2/28/06

IN THE MATTER OF THE APPLICATION OF WILLIAM C. JONES, JR. – LEGAL OWNER / PETITIONER FOR VARIANCE ON PROPERTY LOCATED ON THE N/S SUMMIT AVENUE, 98' E OF C/L ROSEWOOD AVENUE (1404 SUMMIT AVENUE) 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * CASE NO. 05-377-A

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on appeal from an Order of the Deputy Zoning Commissioner granting Petitioner's variance request with restrictions. The requested variance is for a side yard setback of 4 feet in lieu of 15 feet. Petitioner, William Jones, Jr., was represented by Herbert Burgunder, Esquire. Appellant/Protestant, John H. Merrill, was represented by Gary Berger, Esquire. A public hearing was held on December 8, 2005, and a public deliberation was held on January 17, 2006.

Testimony and Evidence

Petitioner, William Jones, testified that he would like to put an addition for a family room onto the east side of his house, which requires a variance for a 4-foot setback in lieu of the required 15 feet. His house at 1404 Summit Ave. is in an historic section of Old Catonsville. Mr. Jones has lived there with his family since 1991. The house itself is about 90 years old and sits on 1/3 acre of property. Petitioner's Exhibits 1-15 are photos of the house. Petitioner's Exhibit 16 is a map of the Catonsville Historic District with Petitioner's house highlighted.

Petitioner's Exhibit 17 is a plat of the property, showing that the house is set on the far right of the property and is not parallel with the lot line. The lot is a parallelogram shape, narrow across the front and wider in the back.

Petitioner stated that he needed the addition because he has two young children and would like the amenities of a modern house with a family room off the kitchen. The addition would be 200 square feet, placed off the kitchen, on the east side of the house.

Petitioner testified that it was necessary and not just a convenience to place the addition on the east side because of the architectural features of the house. Across the front of the house is a porch that wraps around on the west side. Also on the west side is a bay window (Petitioner's Exhibit 7); in the rear is a porch and basement entrance (Petitioner's Exhibit 18). There are mature holly trees on the west side of the house, which would have to be removed to place an addition on that side of the house. Petitioner further stated that it was important to him to preserve the historic nature of the house, and he believed his proposed placement of the addition would accomplish that. In addition, he stated that there were no negative comments from Baltimore County's Zoning Advisory Committee (ZAC) or the Planning Board regarding his proposed addition. Petitioner's Exhibit 19 contains letters in support from neighbors.

On cross-examination, Petitioner testified that he, not a surveyor, measured the distance to the Protestant's house and found it to be 75 feet. Asked whether his house was the only house in the area with bay windows, original wood siding, or trees, he stated that no, other houses had those features. He also admitted that he knew of the features of the house when he purchased it, but he stated that the fact it was off center on the property only became apparent when he began planning the addition. Petitioner also stated that he believed his property was unique because the house was set so far to the east side and, because of that, he could not build on that side without variances.

John Merrill, the Protestant, next testified. He lives at 1402 Summit Ave., adjacent to the east side of Petitioner's property. Mr. Merrill moved into the house in March 2005, and had a meets and bounds survey done of his property. Protestant's Exhibit 1 is a photo of the space between Protestant's and Petitioner's properties. Protestant stated that there was about 65 feet between the houses, according to the surveyor. He testified that his house is also historic, being one of the oldest in Catonsville. Further, he stated that he thought there are between 100 and 200

houses in the historic district of Old Catonsville. He testified that his house was also not centered on his lot, and therefore, he did not think Petitioner's property was unique. He stated he was concerned about Petitioner's proposed addition because he had very old oak trees near the property line that might be adversely affected by the construction work.

On cross-examination, Mr. Merrill stated that he thought the digging of the foundation for the proposed addition would affect the roots of these trees.

Sue Ann Merrill next testified and presented Protestant's Exhibit 2, a photo of another house on the street similar to Petitioner's house in that it was offset on the east side of the property and had a wraparound porch.

Counsel for Petitioner argued that, although other houses in the area may have some of the same features, it was all of the architectural features together that made Mr. Jones' property unique. He argued that to build an addition behind the wraparound porch would destroy the historic significance of the house. He further argued that the placement of the addition on the east side of the house would have the least impact on this house.

Counsel for Protestant argued that *Cromwell v. Ward* required a finding of uniqueness for granting a variance, and that Petitioner had not proved his property was unique so as to cause the zoning regulations to impact it differently than other properties in the area. He argued that other properties in the area were also off center and were all subject to the same setback requirements. He further argued that there was no hardship because Mr. Jones could put his addition on the back of the house, even though it would be more difficult to do so.

Decision

Variances are rare and difficult to grant. They must meet a very stringent test placed upon them by the zoning regulations, as interpreted by the Maryland Court of Special Appeals. The Court notes in *Cromwell v. Ward,* 102 Md.App. 691 (1995) that a review of cases in

Maryland since the state zoning enabling act in 1927 found only five reported Maryland cases in which the grant of a variance had been affirmed or the denial of one reversed.

Section 307 of the *Baltimore County Zoning Regulations* (BCZR) permits granting a variance 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 would "result in practical difficulty or unreasonable hardship." Furthermore, according to § 307, "any such variance shall be granted only if in strict harmony with the spirit and intent" of said regulations.

These conditions for granting a variance have been interpreted by the Court of Special Appeals in a number of cases, the controlling case being *Cromwell v. Ward*. According to *Cromwell*, Petitioner must first prove that their property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

In *Cromwell*, the Court of Special Appeals referred to the definition of "uniqueness" provided in North v. St. Mary's County, 99 Md. App at 512,638 A.2d 1175:

> 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 restriction.

The Court goes on to cite a number of cases in *Cromwell* supporting the conclusion that uniqueness must pertain to the property in question and cannot be a general condition shared by other properties in the area. In addition the uniqueness of the property must be tied to the request for variances.

Petitioner's house has historic significance primarily because it is located in an area that has been designated an historic district. As such, his house shares this feature with between 100

and 200 other houses, some of which also share other features of Petitioner's house, such as wraparound porches, mature trees near the house, and bay windows. Testimony by Mr. and Mrs. Merrill also show that there are other houses in the neighborhood, theirs included, which are off-center on the property, potentially making one side unusable for building additions.

Given the testimony and evidence in this case, this Board does not find that there is anything unique about Mr. Jones' house or property that makes the zoning regulations impact it differently from its neighbors.

Having failed to find a case for uniqueness, under *Cromwell*, the Board was not compelled to look at practical difficulty or unreasonable hardship. However, assuming arguendo that the totality of the architectural features of the house and its placement on the lot did make the house unique, the Board, during deliberation, discussed if there would then be a claim of hardship. The Board concluded unanimously that there would be no finding of unreasonable hardship or practical difficulty. Petitioner bought a 90-year-old house knowing it did not have all the amenities of a modern house. While family rooms are convenient features of a modern house, they are not necessities -- as say an indoor bathroom or kitchen. It is commendable that Petitioner wants to preserve the historic aspect of his house, but he and his family are not kept from the use and enjoyment of their home because of the zoning restrictions.

Therefore, on both criteria for granting a variance, this petition fails. The house is no differently impacted by the zoning regulations than other houses in the area, nor do the zoning regulations create a hardship or practical difficulty for Petitioner, because not only could he build the addition at the rear of the house, but the addition is not necessary for the use and enjoyment of the house.

ORDER

THEREFORE, IT IS THIS 28th day of February, 2006 by the County

Board of Appeals of Baltimore County

ORDERED that Petitioners' requested variance for a side yard setback of 4 feet in lieu of 15 feet request be and the same is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Margaret Brassil, Ph.D.

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

February 28, 2006

Gary Berger, Esquire
401 Washington Avenue
Suite 905
Towson, MD 21204

RE: *In the Matter of: William C. Jones, Jr.* – Legal Owner/
Petitioner / Case No. 05-377-A

Dear Mr. Berger:

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: John H. Merrill
Sue King
Herbert Burgunder III, Esquire
William C. Jones, Jr.
Catherine Prendergast
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

4/5/05

IN RE: PETITION FOR ADMIN. VARIANCE
N/S Summit Avenue, 98' E of the c/l
Rosewood Avenue
(1404 Summit Avenue)
1st Election District
1st Council District

William C. Jones, Jr.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 05-377-A
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owner of the subject property, William C. Jones, Jr. The Petitioner seeks relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 2 feet in lieu of the minimum required 15 feet for a proposed 12' x 19' addition.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate. In this case, the adjacent property owner, John H. Merrill, requested a public hearing on the matter and thus, a hearing was scheduled before the undersigned on March 22, 2005.

Appearing at that hearing in support of the request was William C. Jones, Jr. John Merrill and Sue King, adjacent property owners, appeared in opposition to the request.

At the onset of the hearing, the Petitioner amended his plan to reduce the size of the proposed addition. As originally proposed, the Petitioner sought relief to allow construction of a

ORDER RECEIVED FOR FILING
Date 4/5/05
By

12' x 19' foot addition with a side yard setback of 2 feet in lieu of the required 15 feet. However, at the hearing, the Petitioner amended his request and now seeks approval of a side yard setback of 3½ feet in lieu of the required 15 feet for a proposed 11' x 19' addition. In that those present at the hearing had no objections to the revised proposal, the Petition and site plan were amended and the hearing proceeded on the merits of the revised request.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located on the north side of Summit Avenue, just west of North Beechwood Avenue in the historic district of Catonsville. The property contains a gross area of 15,510 sq.ft., more or less, zoned D.R.2, and is improved with a two-story, single family dwelling. The Petitioner has owned and resided on the property for the past 12 years. As a result of his expanding family, the Petitioner is desirous of constructing an addition on the east side of the dwelling to provide a family room area adjacent to the existing kitchen. Due to the layout and location of the existing dwelling, the requested variance relief is necessary in order to proceed.

In this regard, testimony indicated that the existing dwelling is a distinctive structure, which was built in 1915 and features a large, wrap-around covered porch that extends across the front of the house to the west side. There is also a back porch and patio as well as an in-ground swimming pool located to the rear of the home. As shown on the site plan, the dwelling is situated on the east side of the lot, 14 feet from the side property line adjoining the Merrill property. Due to the interior layout of the dwelling, the most practical site for the proposed addition is off the existing kitchen, which is on the east side of the dwelling. It was indicated that the dining room is located on the west side of the dwelling and that if required to construct the addition on that side, the dining room would have no windows and no exterior light. The Petitioner testified that there are also two large, mature holly trees on that side which would have to be removed in order to accommodate the proposed addition.

When questioned by Mr. Merrill as to why the addition could not be placed to the rear of the home, Mr. Jones testified that the existing kitchen plumbing and counter are located on the back wall of the home, as are the rear porch and patio. To locate the addition to the rear of the

home would require extensive interior improvements to the kitchen as well as the removal of the rear porch and patio. He also testified that construction of the addition to the rear of the home would interfere with the in-ground swimming pool. Mr. Jones reiterated that placing the family room addition on the east side of the home adjacent to the kitchen would be a more efficient use of the space. Moreover, there is an existing line of trees along the eastern property line that will provide a natural barrier between his and the Merrill property. (See Petitioner's Exhibit 2)

There were no adverse Zoning Advisory Committee (ZAC) comments received from any County reviewing agency; however, the Office of Planning noted that the proposed addition need be architecturally consistent with the neighborhood's historic character. The Office of Planning further requested that building elevation drawings of the proposed addition be submitted for their review and approval prior to the hearing, and that photographs of existing and neighboring dwellings be submitted for a determination as to the appropriateness of the proposed improvements. In this regard, Mr. Jones indicated that he had complied with these requirements and had, in fact, obtained approval of the elevation drawings. Moreover, Mr. Jones produced photographs of other additions in the neighborhood that were allowed within 4 feet of a side property line and noted that a variance had been granted recently for a nearby residence. (See Case No. 02-539-A, which allowed an addition with a side yard setback of 4 feet for the property known as 1502 Summit Avenue.)

The Protestants, John Merrill and Sue King, who recently purchased the adjacent property at 1402 Summit Avenue, expressed concern that granting the relief would set a precedent in the neighborhood and over the Petitioner's ability to erect the addition without entering their property. They also expressed concern over the possibility of increased water runoff caused by the placement of the addition in close proximity to the mature Oak trees that line the eastern boundary of their property. Mr. Merrill introduced Protestants' Exhibits 1 and 2 depicting several adjacent homes, some of which he believes encroach upon his property. He indicated that he has engaged the services of a land surveyor to determine the extent of this encroachment and testified that he may be contemplating a possible subdivision of his property. For that reason, he finds the

Petitioner's proposal to be unacceptable should Mr. Merrill decide to build in that area of his property. In conclusion, both Mr. Merrill and Ms. King cited the requirements set out in Cromwell v. Ward, (102 Md. App. 691 (1995), and argued that the Petitioner has failed to meet the standards for relief to be granted.

