

IN RE: DEVELOPMENT PLAN HEARING
E/S Woodbine Avenue, N Burnbrae Road
9th Election District
5th Councilmanic District
(BURNBRAE HOMESTEAD)

David Loizeaux, Brown & Craig
Developer/Petitioner

* BEFORE THE
* HEARING OFFICER
* OF BALTIMORE COUNTY
* Case Nos. IX-762 & 05-426-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, this matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration filed jointly by the legal owners of the subject property, David Loizeaux, Brown & Craig, Petitioners and the West Towson Neighborhood Association ("Association") and certain individual property owners.

WHEREAS, the Petitioners originally requested approval of a Development Plan known as "Burnbrae Homestead" and certain variances for the proposed the development of the subject property into 5 single-family dwellings. The subject property is located on the east side of Woodbine Avenue, north of Burnbrae Road in the Towson area of Baltimore County.

WHEREAS, a decision regarding the Redline Development Plan and variance request was signed by Order of this office dated May 11, 2005 with conditions.

WHEREAS, on June 10, 2005, the Counsel for the Petitioner and Counsel for the Association filed a timely Motion for Reconsideration of this Deputy Commissioner's Order.

WHEREAS, in their Motion for Reconsideration, the parties jointly request and agree that the Deputy Zoning Commissioner reconsider and address the following items:

Deputy Zoning Commissioner's Condition No. 5: There will be no rental to the public of the apartment on the third floor of the existing home.

The parties request the removal of Condition No. 5.

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Deputy Zoning Commissioner's Condition No. 8: Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Columnar Evergreen trees at least 5 feet tall on Lot 3. In addition they will determine the location of four (4) Columnar Evergreen trees at least 5 feet tall on Lot 4. The trees shall be installed at the Developer's expense and in accordance with the directions of the Baltimore County Landscape Architect;

The parties request that Condition No. 8 be modified to read as follows:

Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Columnar Evergreen trees at least 5 feet tall on Lot 3. Mr. Loizeaux, Ms. Teubner Rhodes and the County Landscape Architect will meet on site to determine the location of four (4) Columnar Evergreen trees approximately 5 feet tall on Lot 4. The trees shall be installed at the developer's expense and in accordance with the directions of the Baltimore County Landscape Architect. Additionally, any trees located on Lots 3 and 4 that developer determines to be dead or dying shall be removed at the developer's expense.

Deputy Zoning Commissioner's Condition No. 11: The home on Lot 3 shall be set back from Woodbine Avenue 43 ft.

The parties request that Condition No. 11 be modified to read as follows:

The homes on Lots 1, 2 and 3 shall be set back from the right-of-way line of Woodbine Avenue 30, 27 and 43 ft., respectively.

Deputy Zoning Commissioner's Condition No. 7: The only utilities in the new garage on Lot 5 would be water, which would be available only to the first floor.

The parties request that Condition No. 7 be amended to read as follows:

Water service is available only on the first floor of the new garage on Lot 5 and not to the loft area of the garage.

Deputy Zoning Commissioner's Condition No. 10: The West Towson Neighborhood Association is concerned that Condition No. 10 may be misinterpreted to mean that it is responsible for the stormwater management facility.

The parties request that Condition No. 10 be clarified to indicate that the association responsible for maintenance and repair of the facility is, in fact, the "*subject property homeowners association.*"

Having considered the joint request, I will grant the changes to the Order. However, in regard to the joint request to remove Condition No. 5, that the apartment not be rented to the public, I have not found in the original case nor in this Order on Motion for Reconsideration that the apartment on

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the third floor of the home on Lot 5 is, in fact allowed under the zoning regulations. Although there are some references to use of the apartment as nonconforming in the original hearing, there has been no Petition for Special Hearing to confirm a nonconforming use nor do I grant or deny such a use in this matter.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 17 day of June, 2005, that the Motion for Reconsideration jointly filed by the Developer/Petitioners and the West Towson Neighborhood Association to amend the May 11, 2005 Order, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the request for changes concerning Condition Nos. 5, 7, 8, 10 and 11 as set forth below:

Condition No. 5 – shall be Deleted.

Condition No. 7 is amended to read as follows:

Water service is available only on the first floor of the new garage on Lot 5 and not to the loft area of the garage.

Condition No. 8 is modified to read as follows:

Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Columnar Evergreen trees at least 5 feet tall on Lot 3. Mr. Loizeaux, Ms. Teubner Rhodes and the County Landscape Architect will meet on site to determine the location of four (4) Column Evergreen trees approximately 5 feet tall on Lot 4. The trees shall be installed at the developer's expense and in accordance with the directions of the Baltimore County Landscape Architect. Additionally, any trees located on Lots 3 and 4 that developer determines to be dead or dying shall be removed at the developer's expense.

Condition No. 10 is clarified to indicate that the association responsible for maintenance and repair of the facility is, in fact, the "subject property homeowners association."

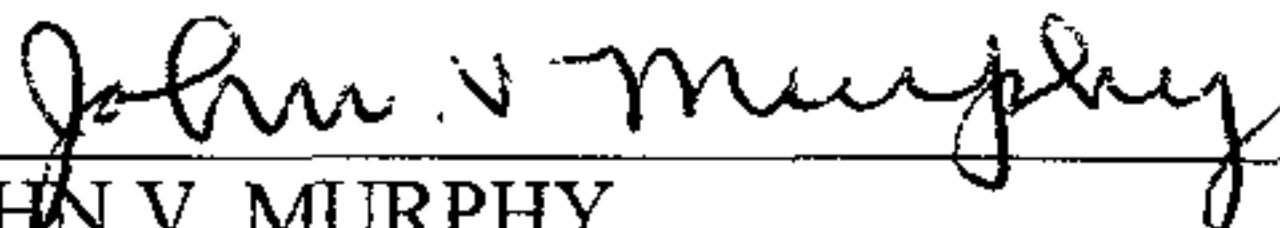
Condition No. 11 is modified to read as follows:

The homes on Lots 1, 2 and 3 shall be set back from the right-of-way line of Woodbine Avenue 30, 27 and 43 ft., respectively

be and they are hereby GRANTED.

IT IS FURTHER ORDERED, that all other terms and conditions of the May 11, 2005 decision not modified herein shall remain in full force and effect.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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Zoning Commission

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

June 17, 2005

David Karceski, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

Frank Borgerding, Esquire
409 Washington Avenue, Suite 600
Towson, MD 21204

Re: Order on Motion for Reconsideration
Hearing Officer's Case Nos. XI-762 & 05-426-A
Property: S/S of Woodbine Avenue, 80.1 ft. N
(Burnbrae Homestead)

Dear Messrs. Karceski & Borgerding:

Enclosed please find the decision rendered in the above-captioned case. The Motion for Reconsideration has been approved in accordance with the enclosed Order.

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

Very truly yours,

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

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

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



IN RE: DEVELOPMENT PLAN HEARING
E/S Woodbine Avenue, N Burnbrae Road
9th Election District
5th Councilmanic District
(BURNBRAE HOMESTEAD)

* BEFORE THE
* HEARING OFFICER
* OF BALTIMORE COUNTY
* Case Nos. IX-762 & 05-426-A

David Loizeaux, Brown & Craig
Developer/Petitioner

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, as a requested approval of a Development Plan known as "Burnbrae Homestead", prepared by G.W. Stephens, Jr. & Assoc., Inc. The Developer is proposing the development of the subject property into 5 single-family dwellings. The subject property is located on the east side of Woodbine Avenue, north of Burnbrae Road in the Towson area of Baltimore County. The particulars of the manner in which the property is proposed to be developed are more specifically shown on Developer's Exhibit No. 1, the Development Plan entered into evidence at the hearing.

In addition, the Petitioner is also requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

1. from Section 303.1, to permit a minimum front yard depth of 25 ft. in lieu of the required 50 ft. for Lot Nos. 1, 2 and 3; and
2. from Section 400.3, to allow an accessory structure 25 ft. in height in lieu of the permitted 15 ft. on Lot No. 5.

The property was posted with Notice of the hearing for the Development Plan on March 1, 2005 for 20 working days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, the property was posted with Notice of the zoning hearing on March 16, 2005 and a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on March 15, 2005, to notify any interested persons of the scheduled hearing date.

Appearing at the hearing on behalf of the Development Plan approval request were David, Christina and Alfred Loizeaux, Petitioners. In addition, Jim Markle and David Martin, professional engineers, appeared on behalf of G.W. Stephens, Jr. & Assoc., Inc., the engineering firm that

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prepared the Development Plan. Robert A. Hoffman, Esquire, represented the Petitioners.

Also in attendance were representatives of the various Baltimore County reviewing agencies; namely, Donna Thompson (Zoning Review), Rahee Famili (Development Plans Review), Walt Smith (Development Management) and Gigi Hampshire (Bureau of Land Acquisition), all from the Office of Permits & Development Management ("PDM"); R. Bruce Seeley and John Oltman from the Department of Environmental Protection and Resource Management ("DEPRM"); Mark Cunningham from the Office of Planning; and Jan Cook from the Department of Recreation & Parks.

