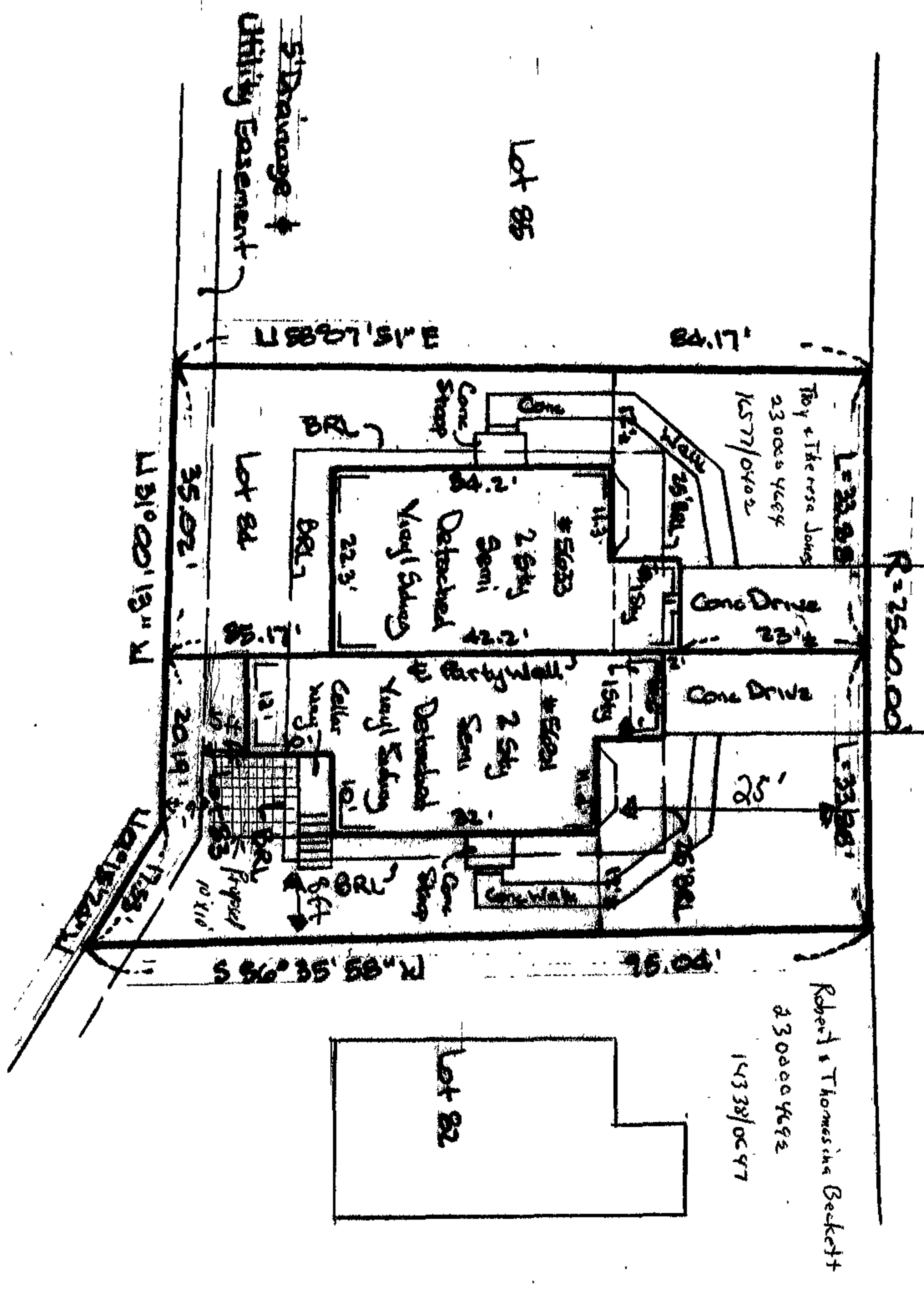
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Kelox West