In reviewing Cromwell, the first requirement for granting a variance is that it must be shown that the property is unique. As examples of "uniqueness," the Court referred to North v. St. Mary's County, 99 Md. App. 502 (1994), which specified in part,

> "The "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring properties. "Uniqueness" of the 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*, *historic significance*...

After due consideration of all of the testimony and evidence presented, I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R., and Cromwell v. Ward for relief to be granted. The uniqueness of this property is the dwelling's distinctive design characteristics and its location in the Old Historic District of Catonsville, which is listed on the National Register of Historic Places. The proposed addition is architecturally consistent with the neighborhood's historic character, the Petitioner has submitted building elevation drawings of the proposed addition to the Office of Planning as required and obtained approval prior to the hearing. Placing the addition where proposed will not require the removal of mature holly trees, nor the removal of original exterior siding and windows, and the wrap-around porch, which is characteristic of neighboring dwellings. Thus, I find that the relief requested is appropriate in this instance and that there will be no detrimental impact to the adjacent property or the health, safety and general welfare of the locale.

ORDER RECEIVED FOR FILING
Date 1/6/05
By

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, 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 5th day of April 2005 that the Petition for Administrative Variance seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 3½ feet in lieu of the minimum required 15 feet for a proposed 11' x 19' addition, as amended, 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 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 proposed addition shall be constructed substantially in accordance with the building elevation drawings reviewed and approved by the Office of Planning.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING
Date 4/5/05
By BJS

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

April 5, 2005

Mr. William C. Jones, Jr.
1404 Summit Avenue
Catonsville, Maryland 21228

RE: PETITION FOR ADMINISTRATIVE VARIANCE
N/S Summit Avenue, 98' E of the c/l Rosewood Avenue
(1404 Summit Avenue)
1st Election District – 1st Council District
William C. Jones, Jr. - Petitioner
Case No. 05-377-A

Dear Mr. Jones:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance 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,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. John H. Merrill & Ms. Sue King
1402 Summit Avenue, Catonsville, Md. 21228
Office of Planning; People's Counsel; Case File

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1404 Summit Ave 21228

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) 1B02.3.C.1 to permit a side yard setback of 3½ ft. in lieu of the required 15 ft. for an addition.

Amended at Hearing

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

Legal Owner(s):

William C Jones Jr

Name - Type or Print

Signature

Name - Type or Print

Signature

1404 Summit Ave 410-744-7804

Address Telephone No.

Catonsville MD 21228

City State Zip Code

Representative to be Contacted:

Name

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.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 1/28/05
By BK

CASE NO. 05-377-A Reviewed By BK Date 1/28/05

REV 9/15/98 Estimated Posting Date 2/6/05

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 1404 Summit Ave
Address

Catonsville MD 21228
City State Zip Code

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

Our family has expanded by two in the last four years, necessitating expansion of our living space. The interior layout of the house makes it impractical to build on the other side. An in-ground pool in the back prevents expansion in that direction. The side of our house we wish to add onto is 14 feet from the property line. However, it is 71 feet from the house next door.

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.

William C Jones Jr
Signature

Signature

William C Jones Jr
Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 26 day of January, 2005, before me, a Notary Public of the State of Maryland, in and for the County ~~aforesaid~~ HOWARD personally appeared William C. Jones

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

January 25, 2005
Date

Rosa Cowan
Notary Public

My Commission Expires 4/1/2008

REV 09/15/98

ZONING DESCRIPTION FOR 1404 Summit Ave , Catonsville, Md 21228

Beginning at a point on the north side Summit Ave which is 30 feet wide at the distance of 98 feet east of the northeast corner of the nearest improved intersecting street, Rosewood Avenue which is 35 feet wide.

As recorded in Deed Liber 8771, Folio 115, N.28 20' W 168 ft, Westerly 92 ft, Southerly parallel with Rosewood Ave for 163.5 ft, Easterly binding on the north side of Summit Ave for 96.25 ft to the place of beginning.

#377

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: #05-377-A
1404 Summit Avenue
N/side of Summit Avenue, 98 feet east centerline of Rosewood Avenue.
1st Election District
1st Councilmanic District
Legal Owner(s): William C. Jones, Jr.
Variance: to permit a side yard setback of 2 feet in lieu of the required 15 feet for an addition.
Hearing: Tuesday, March 22, 2005 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 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/3/651 Mar 8 41967

CERTIFICATE OF PUBLICATION

3/10, 2005

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 3/8, 2005.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No. : 05-377-SPH

Petitioner/Developer: WILLIAM C. JONES JR.

Date of Hearing/Closing: 3/22/05

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

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 1404 SUMMIT AVENUE

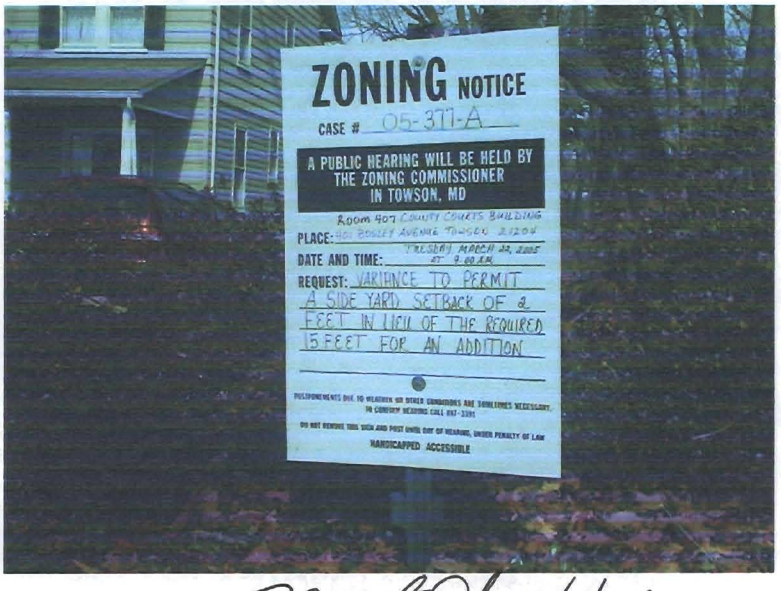
This sign(s) were posted on March 7, 2005
(Month, Day Year)

Sincerely,

Martin Ogle 3/7/05
(Signature of Sign Poster and Date)

Martin Ogle
Sign Poster
5016 Castlestone Drive
Address
Balto. Md 21237
(443-629-3411)

im000226 (1152x864x24b jpeg)



3/7/05

FORMAL DEMAND FOR HEARING

CASE NUMBER: 05-377-A

Address: 1404 Summit Avenue

Petitioner(s): William C. Jones JR.

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We John H. Merrill
Name - Type or Print

(✓) Legal Owner OR ( ) Resident of

1402 Summit Avenue
Address

Catonsville MD 21228
City State Zip Code

(410) 767-0088
Telephone Number

which is located approximately 15 *feet from the property, which is the subject of the above petition,* ***do hereby formally demand that a public hearing be set in this matter.***
ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS DEMAND.

John H. Merrill 2/14/05
Signature Date

Signature Date

Revised 9/18/98 - wcr/scj

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

February 14, 2005

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: 05-377-A
1404 Summit Avenue
N/side of Summit Avenue, 98 feet east centerline of Rosewood Avenue
1st Election District – 1st Councilmanic District
Legal Owner: William C. Jones, Jr.

Variance to permit a side yard setback of 2 feet in lieu of the required 15 feet for an addition.

Hearing: Tuesday, March 22, 2005 at 9:00 a.m. in the County Courts Building,
401 Bosley Avenue, Rm. 407, Towson 21204

Timothy Kotroco
Director

TK:klm

C: William Jones, Jr., 1404 Summit Ave., Catonsville 21228
John Merrill, 1402 Summit Ave., Catonsville 21228

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, MARCH 7, 2005.**
(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.

APPEAL SIGN POSTING REQUEST

CASE NO. 05-377-A

1404 SUMMIT AVENUE 4/03

1ST ELECTION DISTRICT APPEALED: 5/4/2005

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, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 05-377-A

WILLIAM C. JONES, JR. – LEGAL OWNER
1404 SUMMIT AVENUE

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

1404 SUMMIT AVENUE

The sign was posted on 4/22/05, 2005

By: L. Schoff
(Signature of Sign Poster)

Lou Schoff
(Print Name)

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

October 17, 2005

NOTICE OF ASSIGNMENT

CASE #: 05-377-A

IN THE MATTER OF: WILLIAM C. JONES, JR.
- Legal Owner /Petitioner
1404 Summit Avenue 1st Election District; 1st Councilmanic District

4/05/05 – D.Z.C.'s Order in which variance request was GRANTED with restrictions..

ASSIGNED FOR: **THURSDAY, DECEMBER 8, 2005 at 11:00 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 Appellant /Protestant : Gary A. Berger, Esquire
Appellant /Protestant : John H. Merrill
Sue King

Legal Owner /Petitioner : William C. Jones, Jr.

Catherine Prendergast

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

December 21, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

WILLIAM C. JONES, JR. – Legal Owner /Petitioner
Case No. 05-377-A

Having heard this matter on 12/08/05, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, JANUARY 17, 2006 at 9:30 a.m.**

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

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 Appellant /Protestant : Gary A. Berger, Esquire
Appellant /Protestant : John H. Merrill
Sue King

Counsel for Legal Owner /Petitioner : Herbert Burgunder III, Esquire
Legal Owner /Petitioner : William C. Jones, Jr.

Catherine Prendergast

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

FYI: 3-5-6

Department of Permits
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

March 14, 2005

William C. Jones, Jr.
1404 Summit Avenue
Catonsville, Maryland 21228

Dear Mr. Jones:

RE: Case Number: 05-377-A, 1404 Summit Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 28, 2005.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: February 25, 2005

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of February 7, 2005

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

05-371
05-373
05-374
05-375
05-377
05-366
05-367

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 23, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For February 14, 2005
Item Nos. 368, ~~369~~, 371, 372, 373,
374, 375, 376, 377 and 378

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

RWB:CEN:jrb

cc: File

ZAC-02-14-2005-NO COMMENT ITEMS-NOS 368-378-02182005

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 22, 2005

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

SUBJECT: 1404 Summit Avenue

INFORMATION:

Item Number: 5-377

Petitioner: William C. Jones, Jr.

Zoning: DR 2

Requested Action: Administrative Variance

SUMMARY OF RECOMMENDATIONS:
The existing dwelling is a distinctive structure that is located in the Old Catonsville Historic District which is listed on the National Register of Historic Places. The subject dwelling contributes to the significance of the historic district. As such, the proposed addition shall be architecturally consistent with the neighborhood's historic character. The petitioner shall submit building elevations (all sides) of the proposed addition to the Office of Planning for review and approval prior to the hearing. In addition to the elevations of the proposed addition, the petitioner shall also submit photographs (all sides) of the existing dwelling at 1404 Summit Avenue and of the neighboring dwellings.

For further information concerning the matters stated herein, please contact Tim Dugan at 410-887-1182.

Prepared by: _____

Division Chief: _____

AFK/LL:MAC:

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

February 8, 2005

ATTENTION: Zoning Review planners

Distribution Meeting ~~of:~~ February 7, 2005

Item No.: 368-378 (377)

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.

The Fire Marshal's Office has no comments at this time.

Lieutenant J. Mezick
Fire Marshal's Office
(O)410-887-4881 (C)443-829-2946
MS-1102F

cc: File

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

SHA State Highway Administration — Driven to Excel

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

Maryland Department of Transportation

Date: 2.3.05

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

RE: Baltimore County
Item No. 377 BPR

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

LAW OFFICES
GARY A. BERGER, P.A.
THE JEFFERSON BUILDING
105 WEST CHESAPEAKE AVENUE
SUITE 101
TOWSON, MARYLAND 21204
---
(410) 828-5000
FAX (410) 828-5308

May 4, 2005

HAND DELIVERED TO:

Timothy Kotroco, Director
Department of Permits
and Development Management
111 W. Chesapeake Avenue, Room 111
Towson, Maryland 21204

RE: ***Petition for Administrative Variance***
N/S Summit Avenue, 98' E of the c/l Rosewood Avenue
(1404 Summit Avenue)
1st Election District, 1st Council District
William C. Jones, Jr. - Petitioner
Case No.: 5-377-A

Dear Mr. Kotroco:

I represent John H. Merrill, adjacent property owner, who opposed the Petitioner's request for Administrative Variance. Please enter an appeal by Mr. John H. Merrill from the Findings of Fact and Conclusions of Law dated April 5, 2005, and the Order therein approving the Administrative Variance, by the Baltimore County Zoning Commissioner in the above-referenced case.

I enclose my check in the amount of $400.00 payable to Baltimore County, Maryland representing the amount due to note the appeal. Please forward copies of any papers pertinent to the appeal as may be necessary and appropriate.

Sincerely yours,

GARY A. BERGER

GAB:dek

cc: William C. Jones, Jr.