Appearing in opposition to the requests on the first day of hearing was George L. Schnader, III who was represented by Frank Borgerding, Esquire. Tom Martel appeared as an interested citizen at the hearing. On the second day of hearing the following persons appeared in opposition to the requests: Richard Councill, Richard Parsons, Joan and James Peacock, Angela and Edward Bafford, , Chris Parts, Michael Ertel, Mark Knobloch, David Oldach, Richard Price, Loren Jensen, George Schnader, Robin and Sandra Bissell, Deborah Digges and Patrick Ring.

On the third day of hearing the following persons appeared in opposition to the requests: Peter Harrington, David Oldach, Joan and Darr Peacock, Karen Porter, Patrick and Betty Ring, Chris Parts, Debbie Shepard, Michael Ertel, Mark Knobloch and Louise T. Rhodes

Correspondence was received from adjacent property owners, Mr. and Mrs. Ring and David Oldach in opposition to the proposal from Alastair Mackay and Carol Long in support of the Developer's requests.

As to the history of the project, the Concept Plan Conference was held on June 7, 2004 and a Community Input Meeting followed on July 27, 2004 at the Towson Public Library. A Development Plan Conference was held on March 9, 2005 and a Hearing Officer's Hearing was held on March 31, 2005 in Room 106 of the County Office Building.

Developer Issues

The Developer raised no issues himself but was aware of several technical issues, which were raised by the County representatives. Specifically, the Development Plan had not been reviewed

by DEPRM. As a result, the parties requested the case be continued. On the second day of hearings, the Developer raised no issues and indicated the Development Plan met all County regulations.

County Issues

On the second day of hearings, all County agencies reviewing the Development Plan indicated that the plan meets all County regulations within their agency's province with the following highlights:

Recreation and Parks

The representative of the department indicated that the Developer's request to pay a fee in lieu of providing local open space had been approved by the Department as indicated in the March 29, 2005 letter from the Department which was introduced into the record of the case.

Office of Planning

The representative of the department indicated that his department reviewed and approved the pattern book, which describes the architectural features of the four new homes proposed by the Developer. The pattern book was entered into evidence as Developer's Exhibit 2.

Public Works

The representative of the department indicated that the parking area shown on the plan for lot # 5 on Burnbrae Road was too deep at 20 feet. The representative indicated he was concerned that people using these spaces would back out into traffic on Burnbrae Road. Instead, he recommended parallel parking in the same area. The Developer agreed and the Developer's engineer made the changes to the redline plan.

Department of Environmental Protection and Resource Management (DEPRM)

The representative of the department indicated that the Department had reviewed the Development Plan and that it met all County regulations provided storm water management facilities shown on the plan are labeled as private SWM easements. See the Department comments dated April 22, 2005, which are included in the record of the case. The Developer agreed and the Developer's engineer made the requested changes on the redline plan.

Community Issues

Mr. Borgerding raised the following issues on behalf of the community: Storm water management, setback requests, utilizing the existing garage, grading plan, and parking.

Amended Zoning Requests

On the third hearing day, the Developer indicated that, after review of the zoning regulations and Zoning Commissioner's Policy Manual regarding front yard averaging, the Developer indicated that there was no need for a front yard variance for lots 1 and 2 according to the regulations. In addition, the Developer indicated that it could move the house on Lot 3 back from Woodbine Avenue 43 feet so that the home will meet the regulations. As such, the Developer withdrew its request for the front yard setback. The request for variance for the height of the garage remained as a request.

Applicable Law

§ 32-4-228. SAME -- CONDUCT OF THE HEARING.

(a) *Hearing conducted on unresolved comment or condition.*

- (1) The Hearing Officer shall take testimony and receive evidence regarding any unresolved comment or condition that is relevant to the proposed Development Plan, including testimony or evidence regarding any potential impact of any approved development upon the proposed plan.
- (2) The Hearing Officer shall make findings for the record and shall render a decision in accordance with the requirements of this part.

(b) *Hearing conduct and operation.* The Hearing Officer:

- (i) Shall conduct the hearing in conformance with Rule IV of the Zoning Commissioner's rules;
- (ii) Shall regulate the course of the hearing as the Hearing Officer considers proper, including the scope and nature of the testimony and evidence presented; and
- (iii) May conduct the hearing in an informal manner.

§ 32-4-229. SAME -- DECISION OF THE HEARING OFFICER.

(a) *Final decision.*

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- (1) (i) The Hearing Officer shall issue the final decision within 15 days after the conclusion of the final hearing held on the Development Plan.
- (iii) The Hearing Officer shall file an opinion which includes the basis of the Hearing Officer's decision.

(2) If a final decision is not rendered within 15 days:

- (i) The Development Plan shall be deemed approved as submitted by the applicant; and
- (ii) The Hearing Officer shall immediately notify the participants that:
 1. The Development Plan is deemed approved; and
 2. The appeal period began on the fifteenth day after the conclusion of the final hearing.

(b) *Appeals.* A final decision of the Hearing Officer on a Development Plan may be appealed to the Board of Appeals in accordance with Part VIII of this subtitle.

(c) *Conditions imposed by Hearing Officer.*

- (1) This subsection does not apply to a Development Plan for a Planned Unit Development.
- (2) In approving a Development Plan, the Hearing Officer may impose any conditions if a condition:
 - (i) Protects the surrounding and neighboring properties;
 - (ii) Is based upon a comment that was raised or a condition that was proposed or requested by a participant;
 - (iii) Is necessary to alleviate an adverse impact on the health, safety, or welfare of the community that would be present without the condition; and
 - (iv) Does not reduce by more than 20 %:

1. The number of dwelling units proposed by a residential Development Plan in a DR 5.5., DR 10.5, or DR 16 zone; or
2. The square footage proposed by a non-residential Development Plan.

(3) The Hearing Officer shall base the decision to impose a condition on factual findings that are supported by evidence.

Prior Law Still Applicable Section 26-206 of the B.C.Z.R. Development Plan Approval.

- (b) The hearing officer shall grant approval of a Development Plan that complies with these development regulations and applicable policies, rules and regulations promulgated pursuant to section 2-416 et seq. of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein.

(1)

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Section 307 of the B.C.Z.R. – *Variances*.

“The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

Testimony and Evidence

Mr. Martin, a landscape architect retained by the Developer, was accepted as an expert witness and testified that this Development Plan involves re-subdivision of the property known as #8 Burnbrae Road. The property contains approximately 2.1 acres, is zoned DR 3.5, and is improved by a large single-family dwelling. He noted that the area of the property would allow 7 dwellings but that the Developer is proposing only four new homes while retaining the exiting home on a fifth lot. He indicated that the subject property was part of an original subdivision recorded in 1929. The exiting home was built in 1930, has formal gardens, terraces and ornamental trees and shrubs. There is an existing garage that is proposed to be razed and replaced by a new garage closer to the existing home. Access to the existing home today is from Woodbine Avenue. If the plan is approved, access would also be from Burnbrae Road as shown on Developer's Exhibit 1, the Redline Development Plan.

Three homes would front on Woodbine Avenue with direct access to that street, while the fourth new home would be built to the east of the existing home with access to Woodbine Avenue via a turn-around drive that would also serve garages of the other new homes and the existing home.

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The existing stone wall on the south side of the property would be maintained. He opined that the Redline Development Plan meets all applicable county regulations and should be approved.

David Loizeaux, who owns the property, testified that he would like to restore the existing home which has been in his family since it was built in 1916. He noted that his family originally subdivided a 22-acre tract that included the Burnbrae subdivision, which surrounds the present property. He would like to move from his present home to the renovated home on Lot 5. In addition, he indicated that the third floor of the existing home had been converted to an apartment in 1929 and had been occupied by family members since that time. He would like to continue to have this apartment available for his daughter who now lives in the apartment. He admitted that this apartment had never been inspected by the County nor does it have a fire escape or separate entrance.

He indicated that the four new homes would be architecturally compatible with the existing home and the neighborhood. See photographs of the neighborhood, Developer's Exhibit 4 and Pattern Book Exhibit 2. He testified that the new garage would serve the existing home and would be in the Dutch Colonial style. This would make it compatible with the existing home and as such it would have a roofline 23 ft. high. This will provide a two-car garage and some storage space on the second floor. The only utility in the garage would be water for the garden. He noted that he would try to make the entrance on Burnbrae Road workable for guests once the home is renovated, even though the existing home is primarily entered from the parking area connected to Woodbine Avenue.

He was aware that the community expressed concern about parking on Burnbrae Road but he felt the parking spaces just off Burnbrae would adequately accommodate guests. He acknowledged that #10 Burnbrae receives storm water from his property but with the new development this water can be captured by the stormwater management facilities to greatly reduce the present problem. He

also agreed to bury the stormwater management facility, at substantial costs, after having heard neighbors complain about the originally proposed open system.

All agreed that sidewalks on Woodbine Avenue should not be required as there are no other sidewalks on the road.

