

IN THE MATTER OF
THE APPLICATION OF
WILLIAM & JANE BISSELL -
PETITIONERS/LEGAL OWNERS
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE
NW/SIDE OF BAY DRIVE
(4034 BAY DRIVE)
AND
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE
E/S BRIAR POINT DRIVE
(3921 BRIAR POINT DRIVE
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* CASE NO.: 05-405-SPH
AND
* CASE NO.: 05-406-SPH
*
*

* * * * *

OPINION

These matters come before the Baltimore County Board of Appeals on appeal of the petitions for special hearings from the Zoning Commissioner. These appeals are for case numbers 05-405-SPH and 05-406-SPH, and were taken by People's Counsel for Baltimore County. The owners of the property, William and Jane Bissell, were represented by Deborah C. Dopkin, Esquire, their attorney. These cases were for special exceptions, whereby the Petitioners are seeking approval of lot areas of 0.15 and 0.23 acres, in lieu of the minimum required of 1.5 acres, a street centerline setback of 40 feet, in lieu of the required 75 feet, and property line setbacks of 10 feet and 17 feet, in lieu of the required 50 feet in a R.C.5 Zone.

Background

Through testimony and evidence, the Board was able to find out facts evident to the case. These properties are located in the southeastern end of the county, in the Bowley's Quarter area at: 4034 Bay Drive and 3921 Briar Point Drive, and are

William & Jane Bissell
Case Nos.: 05-405-SPH & 05-406-SPH

adjoining properties. William and Jane Bissell own both properties. These properties were purchased in 1994 for \$12,000, they are zoned R.C.5, and have been since 1976. Both properties are also located in the Chesapeake Bay Critical Area of Baltimore County. Petitioners live, and own a marina that they work, in the neighborhood. Petitioners would like to erect two homes, one on each lot. One home would be for their son, who lives with them, and the other for their daughter who lives in the Lutherville area. The homes they wanted to build would be approximately 1,000 square feet each.

Argument

Karen Watsic, who lives a couple of lots away from the subject properties, stated that she is not against building on the lots, however, she wants to see only one home built on the lots. Mrs. Watsic hopes, if a home is built, that it will be staggered on the property to match other homes in the area. According to Mrs. Watsic, the homes are staggered as they run along Bay Drive, which is parallel to the shoreline. Currently, the homes in the area are positioned either in the front of the lot or in the rear. With the nature of the lots, only being a minimum of 50 feet (some larger) but very long, it gives the appearance of larger lots and more privacy for homes that are about 5,000 square feet. The staggering also ensures more water view for each landowner. Mrs. Watsic feels that the Petitioners current plan will break character with the neighborhood. People's Counsel's Exhibit #5, which supports Ms. Watsic on her staggering theory, is a letter from the Director of Planning with comments on houses on Briar Point Drive. Donald Hicks, a registered professional engineer who

was hired by the Petitioners, visited the lots and stated that there are similar types of relief in the area. Mr. Hicks investigated the deeds, and found that they had been deeded since 1957, each having their own tax record and each serviced by sewer and water. Mr. Hicks felt that each lot is a proposed use of the area, even with only a 15 foot setback on Briar Point Drive. When Mr. Hicks was asked if he thought that § 502.1, of the *Baltimore County Zoning Regulations* (BCZR) for special exception, would be complied with, he thought that it would be. William Bissell, who currently lives at 406 Bay Drive with his wife Jane and their son, William Bissell, Jr., wants to build two homes for his children. Mr. Bissel stated that they would be approximately 1,000 square feet, and he had no plans to sell them. Mr. Bissell displayed pictures, Petitioners Exhibit #8, of homes being built in the area that he stated are getting relief. Mr. Bissell did testify that he owned commercial property in the area, and that he had built and sold homes in the area. Currently, he owns land and commercial property in the area.

Jack Dillion, who testified as an expert in land planning, zoning, and development, said that in the R.C.5 Zone it would take 1.5 acres to build but there were grandfathered lots that were protected. This lot was one lot until it was deeded off in 1958 without a subdivision or, going through zoning. Mr. Dillion felt that the lots do not fit with the spirit and intent of the neighborhood, and they are out of character. Mr. Dillion felt that building one home would still be pushing the R.C.5 Zone because a variance would still be needed.