RECEIVED
MAY 04 2005
Per

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

May 26, 2005

William C. Jones, Jr.
1404 Summit Avenue
Catonsville, MD 21228

Dear Mr. Jones:

RE: Case: 05-377-A, 1404 Summit Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on May 4, 2005 by Gary Berger. 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,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Gary Berger, 105 W. Chesapeake Avenue, Ste. 101, Towson 21204
John Merrill/Sue King, 1402 Summit Avenue, Catonsville 21228

APPEAL

Petition for Administrative Variance
1404 Summit Avenue
N/S Summit Avenue, 98' E of the c/l Rosewood Avenue
1st Election District – 1st Councilmanic District
Legal Owner: William C. Jones, Jr.

Case No.: 05-377-A

✓ Petition for Administrative Variance (January 28, 2005

✓ Zoning Description of Property

✓ Formal Demand for Hearing (February 14, 2005 by John Merrill)

✓ Notice of Zoning Hearing (February 14, 2005)

✓ Certification of Publication (The Jeffersonian – March 8, 2005)

✓ Certificate of Posting (March 7, 2005) by Martin Ogle

Entry of Appearance by People's Counsel (None in File)

✓ Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None in file

Citizen(s) Sign-In Sheet – None in file

Zoning Advisory Committee Comments

Petitioners' Exhibit
- ✓ 1. Site Plan (Amended during hearing)
- ✓ 2. Photograph Array

Protestants' Exhibits:
- ✓ 1. Diagram – Multiple Boundary Residents – Encroachment Noted
- ✓ 2. Letter indicating Boundary Encroachment by Neighboring Property Owner
- ✓ 3. Photo's off Neighboring homes

Miscellaneous (Not Marked as Exhibit)
- ✓ 1. Package including Elevations and Photographs
- ✓ 2. Letter of opposition dated March 12, 2005 from Mr. & Mrs. Wasmund
- ✓ 3. Email from John Merrill to Bill Wiseman
- ✓ 4. Findings of Fact & Conclusions of Law (1502 Summit Avenue)

✓ Deputy Zoning Commissioner's/Zoning Commissioner's Order (GRANTED – April 5, 2005)

✓ Notice of Appeal received on May 4, 2005 from Gary Berger

RECEIVED
MAY 27 2005
BALTIMORE COUNTY
BOARD OF APPEALS

BERGER Esq. St. 905
401 WASHINGTON AVE
T.M, 21204
FAX 828-4333

for Merrill

People's Counsel of Baltimore County, MS #2010
Zoning Commissioner
Timothy Kotroco, Director of PDM
William Jones, 1404 Summit Avenue, Catonsville 21228
Gary Berger, ~~105 W. Chesapeake Avenue, Ste. 101, Towson 21204~~
John Merrill/Sue King, 1402 Summit Avenue, Catonsville 21228
P.O Box 21262 Catonsville 21228-0762
nt May 26, 2005, klm

Catherine Prendergast
105 N. Beechwood Ave
B.M 21228
(Neighbor and would like to be notified
of hearing when scheduled)

LAW OFFICES OF
HERBERT BURGUNDER III
MT. WASHINGTON CENTER
1501 SULGRAVE AVENUE • SUITE 207
BALTIMORE, MARYLAND 21209
410-664-6500 • FAX: 410-664-6501
WWW.HB3LAW.COM • E-MAIL: HB3@HB3LAW.COM
ADMITTED IN MARYLAND AND D.C.

Case No. 05-377-A

In the Matter of: William C. Jones, Jr. - Petitioner

VAR – For approval of a side yard setback of 3 ½' ilo the required 15' for a proposed 11' x 19' addition. (Amended without objection at D.Z.C. hearing from original 2' for 12' x 19' addition.)

4/05/05 - D.Z.C.'s Order in which requested variance relief was GRANTED with restrictions.

10/17/05 –Notice of Assignment sent to following; assigned for hearing on Thursday, December 8, 2005 at 11 a.m.:

Gary A. Berger, Esquire
John H. Merrill
Sue King
William C. Jones, Jr.
Catherine Prendergast
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

12/08/05 – Board convened for hearing (Wescott, Brassil and Quinn); concluded hearing this date; deliberation to be assigned and notice sent; no memos to be filed. Herbert Burgunder III, Esquire, appeared on behalf of Petitioner, William Jones. Stopped into Board's offices to enter his appearance on behalf of Mr. Jones.

12/21/05 – Notice of Deliberation sent to parties; assigned for Tuesday, January 17, 2006 at 9:30 a.m. FYI copy to 3-5-6.

Cheryl and David Wasmund
8 Osborne Avenue
Catonsville, Maryland 21228

March 12, 2005

Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

Subject: Case Number 5-377-A

We are opposed to the granting of the requested (administrative) variance at 1404 Summit Avenue, case number 5-377-A.

The variance request is to allow construction a residential addition to within 2 feet of the eastern property line, which is much less than the 15 foot setback required by in the Baltimore County zoning regulations or the existing 14 foot grandfathered house to property line setback. Although the adjoining house at 1402 Summit Avenue (Merrill) is set 71 feet back from the property line, it does not seem reasonable to think that the owner of 1404 Summit Avenue (Mr. Jones) should be able to decide what is reasonable for the Merrills to accept or allow. The Merrills just purchased 1404 Summit Avenue and paid extra for the large lot size and separation from adjoining neighbors. Allowing this variance would deprive them of what they paid for, and have hardly even had a chance to enjoy. The Merrills may also want to use some of that space for their future needs (that is what they purchased), without crowding the Jonses.

Mr. Jones also cites impracticality in building the addition on the west side of his house because of the interior layout. However, the west side of his house could be added to without a variance being required, as well as being the obvious place to add on without imposing on neighbors, as defined by the existing zoning regulations. We are not familiar with the interior layout of his house, but one would think that with minimal inconvenience or difficulty on his part, a family room might be attached to the west side of his house, without imposing on his neighbor. A self imposed hardship should not be reason to grant a variance. It would also seem that a rear addition, between the house and the pool (or along the pool), might be a possibility to resolve their living space needs, and this option would coincidentally have the minimum effect on the street appearance of this contributing house of the Old Catonsville National Register Historic District.

Finally, the timing of this request puts his brand new neighbors, just moving into their new home, in the position of either losing some of the openness they just paid extra for or participating in a legal battle with the neighbor over their rights to have the zoning regulations enforced as written. Welcome to the neighborhood.

David Wasmund

Cheryl Wasmund

[redacted] [redacted]

FBW 3/22

Cheryl and David Wasmund
8 Osborne Avenue
Catonsville, Maryland 21228

March 15, 2005

Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

Subject: Case Number 5-377-A

This is an addendum to the letter we sent to you earlier this week (March 12, 2005) concerning our opposition to case number 5-377-A.

In reviewing material concerning variances to Baltimore County Zoning Regulations, it was noted that the Court of Special Appeals in Cromwell v. Ward explained the two step process that must be applied before a variance can be granted. (Similar reasoning was used by the Circuit Court for Baltimore County in a commercial case: In The Matter of Umerley, , Case No. 94CV-00450; your Zoning Hearing Checklist also details the process). In the present case, neither step has been proven for nor apply to 1404 Summit Avenue. Again, the variance should not be granted.

David Wasmund

Cheryl Wasmund

Bill Wiseman - Proposed Zoning Variance 1404 Summit Avenue

From: "John Merrill" <jmerrill@msde.state.md.us>
To: <wwiseman@co.ba.md.us>
Date: 4/4/2005 5:23:36 PM
Subject: Proposed Zoning Variance 1404 Summit Avenue

Commissioner Wiseman:

Thank you for the opportunity to debate the merits of the proposed zoning variance at 1404 Summit Avenue. At your suggestion, I did contact Tim Dugan at the Baltimore County Planning Office. He did reveal that the best (or least objectionable) location for the petitioner's building addition would be in the rear of the property, although he did not state that in his report.

Also, our metes and bounds survey we had done recently does indeed indicate that the petition's back yard fence is partially located on our property (on the same boundary as the proposed addition for @16 feet). Additionally, on the same boundary line as the proposed addition, a pool /shed structure (cabana?) is located less than the county- required 15 feet setback. When we receive a written report form the surveyor, Eric Marks, we will forward it to you and Mr. Jones, the petitioner.
Thank you,

-John Merrill

c: Mr. Wiliam Jones (via 1st class mail)

Dept 23

Gary Berger, Esq
New address for
all correspondence
401 Washington Ave
Suite 905
T. M. 32204

05-377-A-Matter
Wm Jones

County Board of Appeals of Baltimore County

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

3,5F6
#5

Denied

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 17, 2005

NOTICE OF ASSIGNMENT

CASE #: 05-377-A

IN THE MATTER OF: WILLIAM C. JONES, JR.
- Legal Owner /Petitioner
1404 Summit Avenue 1st Election District; 1st Councilmanic District

4/05/05 – D.Z.C.'s Order in which variance request was GRANTED with restrictions..

ASSIGNED FOR: **THURSDAY, DECEMBER 8, 2005 at 11:00 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 Appellant /Protestant : Gary A. Berger, Esquire
Appellant /Protestant : John H. Merrill
Sue King

Legal Owner /Petitioner : William C. Jones, Jr.

Catherine Prendergast

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

From: "Bill Jones" <billjones@engeniumTech.com>
To: <tdugan@co.ba.md.us>
Date: 3/17/2005 9:42:45 AM
Subject: Addition plans for Case number 05-377-A

Tim,

Attached is a .ppt document with all the items requested by the Office of Planning.

If there are any questions I can be reached on 443-621-1310. I will be traveling noon today through Friday evening, but this number is a cell phone. My home telephone number is 410-744-7804.

Thank you,
Bill Jones

Wm Jones

05-377-A

Variance Granted

Herbert Burgunder – Pet

Craig Berger — Protestants

Petition
1404 Summit

Old Hist Dist Catonsville

Var request for side yard setback
15 ft to 4ft setback

Admorder

William Jones — Testimony

Owned house since 1991 –
14 years

Old – 90 years – 1/3 acre prop
not sited in center of lot

Dist hist features

1–15 photos
> see 1B for descriptions
16 – Photo of Old Hist Dist
with map shows house

Pet 17 Plat of property
shows: House located
proposed addition

Lot not rectang —
parallelogram
house enter right

Compared to other houses —
my house ~~is~~ offset
from center
Not parallel to lot line

75 to Merril house
@ 60-65 to other house

Need for addition

Young family 2 young children
Want modern house
wants family room off
kitchen
200 sq ft — addition

First floor —
Rear — east Kitchen
This room adjacent
integrated with Kitchen

Why E side?

1) Architectural point — least
distinctive
2) Interior of house
W side — Dining room

Jones

Back side - would have
Photo 10 - 11 1 destroy pool
~~existing~~ Kitchen

Photo 7 - Bay under
orig wood siding where
Dining room is located
Photo 9 2 mature healthy trees
bldg impractical

On 1

Ex 18 Photo of Kitchen -
had to build outside of
also basement entrance in
back

Photo 2 East Side -
Addition will be 11 X 19 ft
3 sided roof
Photo 4 similar to Phot 4
(house in head similar)

Photo 3 - Shows Elevation

Wood siding will match original

Maintain historic nature of house
important

~~Units~~ No neg comments from
ZAC
Also OK with Planning Brd.

All surrounding neighbors support

19 Letters

W/out addition house would be cramped.
Only living room place to play on First floor

CROSS

Ex 1 –

Dining room window not in front

Ex 5 – shows prop line with fence
4 ± prop line
6'1/2 ± prop line

Q 75ft ± Merrill house?

A Measured self not surveyed

~~# of houses~~

House not unique b/c all in host dist

A All in Host dist
Numbers varies granted

Jones

Often prop with bay windows
A Merrill house

Often prop with org wood siding
yes
Others with trees
yes

West side - lost features and
interior complications.
reasons not to build there.

Lack of light to Dining room and
way room is to be used.

Lived there since 1991 -
knew its features when bought

Offset only became apparent
when addition built

Letters of opposition?

Only 1- neighbor 3 1/2 blocks
away

Re Direct

Are all other houses of
lost nature in Dist
Compared to them is yours
unique?
A All houses built 90 years ago

Unique – unlike today

Pool is best feature.

Recess

~~Set back req. appl.~~

Unique way you prep affected by set back?

Uniqueness

Yes my house extends one side the others

Creates aside can't do anything on b/c of set back

(4)

Jones

Testimony -
John Hayden Merrill
1402 Summit Ave

Less than 1 year owner

Protest of variance

~~Survey — last Dec~~

Moved in in March
Meets & bounds of our
prop Survey
put up fence on perimeter
of entire prop

Prot 1 Photo of # V properties
pink ribbon shows
survey

Zoning hearing last Feb / March

Survey of all 7 properties
bordering house

~~Prop~~ Addtn 4 feet from ribbon

@ 65 feet from house to
house
per surveyor.

Hist of Merrill property
6 children
1886 — one of oldest homes
in Cadmusville

Blastlet #6

What I know my home was farmhouse, owned other prop.
Then prop subdivided

Are all houses part of hist dist
1-200 houses — all in dist

Many houses have old trees

On mine @ 25 oaks 150-200 years old.