The protestants called Richard Price, Registered Professional Engineer, who was accepted as an expert witness in regard to stormwater management. He testified that he reviewed the Developer's storm water management plan and calculations, found that generally they follow the applicable regulations except in four areas. See Protestants' Exhibit 2, the Developer's Stormwater Management Computations for Burnbrae Homestead dated March 7, 2005, hereinafter called the "stormwater plan". He testified that the stormwater plan is intended to handle 100 years storms both from quality and quantity standpoints. First, he complained that the stormwater plan incorrectly describes the drainage on the property as a single system when in fact there is a ridge line which bisects the property dividing storm water into two directions each of which has to be managed. Secondly, he indicated that the plan was incorrect in the way it described water coming off the Ring property to the north, as the drainage area on the Ring property was larger than shown and failed to account for down spouts and piping to Woodbine Avenue of water falling on the Ring home. Thirdly, he indicated that the plan failed to account for the patio on Lot 4, which is impervious material and water runoff from the patio must be but is not managed in the plan. Finally, he showed a mathematically incorrect calculation of the size of the buried stormwater management holding container, as the drainage area to be managed was in fact 1.47 acres but the calculation showed only 1.2 acre. See Appendix D, sheet 1 of 3 of Protestants' Exhibit 2. He indicated that these errors meant that the buried holding tank was 1000 cu. ft. too small to handle the storms required by the regulations. The tank is shown as having 9000 sq. ft. capacity.

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In rebuttal, the Developer called James Markle, registered professional engineer, to testify regarding the proposed stormwater management system. He was accepted as an expert witness. He testified that he or those he supervises designed the stormwater management system and he disputed the four assertions of Mr. Price. However, along with other areas of agreement following, the Developer agreed in settlement of the dispute regarding storm water to increase the size of the holding tank from 9000 cu ft. to 10,000 cu. ft.

In addition, after extended settlement discussions, the Developer agreed:

1. that there would be no rental to the public of the apartment on the third floor of the existing home,
2. that the stonewall and steps shown on the Redline Development Plan will be maintained for at least 10 years,
3. that there will be no further subdivision of lot 5 by lot line adjustment but rather that any further subdivision could occur only after public hearing; and
4. that there will be no water service to the garage above the first floor and no occupancy under any circumstance.

In return, the community agreed that they would not oppose the Development Plan and that internal lot line adjustments can be made among lots 1 through 5 without public hearing.

The parties, however, agreed to disagree regarding the portion of Burnbrae Road approximated 273 ft. long under which the 24 inch outfall pipe from the storm water management system will conduct storm water to the outfall at the bridge at Burnbrae Road. The community wants the whole paved surface of this portion of Burnbrae Road repaved at the Developer's expense after the 24-inch pipe is installed. The Developer contends there is no regulation requiring the whole roadbed disturbed by installation of the pipe to be repaved. The parties agreed to disagree regarding the variances requested by the Developer.

In support of the Developer's position regarding patching rather than repaving Burnbrae Road, the Developer re-called James Markle who opined that repairing the paving under which utilities are buried requires a temporary patch of the pavement, 90 days to let the earth settle, and then the final patch. He opined that repaving the entire length would cost approximately \$100,000

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as opposed to the two step patch system, which would cost approximately \$15,000. He further opined that there is no County regulation that requires repaving the whole width.

Mr. Jensen testified in support of the community's request to repave the whole width of the road. He is the adjacent property owner most affected by installing the pipe under the road. He recalled the dangerous conditions he sees at the bend in Burnbrae near his home for heavy vehicles, particularly under adverse weather conditions. He indicated that this section of the road was repaved by the County fairly recently and that water, gas and sewer utilities are already in the roadbed. He stated that these utilities will have to be moved to allow the stormwater pipe to go in, that the road is made of concrete approximately 18 inches thick, and that he would like concrete and not an asphalt patch installed by the Developer to uphold the integrity of the roadbed. Angela Bafford testified that she sees little traffic on Burnbrae, has never seen an accident at the bend, and that Mr. Jensen is only interested in aesthetics of the road rather than its safety.

Richard Parsons, representing West Towson Community Association, and who lives nearby indicated that his Association agreed that there be no sidewalks on Woodbine Road. In regard to the variance requests, he testified in opposition to the request indicating that there is nothing unique from a zoning standpoint about the property, and that there is no hardship on the owner if the setback regulations were strictly enforced as the plan can be adjusted to meet the regulations. He indicated that all of the houses on Woodbine Avenue are setback approximately 50 ft. and that the 25 ft. setback would not be in keeping with the community. If allowed, this would make the front yards of the new homes substantially smaller than those of the neighborhood. He took no position regarding the request for height variance for the new garage, but recommended that only electrical utilities be allowed in the garage. He admitted that the existing garage to be razed is two-story.

Deborah Digges, who owns the property across Woodbine Avenue from Lot 3, testified that setbacks from Woodbine Road for the homes on Lots 1, 2 and 3 are her principal concerns. She

indicated the requested setbacks would not be in keeping with the neighborhood. She objected to keeping the size of Lot 5 large as shown. She contends that if this lot is reduced in size there will be no need for these setback variances. She presented a petition signed by 33 or 35 nearby homeowners opposing the setback variances. See Protestants' Exhibit 3. She admitted that there were three homes in the area with setbacks from the street less than the 50 foot regulations, although she disputed the relevance of the setbacks of the two homes on Burnbrae because this issue is about setbacks on Woodbine.

Mr. Ring, who owns the property adjacent to Lot 3, testified that his home is 55 feet from Woodbine Avenue and he objects to locating the house on Lot 3 so far forward that his view of Woodbine will be obstructed. He requested that setbacks on Woodbine remain consistent.

Mr. Oldach, whose home is physically below the subject property, related the problems that he has had with stormwater from the subject property flooding his home. He supported Mr. Jensen's call that the whole roadway of Burnbrae be repaved and not just patched, and opposed the setback variance requests.

On the third hearing day, Mr. Hoffman clarified an issue regarding the paving of the parking pads on Burnbrae Road that will serve Lot 5 with the existing house. Initially, these pads were described as porous paving which indicated porous asphalt or concrete. However, Mr. Loizeaux would like to consider brick pavers on sand instead as a more attractive architectural feature. Mr. Hoffman indicated that the County would agree to brick and sand only if the owner of Lot 5 agreed to maintain the pads. Mr. Loizeaux agreed.

Again on the third hearing day, the Developer withdrew the request for front yard setback variances on Lots 1, 2 and 3. Mr. Karceski indicated that the front yard averaging requirement of Section 303.1 of the BCZR does not apply to this situation for Lots 1 and 2 because the house at #2 Burnbrae does not face Woodbine, but rather faces Burnbrae. In addition, the house on Lot 3 can

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be moved back from Woodbine 43 feet and thus meet the regulations. Consequently, the Developer withdrew the request for front yard setback. Nevertheless, the Developer indicated that the front yard setback for the house on Lot 1 would be 30 feet, the front yard setback for the house on Lot 2 would be 27 feet and again the front yard setback for the house on Lot 3 would be 43 feet.

The parties indicated that they had reached a settlement on the remaining request for variance, i.e. the height of the proposed garage. That agreement had the following terms:

1. the community would support the request for variance;
2. the new garage would be used only for storage and not as a dwelling;
3. the only utilities in the new garage would be water which would be available only on the first floor;
4. that Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line of 10 Columnar Evergreen trees at least 5 feet tall on Lot 3 and four Columnar Evergreen trees at least 5 feet tall on Lot 4; and
5. The buried stormwater holding tank and sand filter will be inspected by a qualified technician every five years and necessary maintenance and/or repair performed according to the inspection report at the homeowner association's expense.

Findings of Fact and Conclusions of Law

Variance

The Petitioner requests that I approve the height of the proposed garage to be 23 feet in lieu of the required 15 feet. I find that there are special conditions or circumstances that exist which are peculiar to the land or structure, which is the subject of the variance request. The existing house is Dutch Colonial Style with a distinctive roof line. The Developer would like to match the style in the new garage. This is a valuable architectural feature. Therefore, in this case the peculiar structure is the existing home on Lot 5. I further find strict compliance with the Zoning Regulations

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for Baltimore County would result in practical difficulty or unreasonable hardship. Unless the variance is granted the garage can not be made to match the existing home. No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of this variance from height regulations as the garage will not be used for human habitation. I also find that this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. By agreement the community supports the variance request. Therefore I shall grant the variance.

Development Plan

Regarding the paving vs. patch issue for the roadbed of Burnbrae Road under which the 24 inch storm water pipe will be laid, I understand Mr. Jensen's request to repave and not simply patch the entire 273 feet of street. However, I am most reluctant to impose a new non-standard condition on the Developer that may conflict with standard Public Works Department policy applicable around the County. Frankly, I do not know what that policy is. The Developer tells me it is to patch the hole with asphalt in a two step process. However, Mr. Jensen tells me the roadbed is concrete. Perhaps the County requires patching with concrete.

In addition, there was testimony about how wide the ditch in the roadbed would be as the result of installing a 24 inch pipe. I do not know whether, as Mr. Jensen suggests, utilities under Burnbrae Road will have to be relocated which will widen the area disturbed substantially. I do not know how wide a cut can be per County regulations before full repaving is required. Perhaps the County will require the roadbed to be restructured in some places, which will burden the Developer much more than mere repaving. Again I do not know. I suspect that decisions on whether to restructure, repave or simply patch are made by the County on a case by case basis with technical reasons to support County directions.

