10/21/05

IN RE: PETITION FOR VARIANCE W/S of Bayside Drive, 680 ft. S centerline of Wise Avenue 12th Election District 7th Councilmanic District **(527 Bayside Drive)** Carole A. & Robert C. Riemer Petitioners	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 06-067-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by Carole A. and Robert C. Riemer, the legal owners of the subject property. The Petitioners are requesting variance relief for property they own at 527 Bayside Drive in the eastern area of Baltimore County. The variance is requested from Sections 1B02.3A.5, 1B02.3C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a 19 ft. rear yard setback and an open projection (deck) with a 3 ft. side setback in lieu of the required 30 ft. and 7.5 ft. setback, respectively.

The property was posted with Notice of Hearing on September 13, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 13, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

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

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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."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Bureau of Development Plans Review dated August 19, 2005, stating that the Petitioners must comply with federal flood insurance requirements and county code requirements for this project, a copy of which is attached hereto and made a part hereof. In addition, a ZAC comment was received from the Department of Environmental Protection & Resource Management (DEPRM) dated September 7, 2005 stating that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Vince Moskunas of Site Rite Surveying, Inc., who prepared the site plan of the property and Joseph Riemer, Petitioner. Dorothy Hayes, an adjacent property owner appeared at the hearing in opposition to the request. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No. 05-0830) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due to the fact that the Petitioners erected a deck on the side of their home 3 feet from the property line in lieu of the 7.5 feet allowed under the regulations.

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It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioners cannot use the fact that a structure has been built to set a precedent in order to allow it to continue. Nor does the fact that a structure may be costly to remove or modify come into consideration of the zoning case. The reason for this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioners as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

Amended Petition

The Petitioner indicated that while he originally proposed a 19 foot addition to the rear of his home, which would result in a rear setback of 18 feet, he proposed to reduce the addition to 14 feet to keep it in line with adjoining homes. This would require allowing a setback of 23 feet in lieu of the required 30 feet.

Testimony and Evidence

Mr. Moskunas indicated that the property, which is the subject of this variance, contains 6,400 sq. ft. and is zoned DR 5.5. The subject property is improved by an existing single family dwelling and large storage building which apparently had previously been rented as apartments. See Petitioner's exhibit 1. This waterfront property is composed of lots 29 and 30 of the Inverness Subdivision which were recorded in the land records of the County in 1937. The original house was built in the 1940's. The Petitioner purchased the property in September 2005 and besides substantially renovating the original house, the Petitioner erected a 1 ½ story addition on the waterfront side. Around that addition the Petitioner erected a deck which is 3 feet from

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the property line between 527 and 529 Bayside Drive. The regulations allow side yard decks within 7.5 feet of the lot line resulting in the Petitioner's request for variance. See Petitioner's photograph 6 I. The Petitioner indicated that if he is required to meet the 7.5 foot setback, this will reduce the width of his deck so that it would be very difficult to walk around his table and chairs. He indicated that the neighbor at 529 has no objection to the deck as built.

At the same time the Petitioner requests a variance for the existing deck, he also requests to build a one story addition on the street side of the property which the County considers the rear of his property. He originally proposed this addition which would extend 19 feet from the home to bring the addition even with the porch at 529 Bayside. However upon further consideration he amended his request for the addition which would be 14 feet from the home and in line with the porch at 525 Bayside, Ms. Hayes home. This requires a setback of 23 feet in lieu of the 30 feet required.

Mr. Moskunas pointed out that the addition on the waterside was made with a permit and that the essence of the zoning complaint was loose siding which has now been fixed and the complaint dismissed. He noted that the home at 529 Bayside has recently been granted a variance so that the street (rear) wall of the house is 26 feet from the rear property line and porch attached thereto only 18 feet from the line.

The Petitioner testified that the original house had only two bedrooms which are not adequate for the Petitioner's family. He indicated that his two sons are getting older and need to have separate bedrooms. The new addition on the street side will cover only the first floor of the street façade to the house as shown on photograph 6 K. He opined that reducing the addition further would result in an unreasonably small and unusable addition. Mr. Moskunas presented a first floor layout as a detail of exhibit 1 which shows the new addition.

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Ms. Hayes who lives at 525 Bayside vehemently opposes the Petitioner's request for the street side addition. She noted that the Petitioner built the 1½ story addition on the water side and completely blocked her view of the water. She now has to look at a solid wall of building composed of the Petitioner's home and separate storage building.

In regard to the variance requests, she indicated that the addition would limit her view of Bayside Drive in the Petitioner's direction. She noted that she has problems now with seeing traffic coming from the north due to the Petitioner's truck which is parked in his driveway near the street. She also indicated that Bayside has significant curves which further limit her line of sight. She noted that 529 Bayside may have gotten variances for their additions but that this property is considerably smaller than 527 or 523. Finally she presented letters in opposition from each of the neighbors to her south.

Findings of Fact and Conclusions of Law

I understand that Ms. Hayes has suffered the primal wound when her view of the water was cut off by the Petitioner's addition on the waterside of his property. However traumatic that event may have been, it cannot control these requests. Each must be examined separately.

In regard to the distance from the deck to the 529 property line, the Petitioner who is a builder by trade built the deck in violation of the setback requirements for such decks. The neighbor at 529 apparently has no complaint in this regard. If the regulations are strictly enforced the Petitioner would have to remove 4.5 feet of the deck which I accept would greatly restrict his use of the table and chairs located thereon. On balance I will grant this request.

In regard to the street side addition I note that the front of the home at 529 is 26 feet from the road. Ms. Hayes' home at 525 is 27 feet from the road. The Petitioner asks for 23 feet from the road. Consequently his addition will be 3 or 4 feet closer to the road than his neighbors. From the photographs presented by both sides, it is obvious that people in the neighborhood park

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in driveways and on Bayside Drive. I accept Ms. Hayes concern about seeing traffic coming from the north if the full addition would be built. Consequently I will grant the Petitioner a variance for a 26 foot setback which will result in an 11 x 15 addition. I believe that this is a reasonable size master bedroom which, with the Petitioner's skills, can be extended internally to give the necessary function.

I find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The house is located on lots recorded in the land records of the County in 1937. The zoning regulations were imposed on the property many years later and clearly impact this property differently from others created after the regulations wee imposed. Consequently I find the property unique in a zoning sense. I further find that the Petitioner would suffer hardship or practical difficulty if the regulations were strictly enforced. Finally I find that the variances can be granted within the spirit and intent of the DR 5.5 zoning regulations and will not adversely impact the neighborhood as long as the Petitioner's addition is in line with the adjoining homes on the street side.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' variance request should be granted in part.

THEREFORE, IT IS ORDERED, this 21 day of October, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 1B02.3A.5, 1B02.3C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a 26 ft. rear yard setback and an open projection (deck) with a 3 ft. side setback in lieu of the required 30 ft. and 7.5 ft. setback, respectively, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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Date 10-21-05
By

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

2. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated August 19, 2005, a copy of which is attached hereto and made a part hereof

3. Compliance with the ZAC comments made by DEPRM dated September 7, 2005, a copy of which is attached hereto and made a part hereof;

4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 10-21-05
By

9/14/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*

Petition of Carole A. and
Robert C. Riemer *
527 Bayside Drive
Baltimore, Maryland 21222 *

For Judicial Review of the Decision of * Civil Action No. 03-C-07-010576
the County Board of Appeals of
Baltimore County *
Old Courthouse, Room 49
400 Washington Avenue *
Towson, Maryland 21204
*

In the Case of Carole A. and
and Robert C. Riemer *
Case No. 06-067-A
*

* * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Carole A. and Robert C. Riemer, the petitioners, who were parties to the agency proceedings below, by their undersigned counsel, pursuant to Maryland Rule 7-202, hereby request judicial review of the final Opinion and Order issued on August 31, 2007, by the County Board of Appeals of Baltimore County.

Respectfully submitted,

Neil J. Bixler
Bae & Bixler, LLC
10019 Reisterstown Road, Suite 301-A
Owings Mills, Maryland 21117
410.363.1703
Attorneys for Petitioners

Called Ct. & spoke w/ Sandy she said entered on system & we should have by Tuesday.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of September, 2007, a copy of the foregoing was mailed by first-class mail, postage prepaid to:

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

Zoning Commissioner Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Leslie M. Pittler, Esquire
25 Wandsworth Bridge Way
Lutherville, Maryland 21093
Attorney for Dorothy Hayes

Neil J. Bixler

9/25/07

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: CAROLE A. AND ROBERT C. RIEMER 527 BAYSIDE DRIVE BALTIMORE, MD 21222	* * *	CIVIL ACTION NO. 03-**C-07-010576**
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	* * * *	
	*	
IN THE MATTER OF: CAROLE A. AND ROBERT C. RIEMER 527 Bayside Drive Baltimore, MD 21222	* *	
12th ELECTION DISTRICT 7th COUNCILMANIC DISTRICT	*	
	*	
BOARD OF APPEALS CASE NO.: 06-067-A		

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

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Neil J. Bixler, Esquire
Bae & Bixler, LLC
10019 Reisterstown Road – Suite 301-A
Owings Mills, MD 21117
Attorney for Petitioners

Leslie M. Pittler, Esquire
25 Wandsworth Bridge Way
Lutherville, MD 21093
Attorney for Dorothy Hayes

County Board of Appeals of Baltimore County

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

September 25, 2007

Neil J. Bixler, Esquire
Bae & Bixler, LLC
10019 Reisterstown Road – Suite 301-A
Owings Mills, MD 21117

RE: Circuit Court Civil Action No. 03-C-07-010576
Petition for Judicial Review
Carole A. and Robert C. Riemer
Case No.: 06-067-A

Dear Mr. Bixler:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review, which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The hearing in this case, which was held on October 26, 2006, was recorded on tape. In order to obtain a copy of this tape for transcribing, by a court reporter of your choice and at your expense, promptly remit a check in the amount of $25.00, ***payable to Baltimore County, Maryland***, at the address shown above.

Once the transcription of this tape has been completed, the court reporter must then forward *the original transcript* to the Board of Appeals, no later than November 06, 2007, so an extract of this case can be timely filed with the Circuit Court for Baltimore County.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: Leslie J. Pittler, Esquire

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on Recycled Paper

County Board of Appeals of Baltimore County

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

To Carl Richards

September 25, 2007

Leslie M. Pittler, Esquire
25 Wandsworth Birdge Way
Lutherville, MD 21093

RE: Circuit Court Civil Action No. 3-C-07-10576
Carole A. and Robert C. Riemer
Board of Appeals Case No.: 06-067-A

Dear Mr. Pittler:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on September 14, 2007 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-07-10576.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: Office of People's Counsel
Neil J. Bixler, Esquire
Carole A and Robert C. Riemer
Dorothy Hayes
William J. Wiseman, III/Zoning Commissioner
Timothy M. Kotroco, Dir./PDM
James H. Thompson, Supv. Code Enforcement/PDM [Case no.: 05-0830]
Pat Keller, Dir. Planning
Vincent Moskunas/Site Rite Surveying, Inc.

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8/31/07

IN THE MATTER OF THE APPLICATION OF CAROLE A. & ROBERT C. RIEMER - LEGAL OWNERS /PETITIONERS FOR VARIANCE ON PROPERTY LOCATED ON THE W/S OF BAYSIDE DRIVE, 680' S OF C/L OF WISE AVENUE (527 BAYSIDE DRIVE) 12TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	* * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 06-067-A

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals on an appeal of the decision of the Deputy Zoning Commissioner to grant, with conditions, variance to permit an addition with a 23-foot rear yard setback and an open projection (deck) in lieu of the required 30 feet with a 3-foot side setback in lieu of the required 7.5 feet.

A *de novo* hearing was held before the Board at which Petitioners were represented by Neil Bixler, Esquire, and Protestant by Leslie M. Pittler, Esquire.

Vincent Moskunas, President and owner of Site Rite Surveying, Inc., was called on behalf of Petitioners and was qualified as an expert witness in zoning and land use. He testified, supported by various documents submitted and by photographs, that the property in question is zoned D.R. 5.5. This site is improved by a single-family dwelling and a storage building. He noted that a 1-½ story addition was built onto the subject property on the waterfront side. Around that addition, the Petitioner erected a deck, which is 3 feet from the property line between 527 and 529 Bayside Drive. He observed that other properties had apparently like-sized setbacks and that the variance was needed by Petitioner to be able to utilize his property appropriately and fully for himself and his family. After agreeing on cross-examination that he had not evaluated the properties in the area so

as to compare their characteristics to that of the Petitioner, the witness, on re-direct, clarified his opinion that he believed that the unique, special circumstances of Petitioners' property was essentially that it had been constructed on a lot recorded in 1937, prior to the inception of applicable zoning regulations. He further opined that the situation would unfairly affect the Petitioners if the regulations now existing were strictly enforced. The Petitioner's family needed to further utilize the property and without this requested variance would be unable to do so. He concluded by maintaining that the granting of the Petitioner's requested variance would nevertheless be within the spirit of the zoning regulations and would not adversely affect the surrounding neighborhood.

Joseph Riemer testified as to his plans regarding the use of the proposed addition and deck and observed that, while the larger size resulting from the granting of the variance would permit built-ins and planters as well as benches to be added to the deck, a denial requiring a smaller deck would affect its social uses and reduce it to a small walkway instead. He presented a number of photographs to the Board and suggested that, without the variance, the addition would be "closet space" and not the intended additional bedroom. He discussed the relative costs and issues related to expanding the property by an additional level as opposed to the present plans for an add-on expansion on the ground level.

On cross-examination he acknowledged that the deck is larger than permitted or originally applied for. He acknowledged that he had stopped the project when informed by the inspector to do so and that, without the variance, the project's completion is doubtful at best, though he did finally concur that his family could reasonably use the house in its present state.

Travis Hayes testified as a Protestant. His family's property is located at 525 Bayside Drive, and he stated to the Board that he was concerned that the proposed project would seriously and forever block the view from his house of the area and presented photographs in support of his

contentions.

The law applicable to the granting of variances is well settled. Section 307.1 of the Baltimore County Zoning Regulations (BCZR) states, in part:

> 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.

This Board enjoys the guidance relative to the regulation as provided by the Court of Special Appeals in Cromwell v. Ward 102 Md.App. 691 (1995), wherein the Court writes:

> more County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." Id. at 698.

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated:

> In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... Id. at 710.

The Board has reviewed the testimony and exhibits presented, as well as the applicable statutory and case law. *Cromwell* and the underlying statute in no way include the changing vagaries of statute and regulations as the "inherent characteristic" that forms the basis of a finding of uniqueness under *Cromwell*. Petitioner relies solely on the argument that uniqueness

in this matter can be found regarding the change in statute and regulations relative to the property over the years and presented no evidence otherwise of any other factors which significantly would support the requirements of "uniqueness" required under subsection 307.1.

So that the record may be clear, we further find that, even assuming *arguendo* that the subject property was somehow determined to be unique, no showing of practical difficulty has been established. Petitioner admitted that he could make reasonable use of his property without the granting of the requested variance. Moreover, the law is clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell, supra*, Judge Cathell noted:

> Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted. *Cromwell*, at 722

Petitioner has already constructed an addition and wishes to further add to the property to meet the needs of his growing family. While we certainly understand his motivation, the present physical status of the property is a result of his own actions. The needs of his family for additional space beyond that which has already been made available, though certainly understandable, is not a showing of practical difficulty envisioned under the statute and case law.

This Board unanimously finds that the Petitioner has failed to carry his burden as to either uniqueness or practical difficulty in an effort to sustain his request for variance. We therefore unanimously deny his request for variance.

ORDER

THEREFORE, IT IS THIS 31st day of August, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the variance requested from the *Baltimore County Zoning Regulations* to permit an addition with a 23-foot rear yard setback and an open projection (deck) in lieu of the required 30 feet with a 3-foot side setback in lieu of the required 7.5 feet be and the same is hereby **DENIED.**

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY[1]

Lawrence M. Stahl, Panel Chairman

Margaret Brassil, Ph.D.

[1] It is to be noted that this case was heard by a panel comprised of three members of the Board of Appeals of Baltimore County; viz., Lawrence M. Stahl, Margaret Brassil, Ph.D., and Mike Mohler, and that the entire panel participated in public deliberation to reach the unanimous decision set forth herein. However, prior to signature of the Board's final Opinion and Order, Mr. Mohler resigned from the Board of Appeals.

County Board of Appeals of Baltimore County

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

August 31, 2007

Leslie M. Pittler, Esquire
25 Wandsworth Bridge Way
Lutherville, MD 21093

RE: *In the Matter of: Carole A. and Robert C. Riemer – Legal Owner/Petitioner* Case No. 06-067-A

Dear Mr. Pittler:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

Enclosure

c: Dorothy Hayes
Neil J. Bixler, Esquire
Carole A. and Robert C. Riemer
Vincent Moskunas /Site Rite Surveying, Inc.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Supervisor, Code Enforcement /PDM **[Case No. 05-0830]**
Timothy M. Kotroco, Director /PDM

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3/30/06

IN RE: PETITION FOR VARIANCE W/S of Bayside Drive, 680' S Centerline of Wise Avenue 12th Election District 7th Councilmanic District **(527 Bayside Drive)** Carole A. & Robert C. Riemer Petitioners	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 06-067-A

* * * * * * * * * *

*

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration filed by Leslie Pittler, Esq. representing Dorothy Hayes, an adjacent neighbor and party to the original variance hearing.

In the original case, Carole A. and Robert C. Riemer, requested variance relief for property they own at 527 Bayside Drive in the eastern area of Baltimore County. They requested relief from Sections 1B02.3A.5, 1B02.3C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a 19 ft. rear yard setback and an open projection (deck) with a 3 ft. side setback in lieu of the required 30 ft. and 7.5 ft. setback, respectively.

On October 21, 2005 this Deputy Zoning Commissioner granted the request in part allowing an addition with a 26 ft. rear yard setback instead of the requested 19 feet and also granted an open projection (deck) with a 3 ft. side setback in lieu of the required 30 ft. and 7.5 ft. setback.

On March 1, 2006, Mr. Pittler filed a Motion for Reconsideration indicating that the Order of October 21, 2005 was not sent to Ms. Hayes by the Zoning Commissioner's Office thereby preventing her from appealing the decision to the Board of Appeals. She appeared at the hearing and objected to each of the requested variances.

An examination of the file indicated that this Office had indeed failed to send Ms. Hayes

ORDER RECEIVED FOR FILING
Date 3-30-06
By

the Order through oversight.

Copies of the Motion were sent by the Zoning Commissioner's Office to all parties, and on March 17, 2006, Neil J. Bixler, Esq. sent a response indicating that he represented the Petitioners and further, that under the circumstances, he would not object to granting the requested Order allowing Ms. Hayes to appeal to the Board of Appeals.

Findings of Fact and Conclusions of Law

Given the fact that this Office failed to mail a copy of the original Order to Ms. Hayes, Ms. Hayes was clearly prejudiced thereby. This Commission has no specific rule for such a situation but has often recognized Circuit Court Rule No. 2-535 which allows the Court to revisit decisions where "fraud, mistake or irregularity" has occurred and a party has been prejudiced thereby. Clearly not sending the order to a party is irregular. I also note the Petitioner's gracious agreement to the Motion. Consequently, I will grant the Motion allowing Ms. Hayes to appeal the decision in this case to the Board of Appeals.

THEREFORE IT IS ORDERED this 30 day of March, 2006 that Ms. Hayes' Motion for Reconsideration is hereby granted allowing her thirty days from the date of this Order to appeal this Commission's October 21, 2005 Order to the Board of Appeals.

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

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

ORDER RECEIVED FOR FILING
Date 3-30-06
By

JVM:dlw

c: Leslie Pittler, Esq., 25 Wandsworth Bridge Way, Lutherville, MD 21093
Neil J. Bixler, Esq., 10019 Reisterstown Road, Suite 301-A, Owings Mills, MD 21117
Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Towson, MD 21286
Joseph Riemer, 527 Bayside Drive, Dundalk, MD 21222
People's Counsel; DPW; DEPRM; Case File

3/1/06

IN RE: PTITION FOR VARIANCE	*	BEFORE THE DEPUTY
W/S OF BAYSIDE DRIVE,680 FT. S. CENTERLINE OF WIE AVNUE	*	ZONING COMMISSIONER
12TH ELECTION DISTRICT	*	OF BALTIMORE COUNTY
7TH COUNCILMANIC DISTRICT (527 (BAYSIDE DRIVE)	*	CASE NO. 06-067-A
CAROLE A. & ROBERT RIEMER PETITIONERS		

MOTION FOR RECONSIDERATION

Dorothy Hayes, protestant, by Leslie M. Pittler, her attorney hereby files this Motion for Reconsideration.

A. That a decision in this case was rendered on the 21st day of October , 2005.
B. That Ms. Hayes was identified as a protestant in the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law.
C. That it is clear by the letter of transmittal of this decision that Ms. Hayes was in fact never notified of a decision in this case and was in fact never advised of the time period foe filing a Notice of Appeal to the Board of Appeals of Baltimore County.
D. That due to this mistake and or irregularity Ms. Hayes was denied of her right to take an appeal to the Board of Appeals
E. That without the issuance of a new Order in this case from Ms. Hayes can take an appeal within the appropriate 30 day time period she will be denied her rights as set forth in the Baltimore County Zoning Regulations.
F. That Ms. Hayes has made the Deputy Zoning Commissioner aware of the mistake or irregularity promptly upon her obtaining knowledge of same

WHEREFORE, MS. HAYES REUESTS ON THIS 1ST DAY OF MARCH, 2006,THE ISSUANCE OF A NEW ORDER IN THIS MATTER FROM WHICH SHE CAN EXEDRCISE HER RIGHT OF APPEAL

Respectfully Submitted :

Leslie M. Pittler
25 Wandsworth Bridge Way
Lutherville, Md. 21093

RECEIVED
MAR 01 2006
ZONING COMMISSIONER

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 13, 2006

Carole R. Riemer
Robert C. Riemer
509 Bayside Drive
Baltimore, Maryland 21222

Re: Petition for Variance
Case No. 06-067-A
Property: 527 Bayside Drive

Dear Mr. and Mrs. Riemer:

For your information, attached please find a copy of the Motion for Reconsideration filed by Leslie Pittler on behalf of Dorothy Hayes.

Very truly yours,

John V. Murphy | dlw

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:dlw
Attachment

c: Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson, MD 21286
Joseph Riemer, 527 Bayside Drive, Dundalk, MD 21222
People's Counsel; DPW; DEPRM; Case File

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

October 21, 2005

Carole R. Riemer
Robert C. Riemer
509 Bayside Drive
Baltimore, Maryland 21222

Re: Petition for Variance
Case No. 06-067-A
Property: 527 Bayside Drive

Dear Mr. & Mrs. Riemer:

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

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

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:dlw
Enclosure

c: Mr. Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson, MD 21286
Mr. Joseph Riemer, 527 Bayside Drive, Dundalk, MD 21222
People's Counsel; DPW; DEPRM; Case File

ORDER RECEIVED FOR FILING
Date 10-21-05
By

Printed on Recycled Paper

CBCA

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 527 Bayside Drive

which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3A.5, 1B02.3C., 301.1 (BCZR)

TO PERMIT AN ADDITION WITH A 19-FOOT REAR SETBACK AND AN OPEN PROJECTION (DECK) WITH A 3-FOOT SIDE SETBACK IN LIEU OF THE REQUIRED 30-FOOT AND 7-½-FOOT SETBACK, RESPECTIVELY.

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

See attached

CBA Pet 7

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

CAROLE R. RIEMER
Name - Type or Print

Carole R. Riemer
Signature

Robert C. Riemer
Name - Type or Print

ROBERT C. RIEMER
Signature

509 Bayside Drive 410-284-7016
Address — Telephone No.

Balto Co Md 21222
City — State — Zip Code

Representative to be Contacted:

Site Rite Surveying Inc.
Name

200 E. Joppa Road Rm 101 410 828-9060
Address — Telephone No.

Towson, MD 21286
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 06-067-A

~~ORDER RECEIVED FOR FILING~~

Date 10-21-05

By Debbie Wiley

Reviewed By D.T. Date 8/1/05

REV 9/15/

06-067-A

ZONING DESCRIPTION
#527 BAYSIDE DRIVE

Beginning at a point on the west side of Bayside Drive which is 40 feet wide at the distance of 680 feet south of the centerline of Wise Avenue which is 40 feet wide. Being Lot Nos. 29 and 30 in the subdivision of "Inverness" as recorded in Baltimore County Plat Book No. 10, folio # 128, containing 6,400 S.F.±. Also known as #527 Bayside Drive and located in the 12th Election District, 7th Councilmanic District.

Michael V. Moskunas
Reg. No. 21175

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

06-067-A

ZONING NOTICE

CASE # 06-067-A

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: ROOM 106, COUNTY OFFICE BLDG. 111 W. CHESAPEAKE AVE. TOWSON, MD. 21204

DATE AND TIME: THURSDAY, SEPTEMBER 29, 2005 AT 9:00 A.M.

REQUEST: VARIANCE TO PERMIT AN ADDITION WITH A 19 FOOT REAR SETBACK AND AN OPEN PROJECTION (DECK) WITH A 3 FOOT SIDE SET-BACK IN LIEU OF THE REQUIRED 30 FOOT AND 7 1/2 FOOT SETBACKS RESPECTIVELY

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

CERTIFICATE OF POSTING

RE: Case No.: 06-067-A

Petitioner/Developer: JOE RLEMER

Date of Hearing/Closing: SEPT. 29, 2005

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

Attention: **Christen Matthews**

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 propery located at #527 BAYSIDE DRIVE

The sign(s) were posted on SEPT. 13, 2005
(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

RECEIVED
SEP 14 2005
DEPT. OF PUBLIC HEALTH
DEVELOPMENTAL DISABILITY

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 448655

DATE 8/1/05 ACCOUNT 001006 6150

AMOUNT $ 65.00

RECEIVED FROM: JOSEPH RIEMER

FOR: ITEM # 067 06-067-A

527 BAYSIDE DRIVE BY D THOMPSON

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME DRAWER
8/02/2005 8/01/2005 11:18:07 2
REG W602 WALKER JEAN JEE
RECEIPT # 416264 [illegible]
Dept 5 520 ZONING VARIANCE
PAR NO. 448655
Rcpt Tot $65.00
$65.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 3322

DATE 4/11/06 ACCOUNT 001 006 6150

AMOUNT $ 400.00

RECEIVED FROM: Leslie A. Fiffler for Timothy Hayes

FOR: Appeal in Case No 06-067-A

527 Bayside Drive

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
[illegible] TIME AM
[illegible]
[illegible]
RECEIPT [illegible]
Dept 5 [illegible] VERIFICATION
PAR NO. [illegible]
Rcpt Tot $400.00
[illegible] $.00
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: #06-067-A
527 Bayside Drive
W/side of Bayside Drive, 680 feet south of centerline of Wise Avenue
12th Election District — 7th Councilmanic District
Legal Owner(s): Carole R. & Robert C. Riemer

Variance: to permit an addition with a 19-foot rear setback and an open projection (deck) with a 3-foot side setback in lieu of the required 30-foot and 7 1/2 foot setbacks respectively.

Hearing: Thursday, September 29, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
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 9/645 Sept. 13 66704

CERTIFICATE OF PUBLICATION

9/15, 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 9/13, 2005.

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

S. Wilkinson

LEGAL ADVERTISING

APPEAL SIGN POSTING REQUEST

CASE NO. 06-067-A

527 BAYSIDE DRIVE

12TH ELECTION DISTRICT APPEALED: 4/07/2006

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 06-067-A

LEGAL OWNER: CAROLE A. & ROBERT C. RIEMER

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

map 45 A5

527 BAYSIDE DRIVE

The sign was posted on 5/11, 2006.

By: Jeff Radcliffe
(Signature of Sign Poster)

Jeff Radcliffe
(Print Name)

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06-067-A

Petitioner: Carole and Robert Riemer

Address or Location: 527 Bayside Drive

PLEASE FORWARD ADVERTISING BILL TO:

Name: Carole and Robert Riemer

Address: 509 Bayside Drive
Baltimore, MD 21222

Telephone Number: 410 284-7046

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 13, 2005 Issue - Jeffersonian

Please forward billing to:
Carole & Robert Riemer
509 Bayside Drive
Baltimore, MD 21222

410-284-7046

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: 06-067-A
527 Bayside Drive
W/side of Bayside Drive, 680 feet south of centerline of Wise Avenue
12th Election District – 7th Councilmanic District
Legal Owners: Carole R. & Robert C. Riemer

Variance to permit an addition with a 19-foot rear setback and an open projection (deck) with a 3-foot side setback in lieu of the required 30-foot and 7 ½ foot setbacks respectively.

Hearing: Thursday, September 29, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J WISEMAN III
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

August 16, 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: 06-067-A
527 Bayside Drive
W/side of Bayside Drive, 680 feet south of centerline of Wise Avenue
12th Election District – 7th Councilmanic District
Legal Owners: Carole R. & Robert C. Riemer

Variance to permit an addition with a 19-foot rear setback and an open projection (deck) with a 3-foot side setback in lieu of the required 30-foot and 7 ½ foot setbacks respectively.

Hearing: Thursday, September 29, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Mr. & Mrs. Riemer, 509 Bayside Drive, Baltimore 21222
Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson 21286

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, SEPTEMBER 14, 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.

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

October 30, 2006

NOTICE OF DELIBERATION

IN THE MATTER OF:

CAROLE A. AND ROBERT C. RIEMER – Legal Owners
Case No. 06-067-A

Having heard this matter on 10/26/06, public deliberation has been scheduled for the following date /time:

DATE AND TIME : TUESDAY, DECEMBER 5, 2006 at 9:00 a.m.

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

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Protestant : Leslie M. Pittler, Esquire
Appellant /Protestant : Dorothy Hayes

Counsel for Legal Owners /Petitioners : Neil J. Bixler, Esquire
Legal Owners /Petitioners : Carole A. and Robert C. Riemer
Vincent Moskunas /Site Rite Surveying, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Supervisor, Code Enforcement /PDM **[Case No. 05-0830]**
Timothy M. Kotroco, Director /PDM

FYI: 2-1-5

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on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 20, 2006

NOTICE OF ASSIGNMENT

CASE #: 06-067-A

IN THE MATTER OF: CAROLE A. & ROBERT C. RIEMER
527 Bayside Drive 12th Election District; 7th Councilmanic District

10/21/05 – D.Z.C.'s Order in which requested zoning relief was GRANTED.

NOTE: 3/07/06 –Motion for Reconsideration filed by Leslie M. Pittler, Esquire, on behalf of Protestant – Copy of 10/21/05 Z.C. Order was not sent to Ms. Hayes by Z.C.'s Office, preventing her from appealing said Order.
3/30/06 – D.Z.C.'s Ruling on Motion for Reconsideration filed by adjacent neighbor –GRANTED, allowing 30 days for appeal of original Order of Zoning Commissioner in which variance relief was GRANTED.

ASSIGNED FOR: **THURSDAY, OCTOBER 26, 2006 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the *advisability of retaining* an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

---

c: Counsel for Appellant /Protestant : Leslie M. Pittler, Esquire
Appellant /Protestant : Dorothy Hayes

Counsel for Legal Owners /Petitioners : Neil J. Bixler, Esquire
Legal Owners /Petitioners : Carole A. and Robert C. Riemer
Vincent Moskunas /Site Rite Surveying, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Supervisor, Code Enforcement /PDM **[Case No. 05-0830]**
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

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

September 19, 2005

Carole R. Riemer
Robert C. Riemer
509 Bayside Drive
Baltimore, Maryland 21222

Dear Mr. and Mrs. Riemer:

RE: Case Number: 06-067-A, 527 Bayside Drive

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 1, 2005.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Site Rite Surveying, Inc. 200 E. Joppa Road, Rm. 101 Towson 21286

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Timothy M. Kotroco

FROM: R. Bruce Seeley

DATE: September 7, 2005

SUBJECT: Zoning Item # 06-067-A
Address ~~527 Bayside~~ Drive
Riemer Property

Zoning Advisory Committee Meeting of August 15, 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:

__X__ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-100 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Any new structures over 250 square feet in size must comply with the Intensely Developed Area (IDA) and Buffer Management (BMA) regulations. A fee-in-lieu of the 10% pollutant reduction requirement may be paid to Baltimore County prior to approval of a building permit.

Reviewer: Glenn Shaffer Date: September 1, 2005

S:\Devcoord\ZAC6-067.doc

ORDER RECEIVED FOR FILING
Date 10-21-05
By

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 19, 2005

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For August 22, 2005
Item No. 067

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The flood protection elevation for this site is 10.4.

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 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 requirement of B.O.C.A. International Building Code adopted by the county.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 067-08192005.doc

ORDER RECEIVED FOR FILING
Date 10-21-05
By

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 17, 2005

RECEIVED

AUG 17 2005

ZONING COMMISSIONER

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-067**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By: _____

Division Chief: _____

CM/LL

W:\DEVREV\ZAC\6-067.doc

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

August 10, 2005

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

ATTENTION: Zoning Review planners

Distribution Meeting of: August 15, 2005

Item No. 067-076

1. The fire marshal's office has no comments at this time.

Pursuant to your request, this Bureau has reviewed the referenced plan(s) and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

Acting Lieutenant David Heath
Fire Marshal's Office
410-887-4881
MS-1102F

cc: File

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

State Highway Administration
Driven to Excel

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

Maryland Department of Transportation

Date: 8.9.05

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

RE: Baltimore County
Item No. 067 DT

Dear. Ms. Matthews:

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

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

Very truly yours,

S. F. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

RE:	PETITION FOR VARIANCE 527 Bayside Drive; W/side Bayside Drive, 680' S c/line Wise Avenue 12th Election & 7th Councilmanic Districts Legal Owner(s): Carole & Robert Riemer Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 06-067-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 August, 2005, a copy of the foregoing Entry of Appearance was mailed to, Site Rite Surveying, Inc, 200 E Joppa Road, Suite 101, Towson, MD 21286, Representative for Petitioner(s).

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

RECEIVED
AUG 11 2005
Per...

IN RE: APPEAL ON PETITION FOR VARIANCE

Petition for Variance 527 Bayside Drive West Side of Bayside Drive, 680 feet South Centerline of Wise Avenue 12th Election District – 7th Councilmanic District	Before the Baltimore County Board of Appeals Case No.: 06-067-A

* * * * * * * * *

NOTICE OF ENTRY OF APPEARANCE

Pursuant to Rule 6 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, the undersigned counsel hereby enters his appearance on behalf of Joseph Riemer.

Respectfully submitted,

Neil J. Bixler
Bae & Bixler, LLC
10019 Reisterstown Road, Suite 301-A
Owings Mills, Maryland 21117
410-363-1703

Attorneys for Joseph Riemer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of April, 2006, a copy of the foregoing was mailed by first-class mail, postage prepaid, to Leslie M. Pittler, Esquire, 25 Wandsworth Bridge Way, Lutherville, Maryland 21093, attorney for Dorothy Hayes.