Many have orig wood siding others updated
Others Bay windows.

Prot 2 1406 Summit
has wrap around porch
looks like house is off center

Fence may or may not be on prop line

Not mine → Mine is not center of lot.

Jones addition v. close to old oak trees —
Construction might damage trees — roots

Prot 3 Photo Jones home & driveway

(5)

Jones

Photo shows fence & properties

Cross

Trees -

3-4 close to proposed addition

Thinks digging foundation would affect roots. Runoff from addition could create erosion problems.

Construction disturbance -

Q What foundation no harm?

A Not tree expert - Does not know

Purchased Dec 2004

Testimony - SueAnn Merrill
1462 Summit

Pict 2 - took photo house is set to right of Lot like Jones prop.

SUMMARY

Post trial

Prop is unique —
Aspect same as other houses does not

All factors together make Jones unique

Some may be set to right and have old trees but not as far back as Jones

Buddy new bay window does not retain last feature

Arch features —
wrap around porch —
to build behind destroys significance

Unique neighborhood —
been maintained that way

~~Reasonably~~

Least impact at last structure to place on E side
in character with house

W side addition would destroy

Back of house not practical

URH & PD –
strict applicatn does not permit additn.

Other houses have additns

Scaled back additn at heavy level.

Ask to uphold ZC.

Protestants.

Houses 65-75 ft apart

Quality of living need to maintain distance.

~~Precedent~~ Not relevant other variances
No idea why granted.

Cromwell v Ward –
prove unique –
uniqueness causes zreg.
to impact differently than others

Other prop sit oft corner.
All houses share impact
All subject to set back
None so unique for var.
of side set back

Zreg has to affect him diff than others in 'hood

Not a townhouse community

Cromwell –
Fails on uniqueness

PD – No hardship

Can build in back –
can be done with diff. but
not hardship

Absent showing prop different
No variance

PET

Hypothetical & feet separate

Cromwell
Shape – this is parallelogram
Not significance.

Other prop could build
this cannot

Must take all factors together
for uniqueness

Reasonable use of property.
All Jones asking for.

Would add to but character
Modest addition.

~~Petitioner's Exhibits~~

CBA 05-377-A William Jones, Jr

Exhibit 1

1 Front with wrap porch on left

7 Shows Bay window on L side

10-11 Back - Extension to Kitchen

5 E side close to property line area for addition

Blt 1915 -
Hist district

County Board of Appeals in Baltimore County
Old Courthouse , Room 49
400 Washington Avenue
Towson, Maryland 21204

November 15, 2005

RE: Case # 05-377-A

Dear Madam/Sir,

We are writing to support the zoning variance for 1404 Summit Avenue in Catonsville. We have lived at 105 North Beechwood Avenue for 16 years. Our property is adjacent to the property of John Merrill and Sue King.

Many homes in our neighborhood have additions similar to that proposed by William Jones. To our knowledge, these have not posed a problem. The Jones' proposed addition will not negatively affect the integrity and quality of life of the neighborhood.

Sincerely,

Catherine Prendergast

Daniel Prendergast

Letters in Support

1401 Summit Ave
Baltimore, Md 21228
November 16, 2005

Zoning Board - Re: Case # 05-377A

My husband and I have lived in Catonsville in the same location for 41 years. We live directly across from the Merrill home and one house down from the Jones's home. We have no objections to the Jones' putting an addition on to their home. It would only enhance it.

Sincerely,

Mr. & Mrs. Donald Corbett

George and Jan Carlson
1502 Summit Avenue
Catonsville, MD 21228
November 21, 2005

Baltimore County Zoning Board
Old Courthouse
400 Washington Avenue
Towson, MD 21204

Re: Case # 05-377A

To Whom It May Concern,

We are writing in support of the zoning variance requested by Bill Jones and Susanne Ogaitis-Jones. We live three houses down from the Ogaitis-Jones home and four houses down from the Merrill home. The Merrill's are appealing the variance that was granted in March of this year.

We have lived in our home for eight years and have added a similar family room addition that is planned for the Ogaitis-Jones home. Our addition is also 4' from the property line. Our addition pre-dates the Merrill's moving into the neighborhood. We had no issues with any neighbors when we requested a zoning variance. Our variance was granted July 2, 2002 without a hearing. Our case number was 02-539A.

It is our belief that this addition will not harm the aesthetic quality of our neighborhood. We also believe that the addition will have no impact on the Merrill's as their home is more then 60' from the property line. In our case our next door neighbor's home is about 25' from the property line. They have stated that our addition has had no impact them.

We are strongly supporting the Ogaitis-Jones zoning variance. If you need to contact us for any reason please contact us at 410-869-0529.

Sincerely,

Jan Carlson, GJC

Jan and George Carlson

Zoning Board
Zoning Appeal Hearing
Re: Case #05-377A
For Bill and Suzanne Jones
December 8th 11am H.R.48

James and MaryKate Hannah
107 N. Beechwood Ave.
Catonsville, Md. 21228
11/21/2005

Dear Zoning Board members,

We are writing you today in ***favor*** of our neighbors, Bill and Suzanne Jones, effort to build a 209 square foot family room addition on their Summit Avenue home. We have lived in our current address since August of 1993 and can see the back of the Jones' property from our back yard.

We are aware of their design and feel that it is a reasonable request that is architecturally harmonious with the existing building. It will also be very comparable to other similar additions in the neighborhood. They are adjacent to one of the largest properties on the block. And there is ample distance (more than 60 feet) between their proposed addition and the neighboring building. In addition, there is a small wooded area providing extra privacy between the properties.

The Jones' are good neighbors who will execute this home addition in good taste as well. Thanks very much for your consideration.

Sincerely,

James and MaryKate Hannah

James Hannah MaryKate Hannah

RECEIVED
POST – APPEAL

RECEIVED
NOV 2 8 2005
BALTIMORE COUNTY
BOARD OF APPEALS

November 26, 2005

Hearing Room 48
Old Courthouse
400 Washington Ave.
Towson, MD

RE: Case 05-377A

To Whom It May Concern:

This letter is in support of Mr. and Mrs. Jones request for zoning variance for the proposed family room addition.

We have owned our home for eight years. My wife's family has lived on this same street since 1925. Mr. and Mrs. Jones have been considerate neighbors and have a great deal invested in this neighborhood. We have complete confidence that their addition will be in keeping with the historic style of our neighborhood.

Our property borders the north side of the Jones' property, and the Merrill's property on the east. The entire width of the Jones' rear property line borders our side boundary. The distance between the outside wall of the Jones' proposed addition to our home will be almost the same distance from the Merrill's home. There is adequate space and woodland buffer to accommodate the addition with no disruption to privacy. In our opinion the addition should blend in easily.

Sincerely,

Jim and Glynda Byrd
100 Rosewood Ave
Catonsville, MD 21228

Board of Appeals
Old Courthouse
400 Washington Ave, Towson

November 21, 2005

Ms. Kirby Spencer
11 N. Beechwood Ave
Catonsville, Md. 21228

To Whom It May Concern:

Bill Jones and Suzanne Ogaitis-Jones are requesting a zoning variance **CASE # 05-377A** for re-approval. **I SUPPORT THIS PRJECT**. My home is located on the corner of Beechwood Ave and Summit Ave. I am across the street and just east of the Merrill's who are opposing the variance. The property in question is immediately to the west of the Merrill's and in my view also. The Merrill's home sits on approximately 1 ½ acres and the Jones' addition will still be over 50 feet away from the Merrill's home and behind mature vegetation.

I have lived in my home for over 16 years and do not see a problem with the addition, which will appear consistent with many others of that period which is an American Foursquare Sunroom.

Sincerely,

K. Kirby Spencer

30 November 2005

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

RE: Zoning Board Appeals Hearing #05-377A

Dear Sir or Madam:

We are writing in support of Bill and Susanne Jones' request for a zoning variance, in order to add a small addition (family room) to their home on Summit Ave., Catonsville. We have lived just around the corner from Bill and Susanne's home for all the time they have lived there, and longer (35 years at our current address on Rosewood Avenue). They have been model neighbors, quiet and considerate. As their family has grown, we well understand their desire to add a family room, since such rooms were not a feature in the original design of the older homes in our Old Catonsville Neighborhood area. We ourselves added a (larger) mother-in-law apartment onto our older home, which is of the same design as the Jones'.

We do not understand the objections raised to this modest project by the Jones' new neighbor, Mr. John Merrill. Mr. Merrill's plot of land is one of the largest in the area, at 1.5 acres or more (while the average home plot is one-third of an acre or so). An addition that comes within 4 feet of the line between the two properties in no way would 'encroach' on Mr. Merrill's home, which is set well away from the line, and much further back from the street than the Jones home. There is an area of abundant vegetation between the two in any case, as a privacy buffer. (We understand, indeed, that Mr. Merrill had proposed an addition of this type onto his previous home, so he understands their utility and desirability.) His objections thus appear to be little more than petty NIMBY-ism.

Thank you for your attention to these thoughts; I hope they may be of help. If further information is desired, we can be reached at 101 Rosewood Ave., Catonsville 21228. Home phone is 410-788-7219.

Sincerely yours,

John Kloetzel
Judith Kloetzel

John and Judith Kloetzel

Board of Appeals
Old Courthouse
400 Washington Ave, Towson

November 21, 2005

Ms. Kirby Spencer
11 N. Beechwood Ave
Catonsville, Md. 21228

To Whom It May Concern:

Bill Jones and Suzanne Ogaitis-Jones are requesting a zoning variance **CASE # 05-377A** for re-approval. **I SUPPORT THIS PRJECT**. My home is located on the corner of Beechwood Ave and Summit Ave. I am across the street and just east of the Merrill's who are opposing the variance. The property in question is immediately to the west of the Merrill's and in my view also. The Merrill's home sits on approximately 1 ½ acres and the Jones' addition will still be over 50 feet away from the Merrill's home and behind mature vegetation.

I have lived in my home for over 16 years and do not see a problem with the addition, which will appear consistent with many others of that period which is an American Foursquare Sunroom.

Sincerely,

K. Kirby Spencer

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 05-377A
DATE 3/22/05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
William C Jones Jr.	1404 Summit Ave	Catonsville, MD 21228	BILL.JONES@IEEE.ORG
John Merrill	1402 Summit Ave	Catonsville, MD 21228	JMERRILL@MSDE.STATE.MD.US
Sue King	1402 Summit Ave	Catonsville, MD 21228	KINGSUEA@YAHOO.COM

Case No.: 05-377A

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Site Plan - Amended During Open Hearing	DIAGRAM - Multible Boundry Residents - Survey being undertaken - Encroachments noted
No. 2	Photograph Array	Boundry Encroachment by neighboring property owner
No. 3		Photo's of Neighboring Homes
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PLAT TO ACCOMPANY PETITION FOR ZONING [X] VARIANCE [ ] SPECIAL HEARING

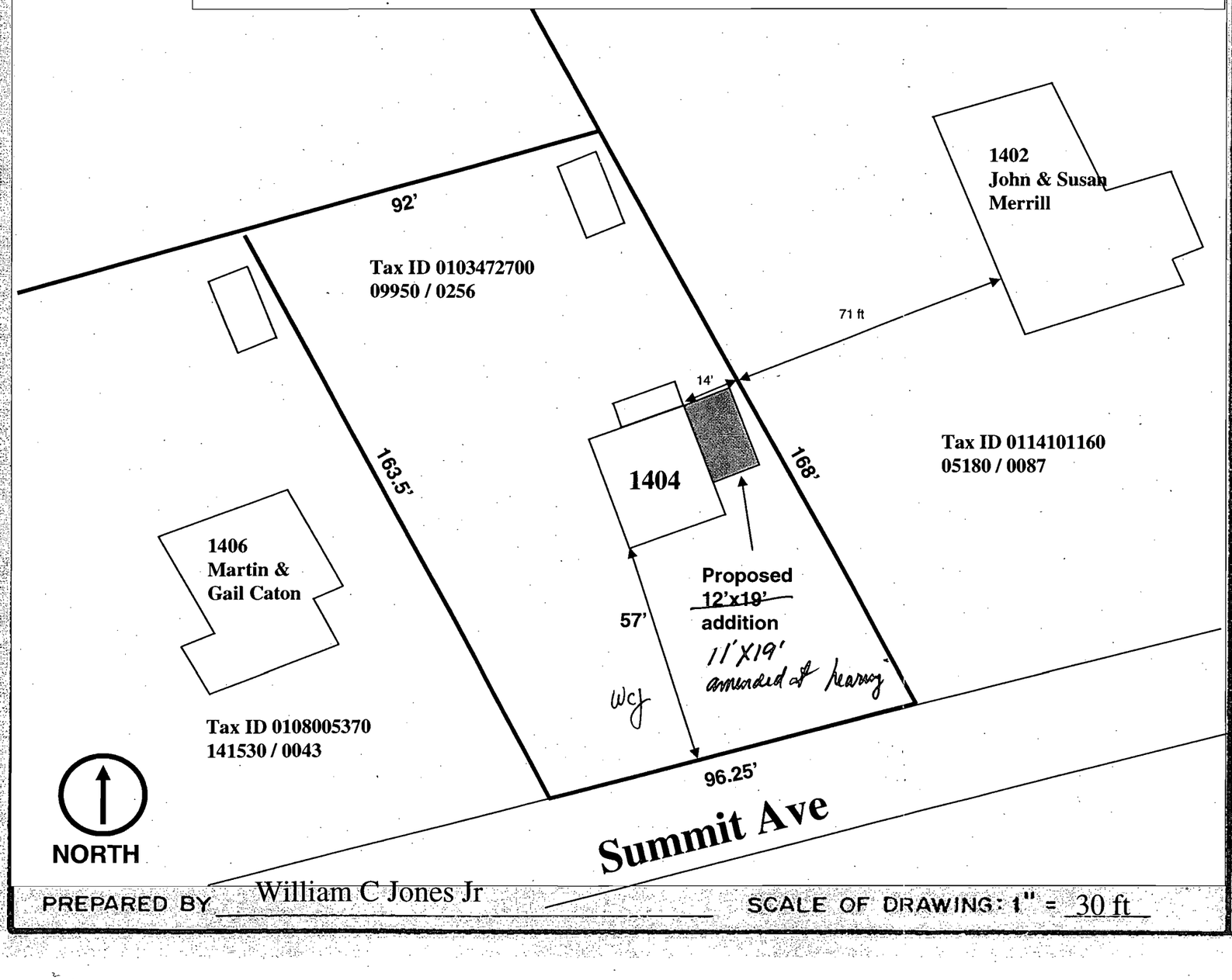
PROPERTY ADDRESS 1404 Summit Ave Catonsville, MD 21228