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5/11/05
RCS

My point is I do not want to impose some condition that will conflict with the normal Public Works direction in this regard. I trust that Mr. Jensen will contact the County at the appropriate time to express his desires as to how the roadbed should be repaired. However, I do not believe I should impose some arbitrary condition as to whether to patch or not to patch that could have unforeseen consequences for all in this matter.

Considering all the testimony and evidence presented at the hearing, I find that the Development Plan complies with the development regulations and applicable policies, rules and regulations promulgated pursuant to Section 3-7-203 et seq. of the Baltimore County Code. I further find that the final approval of a plan is to be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. I will approve the Redline Development Plan subject to conditions

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 11 day of May, 2005, that the Redline Development Plan known as "Burnbrae Homestead", submitted into evidence as "Developer's Exhibit No. 1", be and is hereby APPROVED subject to the following conditions:

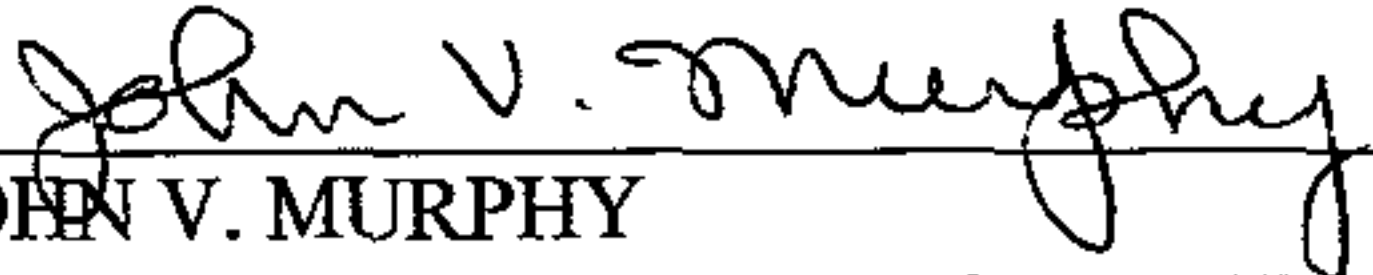
1. That the stone wall and steps shown on the Redline Development Plan on Lot 5 will be maintained for at least 10 years by the owner of Lot 5;
2. There will be no further subdivision of Lot 5 by lot line adjustment, but rather that any further subdivision could occur only after public hearing;
3. There shall be no sidewalks on Woodbine Avenue;
4. The paving of the parking pads on Burnbrae Road, which will serve Lot 5 with the existing house, shall either consist of porous paving or brick pavers on sand. However, if the latter is chosen, then the owner of Lot 5 shall maintain the parking pads;
5. There will be no rental to the public of the apartment on the third floor of the existing home;
6. There will be no occupancy or commercial use of the new garage under any circumstance;
7. The only utilities in the new garage on Lot 5 would be water which would be available only on the first floor;

8. Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Columnar Evergreen trees at least 5 feet tall on Lot 3. In addition they will determine the location of four (4) Columnar Evergreen trees at least 5 feet tall on Lot 4. The trees shall be installed at the Developer's expense and in accordance with the directions of the Baltimore County Landscape Architect;
9. The buried stormwater holding tank shall have at least 10,000 cu. ft. capacity;
10. The buried stormwater holding tank and sand filter will be inspected by a qualified technician every five years, and necessary maintenance and/or repair performed according to the inspection report at the homeowner association's expense; and
11. The home on Lot 3 shall be set back from Woodbine Avenue 43 feet.

IT IS FURTHER ORDERED, that the Developer's request for variance from Section 400.3, to allow an accessory structure 25 ft. in height in lieu of the permitted 15 ft. on Lot No. 5., be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Developer's request for variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) Section 303.1, to permit a minimum front yard depth of 25 ft. in lieu of the required 50 ft. for Lot Nos. 1, 2 and 3; is hereby DENIED as Moot since the Developer withdrew these requests.

Any appeal from this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code and the applicable provisions of law.


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

RECEIVED FOR PLANNING
5/11/05
Ray

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

May 11, 2005

Robert A. Hoffman, Esquire
David Karceski, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

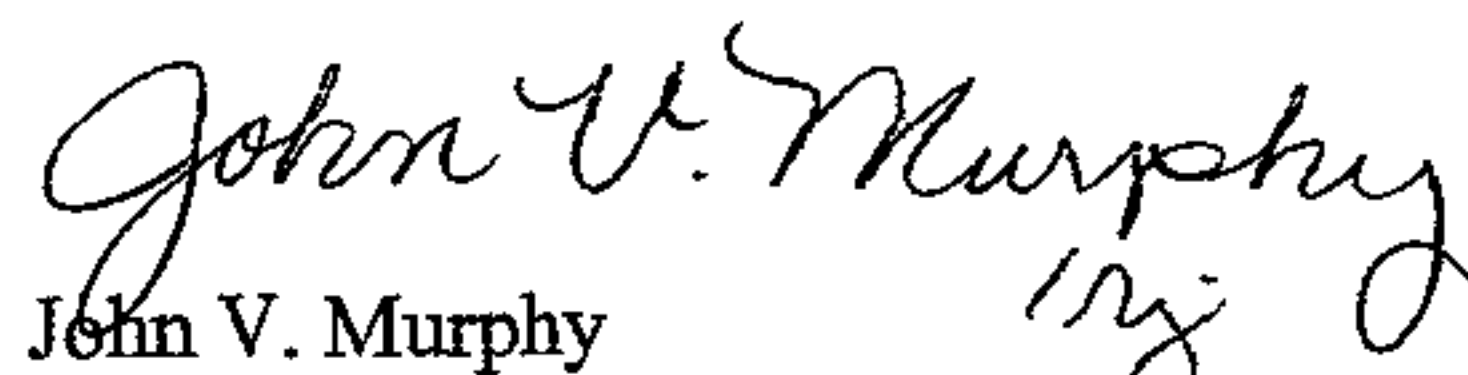
Re: Hearing Officer's Case Nos. XI-762 & 05-426-A
Property: S/S of Woodbine Avenue, 80.1 ft. N
centerline of Burnbrae Road & opposite of Marwood Road
9th Election District, 5th Councilmanic District
(Burnbrae Homestead)

Dear Messrs. Hoffman & Karceski:

Enclosed please find the decision rendered in the above-captioned Development Plan and petition for variance cases.

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

Very truly yours,


John V. Murphy
Deputy Zoning Commissioner

JVM:raj

c: David Martin & James Markle, G. W. Stephens, Jr. & Assoc., Inc., 1020 Cromwell Bridge Road, Towson, MD 21286
David & Christina Loizeaux, 2401 Everton Road, Baltimore, MD 21209
Alfred Loizeaux, 914 E. 36th Street, Baltimore, MD 21218
Don, Angela & Edward Bafford, 601 W. Chesapeake Avenue, Towson, MD 21204
Frank Borgerding, Esquire, 409 Washington Avenue, Suite 600, Towson, MD 21204
George L. Schnader, III, 5103 Harford Road, Baltimore, MD 21214
Tom Martel, Jr., 706 Camberley Cir., Towson, MD 21204
Richard Councill, 512 Woodbine Avenue, Towson, MD 21204
Richard Parsons, 412 Woodbine Avenue, Towson, MD 21204

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



Joan, Darr & James Peacock, 105 Bonnie Hill Road, Towson, MD 21204
Chris Parts, 503 Woodbine Avenue, Towson, MD 21204
Michael Ertel, 595 W. Joppa Road, Towson, MD 21204
Mark Knobloch, 429 Woodbine Avenue, Towson, MD 21204
David Oldach, 10 Burnbrae Road, Towson, MD 21204
Richard Price, 413 Lake Avenue, Baltimore, MD 21212
Loren Jensen, 12 Burnbrae Road, Towson, MD 21204
Robin & Sandra Bissell, 9 Burnbrae Road, Towson, MD 21204
Deborah Digges, 501 Woodbine Avenue, Towson, MD 21204
Peter Harrington, 15 Burnbrae Road, Towson, MD 21204
Karen Porter, 505 Woodbine Avenue, Towson, MD 21204
Patrick & Betty Ring, 502 Woodbine Avenue, Towson, MD 21204
Debbie Shepard, 507 Woodbine Avenue, Towson, MD 21204
Louise T. Rhodes, 5 Orchard Road, Towson, MD 21204



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 430 Woodbine Avenue
which is presently zoned DR3.5

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

See Attached

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

To be determined at hearing

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:

SEE ATTACHED

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Robert A. Hoffman, Esquire

Name - Type or Print

Signature

Venable LLP

Company

210 Allegheny Avenue

410-494-6285

Address

Towson, Maryland 21204

Telephone No.

City

State

Zip Code

Case No. 05-426-A

RECEIVED 9/15/98

Legal Owner(s):

Elsa Loizeaux

Name - Type or Print

Signature

By: David Loizeaux, Executor

Name - Type or Print

Signature

430 Woodbine Avenue

410-664-8873

Address

Telephone No.

Towson, Maryland 21204

City

State

Zip Code

Representative to be Contacted:

Robert A. Hoffman, Esquire

Name

210 Allegheny Avenue

410-494-6285

Address

Telephone No.