William & Jane Bissell
Case Nos.: 05-405-SPH & 05-406-SPH

This case was filed as a special exception, People's Counsel for Baltimore County feels that these cases should have been heard as variances. The Board agreed

William & Jane Bissell
Case Nos.: 05-405-SPH & 05-406-SPH

at their deliberation that this matter would be handled as a special exception. Under 502.1 of the (BCZR) it states:

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

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; [Bill No. 45-182]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]

- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in a R.C.2, R.C.4, R.C.5 or R.C.7 Zone. [Bill No. 74-2000]

Petitioners Exhibit #3, (a plat to accompany Petition for Zoning Variance) gives a very good view of the relief that is being asked for. This plat illustrates the staggering affect and the character of the neighborhood. This is for 4034 Bay Drive. With this, you can visualize the setbacks and the staggering having a solution in the R.C.5 Zone. With Petitioners Exhibit #4 (showing the house being built on 3921 Briar Point Drive), you can visualize the relief being asked for, and how the setbacks with two homes on these lots will impact the R.C.5 Zone. Petitioners Exhibits #7 and #8, showed a lot of homes with alleged relief but there were no cases sited, or it did not state so if they were in the critical bay area or what zone they went through. People's Counsel, Exhibit # 2, gives you a good feel for what R.C.5 zoning gives to an area and the character of R.C.5. People's Counsel, Exhibit #5 (a letter from Arnold F. "Pat" Keller, III, Dir./Office of Planning, dated Mar. 7, 2005) shows the spirit and intent thar the Office of Planning is looking for in that area with R.C.5 Zoning.

Conclusion

After careful consideration of all the evidence and testimony, this Board feels that the Petitioners are asking for an extraordinary amount of relief in their petition. With combining both lots to build one house, there still would be a considerable

amount of relief granted but would satisfy the letter from the Office of Planning. This Board also feels, that by combining both lots, it would be in character with the spirit and intent of the surrounding neighborhood. This Board decided that the Petitioners requests for special exceptions did not meet all of the criteria required under § 502.1 of the B.C.Z.R. Therefore, Petitioners request is denied. People's Counsel feels that the Petitioners should have had to seek relief under § 304 verses § 1A04.3 according to the Baltimore County Zoning Regulations. This Board finds the argument from Mrs. Dopkin, attorney for the Petitioners, to be more compelling than that of People's Counsel. In Mrs. Dopkins' Memorandum she states: "Appellant's approach ignores the legislative purpose and the plain language of § 1A04. The stated purpose of the zone, as it relates to lot size, is set forth in B.C.Z.R. 1A04.1.B.4, which states:

" Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems."

The subject lots are served by public utilities, thus obviating the need to maintain a large lot size for on-site utilities.

Section 1A04.3.1.b sets forth the procedure for utilizing undersized R.C.5 lots:

"The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement."

This provision is but one part of an overall and consistent statutory scheme, which recognizes the rights of individual lot owners whose lots were created before the effect of the R.C.5 zoning regulations, and, in particular, whose lots are served by

William & Jane Bissell
Case Nos.: 05-405-SPH & 05-406-SPH

public sewer and water.”

This Board was not convinced that Petitioners could not build a single home, but the questions was if they could build two homes.

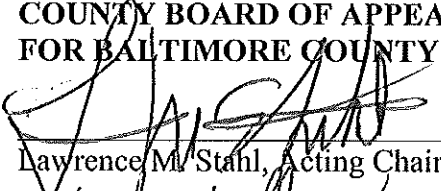
ORDER

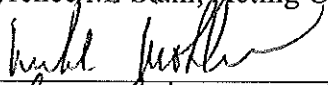
THEREFORE, IT IS THIS 23rd day of August, 2006, by the
County Board of Appeals of Baltimore County

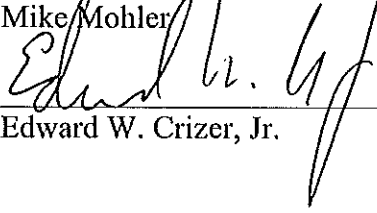
ORDERED that the Petitioner’s requests for special hearing seeking the approval of lot areas of 0.15 and 0.23, acres in lieu of the minimum requirement of 1.5 acres, a street centerline setback of 40 feet, in lieu of the required 75 feet, and property line setbacks of 10 feet and 17 feet, in lieu of the required 50 feet in a R.C.5 Zone be and is hereby **DENIED**.