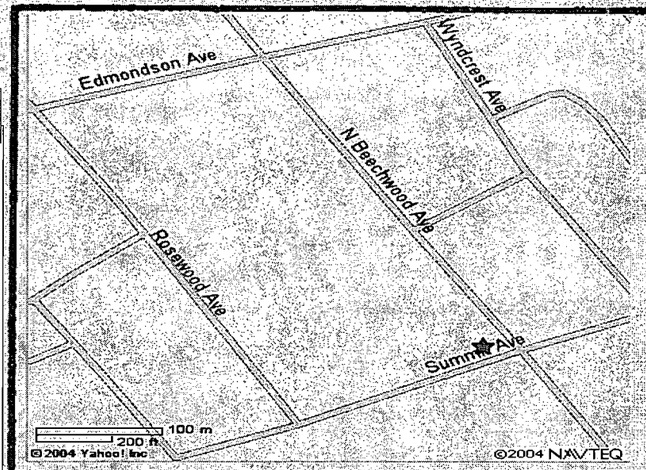
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME C

PLAT BOOK # ____ FOLIO # ____ LOT # ____ SECTION # ____

OWNER William C Jones Jr





VICINITY MAP
SCALE 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 01

COUNCILMANIC DISTRICT 01

1" = 200' SCALE MAP # SW3-G

ZONING DR 2

LOT SIZE 0.35 ACREAGE 15510 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	[X]	[ ]
WATER	[X]	[ ]

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	[ ]	[X]
100 YEAR FLOOD PLAIN	[ ]	[X]
HISTORIC PROPERTY/ BUILDING	[ ]	[X]

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #
SH	377	05-377-A

PREPARED BY William C Jones Jr

SCALE OF DRAWING: 1" = 30 ft

-15-

PETITIONER'S EXHIBIT NO. 1

Hardships encountered in building an addition on the west side or back of the house

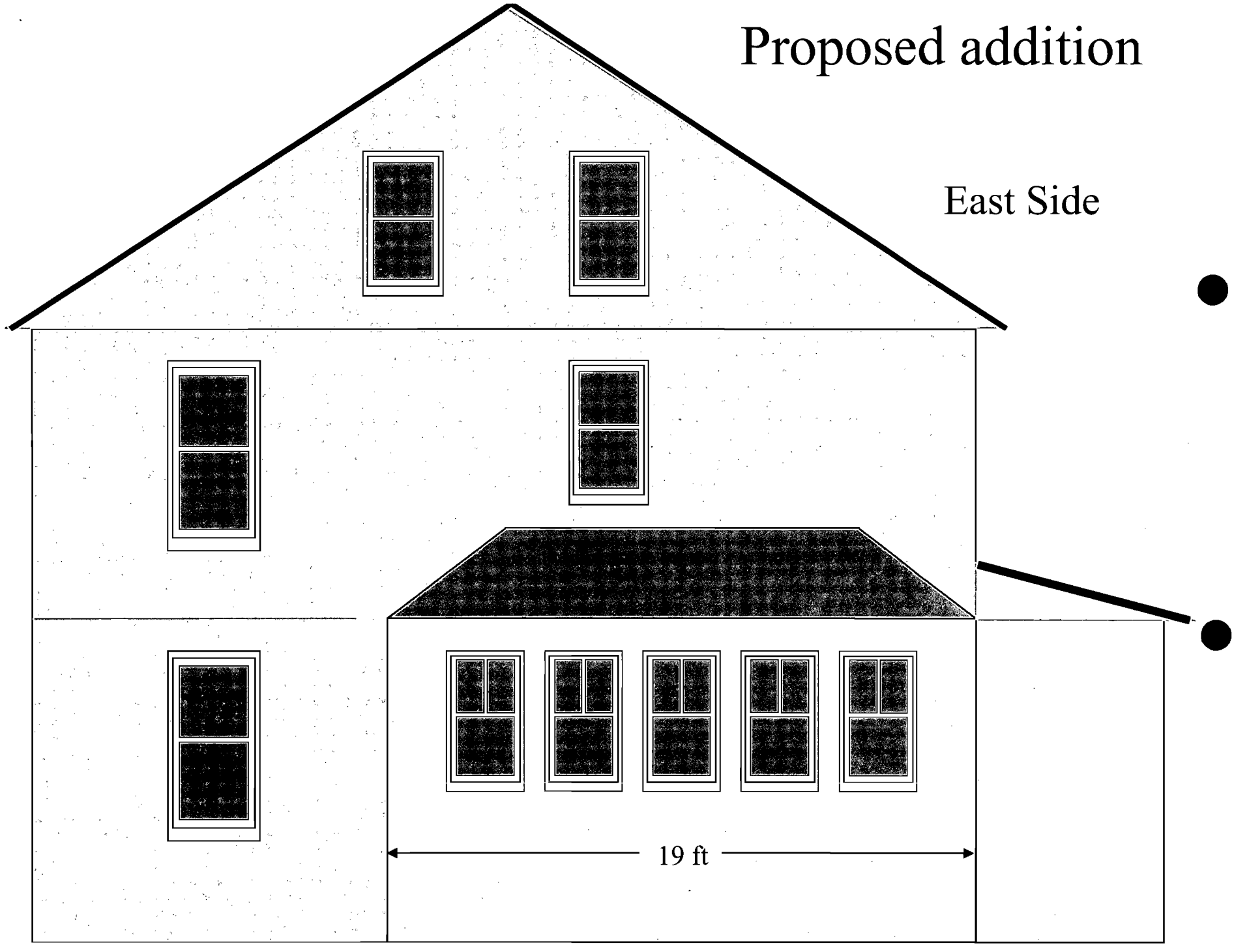
- West side
  - Two large mature holly trees would require removal
  - Existing dining room would have no windows/exterior light
  - Interior traffic through dining room not convenient
- Back
  - Existing kitchen plumbing & counter are located on the back wall
  - Powder room is adjacent to kitchen, also on back wall
  - Back porch
  - Proximity to in-ground pool

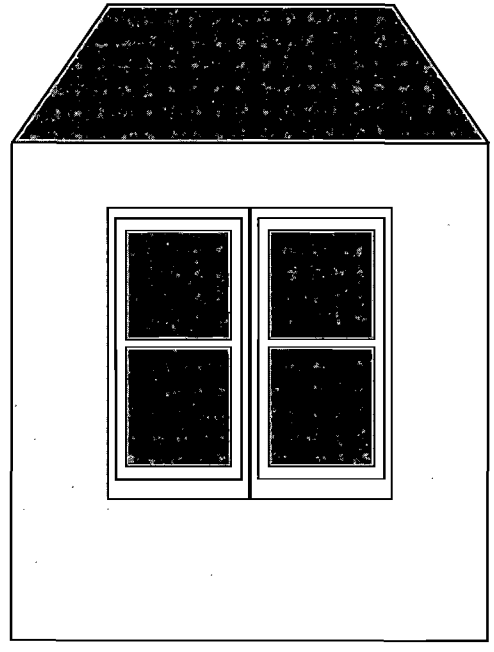
PETITIONER'S

EXHIBIT NO. 2

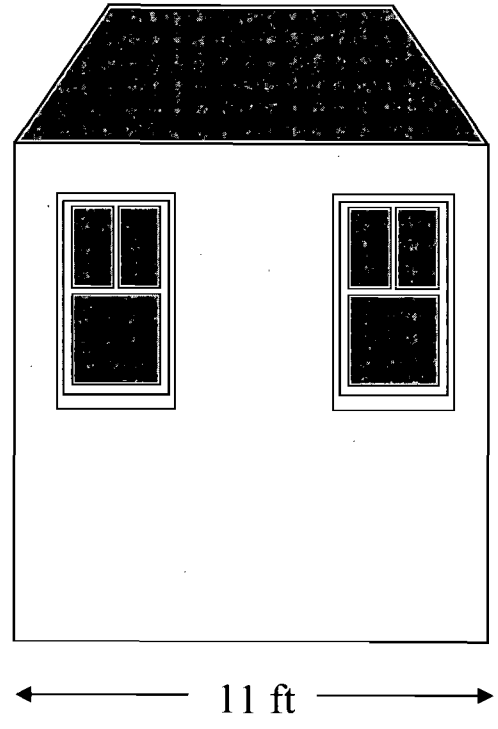
East side of house is the only feasible side to build addition

- Family has expanded – two young children need play space
- House is 90 years old – finishing the basement for living space is not an option as it is with modern houses
- Addition will be a breakfast room / family room
  - East side is adjacent to kitchen
  - Distances to property line: 3.5 ft minimum & 9 ft maximum (6 ft average)
  - Line of trees provide a natural barrier between houses
  - 70 ft distance between houses is among largest in the neighborhood


Proposed addition
East Side
19 ft



Front

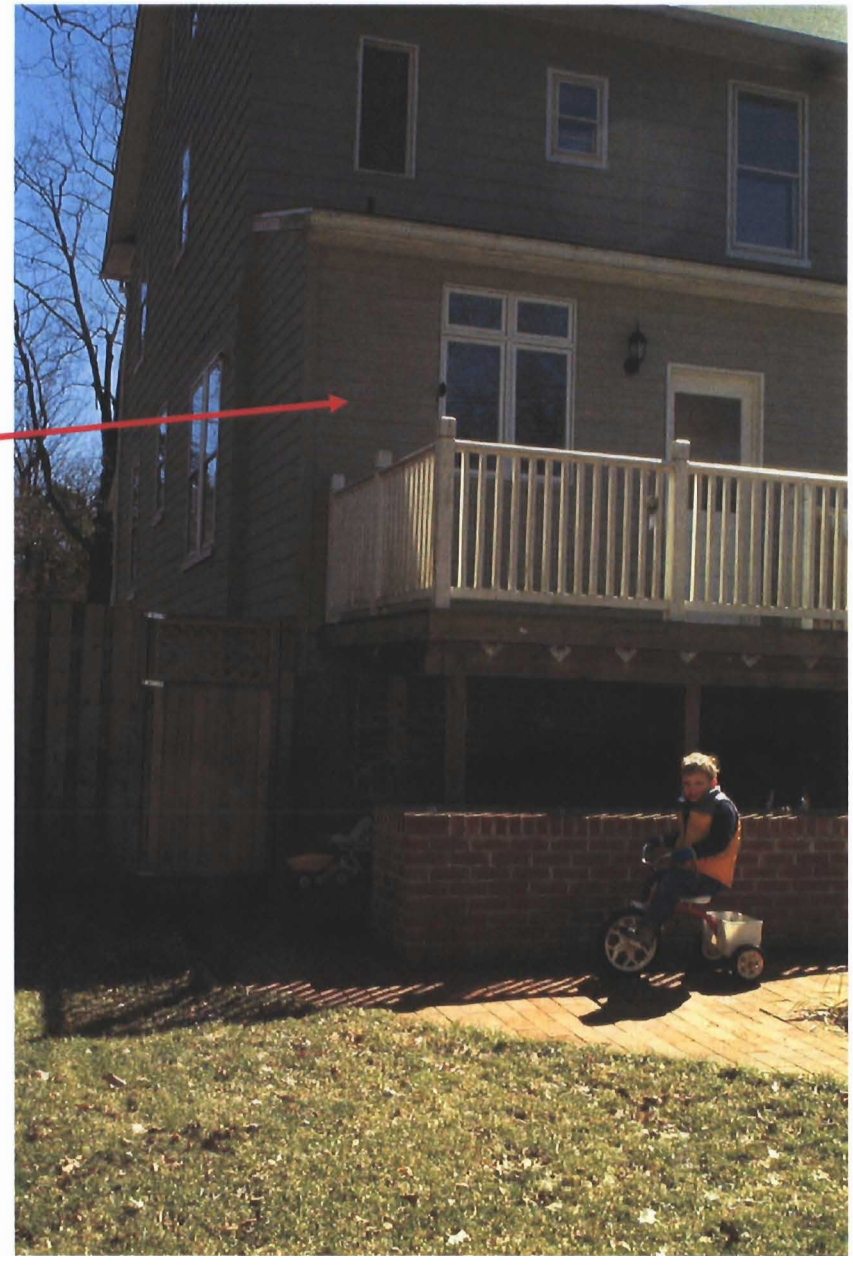


Back

Photos of house

- Front
- Back
- West side
- East side (proposed addition would go here)

Kitchen



Back of house is not a viable option for an addition due to the kitchen, powder room and basement entrance

- Back of house is not a viable option for an addition due to the kitchen, powder room and basement entrance

Back of house is not a viable option for an addition due to the kitchen, powder room and basement entrance

West side is not option for addition due to large holly trees

East side: addition is proposed for this side. This is the only option for an addition that is not cost prohibitive.