Towson, Maryland 21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 1/2 hr

UNAVAILABLE FOR HEARING

Reviewed By [Signature]

Date 2-28-05

ORDER RECEIVED FOR FILING
5/11/05

PETITION FOR VARIANCE
430 Woodbine Avenue

1. Variance from Section 303.1 of the Baltimore County Zoning Regulations ("BCZR") to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lot Nos. 1, 2, and 3.
2. Variance from BCZR Section 400.3 to allow an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

426
✓

PETITION FOR VARIANCE
SIGNATURE PAGE

CONTACT PURCHASER:
For Lot Nos. 1, 2, 3, and 4

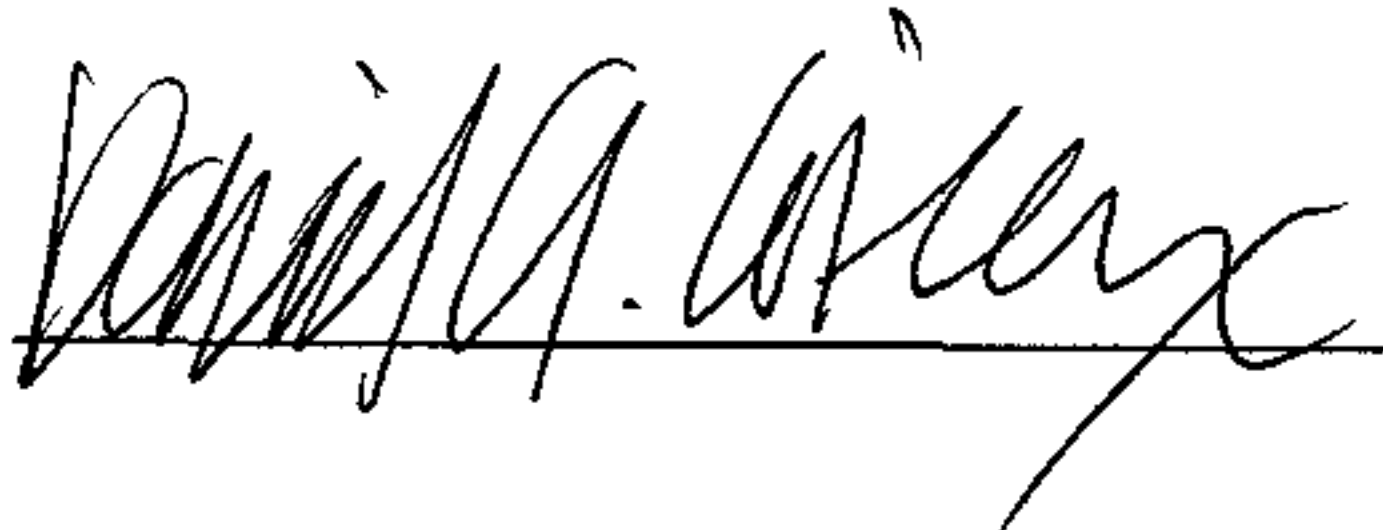
Burnbrae Homestead, LLC
2401 Everton Road
Baltimore, Maryland 21209
(410) 664-8873

By: David Loizeaux, Resident Agent

A handwritten signature in cursive script, appearing to read "David Loizeaux", written over a horizontal line.

CONTRACT PURCHASER:
For Lot No. 5

David Loizeaux
2401 Everton Road
Baltimore, Maryland 21209
(410) 664-8873

A handwritten signature in cursive script, appearing to read "David Loizeaux", written over a horizontal line.

426

FROM THE OFFICE OF

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD • TOWSON, MARYLAND 21286-3396

Description of a 2.17
Acre Parcel of Land
known as Burnbrae Homestead,
for Zoning Variances

December 6, 2003
Page 1 of 2

Beginning for the description of a 2.17 Acre area at a point at or near the centerline of Woodbine Avenue, said point of beginning having a Maryland State (nad83/91) Coordinate Value of North 631,400 and East 1,420,032 being measured North 47 degrees 36 minutes 9 seconds East 80.1 feet from the centerline intersection of said Woodbine Avenue and Burnbrae Road, running thence leaving said point of beginning and binding at or near the centerline of Woodbine Avenue the following courses;

1) North 46 degrees 44 minutes 45 seconds East 63.98 feet thence,

2) North 43 degrees 17 minutes 45 seconds East 50.00 feet thence,

3) North 37 degrees 52 minutes 45 seconds East 50.00 feet thence,

4) North 32 degrees 40 minutes 45 seconds East 50.00 feet thence,

5) North 27 degrees 45 minutes 45 seconds East 50.00 feet thence,

6) North 25 degrees 13 minutes 45 seconds East 35.05 feet thence, leaving said Woodbine Avenue, the following courses,

7) South 64 degrees 29 minutes 22 seconds East 282.33 feet thence,

8) South 25 degrees 47 minutes 1 second West 141.50 feet thence,

9) South 45 degrees 2 minutes 30 seconds East 55.18 feet to a point at or near the centerline of Burnbrae Road thence,

426

binding at or near the centerline of said road the following courses

10) along a curve to the left having a radius of 416.8 feet and a length of 89.9 feet thence,

11) along a curve to the right having a radius of 505.00 feet and a length of 52.61 feet thence, leaving said Burnbrae Road

12) North 64 degrees 37 minutes 28 seconds West 161.26 feet thence,

13) North 64 degrees 0 minutes 6 seconds West 22.34 feet thence,

14) North 64 degrees 38 minutes 8 seconds East 4.02 feet thence,

15) North 65 degrees 17 minutes 20 seconds West 176.01 feet to the point of beginning. *BCP*

Containing 94,525.2 Square Feet or 2.17 Acres of Land more or less.

The above bearings are based on the Maryland State Coordinate System (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.



426

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Case No. 442709
05-426A

DATE 2-28-05 ACCOUNT R-001-006-6150

AMOUNT \$ 260.00

RECEIVED FROM Vanderbilt LLP

FOR Residential Variance at 430 Woodbine Ave (Lot No. 12315 @ \$65.00 each)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME DEM
3/12/2005 3:01/2005 14:44:11 2
REQ 4504 WALTON, DON, MD
RECEIPT # 30401 3/01/2005 OFER
Dept 5 5th Zoning Verification
CR NO. 442709
Receipt Tot 1240.00
\$240.00 TX 1.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: #05-426-A

430 Woodbine Avenue

S/east side of Woodbine Avenue, 80.1 feet north of centerline of Burnbrae Road and opposite of Marwood Road

9th Election District — 5th Councilmanic District

Legal Owner(s): Elsa Loizeaux - Deceased; by David Loizeaux, Executor

Contract Purchasers: Lots #1-4, Burnbrae Homestead, LLC, Lot 5, David Loizeaux

Variance: to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lots 1, 2, and 3. To permit an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

Hearing: Thursday, March 31, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake 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 3/745 Mar. 15 43209

CERTIFICATE OF PUBLICATION

3/17/, 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 3/15/, 2005.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 05-426-A

Petitioner/Developer: BUMBRAE

HOMESTEAD LLC LOTS 5 ^{DAVID} LOIZEAUX

Date of Hearing/Closing: 3/31/05

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

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

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

2 SIGNS, 430 WOODBINE AVE AND BUMBRAE RD.

The sign(s) were posted on 3/16/05
(Month, Day, Year)

Sincerely,

Robert Black 3/16/05
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

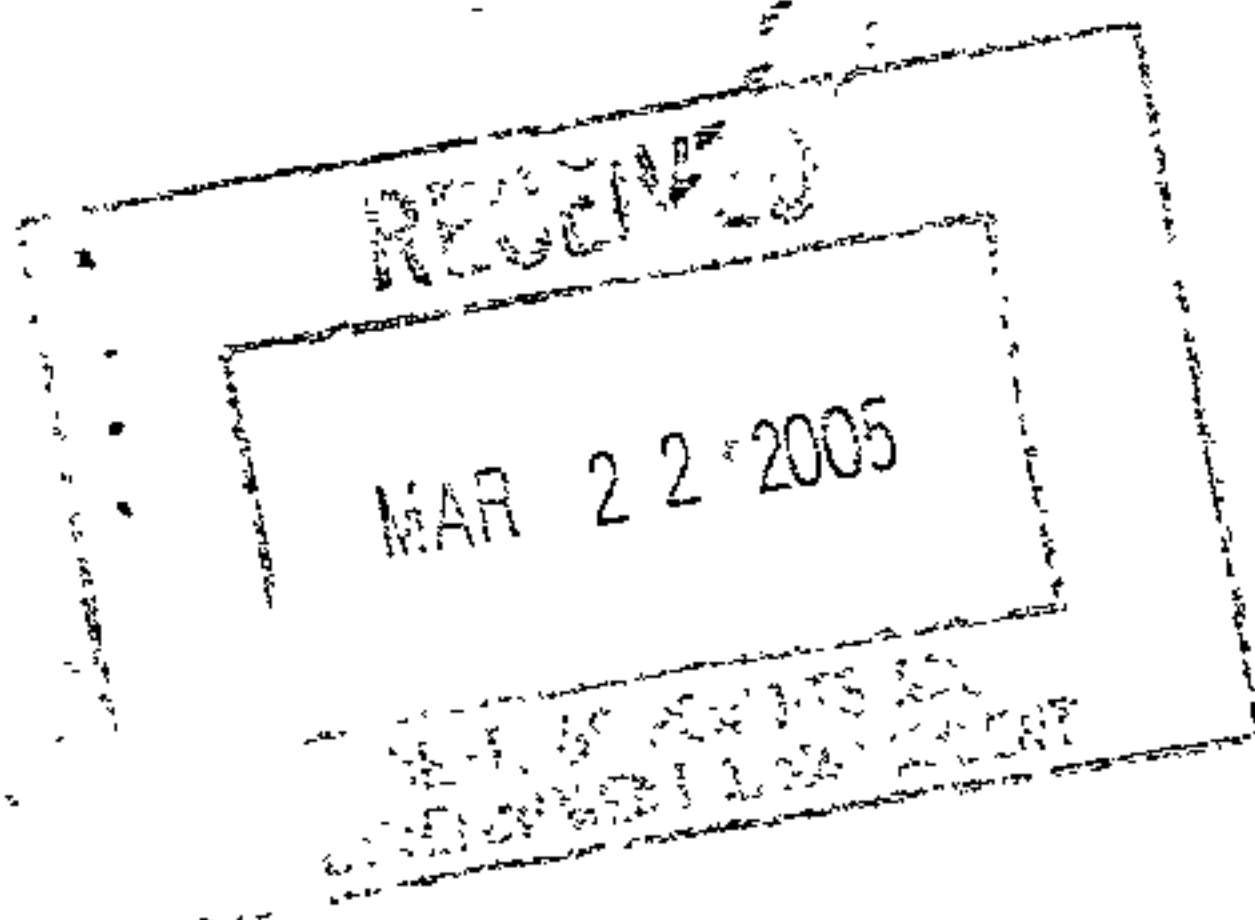
(Address)