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

**COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY**


Lawrence M. Stahl, Acting Chair


Mike Mohler


Edward W. Crizer, Jr.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE MEMORANDUM

TO: LYNN LANHAM
OFFICE OF PLANNING
FROM: PETER MAX ZIMMERMAN, PEOPLE'S COUNSEL PMZ
SUBJECT: IN THE MATTER OF WILLIAM & JANE BISSELL
CASE NO.: 05-405/406-SPH
DATE: NOVEMBER 8, 2005

Enclosed please find a copy of the Zoning Commissioner's decision dated April 25, 2005 along with a copy of your office's comment in opposition. Be advised that our office appealed these cases, and they are currently scheduled before the County Board of Appeals on December 7, 2005 at 10:00 a.m.

I would appreciate it if someone could be available to testify at this hearing. Please call our office at your earliest convenience.

Thank you for your consideration in this matter.

PMZ/rmw

Enclosure

*11/15/05 Lynn Lanham called; David
Pinning having left the office, she has no one
to testify (and has too much else to do).
Do you want to have Jack Pollan review these?
PMZ*

**Department of Permits and
Development Management**

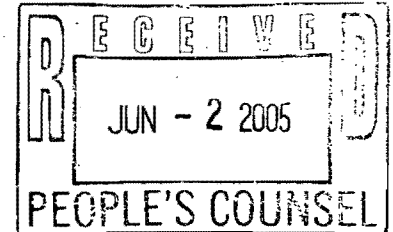
Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708



PC Involved we appealed
df/mz
Baltimore County

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

June 1, 2005



Deborah Dopkin, Esquire
409 Washington Avenue
Towson, MD 21204

Dear Mrs. Dopkin:

RE: Case: 05-405-SPH, 4034 Bay Drive

Please be advised that an appeal of the above-referenced case was filed in this office on May 4, 2005 by People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

A handwritten signature in cursive script that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. & Mrs. William Bissell, 4009 Bay Drive, Baltimore 21220
Paula Clemens, 4030 Bay Drive, Baltimore 21220
Josephine Jacobs, 19 Propeller Drive, Baltimore 21220
CBCA Commission, 1804 West Street, Ste. 100, Annapolis 21401

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



APPEAL

Petition for Special Hearing
4034 Bay Drive
NW/side of Bay Drive, 660 ft. n/east of Miami Beach Road
15th Election District – 6th Councilmanic District
Legal Owners: William & Jane Bissell

Case No.: 05-405-SPH

Petition for Special Hearing (February 11, 2005)

Zoning Description of Property

Notice of Zoning Hearing (March 2, 2005)

Certification of Publication (The Jeffersonian – March 17, 2005)

Certificate of Posting (March 19, 2005) by Linda O'Keefe

Entry of Appearance by People's Counsel (March 2, 2005)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Site Plan
2. Photographs
3. Deeds from 1957 to Date
4. Amended Site Plan (moving home west 45' c/l – setback 30')
5. Dept. of Assessments Account – Real Property Search
6. Aerial View

Protestants' Exhibits:

1. Zoning Map

Miscellaneous (Not Marked as Exhibit) – None in File

Zoning Commissioner's Order (GRANTED – April 25, 2005)

Notice of Appeal received on May 4, 2005 from People's Counsel of Baltimore County

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Deborah Dopkin, 409 Washington Avenue, Towson 21204
Mr. & Mrs. William Bissell, 4009 Bay Drive, Baltimore 21220
Paula Clemens, 4030 Bay Drive, Baltimore 21220
Josephine Jacobs, 19 Propeller Drive, Baltimore 21220
CBCA Commission, 1804 West Street, Ste. 100, Annapolis 21401

date sent June 1, 2005, klm



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 4, 2005

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

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
William Bissell, et ux. - Petitioners
4034 Bay Drive & 3921 Briar Point Drive
Case No.: 05-405-SPH & 05-406-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law and Order dated April 25, 2005 by the Baltimore County Zoning Commissioner in the above-entitled case