Neil J. Bixler

RECEIVED
APR 2 7 2006
BALTIMORE COUNTY
BOARD OF APPEALS

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

April 11, 2006

Leslie M. Pittler, Esquire
25 Wandsworth Bridge Way
Lutherville, MD 21093

Dear Mr. Pittler:

RE: Case: 06-067-A, 527 Bayside Drive

Please be advised that we received your appeal of the above-referenced case on April 7, 2006. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:raj

c: John V. Murphy, Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Office of People's Counsel, M.S. 2010
Code Enforcement
Dorothy Hayes, 525 Bayside Dr., Baltimore, MD 21222
Neil J. Bixler, Esquire, 10019 Reisterstown Rd., Ste. 301-0A, Owings Mills, MD 21117
Carole & Robert Riemer, 527 Bayside Dr., Baltimore, MD 21222
Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson, MD 21286

Printed on Recycled Paper

APPEAL

Petition for Variance
527 Bayside Drive
West Side of Bayside Drive, 680 feet South
Centerline of Wise Avenue
12th Election District – 7th Councilmanic District
Legal Owners: Carole A. & Robert C. Riemer

Case No.: 06-067-A

✓ Petition for Variance - (2) pages (August 1, 2005)

✓ Zoning Description of Property

✓ Entry of Appearance by People's Counsel (August 11, 2005)

✓ Notice of Zoning Hearing (August 16, 2005)

✓ Certificate of Posting (September 13, 2005) by Robert Black

✓ Certificate of Publication (September 13, 2005– The Jeffersonian)

✓ Zoning Advisory Committee Comments

✓ Petitioner(s) Sign-In Sheet

✓ Citizen(s) Sign-In Sheet

RECEIVED
APR 1 1 2006
BALTIMORE COUNTY
BOARD OF APPEALS

Petitioners' Exhibits
- ✓1 Plat to Accompany
- ✓2 Topo Map for 527 Bayside Drive
- ✓3 Application for Permit w/ attachments (5 pages)
- ✓4 Citation issued by Code Enforcement w/ attachment (2 pages)
- ✓5 Petition for Administrative Variance for 529 Bayside Drive – filed 4/2003
- ✓6 Photographs #6A-6K
- ✓7 Photographs #7A-7B

Protestant's Exhibits
- ✓1 Photographs #1A-1D with captions
- ✓2 Letters of Opposition to Petitioners' Variance Request, #2A-2D
- ✓3 Photographs #3A-3I

Miscellaneous (Not Marked as Exhibits)
- ✓1 Aerial Zoning Map of "Chink Creek" and 527 Bayside Drive
- ✓2 3/13/06 letter from John V. Murphy, DZC to Carole R. & Robert C. Riemer w/ enclosure (Motion for Reconsideration)
- ✓3 Photocopy of 3/13/06 letter with handwritten note dated 3/16/06
- ✓4 3/17/06 2-page letter from Neil J. Bixler, Esq., attorney for Petitioners

✓ Deputy Zoning Commissioner's Order (Petition for Variance–GRANTED) dated 10/21/05

✓ Motion for Reconsideration filed 3/7/06 by Leslie M. Pittler, Esq., on behalf of Protestant

✓ Deputy Zoning Commissioner's Order on Motion for Reconsideration (Re: Order dated 10/21/05 - DENIED) dated 3/30/06

✓ Notice of Appeal received on April 7, 2006 from Leslie M. Pittler, Esquire on behalf of Dorothy Hayes, Protestant

c: John V. Murphy, Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Office of People's Counsel, M.S. 2010

Code Enforcement
Dorothy Hayes, 525 Bayside Dr., Baltimore, MD 21222
Neil J. Bixler, Esquire, 10019 Reisterstown Rd., Ste. 301-0A, Owings Mills, MD 21117
Carole & Robert Riemer, 527 Bayside Dr., Baltimore, MD 21222
Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson, MD 21286
Leslie M. Pittler, Esquire, 25 Wandsworth Bridge Way, Lutherville, MD 21093

date sent April 11, 2006, raj

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

September 11, 2007

Robert C. Riemer
509 Bayside Drive
Baltimore, MD 21222

Re: 527 Bayside Drive
Zoning Case #06-067-A
Front Orientation Determination

Dear Mr. Riemer,

You had contacted this office for a determination of the orientation of your dwelling at the above address. Your variance case #06-067-A for an open deck 3-foot setback in lieu of the required 7.5 feet and a rear setback of 23 feet in lieu of the required 30 feet was recently denied by the Board of Appeals on August 31, 2007. In regard to the rear setback issue, you questioned that the rear orientation of the proposed addition (as shown on the site plan filed with the petition) is in fact the front of the dwelling facing the street instead of the water. Should the street side of your lot be determined to be the front, your setback requirement would be reduced by 5 feet or in line with other dwellings on the street.

This office has visited the property, and based on the existing conditions and construction on your lot and the neighborhood, we would support your position that the street could be considered the front of your property. Unfortunately, all the documentation in the file and the Board of Appeals order indicated otherwise. This office cannot administratively change the file without public notice and hearing. If all violation issues were resolved, this office would process a petition to the zoning commissioner for a determination of your lot orientation. Should you be successful, your street setback could be reduced accordingly.

The foregoing is merely an informal opinion, it is not an expert or legal opinion. It is not intended to be relied on as expert or legal advice, and is not legally or factually binding on Baltimore County or any of its officials, agents, or employees. Baltimore County expressly disclaims any and all liability arising out of, or in any way connected with the information provided in this document, or any interpretation thereof.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor

WCR:amf
CC:Timothy Kotroco
File
Code Enforcement #05-0830
Donna Thompson

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

October 3, 2007

Neil J. Bixler
Bae & Bixler, LLC
10019 Reisterstown Road, Suite 301 A
Owings Mills, MD 21117

Re: 527 Bayside Drive
Zoning Case #06-067-A
Lot Orientation

Dear Mr. Bixler,

Reference is made to your letter dated September 28, 2007 on behalf of your client Robert Riemer and the referenced zoning case.

You have referred to the September 11, 2007 letter from W. Carl Richards in this office that indicated the position of this office that I concurred with. In short, this office cannot substitute our own judgment for the clear zoning case record (including plats and orders) and issue permits without another zoning case to connect the record. In addition, we are prevented from processing permits on properties that are in violation of zoning or development regulations pursuant to Section 32-4-114.(c) of the Baltimore County Code (copy attached).

If, as you have stated (copies attached) that the extensive county permit records contradict the clear case record, this could have been used as a basis to require a dismissal.

I have discussed this case with the staff and I agree that the staff did not generate any language in the petition that would contradict the plat submitted or the applicant's intentions. Notwithstanding your petition in the Circuit Court, this office will assist Mr. Riemer with filing a petition to correct the record, and he should contact Carl Richards at 410-887-3391.

The foregoing is merely an informal opinion, it is not an expert or legal opinion. It is not intended to be relied on as expert or legal advice, and is not legally or factually binding on Baltimore County or any of its officials, agents, or employees. Baltimore County expressly disclaims any and all liability arising out of, or in any way connected with the information provided in this document, or any interpretation thereof.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

Timothy M. Kotroco
Director of Permits and Development Management

TMK:amf
CC: W. Carl Richards
File

Carl Richards - 527 Bayside Dr. (front orientation determination)

From: Carl Richards
To: Richards, Carl
Date: 9/10/2007 4:34 PM
Subject: 527 Bayside Dr. (front orientation determination)

You had contacted this office for a determination of the orientation of your dwelling at the above address. Your variance case #06-067-A for an open deck 3 ft. setback in lieu of the required 7.5 ft.and a rear setback of 23 ft. in lieu of the required 30 ft. was recently denied by the Board of Appeals on 8/31/07. In regard to the rear setback issue, you questioned that the rear orientation of the proposed addition (as shown on the site plan filed with the petition) is in fact the front of the dwelling facing the street instead of the water. Should the street side of your lot be determined to be the front, your setback requirement would be reduced by 5 ft. or in line with other dwellings on the street.

This office has visited the property, and based on the existing conditions and construction on your lot and the neighborhood, we would support your position that the street could be considered the front of your property. Unfortunately, all the documentation in the file and the Board of Appeals order indicated otherwise. If all violation issues were resolved, this office would process a petition to the zoning commissioner for a determination of your lot orientation. Should you be successful, your street setback could be reduced accordingly.

STD P

VTY wcr jr ZS

TMK
C File
Violation file
DT

Andrea,
Could you do this for mailing, Thanks, Carl

County Board of Appeals of Baltimore County

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

September 25, 2007

Neil J. Bixler, Esquire
Bae & Bixler, LLC
10019 Reisterstown Road – Suite 301-A
Owings Mills, MD 21117

RE: Circuit Court Civil Action No. 03-C-07-010576
Petition for Judicial Review
Carole A. and Robert C. Riemer
Case No.: 06-067-A

Dear Mr. Bixler:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review, which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The hearing in this case, which was held on October 26, 2006, was recorded on tape. In order to obtain a copy of this tape for transcribing, by a court reporter of your choice and at your expense, promptly remit a check in the amount of $25.00, ***payable to Baltimore County, Maryland***, at the address shown above.

Once the transcription of this tape has been completed, the court reporter must then forward *the original transcript* to the Board of Appeals, no later than November 06, 2007, so an extract of this case can be timely filed with the Circuit Court for Baltimore County.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: Leslie J. Pittler, Esquire

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on Recycled Paper

County Board of Appeals of Baltimore County

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

September 25, 2007

Leslie M. Pittler, Esquire
25 Wandsworth Birdge Way
Lutherville, MD 21093

RE: Circuit Court Civil Action No. 3-C-07-10576
Carole A. and Robert C. Riemer
Board of Appeals Case No.: 06-067-A

Dear Mr. Pittler:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on September 14, 2007 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-07-10576.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: Office of People's Counsel
Neil J. Bixler, Esquire
Carole A and Robert C. Riemer
Dorothy Hayes
William J. Wiseman, III/Zoning Commissioner
Timothy M. Kotroco, Dir./PDM
James H. Thompson, Supv. Code Enforcement/PDM [Case no.: 05-0830]
Pat Keller, Dir. Planning
Vincent Moskunas/Site Rite Surveying, Inc.

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on Recycled Paper

COPY

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: **CAROLE A & ROBERT C. RIEMER**
527 BAYSIDE DRIVE
12TH E; 7TH C
CASE NO.: 06-067-A

DATE: December 5, 2006

BOARD/PANEL: Lawrence Stahl, Chairman
Dr. Margaret Brassil
Mike Mohler

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate an appeal of a Petition for Variance, which was previously granted by the Zoning Commissioner, permitting an addition with a 19' rear setback and an open projection (deck) with a 3 foot side setback in lieu of the required 30' and 71/2' setback.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

1. Is the property unique?
2. Is there practical difficulty involved?

To answer the aforementioned questions, 307.1 of the BCZR and the case law from *Cromwell v. Ward* were used.

STANDING

- Petitioners had raised the argument of uniqueness as a result of the changes made in the zoning regulations.
- Uniqueness is not determined by statute, it is determined by the size, shape, topography and any other peculiar characteristics of a piece of property.
- There is no known case law where a statue renders a property to be unique.
- While the new zoning regulations may have created some difficulty, this piece of property is like every other property in the neighborhood.
- With respect to the question of practical difficulty, because the Petitioners wanted/needed more room, they built a 1½-story extension on the waterfront side of their home.
- It appears that some of their practical difficulty is self-imposed because of the renovation they did.

DECISION BY BOARD MEMBERS: The panel did not find sufficient evidence presented that would substantiate the property to be unique or to prove practical difficulty.

FINAL DECISION: After a thorough review of the facts, testimony and law in the matter, the Board reached a unanimous decision to *DENY* Petitioners request for a variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

CASE #: 06-067-A **IN THE MATTER OF: CAROLE A. & ROBERT C. RIEMER**
527 Bayside Drive 12th Election District; 7th Councilmanic District

10/21/05 – D.Z.C.'s Order in which requested zoning relief was GRANTED.

NOTE: 3/07/06 –Motion for Reconsideration filed by Leslie M. Pittler, Esquire, on behalf of Protestant – Copy of 10/21/05 Z.C. Order was not sent to Ms. Hayes by Z.C.'s Office, preventing her from appealing said Order.

3/30/06 – D.Z.C.'s Ruling on Motion for Reconsideration filed by adjacent neighbor –GRANTED, allowing 30 days for appeal of original Order of Zoning Commissioner in which variance relief was GRANTED.

4/27/06 – Notice of Entry of Appearance filed by Neil J. Bixler, Esquire, BAE & BIXLER, LLC, on behalf of Joseph Riemer, Petitioner.

6/20/06 --Notice of Assignment sent to following; assigned for hearing on Thursday, October 26, 2006 at 10 a.m.:

Leslie M. Pittler, Esquire
Dorothy Hayes
Neil J. Bixler, Esquire
Carole A. and Robert C. Riemer
Vincent Moskunas /Site Rite Surveying, Inc.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Supervisor, Code Enforcement /PDM **[Case No. 05-0830]**
Timothy M. Kotroco, Director /PDM

10/26/06 – Board convened for hearing (Stahl, Mohler M, Brassil); concluded hearing this date; deliberation to be scheduled.

10/30/06 – Notice of Deliberation sent to parties; assigned for Tuesday, December 5, 2006 at 9:00 a.m. FYI copy to 2-1-5.

11/15/06 – FAX copy from Neil Bixler, Esquire – submittal letter in response to questions raised by Board (Mohler) during hearing in this matter; deliberation assigned for 12/05/06.

11/21/06 – Review of record indicates that the record was closed on 10/26/06; counsel presented oral closing argument; no memos were requested, nor did anyone request that the record remain open for any further submission; all of which was confirmed with Chairman Stahl. Therefore, both hard copy and FAX of 11/15/06 letter returned to Mr. Bixler this date via cover letter, with copy of CBA letter also going to Messrs. Pittler and Zimmerman. (Copy to counsels via FAX; hard copy (with enclosures to Mr. Bixler) mailed USPS.

12/05/06 – Board convened for deliberation (2-1-5); unanimous decision to DENY variance request. Written Opinion and Order to be issued; appellate period to run from date of written Order. (2)

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

3/16/06

FROM:

March 13, 2006

RECEIVED
MAR 15 2006
ZONING COMMISSIONER

Carole R. Riemer
Robert C. Riemer
509 Bayside Drive
Baltimore, Maryland 21222

Re: Petition for Variance
Case No. 06-067-A
Property: 527 Bayside Drive

Dear Mr. and Mrs. Riemer:

For your information, attached please find a copy of the Motion for Reconsideration filed by Leslie Pittler on behalf of Dorothy Hayes.

Very truly yours,

TO:

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:dlw
Attachment

c: Vincent Moskunas, Site Rite Surveying, Inc., 200 E. Joppa Rd., Rm. 101, Towson, MD 21286
Joseph Riemer, 527 Bayside Drive, Dundalk, MD 21222
People's Counsel; DPW; DEPRM; Case File

The owner of this property is Joseph Riemer, not Robert & Carole Riemer

3

Leslie M Pittler P.A.
Attorney at Law

25 Wandsworth Bridge Way
Lutherville, Maryland 21093

April 5,2006

Telephone: 410-823-4455
Fax: 410-296-4461

Department of Permits
And Development
County Office Building
111W. Chesapeake Ave.
Towson, Md. 21204

RE: Appeal of Case No.: 06-067-A

Please enter an appeal to the Baltimore County Board of Appeals from the decision rendered by the Deputy Zoning Commissioner of Baltimore County on the 30th day of March 2006. This appeal pertains to all relief granted by the Deputy Zoning Commissioner. The original decision in this matter was on October 21, 2005, but due to the Motion For Reconsideration filed by the undersigned on behalf of the Protestant Dorothy Hayes, said Petition being granted on the 30th of March, 2006, this appeal is timely filed on behalf of Ms. Dorothy Hayes.

RECEIVED
APR 07 2006
Per KM

Very truly yours,

Leslie M. Pittler

CC: Neil J. Bixler, Esquire 10019 Reisterstown Road, Suite 301-A Owings Mills, Md. 21117

LESLIE M. PITTLER P. A.
25 WANDSWORTH BRIDGE WAY
LUTHERVILLE, MD 21093-3962

846
25-80/440

DATE April 7, 2006

PAY TO THE ORDER OF Baltimore County, Maryland $ 400 00

Four hundred 00/100 DOLLARS

Security Features Details on Back

©HARLAND STYLE XPP

LEGG MASON PREMIER
JPMorgan Chase Bank, N.A. Columbus, Ohio 43271

Expense Code

ACH INSTRUCTIONS
ABA:052001633 A/C 888880000368076 44

Leslie M. Pittler MP

FOR Appeals for D. Hayes

⑈000846⑈ ⑆044000804⑆ 4519959502706⑈

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 5822

DATE 4/11/06 ACCOUNT 001 006 6150

AMOUNT $ 400.00

RECEIVED FROM: Leslie M. Pittler for Dorothy Hayes

FOR: Appeal in Case No 06-067-A
527 Bayside Drive

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

BAE & BIXLER, LLC
ATTORNEYS-AT-LAW

10019 REISTERSTOWN ROAD, SUITE 301-A
OWINGS MILLS, MD 21117

JAE SUNG BAE*

OFFICE (410) 363-1703
FAX (410) 363-1097

NEIL J. BIXLER

* ALSO ADMITTED IN D.C.

September 14, 2007

VIA OVERNIGHT DELIVERY

Civil Clerk
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Judicial Review in the Matter of Carole A. and Robert C. Riemer
Board of Appeals of Baltimore County Case No.: 06-067-A
My File No.: 06-003-N

Dear Sir/Madam Clerk:

Enclosed herewith for filing on behalf of the petitioners in the above-referenced request for judicial review, please find the following:

1. an original Petition for Judicial Review and one (1) copy of same for the agency whose decision is sought to be reviewed pursuant to Maryland Rule 7-202(d); and
2. a check for $115.00 in payment of the requisite filing fee.

Thank you for your attention to this matter, and if you would please date-stamp the extra copy of this cover letter and return same in the enclosed self-addressed, stamped envelope at your earliest convenience, I would appreciate it.

Very truly yours,

BAE & BIXLER, LLC

Neil J. Bixler

RECEIVED
SEP 17 2007
BALTIMORE COUNTY
BOARD OF APPEALS

NJB:jeg
Enclosures
cc w/encs.: Carole A. and Robert C. Riemer
County Board of Appeals of Baltimore County
Zoning Commissioner Baltimore County
Leslie M. Pittler, Esquire

G:\Docs\Riemer, Joe\Petition for Variance\ltr to Clerk 9-14-07.doc

Security enhanced document. See back for details.

1945

BAE & BIXLER LLC 07-03
10019 REISTERSTOWN RD. STE 301A
OWINGS MILLS, MD 21117-3967

DATE September 14, 2007 7-163/520 MD 183

PAY TO THE ORDER OF Clerk, Circuit Court for Baltimore County $ 115.00

One Hundred Fifteen and 00/100 DOLLARS

Security features are included. Details on back.

Bank of America

ACH R/T 052001633

FOR Riemer 06-003-N, Petition for J Review

⑈001945⑈ ⑆052001633⑆ 003939106108⑈

GUARDIAN ● SAFETY ©Clarke American BA

BAE & BIXLER, LLC
ATTORNEYS-AT-LAW

10019 REISTERSTOWN ROAD, SUITE 301-A
OWINGS MILLS, MD 21117

JAE SUNG BAE*

OFFICE (410) 363-1703
FAX (410) 363-1097

NEIL J. BIXLER

* ALSO ADMITTED IN D.C.

April 26, 2006

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

Re: Appeal from Deputy Zoning Commissioner's Order of 10/21/05
Case No.: 06-067-A
Property: 527 Bayside Drive
My Client: Joseph Riemer
My File No.: 06-003-N

Dear Sir/Madam:

Pursuant to Rule 6 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, enclosed herewith for filing please find a Notice of Entry of Appearance in connection with the above-referenced appeal.

Thank you for your attention to this matter, and if you would please date-stamp the extra copy of this cover letter and return same to me in the enclosed self-addressed, stamped envelope at your earliest convenience, I would appreciate it.

Very truly yours,

BAE & BIXLER, LLC

Neil J. Bixler

NJB:jeg
Enclosures

cc: Mr. Joseph Riemer
Leslie M. Pittler, Esquire

G:\Docs\Riemer, Joe\Petition for Variance\ltr to Balt County B of App 4-21-06 doc

RECEIVED
APR 27 2006
BALTIMORE COUNTY
BOARD OF APPEALS

BAE & BIXLER, LLC
ATTORNEYS-AT-LAW

10019 REISTERSTOWN ROAD, SUITE 301-A
OWINGS MILLS, MD 21117

OFFICE (410) 363-1703
FAX (410) 363-1097

JAE SUNG BAE*

NEIL J. BIXLER

* ALSO ADMITTED IN D.C.

RECEIVED
MAR 2 0 2006
ZONING COMMISSIONER

March 17, 2006

VIA FACSIMILE AND U. S. REGULAR MAIL

Mr. John V. Murphy
Deputy Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Re: Petition for Variance
Case No.: 06-067-A
Property: 527 Bayside Drive
My Client: Joseph Riemer
My File No.: 06-003-N

Dear Mr. Murphy:

I am writing to inform you that after discussing at length with my client the Motion for Reconsideration filed by Mr. Pittler on behalf of his client, Ms. Hayes, we have decided not to oppose the motion.

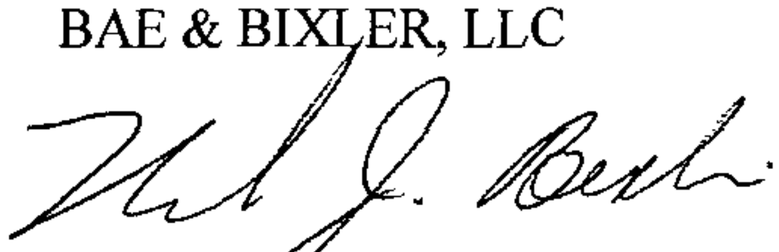
Although there may exist a legal argument that Ms. Hayes was not required to be sent notice of the decision in the first place, out of simple fairness to her and deference to your office's custom of sending such notice, since it appears Ms. Hayes in fact was not sent any notice, we will not be opposing her motion.

4

In the meantime, I have left a message for Mr. Pittler to call me to discuss a possible resolution of all issues between our respective clients, and I am hopeful that such a resolution can be achieved.

Very truly yours,

BAE & BIXLER, LLC



Neil J. Bixler

NJB:jeg

cc: Mr. Joseph Riemer
Leslie M. Pittler, Esquire (via fax 410.583.7611)

From: "Joe Riemer" <JRiemer@aptwater.com>
To: <tkotroco@baltimorecountymd.gov>
Date: 09/23/08 12:29 PM
Subject: Follow up notes of our phone conversation about 527 Bayside Drive

Good Morning Tim,

I wanted to send you a note about key points of our conversation to help remind you of my circumstances:

* Property address is 527 Bayside Drive on water.
* We are asking that you allow us to get a permit for a front yard addition without a variance. We do not need a variance for the size of our addition under front yard setbacks.
* We are asking you to allow this without forcing us to go through the added time and expense of a special hearing.
* We suggest that a special hearing is not necessary because:
* 1) No one has asked for a front or back yard determination. We tried to get this topic brought up during the proceedings but were repeatedly told our case was not about that.
* 2) Your prior letter supporting our position that the street side is the front was never allowed to be entered into evidence during any of the proceedings over the last three years, therefore you would not be changing any prior official position.
* 3) Two years ago you said you could not administratively change the findings of front and back at our property because our case was pending. Now two years later, the court has finally said front yard/back yard is not in front of them and they would not address it, i.e. it is no longer pending, therefore this available for you to comment on. In order to change something, it must have been a specific way in the first place. Yours was the only group to visit our property and you found that the street was the front. This was done via a visit by one of your deputies. Because you made the first and only determination to the orientation of our property and because your new position would be the same as your unofficial one, you would not be administratively changing anything.
* Whether you allow me to build now or allow me to build months from now after a special hearing, the position of your office will be the one in question. We are confident if you visit the site with Carl like you suggested, you will find my property and the property of the protesting neighbor both have two story apartment buildings on the waters edge, i.e. auxiliary structures. My neighbor has an above ground pool, which as you know cannot be installed in a front yard and we have printed transcripts where my protesting neighbor said he considered the street side to be the front and the water side the rear. Why put us through many more months of anguish only to have the same conclusion, that the front of our property is the street side. You will be no less responsible for your position during a hearing many months away then you would be if you stated your position now.

Please think this through, visit my property and meet with me. You will see and come to understand that I had to continue the court battle until the very end when a judge would finally say front yard/back yard is not in front of him. All of this so I could go back to you and comfortably put it back your hands. Please don't wash your hands of it. Should you

decide to stick with your original position, please support it so I can understand why. To know why you would not support us now will help me to understand why our neighbor might be able to prevail during a hearing. Again, it seems there would no reason for you to change your mind now so please detail your findings if they are contrary.

I eagerly wait your reply and thank you in advance for your prompt attention!

Sincerely,

Joe Riemer
527 Bayside Drive
Baltimore, MD 21222
cell: 443-829-5612

Timothy Kotroco - 527 Bayside Drive

From: Timothy Kotroco
To: JRiemer@aptwater.com
Date: 10/10/08 10:27 AM
Subject: 527 Bayside Drive
CC: Fernando, Bonifacio; McGraw, Craig; Richards, Carl; Wasilewski, Leonard

---

Mr. Riemer:

This correspondence shall serve as our final position regarding the addition that you would like to build on the "streetside" of your residence. I have visited your property and have reviewed the zoning files relative to the zoning hearings that you have had before the Deputy Zoning Commissioner, the Board of Appeals and the Circuit Court.

You are requesting at this time that our office consider the "streetside" of your property to be the "front" of your property, so that front yard setbacks would apply to the addition that you desire to build onto your house. In your previous zoning hearings, you presented the "streetside" of your house to be the "rear" of your property and after two appeals, the Circuit Court denied your variance request to build the addition onto the "rear" of your house.

It is your hope, that by "switching" the orientation of your house, your addition could be built without a variance.

I have reviewed your request to "switch" the orientation of your property with three zoning reviewers; namely Messrs., Wasilewski, Fernando and McGraw. We reviewed the site plan that was prepared by your engineer and consultant, Vince Moskunas. Assuming the "streetside" of your property to be the "front" and applying the front yard averaging rules to front yard setbacks, we are all in agreement that the addition you wish to construct onto the "streetside" of your property would still need a variance.

Front yard setbacks are determined by averaging the setback distances for the houses located on both sides of your house, for a distance of 200 feet in each direction. The houses shown on Mr. Moskunas' site plan, (with the exception of #529 which has a 26' setback) were all built with 35' setbacks. His plan shows a distance of 200 feet to the North but only 100 feet to the South. Your house also has a 35' setback. Given these averages, from what we could tell from your site plan, you would still need a variance, even if the "streetside" of your property is considered to be the front yard.

Keep in mind that "switching" the front and back designations of your property does not cure the 3' setback problem that you have for the deck that you built on the side of your house. The side will remain the same regardless of front vs. back. You will still need to correct that setback problem, either by variance or removal.

It should also be noted that Mr. Moskunas represented on your site plan that the front of your house faces the water and the "streetside" is the rear. He also represented every other house on the street to front towards the water and their rear yards facing Bayside Drive. From my personal inspection, I felt as though your house and most every other house along Bayside "fronted" toward Bayside Drive and not the water. He would have to revise his plan to accurately depict the way these houses face.

I recommend that you discuss this email directly with Mr. Moskunas. Please ask him to discuss front yard averaging with you and how that would apply to your particular property. I would then suggest that you and Mr. Moskunas meet with Carl Richards to discuss your options. Mr. Richards will be happy to meet with you at any time you choose to discuss this matter. Simply give him a call to arrange a meeting.

As for now this will stand as our final position on your request. We will not issue a permit to you at this time. It is our opinion that you need a variance to build that addition, even if the "streetside" is considered your front yard. You must also correct the setback problem that you have with the deck that was built on the side of your property.

If you need to discuss this matter any further, please contact Mr. Richards at 887-3391. He is out of the office today and keep in mind that Monday, Columbus day is a holiday. You may reach him on Tuesday or thereafter.

Sincerely,

Tim Kotroco

Timothy M. Kotroco, Director
Permits & Development Management
Phone: 410-887-3020

PLEASE PRINT CLEARLY

CASE NAME 527 BAYSIDE AVE
CASE NUMBER 06-067-A
DATE 9-29-05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Joseph Riemer	527 Bayside Dr.	Dundalk, MD 21222	RiemerJoe@
VINCENT MOSKUNAS SITE RITE SURVEYS, INC	200 E. JOPPA RD.	TOWSON, MD. 21286	VJMMVM@AOL.COMM, Comcast.net

PLEASE PRINT CLEARLY

CASE NAME 527 BAYSIDE AVE.
CASE NUMBER 06-067-A
DATE 9/29/05

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Dorothy Hayes	525 BAYSIDE DR	BALTO. MD. 21222	

6/25/08

IN THE MATTER OF	*	IN THE
CAROLE A RIEMER, ET AL	*	CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE	*	BALTIMORE COUNTY
	*	
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	
		Case No. 03-C-07-010576
	*	

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

MEMORANDUM OPINION AND ORDER

This matter comes before the Court as a Petition for Judicial Review of the Order of the County Board of Appeals of Baltimore County dated December 10, 2007 in which the Board of Appeals reversed the decision of the Deputy Zoning Commissioner who originally approved the requested variance of Carol A. and Robert C. Riemer (Petitioner). This Court has carefully considered the legal memoranda presented, the decision of the Board of Appeals, and the applicable statutory and case law in reaching its decision in this matter.

SCOPE OF REVIEW

In reviewing a decision of an administrative agency, the Circuit Court is limited to whether that decision is "in accordance with the law." Maryland Code Annotated, Article 25A § 5(U) (1957, 1994 Repl. Vol.). The Circuit Court may correct any abuse of discretion by an administrative agency. The Court may also reverse or modify the agency's actions when they are unsupported by facts, arbitrary, illegal, capricious, or unreasonable. *Heaps v. Cobb*, 185 Md. 372 (1945); *Art Woods Enterprises v. Wiseburg*

FILED JUL 8 2008

Community Assoc., 88 Md. App. 723, 727 (1991). However, the scope of judicial review of decisions by administrative agencies is narrow, recognizing that the Board members have expertise in a particular area and, ultimately, should be free to exercise their discretion as such. *Finney v. Halle*, 241 Md. 224 (1966).

Thus a reviewing court will not substitute its judgment for that of an administrative agency where the issue is freely debatable and the record contains substantial evidence supporting the administrative decision. *Montgomery County v. Woodward and Lothrop, Inc.*, 280 Md. 686 (1977). Accordingly, the Circuit Court's role is limited to determining whether or not there is substantial evidence in the record as a whole to support the agency's finding and conclusions, and to determine whether or not the agency's decision is premised upon a proper construction of the law. *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 577 (1994).

STATEMENT OF FACTS

The relevant facts as determined by the Board of Appeals of Baltimore County are as follows. Petitioners filed a petition for variances in 2005, and a public hearing was held before the Deputy Zoning Commissioner. Petitioner amended the original request from a 19' variance to a 23' variance. By order dated October 25, 2005, the Zoning Commissioner granted a rear yard setback of 26' instead of the required 30' and the 3' side yard setback for the deck instead of the required 7.5', subject to certain conditions.

The Respondents appealed to the Baltimore County Board of Appeals. A de novo, evidentiary hearing, at which the Petitioners presented testimony and evidence in support of their requested variance, was held. The Respondents testified in opposition to the variances and the Board of Appeals ultimately denied the requested variances.

Petitioner claims that a mistake was made when an employee of the Department of Permits and Development Management initially reviewed the Petition for variance to the Zoning Commissioner of Baltimore County. Petitioner claims the employee erred in his determination that the addition was to be built in the rear of the house and not the front of the house.

ANALYSIS

The issue before this Court is whether there was substantial evidence to support the decision of the Board of Appeals of Baltimore County denying the requested variances. A reviewing court should reverse the findings of fact of an administrative agency if, after evaluation of the entire record, it finds that such findings of fact are not supported by substantial evidence. *State Gov't sec. 10-222(h)(3)(v).*

At the hearing before the Board of Appeals, both the Petitioner and the Respondent had the opportunity to present testimony and evidence concerning the Petitioners' request for a variance. A reviewing court must affirm the decision of the Board if there is substantial evidence to support the Board's decision. Here, the Board heard evidentiary support from both the Petitioner and the Respondent and reached its decision based on the evidence presented. There is substantial evidence to support the Board's denial of the variance.

This Court cannot address the Petitioners' allegations of mistake by the Department of Permits and Development Management, as that is an issue of fact and this Court is limited in its review of the decision of the Board to whether the decision was in accordance with the law. However, the Petitioners' right to reapply to the Zoning Commissioner for a special exception is not limited by the Court's ruling in this matter.

CONCLUSION

Accordingly, on this 25th day of June, 2008, by the Circuit Court of Baltimore County, the Decision of the Board of Appeals is hereby **AFFIRMED**.

THOMAS J. BOLLINGER, JUDGE

True Copy Test
SUZANNE MENSH, Clerk
Per _____
Assistant Clerk

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-07-010576

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

11/9/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
CAROLE A. AND ROBERT C. RIEMER *
527 BAYSIDE DRIVE
BALTIMORE, MD 21222 * CIVIL ACTION
NO. 03-C-07-010576

FOR JUDICIAL REVIEW OF THE OPINION OF *
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF:
CAROLE A. AND ROBERT C. RIEMER *
527 Bayside Drive
Baltimore, MD 21222 *

12th ELECTION DISTRICT *
7th COUNCILMANIC DISTRICT

*

BOARD OF APPEALS CASE NO.: 06-067-A
* * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

06-067-A

Aug. 1, 2005 Petition for Variance filed by Carole R. Riemer and Robert C. Riemer from Section(s) 1B02.3A.5, 1B02.3C,301.1 (BCZR). To

	permit an addition with a 19 foot rear setback and an open projection (deck) with a 3 foot side setback in lieu of the required 30 foot and 7 ½ foot setback, respectively.
Aug. 11, 2005	Entry of Appearance by People's Counsel.
Aug. 16, 2005	Notice of Zoning Hearing.
Sept. 13, 2005	Certificate of Posting.
Sept. 15, 2005	Certificate of Publication
Sept. 19, 2005	Zoning Advisory Committee comments.
Sept. 29, 2005	Hearing held by Deputy Zoning Commissioner – Sign In Sheets.
Oct. 21, 2005	Deputy Zoning Commissioner's decision.

ORDERED that the Petitioners' request for variance from Sections 1B02.3A.5, 1B02.3C and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an addition with a 6 foot rear yard setback and an open projection (dec0) with a 3 ft. side setback in lieu of the required 30 foot and 7.5 foot setback, respectively, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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

2. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated August 19, 2005, a copy of which is attached hereto and made a part hereof;

3. Compliance with the ZAC comments made by DEPRM dated September 7, 2005, a copy of which is attached hereto and made a part thereof;

4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Mar. 1, 2006	Motion for Reconsideration filed by Leslie M. Pittler, Esquire on behalf of Protestant, Dorothy Hayes.
Mar. 30, 2006	Deputy Zoning Commissioner's Order onMotion for Reconsideration stating:

Finding of Fact and Conclusion of Law

Given the fact that this Office failed to mail a copy of the original Order to Ms. Hayes, Ms. Hayes was clearly prejudiced thereby. This Commission has no specific rule for such a situation but has often recognized Circuit Court Rule No. 2-535 which allows the Court to revisit decision where "fraud, mistake or irregularity" has occurred and a party has been prejudiced thereby. Clearly not sending the order to a party is irregular. I also note the Petitioner's gracious agreement to the Motion. Consequently, I will grant the Motion allowing Ms. Hayes to appeal the decision in this case to the Board of Appeals.

Apr. 5, 2006	Letter of Appeal filed by Leslie M. Pittler, Esquire on behalf of Protestant, Dorothy Hayes.
Apr. 11, 20076	Letter from the Dir. of Permits and Development Management, Timothy M. Kotroco informing Leslie M. Pittler, Esquire that an appeal has been taken in this case.
	Boar of Appeals - Appeal Sign Posting Request.
Apr. 26, 2006	Notice of Entry of Appearance filed by Neil J. Bixler, Esquire on behalf of the Riermers.
May 11, 2006	Appeals Sign Posting – Certificate of Posting.
June 20, 2006	Notice of Assignment from Board – Hearing Date 10/26/2006.
Oct. 26, 2006	Board convened for hearing.

Sept. 25, 2007	Certificate of Notice filed with the Circuit Court and proper parties notified.
Nov. 8, 2007	Transcript received.
Nov. 9, 2007	Record of Proceedings filed with the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Rm 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

c: Neil J. Bixler, Esquire
Leslie M. Pittler, Esquire
Arnold Jablon, Esquire
People's Counsel for
Baltimore County

IN THE MATTER OF	*	IN THE
CAROL A. and	*	CIRCUIT COURT
ROBERT C. RIEMER	*	OF MARYLAND
	*	FOR
	*	BALTIMORE COUNTY
	*	Case No.: 06-067-A

* * * * * * * * * *

OFFICIAL TRANSCRIPT OF THE PROCEEDINGS

(Board of Appeals)

VOLUME 1 OF 1

Thursday, October 26, 2006

Baltimore County, Maryland

BEFORE:

William J. Wiseman, III, Zoning Commissioner

Pat Keller, Planning Director

James H. Thompson, Supervisor, Code Enforcement/PDM (Case No.: 05-0830)

Timothy M. Kotroco, Director/PDM

Tonya L. Astaud
Court Reporting and Litigation Support
16 Pepperdine Circle, Catonsville, Maryland 21228
443 904-6445 tastaud@comcast.net

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

APPEARANCES:

Counsel for Appellant/Protestant:

Leslie M. Pittler, Esquire

Appellant/Protestant:

Dorothy Hayes

Counsel for Legal Owners/Petitioners:

Neil J. Bixler, Esquire

Legal Owners/Petitioners:

Carole A. And Robert C. Riemer

Vincent Moskunas/Site Rite Surveying, Inc.