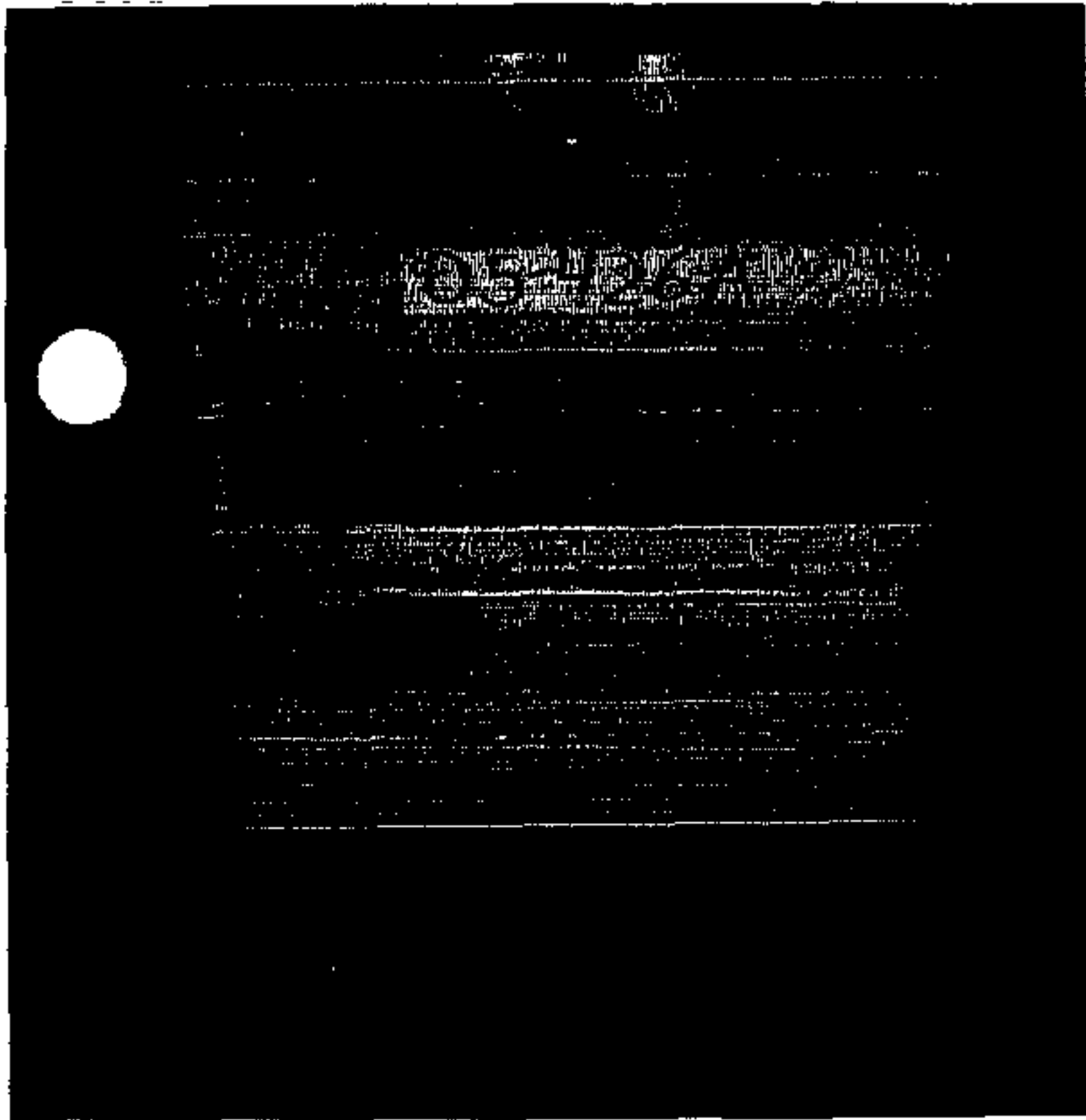
Dundalk, Maryland 21222

(City, State, Zip Code)

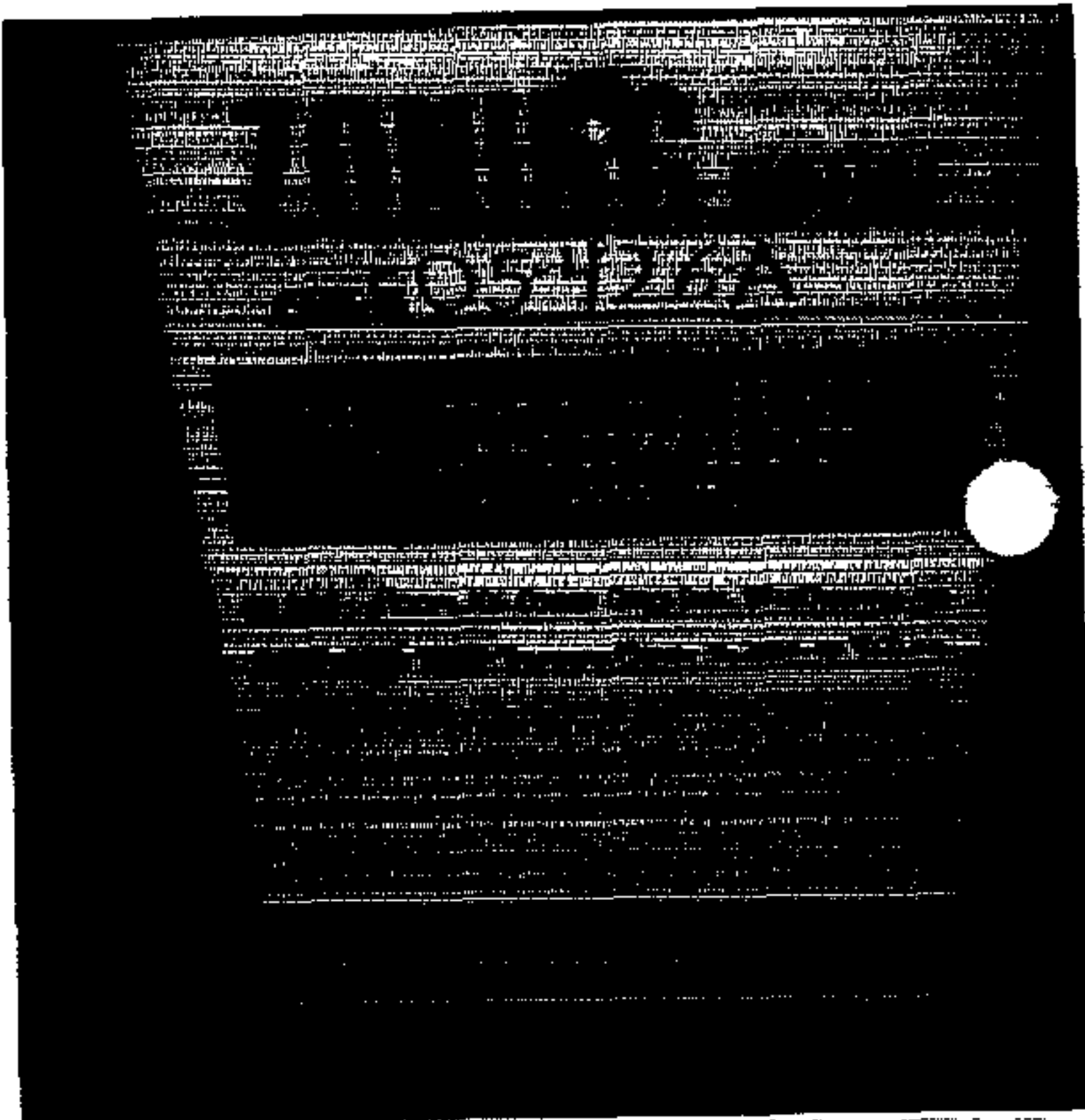
(410) 282-7940

(Telephone Number)