PLAT BOOK # 71 FOLIO # 33 LOT # 83 SECTION #

OWNER Mary J. King

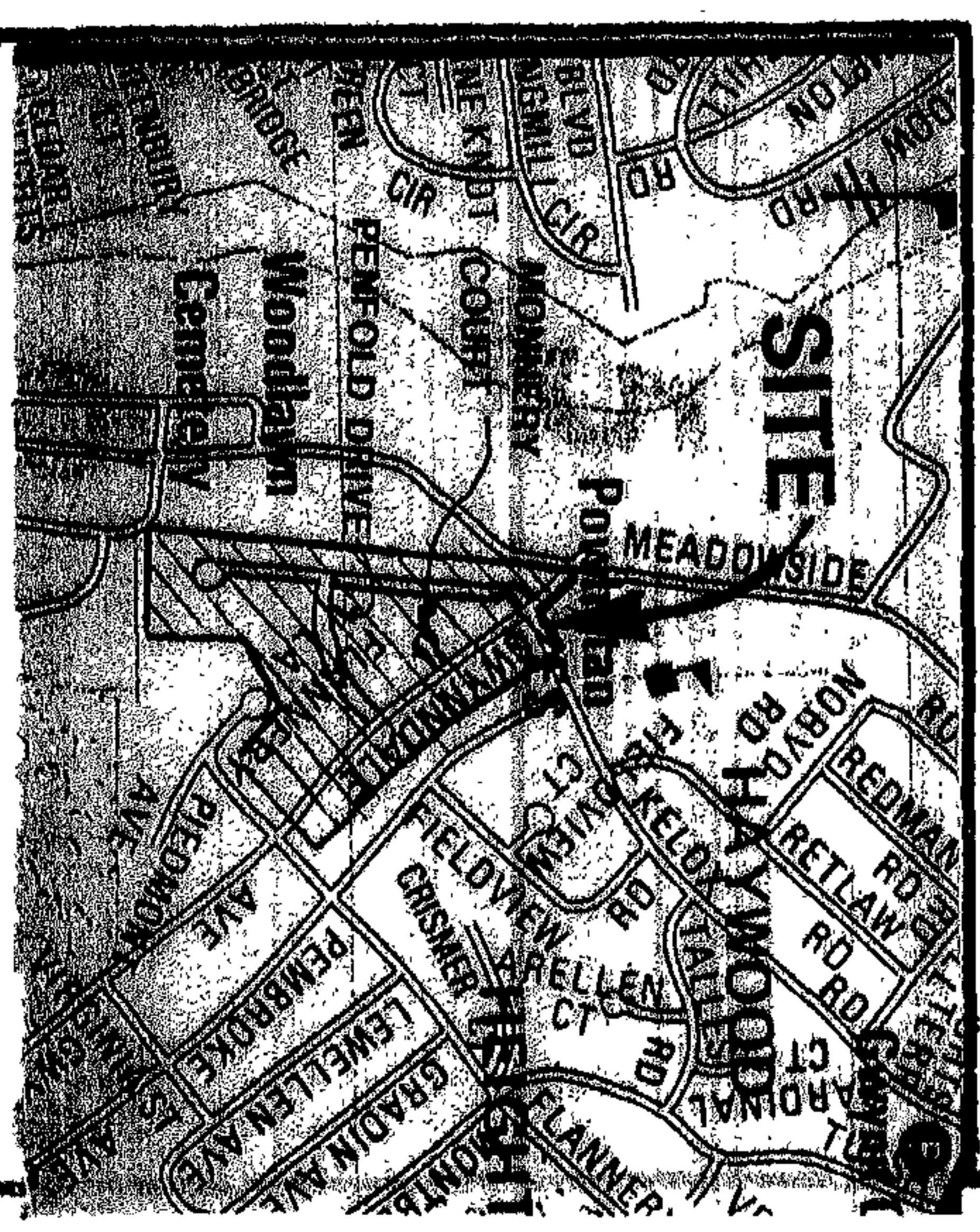
10' Mac mway Con Curbs
Plant Area Con Walk



NORTH

Prepared by: SMK

Scale of Drawing: 1" = 20'



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 2nd

COUNCILMANIC DISTRICT 4th

1" = 200' SCALE MAP # SW 4-E

ZONING DR-S.S

LOT SIZE 2,890 SQUARE FEET

ACREAGE 0.066

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒ PUBLIC ☐ PRIVATE

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ YES ☒ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARING 98-399-A

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

Ref #1

#230
SW4-6