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

RECEIVED
MAY 04 2005
Per CLB

PMZ/CSD/rmw

cc: Deborah C. Dopkin, Esquire

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
NW/S Bay Drive, 660' NE of the c/l		
Miami Beach Road	*	ZONING COMMISSIONER
(4034 Bay Drive); and		
E/S Briar Point Drive, 600' NE of the c/l	*	OF BALTIMORE COUNTY
Miami Beach Road		
(3921 Briar Point Drive)	*	Case Nos. 05-405-SPH and
15 th Election District		05-406-SPH
6 th Council District	*	
William and Jane Bissell	*	
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing filed by the owners of the subject abutting properties, William and Jane Bissell, through their attorney, Deborah C. Dopkin, Esquire. Since the properties are owned by the same person and abut one another, the two cases were heard contemporaneously. In both instances, relief is requested, pursuant to Section 1A04.3.B.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit development of each lot with a single-family dwelling. Case No. 05-405-SPH relates to the property known as 4034 Bay Drive. The Petitioners seek approval of a lot area of 0.23 acres in lieu of the minimum required 1.5 acres, a street centerline setback of 40 feet in lieu of the required 75 feet, and property line setbacks of 10 feet and 17 feet in lieu of the required 50 feet each. In Case No. 05-406-SPH, the Petitioners request similar relief for the abutting property to the rear, known as 3921 Briar Point Drive. In this regard, the Petitioners seek approval of a lot area of 0.15 acres, a street centerline setback of as little as 25 feet and property line setbacks of 10 feet and 17 feet. Both properties and the requested relief are more particularly described on the site plan submitted in each case and respectively marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requests were William Bissell, property owner, Donald Hicks and Paul Naldrett Professional Engineers with Hicks Engineering Associates, Inc., the consultants who prepared the site plan for these properties, and Deborah C. Dopkin, Esquire, attorney for the Petitioners. Appearing as Protestants/interested

citizens were Paula Clemens, who resides at 4030 Bay Drive, and Josephine Jacobs, who appeared on behalf of her son who resides at 3915 Briar Point Drive.

By agreement of those in attendance, Ms. Dopkin proffered much of the testimony and evidence that would be presented. The proffered testimony disclosed that the subject properties are abutting lots located at the end of Bay Drive at it's intersection with Briar Point Road and Burke Avenue in Bowley's Quarters. Located on a peninsula, both lots enjoy water views of the Chesapeake Bay to the east and Goose Harbor to the north. The property known as 4034 Bay Drive contains a gross area of 0.23 acres, more or less, zoned R.C.5, and is approximately 60 feet wide along Bay Drive and 187 feet deep; however, tapers to a width of 55 feet across the rear property line. The abutting property known as 3921 Briar Point Road, has approximately 50 feet of frontage along that road and is 130 feet deep; however, widens slightly to a width of 55 feet across its rear property line abutting 4034 Bay Drive. Given the unique configuration of Bay Drive, both lots are corner lots. It is also to be noted that each lot is served by public water and sewer.

The Petitioners have owned the properties for a number of years and live in the vicinity at 4009 Bay Drive. Testimony indicated that Mr. Bissell wishes to convey one lot to each of his children so that they can live near him. It was also indicated that Mr. Bissell is a builder by trade and that he intends to build the houses. Each house will be approximately 30' wide and 52' deep. Thus, given the fact that the lots are generally less than 55' wide, the proposed dwellings will have inadequate setbacks from the side property lines and adjoining street centerline. However, it was indicated that the homes to be built would not be out of scale with the pattern of development in the neighborhood.

As noted above, the Petitioners seek relief, pursuant to Section 1A04.3.B.1.b, which allows altering the minimum size for lots of record that existed before September 2, 2003. Testimony indicated that each lot is a separate but undersized lot based on the current R.C.5 regulations. The R.C.5 zoning regulations require a minimum setback of 50 feet to any side property line, 75 feet from a street centerline, and a minimum lot area of 1.5 acres. Thus, it is clear

that the subject lots are undersized by today's standards. Although each lot has been in existence, by recorded deed conveyances, since at least 1957, they are not within a subdivision. The subject lots are 0.23 and 0.15 acres in area respectively, while the required size is 1.5 acres. The regulations are not precise as to whether the setback regulations may also be altered in the same hearing. However, if only the size may be altered, the Petitioner would have to file for both a variance and special hearing for essentially the same relief. This would double the cost to the Petitioner for filing fees and postings without any additional information given to the public regarding the relief requested. Consequently, I find that the County Council intended that the setback regulations are also subject to the provision allowing the size of the lot to be altered.

I also note that the regulations impose "Performance Standards" of Section 1A04.4A on all residential development including single lots of record and minor subdivisions. The regulations indicate that the Office of Planning should receive information that will allow it to make findings regarding these standards, and transmit these findings to the Hearing Officer who is then bound by the findings. Presumably, this means the Office of Planning's findings would be available for the special hearing to alter lot size and setbacks. Unfortunately, the process involving minor subdivisions and single lots does not work this way. Nonetheless, Petitioner agreed to submit plans, consistent with the design standard requirements, to the Office of Planning at the time of permit application.