WOODBINE



ZUMBRAE



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

March 9, 2005

CORRECTED 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: 05-426-A

430 Woodbine Avenue

S/east side of Woodbine Avenue, 80.1 feet north of centerline of Burnbrae Road and opposite of Marwood Road

9th Election District – 5th Councilmanic District

Legal Owners: Elsa Loizeaux – Deceased; by David Loizeaux, Executor

Contract Purchasers: Lots #1-4, Burnbrae Homestead, LLC, Lot 5, David Loizeaux

Variance to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lots 1, 2, and 3. To permit an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

Hearing: Thursday, March 31, 2005 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue, Towson 21204

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

Timothy Kotroco
Director

TK:klm

C: Amy Dontell, Venable, 210 Allegheny Ave., Towson 21204
David Loizeaux, 430 Woodbine Avenue, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 16, 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.**

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 15, 2005 Issue - Jeffersonian

Please forward billing to:
Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6244

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: 05-426-A

430 Woodbine Avenue

S/east side of Woodbine Avenue, 80.1 feet north of centerline of Burnbrae Road and opposite of Marwood Road

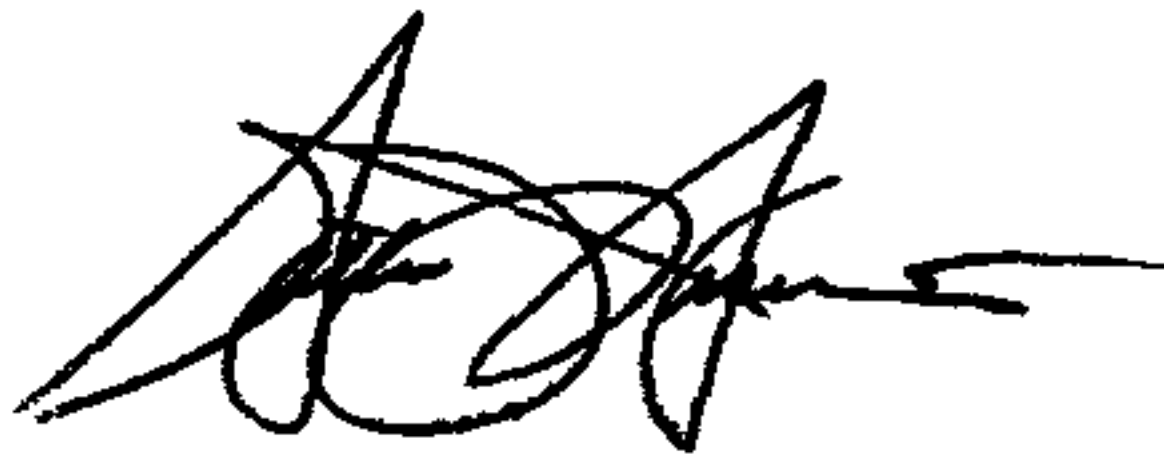
9th Election District – 5th Councilmanic District

Legal Owners: Elsa Loizeaux – Deceased; by David Loizeaux, Executor

Contract Purchasers: Lots #1-4, Burnbrae Homestead, LLC, Lot 5, David Loizeaux

Variance to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lots 1, 2, and 3. To permit an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

Hearing: Thursday, March 31, 2005 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue, Towson 21204



WILLIAM WISEMAN
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**Department of Permits and
Development Management**

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

March 7, 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: 05-426-A

430 Woodbine Avenue

S/east side of Woodbine Avenue, 80.1 feet north of centerline of Burnbrae Road and opposite of Marwood Road

9th Election District – 5th Councilmanic District

Legal Owners: Elsa Loizeaux – Deceased; by David Loizeaux, Executor

Contract Purchasers: Lots #1-4, Burnbrae Homestead, LLC, Lot 5, David Loizeaux

Variance to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lots 1, 2, and 3. To permit an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

Hearing: Wednesday, April 13, 2005 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

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

Timothy Kotroco
Director

TK:klm

C: Robert Hoffman, Venable, 210 Allegheny Ave., Towson 21204
David Loizeaux, 430 Woodbine Avenue, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, MARCH 29, 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.

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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 29, 2005 Issue - Jeffersonian

Please forward billing to:

Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6244

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: 05-426-A

430 Woodbine Avenue

S/east side of Woodbine Avenue, 80.1 feet north of centerline of Burnbrae Road and opposite of Marwood Road

9th Election District – 5th Councilmanic District

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Contract Purchasers: Lots #1-4, Burnbrae Homestead, LLC, Lot 5, David Loizeaux

Variance to permit a minimum front yard depth of 25 feet in lieu of the required 50 feet for Lots 1, 2, and 3. To permit an accessory structure 25 feet in height in lieu of the permitted 15 feet on Lot No. 5.

Hearing: Wednesday, April 13, 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 05-426-A

Petitioner: Elsa Loizeaux

Address or Location: 430 Woodbine Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Dantell

Address: 210 Allegheny Avenue
Towson, MD. 21204

Telephone Number: (410) 494-16244

**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 22, 2005

Robert A. Hoffman, Esquire
Venable, LLP.
210 Allegheny Avenue
Towson, Maryland 21204

Dear Mr. Hoffman:

RE: Case Number: 05-426-A , 430 Woodbine Avenue

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

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
David Loizeaux 430 Woodbine Avenue Towson 21204

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



Fire Department

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



Baltimore County

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

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

March 9, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: March 14, 2005

Item No.: 418, 419, 420, 422, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433.

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.

Acting Lieutenant Don W. Muddiman
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

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



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

Maryland Department of Transportation

Date: 3.8.05

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

RE: Baltimore County
Item No. 426 JJS

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 Grédlein 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
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr *JDO*

DATE: April 13, 2005

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of March 7, 2005

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

05-416

05-417

05-418

05-420

05-421

05-422

05-424

05-425

05-426

05-428

05-431

05-432

05-433

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: March 23, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For March 14, 2005
Item Nos. 417, 418, 420, 421, 422, 425,
426, 427, 428, 429, 430, 431,
432, 433

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

RWB:CEN:cp

cc. File

RE: PETITION FOR VARIANCE	*	BEFORE THE
430 Woodbine Ave; SE/side Woodbine Ave,		
80.1' N c/line Burnbrae Rd & Marwood Rd	*	ZONING COMMISSIONER
9 th Election & 5 th Councilmanic Districts		
Legal Owner(s): Elsa Loizeaux (deceased)	*	FOR
by David Loizeaux, Executor		
Petitioner(s)	*	BALTIMORE COUNTY
	*	05-426-A

* * * * *

ENTRY OF APPEARANCE

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

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 11th day of March, 2005, a copy of the foregoing Entry of Appearance was mailed to, Robert A Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204 , Attorney for Petitioner(s).

RECEIVED

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Per.....

RECEIVED

June 10, 2005

JUN 10 2005

HAND-DELIVERED**ZONING COMMISSIONER**

John V. Murphy, Deputy Zoning
Commissioner for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Burnbrae Homestead Property
8 Burnbrae Road and 430 Woodbine Avenue
9th Election District, 5th Councilmanic District
Case Nos. XI-762 and 05-426-A

Dear Mr. Murphy:

Counsel at the hearing for the West Towson Neighborhood Association and certain individual property owners and I are in receipt of your Hearing Officer's Opinion and Development Plan Order, dated May 11, 2005. We join in this request to amend your Order.

In the Order, you imposed conditions relating to the applicant's continued use of an apartment unit located within the existing dwelling (Condition No. 5), on-site landscaping to be installed on Lot Nos. 3 and 4 (Condition No. 8), a setback distance of 43 feet for the dwelling to be constructed on Lot No. 3 (Condition No. 11), utilities to serve the accessory garage structure to be constructed on Lot No. 5 (Condition No. 7), and maintenance of the underground stormwater management storage facility (Condition No. 10).

Condition No. 5 reads as follows:

There will be no rental to the public of the apartment on the third floor of the existing home.

See Order, page 14. As you may recall, testimony presented at the hearing indicated that, while the applicant currently rents the apartment unit of the existing dwelling to his daughter, the apartment has, in the past, been rented to various individuals not related to the Loizeaux family.

John V. Murphy

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By agreement at the hearing through counsel, both parties indicated that the apartment unit may be rented to the general public. Therefore, we respectfully request that you eliminate Condition No. 5 of your Order to accommodate the applicant's intended rental of the apartment unit, without restriction to family member use only. The removal of Condition No. 5 would be consistent with prior and agreed upon future occupancy of the apartment unit.

Condition No. 8 of your Order reads as follows:

Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Columnar Evergreen trees at least 5 feet tall on Lot 3. In addition they will determine the location of four (4) Columnar Evergreen trees at least 5 feet tall on Lot 4. The trees shall be installed at the Developer's expense and in accordance with the directions of the Baltimore County Landscape Architect.