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

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BALTIMORE COUNTY; THURSDAY, OCTOBER 26, 2006;

9:00 A.M.

THE CHAIRMAN: Good morning everyone.

COUNSEL: Good morning.

THE CHAIRMAN: This is the regular meeting of the Board of Appeals for Baltimore County. We're here on Thursday, October 26, 2006, in case number 06-067-A, in the matter of Carole A. and Robert C. Riemer, 527 Bayside Drive, in the 12th Election, in the seventh council manic district.

We're here arising out of an October 21, 2005, Deputy Zoning Commissioner's Order in which requested zoning relief was granted.

Counsel, for the record, if you will.

MR. BIXLER: Yes, Neil Bixler, on behalf of Mr. Riemer.

MR. PITTLER: Leslie Pittler, on behalf of the Protestants, Mr. and Mrs. Hayes.

THE CHAIRMAN: Okay. Anything administrative that we have to discuss, anything in terms of scheduling, anything before we begin the substance of the case, otherwise, we'll just get started.

MR. BIXLER: Other than I think counsel

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and I have agreed to a stipulation in terms of the record Malow (phonetic), Exhibits, which stipulate to the company.

THE CHAIRMAN: Okay. So and as you bring them in, we'll just put them in by agreement. Okay. Fair enough. Mr. Riemer. Well, actually the appeal is Mr. Pittler, excuse me.

MR. PITTLER: Yes.

THE CHAIRMAN: Relief was granted Malow.

MR. PITTLER: Yes.

THE CHAIRMAN: But this is a de Novo appeal, it's a de Novo appeal, so this is etch-a-sketch justice. We just cleared the page and you get to start again.

MR. PITTLER: That's right.

THE CHAIRMAN: All right.

MR. BIXLER: I'm just going to give kind of overview and then I'll put my witnesses on the stand.

THE CHAIRMAN: Okay.

MR. BIXLER: It's my understanding that this appeal is limited to the variance issued regarding the street sign addition, not on the porch on the side. The Deputy Zoning Commissioner

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1 Malow did not grant the full variance my client
2 received. He originally sought a setback of 18
3 feet instead of the 30 feet, subsequently amended
4 his petition to request a 23 foot setback. And
5 the Deputy Zoning Commissioner, in his Order of
6 October 21st, 2005, cut it back even more, and it
7 now stands at 26 feet, which is in line with the
8 adjacent neighbor at 529 Bayside, and one foot
9 different than the other neighbor, 525, Ms. Hayes;
10 I believe her setback is 27 feet.
11 The Deputy Zoning Commissioner Malow,
12 stated in detail his findings of fact and
13 conclusions of law, and I believe that they are
14 correct and should be affirmed on appeal. The
15 specific language used by the Deputy Zoning
16 Commissioner Malow on page six of the Order, I
17 think, pretty much sums up our position here. And
18 I quote the second paragraph on page six, I find
19 that special circumstances or conditions exist
20 that are peculiar to the land or structure which
21 is the subject of the variance request. The house
22 is located on lots recorded in the land records of
23 the County in 1937. Zoning regulations were
24 imposed on the property many years later and
25 clearly impact this property differently from

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1 others created after the regulations were imposed.
2 Consequently, I find the property unique in a
3 zoning sense. I further find that the Petitioner
4 would suffer hardship or practical difficulty if
5 the regulations were strictly enforced. Finally,
6 I find that the variances should be granted with
7 the spirit and intent of the DR5.5 zoning
8 regulations, and will not adversely impact the
9 neighborhood as long as the Petitioner's addition
10 is in line with the adjoining homes on this side
11 of the street.
12 And I think the evidence will show that
13 a 26 foot setback that would be in-line with the
14 other neighbors on the street. I think these
15 findings are consistent with the law and variances
16 as set forth in Cromwell and in Progeny
17 (phonetic), and supported by the facts propounded
18 in this case and we'll present evidence of today.
19 Even though Mr. Riemer was not overly delighted
20 with the 26 foot setback ordered, he thought it
21 was, nonetheless, a reasonable compromise and
22 that's why he did not file the appeal in this
23 case, despite the fact that Ms. Hayes has a 27
24 foot setback.
25 I think it's interesting that Mr.

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Riemer's other neighbor, at 529, does not have a problem with this variance and is not participating. With that said, I'd like to call my first witness.

MR. PITTLER: Mr. Chairman, if I may --

THE CHAIRMAN: You want to open now?

MR. PITTLER: -- make an opening statement.

THE CHAIRMAN: You want to open now as opposed to your --

MR. PITTLER: I would just indicate to you things I believe are in the letter of appeal. It's appealing the Zoning Commissioner's decisions and it wasn't excluding anything the Zoning Commissioner did, the Deputy Zoning Commissioner. So all issues are on the table, both variances he granted, because he made the same faulty findings on both additions. And I don't believe the appeal was excluding anything.

So, therefore, both issues are on the table before this Board. And I'll address the Deputy Zoning Commissioner's decision when I close.

THE CHAIRMAN: Okay.

MR. BIXLER: It was my understanding,

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1 and I'm trying to find in the Order of Malo, that
2 Ms. Hayes was not below appealing the variance
3 order, contesting, I should say, the variances
4 with regards to the side. Am I incorrect in that,
5 counsel?
6 MR. PITTLER: Yeah, the letter of
7 appeal --
8 MR. BIXLER: Well, I understand the
9 letter of appeal --
10 MR. PITTLER: It doesn't matter what
11 Mrs. Hayes said in the Deputy Zoning
12 Commissioner's hearing, this is du novo. And as
13 long as the appeal doesn't exclude conditions,
14 when the appeal relates to the Zoning
15 Commissioner's decisions, then all the issues
16 before the Deputy Zoning Commissioner are on the
17 table.
18 THE CHAIRMAN: Just so that we don't get
19 hung up on this, because it's a relatively simple
20 point, counsel is, essentially, correct. The only
21 types of appeal in which we limit and you have to
22 set specific grounds in specific errors are when
23 it's appeals to things like development plans. On
24 a simple variance or special exception case, if
25 you entered an appeal, generally, the case Malow

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1 gets wiped and we start from scratch based upon
2 the original request that was made.
3 Now, counsel, just for your own
4 edification, in an opening discussion, even though
5 the appeal is set like that, counsel can always
6 say, well, we don't really have a problem with
7 this, we're going to address ourselves to that and
8 then, of course, the other part takes care of
9 itself. But if counsel chooses to treat it as
10 everything's open, everything's open.
11 MR. BIXLER: I'm assuming, based on Mr.
12 Pittler's remarks, that is his position, correct?
13 THE CHAIRMAN: Evidently.
14 MR. BIXLER: Okay.
15 THE CHAIRMAN: Okay.
16 MR. BIXLER: I understand.
17 THE CHAIRMAN: All right.
18 MR. BIXLER: I'd like to call Mr.
19 Vincent Moskunas to the witness stand, please.
20 THE CHAIRMAN: Sir, if you would stand
21 and raise your right hand, please.
22 (Witness sworn.)
23 THE CHAIRMAN: You may be seated.
24 THE WITNESS: Thank you.
25 THE CHAIRMAN: And, again, I make no

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1 guarantees as to how loud you have to be for the
2 tape to pick you up, so if you would just speak as
3 slowly and clearly as you can, we'll try to get
4 there.
5 THE WITNESS: Okay.
6 THE CHAIRMAN: First, if we could have
7 your name and address, please.
8 THE WITNESS: Name is Vincent Moskunas,
9 -O-S-K-U-N-A-S; 200 East Joppa Road, Towson,
10 Maryland 21286.
11 THE CHAIRMAN: Thank you, sir. Counsel.
12 MR. BIXLER: Thank you.
13 DIRECT EXAMINATION
14 BY MR. BIXLER:
15 Q Mr. Moskunas, you're employed by Site
16 Rite Surveying, Incorporated; is that correct?
17 A I'm the President and owner of Site Rite
18 Surveying.
19 Q Okay. And Mr. Riemer had retained you
20 and your company to perform certain services in
21 regard to his property at 527 Bayside Drive; is
22 that correct?
23 A That's correct.
24 Q Okay. Can you describe the nature of
25 those services?

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A The nature was for an addition that Mr. Riemer was trying to perform on the rear or the street side of his house. And also to eradicate a code enforcement notice that was given to him for the construction of the side deck on the waterfront side. We prepared the site drawing to file with the Deputy Zoning Commissioner.

Q Okay. And you testified below, before the Deputy Zoning Commissioner; is that correct?

A That's correct.

Q And you submitted a copy of your site drawing to Malow as well?

A That's true.

Q Okay. Do you have a copy of that here with you today?

A Yes. In fact, there's four copies on the table.

MR. BIXLER: Okay. What would be easiest, we can either reference the one in the record or I could --

THE CHAIRMAN: Well, the easiest thing would be if you've got four copies or even presuming you had just one, at least one copy for us that you give it to us.

MR. BIXLER: Sure.

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1 THE CHAIRMAN: You want to put one up on
2 there? If you have a need to, you can do that.
3 MR. BIXLER: Okay.
4 BY MR. BIXLER:
5 Q Is it easier for you to work off the
6 board, sir?
7 A Yes.
8 THE CHAIRMAN: And that light probably
9 has to be adjusted. Okay. And this will be
10 Petitioner's 1.
11 (Exhibit 1 marked.)
12 MR. BIXLER: Thank you.
13 BY MR. BIXLER:
14 Q Okay. If you would walk us through it a
15 little bit, I'd appreciate that.
16 A Yes. Originally, the addition was to be
17 19 feet from the roadside and at the zoning, at
18 the hearing, it was agreed upon that the house
19 addition would be reduced down to 14 feet, rather
20 than the 18 feet. The purpose of that was to give
21 more line of sight across Mrs. Hayes' property in
22 order for her to keep the view, even though the
23 house at 529, address 529, was 26 feet on the
24 front of Mr. Riemer's house. There was no
25 objection made at that administrative variance for

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her to improve her property at that time; no claims were made and the administrative variance was approved. The property was recorded on a record plat of inverness at 1937, and the house was constructed, the original house, was constructed around 1942, which was well before the zoning regulation --

MR. PITTLER: Objection. Mr. Moskunas has not been introduced as an expert on the Baltimore County zoning regulations or as a land use expert. I understand that he's to testify that he prepared this site plan and maybe did a survey, but I don't think it's appropriate for Mr. Moskunas to be testifying as to the zoning regulations.

THE CHAIRMAN: He hasn't qualified him yet.

MR. PITTLER: Correct.

MR. BIXLER: I thought, and maybe I was mistaken, that our stipulation covered that.

MR. PITTLER: No, the stipulation says that I have no objection to the fact that Mr. Moskunas prepared the site plan, I have no problem with that. If he's going to testify as to the zoning regulations or the factors that come into

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play, in a case of this nature, I would have to object.

MR. BIXLER: Okay.

VOIR DIRE

BY MR. BIXLER:

Q Sir, what is your education, training and background with regard to Baltimore County Zoning Regulations?

A I have a short resume here.

(Exhibit 2 marked.)

MR. BIXLER: Thank you.

BY MR. BIXLER:

Q Why don't we go down it briefly.

A Well, really, the -- I started in 1952 as far as school is concerned at Collington Educational (phonetic), and has two years of McCoy College (phonetic) and about six years of Union McCoy College (phonetic) which was seven engineering courses. There was a break in there for the par courses recall (phonetic), due to the Cuban crisis in 1960. I was a, still am, a member of the US Navy Guards, in regards to the Veterans Foreign War situation.

My experience as far as the development organizations are concerned started in 1960 to the

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present year. Different companies I was employed with, in 1985; '87, became president of Hudkins Associates (phonetic). In 1987 to 2000, I became the owner and President of M&H Development Engineers. And 2000 to the present, owner and President of Site Rite Surveying.

Training involves subdivision and commercial properties as far as layout and the design of the utilities, road and storm drains, commercial and residential. I've testified in a thousand zoning cases and approximately 100 appeal cases. I've also testified in Baltimore City Court of Appeals. Basically, that 46 years of experience has lead to numerous projects in Baltimore County and also in Baltimore City.

Q Thank you, sir.

MR. BIXLER: At this point, I would move Mr. Moskunas to be admitted as an expert in zoning.

MR. PITTLER: Well, I have an objection, Mr. Chairman because, first of all, it doesn't say what he's even testified to.

THE CHAIRMAN: Well, I assume before even that, Mr. Pittler, he's offered -- he's questioned him, he's offered him. Now, if you

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1 don't accept him, I'm going to offer you some voir
2 dire and then we'll see --
3 MR. PITTLER: Okay.
4 THE CHAIRMAN: -- where we lie.
5 MR. PITTLER: That's fine.
6 BY MR. PITTLER: All right.
7 BY MR. PITTLER:
8 Q Mr. Moskunas, you say that your company
9 is Site Rite Surveying, Inc. Does that mean that
10 you do surveying of properties?
11 A Yes, sir.
12 Q And when you say you testified in 1000
13 cases, 1070 cases, as to what did you testify as
14 to, in general terms, in those cases?
15 A Well, basically, the variances and
16 things of that nature that have come through the
17 office, relative to presenting it to the County as
18 to acquiring the approval of the testimony for --
19 Q But have you ever been qualified as an
20 expert before this Board to testify on the
21 interpretation or the legality of various aspects
22 of the Baltimore County zoning regulations?
23 A Not pertaining to this particular Board
24 but I have to previous membership.
25 THE CHAIRMAN: Well, I think he means to

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1 the three of us.

2 Q No, I mean --

3 THE CHAIRMAN: He's never appeared

4 before the three of us.

5 Q -- to the Board of Appeals.

6 A Yes.

7 Q And so that have you been qualified as

8 an expert to interpret Baltimore County zoning

9 regulations?

10 A That's correct.

11 MR. PITTLER: Okay. Well, if he has, he

12 has.

13 THE CHAIRMAN: I was just going to say,

14 do we really need to cause this horse anymore

15 pain? Okay. All right.

16 Under the circumstances and based on the

17 voir dire and the proffer of counsel, we'll accept

18 the witness as an expert in zoning and land use.

19 Go ahead.

20 DIRECT EXAMINATION

21 BY MR. BIXLER:

22 Q Okay. Sir, you can continue with your

23 description.

24 A Okay. As I said before, the two lots

25 were reported as 25 foot lots then consolidated as

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a lot that's 50 by 131 feet deep --

THE CHAIRMAN: I don't mean to stop you, but just for our edification information, just so we find it. Could you take a step back and just give us some general geography first. You know, where it sits, where's the water; where each person's house is who's involved, you know, in the case?

THE WITNESS: Well, if I could, if this would be acceptable.

MR. BIXLER: We'll mark those as 3 and 4.

FEMALE VOICE: Okay. The photo is Petitioner's 3.

(Exhibit 3 marked.)

FEMALE VOICE: The zoning map (phonetic) is Petitioner's 4.

(Exhibit 4 marked.)

THE CHAIRMAN: Is there a date on this?

FEMALE VOICE: Where is this --

THE WITNESS: That is a cheat sheet from Baltimore County Land Records, a reproduction, really. It's a photostat of an ariel that was taken many years ago.

THE CHAIRMAN: Okay.

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THE WITNESS: That --

THE CHAIRMAN: Just so we can identify it, that's --

THE WITNESS: The colored copy is that which is on the Internet for Zoning. It's a copy from Zoning.

(Pause for document examination.)

THE CHAIRMAN: Go ahead, sir.

THE WITNESS: The area is pretty much on the south peninsula of Dundalk. And it's improved with a 30 foot wide road, on a 40 foot right-of-way. And, again, the property in itself meets the DR5.5 regulations as to width area, and it's 64,000 -- 6,400 square feet. The increments, naturally, are in the bed of the road (phonetic). There is, from those photographs or better yet, this is a copy of the record plat. This is right on the right-of-way, a portion of that.

MR. BIXLER: I'll have this marked as Exhibit 5 (indicating).

THE WITNESS: As recorded in the land records.

(Exhibit 5 marked.)

(Pause for document examination.)

THE WITNESS: The existing dwelling is,

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1 as I said before, was built and Mr. Riemer has
2 been renovating it in order to get it up to his
3 standards as far as his needs are concerned. And
4 he built the deck on the back porch,
5 unfortunately, too close to the property line. So
6 if you were to take four and a half feet off the
7 rear deck, the equipment that he has on there plus
8 the picnic table, chairs and things would be
9 difficult for maneuverability.
10 The improvements to the front of the
11 house were necessary because -- well, I'll let Mr.
12 Riemer go through that. From my understanding,
13 because he needs more room inside for his children
14 to make it more compatible to a family situation.
15 And the front addition, which is the water side,
16 was constructed legally by way of a building
17 permit.
18 MR. BIXLER: This is Exhibit 6, please.
19 (Discussion off record.)
20 THE CHAIRMAN: Can you give that to the
21 Clerk?
22 FEMALE VOICE: Exhibit 6.
23 (Exhibit 6 marked.)
24 THE CHAIRMAN: And this is the permit
25 just for the addition?

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THE WITNESS: Addition in the rear, the water side, not the rear, excuse me.

(Exhibit 6 marked.)

THE WITNESS: Basically, the way the houses were constructed, they more or less had the front doors facing the road, and at that time, that was the position. But over the years, particularly what's next to the water, the County has sort of flip flopped the back to the front. So if this were to remain the front of the house, which would be Bayside Drive avenue, there would only be a two foot violation for the 25 foot setback that's required in the DR5.5 area. But in this case when the County flopped the front to the back and the back to the front, we now deal with the situation of 30 feet instead of the 25 feet originally, you know, set up in the area.

As I've said, the road is 30 feet wide. The individuals have driveways to off street parking, but some of the people do park in the road. With the width of the road being 30 feet, it's 12 above standards for an area of this particular size. But, fortunately, there's room for passing in both directions as far as parked vehicles on the street.

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1 BY MR. BIXLER:

2 Q Okay. The setback of the neighbors,

3 could you go into that a little bit; how far

4 they're setback?

5 A Yes. The adjoiner at 529 is at 26 feet

6 to the main part of the house, but there's

7 projection of a porch that is 18 feet. The

8 address of Mrs. Hayes, at 525, setback is

9 approximately 27 feet.

10 Q Does she have a porch in this case?

11 A Yes.

12 Q Does that extend beyond the 27 feet?

13 A Yes.

14 Q How much farther?

15 A I have no idea.

16 Q Okay.

17 FEMALE VOICE: I'm sorry, could you

18 repeat that, 529 was at what setback?

19 THE WITNESS: Twenty-six and the front

20 porch is 18.

21 FEMALE VOICE: Okay. And then Hayes is

22 27, plus there's a porch that's additional.

23 BY MR. BIXLER:

24 Q So if I'm understanding your testimony

25 correctly, if the Deputy Zoning Commissioner's

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1 Order were to stand and the variance with regard
2 to the addition for Mr. Riemer were to be --
3 require a 26 foot setback, that would not only be
4 in line with the other neighbors, the fact that
5 you would have a setback farther than the physical
6 structures of both adjacent neighbors, if you take
7 into consideration their porches?
8 A Yes.
9 Q Okay.
10 THE CHAIRMAN: Counsel, are you finished
11 with your testimony?
12 MR. BIXLER: Just give me a second.
13 (Discussions off record.)
14 MR. BIXLER: I have no further questions
15 of this witness.
16 THE CHAIRMAN: Okay. Well, before, Mr.
17 Pittler, you ask questions, just let me ask one,
18 again, just in terms of background, so we know
19 what's going on.
20 There was some discussion, Mr. Witness,
21 about the County flipping the front the back, the
22 back to the front, the waterside to roadside. At
23 this point in time, the roadside is the front?
24 THE WITNESS: At this point in time, the
25 majority of the houses have their main entrance

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1 doors to Bayside Drive.

2 THE CHAIRMAN: All right. And the main

3 entrance door for the house in question is where?

4 THE WITNESS: All in the front, right

5 here.

6 THE CHAIRMAN: All right. Has that

7 ever, has it ever been the other way, has it ever

8 been the front being the waterside or has it

9 always been the way it is now?

10 THE WITNESS: I cannot testify to that.

11 THE CHAIRMAN: All right. So when you

12 say the County flipped, you didn't have a

13 particular event in mind?

14 THE WITNESS: No.

15 THE CHAIRMAN: Okay. Mr. Pittler, your

16 witness.

17 CROSS EXAMINATION

18 BY MR. PITTLER:

19 Q Mr. Moskunas, how many properties are on

20 Bayside?

21 A Well, I did not make a count as to it,

22 but I'm sure the map is there. If you would like

23 I could count.

24 Q No, my question could be refined. The

25 point is, have you analyzed all of the properties

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1 on Bayside Drive, visa-vie, this particular
2 property?
3 A No.
4 Q All right. You indicated that in regard
5 to the deck on the back, that the reason for the
6 variance was so that the maneuverability of the
7 porch furniture, the deck furniture, and getting
8 around better because of the furniture that was on
9 the back, on the deck; is that correct?
10 A That's correct.
11 Q Okay.
12 THE CHAIRMAN: I got to stop. I got to
13 just question ,just in my mind. Now, you
14 referenced the deck on the back. I thought that
15 he just testified that as the front.
16 MR. PITTLER: Well, you're right.
17 You're right. It would be -- were we calling it
18 the front deck?
19 THE CHAIRMAN: That's what I want to
20 clear up in my mind.
21 MR. PITTLER: That's a good point. Why
22 don't we just say waterside --
23 THE CHAIRMAN: Thank you. I was just
24 going to say there's a waterside, there's a
25 roadside. Thank you.

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1 MR. PITTLER: The waterside deck.
2 BY MR. PITTLER:
3 Q So that was the reason for the variance,
4 the request for the variance?
5 A Well, the request for the variance was
6 the fact that the zoning extension required 25
7 percent of the side yard which would be seven and
8 a half feet to put it in line to some degree.
9 Q Right. And I'm not questioning the need
10 for the variance, I'm questioning -- you testified
11 as to the reason for the variance, which is fine.
12 A Yes. He has patio furniture and stuff
13 out there, right.
14 MR. PITTLER: That's all I have.
15 THE CHAIRMAN: Re-direct.
16 MR. BIXLER: Thank you.
17 REDIRECT EXAMINATION
18 BY MR. BIXLER:
19 Q Sir, would any other factors be
20 considered important by you with regard to the
21 deck variance if Mr. Riemer had to comply with the
22 25 percent, which I think would be seven and a
23 half feet?
24 A Well, he would have to trim off four and
25 a half feet of the existing deck which would make

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1 it pretty much impossible to maneuver around the
2 equipment that he has there.
3 Q Okay. And as you understand it, what
4 equipment is it again?
5 A Well, patio equipment and things of that
6 nature.
7 Q Okay. Do you have an opinion within a
8 reasonable degree of certainty as to whether or
9 not Mr. Riemer's property is unique as compared to
10 others in the neighborhood with regard to the
11 current setback situation?
12 MR. PITTLER: I have to object to that
13 on the basis that I asked him if he analyzed other
14 properties in the neighborhood and he testified
15 no.
16 THE CHAIRMAN: Well, that would be the
17 basis. He can still, as an expert, give his
18 opinion, then the reason for his opinion or that
19 which supports his opinion is certainly subject to
20 recross by you, and you'll show what it's based on
21 or not based on.
22 MR. PITTLER: Okay.
23 THE CHAIRMAN: Okay
24 THE WITNESS: Well, we feel as though
25 it's unique or not unique, based on the fact that

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1 the structure in itself was built before the
2 zoning regulations were in effect, and that the
3 reduction of the 30 foot requirement would be, you
4 know, pretty much in line with the zoning
5 regulations.
6 BY MR. BIXLER:
7 Q And in your expert opinion, would that
8 be tantamount to a special circumstance that then
9 is particular to his, Mr. Riemer's, property?
10 A Yes.
11 Q And do you have an opinion whether or
12 not strict compliance with the zoning regs would
13 present a practical difficulty or undue hardship
14 as a result?
15 A Well, my understanding is, from Mr.
16 Riemer, that the size of the house he's outgrowing
17 and that he needs the additional room to be able
18 to accommodate his two children, two boys, inside,
19 relative to their ages and to have some better
20 freedom within the house.
21 Q Okay. And do you have an opinion, based
22 on your education, training and experience and in
23 area within the neighborhood and Mr. Riemer's
24 property, whether or not if a variance to a degree
25 of a 26 foot setback would present injury to the

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1 public or the other neighbors in the neighborhood?
2 A No, I do not. It's a reduction of only
3 four feet as far as the requirement of a 30 foot
4 extension (phonetic). So it's pretty well set as
5 to not jeopardizing the neighborhood.
6 MR. BIXLER: Okay. Thank you. I have
7 no further questions.
8 THE CHAIRMAN: Okay. Recross.
9 RECROSS EXAMINATION
10 BY MR. PITTLER:
11 Q Sir, the status -- are you familiar with
12 Section 307 of the Baltimore County Zoning
13 Regulations?
14 A Yes, sir.
15 Q And have you ever testified as to the
16 meaning of Section 307?
17 A Yes, sir.
18 Q And under Section 307, when you look at
19 whether or not a property is unique, does it apply
20 just to the properties that are on either side of
21 the applicant's property or does it apply to the
22 neighborhood?
23 A It applies, basically, to the
24 neighborhood.
25 MR. PITTLER: Correct. And I agree with

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1 it.

2 MR. BIXLER: Objection. He's testifying

3 himself.

4 THE CHAIRMAN: It's just an observation,

5 I don't think we'll worry about it.

6 BY MR. PITTLER:

7 Q And you've testified that you did not do

8 that?

9 A That's correct.

10 Q Secondly, the 1937 subdivision of

11 this --

12 A Plat.

13 Q -- plat --

14 A Right.

15 Q -- applied to how many lots?

16 A Well, again, it's rather extensive

17 record plat and we did not count the amount that's

18 involved.

19 Q Well, let's, if you could, could you

20 estimate or take a guess, would you say 25 lots,

21 30 lots, 50 lots, 100 lots?

22 A Well --

23 Q Just give us a ballpark estimate.

24 A Being they're 25 foot lots, the plat

25 that I gave before has a figure of 70 on it, and

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1 for the area of interest (phonetic), it's still
2 correct.
3 Q So this subdivision is not the lot in
4 question we're here today to discuss?
5 A That's correct.
6 Q All right. And any zoning regulations
7 that are passed by the Baltimore County Council,
8 they effected just this lot in question or all of
9 the lots in questions in the subdivision?
10 A All the lots.
11 Q All the lots. So the zoning
12 regulations, in your opinion, did not just effect
13 the lot in question for us today, it effected all
14 the lots in the subdivision.
15 MR. PITTLER: I think that's all I have.
16 That is all I have.
17 MR. BIXLER: Just briefly.
18 REDIRECT EXAMINATION
19 BY MR. BIXLER:
20 Q In followup to counsel's questions,
21 isn't it true that the practical impact of the
22 zoning regulations that came down subsequent to
23 1937, the last quarter, would, as a matter of
24 fact, impact Mr. Riemer differently as compared to
25 his neighbors at 529 and 527, since they have

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1 already built beyond the setback of 30 feet?

2 A Correct.

3 MR. BIXLER: Nothing further.

4 MR. PITTLER: I have nothing further.

5 THE CHAIRMAN: Thank you, sir. Counsel.

6 MR. BIXLER: Yes, I'd like to call Mr.

7 Riemer to the stand.

8 THE CHAIRMAN: Sir, I'm sorry, if you

9 would rise and raise your right hand.

10 (Witness sworn.)

11 THE CHAIRMAN: Could we have your name,

12 please, your address, and spell your last name.

13 THE WITNESS: Joseph Riemer, 527 Bayside

14 Drive, R-I-E-M-E-R.

15 THE CHAIRMAN: Counsel.

16 MR. BIXLER: Thank you.

17 DIRECT EXAMINATION

18 BY MR. BIXLER:

19 Q Mr. Riemer, you are the owner of 527

20 Bayside Drive, correct?

21 A Yes.

22 Q And you filed a petition for a variance

23 with Baltimore County -- you filed a petition for

24 a variance with Baltimore County, a variance for

25 both a side deck as well as an addition, correct?

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1 A Yes.
2 Q Okay. Starting with the side deck
3 first, how much a variance were you seeking?
4 A Instead of the required seven and a half
5 foot setback, we -- I'd have to look at the
6 paperwork, it's been a while.
7 Q Okay.
8 MR. BIXLER: Let me do this, I think
9 we're on Exhibit 7?
10 FEMALE VOICE: Seven.
11 THE WITNESS: I believe it's three feet,
12 but I'm not sure.
13 MR. BIXLER: Okay. No problem.
14 (Exhibit 7 marked.)
15 FEMALE VOICE: Here you go.
16 MR. BIXLER: Thank you.
17 BY MR. BIXLER:
18 Q Take a look at that, if you would, and
19 see if that refreshes your recollection as to the
20 amount of variance as regard to the deck?
21 (Pause for document examination.)
22 MR. PITTLER: Well, I'm okay with
23 whatever it says in the Petition, as to what
24 variance.
25 THE CHAIRMAN: I understand. We

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appreciate that.

THE WITNESS: I'm sorry. Just what I mentioned, seven and a half foot. We were requesting three instead of the seven and a half feet.

BY MR. BIXLER:

Q Okay. And why do you need that variance?

A Just for good use of the deck. Our furniture is normal size, a rectangle table with eight, three, six, six chairs, an umbrella, benches, so everyone can go out on the deck, use the deck, walk around without bumping into each other. Just needed a larger area than what would have been allowed.

Q Okay. And when you say benches, are there benches on there now?

A Well, we stopped all the building because of this, but we intended to put benches along the edge of the deck. So we have the house, then the table, then the edge of the deck, we would have had benches built into the deck. So we would have had enough room to walk around the table without bumping into the benches, without bumping into the house, et cetera.

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1 Q Okay. So if I'm understanding you
2 correctly, the variance is granted with regard to
3 the deck, you'll be able to build those built-in,
4 if you will, benches fine?
5 A Right. Planters, benches, and continue
6 to finish this.
7 Q And if not, if it's not granted, would
8 you be able to do that?
9 A No, we'd have to cut everything back.
10 Get rid of the table, buy a tiny small table and
11 just it would work the way we wanted it to work.
12 That wouldn't work the way it works now. It's the
13 perfect size right now.
14 Q Would it have any practical use for you
15 if you built a smaller size, without the variance?
16 A We wouldn't be able to use it for the
17 entertaining and the parties we used to use it
18 for, so it would basically be a walkway to get out
19 to the yard.
20 Q Okay. And other than the permanent
21 benches that you want to construct on it, is the
22 deck itself already built?
23 A Yes, it is.
24 Q Okay. And are you aware of any
25 neighbors in your neighborhood who have objected

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to your building of the deck or the variance with regard to the deck, other than perhaps Mrs. Hayes' objection today?

A No one that I'm aware of.

Q All right. Let me shift your attention now to the variance request regarding the addition. What was the original setback you were petitioning for with regard to the petition?

A There's so many numbers, Neil, if you could show me the Exhibit?

MR. PITTLER: The Exhibit speaks for itself.

THE CHAIRMAN: Sure, but he -- it's easier if he puts it on the record.

A With a 19 foot rear setback is what I originally wanted, which would have given me a large rear addition.

Q Okay.

A Larger, I'm sorry.

Q Okay. Did there come a time when you amended your petition with regard to that setback?

A Yes. Before the hearing began, I spoke with Vince Moskunas and we realized that the addition would have been past or at least -- actually, what happened was, originally, I wanted

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1 my addition to be equal to my neighbor to the
2 left.
3 Q Which number is that, 529?
4 A Yes, 520 -- no, Stacey Daus (phonetic).
5 Q Okay.
6 A I can --
7 Q If you want to point that out, that's
8 fine?
9 A I can.
10 THE CHAIRMAN: And we've got a copy of
11 it up here too, so we can follow you.
12 A Yes. My neighbor had already built onto
13 their house, without objection to anyone. And we
14 wanted to build out the same, thinking that if
15 they didn't have a problem, we wouldn't have a
16 problem.
17 Once we got to the hearing, we realized
18 that, okay, there is an objection now, to give us
19 a better chance of getting something, why don't
20 we, right off the bat, agree to -- I, essentially,
21 in my mind, drew a line from the edge of her house
22 to the front edge of Ms. Hayes' house and we
23 figured that is where we would ask to go to. So
24 we cut our request back before the hearing even
25 began.

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1 Q Okay. And was that request cut back to
2 approximately a 23 foot setback that you were now
3 requesting?
4 A I believe it was, yes.
5 Q Okay.
6 MR. PITTLER: I would have to -- I guess
7 the Court would let it in, but I would have to
8 object because I would have no ability to cross
9 examine Ms. Daus as to what she says or why she
10 says it or whatever.
11 THE CHAIRMAN: And as you surmised, and,
12 Mr. Bixler, I know you're not here all that often,
13 it's the general practice of the Board to accept
14 documents such as this and petitions, and to give
15 it the weight that we feel under the circumstances
16 it should be given in deliberating. So on that
17 basis, this is agreed.
18 It is a letter of September 27, 2005,
19 from Stacey Daus, property owner at 529.
20 (Exhibit 8 marked.)
21 BY MR. BIXLER:
22 Q Let me show you, Mr. Riemer, what's been
23 marked as Exhibit number 8, and ask you if you can
24 identify that, please?
25 A Yes, this was a letter to whom it would

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1 concern --

2 THE CHAIRMAN: Well, we don't need him

3 to read it.

4 THE WITNESS: I know, I'm just

5 identifying it.

6 A It was a letter from her to whom it

7 would concern, saying that she has no objection to

8 an addition I proposed.

9 Q Okay. And that's the neighbor you were

10 just describing at 529?

11 A Identifying her house, yes.

12 Q Okay. Thank you.

13 A You're welcome.

14 Q Now, I understand that some other

15 neighbors in your neighborhood have also expressed

16 to you they do not object to your variance

17 request; is that correct?

18 A Correct.

19 MR. PITTLER: Same objection.

20 THE CHAIRMAN: And same ruling.

21 (Exhibit 9 marked.)

22 BY MR. BIXLER:

23 Q Mr. Riemer, I'll show you Exhibit 9, can

24 you identify that, please?

25 (Pause for document examination.)

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1 A This was given to me by one of the
2 neighbors and they continued their support. If
3 you have any problems, if you need anything from
4 us, we've had this petition signed --
5 MR. PITTLER: Objection. He's
6 testifying as to what the neighbors told him.
7 THE CHAIRMAN: So the Petition under how
8 we've accepted it, speaks for itself --
9 MR. PITTLER: Yes.
10 THE CHAIRMAN: -- and we really don't
11 need to go into detail --
12 THE WITNESS: Okay.
13 THE CHAIRMAN: -- about who or how or
14 what.
15 THE WITNESS: Yes. If I can add, I
16 didn't solicit a petition. There's been much
17 discussion in our neighborhood about my addition,
18 and most of the discussion was in favor of --
19 MR. PITTLER: Objection.
20 THE WITNESS: I know.
21 THE CHAIRMAN: Again, you can't classify
22 the way it is.
23 THE WITNESS: I'm sorry. I didn't
24 solicit anything. They just handed me this and
25 said I hope it helps.

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1 THE CHAIRMAN: And that we will admit.
2 MR. BIXLER: And for the sake of the
3 petition, I think it's perhaps reflective --
4 (inaudible).
5 MR. PITTLER: I have -- (inaudible).
6 THE CHAIRMAN: Well, we'll give them
7 separate numbers. So let's have them --
8 FEMALE VOICE: Petition 10, including
9 the letters.
10 THE CHAIRMAN: Okay.
11 FEMALE VOICE: They are two different
12 sets. The first one is Petitioner's 10. The
13 first batch is Petitioner's 10, letters A through
14 K.
15 (Exhibit 10 marked.)
16 FEMALE VOICE: The second batch will be
17 11 -- (inaudible).
18 (Exhibit 11 marked.)
19 THE CHAIRMAN: Now, counsel, if you want
20 to go through them and have him describe what they
21 are.
22 MR. BIXLER: Yes.
23 THE CHAIRMAN: But, if you would, refer
24 to each one --
25 MR. BIXLER: Individually?