Mrs. Clemens, who resides two doors away at 4030 Bay Drive, expressed concern that she would lose her view of the water if the house on Bay Drive were constructed where proposed. Both Mrs. Clemens and Mrs. Jacobs (who happen to be sisters) expressed a concern that the houses should be staggered on the lots so as not to obstruct water views from houses lying to the south or west and also to add a differentiated streetscape. Mr. Bissell indicated a willingness to shift the Bay Drive house further back on its lot; however, was reluctant to move the house on Briar Point Road. It was indicated that the owner of the immediately adjacent lot, Mr. Edwards, had no objections to the proposed location of the Briar Point Road house. Mrs. Clemens was satisfied with

the revised proposal, which is more particularly shown on the redlined drawing submitted into evidence as Petitioner's Exhibit 4. As shown thereon, the Bay Drive house will now have an 85-foot front street setback. However, given the tapering of the lot towards the rear, the house will now have a (west) property line setback of 14 feet and a street centerline setback of 30 feet in lieu of the originally proposed 17 feet and 40 feet, respectively.

An adverse Zoning Advisory Committee (ZAC) comment was received from the Office of Planning in which they recommended a denial of the request. The Planning Office noted that the Petitioners own both lots and thus do not qualify for relief under Section 304.1.C; however, believe that the lots should be combined to form one building lot.

Considering all of the testimony and evidence presented in this case, I find that the lots were created in 1957, well prior to the effective date of the R.C. zoning regulations. Thus, I find that the current regulations impact these properties differently from lots laid out in conformance to the R.C. regulations. Therefore, these lots are unique in a zoning sense. I also find that strict enforcement of the regulations would impose a hardship on the Petitioners, as they would not be able to use the lots for a permitted purpose. I further find that the proposed development is consistent with the neighborhood and that there will be no adverse impacts to adjacent properties.

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

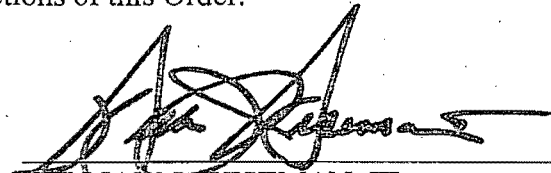
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of April 2005 that the Petition for Special Hearing filed in Case No. 05-405-SPH to approve a lot area of 0.23 acres in lieu of the minimum required 1.5 acres, a street centerline setback of 30 feet in lieu of the required 75 feet, and property line setbacks of 10 feet and 14 feet in lieu of the required 50 feet each, as amended, for a proposed dwelling on the property known as 4034 Bay Drive, in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 05-406-SPH seeking approval of a lot area of 0.15 acres, a street centerline setback of as little as 25

feet in lieu of the required 75 feet, and property line setbacks of 10 feet and 11 feet, in lieu of the required 50 feet for a proposed dwelling on the property to be known as 3921 Briar Point Drive, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; subject, however, to the following restrictions:

- 1) The Petitioners may apply for their building permits 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) Prior to the issuance of any permits, the Petitioners shall submit building elevation drawings of the proposed dwellings to the Office of Planning for review and approval. Both dwellings shall be constructed in accordance with the architectural design and landscaping requirements set forth in the Office of Planning comments dated March 14, 2005, a copy of which is attached hereto and made a part hereof.
- 3) Compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, pursuant to the ZAC comments submitted by DEPRM, dated March 17, 2005, and the Bureau of Development Plans Review, dated March 8, 2005, and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments are attached hereto and made a part hereof.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

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 25, 2005

Deborah C. Dopkin, Esquire
409 Washington Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING
NW/S Bay Drive, 660' NE of the c/l Miami Beach Road
(4034 Bay Drive); and
E/S Briar Point Drive, 600' NE of the c/l Miami Beach Road
(3921 Briar Point Drive)
15th Election District – 5th Council District
William Bissell, et ux - Petitioners
Cases Nos. 05-405-SPH and 05-406-SPH

Dear Ms. Dopkin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing have 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. & Mrs. William Bissell
4009 Bay Drive, Baltimore, Md. 21220
Ms. Paula Clemens, 4030 Bay Drive, Baltimore, Md. 21220
Ms. Josephine Jacobs, 19 Propeller Drive, Baltimore, Md. 21220
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
Development Plans Review, DPDM; DEPRM; Office of Planning
People's Counsel; Case File

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





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

4034
BAY DRIVE

MAP 98

PARCEL 125

which is presently zoned

RC 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

A LOT HAVING AN AREA OF 0.23 ACRES WITH STREET CENTERLINE
SETBACKS OF 40 FEET; AND PROPERTY LINE SETBACKS OF 10 FEET
PURSUANT TO SECTION 1. A 04.3.B.1.6

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

State

Zip Code

Representative to be Contacted:

Name

Address

City

State

Telephone No.