See Order, page 15. Testimony was also presented at the hearing regarding landscaping to be installed on Lot Nos. 3 and 4 to screen two adjacent residential lots. Testimony indicated that Patrick Ring's property is adjacent to Lot No. 3 and that Louise Teubner-Rhodes owns property adjacent to Lot No. 4. As such, the parties submitted to you at the hearing that Mr. Ring be consulted on the location of landscaping to be installed along the northern property line of Lot No. 3 and Ms. Teubner-Rhodes consulted regarding landscaping to be installed along the northern property line of Lot No. 4. You may also recall that the applicant agreed to remove any dead and/or dying trees from Lot Nos. 3 and 4. Therefore, both parties request that you modify Condition No. 8 to read as follows:

Mr. Loizeaux, Mr. Ring and the County Landscape Architect will meet on site to determine the location along the property line for ten (10) Column Evergreen trees approximately 5 feet tall on Lot 3. Mr. Loizeaux, Ms. Teubner Rhodes and the County Landscape Architect will meet on site to determine the location of four (4) Column Evergreen trees approximately 5 feet tall on Lot 4. The trees shall be installed at the developer's expense and in accordance with the directions of the Baltimore County Landscape Architect. Additionally, any trees located on Lots 3 and 4 that developer determines to be dead or dying shall be removed at the developer's expense.

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Condition No. 11 of your Order reads as follows:

The home on Lot 3 shall be set back from Woodbine Avenue 43 feet.

See Order, page 15. For clarification purposes, both parties ask that you amend Condition No. 11 in order to make clear the agreed upon setback distances for the dwellings to be constructed on Lot Nos. 1 and 2, as well as Lot No. 3. Condition No. 3 would, therefore, read as follows:

The homes on Lots 1, 2, and 3 shall be set back from the right-of-way line of Woodbine Avenue 30, 27 and 43 feet, respectively.

Condition No. 7 reads as follows:

The only utilities in the new garage on Lot 5 would be water which would be available only on the first floor.

See Order, page 14. As you may recall, the community's interest regarding the accessory garage structure on Lot No. 5 related to its water supply. The community was not concerned with the supply of electricity to the garage, which Condition No. 7 of your Order may restrict. Accordingly, both parties agreed at the hearing that water service only should be limited. Specifically, it was agreed that water service within the garage would be restricted to its first floor only and not provided to the garage loft area. Consistent with that agreement, we request that you amend Condition No. 7 to read as follows:

Water service is available only on the first floor of the new garage on Lot 5 and not to the loft area of the garage.

Additionally, Condition No. 10 of the Order indicates that any maintenance of and/or repairs to the underground stormwater management storage facility be done at the expense of the subject property homeowners association. The West Towson Neighborhood Association is concerned that Condition No. 10 may be misinterpreted to mean that it is responsible for the stormwater management facility. For clarification purposes only, we ask that you indicate in Condition No. 10 that the association responsible for maintenance and repair of the facility is, in fact, the "subject property homeowners association."

The above-suggested conditions, as revised, are presented to you by joint agreement of both parties in the instant matter. We, therefore, respectfully ask that you amend your Order to eliminate Condition No. 5 and incorporate the above-provided revisions to Condition Nos. 7, 8,

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10, and 11. The West Towson Neighborhood Association also requests that it be referred to as such should you decide to grant this joint request for an amended Order. On page 10 of your Opinion, the Association is referred to as the West Towson Community Association.

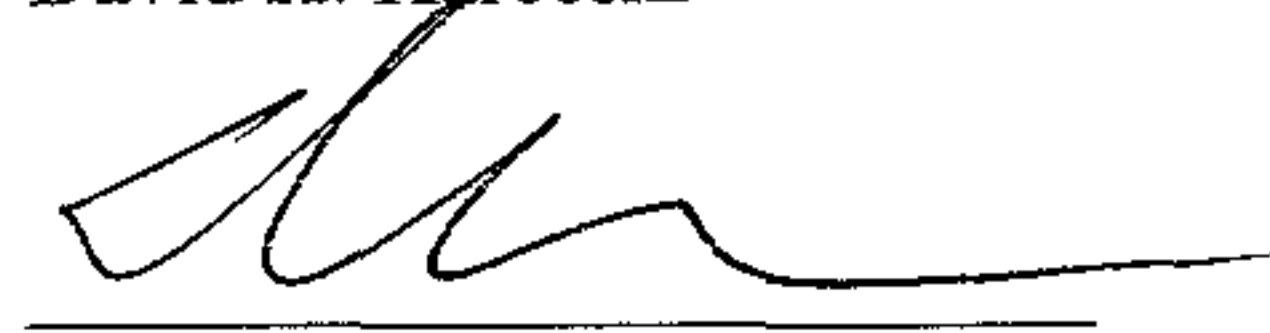
We appreciate your consideration of this matter.

Very truly yours,

Francis X. Borgerding, Jr.

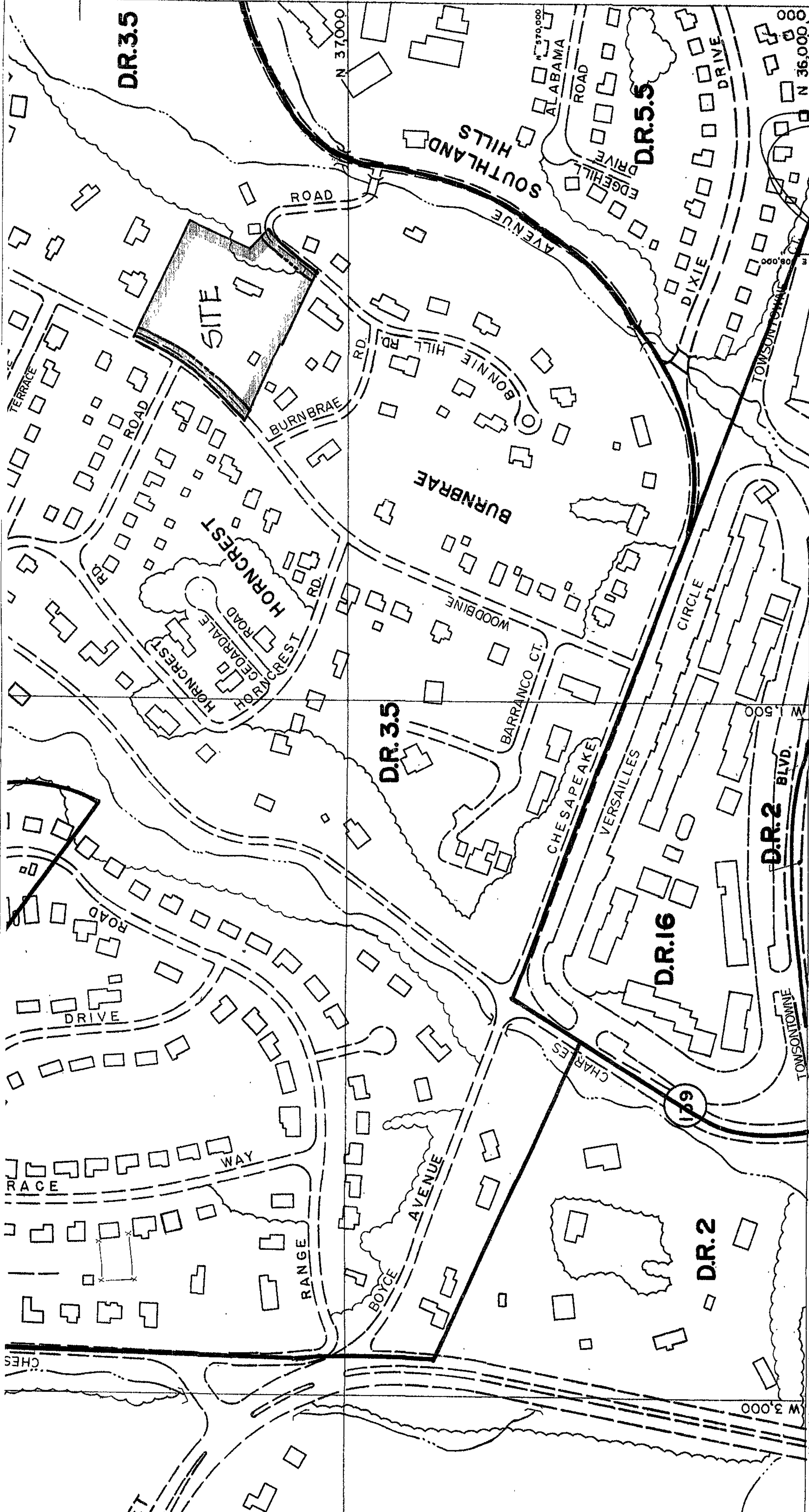
Handwritten signature of Francis X. Borgerding, Jr. in cursive script, written over a horizontal line.

David H. Karceski

Handwritten signature of David H. Karceski in cursive script, written over a horizontal line.

DHK/kjd
Enclosure

TO1DOCS1/DHK01/#207998 v1



MORE COUNTY PLANNING AND ZONING MAP

SCALE 1" = 200' ±	LOCATION TOWSON N.W. 10 - A	SHEET #1420

P N 1023