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1 THE CHAIRMAN: -- to tell us what he's
2 talking about.
3 MR. BIXLER: Correct.
4 FEMALE VOICE: Keep to our numbers.
5 THE CHAIRMAN: Yeah, CBA is the numbers
6 you're looking for.
7 MR. BIXLER: CBA, okay.
8 BY MR. BIXLER:
9 Q Okay. Let's start with CBA 10A, okay.
10 And I'll have you go through them each
11 consecutively, identifying each by the number and
12 then describing what's in the photograph.
13 A Okay.
14 Q Okay. So CBA 10K --
15 A They start with A.
16 Q Okay. I'm sorry.
17 A In CBA 10A, this is a picture I took
18 from my neighbor, the front yard of my neighbor's
19 house, Stacey Daus, 529, aimed directly at the --
20 Ms. Hayes' house.
21 Q Okay.
22 A My house is, obviously, in the shot.
23 Q Okay. And just for the record, do all
24 these photographs, do they fairly and accurately
25 represented what's depicted in it at the time the

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1 pictures were taken?
2 A Yes.
3 Q Okay. I'm sorry. Go ahead.
4 THE CHAIRMAN: And, approximately, when
5 were these pictures taken?
6 THE WITNESS: These were taken September
7 28th '05.
8 THE CHAIRMAN: Both sets or just that
9 one?
10 THE WITNESS: I don't have the other.
11 THE CHAIRMAN: Well, let's just do them
12 one at a time.
13 THE WITNESS: All right. The next
14 photograph is CBA 10B. This picture was taken in
15 my driveway, looking toward 529, Ms. Daus' house.
16 And it was an effort to show the absolute edge of
17 her house without angles. It was a straight-on
18 shot of her house to show the end of my addition
19 as we wanted it.
20 BY MR. BIXLER:
21 Q Mr. Riemer, why don't you hand them to
22 them --
23 A Okay.
24 Q -- so they can see them as soon as you
25 describe them, so it makes sense to everybody.

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1 A The next one, CBA 10C, was a picture
2 taken in the driveway. However, this time I was
3 close to the edge of my house as it is now, and as
4 it was, again, aiming to the edge of 529, Ms.
5 Daus' house.
6 The next one is CBA 10D, and this is a
7 picture of my house from the driveway, aimed at my
8 house. The focus of the picture's my house as it
9 was and still is.
10 THE CHAIRMAN: And this is -- and,
11 again, C is looking at who's house?
12 THE WITNESS: Ms. Daus' house, 529
13 FEMALE VOICE: But yours is in the
14 foreground; is that correct?
15 THE WITNESS: Correct. Yeah.
16 FEMALE VOICE: Okay.
17 THE WITNESS: My back was to my driveway
18 in that photograph.
19 This CBA 10E is a picture taken from my
20 front porch with the camera up against the front
21 of the house, aimed directly at Mrs. Hayes' house,
22 to give a view of how far her house extends beyond
23 my house. That's what I tried to portray in this
24 picture.
25 (Pause for photograph examination.)

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1 THE WITNESS: The next picture, CBA 10F,
2 is a picture I took from the front porch of 529,
3 Stacey Daus' house. And it was an attempt by me
4 to show the line I had drawn to the edge of Ms.
5 Hayes' house to show --
6 (End of Tape One, Side A.)
7 (Beginning of Tape One, Side B.)
8 THE WITNESS: I'm sorry. I asked for
9 this picture back, CBA 10F. I wanted to point out
10 an additional thing about the picture. This
11 picture also shows that my neighbor at 529 is
12 built a lot farther out than I'm asking to go.
13 That's another reason I took this picture, to get
14 a visual of how far out her porch is from mine and
15 my neighbor's house, Ms. Hayes.
16 The next photo, CBA 10G is a picture I
17 took directly in front of Ms. Daus' property, on
18 the sidewalk. And I aimed the camera at the
19 corner of Ms. Hayes' house. And my house is shown
20 in the photograph. That was another attempt to
21 show an angle of how -- if my addition were there,
22 you know, where it might sit if you were at that
23 point on the street.
24 CBA 10H is a picture taken from the
25 driveway at the fence line of Ms. Daus'.

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1 THE CHAIRMAN: From your driveway?

2 THE WITNESS: Ms. Daus' driveway, 529

3 Bayside. This is aimed at the Hayes' house also.

4 My house is barely visible in that picture.

5 (Pause for photograph examination.)

6 THE WITNESS: The next photograph is CBA

7 10J. This picture is taken from Ms. Daus'

8 driveway.

9 THE CHAIRMAN: What happened to I?

10 THE WITNESS: I --

11 THE CHAIRMAN: H, you just told us

12 about --

13 THE WITNESS: I changed the order

14 because they had to -- the last one has to do with

15 the deck.

16 THE CHAIRMAN: Okay.

17 FEMALE VOICE: That's fine.

18 THE CHAIRMAN: As long as we know.

19 THE WITNESS: Okay.

20 FEMALE VOICE: We thought we had missed

21 something.

22 THE CHAIRMAN: As long as you have a

23 logic behind it.

24 FEMALE VOICE: That was H?

25 THE CHAIRMAN: Yeah, this is H. As long

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1 as you have a logic behind it --
2 THE WITNESS: Right.
3 THE CHAIRMAN: -- that's fine. J is
4 next?
5 THE WITNESS: Correct. CBA, 10J is a
6 picture taken in the driveway of Ms. Daus. It is
7 an attempt to show how far out her house is. My
8 house is -- this picture is aimed at Ms. Hayes'
9 house and my house cannot be seen in this
10 photograph.
11 The last picture in this pile with
12 regard to the house is CBA, 10K. This is simply a
13 straight-on shot, from the sidewalk, on the street
14 side of my house, aiming at my house. And written
15 on the picture with a pen is a sort of a sketch as
16 to how the addition was to look.
17 Neil, should we talk about the deck?
18 THE CHAIRMAN: You can talk about the
19 deck if he asks you or if you want to.
20 THE WITNESS: It's the last one at this
21 point. I'm sorry. The last picture in this stack
22 is CBA 10I. This picture is taken from the yard,
23 looking towards the water. It shows what is --
24 the remaining setback after my deck was built, and
25 in partial construction because I stopped. I have

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1 a wooden handrail there until we get through all
2 this.
3 FEMALE VOICE: This fence?
4 THE WITNESS: Is Stacey Daus' fence.
5 FEMALE VOICE: Okay.
6 THE WITNESS: 527. Is this the next
7 pile? There are two pictures --
8 THE CHAIRMAN: Hang on just one second.
9 THE WITNESS: I'm sorry.
10 THE CHAIRMAN: And just for our own
11 education, looking at I. This fence, what's on
12 the other side of the fence to the right side of
13 the picture?
14 THE WITNESS: Grass.
15 THE CHAIRMAN: Okay. Whose property is
16 it?
17 THE WITNESS: Stacey Daus.
18 THE CHAIRMAN: Okay.
19 THE WITNESS: 529.
20 THE CHAIRMAN: Okay. Fair enough.
21 Thank you.
22 THE WITNESS: The next set of
23 photographs, CBA, 11A, is a picture taken from
24 inside my front, well, the street side lawn, aimed
25 toward Ms. Hayes' house. It's self-explanatory.

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My house is hardly in the picture. It's, I guess, just for general reference.

The last photograph I have is CBA, 11B. This is a photograph taken from my front porch, just aimed towards my driveway. Just a general photograph to show the neighbor, I guess. Some of those houses across the street have actually changed since then; porches and stuff have been added.

FEMALE VOICE: (Inaudible.)

THE CHAIRMAN: Same thing --

THE WITNESS: Yes. Correct.

THE CHAIRMAN: -- as the others?

THE WITNESS: Yes.

MALE VOICE: Sir, can I just ask you a question?

THE WITNESS: Yes.

MALE VOICE: The steps on the side, your house is here, these steps on the side --

THE WITNESS: Yes.

MALE VOICE: -- are those these steps or are there two sets of steps?

THE WITNESS: These steps on the edge of the picture?

MALE VOICE: Yes.

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1 THE WITNESS: -- in the shadow?
2 MALE VOICE: Is that those steps?
3 THE WITNESS: Yes.
4 MALE VOICE: Okay. Fine.
5 MALE VOICE: And, just for the record,
6 you can see the rails --
7 THE WITNESS: Correct.
8 MALE VOICE: -- on the side of the
9 house?
10 THE WITNESS: Correct.
11 BY MR. BIXLER:
12 Q Mr. Riemer, you made reference to some
13 houses across the street and additions, porches
14 and the like, that they have built, correct?
15 A Correct. Yes.
16 Q How familiar are you with other houses
17 in your neighborhood in addition to the Daus'
18 house and Ms. Hayes' house?
19 A With what regard?
20 Q Well, are you familiar; you walk your
21 neighborhood, you know what other neighbors have
22 built and so forth?
23 A Yes. I actually grew up there. I moved
24 there when I was 13, I left when I was 20. Came
25 back three or four years ago, now. So I've always

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1 known the neighborhood, lived in the neighborhood
2 and recently have seen a lot more houses been
3 developed, rehabbed.
4 Q Okay. Do your parents still live in the
5 neighborhood?
6 A Yes, at 509 Bayside Drive.
7 Q And how long have they lived there,
8 roughly?
9 A Twenty some odd years.
10 Q Okay. And are you aware of setbacks to
11 some of the other houses in the neighborhood that
12 haven't already been testified to?
13 A Visually, I'm aware of them.
14 Q Okay.
15 A I've seen the lawns of other -- I used
16 to cut those lawns when I was younger.
17 MR. PITTLER: I'm going to have to
18 object to this, Mr. Chairman. He has not
19 testified as to these measured setbacks.
20 THE CHAIRMAN: No, he hasn't mentioned
21 any --
22 MR. PITTLER: I mean how can you -- you
23 can't visualize a setback.
24 THE CHAIRMAN: He can testify as to his
25 impressions. He can't give us anything specific

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1 because he has no basis.

2 MR. PITTLER: Correct.

3 BY MR. BIXLER:

4 Q And that's all I'm asking. What you've

5 seen --

6 A Right.

7 Q -- to physically describe --

8 A Yes.

9 Q Okay. These porches and additions that

10 you've seen, where are they in proximity to where

11 your house is?

12 MR. PITTLER: Objection. What porches?

13 THE CHAIRMAN: Be more specific.

14 Q The ones that are in the photograph,

15 that you mentioned earlier, where are those houses

16 located in proximity to yours; describe what

17 additions or porches you have actually seen?

18 A Okay. Across the street, two houses

19 down, which would be, I don't know the address.

20 They have recently added a front porch to their

21 house.

22 Q Is that's a Bayside Drive address?

23 A Yes.

24 Q Okay. Any others?

25 A Across the street and one, two houses,

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1 two or three going to the left, have improved
2 their house, added on and added a front porch.
3 Q Okay. Any others?
4 A Stacey Daus, we know about. To the left
5 of Stacey Daus, there's a front porch added. To
6 the left of that house, there was a front porch
7 added. To the left of that house, there's a front
8 porch added. Going to the right, there is, about
9 three houses down from my house, there was a
10 handicap ramp added all the way down the sidewalk,
11 with a small porch. One more house to the right
12 of my mom, at 509, she has a front, they have a
13 front deck. The house next to that has a front
14 porch. Everyone, essentially, I can't say
15 everyone. The majority of people add front
16 porches to their house on the street side and then
17 we also try to add decks on the water side.
18 Q Okay. Based on your own personal
19 observations, any of those houses that you've just
20 described, are their porches closer to the street
21 or farther from the street than what you're
22 proposing in your addition?
23 A As far as I can see, and with my sense
24 of depth, they are.
25 Q They are closer or farther?

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A Closer to the street.

Q Than what you're asking for, in terms of your addition?

A On the opposite side of the street, they are closer to the street than what I'm asking for, yes.

Q Okay.

A And on the same side of the street, up the street, towards Wise Avenue, to the left, Stacey Daus' side, some of those porches are at least to where I'm asking for. I don't think anyone, with the exception of Stacey Daus and maybe two other houses on that block, were able to go as far as Stacey Daus has gone.

Q Now, if you were not granted a variance for your addition, would you be able to build your proposed addition?

A No. I mean I can only build what the current code allows, which is a 30 foot setback, which would give me closet space.

Q And what's the purpose of the addition, from your point of view, did you want to build it?

A We like the style of our house, which is cape cod, single story, with a second floor living area. However, the second floor, because of the

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1 style of the roof, an A frame roof, the walls are
2 in, which only gives you so much room inside the
3 house for a bedroom. We don't have eight foot
4 ceilings at the edges of the walls. So rather
5 than build up, like many of the neighbors have
6 done, to keep the style of the house, we've asked
7 to go out so our sons, now, can, as they grow
8 older, have their own rooms; one in the front of
9 the house, one in the back of the house. And we
10 will move our bedroom from the front, second floor
11 of the house down into this new addition.
12 Currently, both sons are in a room at the back of
13 the house.
14 Q And how old are your sons?
15 A Ten and five. I'm sorry, eight and
16 five. Eight and five.
17 Q Again, when was your house built?
18 A I think '63, I'm not sure; '36? I'm not
19 sure.
20 Q Okay. So if I'm understanding your
21 testimony correctly, the purpose of your addition
22 would be for additional family space so your sons
23 could each have a bedroom of their own?
24 A Yes. They would have a bedroom, my wife
25 and I would have our own bedroom apart from

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1 theirs. They would be on the second floor, we'd
2 be on the first floor.
3 Q Okay. And if you had to comply with a
4 30 foot setback that would not be possible; is
5 that correct?
6 A It would be possible, however, we would
7 have only three or four more feet, giving us a
8 very small, probably 30 percent smaller bedroom
9 than we're in now. Which why would we even move
10 to a smaller bedroom? Essentially, there's no
11 sense in even adding on.
12 Q Okay. And have you looked at any cost
13 projections if you were to build up instead of
14 out?
15 A I know the cost. I have an MHIC number,
16 I'm a licensed contractor. And it would cost, my
17 cost would be approximately 40,000 to $50,000.00,
18 my cost, to chop the roof off my house, chop the
19 second floor, raise the roof eight feet or the
20 walls eight feet and build a new room. It would
21 be 10 to $15,000.00 for me to simply add on to the
22 front of the house and preserve the look of the
23 house, the way we wanted it.
24 Q And when you say preserve the look of
25 the house, are there other houses in your

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1 immediate neighborhood that have that, quote, cape
2 cod style look as well?
3 A Yes, the majority do. There are at
4 least three houses within 10 houses of mine that
5 have gone up and no longer have that look.
6 Q Okay. So if you got your addition, if
7 you built it as proposed, the conformity would be
8 the general look of the neighborhood?
9 A That was our intent, yes. It would
10 absolutely look like all the other houses.
11 Q Okay. Are you aware of any possible
12 injury to the public or to your neighborhood if
13 you were to build your addition with the variance?
14 A No.
15 Q Can you describe what, if any,
16 complaints your neighbor, Ms. Hayes, next door,
17 has filed against you with Baltimore County?
18 MR. PITTLER: Objection. I don't know
19 what relevance that has to this case.
20 MR. BIXLER: It's going to go to bias,
21 to show the true purpose behind her petition.
22 THE CHAIRMAN: Okay. And, again, people
23 do things for the reason people do things.
24 Intent, bias, reason for doing it is absolutely
25 not relevant to what we do in this Board. What we

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1 do here is simply keep it to the technical, what
2 are you allowed to do; have you met the burden to
3 do something different than you're allowed to do.
4 If they're the nicest people in the world or the
5 worst people in the world, it doesn't change. So
6 I'm going to sustain the objection.
7 MR. BIXLER: Okay. Well, with that
8 said, I don't have any further questions. Thank
9 you.
10 THE WITNESS: I'm sorry. May I add?
11 THE CHAIRMAN: Sure. Go ahead.
12 THE WITNESS: I mentioned earlier that
13 it was possible to add on to the front of the
14 house with the existing code --
15 MR. BIXLER: Do you mean street side?
16 THE WITNESS: Yeah, street side. I'm
17 sorry. With the street side of the house, as the
18 current code allows it with 30 foot setback. A
19 lot of things are possible. It wasn't practical
20 for us, financially. We were trying to preserve
21 the look of the house and bring our bedroom down.
22 It wasn't desirable to do it, that's why we
23 positioned (sic) for a variance.
24 BY MR. BIXLER:
25 Q So would it present a practical

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difficulty or an unreasonable hardship then for you to build your addition without the variance?

A We wouldn't, probably wouldn't do it because it's not worth the extra two or three feet, that's closet space. It's not worth the expense of the addition without being granted what we were granted in the prior year.

MR. BIXLER: Thank you.

THE CHAIRMAN: Cross.

CROSS EXAMINATION

BY MR. PITTLER:

Q Let's work backwards, Mr. Riemer, and go to your latest testimony, then we'll come back through.

I'm very interested in your testimony as to why you want this addition. And in that regard, will this addition, if you get what you petitioned for, will that add value to your house?

A Inadvertently, it will add value. Additions, in my opinion, always add value to a house.

Q Correct. And you indicated that you are petitioning for the variance so that your sons, so that you can build a bedroom so that your sons can have their own room; is that correct, is that your

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1 testimony?

2 A In part. In part.

3 Q That is your testimony?

4 A Right. So that we can move downstairs

5 with our room --

6 Q Right.

7 A -- be separated from them; they would

8 each have their own room.

9 Q Correct. And, hypothetically, if you

10 didn't have two sons then you might not want to do

11 that, correct?

12 A A lot of things would be different if I

13 didn't have two sons.

14 Q Correct. Exactly.

15 A We probably wouldn't be there. I don't

16 know.

17 Q Right. Okay. When you bought this

18 house, did you have two sons?

19 A We, yes, we had an infant and a five

20 year old at the time.

21 Q And you said that you bought this house

22 in 1963.

23 A I didn't say that.

24 Q Okay.

25 A I wasn't born in 1963.

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1 MR. BIXLER: I think he was referring to
2 when he thought it was built.
3 THE CHAIRMAN: It was built.
4 Q Okay. That's fine.
5 A You said bought.
6 Q I'm sorry. The house was built in 1963?
7 A I don't know.
8 THE CHAIRMAN: And that was a guess, if
9 you recall, at the time. He said he wasn't really
10 wasn't sure, but the papers probably show.
11 A '63, '36, I'm not sure. I don't know.
12 The papers will show what year.
13 Q So now you're not testifying that the
14 house was built in 1963?
15 A I'm still not aware the year the house
16 was built.
17 Q Okay.
18 THE CHAIRMAN: You know, as we took it,
19 he was guessing maybe '63, but he wasn't sure and
20 didn't really know.
21 MR. PITTLER: Okay. If he doesn't know,
22 he doesn't know.
23 Q You said that you could testify that if
24 the variance was not granted you could still be
25 build an addition, but it wouldn't be what you

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1 wanted --

2 A Correct.

3 Q -- is that a fair statement?

4 A Sure.

5 Q Now, let's go back to your testimony

6 about other houses and lots in the area. You

7 testified that a lot of other houses have

8 additions and porches and that they've added

9 porches or whatever, and have improved their

10 house, et cetera; is that a fair statement?

11 A Yes.

12 Q Okay. In regard to those properties,

13 what do you know about those properties; for

14 example, could you tell us the depth of each lot

15 of those properties you referred to?

16 A Not exact measurements.

17 Q Could you tell us whether the lots in

18 question are the same size as your lot?

19 A I could not tell you that.

20 Q Could you tell us the square footage of

21 each lot?

22 A Of course not, no.

23 Q And could you tell us whether any of the

24 properties in question petitioned the Zoning

25 Commissioner of this county or any type of

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variance?

A Without knowing the addresses, there were other signs posted on some neighbors' properties.

Q For what?

A Petitioning for variances.

Q And for what reason, what was --

A Additions. There was -- Stacy Daus petition then was granted. About 20 houses to my right there's a current sign in the front lawn for a variance.

Q For what purpose?

A I believe it had to do with an addition, I'm not sure.

Q You don't know?

A It's down there, it didn't concern me. I didn't bother reading it.

Q Right. Did you attend any of those hearings if there were hearings on any of these variances?

A The one that happened with Ms. Daus, I did not attend, I didn't have an objection. The one that I'm mentioning now didn't come up yet.

Q And how do each of these lots differ from your lot?

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A Well, which particular lots?

Q Any of them.

A The houses that are across the street from me, a lot of those lots are similar in size. They have less then a front yard than I do, I'm sorry a street size yard than I do. So it was interesting to me that when they built the porch, they went further, closer to the street, than I'm able to. So I just made a note of that, especially since all this we're going through. That's one way they differ. I had a larger yard on the street side than the neighbors across the street from me.

Q But, again, you don't know the square footage or --

A Absolutely not.

Q All right. The deck, you said, I think you testified or there is testimony that the deck was built without a permit?

A No. I think there was a mistake made earlier when they submitted the permit for the addition that did include an irregular shaped deck. I can point it out to you on the permit.

Q But you built a deck larger than zoning allows, correct?

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A That's what I did. There was a reason, but I don't know if Neil wants me to say the reason.

MR. BIXLER: If he's asking a question.

THE CHAIRMAN: The option isn't whether or not counsel wants you to, the option -- the question is whether counsel asked and he did, so you need to answer.

A Sure, I built the deck. The deck was irregular in size the way my engineer sized the deck because it's sort of a trapezoid shape. I looked at the sizing on the permit, went from our discussions and built it the way I thought the engineer and I had agreed it was to be built. So when I was done, I thought that I had a deck that met what the engineer applied for. Then it turns out I built it too large. Because it's not a simple square deck, it's a trapezoid. It's cuts into my house, it has a small deck that's off -- that is a triangle shape and there was no simple way to pull a tape and verify anything. And since I have a tape in my hand all day, I kind of figured, oh, I know what I have to do. I just built it, thinking I was building it in this irregular size that was on the permit.

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1 Q And the reason why you need the larger
2 deck is, the testimony, your testimony was, is to
3 make good use of the deck and so -- and a variance
4 would allow you to have built-ins; is that a fair
5 statement?
6 A Right. Better use of the deck, as it
7 is, yes.
8 Q Better use of the deck.
9 MR. PITTLER: That's fine. I have no
10 more questions.
11 THE CHAIRMAN: Counsel, redirect?
12 REDIRECT EXAMINATION
13 BY MR. BIXLER:
14 Q Mr. Riemer, let's take a look at that
15 building permit if we could, I think it was 6.
16 FEMALE VOICE: Building permit was 6,
17 yes.
18 MR. BIXLER: Okay. Thank you.
19 (Pause for document examination.)
20 A In the middle of the page, describe
21 proposed work. Construct addition on rear of
22 existing stone foundation, to be used as S-I-H-I-
23 N-G -- whatever that is, I can't understand this
24 engineer's writing -- room and open wood deck,
25 irregular shape.

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1 Q Okay. That's the side deck we're
2 talking about?
3 A Correct.
4 Q Okay. And did you get a building permit
5 then for that?
6 A Yes.
7 Q Okay. And am I understanding your
8 testimony correctly that you got the building
9 permit, the deck was built and at some point you
10 realized that you had built beyond --
11 A Correct.
12 Q -- the building permit?
13 A Correct.
14 Q And how did you come to learn that?
15 A When I went to get my first inspection,
16 the inspector said this is not what you all had on
17 your permit. I tried to address it at that time,
18 and at the same time this hearing or we were
19 talking about this front, I'm sorry, the street
20 side addition and I was advised actually by Vince,
21 let's just group them together. Because I was
22 going to hire Vince to prepare for a hearing with
23 regard to a deck on the side, and Vince said why
24 don't we just group them together and get it all
25 done at one time.

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1 Q Okay. And consolidate the two?
2 A Correct.
3 Q Okay. And did you stop building at that
4 point?
5 A Yes. It's still sitting as -- it's not
6 finished.
7 Q Hence the reason for, I think, the two-
8 by-fours --
9 A Two-by-fours, right. Right.
10 Q Okay. So it doesn't fall off --
11 A Right.
12 Q -- in the meantime?
13 A Right.
14 Q Okay. Now, counsel asked you on cross
15 about how old your two sons were when you moved
16 into the house, do you remember that?
17 A Yes.
18 Q Obviously, they've grown since that
19 date, correct?
20 A Yes.
21 Q And you need more space because of that
22 growth?
23 A Yes. My oldest said, Dad, when am I
24 going to get my own room? Which is funny, he's
25 only eight but, you know, every -- I wanted my own

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room. But really our house is -- will allow for him to have his own room and my son to have his own room if we can do this addition.

Q Okay. And counsel asked you some questions about whether or not without the variance if the addition would still be useful for your intended purpose. I was a little unclear about your testimony on that. Would it still be practical and useful for your intended purpose if you don't get the variance?

A No.

Q Counsel also asked you some questions about the different sizes of the lots in the neighborhood and I think you were unable to give specific measurements; is that correct?

A Correct.

Q Would those lot sizes appear on the plat that has already been marked as an Exhibit?

A I believe they would, yes.

Q Okay.

THE CHAIRMAN: Then again, the Exhibits speak for themselves, what's on them is on them.

Q Now, I think you testified on cross that although not aware of the exact dimensions of some of your other neighbor's yards, that from your

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1 perspective, your personal knowledge of viewing
2 them, some of them have additions or porches that
3 are in fact closer to the street than what you're
4 asking for today; is that correct?
5 A Yes.
6 Q And counsel also asked you whether or
7 not you were aware of any other neighbors who had
8 requested variances who were building additions.
9 And I believe you stated that you are aware that
10 Ms. Daus filed such a petition, correct?
11 A Correct.
12 Q That petition was granted, correct?
13 A Correct.
14 Q That you know that her setback is 26
15 feet; is that correct?
16 A To the foundation of her house and then
17 her porch extends towards the street more.
18 Q Okay.
19 A So her -- the area of lawn she has to
20 cut is significantly less because it's covered by
21 steps and a porch and the addition that she built.
22 Q Okay. Are you asking for or intending
23 to build a porch in addition to your addition?
24 A No, my porch is going to be in line with
25 the front of my house. I'm not even asking to

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1 build a porch in addition to my addition. My
2 porch will be on the side. It will come out of my
3 front door and it will be essentially where it is
4 now, except extended out to the distance of my
5 addition. Half -- a third of the house will be a
6 porch, a third of the front of the house will be
7 this addition. I will not have a wrap around
8 porch.
9 MR. BIXLER: Thank you. No further
10 questions.
11 THE CHAIRMAN: Counsel?
12 MR. PITTLER: One question.
13 THE WITNESS: Yes.
14 RECROSS EXAMINATION
15 BY MR. PITTLER:
16 Q Mr. Riemer, then the reason for the
17 addition, you testified your children want their
18 own room, would be for the convenience of your
19 children?
20 A No, they're too young. It was funny
21 that he mentioned one day, Dad, I want my own
22 room. I took it as that, but my sons are growing
23 older. I had three brothers, we all had our own
24 rooms. We could allow it if we were able to get
25 this and --

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1 Q Let me ask you this, I'm sorry, I didn't
2 mean to cut you off. Is your house usable without
3 this addition?
4 A In the style we're living now, yes.
5 Q All right. And can you make reasonable
6 use of your house without the addition?
7 A Of course, we're living there now, we've
8 been for three years.
9 Q Correct.
10 A But the way we see it, our neighbor to
11 the left is going out much further than we were,
12 Ms. Hayes, to the right, added on to her house and
13 went up. We're trying to do something similar,
14 increase the space of our house.
15 Q Right. But why?
16 MR. BIXLER: Objection.
17 THE CHAIRMAN: I think we --
18 A For the same reason everyone else
19 wanted.
20 THE CHAIRMAN: I think we've already
21 been there.
22 MR. PITTLER: Yes, we've been there
23 twice. That's all I have, Mr. Chairman.
24 THE CHAIRMAN: Anything back?
25 MR. BIXLER: No further questions.

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1 THE CHAIRMAN: Thank you, sir.

2 THE WITNESS: You're welcome.

3 MR. BIXLER: I have no further

4 witnesses. I would simply ask, if it hasn't

5 already been done, all of the documents and

6 photographs of the record from Malow be formally

7 entered into evidence here in addition to the

8 Exhibits that I had moved into evidence --

9 FEMALE VOICE: Do you want to enter the

10 whole file?

11 THE CHAIRMAN: Yeah, we'll just make it

12 whatever the next number is, generally.

13 FEMALE VOICE: So the whole file will be

14 Petitioner's 12?

15 THE CHAIRMAN: Right.

16 (Exhibit Petitioner's 12 marked.)

17 THE CHAIRMAN: Do you have any

18 objection, Mr. Pittler?

19 MR. PITTLER: No, sir.

20 THE CHAIRMAN: Okay. All right. We're

21 going to take a break now for five minutes and

22 then come back.

23 (Brief recess.)

24 THE CHAIRMAN: Okay. We're back on the

25 record. The Petitioner's case having been

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1 completed for the record, Mr. Pittler.

2 MR. PITTLER: I'll call Mr. Hayes. You

3 have to go up there.

4 THE CHAIRMAN: Sir, if you would remain

5 standing and raise your hand.

6 (Witness sworn.)

7 THE CHAIRMAN: All right. Be seated.

8 Tell us your name and address and spell your last

9 name.

10 THE WITNESS: Travis Hayes. My last

11 name is spelled H-A-Y-E-S, and I reside at 525

12 Bayside Drive.

13 THE CHAIRMAN: Counsel?

14 DIRECT EXAMINATION

15 BY MR. PITTLER:

16 Q Mr. Hayes, you're a protestant in this

17 case?

18 A Yes.

19 Q And rather than lead you through a

20 variety of questions, could you please tell the

21 Board, in your own words, why you are a protestant

22 in this case?

23 A I could actually tell you. If I could

24 use this example, I could probably --

25 THE CHAIRMAN: Sure. Absolutely.

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1 A -- help show it a little better.
2 THE CHAIRMAN: Just, if you would, work
3 from that side --
4 THE WITNESS: Okay.
5 THE CHAIRMAN: -- so we can see what
6 you're pointing to.
7 THE WITNESS: The reason why we are so
8 vigorous about it is, in the back he built he had
9 built an addition to his home and we have
10 understood that he needed space for his house.
11 And we've known that he has small children, there
12 was no protest -- we didn't protest that he --
13 because even if you look at the drawing of the
14 inside of his home that was drawn by them, he has
15 two living rooms. The addition he built in the
16 back of his house was being utilized as a living
17 room, and he also has another one. So if it was
18 just a space issue he was talking about, he's not
19 utilizing the space, in my opinion, very well.
20 But, now, he blocked the water view in
21 the back. You can see there's another home in the
22 back which is an apartment building. There's just
23 a little walkway now that you can go through, you
24 can't see up the water, whatsoever, you can't see.
25 Now, in the front of the home, he wants to build

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1 another addition which actually comes, if you look
2 at it, actually comes to the end of our porch, not
3 the end of our house. It actually comes out to
4 our porch. So when you come out onto the porch,
5 if this addition will be here, you cannot see up
6 the street.
7 And the reason we didn't have any
8 protestant (sic) to this with the lady at 529, Ms.
9 Daus, was because her porch was open and you could
10 see up the street with no problem, all the way up
11 there was no view being blocked. By him bringing
12 this out, you can't see now. So, basically,
13 you're going to look at a wall from the back of
14 the house, from this other home, that starts
15 basically starts from the water, all the way to
16 the front of the property. Now, you're just
17 looking at a great big wall. So that was why we
18 really objected to the front of this being built
19 out so far because the back has already been built
20 out.
21 As in Ms. Daus, when she built out, she
22 built out from the front. She built a wooden deck
23 on the front of her house, he built an addition.
24 THE CHAIRMAN: Could you use the water
25 side --

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1 THE WITNESS: Water side of her house,
2 she built a wooden deck, not an addition to her
3 house like Mr. Riemer has. He had built an
4 addition to his home and then built a deck on top
5 of it. So she really just additioned (sic) the
6 front of her home and she come out -- and the
7 porch was open to where we could --
8 THE CHAIRMAN: Say water side and street
9 side.
10 THE WITNESS: To the street side of her
11 home, she built the addition to the street side of
12 her home, not the water side of her home. So she
13 just came to the front and built a wooden deck on
14 the water part of her home. So that's why we were
15 kind of just contesting this because now what you
16 look at is a solid wall, a great big wall, from
17 the water all the way to the front of the street.
18 There's another house here. And he put a deck
19 that leaves just barely a small walkway to go in
20 between the two houses. And that was our question
21 about the utilization of space. And, really, just
22 not being able to see up the street with the front
23 of the addition, that's really just all we're
24 objecting to, you can't see. The utilization of
25 space is not being utilized properly.

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1 BY MR. PITTLER:
2 Q Mr. Hayes, if I show a picture from the
3 file Malow, could you identify that picture and --
4 THE CHAIRMAN: Why don't we give it a --
5 let's give it a --
6 FEMALE VOICE: This will be Protestant's
7 1.
8 (Exhibit Protestant 1 marked.)
9 A I mean the only thing that we were
10 trying to show in this picture is you can see the
11 sticks where the house would actually be built;
12 stick one, stick two, and stick three. If you
13 come out to our porch, stick two comes out to the
14 end of our porch, right at the end of our like
15 where our steps come down our porch. So when you
16 come out on our porch, you're basically going to
17 be looking at the house.
18 The reason we had no objection, like I
19 said, to Ms. Daus', or 527, was because her porch
20 is open and you can still see all the way up the
21 street, even though it's through her porch, you
22 can still see. Now, with that being built, when
23 you stand on our porch, if you see there's a light
24 post in her front yard, it's actually right here,
25 the front's not in the picture, you can only see

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1 past the light post. And that was the other
2 objection to that is not being able to see.
3 Q And, Mr. Hayes, I show you other
4 photographs and letters from the Deputy Zoning
5 Commissioner's case of people who are opposed to
6 this variance. Could you identify those --
7 MR. PITTLER: Well, let them mark it
8 first.
9 THE CHAIRMAN: Let's mark everything
10 first.
11 FEMALE VOICE: This is all one Exhibit?
12 MR. PITTLER: Yes.
13 (Off record discussion.)
14 THE CHAIRMAN: One question. Who put
15 these poles in the ground?
16 THE WITNESS: Mr. Riemer, he placed them
17 in his front yard.
18 THE CHAIRMAN: Okay.
19 BY MR. PITTLER:
20 Q And the poles represent where the
21 addition --
22 A Where the house would be, as in phase
23 one, addition two, and then three, where they
24 would go.
25 Q And this is from your porch?

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1 A Yes, that is from the end of our porch,
2 yes.
3 FEMALE VOICE: How should I mark these,
4 A and B or?
5 THE CHAIRMAN: Counsel, which was from
6 Malow?
7 MR. PITTLER: Yeah, they were on the
8 top.
9 THE CHAIRMAN: These were all from
10 Malow?
11 MR. PITTLER: Right.
12 THE CHAIRMAN: Why don't we just make
13 them one number and each page --
14 FEMALE VOICE: Okay.
15 THE CHAIRMAN: Whose white vehicle is
16 this, sir?
17 THE WITNESS: That is his vehicle.
18 THE CHAIRMAN: So that's his driveway?
19 THE WITNESS: Yes, his driveway, yes.
20 MR. BIXLER: There may be some
21 confusion. Some of the photos, apparently, are
22 new, not part of the record Malow. The ones
23 you're looking at there that are --
24 THE CHAIRMAN: Right.
25 MR. BIXLER: The first stack are new

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1 ones.

2 THE CHAIRMAN: Well, it doesn't really

3 make a difference as long as you qualified them,

4 which you did. What we're going to do here is

5 pretty much two photos per page on here. So we're

6 going to give it a number and each page will have

7 a letter, so you'll refer to the number, the

8 letter and either the left or right.

9 MR. BIXLER: Okay. Fair enough.

10 THE CHAIRMAN: That way the record will

11 be clear, what we're talking about. While she's

12 doing that, Mr. Witness, let me ask you a

13 question.

14 THE CHAIRMAN: Looking at your house,

15 looking at the house of the Petitioner's, what's

16 your opinion of which is the quote, unquote, front

17 or back of your house and the --

18 THE WITNESS: I consider the street side

19 the front of the house. I consider the backside

20 the back of the house.

21 THE CHAIRMAN: And is that based on

22 anything other than just your opinion?