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Case No. 05-405 SPH

Reviewed By

Date

2.11.05

**Department of Permits and
Development Management**

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



Baltimore County

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

March 29, 2005

William Bissell
Jane Bissell
4009 Bay Drive
Baltimore, Maryland 21220

Dear Mr. and Mrs. Bissell:

RE: Case Number: 05-405-SPH, 4034 Bay Drive

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 11, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Paul M. Naldrett Hicks Engineering 200 E. Joppa Road, Ste. 402 Towson 21286

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



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



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

Maryland Department of Transportation

Date: 2.25.05

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

RE: Baltimore County
Item No. 405 JCM

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 8, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For March 7, 2005
Item No. 405

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

The minimum right-of-way for all public roads in Baltimore County is 40 feet. Setback shall be modified accordingly.

The right-of-way shall be deeded over to Baltimore County at no cost.

The flood protection elevation for this site is 11.2 feet.

A 100-foot centerline radius for Bay Drive shall be shown.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the county.

RWB:CEN:jrb

cc: File

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 24, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: February 28, 2005

Item No.: (405)407, 410-415

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.

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

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

cc: File

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



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
PDM

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

DATE: March 17, 2005

SUBJECT: Zoning Item # 05-405
Address 4034 Bay Drive

Zoning Advisory Committee Meeting of February 28, 2005

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

- 1.) This property is located within the Limited Development Area Regulations, including the 25% maximum impervious surface limit and the 15% minimum tree cover limit (equal to 3 trees for a lot of this size).

Reviewer: Martha Stauss

Date: March 17, 2005

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 14, 2005

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

SUBJECT: 3921 Briar Point Road and 4034 Bay Drive

INFORMATION:

Item Number: 5-405 and 5-406

Petitioner: William and Jane Bissell

Zoning: RC 5

Requested Action: Special Hearing/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject requests and has determined that the petitioner owns both of the subject properties and therefore does not meet the standards stated in Section 304.1.C of the BCZR. Both lots should be combined to form one building lot. The petitioner's requests associated with 3921 Briar Point Road (Case 5-406) should be **DENIED**.

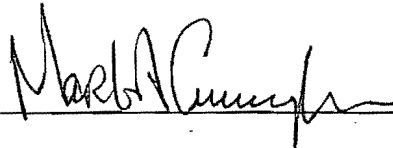
This office does not oppose the petitioner's requests associated with 4034 Bay Drive (Case 5-405). However, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

1. Photographs of the existing dwellings on the adjoining lot(s).
2. Submit building elevations of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size, exterior building materials, color, and architectural detail as that of the existing dwellings in the area.

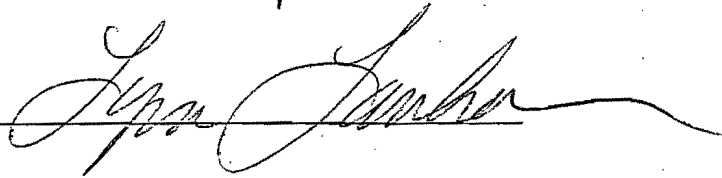
3. Orient the front of the proposed dwelling towards Bay Drive and incorporate prominent entries and porches or stoops in the front building façade.
4. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
5. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
6. Ensure that exterior of all buildings use the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
7. Provide landscaping along the public road(s).

For further questions or additional information concerning the matters stated herein, please contact David Pinning in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:



MAC/LL

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
4034 Bay Drive; NW/side Bay Drive, *
660' NE Miami Beach Road * ZONING COMMISSIONER
15th Election & 6th Councilmanic Districts *
Legal Owner(s): William & Jane Bissell * FOR
Petitioner(s) * BALTIMORE COUNTY
* 05-405-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