1402 & 1404 Summit Ave are separated by a line of trees.
Distance between houses is 70 ft


HGN-915

Addition on east side would have no adverse impact to 1402 Summit Ave property

1502 Summit Ave was granted a variance in 2003 to add an addition within 4 ft of property line. Neighboring house is much closer than 70 ft.

Additions in neighborhood similar to what we plan

- Beechwood Ave
- Forest Dr
- Rolling Rd

This addition is to a house in our neighborhood very similar to ours. Our proposed addition would be similarly set back from the front of the house (Beechwood Ave)

This addition is similar in size and style to what we propose (Forest Dr)

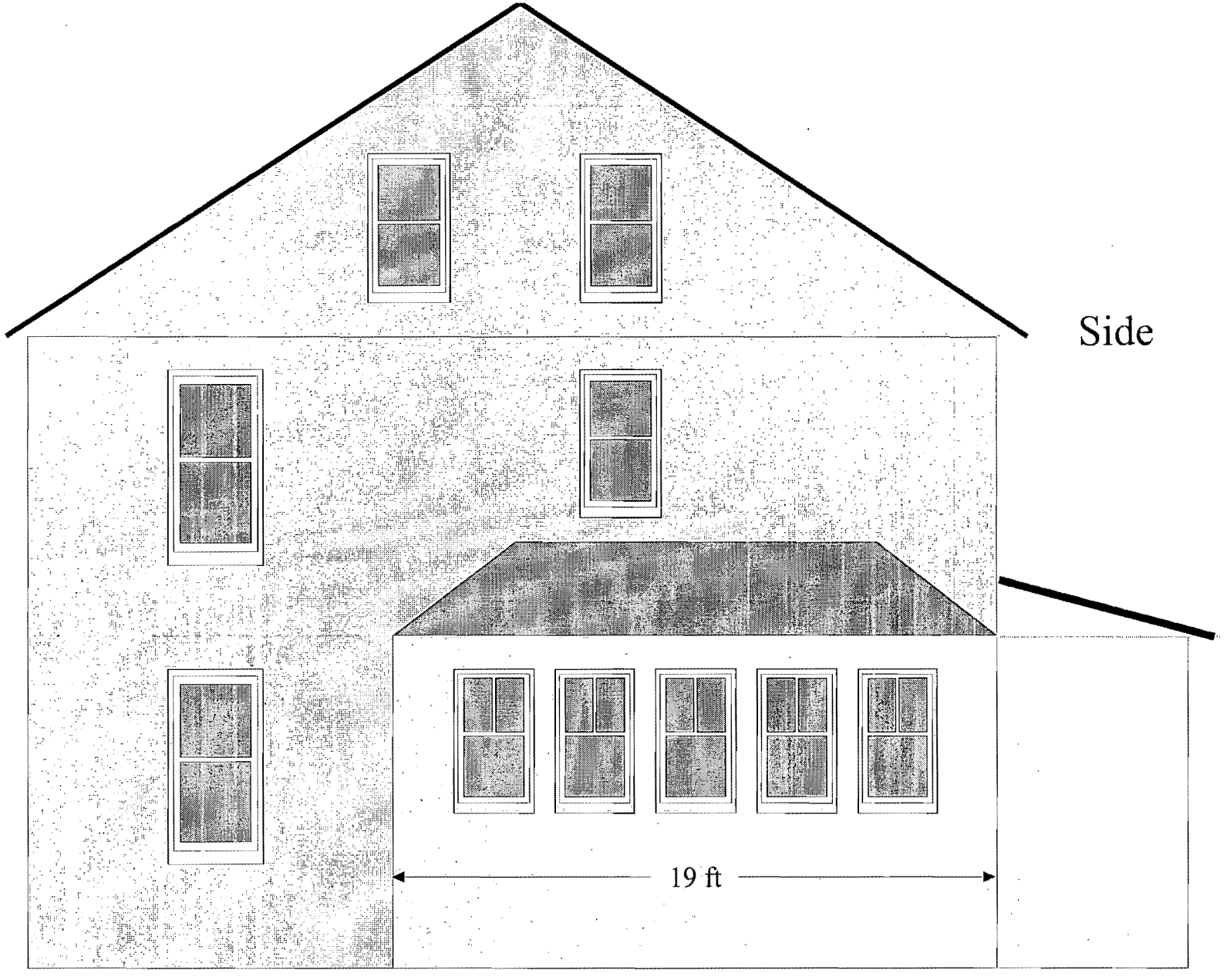
This addition is similar in size and style to what we propose (Rolling Rd)

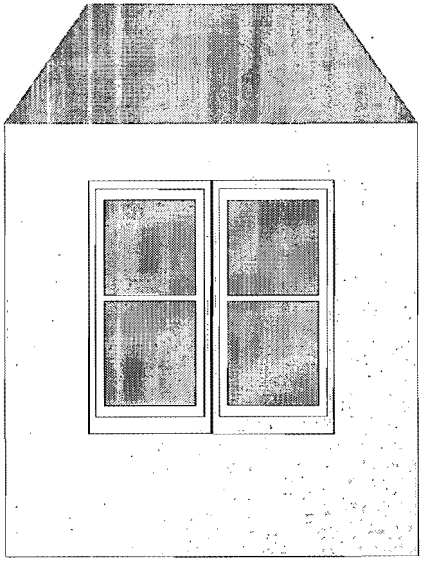
Administrative Variance
Case Number: 05-377-A, 1404 Summit Ave

William C Jones

- Elevations
- Photographs of existing dwelling
- Photographs of neighboring dwellings

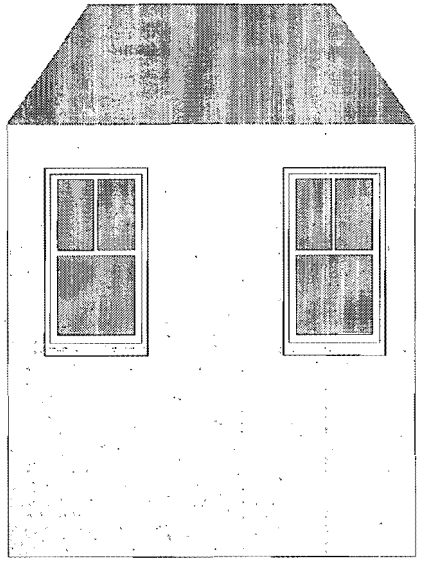
Elevations of proposed addition


Side
19 ft



10 ft

Front



10 ft

Back

Photos of house

- Front
- Back
- West side
- East side (proposed addition would go here)

Neighboring houses

- 1402 Summit Ave
- 1406 Summit Ave

1402 Summit Ave

1406 Summit Ave

Additions in neighborhood similar to what we plan

- Beechwood Ave
- Forest Dr
- Rolling Rd

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Case No.: 05-377A

Exhibit Sheet

Petitioner/Developer | Protestant

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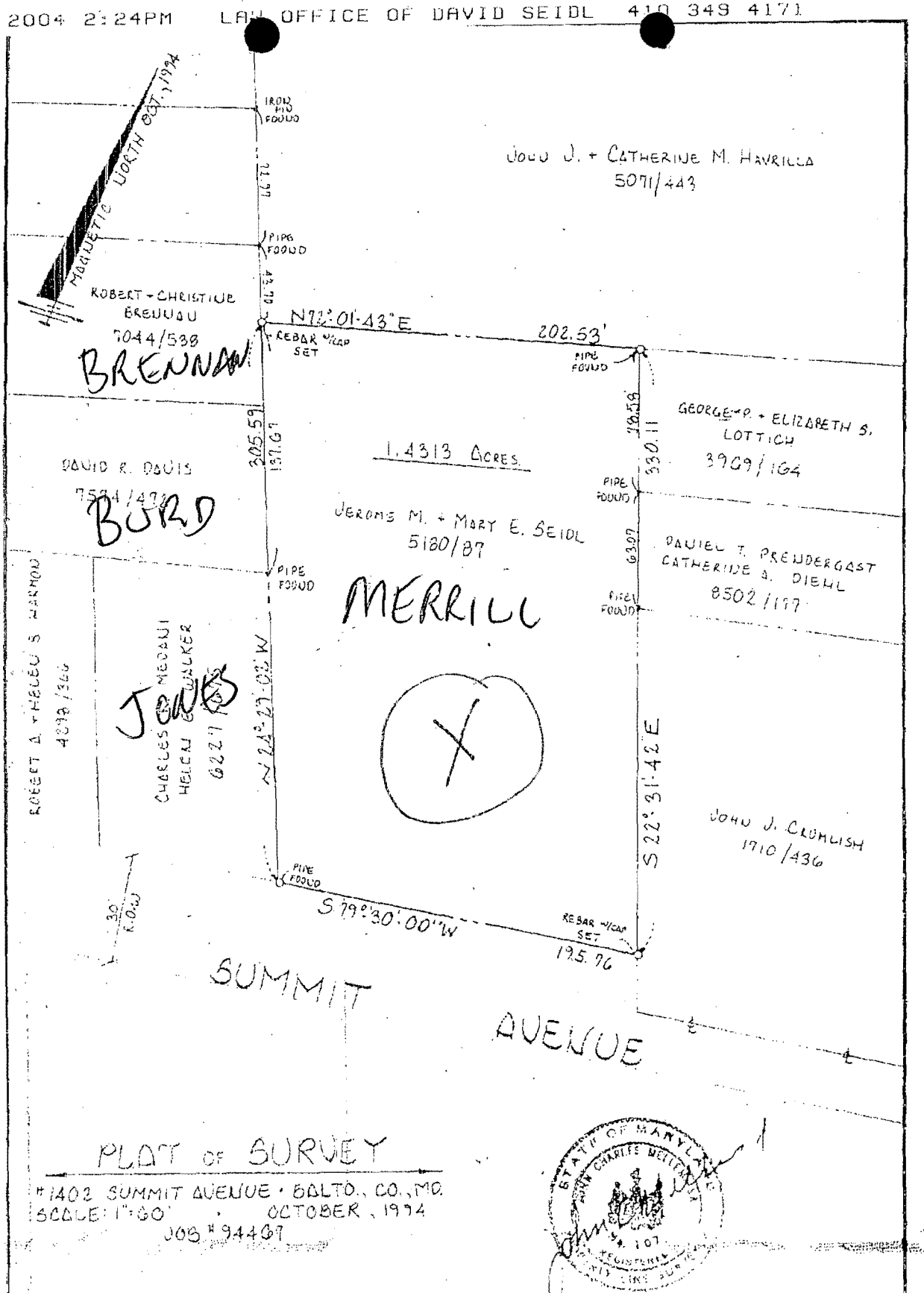
No. 12		



PLAT OF SURVEY

#1403 SUMMIT AVENUE • BALTO., CO., MD.
SCALE: 1"=60' • OCTOBER, 1994
JOB #94467

STATE OF MARYLAND — JOHN CHARLES MELLEMA SR. — No. 107 — REGISTERED PROPERTY LINE SURVEYOR

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT I HAVE MADE A TRANSIT AND TAPE SURVEY OF THE PROPERTY SHOWN HERON FOR THE PURPOSE OF ESTABLISHING BOUNDARY LINES AND HAVE FOUND THE INFORMATION SHOWN HERE TO BE CORRECT.