23 THE WITNESS: That's just my opinion.

24 THE CHAIRMAN: Okay.

25 THE WITNESS: I mean there's nothing --

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1 THE CHAIRMAN: Okay.
2 FEMALE VOICE: Okay. I'm making the
3 photos that are in the plastic Protestant's 2, A
4 through D, and the -- this is -- what is this?
5 MR. PITTLER: That's the people who are
6 opposed to the variance.
7 FEMALE VOICE: Okay. So the Petition in
8 Opposition is Protestant's 3. So when you refer
9 to it, refer to number, letter and then left to
10 right.
11 (Exhibits Petitioner's 2-3 marked.)
12 MR. PITTLER: Okay.
13 THE WITNESS: Well, I pretty much
14 explained it before. But the pictures can give
15 you a better idea.
16 FEMALE VOICE: You need to explain it
17 here --
18 THE WITNESS: Re-explain.
19 FEMALE VOICE: -- it's a whole new
20 hearing.
21 THE WITNESS: Okay. Well, porch, CBA,
22 that would be right, would be what I was just
23 explaining about how the back of his house was
24 extended and it comes back and, the tree was not
25 cut down at the time. And CBA, left, was the

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1 actually the second house that's in the back. So
2 that's what I was trying to portray is the whole
3 wall type scene, that you can't see anything. And
4 the next one, let's see.
5 THE CHAIRMAN: The next one -- if that's
6 2A, then you're looking for 2B.
7 THE WITNESS: CBA -
8 THE CHAIRMAN: 2A and then --
9 THE WITNESS: -- 2A --
10 THE CHAIRMAN: Now, address yourself to
11 2B. Right at the bottom there --
12 THE WITNESS: Okay. CBA, 2B, left, was
13 what I referenced about what you seen (sic), was
14 that picture on the left side, the individual
15 picture.
16 THE CHAIRMAN: Oh, the individual
17 picture?
18 THE WITNESS: Yeah, and I referenced it
19 off of CBA 1. And you can see it on CBA 2, left,
20 again, it's the same things, it's just the porch.
21 You can see up the street.
22 THE CHAIRMAN: Sir, these two houses,
23 referring to 2A, referring to the one with the
24 pool, left, on the left side, whose house is that?
25 THE WITNESS: That's my house.

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1 THE CHAIRMAN: That's your house. Okay.
2 And on the right?
3 THE WITNESS: The house on the right of
4 the fence or --
5 THE CHAIRMAN: Yeah. Well, the house
6 across the fence.
7 THE WITNESS: That is Mr. Riemer's. And
8 the house on the white -- the white house to the
9 left is also Mr. Riemer's, it all is in a line
10 with each other.
11 THE CHAIRMAN: Oh, okay.
12 THE WITNESS: It's all in a line. I
13 didn't -- I wish I could have gotten -- you can
14 see the tree in part of the picture, I just didn't
15 focus on it.
16 FEMALE VOICE: This is a house, not a
17 garage?
18 THE WITNESS: No, that is actually an
19 apartment house, in behind his house.
20 THE CHAIRMAN: Go ahead, sir.
21 THE WITNESS: That's all I had to really
22 point out with the pictures.
23 THE CHAIRMAN: Okay.
24 BY MR. PITTLER:
25 Q The rest would be simply be what we

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1 see --

2 A Yes.

3 MR. PITTLER: That's all I have.

4 THE CHAIRMAN: Cross.

5 CROSS EXAMINATION

6 BY MR. BIXLER:

7 Q Mr. Riemer, did I understand you

8 correctly that this property, 525 is your mother's

9 house, it's not yours?

10 A No, it's my mother's.

11 Q You did not testify below before the

12 Deputy Zoning Commissioner, did you?

13 A No.

14 Q And you didn't file the protest, it was

15 your mother who did; is that right?

16 A Yes.

17 Q And she's here today, correct?

18 A Yes.

19 Q Sitting at counsel's table?

20 A Yes. I also live at the residence.

21 Q And I think you testified on direct that

22 the reason that there's an objection to Mr.

23 Riemer's proposed variance, I need some

24 clarification from you on this, was because Mr.

25 Riemer had built something on the water side first

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1 and that obstructed the view from your mother's
2 house of the water side portion; is that right?
3 A Well, the reason for the object wasn't
4 because of the view, we knew he needed space so we
5 did not, my mother did not object in any way to
6 the addition being built in the back. Now,
7 when --
8 THE CHAIRMAN: Again, when you said
9 back, you meant the waterfront?
10 THE WITNESS: The waterfront. The
11 waterfront. As in the back, as in the waterfront.
12 Now, it also blocked the view too, so that came
13 along with the building of the building of the
14 waterfront extension of the house.
15 Q But isn't it true that because it
16 blocked the view on the water side that upset you
17 and that's part of the reason that you filed this
18 protest, she did, regarding the addition on the
19 street side?
20 MR. PITTLER: Objection. It's doesn't
21 matter, the intent doesn't matter.
22 THE CHAIRMAN: Again, the reason doesn't
23 really matter. It's interesting to know why they
24 didn't object to the other and, certainly, counsel
25 didn't object, and I didn't stop you from doing

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1 that.

2 MR. BIXLER: And the only reason I bring

3 it up is because he said that that was one of the

4 reasons, as I understood his testimony.

5 THE CHAIRMAN: All right, but that's a

6 reason connected to the property.

7 MR. BIXLER: Which is not at issue, of

8 course.

9 THE CHAIRMAN: Correct.

10 MR. BIXLER: All right. Let me take a

11 look at those photographs, if I could. That's 1

12 and 2, A through D. Thank you.

13 (Pause for document examination.)

14 THE CHAIRMAN: Counsel, before you

15 begin, a question just occurred to me. Can you

16 ballpark for us when the addition in the back,

17 that you say you didn't object to --

18 MR. PITTLER: Of waterside, thank you,

19 was built?

20 THE WITNESS: Don't hold me to it. I

21 would say between a year to two years, somewhere

22 in that frame. I didn't pay exactly close

23 attention to it.

24 THE CHAIRMAN: Counsel, just for the

25 record, since you know, I'll let you proffer to

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1 it, when was the addition on waterside done?
2 MR. BIXLER: I believe it was done in
3 2003, fall, 2003.
4 THE CHAIRMAN: Okay. Thanks.
5 BY MR. BIXLER:
6 Q Mr. Hayes, isn't it true that the bush
7 that is shown -- this is your mother's yard where
8 the bush is located; is it not?
9 A Yes, but there's several of those
10 identical bushes as you see all the way along.
11 Q Right. In your mother's yard?
12 A Yes.
13 Q That, presumably, she planted?
14 A They were there when I was, as far as I
15 can remember.
16 Q Okay. Since you can remember as a
17 little kid?
18 A Yeah.
19 Q Okay. In terms of then the view from
20 her yard, looking toward Mr. Riemer's and up the
21 street, isn't it true that the bushes, themselves
22 as well as this big tree, partially block that
23 view already?
24 A No, because you would be standing on the
25 porch. You would be standing on the porch when

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1 you come out our house.
2 Q Yeah.
3 A That's what you would be seeing. Them
4 bushes come out barely come over the fence,
5 probably a foot. And the fence is only four foot
6 high. So if you stand, you're probably six foot
7 tall, that probably you see right over them.
8 Especially if you're standing on the porch, you
9 probably don't even see them.
10 Q So the only time, if I understand your
11 testimony correctly, the only time that the bushes
12 and the tree and so forth would come into play is
13 if you got off your porch and went in your front
14 yard?
15 A And it wouldn't even block your view
16 then because they're four and a half foot, five
17 foot tall.
18 Q Well, this tree isn't four and a half --
19 that's --
20 A If you look at the stalk, the base of
21 the tree, you don't even see the tree limbs. The
22 tree actually goes higher than Mr. Riemer's truck
23 which is probably 13, 12 foot high.
24 Q How high would you estimate that tree
25 is?

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1 A I couldn't give you an estimate.
2 Q It's more than 30 feet tall, right, that
3 tree?
4 A Yeah, but that would seem to provide
5 that the bush of the tree, the head of the tree is
6 actually higher than what you can see, you just
7 see the core that, I'm losing the word.
8 Q The trunk?
9 A The trunk. You see the see the trunk
10 when you see base of the tree, you don't see the
11 tree bush. The tree is actually 30 foot high. So
12 it doesn't block the view in any which way. And
13 all limbs, if you look on there, have been trimmed
14 and cut out, so it is all even.
15 Q Well, are you saying that your mother
16 trims the shrubbery and so forth in her yard with
17 the idea, as far as you understand, to help her
18 view?
19 A Yes.
20 Q So it isn't obstructed?
21 A We actually cut a tree down so we could
22 see out back better.
23 Q Okay.
24 A We actually had workers from our company
25 come down and work in the yard more than several

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1 times a year to make sure that yard is very clean.
2 Q Okay. And you've been over in Mr.
3 Riemer's yard, standing in his street side yard
4 before, correct?
5 A Yes.
6 Q Okay. And isn't it true that his view,
7 looking towards your mother's house, is
8 obstructed, looking at those --
9 MR. PITTLER: Objection. That has
10 nothing to do with this, Mr. Chairman. If Mr.
11 Riemer's view is somehow obstructed, so what?
12 THE CHAIRMAN: Well, I'm going to let
13 him follow the point, logically, but let's not
14 belabor it.
15 MR. BIXLER: I won't.
16 THE WITNESS: If I could see the
17 picture, I could help you more. The picture --
18 MR. BIXLER: I won't belabor it. And my
19 only point is that her --
20 THE CHAIRMAN: All right. Your point
21 made. Your point made.
22 MR. BIXLER: Okay.
23 THE WITNESS: In the pictures that you
24 look at, when you stand on our front porch, Mr.
25 Riemer's house, exactly, you could look off the

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1 blueprint.

2 BY MR. BIXLER:

3 Q Actually, that's my next question.

4 THE CHAIRMAN: Do me a favor, will you,

5 just put another clip.

6 MR. BIXLER: Yeah.

7 A Mr. Riemer's house, I don't know the

8 footage because there's no footage on here, but it

9 does sit back behind our porch and into our house

10 a little bit. I don't know the footage because

11 the footage, but it does sit back a little bit. I

12 don't know the exact footage. The pictures would

13 probably help me more if you want to look at

14 those.

15 MR. BIXLER: Nothing further.

16 THE CHAIRMAN: Thank you, sir. Mr.

17 Pittler.

18 MR. PITTLER: I have no further

19 questions -- witnesses.

20 THE CHAIRMAN: Okay.

21 MR. BIXLER: I would like to briefly

22 recall Mr. Riemer to the stand.

23 THE CHAIRMAN: Okay. All right. And,

24 again, Mr. Riemer, just for the record, you've

25 been recalled to the stand and the oath that you

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1 took earlier is still binding.

2 THE WITNESS: Yes, sir.

3 REDIRECT EXAMINATION

4 BY MR. BIXLER:

5 Q Let's make reference to photograph

6 that's been marked as CBA, Protestant's 1. And

7 would you describe what's in that photograph, in

8 particular the stakes and what they represent?

9 A I put these stakes in the ground to

10 demonstrate the three options that were presented

11 to build my addition. I numbered the stakes one,

12 two and three. And the first stake was closest to

13 the street, the second in the middle, the third

14 closest to the house. The first stake showed, and

15 I'm sorry, what I did was pulled a tape measure

16 from my property line and at each interval, as I

17 had the existing, the prior variance, the hearing

18 we had before, I drove a stake at each of the

19 numbers they gave me. At first, we wanted to go,

20 I mean I don't have the number, the first setback

21 we originally wanted.

22 Q Nineteen feet, I believe.

23 A The first stake was 19 feet from the

24 edge of the property line. The second stake was

25 what the, what we were awarded in the prior

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1 hearing, what our addition could go.

2 THE CHAIRMAN: And that was, I'm sorry,

3 26?

4 THE WITNESS: Yes.

5 A The last stake, closest to the house, is

6 the stake that I'm allowed to build to currently,

7 without any zoning. These stakes were placed in

8 the ground to help show the Hayes where the

9 addition was going to go, you know, in an effort

10 to avoid this hearing. And it appears that this

11 picture was taken with a direct view, direct shot,

12 no angle, to the stakes. So, to me, it's a fairly

13 good representation of the view of Stacy Daus'

14 house behind the stakes and it shows that I am

15 very close to being -- I mean it's obvious that if

16 I were to go where I was allowed to go that I

17 would be closer to the water than Ms. Daus is. My

18 addition would not be closer to the street, she

19 has much more porch to the right of stake number

20 two.

21 Q Okay. Just so everybody understands

22 then, the house you see in the background is 529,

23 Ms. Daus' house?

24 A Correct.

25 Q And the porch on her house looks like it

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extends roughly to the stake closest to the street, is that --

A Well, because it's an angle it appears that way.

Q Okay.

A But the porch, in an estimation, I don't know exact numbers, that porch is maybe five feet. So the stake, number, the first stake doesn't give it justice, it's much further to the street than this first stake shows.

Q Okay. The porch extends further than the stake shows because of the angle of where the picture was taken --

A Right.

Q -- is that your --

A Yes, the angle with regard to looking towards the porch.

Q Okay.

A But if you look at the angle of where her variance allowed her to go, which is the foundation, the footprint of her addition, the shot is taken straight on. And is a good representation of how far I would have been able to go.

Q Okay. But your understanding, in terms

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1 of what the Deputy Zoning Commissioner Melow
2 awarded the 26 foot setback is represented by
3 which stake?
4 A The middle stake.
5 Q The middle stake.
6 A Stake number two.
7 Q Okay. And is that, and I know it's a
8 little tough here based on the angle, but based on
9 your own personal knowledge, when you've been out
10 there, is that stake at 26 feet, is it in line, in
11 a linear sense, with the foundation of where Ms.
12 Daus' house comes out?
13 A It appears to be, with some leeway
14 because of, you know, the photograph, I can't tell
15 you exactly.
16 Q Okay. And, finally, the stake closest
17 to your house represents the amount that you would
18 be able to build an addition if you did not get a
19 variance, correct?
20 A Correct.
21 Q So that's approximately 30 feet from the
22 street?
23 A Correct. It just doesn't show the front
24 of my house in this picture.
25 Q Right, because the stairs kind of cut it

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1 off?

2 A Right.

3 Q Okay. Thank you. I'll direct your

4 attention to Protestant's CBA, 2B, the picture on

5 the left first, that is from Ms. Hayes' yard

6 toward, viewing toward yours; is that correct?

7 A Yes.

8 Q And that's a bush that's in her yard?

9 A Yes.

10 Q All right. Just describe briefly, if

11 you would, from these photographs and your own

12 personal knowledge, from living next door, what

13 she has looking toward, in your direction, and

14 what view you have looking toward Ms. Hayes'

15 direction.

16 A Okay. In this picture, the picture to

17 the left, it shows a bush, at least from this

18 angle, blocks my porch. And it appears, at least

19 from this picture, because it's taken so close to

20 the bush, that it seems that the bush is taller

21 than the roof of my pickup truck. In the picture

22 to the right, on the same Exhibit, CBA, 2B, there

23 is a bush near the edge of the property line.

24 And, again, it appears, from this photograph, that

25 the bush is taller than the roof of my work truck.

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1 As far as views go, when I look down the street, I
2 do see tall bushes. When she looks up the street,
3 she sees bushes. I don't know, Neil, if there's
4 anything I can say about this picture.
5 THE CHAIRMAN: Well, don't ask counsel.
6 Do you have something you want to say about it?
7 THE WITNESS: I have nothing to say
8 about Exhibit --
9 THE CHAIRMAN: Then just leave it.
10 THE WITNESS: -- CBA, 2B.
11 MR. BIXLER: There's no question
12 pending.
13 THE CHAIRMAN: There's no question
14 pending. If counsel wants to look at the pictures
15 and ask you a question --
16 THE WITNESS: Okay. Got you.
17 BY MR. BIXLER:
18 Q In terms of the addition that you would
19 like to build now --
20 THE CHAIRMAN: On the street side.
21 Q -- on the street side --
22 A Okay.
23 Q -- if the variance were upheld, at 26
24 feet, how would that effect, from your
25 understanding, Ms. Hayes' view, looking down the

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1 street in the direction of your house and,
2 therefore, Ms. Daus' house?
3 A Right. With my understanding, she would
4 have the same obstruction that she has with
5 whatever obstruction she has with Ms. Daus' house.
6 When we reached this earlier -- when we agreed to
7 knock the addition back before the hearing began
8 and drew this line in between the properties, it
9 was drawn so that if, in my opinion, if you were
10 on her porch, looking towards 529, you would be
11 blocked just as much as you would be blocked
12 anyway. So I believe that my addition wouldn't
13 block the view anymore than my neighbor, Stacy
14 Daus' addition and front porch and front steps is
15 blocking her now.
16 Q Is that partially based on the fact that
17 Ms. Daus' porch actually extends beyond the 26
18 foot setback, it is closer to the road than where
19 her addition at 26 feet back begins?
20 A Correct. Yes.
21 (Tape two begins.)
22 THE CHAIRMAN: Counsel had just asked a
23 question and Mr. Pittler had just begun to utter
24 the word objection. Mr. Pittler.
25 MR. PITTLER: I mean I don't see what

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1 the relevance would be. I'm objecting --
2 THE CHAIRMAN: Counsel.
3 MR. BIXLER: I share his desire for
4 brevity, but by the same token, I have to protect
5 my client.
6 THE CHAIRMAN: I understand that. But I
7 think we have an understanding of the view
8 situation from the different houses at this point.
9 MR. BIXLER: Right. But his question
10 does not go to the view issue, it goes to more of
11 what counsel was arguing earlier about the
12 uniqueness and lack of uniqueness and the other
13 houses in the neighborhood.
14 THE CHAIRMAN: Okay. All right. Go
15 ahead. I'm going to allow you to briefly move
16 along --
17 MR. BIXLER: Thank you.
18 THE CHAIRMAN: -- but let's do it.
19 MR. BIXLER: Thank you.
20 BY MR. BIXLER:
21 Q Let me repeat my question.
22 A Yes.
23 Q Do you recall approximately when Ms.
24 Hayes built the addition on her house?
25 A Plus or minus three years, about 20

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1 years ago. Because when we moved there as a young
2 kid, I remember seeing the addition there, and I
3 was there from 13, and I'm 35.
4 Q Okay. Was it not one of the earliest,
5 if not the earliest, houses to add an addition --
6 MR. PITTLER: Objection.
7 THE CHAIRMAN: That kind of history
8 really has no bearing, counsel. It really
9 doesn't. I mean if 50 people had it done before,
10 it doesn't make a difference. It's simply a
11 matter of does this qualify under the law for a
12 variance.
13 MR. BIXLER: I'll withdraw the question.
14 THE CHAIRMAN: Okay.
15 MR. BIXLER: No further questions.
16 THE CHAIRMAN: Mr. Pittler.
17 MR. PITTLER: I have nothing further.
18 THE WITNESS: I'm sorry.
19 THE CHAIRMAN: Do you have anything --
20 THE WITNESS: I do.
21 THE CHAIRMAN: -- to finish up with?
22 THE WITNESS: I noted something in the
23 picture I didn't point out before.
24 THE CHAIRMAN: Go ahead.
25 MR. BIXLER: Which picture is that?

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1 THE WITNESS: In CBA, 2B, the --
2 THE CHAIRMAN: Left or right?
3 THE WITNESS: The left-hand picture.
4 THE CHAIRMAN: Okay.
5 THE WITNESS: If you look at Ms. Daus'
6 porch, in addition to the house stopping and the
7 porch beginning, she has a bay or bow window that
8 extends out approximately 18 inches, as a builder
9 that's about how far they come out, I know.
10 Beyond the porch, it was mentioned that the porch
11 is open, you can see through the porch anyway,
12 there is a tree you cannot see. So in addition to
13 not being able to see past the porch, there's
14 bushes and trees and other things that you can't
15 see past anyway, when you look up the street.
16 THE CHAIRMAN: Okay. I assume there's
17 no other question for him. Mr. Pittler?
18 MR. PITTLER: No questions.
19 FEMALE VOICE: I have a question.
20 THE CHAIRMAN: Go.
21 FEMALE VOICE: I want to ask you about
22 the addition that is on the waterside of the
23 house.
24 THE WITNESS: Yes.
25 CROSS EXAMINATION

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BY FEMALE VOICE:

Q Is that a two-story addition?

A It's a -- it appears to be two-story, however, it's a 16 foot vaulted ceiling. So from the outside, it's almost the full height of the house, less about 12 inches at the peak.

THE CHAIRMAN: That's your, we're talking about your addition?

THE WITNESS: Yes, my addition.

THE CHAIRMAN: On the waterside?

THE WITNESS: On the waterside. So on the inside, it's a great room.

BY FEMALE VOICE:

Q Okay. But it doesn't -- so it's just one big room on the inside as opposed --

A One big room --

Q -- to --

A -- with a vaulted ceiling

Q Got it.

FEMALE VOICE: That's it for me.

THE CHAIRMAN: Okay. Those are all the questions. Thank you, Mr. Riemer.

THE WITNESS: Thank you.

THE CHAIRMAN: Anything else in rebuttal?

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1 MR. PITTLER: No.

2 THE CHAIRMAN: Anything? All right.

3 Gentlemen, we're going to take closing arguments.

4 Address yourselves, obviously, for whatever you

5 think appropriate. And, again, you have the

6 burden so I'm going to let you go first.

7 MR. BIXLER: Thank you. And I'll try to

8 brief.

9 THE CHAIRMAN: Okay.

10 CLOSING ARGUMENTS

11 MR. BIXLER: I think that the Deputy

12 Zoning Commissioner, in his order, went through

13 all of the factual findings and he went through

14 the conclusions of law that he arrived at. And he

15 specifically quoted, verbatim, Section 307 of the

16 Baltimore County Zoning Regulations --

17 THE CHAIRMAN: Counsel, I don't mean to

18 interrupt you, but could you give us the file back

19 while you're doing that because that's where his

20 opinion is and if you're going to --

21 MR. BIXLER: Yeah, I'm done.

22 THE CHAIRMAN: -- refer us to any of

23 that --

24 MR. BIXLER: I'll wait a second so he

25 can give you that.

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1 THE CHAIRMAN: Yup, appreciate it. Go
2 ahead.
3 MR. BIXLER: On page one of the findings
4 of fact and conclusions of law, you'll see sited
5 Section 307 of the Baltimore County Zoning
6 Regulations dealing with variances. And I'm not
7 going to repeat the language, it's right there and
8 I mentioned it in my opening. But it obviously
9 shows that he was cognizant of the law and he
10 applied that to the facts as he found them. And
11 those facts consisted of good old testimony, not
12 from Mr. Hayes who has testified today, but rather
13 from Mrs. Hayes, the actual Protestant. And you
14 have in front of you all the photographs and other
15 evidence that was in front of the Deputy Zoning
16 Commissioner Malow.
17 And you will find on page six of the
18 Order, how he went through the applicable law with
19 regard to granting or not granting the variance.
20 And I think that you will find, without being
21 redundant, that special circumstances or
22 conditions exist that are peculiar to Mr. Riemer's
23 property or structure on which the variance is
24 requested. You will find that his property is
25 unique in a zoning sense of the word and that he

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1 would, in fact, suffer hardship, practical
2 difficulties if the regulations were strictly
3 enforced. And we know, based on some of the
4 testimony that you heard that the regulations in
5 the immediate vicinity have not been strictly
6 enforced. And I think that speaks volumes in and
7 of itself.
8 It's interesting that the Daus', 529,
9 next door, were beneficiaries of such variance.
10 They don't have a problem with Mr. Riemer's
11 request, nor do the other 14 or so other
12 neighbors. In fact, it's only Mrs. Hayes who,
13 apparently, has a problem with it.
14 And I suggest, based upon the evidence
15 that was presented today that the problem she has
16 with it is actually fueled by the addition that's
17 on the water side that happened beforehand. It
18 will not, as you heard testimony from Mr. Riemer,
19 as well as from our expert, it will not adversely
20 impact the neighborhood. And, in fact, much of
21 the other neighbors, many of the other neighbors,
22 have done the same thing to the same extent or,
23 perhaps, even a greater extent. And it will,
24 therefore, if the variance is granted, would be in
25 the spirit and the intent of DR5.5 zoning

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1 regulations.

2 All that Mr. Riemer is asking for is no

3 more, and, in fact, it's less than some of his

4 neighbors have. He's tried to be reasonable

5 throughout this process. You may recall, as is

6 indicated in the record, that initially there

7 wasn't an appeal filed by Ms. Hayes filed within

8 the time frame. And there was some discussion

9 about whether she received notice, proper notice,

10 of the appeal. And while perhaps that was never

11 determined as a matter of fact, Mr. Riemer did not

12 object to the motion for reconsideration to allow

13 Mrs. Hayes to have her day in court with regards

14 to the appeal; he did not make a case out of that.

15 He said okay. It appears that she didn't get the

16 notice from the zoning commissioner and we'll

17 accept that as is and allow her appeal to go

18 forward, and that's why we're here today.

19 Mr. Riemer, I believe, has been a

20 reasonable neighbor throughout this process and is

21 simply trying to put an addition on his house so

22 that his family, his young family, can grow into

23 space that has been needed. He's not asking for

24 anything more or less than these other folks have.

25 And I would respectfully request that you affirm

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1 the Deputy Zoning Commissioner's Order. Thank
2 you, very much for your time.
3 THE CHAIRMAN: Before you start yours,
4 Mr. Pittler, just a question or two for counsel,
5 if I may. Just so I understand clearly, your, and
6 correct me if I'm wrong, your basis for a finding
7 of uniqueness was, of course in Cromwell as a trip
8 wire, is the issue of the house being built before
9 the zoning regulations went into effect. And,
10 therefore, once they go into effect, that fact,
11 itself, renders the property unique in the sense
12 of Cromwell and the case law?
13 MR. BIXLER: I'm not saying that that
14 fact alone does.
15 THE CHAIRMAN: Well, that's my point,
16 what else, if anything?
17 MR. BIXLER: I think it is a factor. In
18 fact, there are other factors. Without limiting
19 myself to them because I think the evidence speaks
20 for itself on that --
21 THE CHAIRMAN: Yeah, give me an idea of
22 what you think the other factors are.
23 MR. BIXLER: Okay. Mr. Riemer's
24 property, obviously, is set in it's size and
25 shape, based on the fact that the water is on one

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side and the street is on the other and he has to build within setbacks subject to those parameters. His neighbors, as evidence has shown, have been able to get variances or otherwise build additions, porches, et cetera. And he is not able to do that with the current zoning regs, requiring the 30 foot setback. And the configuration of his property is the reason that he can't do it with any kind of usefulness in terms of the size of the addition and still meet the 30 foot setback.

THE CHAIRMAN: Just bear with me one second. That's the only comment I have. Can you think of anything?

(No response.)

THE CHAIRMAN: All right. Mr. Pittler, if you would favor us with your comments.

MR. PITTLER: Thank you, Mr. Chairman. First of all, let's talk for a second about Commissioner Murphy's (phonetic) decision. And lets look where he -- how he comes to his decision, which is something that I've been interested in for some time. And when he talks about the deck, he says this, if the regulations are strictly enforced, the Petitioner would have to remove 4.5 feet of the deck which I accept

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1 would greatly restrict his use of the table and
2 chairs located thereon.
3 THE CHAIRMAN: And where are you reading
4 from, counsel?
5 MR. PITTLER: Under his findings. I
6 don't have the right page, but it's under his
7 findings of fact.
8 THE CHAIRMAN: Okay. All right. We'll
9 get there. Okay.
10 MR. PITTLER: I have never seen a case
11 in the law of variances where the granting of a
12 variance was allowed simply because you could
13 locate a table and chairs in the subject
14 situation. That is astonishing to me, Mr.
15 Chairman and members of the Board, that's
16 absolutely astonishing. That has nothing to do
17 with the case law. Commissioner Murphy doesn't
18 site one case, not one case in his whole opinion.
19 And the reason is because there aren't any cases
20 he could site.
21 And then he goes on further to talk
22 about this, about the addition itself.
23 Consequently, I will grant the Petitioner a
24 variance for a 26 foot setback which will result
25 in an 11 by 15 addition. I believe that this is a

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1 reasonable sized master bedroom which with the
2 Petitioner's skills could be extended internally
3 to give the necessary function. That is not the
4 basis for the granting of a variance in this
5 county or in this state. The fact that the
6 Petitioner can have an additional bedroom in a
7 house is for his convenience, for his enhancing
8 the value of his property. And I don't have to
9 site you the cases, I'm sure you know them, which
10 specifically say that you cannot grant a variance
11 for the convenience of the petitioner or to
12 enhance the value of the petitioner's property.
13 You can't do it in this state, period.
14 And I know, I'm not going to site you
15 all the cases because I'm sure you've heard them
16 all before. And the zoning commissioner's
17 decision says nothing. What happened was, he
18 wanted to grant the variance so he tried to find,
19 in his mind, I assume, some rational. But he
20 doesn't site one case to substantiate his
21 conclusions, not one. And rightfully so, because
22 there aren't any.
23 Now, let's talk for a second about,
24 which I knew the Chairman was going to bring up,
25 the date of the sub-division pre-dating the zoning

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1 regulations. I know that the zoning commissioner
2 of this Board had heard a case some time ago
3 called In The Matter of the Application of Herbert
4 and Grace Smallwood (phonetic). And there was a
5 similar point raised in that case --
6 THE CHAIRMAN: And just for the record,
7 since you're going to quote, do you have a site
8 for counsel?
9 MR. PITTLER: Yes.
10 THE CHAIRMAN: Put it on the record.
11 MR. PITTLER: Case number, in the
12 Circuit Court for Baltimore County, case number 3-
13 C-05-7736. Now, Judge Cox heard that case and I
14 think that Judge Cox is right. And this case, by
15 the way, is on appeal to the Court of Special
16 Appeals. And it's my understanding, and I don't
17 know this for a fact, but it's my understanding
18 that the case will be heard by the Court of
19 Special Appeal sometime in December.
20 MR. BIXLER: And I don't mean to
21 interrupt except for the fact that if it's on
22 appeal it's, obviously, not finding precedent.
23 THE CHAIRMAN: Well, not to let any cats
24 out of the bag, counsel, circuit court decisions
25 are not precedent binding on this Board under any

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1 circumstances anyway. We've had circuit court
2 cases on one issue that are this way and some that
3 are on the other way. It's certainly instructive
4 as to what the court's are holding, but they're
5 not binding precedent on us. The only thing that
6 is, is Court of Special Appeals, of course.
7 MR. PITTLER: Correct. And I'm not
8 saying it's binding. It's interesting to see what
9 Judge Cox said. Judge Cox said, on page nine of
10 her opinion, in Cromwell, supra, the Court of
11 Appeals stressed that uniqueness is a condition
12 relating to the characteristics of the property
13 itself, and we all know that that's what Cromwell
14 held, and not the impact of the zoning
15 restrictions. As the court stated in Cromwell, in
16 the zoning context, the unique aspect of a
17 variance requirement does not refer to the extent
18 of improvements upon the property or a neighboring
19 property. The uniqueness of a property for zoning
20 purposes requires that the subject property have
21 an inherent characteristic not shared by other
22 properties in the area, and then he goes, I think,
23 on to say language that I'm sure you're familiar
24 with. I think Judge Cox's opinion in this case is
25 instructive, if nothing else.

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1 However, the Court of Appeals, the Court
2 of Special Appeals, in the case of Montgomery
3 County Maryland versus Francis Brockman
4 (phonetic), now you may not have this case because
5 I don't know if it's in the advance sheets yet;
6 the case was filed September 6th, 2006.
7 THE CHAIRMAN: Well, let me just make
8 this suggestion, counsel. If you have either that
9 Cox decision or if you have, obviously, the Court
10 of Special Appeals' decision and you want to --
11 I'll consider -- if you had to do briefs, you'd be
12 quoting cases and giving us copies anyway. If you
13 want to make a copy and as long as counsel
14 ultimately has it, in case this case gets
15 appealed, and you want to provide us with a
16 copy --
17 MR. PITTLER: I'll be happy to do that.
18 No problem.
19 THE CHAIRMAN: Yeah, okay.
20 MR. PITTLER: This case was heard in the
21 Court of Special Appeals, an opinion by Judge
22 Krause (phonetic). The case is very interesting
23 and I would recommend, if you have the time to
24 look at this case, it's somewhat interesting as
25 far as the case of this nature is concerned.

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1 Because what it had to do was with Ms. Brockman
2 wanting to build a carport and other additions on
3 her property. Now, the case, from a factual
4 sense, isn't the exact same case as this case, but
5 it's somewhat analogous. And I think it's
6 interesting to see what the Court of Special
7 Appeals said here. And let me just quote a few
8 sentences here. For example, they say, that means
9 that an applicant must show more than simply that
10 the building would be suitable or desirable or
11 could do no harm or it be convenient for or
12 profitable to it's owners; siting Kennerly versus
13 Mayor and City Council of Baltimore, 247 Md 601,
14 606-07, a 1967 case. He or she must demonstrate
15 that the application of the ordinance and the
16 unique characteristics of the land cause peculiar
17 or unusual practical difficulties that justify the
18 variance requested. Siting Cromwell, 102, Md App.
19 at 706. Furthermore, a particular relevance to
20 this case is the base of the Board's decision.
21 The peculiar or unusual practical difficulties
22 must not be a result of the applicant's own
23 actions.
24 And another point, we've also looked at
25 the issue in these kinds of cases of the loss to

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1 the applicant or petitioner, and what they would
2 suffer if they don't get the variance in question.
3 And we know that economic loss is not a basis for
4 granting a variance. Even our illustrious County
5 Executive, in a case that he heard, he was sitting
6 on the Circuit Court, case number 3-C-98-5437,
7 when he sited the Kennerly case and others, he
8 said that before leaving the hardship issue, the
9 Court must address whether a limitation on
10 Appellant's ability to expand his commercial
11 business could ever satisfy the unreasonable
12 hardship stand. Well, here we're dealing with
13 practical difficulty, but it's interesting, the
14 language.
15 The Court of Appeals has stated that to
16 grant a variance, the Board must find, from the
17 evidence, more than the building allowed would be
18 convenient and profitable to it's owner, again
19 siting Kennerly. And then he goes on to talk
20 about that issue. And he says every person
21 requesting a variance could indicate some economic
22 loss alone. Every person requesting a variance
23 can indicate some economic loss. To allow a
24 variance anytime an economic loss is alleged would
25 make a mockery of the zoning program. And the

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1 reason I site that is because it's the same thing
2 with the convenience argument. And if this Board
3 or the zoning commissioner or the courts would
4 allow a variance whenever it's convenient to the
5 applicant or the petitioner, you would be granting
6 them all the time.
7 Quite honestly, I think this Board has
8 taken a very conservative approach to the granting
9 of variances. And I think it's because the court
10 I mean this Board has looked very closely at the
11 court decisions on this matter. Sometimes we find
12 that the zoning commissioner doesn't always do
13 that. And I think that this court, this Board has
14 been very adherent to what the cases have said in
15 why or why not should we grant a variance.
16 In this particular case, the reasons
17 given for the variance is because I can have a
18 bigger deck and I can have built-ins, and I can
19 have more chairs and so forth. Not sufficient.
20 Secondly, we want to have a bedroom for our
21 children, you know, which is very commendable,
22 which is fine, but not to violate the strictness
23 of the variance regulations. Cromwell made it
24 very clear that the granting of variances is
25 somewhat of a pariah, and they are not to be

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1 granted lightly. That it has to be some factor
2 inherent in the very nature of the particular
3 property involved, as opposed to other properties
4 in the neighborhood; we all know that. And
5 Cromwell went on to explain that variances are
6 different than special exceptions. There's a very
7 strong presumption that has to be overcome in a
8 variance case.
9 If the Petitioner in this case by not
10 having the variance would have lost all reasonable
11 use of his property, grant the variance. Not the
12 case here. The Petitioner knew what he was buying
13 when he bought it. He knew exactly what he had.
14 And to say that he made a mistake in this deck
15 issue, it doesn't matter. He still has to have
16 the legal basis to have a variance granted.
17 You know, the Cromwell case, as you
18 know, had to do with that wine cellar that was
19 built beyond the height limitations. And I'm sure
20 Mr. Cromwell, I mean, no, it was Ward that built
21 it, I'm sure Mr. Ward would have liked to have
22 been able to have his variance granted because he
23 spent $25,000.00 or so building this wine cellar.
24 The Court of Special Appeals and Judge Cathel
25 (phonetic), said, no, it doesn't matter. You

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can't use the variance requirements to create the reason for having an illegal or improper act. And a violation of the zoning regulations is such. So you can't correct it just because it would cause you some inconvenience or economic loss. You can also not have the variance to create more of a convenience to a house that you already own.

Zoning regulations are very clear of what was required here. He still could have some addition, but it doesn't matter if he couldn't have any addition because he's not losing the reasonable use of his house. And he's only doing this for his own family's convenience or to improve, financially, the basis of his property. All the cases say he can't do that. Thank you.

THE CHAIRMAN: Since you have the burden, Mr. Bixler, I'll give you a brief rebuttal.