RECEIVED

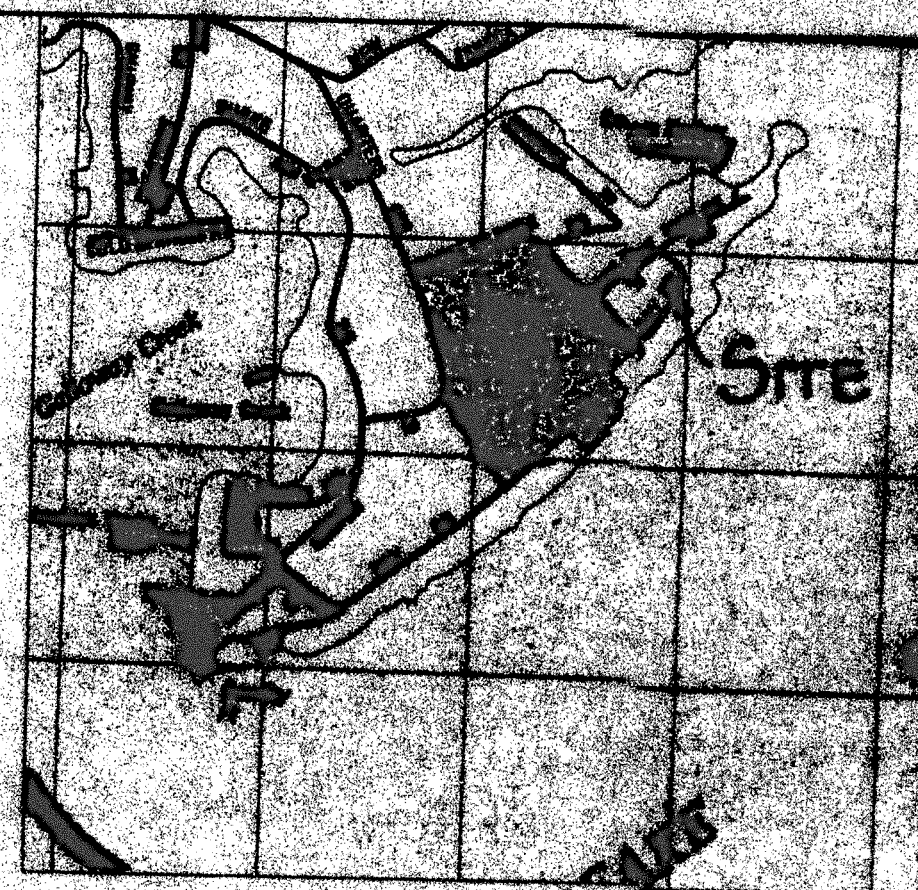
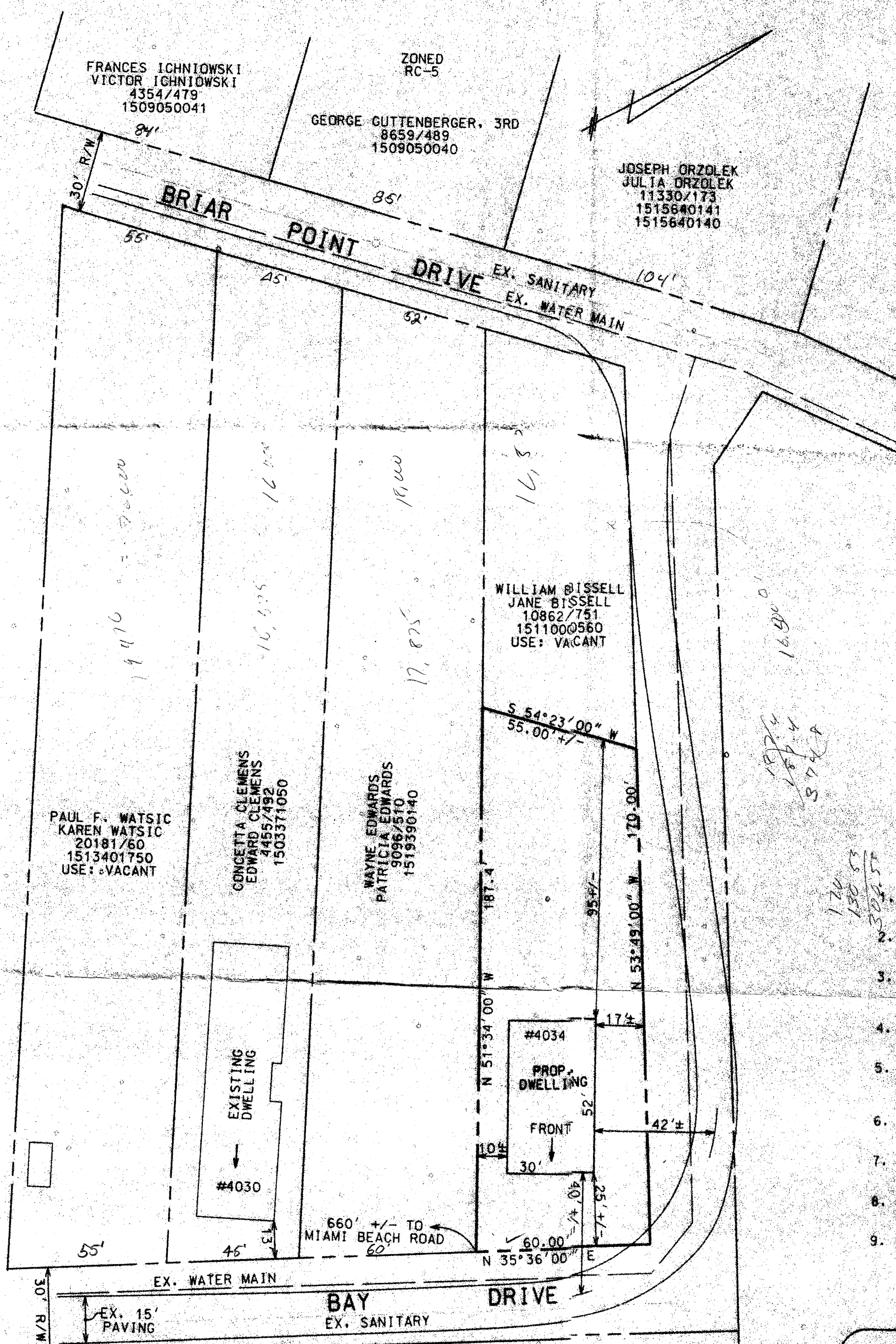
Per. *Kln*