John C. Mellema I 10-25-94

PREPARED BY:
JOHN C. MELLEMA SR., INC.
LAND SURVEYORS
5409 EAST DRIVE BALTO., MD. 21227

PROTESTANT'S EXHIBIT NO. 1

1402 Summit Avenue
Catonsville, Maryland 21228

September 15, 1995

via CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert P. and Christine Brennan
102 Rosewood Avenue
Baltimore, Maryland 21228

RE: Property Boundary Dispute

Dear Mr. and Mrs. Brennan:

As you may know, in October 1994 we had our property, located at 1402 Summit Avenue and acquired pursuant to a Deed dated April 8, 1971 and recorded among the Land Records of Baltimore County at Liber 5180, Folio 087 (the "Property"), surveyed to determine the precise boundaries thereof. Attached hereto is a copy of the Plat of Survey prepared by John C. Mellema, Sr., Inc., Land Surveyors, which delineates the precise boundary line between our respective properties. At the time the survey was performed we were advised that your fence is actually located on a small portion of our Property.

Please understand that the encroachment of your fence is not a bother to us and, assuming your willingness to execute this letter, we see no present need to require you to re-locate your fence. However, we are concerned that the continued location of your fence on our Property could have adverse legal consequences by interfering with our ability to freely sell our Property in the future.

If you are willing to execute this letter, we have no present intent to require that your fence be re-located to avoid encroachment on our Property. By executing this letter, you are not agreeing that your fence is located on our Property. Rather, you are simply agreeing that to the extent your fence is on our Property, it is so located with our permission and has not been erected or maintained as a claim of boundary between our respective properties or with an intent to acquire title to any portion of our

PROTESTANT'S
EXHIBIT NO. 2

1404 Summit Ave

(1)

ENCLOSE FRONT PORCH?
NO VARIANCE NEEDED

(2)

1404 SUMMIT AVE

PLENTY OF LAND TO BUILD ON THE WEST SIDE, NO VARIANCE NEEDED

PROTESTANT'S

EXHIBIT NO. 3

IN RE: PETITION FOR ADMIN. VARIANCE N/S Summit Avenue, 100' W of Rosewood Avenue 1st Election District 1st Councilmanic District (1502 Summit Avenue) George L. & Janice B. Carlson Petitioners	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-539-A

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, George L. and Janice B. Carlson. The variance request is for property located at 1502 Summit Avenue in the Catonsville area of Baltimore County. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a side yard setback of 4 ft. and a sum of side yards of 38 ft. in lieu of the required 15 ft. and 40 ft. respectively, and to permit an addition with a rear yard setback of 23 ft. in lieu of the required 40 ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

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

The Petitioners have 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

Petitioners Exhibits

Verified 12/21/05

Jones

1-15	Photos
16	Photo with map
17	Plat
18	Photo
19	Letters of support
20	Letter of support

Front view (south side) of 1404 Summit Ave

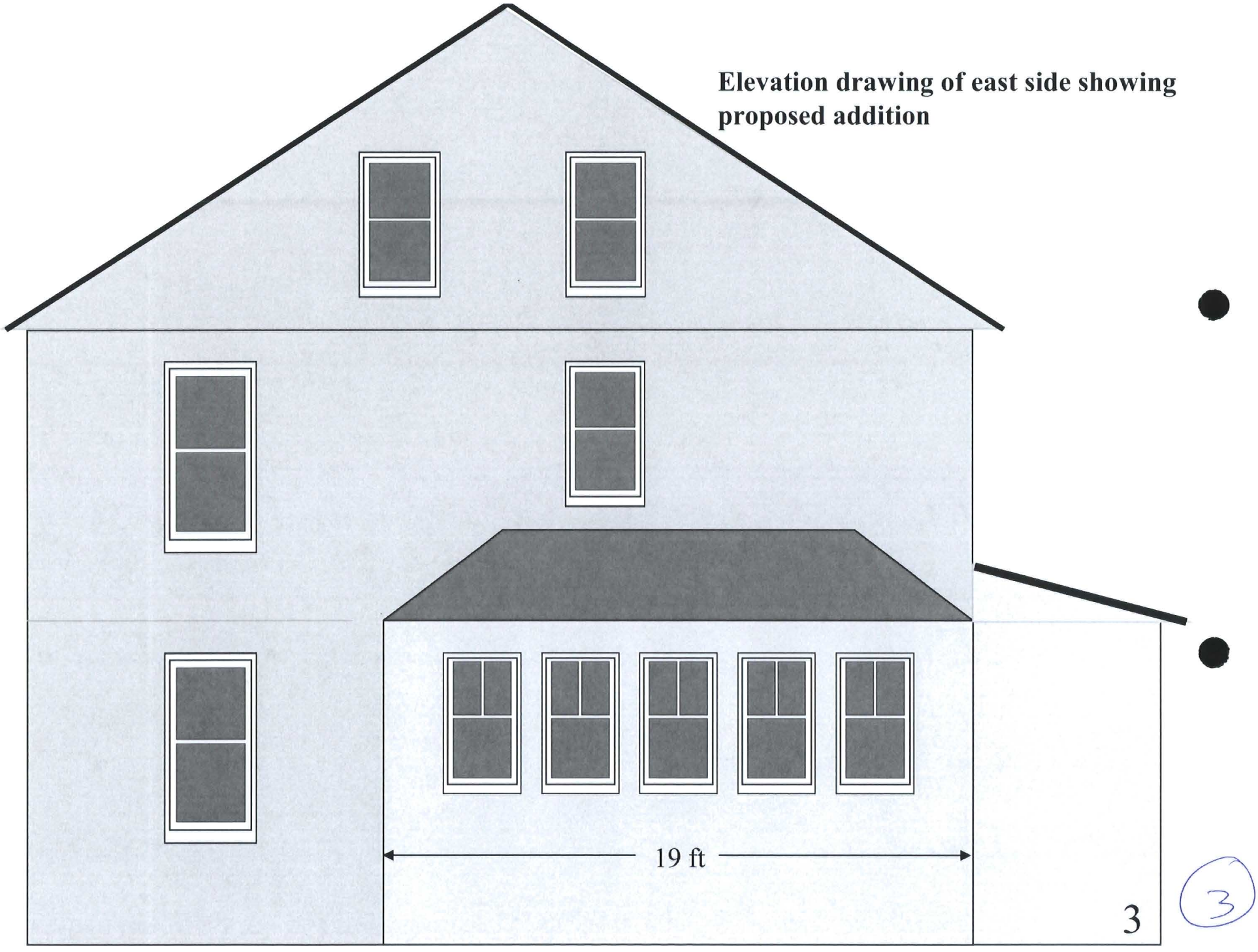
(1)

This photo shows the area of the east side of 1404 Summit where the proposed addition would be sited

(2)

Pet 1B

Elevation drawing of east side showing proposed addition



(3)

Pet ID

This addition is to a house in our neighborhood very similar to ours. Our proposed addition would be similarly set back from the front of the house and would have the same style roof 4

(4) Pet 1E

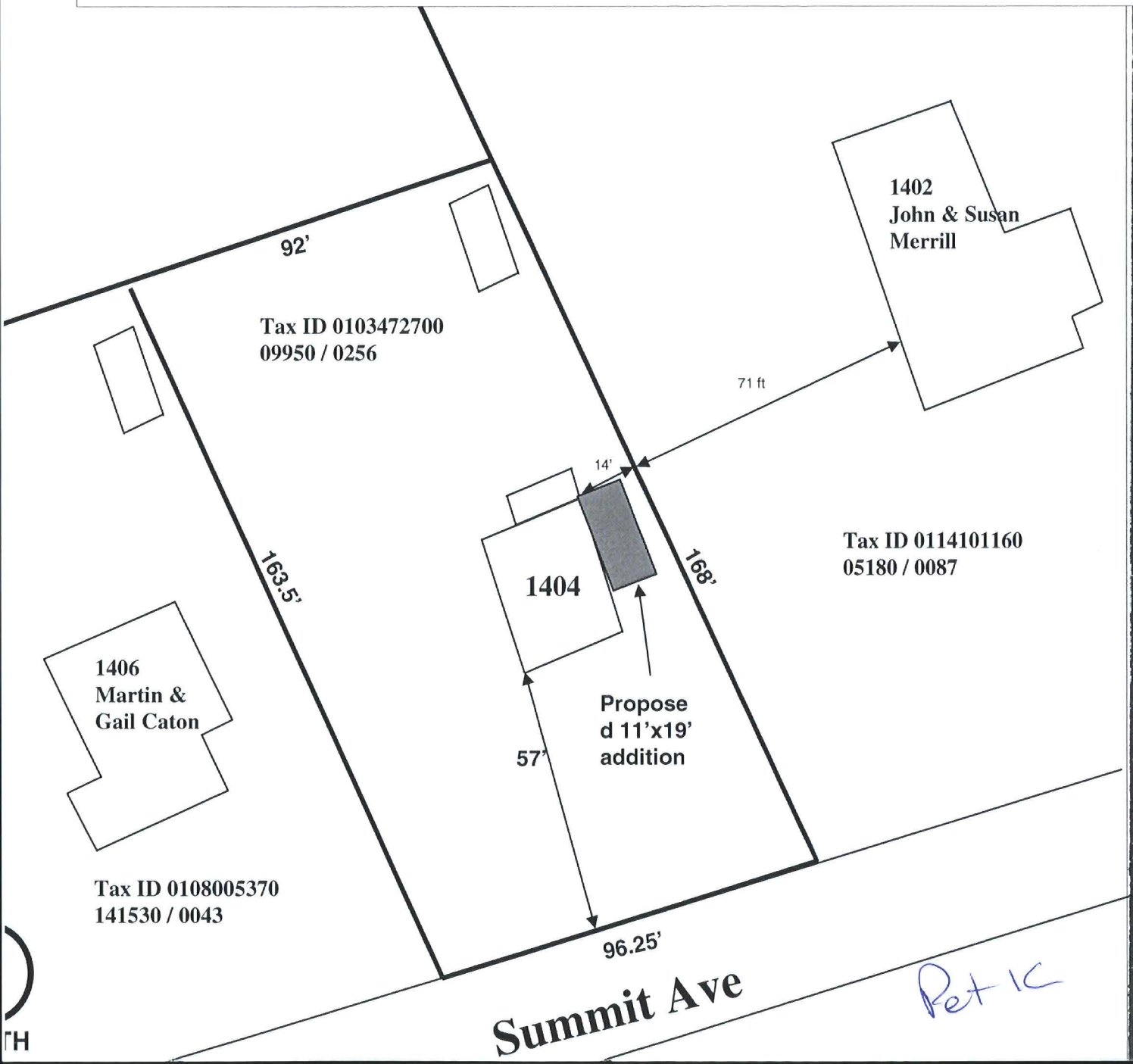
OPERTY ADDRESS 1404 Summit Ave Catonsville, MD 21228

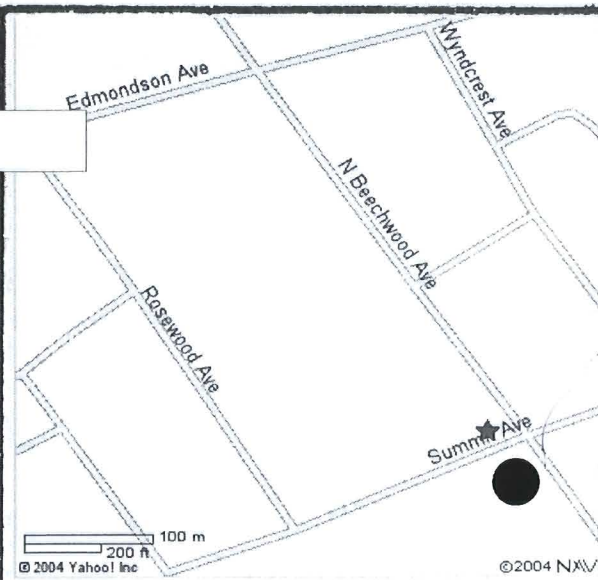
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

UBDIVISION NAME C

LAT BOOK #___ FOLIO #___ LOT #___ SECTION #___

WNER William C Jones Jr





VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 01

COUNCILMANIC DISTRICT 01

1" = 200' SCALE MAP # SW3-G

ZONING DR 2

LOT SIZE 0.35 ACREAGE 15510 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	[X]	[ ]
WATER	[X]	[ ]

	YES	N
CHESAPEAKE BAY CRITICAL AREA	[ ]	
100 YEAR FLOOD PLAIN	[ ]	
HISTORIC PROPERTY/ BUILDING	[ ]	

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

Proposed addition would built on old unused driveway

5

Pet 1F

1402 & 1404 Summit Ave are separated by about 75 feet

Pet 1 G

Dining room bay windows on west side of house is a distinct feature

Pet 1H

Front view of bay windows through covered porch

Part II

Two mature holly trees grow next to the west side of the house

Pet 1J

Back of house (north side) is not practical for an addition. Entrance to basement, back porch and kitchen plumbing are in the way.