MR. BIXLER: Thank you, I appreciate that. Counsel first points to the Deputy Zoning Commissioner's opinion and says, well, there's no case siting in that opinion. And I would respond by saying there doesn't need to be a case sited in there, the Commissioner went right to the law, which is Section 307, Baltimore County Zoning

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1 Regulations dealing with variances. There's no
2 need to put any additional gloss on it, he went
3 right to the source. And he was very clear in how
4 each of those factors, allowing for a variance
5 were met, based on the evidence before him.
6 Now, with respect to the recent decision
7 in Montgomery County versus Francis Brockman, that
8 counsel sited, the actual site for it is 2006 Md
9 App. Lexus 145. And I've taken a look at that
10 case. And, first of all, it's legally
11 distinguishable from the case because it dealt
12 with different zoning ordinance. It dealt with
13 Montgomery County Zoning Ordinance Section 59-A-
14 4.11. It is also factually inaccurate because it
15 dealt with someone seeking to build an enclosed
16 two-car garage on a residential property.
17 Counsel makes an argument that all my
18 client wants is a variance because otherwise he
19 will suffer either just an economic loss or he
20 won't be able to have the living room, et cetera,
21 that he wants and he should have known better when
22 he moved in. But that's not really the case.
23 When my client moved in, he saw the
24 neighbor to the left and the neighbor the right
25 and they both had additions and setbacks that were

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1 less than 30 feet. That's what he bought, that's
2 his property. It is different than his neighbors,
3 it's different, as the testimony indicated, than
4 many of the other neighbors' homes in the
5 neighborhood; he has substantially less living
6 space than everybody else. And it would create an
7 undue hardship to him not to be able to have his
8 addition because his young boys are getting older
9 and they need some space of their own. Is it
10 theoretically possible that his entire family
11 lives in the existing structure that they now do?
12 Of course, by definition, they're living there
13 now. But that doesn't negate the idea that it
14 would create an undue hardship for, as they get
15 older, not to live there or to create some kind of
16 practical difficulty if he wasn't allowed to build
17 his addition with, basically, a compromised
18 variance.
19 When all of this is boiled down, it
20 comes to really we're talking four feet, that's
21 all he's asking for, from a 30 foot setback to 26.
22 Nobody else, in the entire neighborhood, for as
23 long as it's been around, has the same problem
24 that Ms. Hayes seems to have, at least certainly
25 not to the same degree. I don't see anyone else

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1 testifying here. There was no one else who
2 testified Malow. Plenty of Mr. Riemer's other
3 neighbors don't have a problem. He's not asking
4 for anything more or less than everybody else.
5 Thank you.
6 THE CHAIRMAN: All right. This
7 completes the record in this matter. What now
8 happens, for the edification for all concerned --
9 I do want to make one point -- everyone's
10 indulgence for just a second. Just a question to
11 both counsel members, and that is, we started in
12 the beginning with street side, back side, front
13 side, water side. And in this neighborhood
14 section, do either counsel know of any ruling or
15 any other decisions by zoning or can site anything
16 that the county has said the water side is now the
17 front side, the street side is now the back side,
18 or vise-versa; is there anything at all? I mean
19 both parties have talked, well, this is the front;
20 no, this is the front. Is there anything,
21 anywhere, that anybody can say the county treats
22 the street side as front side, and here's where
23 they've treated it.
24 MR. KELLER: Or maybe to expand on that
25 question, since they've applied a setback to the

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1 street side, and that's what we're talking about.
2 The question is what makes it the front and,
3 therefore, subject to one setback, as opposed to
4 the rear which would have a different --
5 THE CHAIRMAN: It's two different rules.
6 MR. KELLER: Two different standards.
7 THE CHAIRMAN: Right. What makes it one
8 and not the other? All right. Who do you want --
9 it doesn't make a difference, we'll let you both
10 comment on it.
11 MR. PITTLER: I can't definitively
12 answer the question. But what happens in the
13 process here is that I assume Mr. Moskunas filed
14 the petition, Mr. Riemer, whatever. And the
15 process that you go through is you go to, you get
16 a zoning planner that sits down with you to take
17 this in, the petition. And the job of the zoning
18 planner is to look at what you're asking for and
19 to determine whether or not your site plan is
20 sufficient or proper, in their opinion, to come in
21 to the zoning commissioner in the first instance.
22 What I would assume happened is when Mr.
23 Moskunas went to the planner, the planner said
24 this is what our practice is, that, you know, the
25 front is here, the rear is here. Because I would

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1 assume that Mr. Moskunas would want the easiest
2 way out in that he wouldn't say, oh, no, we want a
3 greater variance so turn it around or whatever.
4 So I'm assuming that when he went through the
5 process, that's what was determined by the zoning
6 planner that took in the case. And when Deputy
7 Commissioner Murphy went along with that
8 determination, I'm assuming that he, you know,
9 that they felt that that was why it came in that
10 way. That's the only thing I can think of.
11 THE CHAIRMAN: Counsel?
12 MR. BIXLER: That sounds like a very
13 plausible explanation, but I think it's a very
14 good question. And I don't see why there couldn't
15 be a panel to take a look into that and see if
16 that is, in fact, is the case. I don't know
17 anything to the contrary, so I don't want to
18 proffer otherwise, but --
19 THE CHAIRMAN: Well, I understand that.
20 We're not going to go beyond -- if there's any
21 case law or law that we find, that's fine. What
22 Mr. Keller was doing was giving you gentlemen an
23 opportunity to tell us, yes, there's a regulation
24 or, yes, there's a case.
25 MR. PITTLER: I honestly don't know. I

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1 just assume that --

2 THE CHAIRMAN: Fair enough.

3 MR. BIXLER: I honestly don't know in

4 terms of a fact specific case but, obviously, the

5 panel is free to look at --

6 THE CHAIRMAN: Okay. Just wanted to

7 give you an option to get into discussion. All

8 right. As I started to say this completes the

9 record in this matter. What now happens is the

10 Board will schedule what's called an open

11 deliberation under the Open Meetings law which

12 will be a session, not an executive session or a

13 court session, it'll be an open work session which

14 will take place out in the front. And we'll go

15 through the cases, the facts, the circumstances,

16 our own research into the law, and we will discuss

17 how we should rule. You'll all receive notice of

18 that and although you cannot take part or comment

19 in any way, you can certainly observe the process

20 as it takes place.

21 Thereafter, there will be a written

22 decision that will be prepared by this panel, and

23 executed. And the date by which that opinion is

24 signed and dated, and it's accompanying order is

25 the date from which an appellate period of 30 days

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1 to the Circuit Court for Baltimore County begins
2 to run.
3 Unless anybody has any administrative
4 questions. Not seeing any, I want to thank
5 everyone for their presentations; the witnesses
6 and the parties for their cooperations (sic) and
7 indulgences, and these proceedings are closed.
8 (The above-referenced appeal was
9 concluded.)
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CERTIFICATE OF REPORTER/NOTARY PUBLIC

I, TONYA L. ASTAUD, a Notary Public of the State of Maryland, certify:

That the foregoing proceedings were transcribed by me via recorded cassette tapes;

That the testimony of the witnesses, the questions propounded, and all objections and statements made at the time of the appeal were transcribed by me via recorded cassette tapes;

That the foregoing is a true and correct transcription of the appeal proceeding utilizing cassette tapes of the appeal proceeding provided to me.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of Maryland that the foregoing is true and correct.

Dated this 5th day of November, 2007.

TONYA L. ASTAUD
Notary Public

TONYA L. ASTAUD
NOTARY PUBLIC
BALTIMORE COUNTY, MARYLAND
Commission Expires 3/1/2010

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

B534821
RIEMER
B 53482

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 10-10-03

OEA: MAR/MAP

HISTORIC DISTRICT/BLDG: [ ] YES [X] NO [ ] DO NOT KNOW

PERMIT #: B 53482
RECEIPT #: A 782469
CONTROL #: MR, H
XREF #:

FEE: 60.45
PAID: 60
PAID BY:
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

PROPERTY ADDRESS 527 BAYSIDE DR
SUITE/SPACE/FLOOR
SUBDIV: Turners
TAX ACCOUNT #: 1207048541
DISTRICT/PRECINCT 12 5

OWNER'S INFORMATION (LAST,FIRST)
NAME: ROBERTS, RICHARD + Carole,
ADDR: 509 BAYSIDE DR
21222

DOES THIS BLDG. HAVE SPRINKLERS YES — NO —

APPLICANT INFORMATION
NAME: ROBERT RIEMER
COMPANY: OWNER
STREET 509 BAYSIDE DR
CITY,ST,ZIP BALT. MD 21222
PHONE # (443) 829-5612 MHIC # MHBR #
APPLICANT SIGNATURE Robert Riemer DRC#
PLANS: CONST PLOT / PLAT DATA EL PL 2
TENANT
CONTR: OWNER
ENGNR:
SELLR:

TYPE OF IMPROVEMENT
1. NEW BLDG CONST
2. ✓ ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

DESCRIBE PROPOSED WORK: Construct Addition On Rear Of Ex SFD. To Be Used As: Sitting Room + Open Wood Deck. 28' x 14' x 10' = 394 ☐ Irregular.

TYPE OF USE

OK CBCA

RESIDENTIAL
01. ✓ ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY (ENTER NO UNITS)
05. SWIMMING POOL
06. GARAGE
07. OTHER

NON-RESIDENTIAL
08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. CHURCH, OTHER RELIGIOUS BUILDING
10. FENCE (LENGTH HEIGHT)
11. INDUSTRIAL, STORAGE BUILDING
12. PARKING GARAGE
13. SERVICE STATION, REPAIR GARAGE
14. HOSPITAL, INSTITUTIONAL, NURSING HOME
15. OFFICE, BANK, PROFESSIONAL
16. PUBLIC UTILITY
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. SIGN
19. STORE MERCANTILE RESTAURANT SPECIFY TYPE
20. SWIMMING POOL SPECIFY TYPE
21. TANK, TOWER
22. TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. OTHER

Flood Zone A

TYPE FOUNDATION
1. SLAB
2. BLOCK
3. CONCRETE

BASEMENT
1. FULL
2. PARTIAL
3. NONE

TYPE OF CONSTRUCTION
1. MASONRY
2. WOOD FRAME
3. STRUCTURE STEEL
4. REINF. CONCRETE

TYPE OF HEATING FUEL
1. GAS 3. ELECTRICITY
2. OIL 4. COAL

TYPE OF WATER SUPPLY
1. ✓ PUBLIC SYSTEM ✓ EXISTS PROPOSED
2. PRIVATE SYSTEM EXISTS PROPOSED

TYPE OF SEWAGE DISPOSAL
1. ✓ PUBLIC SEWER ✓ EXISTS PROPOSED
2. PRIVATE SYSTEM
SEPTIC EXISTS PROPOSED
PRIVY EXISTS PROPOSED

CENTRAL AIR: 1. 2.
ESTIMATED COST OF MATERIALS AND LABOR: $10,000

PROPOSED USE: SFD + Addition N.S.T.
EXISTING USE: SFD

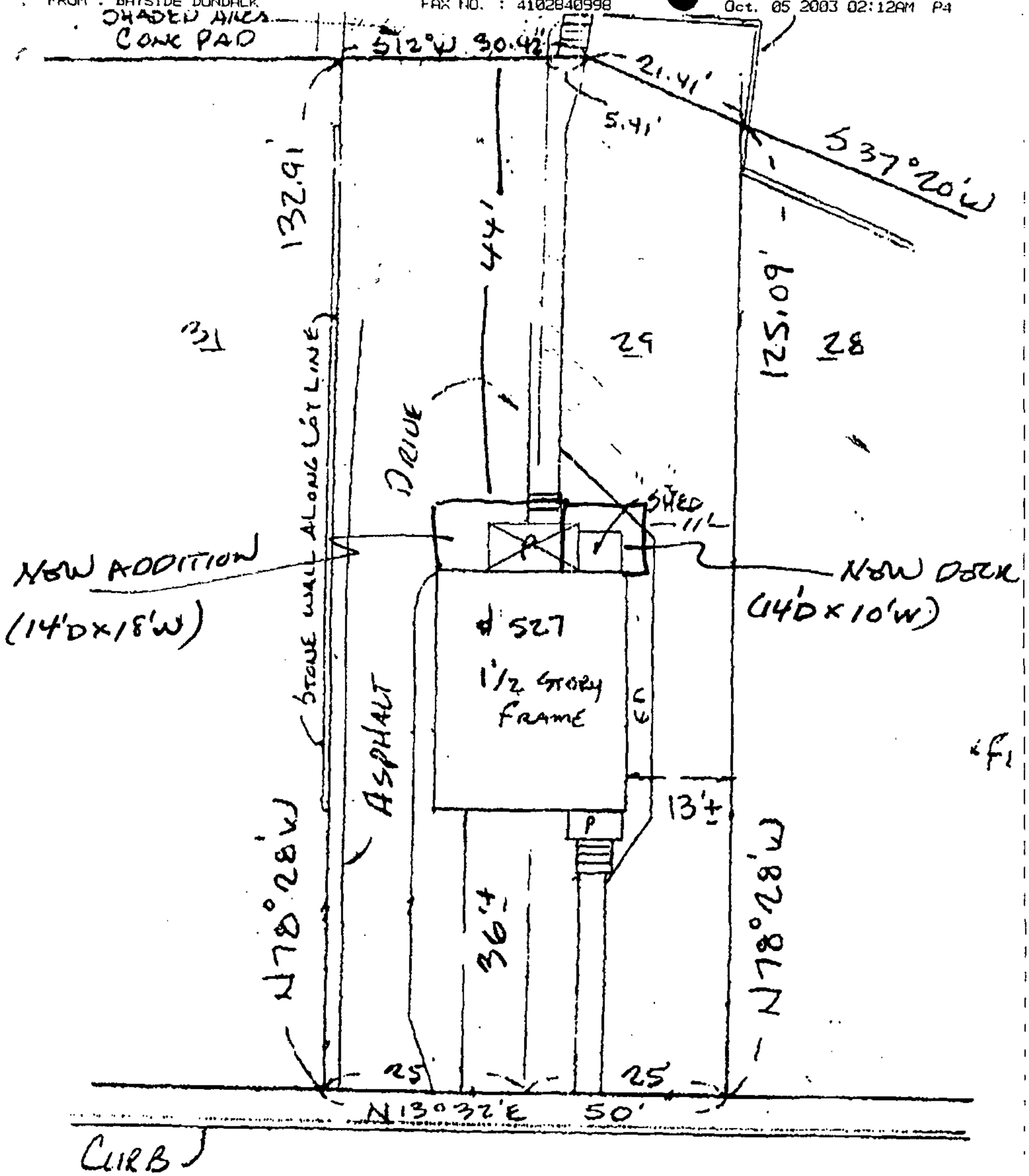
OWNERSHIP
1. ✓ PRIVATELY OWNED 2. ✓ PUBLICLY OWNED 3. SALE 4. RENTAL

RESIDENTIAL CATEGORY: 1. ✓ DETACHED 2. SEMI-DET. 3. GROUP 4. TOWNHSE 5. MIDRISE 6. HIRISE
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS:
1 FAMILY BEDROOMS
GARBAGE DISPOSAL 1. YES 2. NO BATHROOMS CLASS 34 Sect-H
POWDER ROOMS KITCHENS LIBER FOLIO

BUILDING SIZE	394	LOT SIZE AND SETBACKS	6400 ☐	APPROVAL SIGNATURES	DATE
FLOOR		SIZE	51.83 X	BLD INSP	
WIDTH	28'	FRONT STREET		BLD PLAN	
DEPTH	14'	SIDE STREET		FIRE	
HEIGHT	10'	FRONT SETBK	NC	SEDI CTL	
STORIES	1	SIDE SETBK	NC (11 FT.)	ZONING	NT-CBCA-OK 10/10
LOT #'S	29	SIDE STR SETBK		PUB SERV	
CORNER LOT		REAR SETBK	44'	ENVRMNT	CBCA-OK To File
1. YES 2. NO		ZONING	DR 2.5	PERMITS	

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

Del 3



527 BAYSIDE DR.

Sharon -

Citation

Grass to be mow prior 14"

Hearing 4/26

9:00 a.m.

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT, OFFICE, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation No. 05-0830 | Property No. 1907048641 | Zoning: DR

Name(s): REMER ROBERT C
REMER CAROLE R

Address: 689 S KENWOOD AVE 21224

Violation Location: 589 BAYSIDE DR 21221

Violation Dates: 2/9/00 - 3/9/05

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 35-5-32(B)(1):

FAILURE TO REPAIR DEFECTIVE SIDING.

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 5600.00

A quasi-judicial hearing has been pre-scheduled in Room 166, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 4/26/05 Time: 9:00 AM

Citation was served by: Date: 3/24/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: ALPHONSO GRIFFIN

Date: 3/9/05 Inspector's Signature: Alphonso Griffin

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: | Citation/Case No. 05-0830 AG

Address:

Date | Defendant's Signature

Def #4

FAX - 2 pages

6/7/05

Bernadette -

Attached is citation.

Joe spoke w/ Supervisor Jim Thompson, who ~~[illegible]~~ talked w/ Bldg. Inspector A. ~~[illegible]~~, that the first thing Joe needed to do was repair the railing, but since he ~~has~~ was going to get a permit, the matter/citation was dropped.

Carol R. Ramir

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 529 BAYSIDE DRIVE 21222

which is presently zoned Residential / Critical Area DR 5.5

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

DANIEL SCOTT DANES
Name - Type or Print

Signature

STACEY LYNN BERGIN
Name - Type or Print

Signature

529 BAYSIDE DRIVE — 410.563.6470
Address — Telephone No.

BALTIMORE — MD — 21222
City — State — Zip Code

Representative to be Contacted:

STACEY L. BERGIN
Name

903 S. BOULDIN ST
Address — Telephone No.

BALTO — MD — 21224
City — State — Zip Code

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

Zoning Commissioner of Baltimore County

CASE NO. _____ **Reviewed By** _____ **Date** _____

REV 10/25/01

Estimated Posting Date _____

Petitions

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at 903 S. BOULDIN ST
Address

BALTO — City, MD — State, 21224 — Zip Code

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

HARDSHIP

We would like to grow our family as we add children in the near future.
We would like the bedrooms to be upstairs as well as a bathroom upstairs. Additionally, we would like to ~~expand~~ enlarge the kitchen to make it an eat-in kitchen. The work we would like to do is in line with the neighborhood. It will not block the waterview of any of our neighbors.

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

Daniel S. Dawes
Signature

Daniel S. Dawes
Name - Type or Print

Stacey L. Bergin
Signature

STACEY L. BERGIN
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 23 day of April, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Stacey L. Bergin and Daniel S. Dawes the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Susan M. Friedman
Notary Public

My Commission Expires My Commission Expires August 1, 2006

REV 10/25/01

PANEL BP1005M

TIME: 14:08:52 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 11/13/2003

DATE: 06/14/2005 BUILDING DETAIL 2 DAS 10:21:34

PERMIT #: B534821

GARBAGE DISP:
POWDER ROOMS:
BATHROOMS:
KITCHENS:

BUILDING SIZE
FLOOR: 394SF
WIDTH: 28
DEPTH: 14
HEIGHT: 10
STORIES: 1

LOT NOS: 29
CORNER LOT:

BLOCK:
SECTION:
LIBER: 001
FOLIO: 128
CLASS: 34

LOT SIZE AND SETBACKS
SIZE: 6400SF
FRONT STREET:
SIDE STREET:
FRONT SETB: NC
SIDE SETB: NC/11'
SIDE STR SETB:
REAR SETB: 44

ASSESSMENTS
LAND: 0064000.00
IMPROVEMENTS: 0107280.00
TOTAL ASS.:

ZONING INFORMATION
DISTRICT: DR 5.5
PETITION:
DATE:
MAP:

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1004M

TIME: 14:09:23 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 11/13/2003

DATE: 06/14/2005 BUILDING DETAIL 1 DAS 10:21:34

DRC#

PERMIT # B534821 PLANS: CONST 0 PLOT 2 PLAT 0 DATA 0 EL 1 PL 2

TENANT

BUILDING CODE: CONTR: OWNER

IMPRV 2 ENGNR:

USE 01 SELLR:

FOUNDATION BASE WORK: CONSTR.ADD.ON REAR OF-EX.SFD FOR SITTING ROOM
AND OPEN WOOD DECK.28X14X10=394 SF IRREG.

CONSTRUC FUEL SEWAGE WATER IN CBCA. FLOOD ZONE A

1E 1E

CENTRAL AIR

ESTIMATED COST

10,000.00 PROPOSED USE: SFD AND ADD. N.S.I.

OWNERSHIP: 1 EXISTING USE: SFD

RESIDENTIAL CAT: 1

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:

1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE

PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1018M

TIME: 14:09:45 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 11/13/2003

DATE: 06/14/2005 APPROVALS DETAIL SCREEN DAS 13:40:32

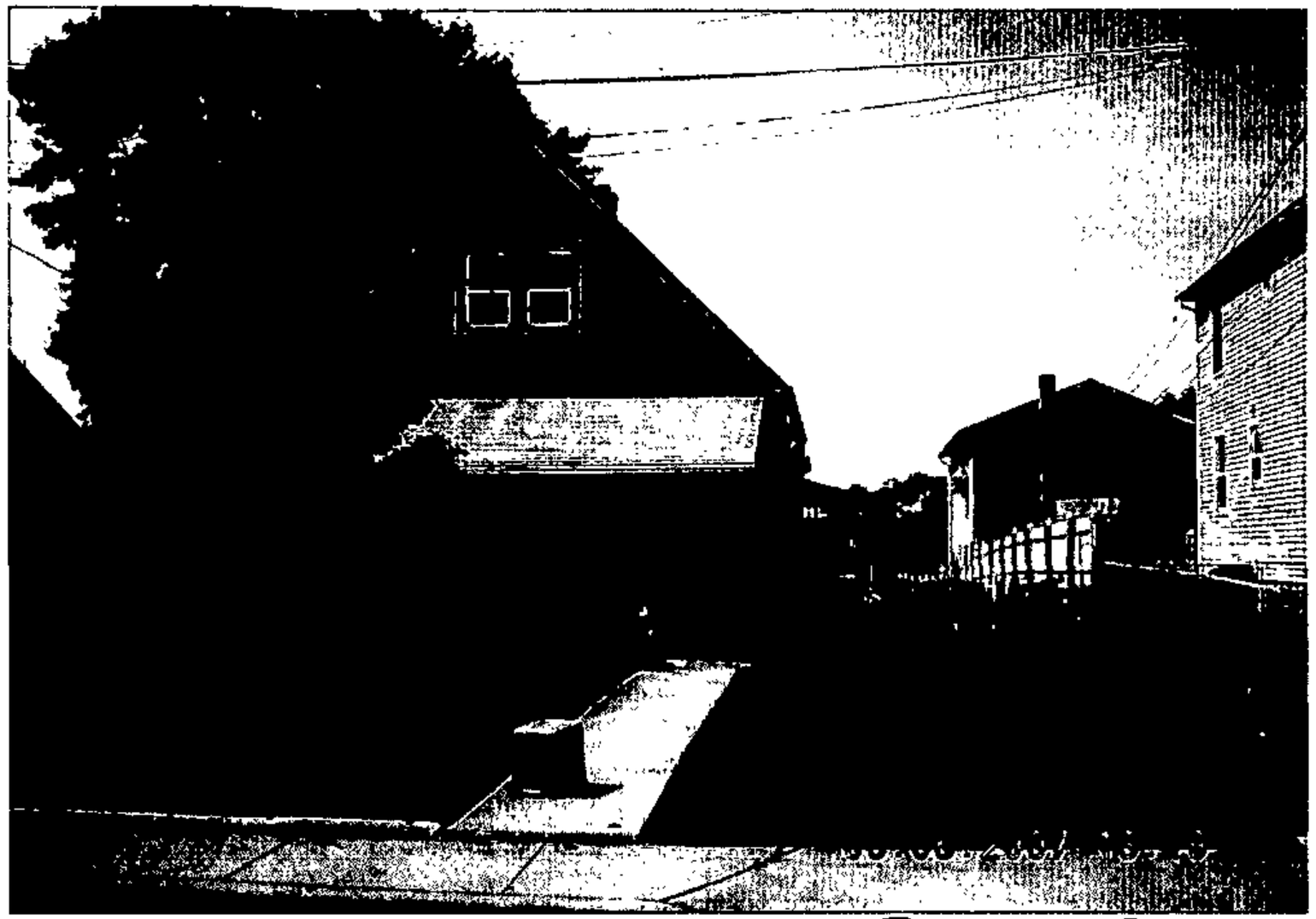
PERMIT #: B534821 CONTROL #: MRFP

AGENCY	DATE	CODE	COMMENTS
ZONING	10/14/2003	01	JRA/MR
PUB SERV	10/14/2003	01	JRA/MR
ENVRMNT	11/10/2003	01	EIR-11/7/03 KK/MB
BLD PLAN	11/13/2003	01	MS/DAS
PERMITS	11/13/2003	01	DAS

01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - GENERAL PERMIT PF4 - ISSUE PERMIT

PF3 - INSPECTIONS PF8 - GENERAL SCREEN W/NEXT PERMIT CLEAR - MENU

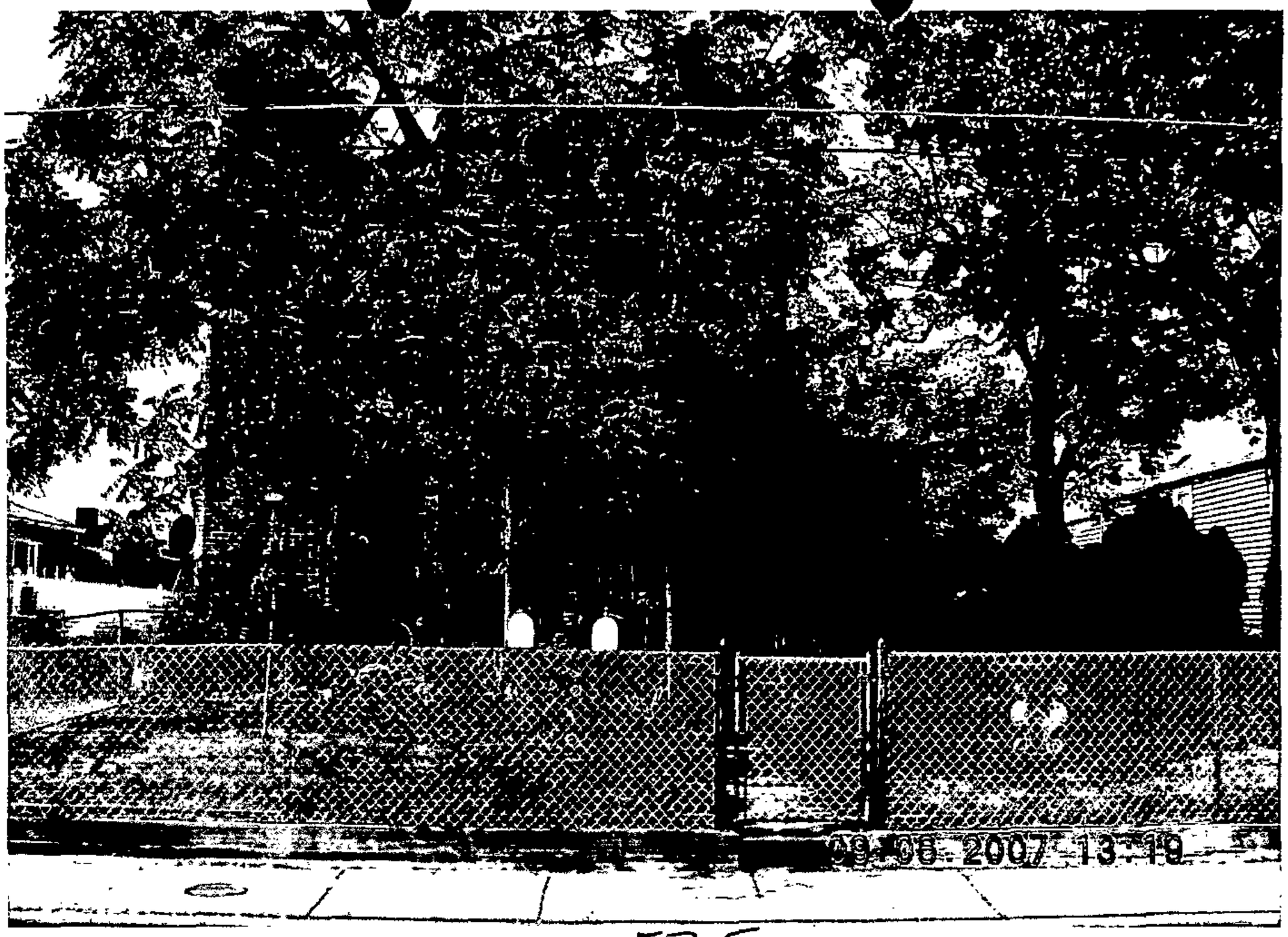


529 or 21 ?

between 529 & 531

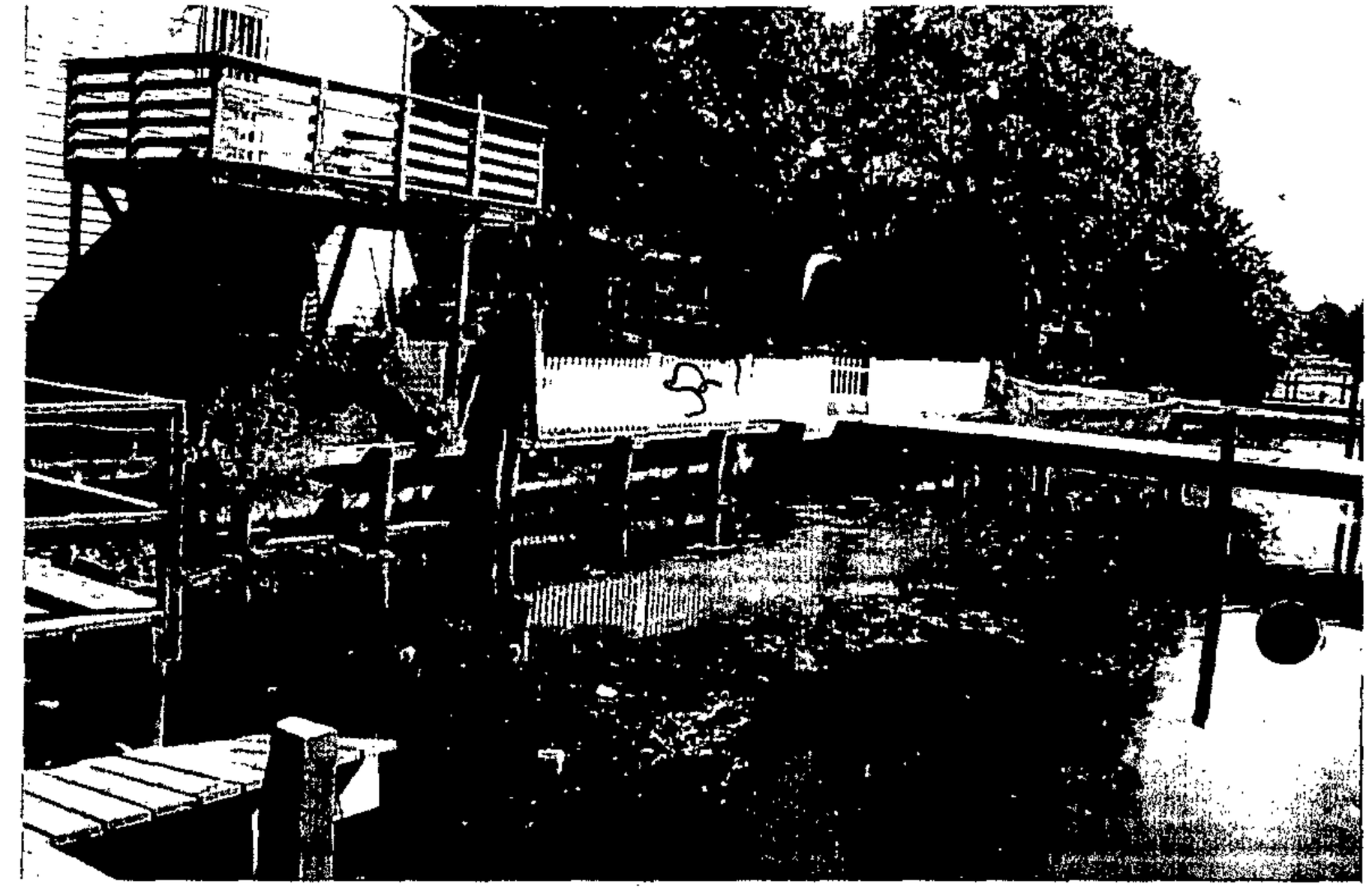
529

531



525

Protestants'
Photographs
Ex. #3A - #3I



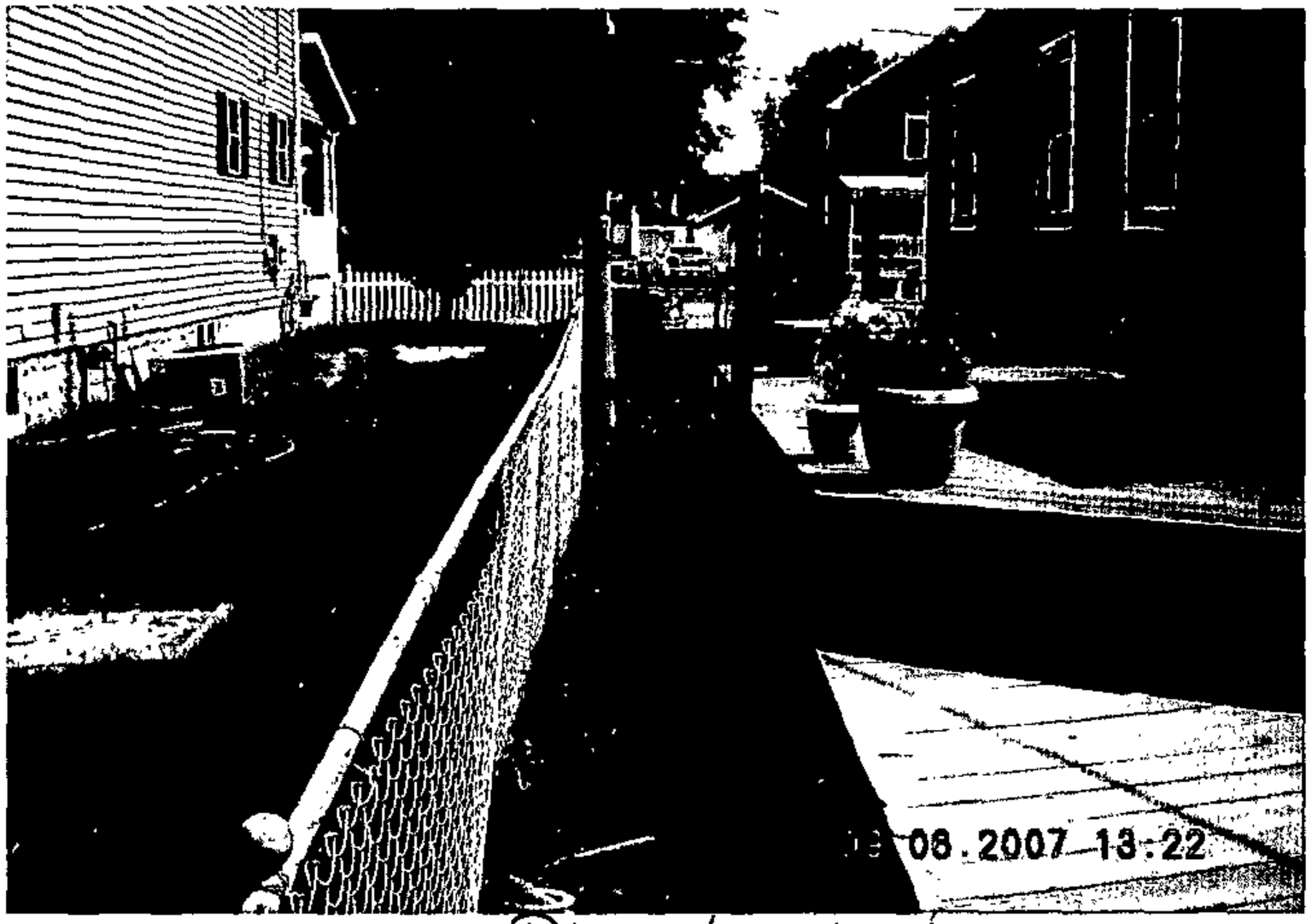
527
Even

Lt Side

Water Side of 2 story Garage

Road Side 527 Frt

Rear Water Side



Rt Side Yard

527

Free Standing Deck on water
Rear Yard

House + Garage NOT Attached

521
BAYSIDE DR

CBA
Prot 3

Prot 2A

Date: 9-27-05

Zoning Commissioner
111 W. Chesapeake Avenue
Baltimore, Md.