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of March, 2005, a copy of the foregoing Entry of Appearance was mailed to Paul Naldrett, Hicks Engineering, 200 E. Joppa Road, Suite 402, Towson, MD 21286, Representative for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



VICINITY MAP
SCALE: 1"=2000'

SITE DATA

SITE AREA: 0.23 ACS. +/-
DEED REFERENCE: 10862/751
TAX ACCT. NO.: 1511000230
EX. ZONING: RC 5
ZONING MAP: NE 2L
COUNCILMANIC DISTRICT: 6
ELECTION DISTRICT: 15
MAXIMUM DW HEIGHT: 35 FEET

GENERAL NOTES

1. THE SUBJECT PROPERTY HAS NO PREVIOUS ZONING CASE HISTORY.
2. THE SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
3. THE SUBJECT PROPERTY IS NOT A HISTORICAL SITE NOR DOES IT LIE WITHIN A HISTORICAL DISTRICT.
4. A PORTION OF THE SUBJECT PROPERTY LIES WITHIN THE C.B.C.A.
5. THE PROPERTY LIES WITHIN THE 100 YR FLOOD PLAIN, FLOOD ZONE A-10 PER FEMA FIRM PANEL #240010-0465-B.
6. THIS LOT IS NOT IN A SUBDIVISION AND HAS BEEN RECORDED UNDER DEED SINCE 1957 OR EARLIER.
7. THE ADJACENT ROADS ARE NOT COLLECTOR ROADS NOR DO THEY LEAD TO A COLLECTOR ROAD.
8. APPLICANT AWARE OF SECTION 1A04.4 B02R REQUIREMENTS AS OF THIS ZONING HEARING FILING.
9. FENCES ARE NOT ALLOWED WITHIN 50 FEET OF A ROAD PER SECTION 1A04.4.03

H Hicks Engineering Associates, Inc.
ENGINEERS, SURVEYORS & PLANNERS
200 EAST JOPPA ROAD - SUITE 402
TOWSON, MARYLAND 21286-3180
(410) 494-0001 FAX: (410) 821-8890

OWNER: MR. WILLIAM BISSELL
MRS. JANE BISSELL
4009 BAY DRIVE
BALTIMORE, MD
21220-4036
410-335-2311

PROJECT TITLE:

BISSELL PROPERTY
#4034 BAY DRIVE

DRAWING TITLE:

PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE

JOB NO.: 21634	DRAWING NO.:
DRAWN BY: JPM	C-1
CHECKED BY: PMN	
DATE: FEBRUARY 22, 2005	
SCALE: 1"=30'	SHEETS PER SET: 1 OF 1

CHARLES PICCININI
MICHELE PICCININI
11241/642
1511870130