Pet 1K

Back of house (view from northwest)

Pet 12

Pat 1 M

East side of house is the obvious site for an addition since it contains the fewest distinct historical features

Thick foliage between 1404 and 1402 Summit Ave

Pet 1 N

Looking east from 1404 Summit Ave toward 1402 Summit Ave

Pet 10

Addition onto 1502 Summit Ave comes within 4 feet of property line in the rear and is less than 25 feet from 1500 Summit Ave

P 16

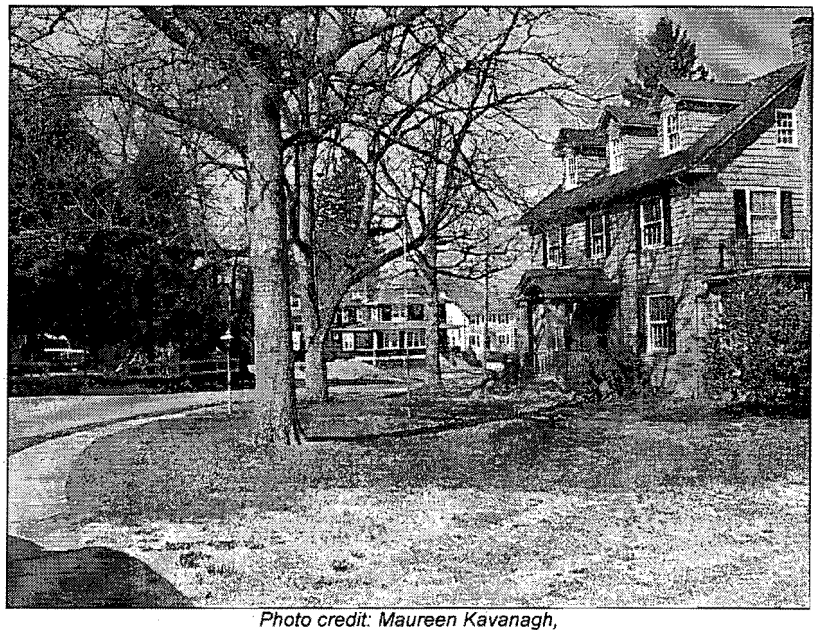


Photo credit: Maureen Kavanagh,

Property name: Old Catonsville Historic District
Date Listed: 12/27/2002
Inventory No.: BA-2975
Location: Catonsville, Baltimore County

Description: The Old Catonsville Historic District is bounded on the south by Frederick Road, an east-west thoroughfare that was originally a turnpike from Baltimore to Frederick, and on which the village of Catonsville grew up to the east. The northern boundary of Edmonson Avenue also runs east-west, paralleling Frederick Road, and was laid out with the construction of the electric railway along it. Between these two roads are a series of parallel roads that run south-southeast to north-northwest, including Melvin Avenue, N. Beaumont Avenue, Osborne Avenue, Wyndcrest Avenue, North Beechwood Avenue, Rosewood Avenue, and Smithwood Avenue. These roads are set slightly off the north-south axis because they parallel the original boundaries of the Caton land tract that became Old Catonsville. Most of these roads are bisected near the center by Summit Avenue, an east-west road that is perpendicular to them, rather than parallel with Edmonson Avenue and Frederick Road. The neighborhood consists generally of rectangular lots, the largest lots being found on Melvin Avenue, N. Beaumont Avenue, N. Beechwood Avenue, and the southern half of Osborne Avenue. Not coincidentally, these were the earliest lots laid out, and contained the earliest dwellings. The district is overwhelmingly residential, with three churches (one with a school), a modern public library, and an Art Deco water tower about the only structures in the district that are not dwellings. Of the three churches, the oldest is St. Mark's Catholic Church, an 1888 Gothic Revival style structure of random granite ashlar with limestone trim. Near the church stands the Colonial Revival style 1950 church building of Flemish bond brick. To the south is Catonsville Methodist Church, also Gothic Revival of random granite ashlar with limestone trim. The building, built in 1924, has a slate roof with end parapets. The Catonsville Presbyterian Church is a Flemish bond brick Colonial Revival building with a large portico and compass-headed windows. There is a brick bell tower with a wooden spire at the southwest corner of the church, and a 1 1/2 story brick wing with a gambrel roof. The vast majority of the houses in Old Catonsville are freestanding, single-family dwellings, with several duplexes that are similar in size, scale, and materials. Several dwellings have been converted to apartments and one to an assisted living facility, but the physical changes to the fabric in these instances are few. Architectural styles in the district range from mid- to late-19th century vernacular "I-houses" to late-19th and early-20th century styles such as Queen Anne, Bungalow, Colonial Revival, Dutch Colonial, Tudor Revival, and

Pet 17

PLAT TO ACCOMPANY PETITION FOR ZONING [X] VARIANCE [ ] SPECIAL HEARING

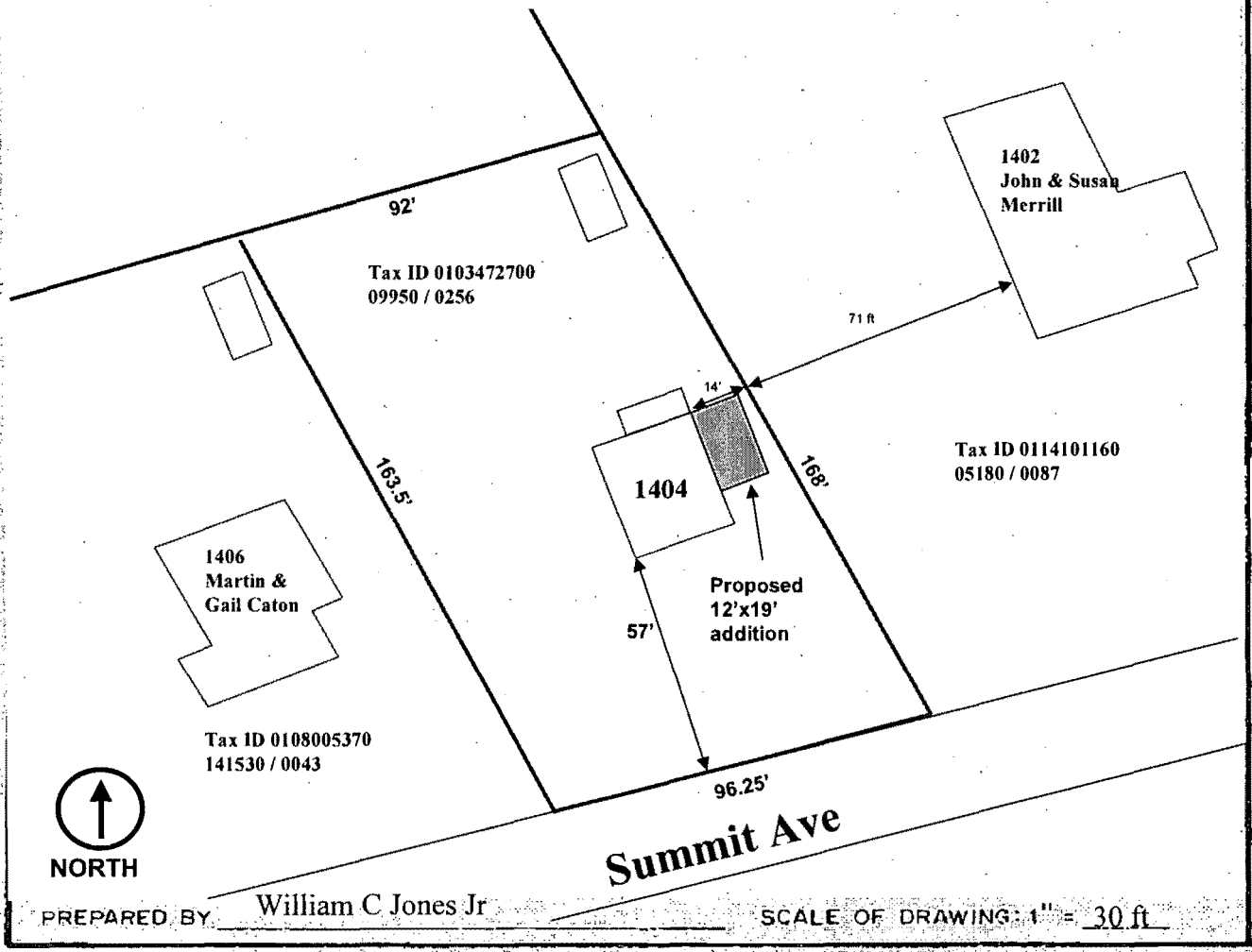
PROPERTY ADDRESS 1404 Summit Ave Catonsville, MD 21228

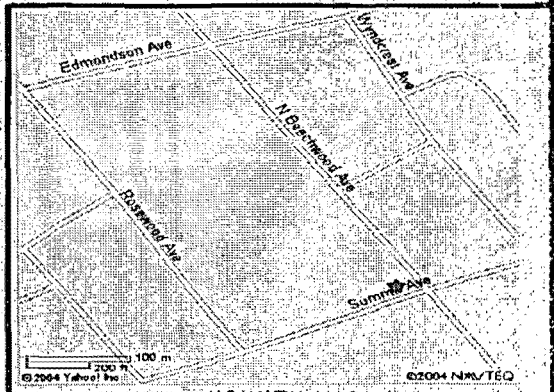
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME C

PLAT BOOK # ____ FOLIO # ____ LOT # ____ SECTION # ____

OWNER William C Jones Jr





VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 01

COUNCILMANIC DISTRICT 01

1" = 200' SCALE MAP # SW3-G

ZONING DR 2

LOT SIZE 0.35 ACREAGE 15510 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	[X]	[ ]
WATER	[X]	[ ]

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	[ ]	[X]
100 YEAR FLOOD PLAIN	[ ]	[X]
HISTORIC PROPERTY / BUILDING	[ ]	[X]

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY

REVIEWED BY ITEM # CASE #

PREPARED BY William C Jones Jr

SCALE OF DRAWING: 1" = 30 ft

-15-

Back of house is not a viable option for an addition due to the kitchen, powder room and basement entrance

To: The Baltimore County Zoning Board

From: Steve and Marie Maltese

Re: Case # 05-377A, Hearing for William Jones and Susanne Ogaitis-Jones

Date: December 5, 2005

We would like to present our support of our neighbor's, Bill and Susanne Jones (Ogaitis-Jones) desire to build a family room addition on the right side of their house. We, of all the neighbors, probably have the most experience with such an addition, because our neighbors, the Carlson's, at 1502 Summit Avenue, received a variance and built a similar addition that extends to within four feet of our property line several years ago. The Carlson's addition is less than 20 feet from our home, yet it has not proven to be intrusive, nor a problem of any sort. Their addition has standard size windows, but this too, is not a problem. We had concerns before the addition was built, but decided that it is important to remain on good terms with our neighbors, so we went along with their wish for a family room. It is an attractive addition and has had no impact whatsoever on our daily lives.

We believe that the Jones' addition would be much the same, and even note that there is a wooded area between the two properties and 60 feet of property to their neighbor's house. We cannot see that this addition would be intrusive in any way, and do not understand the reason for the Merrill's challenge to the request for a variance. The Baltimore County historic review office has approved the plan, so the addition should not interfere with the character of our neighborhood. Placing the addition on the other side of the house is illogical if you view the design of the house and the mature plantings that exist there.

Our house is two houses from the Jones', and three from the Merrill's. Marie was raised in this house until she was in her early twenties and her family has owned the house since 1968. We purchased the house in 1994 from family and intend to remain here. This neighborhood had largely been peaceful, with congenial neighbors who make an effort to get along with one another in all the years her family has owned the property. We support Bill and Susanne's wish to build a family room, as our older homes don't really lend themselves well to such a space. The Jones family has two young children and this space would naturally be important to them. If you should have any questions, please feel free to contact us at:

Steve and Marie Maltese
1500 Summit Avenue
Catonsville, MD 21228
410-788-5372

Pet 19

Thank you for your time and attention,

Steve Maltese
Marie Maltese

5 December 2005

Hearing Officer
Baltimore County Board of Zoning Appeals

Re: case #05-377A
Bill Jones
Susanne Ogaitis-Jones
1404 Summit Avenue
Catonsville, MD 21228

Dear Sir,

We are neighbors writing to support the zoning variance request of the Ogaitis-Jones family. We reside at 102 Rosewood Avenue, the second property north of the rear yard of the Ogaitis-Jones residence and within sight of the proposed addition. We are 20-year residents at this address and value the character and livability of the neighborhood.

The Ogaitis-Jones seek a modest family room addition in the most appropriate location for the existing plan of the house. This complements the original fabric of the house and does not alter its historic character while appropriately recognizing the scale and context of similar adjacent houses of the same era, some with similar sympathetic additions.

The Ogaitis-Jones addition provides a young growing family with a modest modern room in a location sympathetic to the historic nature of the house and neighborhood. We applaud their efforts.

Sincerely,

Robert P. Brennan, AIA
Architect

Christine Brennan

102 Rosewood Avenue
Catonsville, MD 21228
410.788.8121

Pet 20

Verified 12/21/05

Protestants

APPELLANT Exhibits

CBA 05-377-A William Jones, Jr.

Prot 1 Photo

Prot 2 Photo 1406 Summit

Prot 3 Photo


ZONING NOTICE
'05 3 11