Re: 527 Bayside Drive
Case # 06-067A

Dear Zoning Commissioner:

We have read the sign posted at 527 Bayside Drive asking for an extension of the building. The sign is misleading as the way it is written. People in the neighborhood do not understand that the waterfront houses are considered the back the front and the front the back, so when you state the rear on the sign it really is the front of the house.

We ask that you not grant what 527 is requesting of the zoning commission. This should not be allowed as the visual needed for looking up the street must be open or we will all be looking at buildings and there is no open area. The reason for living in the county is that we can have trees and openness. The other main factor is visual for driving.

As you know Bayside Drive is formed almost like a snake. If 527 extends out like 529 and closes in this area we cannot see the street for vehicles.

If the vehicle coming down the street is moving very fast, (and usually they are), this may cause an accident. As vehicles parked in driveways will then have to pull out into the street before seeing if this is allowed to happen. We are not protesting an open porch that can be seen thru, but we are opposing an enclosed area. We would greatly appreciate a deep investigation into this matter. We moved into these homes for visual openness. Not for it to become like the city. The property of 527 Bayside Drive extended out his house in the back which you consider the front and blocked the water view, which was a very important factor of living on waterfront. Now he as applied for an exception to extend even longer but on the other end of the house. Somewhere this has to stop. The only reason 529 Bayside was given permission to build out on the street side was because the water has eaten away her land in the back. The owner of 527 is now taking advantage of 529 extending out and 527 now wants the back extension enclosed along with an extension of the front enclosed. This creating a massive long wall of enclosed building.

We also, have no opposition for 527 to build up but not to make his house like a long rancher, which creates a long blocked in wall. Also, with the large enclosed construction vehicle parked in the driveway this is also hazardous. Meaning a long enclosed wall of building. The little space left is enclosed by this large vehicle, creating a city wall. Starting from the water to the front of the street. Thank you for your time that you will have to put into this matter.

Sincerely,

Doris Trulove

Neighbor at 521 Bayside Drive

523
BAYSIDE DR

Date: 9/24/05

Zoning Commissioner
111 W. Chesapeake Avenue
Baltimore, Md.

Re: 527 Bayside Drive
Case # 06-067A

Dear Zoning Commissioner:

We have read the sign posted at 527 Bayside Drive asking for an extension of the building. The sign is misleading as the way it is written. People in the neighborhood do not understand that the waterfront houses are considered the back the front and the front the back, so when you state the rear on the sign it really is the front of the house.

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Sincerely,

Helma O'Keefe

Neighbor at 523 Bayside Drive

525
BAYSIDE DR

PAGE 2

Date: 9-26-05

Zoning Commissioner
111 W. Chesapeake Avenue
Baltimore, Md.

Re: 527 Bayside Drive
Case # 06-067A

Dear Zoning Commissioner:

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Sincerely,

Dorothy Hayes

Neighbor at 525 Bayside Drive

519
BAYSIDE DR

P/N 21

Date: 9.23.05

Zoning Commissioner
111 W. Chesapeake Avenue
Baltimore, Md.

Re: 527 Bayside Drive
Case # 06-067A

Dear Zoning Commissioner:

We have read the sign posted at 527 Bayside Drive asking for an extension of the building. The sign is misleading as the way it is written. People in the neighborhood do not understand that the waterfront houses are considered the back the front and the front the back, so when you state the rear on the sign it really is the front of the house.

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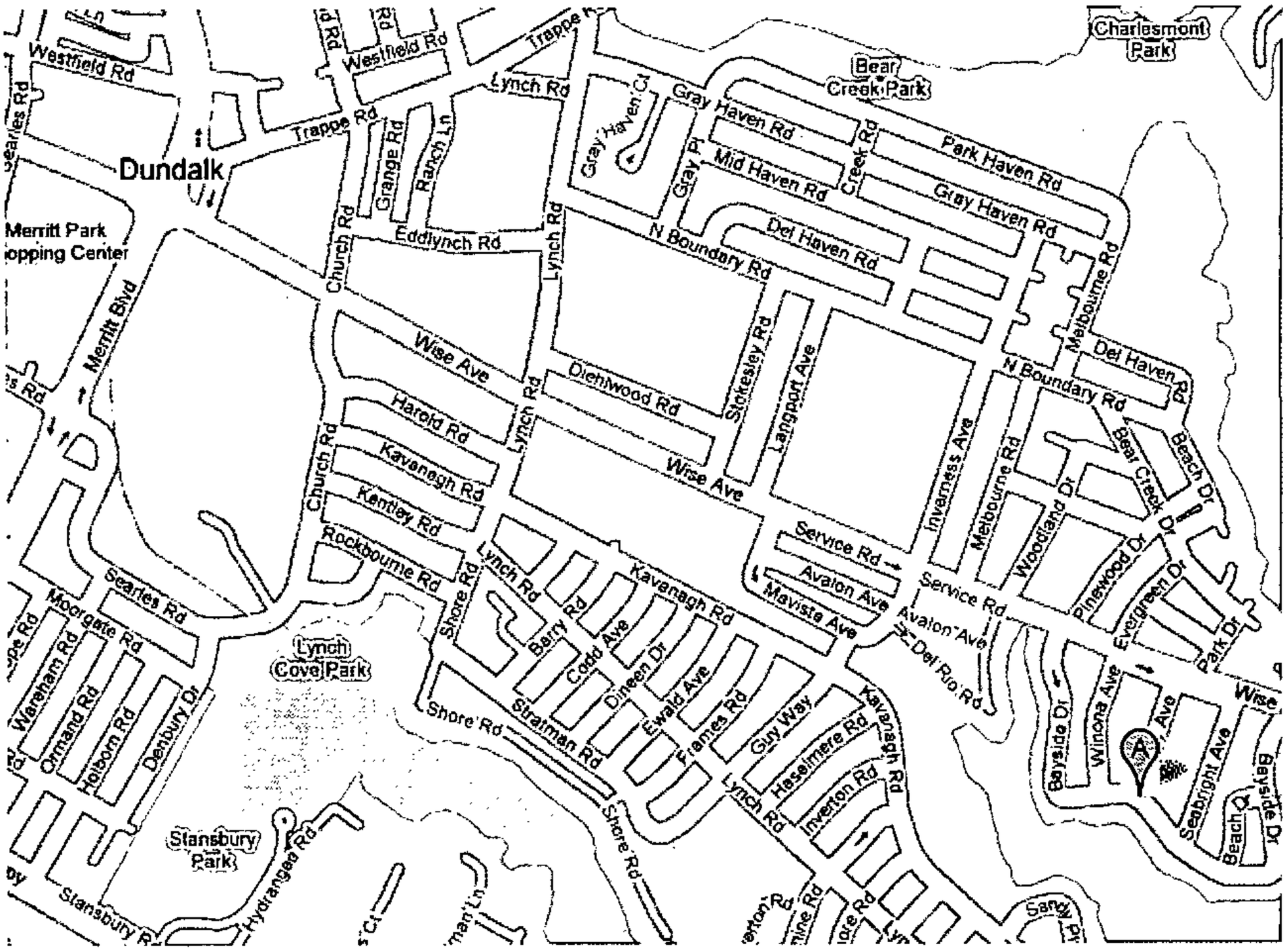
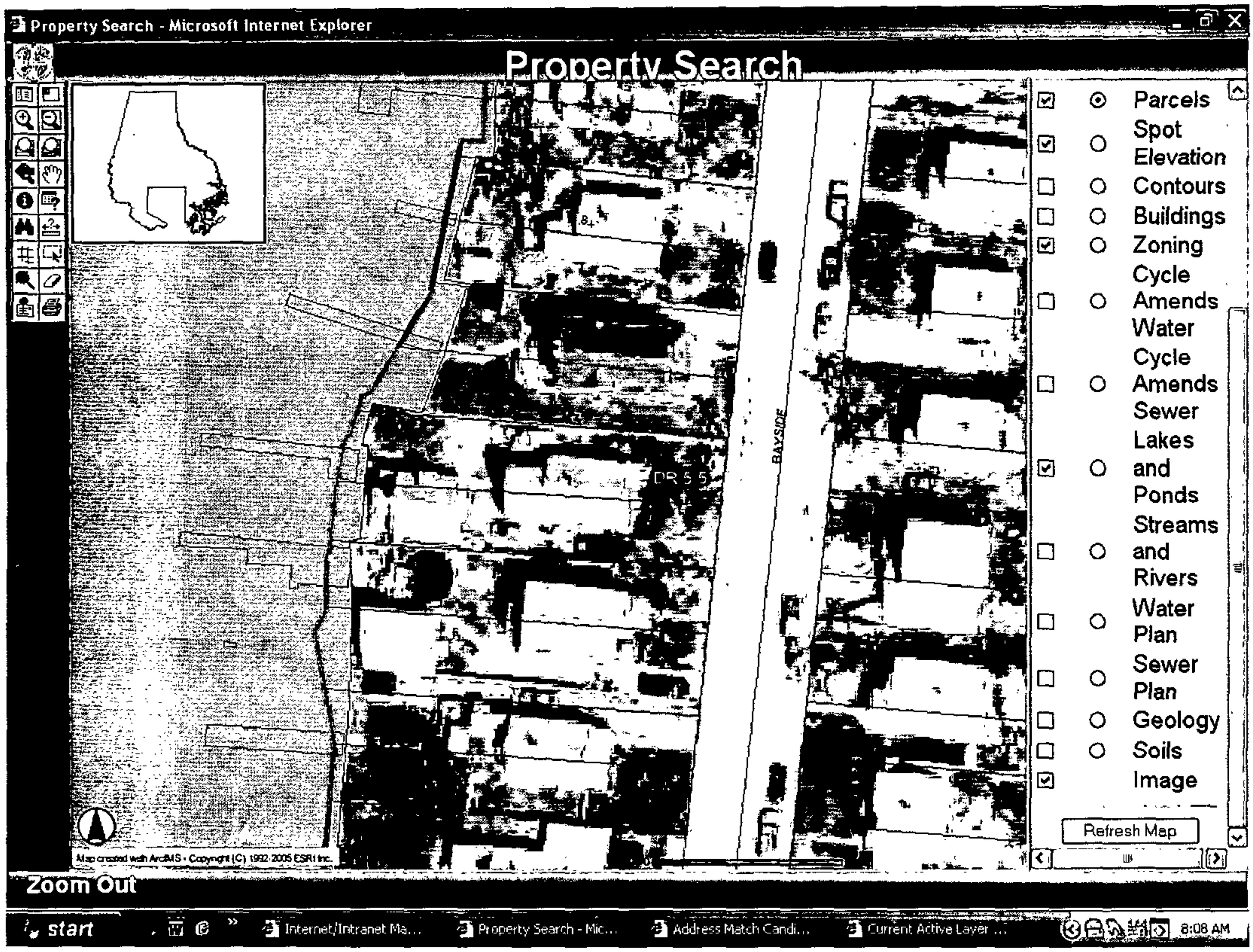
Sincerely,

Neighbor at 519 Bayside Drive

Google Maps Address





Thursday, Sep 06, 2007 08:08 AM

CBCA Flood

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 529 BAYSIDE DRIVE 21222

which is presently zoned Residential / Critical Area D.R.5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3.C.1; 301.1 and 303.1 To permit a front open deck setback of 25 ft. in lieu of 30 ft. and rear building and deck setbacks of 26 ft. and 18 ft. in lieu of 30 ft and 22½ ft, respectively.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

DANIEL SCOTT DAWES
Name - Type or Print

Signature

STACEY LYNN BERGIN
Name - Type or Print

Signature

529 BAYSIDE DRIVE — 410.563.6470
Address — Telephone No

BALTIMORE — MD — 21222
City — State — Zip Code

Representative to be Contacted:

Site Rite Surveying Inc.
Name

200 E. Joppa Road Rm 101 — 410 828-9060
Address — Telephone No

TOWSON, MD 21286
City — State — Zip Code

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

Zoning Commissioner of Baltimore County

CASE NO. 03 510 A

REV 10/25/01

Pet #5

Reviewed By JL **Date** 4/29/03

Estimated Posting Date 5/11/03

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at 903 S. BOULDIN ST
Address

BALTO — City, MD — State, 21224 — Zip Code

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

HARDSHIP

We would like to grow our family as we add children in the near future.
We would like the bedrooms to be upstairs as well as a bathroom upstairs. Additionally, we would like to ~~[illegible]~~ enlarge the kitchen to make it an eat-in kitchen. The work we would like to do is in line with the neighborhood. It will not block the waterview of any of our neighbors.

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

Daniel S. Dawes
Signature

Daniel S. Dawes
Name - Type or Print

Stacey L. Bergin
Signature

STACEY L. BERGIN
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 23 day of April, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Stacey L. Bergin and Daniel S. Dawes the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Susan M. Friedman
Notary Public

My Commission Expires My Commission Expires August 1, 2006

REV 10/25/01

B534P21
Riemer
B 53482

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 10-10-03

OEA: N/A
HISTORIC DISTRICT/BLDG

PERMIT #: B 53482
RECEIPT #: A 782476
CONTROL #: MR, H
XREF #:

FEE: 60.55
PAID: 60.
PAID BY:
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

PROPERTY ADDRESS: 527 BAYSIDE DR
SUITE/SPACE/FLOOR
SUBDIV: Turners
TAX ACCOUNT #: 1207048541
DISTRICT/PRECINCT 12 5

YES [X] NO
DO NOT KNOW

OWNER'S INFORMATION (LAST,FIRST)
NAME: ROBERT, RIEMER + Carole,
ADDR: 509 BAYSIDE DR
21222

DOES THIS BLDG. HAVE SPRINKLERS
YES — NO —

APPLICANT INFORMATION
NAME: ROBERT RIEMER
COMPANY: OWNER
STREET 509 BAYSIDE DR
CITY,ST,ZIP BALT. MD 21222
PHONE #: (443) 829-5612 MHIC #: MHBR #:
APPLICANT SIGNATURE Robert Riemer DRC#
PLANS: CONST PLOT / PLAT DATA EL PL 2
TENANT
CONTR: OWNER
ENGNR:
SELLR:

TYPE OF IMPROVEMENT
1. NEW BLDG CONST
2. ✓ ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

DESCRIBE PROPOSED WORK: Construct Addition On Rear Of Ex SFD, To Be Used As: Sitting Room + Open Wood Deck. 28' x 14' x 10' = 394 ft Irregular.

TYPE OF USE

CBCA

RESIDENTIAL
01. ✓ ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY (ENTER NO UNITS)
05. SWIMMING POOL
06. GARAGE
07. OTHER

NON-RESIDENTIAL
08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. CHURCH, OTHER RELIGIOUS BUILDING
10. FENCE (LENGTH HEIGHT)
11. INDUSTRIAL, STORAGE BUILDING
12. PARKING GARAGE
13. SERVICE STATION, REPAIR GARAGE
14. HOSPITAL, INSTITUTIONAL, NURSING HOME
15. OFFICE, BANK, PROFESSIONAL
16. PUBLIC UTILITY
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. SIGN
19. STORE MERCANTILE RESTAURANT SPECIFY TYPE
20. SWIMMING POOL SPECIFY TYPE
21. TANK, TOWER
22. TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. OTHER

Flood Zone A

TYPE FOUNDATION
1. SLAB
2. BLOCK
3. CONCRETE

BASEMENT
1. FULL
2. PARTIAL
3. NONE

TYPE OF CONSTRUCTION
1. MASONRY
2. WOOD FRAME
3. STRUCTURE STEEL
4. REINF. CONCRETE

TYPE OF HEATING FUEL
1. GAS 3. ELECTRICITY
2. OIL 4. COAL

TYPE OF SEWAGE DISPOSAL
1. ✓ PUBLIC SEWER ✓ EXISTS PROPOSED
2. PRIVATE SYSTEM
SEPTIC EXISTS PROPOSED
PRIVY EXISTS PROPOSED

TYPE OF WATER SUPPLY
1. PUBLIC SYSTEM ✓ EXISTS PROPOSED
2. PRIVATE SYSTEM EXISTS PROPOSED

CENTRAL AIR: 1. 2.
ESTIMATED COST OF MATERIALS AND LABOR: $10,000
PROPOSED USE: SFD + Addition N.S.T.
EXISTING USE: SFD

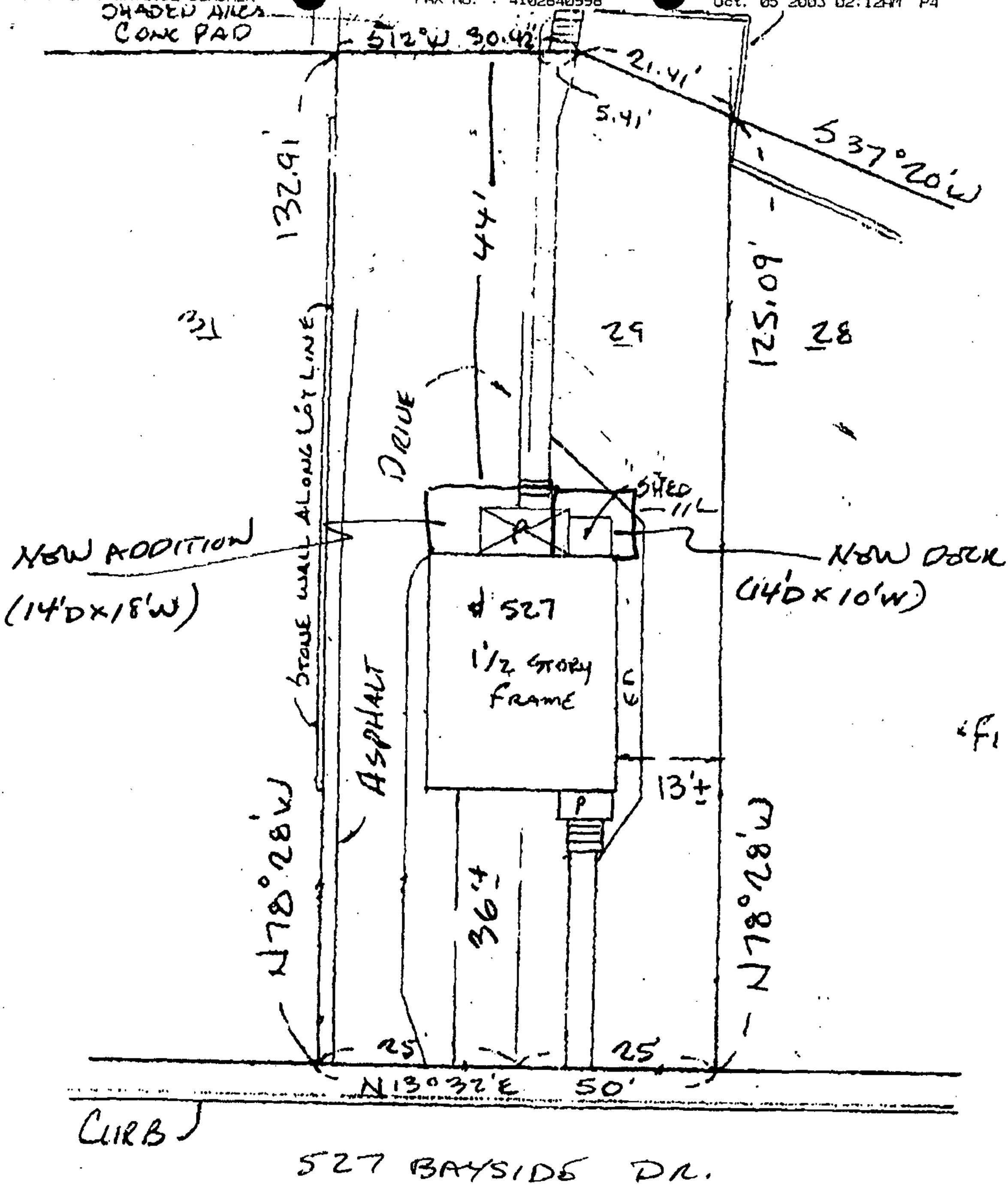
OWNERSHIP
1. ✓ PRIVATELY OWNED 2. ✓ PUBLICLY OWNED 3. SALE 4. RENTAL

RESIDENTIAL CATEGORY: 1. ✓ DETACHED 2. SEMI-DET. 3. GROUP 4. TOWNHSE 5. MIDRISE 6. HIRISE
#REF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS:
1 FAMILY BEDROOMS
GARBAGE DISPOSAL 1. Y 2. N BATHROOMS CLASS 34 Sect-H
POWDER ROOMS KITCHENS LIBER FOLIO

				APPROVAL SIGNATURES	DATE
BUILDING SIZE	394	LOT SIZE AND SETBACKS	6400 ft	BLD INSP :	
FLOOR		SIZE	51,836	BLD PLAN :	
WIDTH	28'	FRONT STREET		FIRE :	
DEPTH	14'	SIDE STREET		SEDI CTL :	
HEIGHT	10'	FRONT SETBK	NC	ZONING :	
STORIES	1	SIDE SETBK	NC (11 FT.)	PUB SERV :	
LOT #'S	24	SIDE STR SETBK		ENVRMNT : CBCA - OK To File.	
CORNER LOT		REAR SETBK	44'	:	
1. Y 2. N		ZONING	DR 2.5	PERMITS :	

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

Del 3



527 BAYSIDE DR.

PANEL BP1005M

TIME: 14:08:52 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 11/13/2003

DATE: 06/14/2005 BUILDING DETAIL 2 DAS 10:21:34

PERMIT #: B534821

GARBAGE DISP:
POWDER ROOMS:
BATHROOMS:
KITCHENS:

BUILDING SIZE
FLOOR: 394SF
WIDTH: 28
DEPTH: 14
HEIGHT: 10
STORIES: 1

LOT NOS: 29
CORNER LOT:

LOT SIZE AND SETBACKS
SIZE: 6400SF
FRONT STREET:
SIDE STREET:
FRONT SETB: NC
SIDE SETB: NC/11'
SIDE STR SETB:
REAR SETB: 44

ZONING INFORMATION
DISTRICT: DR 5.5
PETITION:
DATE:
MAP:

BLOCK:
SECTION:
LIBER: 001
FOLIO: 128
CLASS: 34

ASSESSMENTS
LAND: 0064000.00
IMPROVEMENTS: 0107280.00
TOTAL ASS.:

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1004M

TIME: 14:09:23 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 11/13/2003

DATE: 06/14/2005 BUILDING DETAIL 1 DAS 10:21:34

DRC#

PERMIT # B534821 PLANS: CONST 0 PLOT 2 PLAT 0 DATA 0 EL 1 PL 2

TENANT

BUILDING CODE: CONTR: OWNER

IMPRV 2 ENGNR:

USE 01 SELLR:

FOUNDATION BASE WORK: CONSTR.ADD.ON REAR OF-EX.SFD FOR SITTING ROOM
AND OPEN WOOD DECK.28X14X10=394 SF IRREG.

CONSTRUC FUEL SEWAGE WATER IN CBCA. FLOOD ZONE A

1E 1E

CENTRAL AIR

ESTIMATED COST

10,000.00 PROPOSED USE: SFD AND ADD. N.S.I.

OWNERSHIP: 1 EXISTING USE: SFD

RESIDENTIAL CAT: 1

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:

1 FAMILY BEDROOMS: PASSWORD:

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PANEL BP1018M

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DATE: 06/14/2005 APPROVALS DETAIL SCREEN DAS 13:40:32

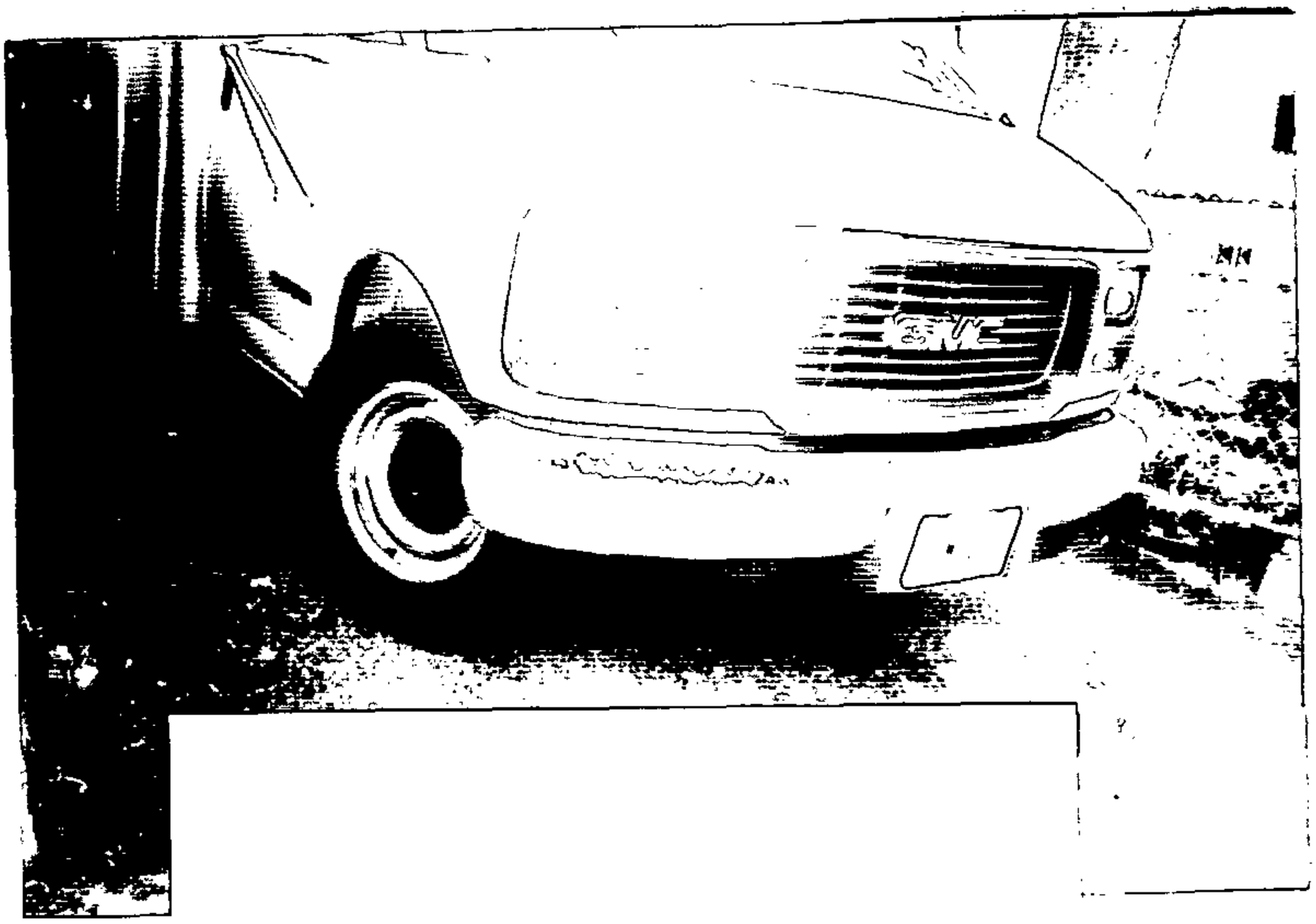
PERMIT #: B534821 CONTROL #: MRFP

AGENCY	DATE	CODE	COMMENTS
ZONING	10/14/2003	01	JRA/MR
PUB SERV	10/14/2003	01	JRA/MR
ENVRMNT	11/10/2003	01	EIR-11/7/03 KK/MB
BLD PLAN	11/13/2003	01	MS/DAS
PERMITS	11/13/2003	01	DAS

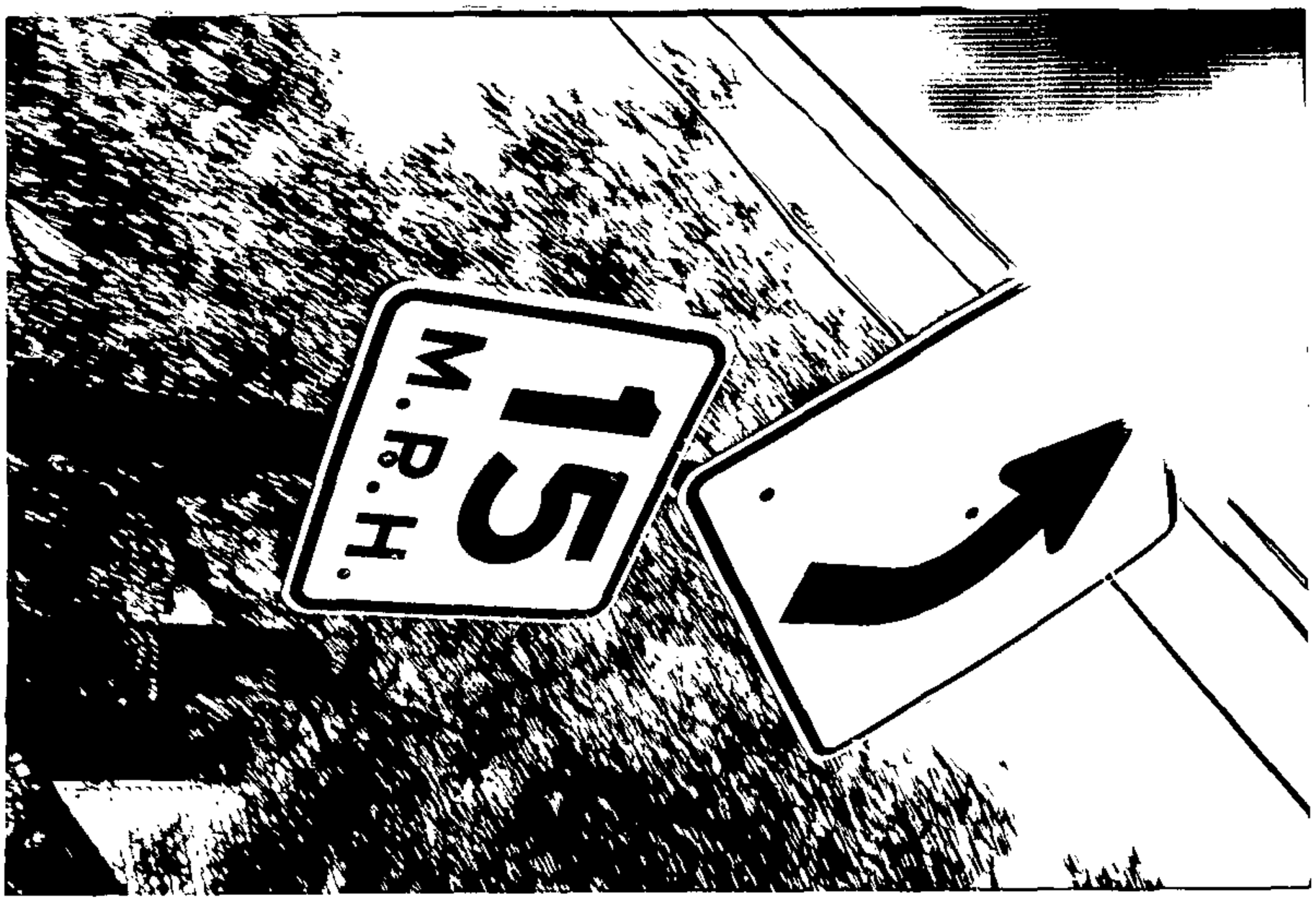
01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - GENERAL PERMIT PF4 - ISSUE PERMIT

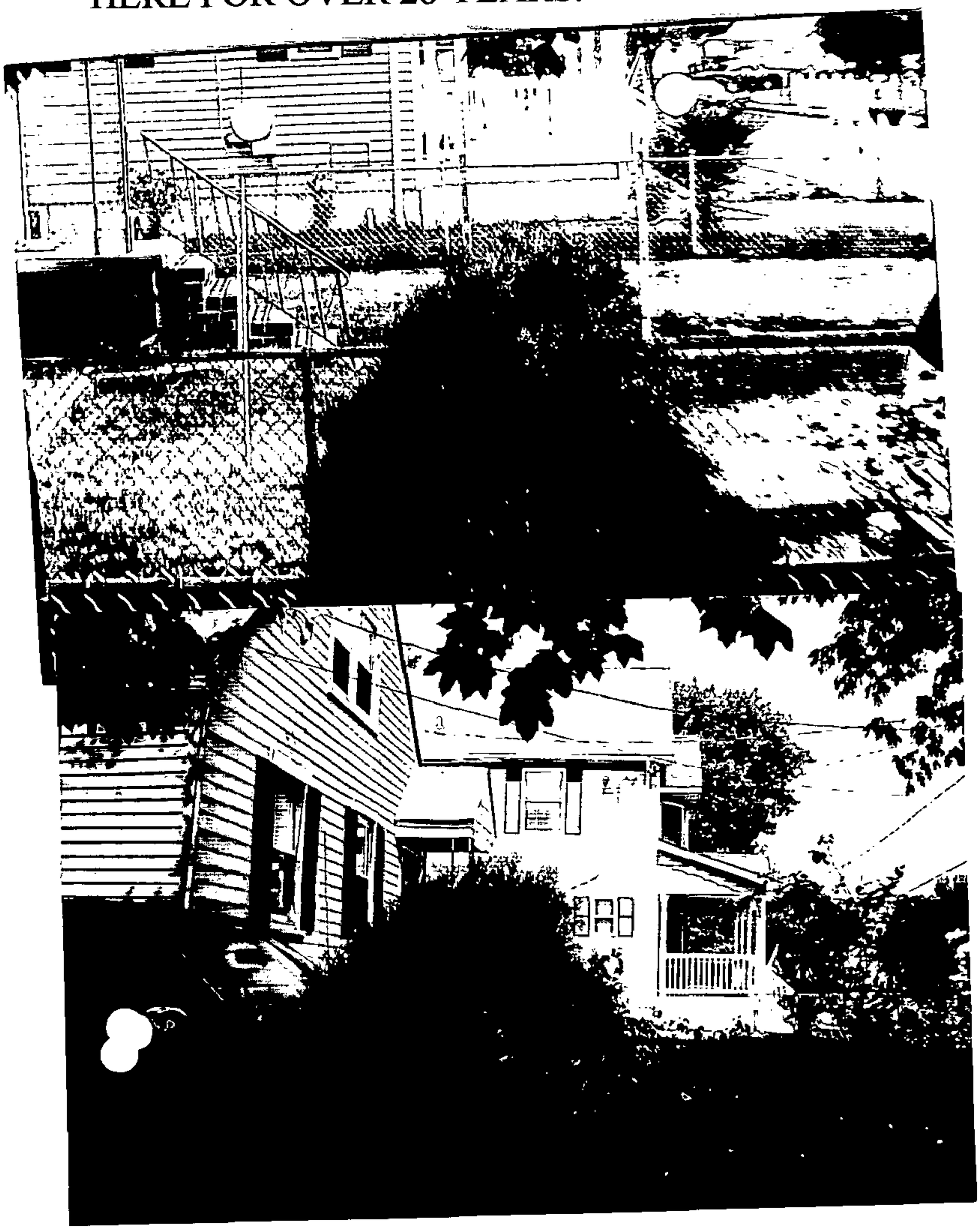
PF3 - INSPECTIONS PF8 - GENERAL SCREEN W/NEXT PERMIT CLEAR - MENU



THIS SIGN WAS PUT
UP SEVERAL YEARS
AGO, BECAUSE BAYSIDE
IS SHAPED LIKE A SNAKE.
DRIVERS USUALLY SPEED
AND CANNOT SEE.



1)
THE MOST IMPORTANT FACTOR IS THAT THIS HOUSE IS AN INVESTMENT HOUSE. NOT RESIDENTIAL LIKE MINE. I HAVE BEEN HERE FOR OVER 28 YEARS.



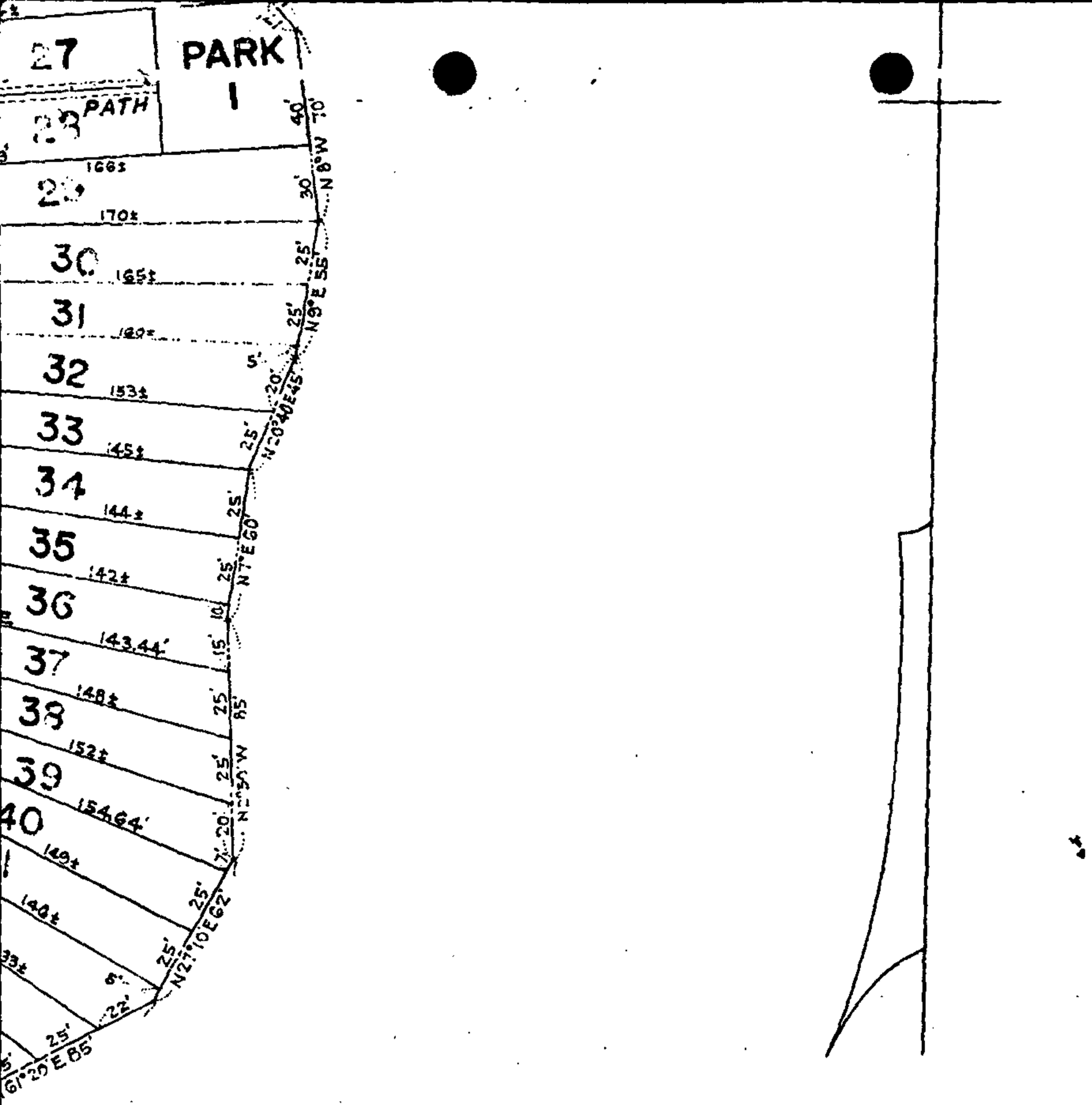
3)
527 WANTS TO PUT THIS WALL IN FRONT OF THE HOUSE ENCLOSED AGAIN.

I DO NOT WANT TO LOOK AT THIS SAME WALL AGAIN IN THE FRONT. I WILL NOT BE ABLE TO SEE. OR GET A BREEZE.

2)
WHEN I COME OUT MY BACK POURCH. THIS IS WHAT I SEE TO MY LEFT A WALL.
527 MADE THE OTHER SIDE OF THE BACK ENCLOSURE ALL OPEN WITH GLASS. TO HAVE A WATER VIEW.

WHEN THIS WAS PUT ON 527 STATED THAT THEY WERE PUTTING ON A BACK POURCH THAT WASN'T ENCLOSED.

1)(a)
527 IS ONE LONG CONTINUOUS STRAIGHT WALL THAT ENDS WITH ONE LARGE COMMERCIAL VEHICLE PARKED EVERYDAY SINCE THE HOUSE WAS PURCHASED.



SCALE = 60 FEET TO ONE INCH

FRED H. DOLLENBERG

COUNTY SURVEYOR FOR BALTIMORE CO.

TOWSON, MD. MAY 5, 1937

Pet 5

PLAT 10/128
OF
INVERNESS
OWNED & DEVELOPED BY
THE I.J.BOLTON COMPANY
DUNCAN BLDG. TOWSON, MD.

Job# 8771 (2) 240010 0440 B

A9

April 18, 1975

18

TOPO MAP FOR 527 BAYSIDE DRIVE

Coordinate System:
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1996
Scale of Data Capture: 1" = 100'

Date of Aerial Photography: March 2002

For internal use only.
The cadastral information on this plot was compiled from existing deed information.
This information is not to be considered authoritative.
This survey information was not field checked and certified by a licensed land surveyor.

Baltimore County, MD
Department of Public Works
GIS Services

Pet #2

100 50 0 100 Feet

Prepared By:
Robin Hurley, EAI
DPW Directors Office
April 21, 2005

61-3: IBF = 123.469
61-4: IPF = 123.31

℄ 68.67
(TW4) 35-38
35: 0+38.97 - 0.38' LT.
38: 0+46.60 - 0.38' LT.

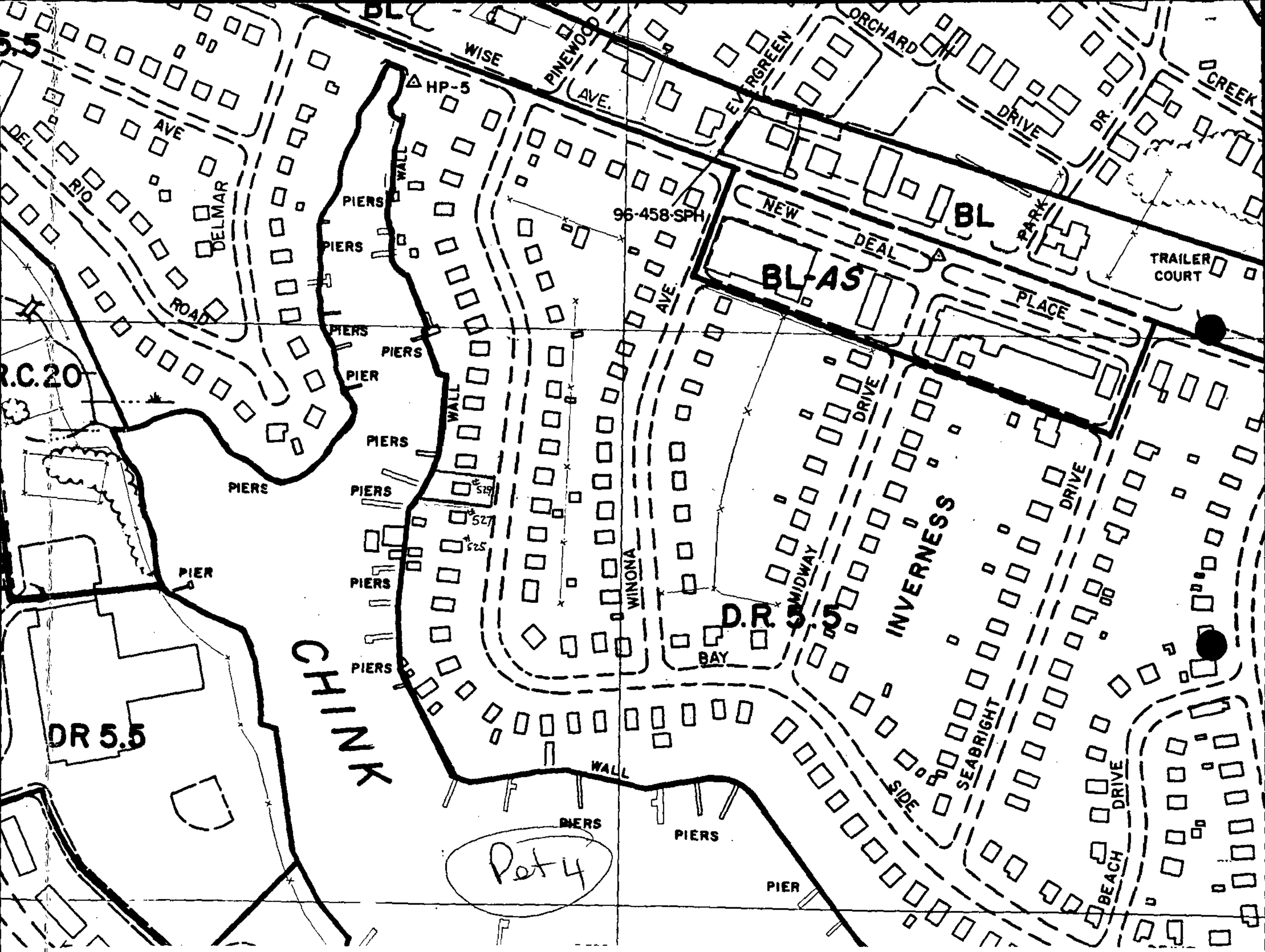
#2
℄ 10: 2+50.25 - 132.06
℄ 11: 2+50.20 - 68.93
℄ 12: 2+50.01 - 21.31
℄ 42: 2+50.41 - 139.06
℄ 43: 2+49.61 - 153.86

℄ 63-64
10 1+12.86 0.25' LT.
11 0+48.93 0.20' LT.
12 0+01.30 0.01' LT.
42 1+19.06 0.41' LT.
43 1+33.86 0.39' RT.

CREEK

BAY SIDE PARK PATH

S12°W 200'
S87°20'W 90'
S14°20'W 145'
S15°30'E 240'
N13°32'E 440'
N15°35'W
R=231.03'
S10°06'W
N87°22'W
N89°25'W 131.72
N76°28'W 125.58
S76°28'E 105.0'
S76°28'E 87.50'
S76°28'E 87.71'
S70°50'30"E 87.78'
S83°21'30"E 87.58'
N87°55'W 92.97'
N88°08'30"E 102.17'
S88°27'E 133.27'
S81°36'W 133.97'
N16°28'W 70.83'
N16°28'W 70.54'
S84°16'E
S84°11'
S84°
DRIVEWAY
#525
#527
+62
+60
59
IPF
67
66
65
64


BL
WISE
PINEWOOD
AVE.
EVERGREEN
ORCHARD
DRIVE
DR.
CREEK
HP-5
AVE
DEL
RIO
DELMAR
ROAD
PIERS
WALL
96-458-SPH
NEW
DEAL
BL
PARK
BL-AS
PLACE
TRAILER
COURT
AVE.
R.C.20
DRIVE
INVERNESS
DRIVE
WINONA
MIDWAY
D.R. 5.5
BAY
PIER
CHINK
DR 5.5
SEABRIGHT
SIDE
DRIVE
BEACH
Pet 4

Zoning map: D.R.5.5
#527 Bayside Drive
Baltimore Co. MD

P.O.B. 680' SW OF
℄ of Wise Ave.

06-067-A

Reviewed & Identified KW

Petitioner Exhibits
Riemer

Pet 1 ✓ Plat to accompany var
Revised 9/29/05

Pet 2 ✓ Moskunas Resume

Pet 3 ✓ Zoning Aerial map

Pet 4 ✓ Copy Zoning map.

Pet 5 ✓ Plat of Subdivision

Pet 6 ✓ Building Permit for waterfront addition

Pet 7 ✓ Petition for Variance

Pet 8 ✓ Letter from neighbor

Pet 9 ✓ Petition from neighbors.

Pet 10 ✓ Photos
A - K

Pet 11 ✓ Photos
A - B

Pet 12 ✓ File from Belcher - ✓

Pet 2

VINCENT JOHN MOSKUNAS

4709 BLUE RIDGE AVENUE
BALTIMORE MARYLAND 21206

DATE OF BIRTH: April 21, 1937

EDUCATION:

1961 - 1967
McCoy College (John Hopkins night school)
7 Engineering Courses

1958 - 1960
McCoy College

1952 - 1956
Mergenthaler Vocation Technical High School

ARMED FORCES:

1960 - 1962
Recalled Naval Reserves - Cuban Crisis

1956 - 1958
U. S. Navy

EXPERIENCE:

2000 - Present
President - Site Rite Surveying, Inc.

1987 - 2000
President - M&H Development Engineers, Inc.

1973 - 1987 - Hudkins & Associates, Inc.
1985 - 1987 - President of Hudkins & Associates, Inc.

1970 - 1973 - Whiteford, Falk & Mask

1960 - 1970 - Meyerhoff Building Company

TRAINING:

Qualified for Erosion and Sediment Control Training Program pursuant to Natural Resources Article 8-1103.1 No. 266 1981 Storm Water Management Course

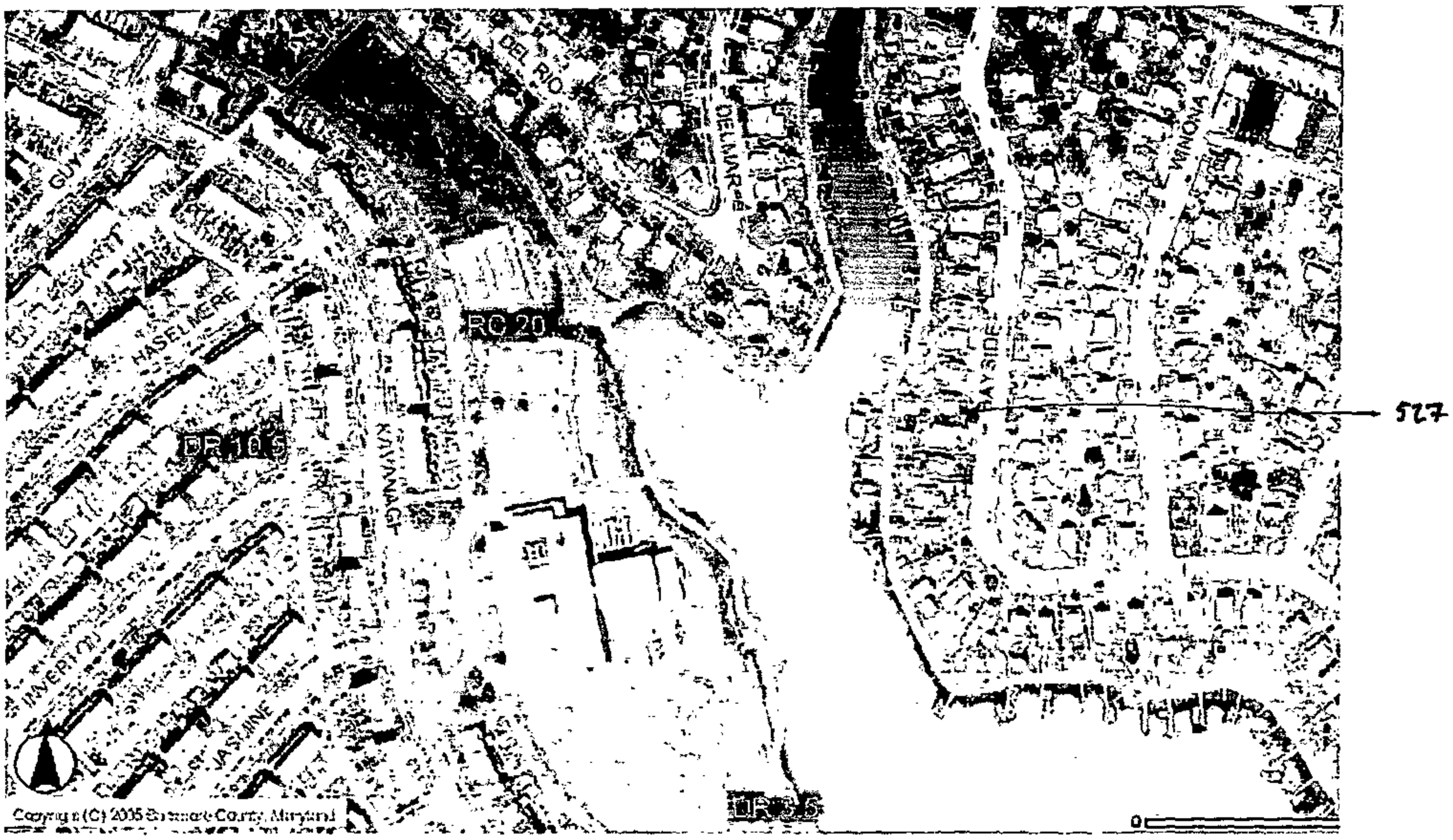
Residential Subdivision Layout and Design of Utilities, Water, Sewer and Storm Drains and Roads; Computations for Record Plats; Layout of Commercial Projects, offices buildings and shopping centers.

Testimony in Zoning cases in the 1,000 nds in Board of Appeals Cases 110.

Testimony in Baltimore City for Board of Appeals cases.

Testimony in Hearing Offices Hearing for Developments in the amount of 800 cases, more or less.

Have been in the Land Development Process in Baltimore County for 46 years. My experience has been achieved through experience in the industry.


DEL RIO
DELMAR
WINONA
GUY
HASELMERE
RC 20
DR 10.5
KAVANAGH
BAYSIDE
527
INVERNESS
JASMINE
Copyright (C) 2005 Baltimore County, Maryland
0

Pet 3

B534821
Riemer
B 53482

Pat 6

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 10-10-03
OEA: MAP
HISTORIC DISTRICT/BLDG: YES [ ] NO [X] DO NOT KNOW

PERMIT #: B 53482
RECEIPT #: A 78294 [illegible]
CONTROL #: MR, FF
XREF #:

FEE: 60.[illegible]
PAID: 60.[illegible]
PAID BY:
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

PROPERTY ADDRESS: 527 BAYSIDE DR
SUITE/SPACE/FLOOR
SUBDIV: Lynnhaven
TAX ACCOUNT #: 1207048541
DISTRICT/PRECINCT: 12 5

OWNER'S INFORMATION (LAST, FIRST)
NAME: ROBERT, RIEMER + Carole,
ADDR: 509 BAYSIDE DR
21222

DOES THIS BLDG. HAVE SPRINKLERS YES — NO —

APPLICANT INFORMATION
NAME: ROBERT RIEMER
COMPANY: OWNER
STREET: 509 BAYSIDE DR
CITY, ST, ZIP: BALT., MD 21222
PHONE #: (443) 829-6612 MHIC #: MHBR #:
APPLICANT SIGNATURE: Robert Riemer DRC#:
PLANS: CONST PLOT / PLAT DATA EL 1 PL 2
TENANT:
CONTR: OWNER
ENGNR:
SELLR:

TYPE OF IMPROVEMENT
1. NEW BLDG CONST
2. ✓ ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING
6. MOVING
7. OTHER

DESCRIBE PROPOSED WORK: Construct Addition On Rear Of Ex SFD, To Be Used As: Sitting Room + Open Wood Deck. 28' x 14' x 10' = 394 ☐ Irregular.

TYPE OF USE

CBCA

RESIDENTIAL
01. ✓ ONE FAMILY
02. TWO FAMILY
03. THREE AND FOUR FAMILY
04. FIVE OR MORE FAMILY (ENTER NO UNITS)
05. SWIMMING POOL
06. GARAGE
07. OTHER

NON-RESIDENTIAL
08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. CHURCH, OTHER RELIGIOUS BUILDING
10. FENCE (LENGTH HEIGHT)
11. INDUSTRIAL, STORAGE BUILDING
12. PARKING GARAGE
13. SERVICE STATION, REPAIR GARAGE
14. HOSPITAL, INSTITUTIONAL, NURSING HOME
15. OFFICE, BANK, PROFESSIONAL
16. PUBLIC UTILITY
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. SIGN
19. STORE MERCANTILE RESTAURANT SPECIFY TYPE
20. SWIMMING POOL SPECIFY TYPE
21. TANK, TOWER
22. TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. OTHER

Flood Zone A

TYPE FOUNDATION: 1. SLAB 2. BLOCK 3. CONCRETE
BASEMENT: 1. FULL 2. PARTIAL 3. NONE

TYPE OF CONSTRUCTION: 1. MASONRY 2. WOOD FRAME 3. STRUCTURE STEEL 4. REINF. CONCRETE

TYPE OF HEATING FUEL: 1. GAS 2. OIL 3. ELECTRICITY 4. COAL

TYPE OF SEWAGE DISPOSAL: 1. ✓ PUBLIC SEWER ✓ EXISTS PROPOSED; 2. PRIVATE SYSTEM — SEPTIC EXISTS PROPOSED; — PRIVY EXISTS PROPOSED

TYPE OF WATER SUPPLY: 1. ✓ PUBLIC SYSTEM ✓ EXISTS PROPOSED; 2. PRIVATE SYSTEM EXISTS PROPOSED

CENTRAL AIR: 1. 2.
ESTIMATED COST OF MATERIALS AND LABOR: $10,000
PROPOSED USE: SFD + Addition N.S.C.
EXISTING USE: SFD

OWNERSHIP: 1. ✓ PRIVATELY OWNED 2. ✓ PUBLICLY OWNED 3. SALE 4. RENTAL

RESIDENTIAL CATEGORY: 1. ✓ DETACHED 2. SEMI-DET. 3. GROUP 4. TOWNHSE 5. MIDRISE 6. HIRISE
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS:
1 FAMILY BEDROOMS
GARBAGE DISPOSAL 1. Y 2. N BATHROOMS CLASS 34 Sect-H
POWDER ROOMS KITCHENS LIBER FOLIO

BUILDING SIZE	394	LOT SIZE AND SETBACKS	6400 ☐	APPROVAL SIGNATURES	DATE
FLOOR		SIZE	51.83 x	BLD INSP	
WIDTH	28'	FRONT STREET		BLD PLAN	
DEPTH	14'	SIDE STREET		FIRE	
HEIGHT	10'	FRONT SETBK	NC	SEDI CTL	
STORIES	1	SIDE SETBK	NC 11 FT.	ZONING	MPT 10/10/03
LOT #'S	29	SIDE STR SETBK		PUB SERV	
CORNER LOT		REAR SETBK	44'	ENVRMNT	CBCA - OK To File.
1. Y 2. N		ZONING	DR 2.5	PERMITS	

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

C of CA

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 527 Bayside Drive

which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3A.5, 1B02.3C., 301.1 (BCZR)

TO PERMIT AN ADDITION WITH A 19-FOOT REAR SETBACK AND AN OPEN PROJECTION (DECK) WITH A 3-FOOT SIDE SETBACK IN LIEU OF THE REQUIRED 30-FOOT AND 7-½-FOOT SETBACK, RESPECTIVELY.

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

See attached

CBA Pet 7

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

CAROLE R. RIEMER
Name - Type or Print

Carole R. Riemer
Signature

Robert C. Riemer
Name - Type or Print

ROBERT C. RIEMER
Signature

509 Bayside Drive — 410-284-1046
Address — Telephone No.

Balto Co — MD — 21222
City — State — Zip Code

Representative to be Contacted:

Site Rite Surveying Inc.
Name

200 E. Joppa Road Rm 101 — 410 828-9060
Address — Telephone No.

Towson, MD 21286
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By DT Date 9/1/05

Case No. 06-067-A

ORDER RECEIVED FOR FILING
Date 10-21-05
By Dawn Wiley

REV 9/15/98

REASONS FOR PETITION FOR VARIANCE
#527 BAYSIDE DRIVE

1. ***THE LOTS ARE PART OF A RECORDED PLAT DATED 1937. THE PROPERTY WAS DEVELOPED PRIMARILY OF 25 FOOT LOT WIDTHS. THE SUBJECT PROPERTY CONSISTS OF TWO (2) 25 FOOT LOTS FOR A TOTAL OF 50 FEET. THIS IS CONSISTENT WITH THE ADJACENT PROPERTIES AND THE SURROUNDING NEIGHBORHOOD.***
2. ***THERE IS NO CONTIGUOUS OWNERSHIP TO BETTER SERVICE THE B.C.Z.R.. THIS PETITION IS WITHIN THE SPIRIT AND INTENT OF THOSE REGULATIONS.***
3. ***THE ADDITION IS TO ACCOMMODATE THE NEED FOR LIVING SPACE. THE PRESENT DWELLING WAS CONSTRUCTED IN 1942 AS A 1 ½ STORY DWELLING AND IS NOT ADEQUATE FOR THE SIZE OF THE FAMILY.***

06-067-A

ZONING DESCRIPTION
#527 BAYSIDE DRIVE

Beginning at a point on the west side of Bayside Drive which is 40 feet wide at the distance of 680 feet south of the centerline of Wise Avenue which is 40 feet wide. Being Lot Nos. 29 and 30 in the subdivision of "Inverness" as recorded in Baltimore County Plat Book No. 10, folio # 128, containing 6,400 S.F.±. Also known as #527 Bayside Drive and located in the 12th Election District, 7th Councilmanic District.

STATE OF MARYLAND
MICHAEL VINCENT MOSKUNAS
No. 21175
PROFESSIONAL LAND SURVEYOR

Michael V. Moskunas
Reg. No. 21175

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

06-067-A

CBA
Pet 8

September 27, 2005

To Whom It May Concern:

I own and reside at the property at 529 Bayside Drive, Dundalk, Maryland 21222. This is next to 527 Bayside Drive where a request for a front addition has been made.

Within the past year, we have completed a substantial renovation to our property. This included extending the dwelling 10 feet in the front, plus adding a front porch bringing the total extension on the front to 18 feet.

My husband and I have no issue with the requested addition to the property at 527 Bayside Drive. We feel it is consistent with the look and feel of the neighborhood, it will not interfere with our property and it will enhance the overall quality of the neighborhood.

Thank you-

Stacey B. Dawes
529 Bayside Drive
Dundalk, MD 21222
410.288.1414

CBA Pat 9

June 10, 2006

To Whom It May Concern:

We, the undersigned, wish to express our support of the proposed addition to the property at 527 Bayside Drive (Case Number: 06-067-A). As homeowners with properties adjacent to and down the street, we do not have an issue with any aspect of the proposed plan.

We welcome the project and feel it will help to improve the neighborhood.

Thank you,

Signature: Stacy B. Dawes
Printed Name: STACEY B. DAWES
Address: 529 BAYSIDE
Phone Number: 410.288.1414

Signature: Edith Burnett
Printed Name: Edith Burnett
Address: 531 BAYSIDE DR.
Phone Number: 410-285-7588

Signature: Jeanne Pilar
Printed Name: JEANNE PILAR
Address: 533 Bayside Dr
Phone Number: 410-284-0189

Signature: Linda White
Printed Name: Linda White
Address: 535 Bayside Dr.
Phone Number: 410 285-5830

Signature: Joseph Pilar
Printed Name: JOSEPH PILAR
Address: 533 Bayside Drive
Phone Number: 410-284-0189

Signature: Frank G. Taggart
Printed Name: FRANK G TAGGART
Address: 539 BAYSIDE DRIVE
Phone Number: 410-288-6808 (work #)

June 10, 2006

To Whom It May Concern:

We, the undersigned, wish to express our support of the proposed addition to the property at 527 Bayside Drive (Case Number: 06-067-A). As homeowners with properties adjacent to and down the street, we do not have an issue with any aspect of the proposed plan.

We welcome the project and feel it will help to improve the neighborhood.

Thank you,

Signature:	Barbara Crannell	Signature:	[illegible]
Printed Name:	Barbara Crannell	Printed Name:	Anthony White
Address:	539 Bayside Dr.	Address:	535 Bayside
Phone Number:	410-288-6142	Phone Number:	410-285-5830
Signature:	Kevin Poynter	Signature:	George Karatzas
Printed Name:	Kevin Poynter	Printed Name:	George Karatzas
Address:	307 Bayside	Address:	520 Bayside Drive
Phone Number:	410-375-8600	Phone Number:	410-282-3521
Signature:	Becky Karatzas	Signature:	Joe Davis
Printed Name:	Becky Karatzas	Printed Name:	Joe Davis
Address:	520 Bayside Drive	Address:	522 Bayside Dr
Phone Number:	(410) 282-3521	Phone Number:	410 284 0502

June 10, 2006

To Whom It May Concern:

We, the undersigned, wish to express our support of the proposed addition to the property at 527 Bayside Drive (Case Number: 06-067-A). As homeowners with properties adjacent to and down the street, we do not have an issue with any aspect of the proposed plan.

We welcome the project and feel it will help to improve the neighborhood.

Thank you,

Signature: Mary C. Hartley
Printed Name: Mary C. Hartley
Address: 531 Bayside DR
Phone Number: 410-285-7588

Signature: Robert L. Hartley
Printed Name: Robert L. Hartley
Address: 531 Bayside DR.
Phone Number: 410-285-7588

Signature: _____
Printed Name: _____
Address: _____
Phone Number: _____

Signature: _____
Printed Name: _____
Address: _____
Phone Number: _____

Signature: _____
Printed Name: _____
Address: _____
Phone Number: _____

Signature: _____
Printed Name: _____
Address: _____
Phone Number: _____

June 10, 2006

To Whom It May Concern:

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We welcome the project and feel it will help to improve the neighborhood.

Thank you,

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

June 10, 2006

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We welcome the project and feel it will help to improve the neighborhood.

Thank you,

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Address: _____ Address: _____

Phone Number: _____ Phone Number: _____

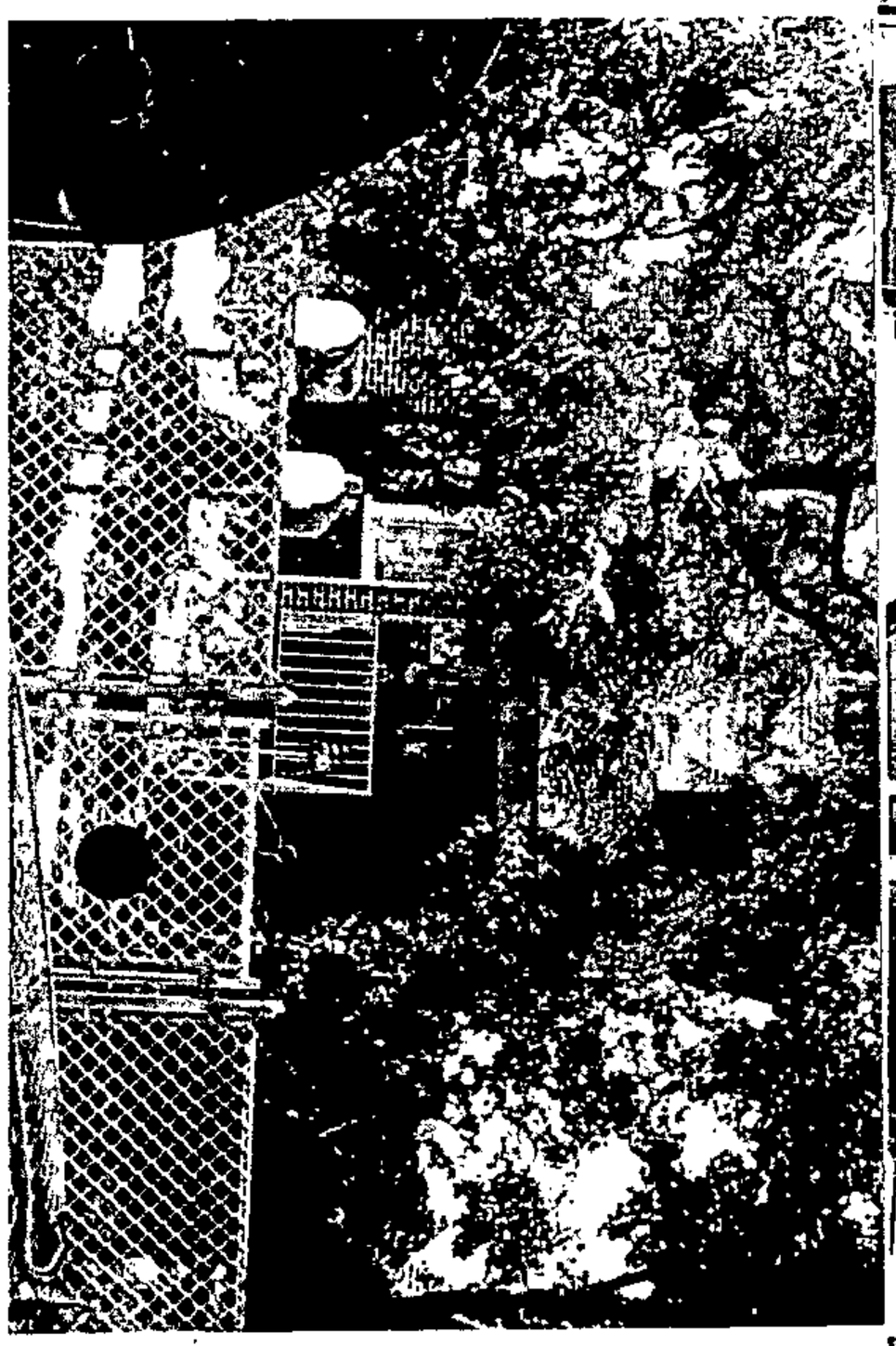
Protestants Exhibits

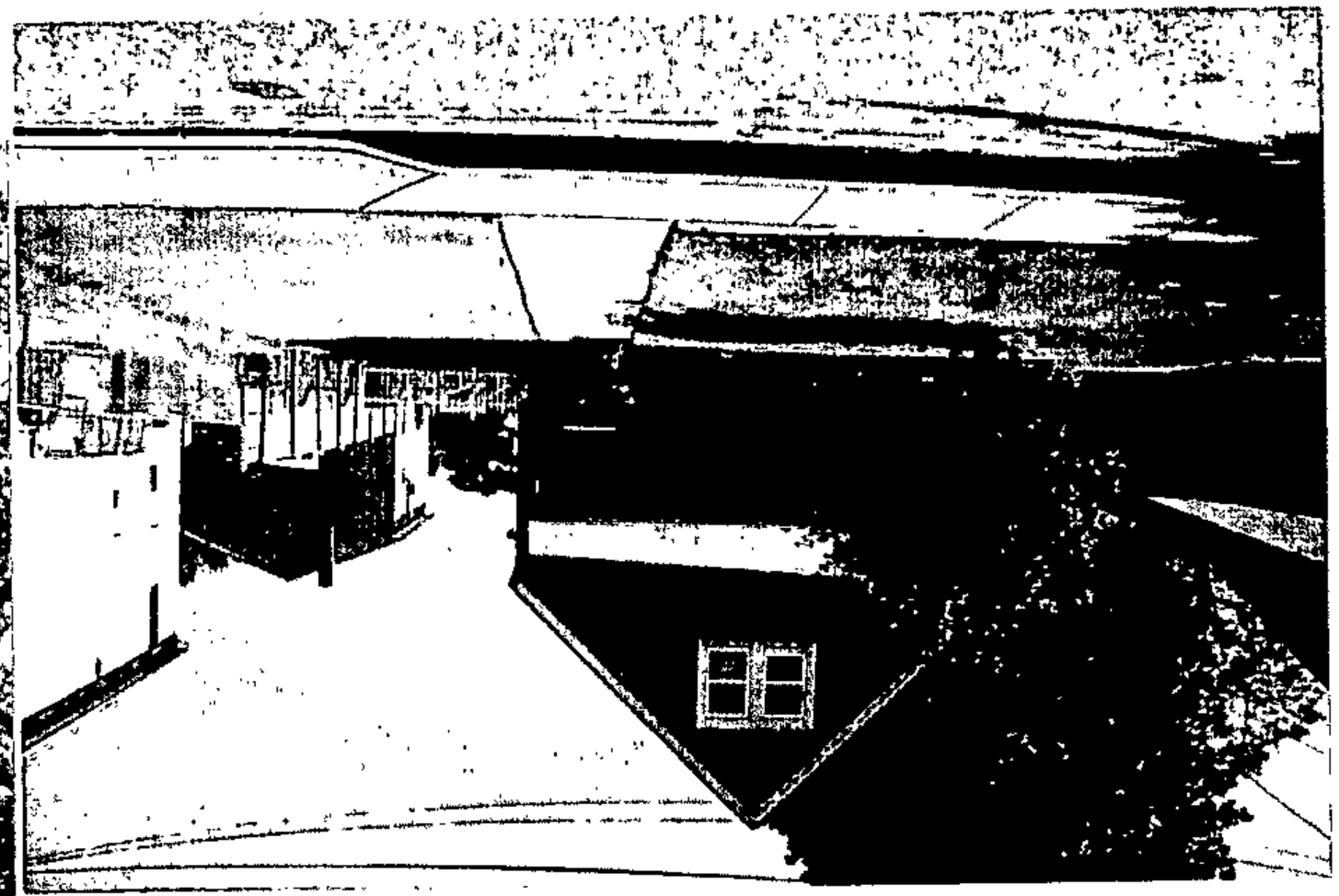
Identification

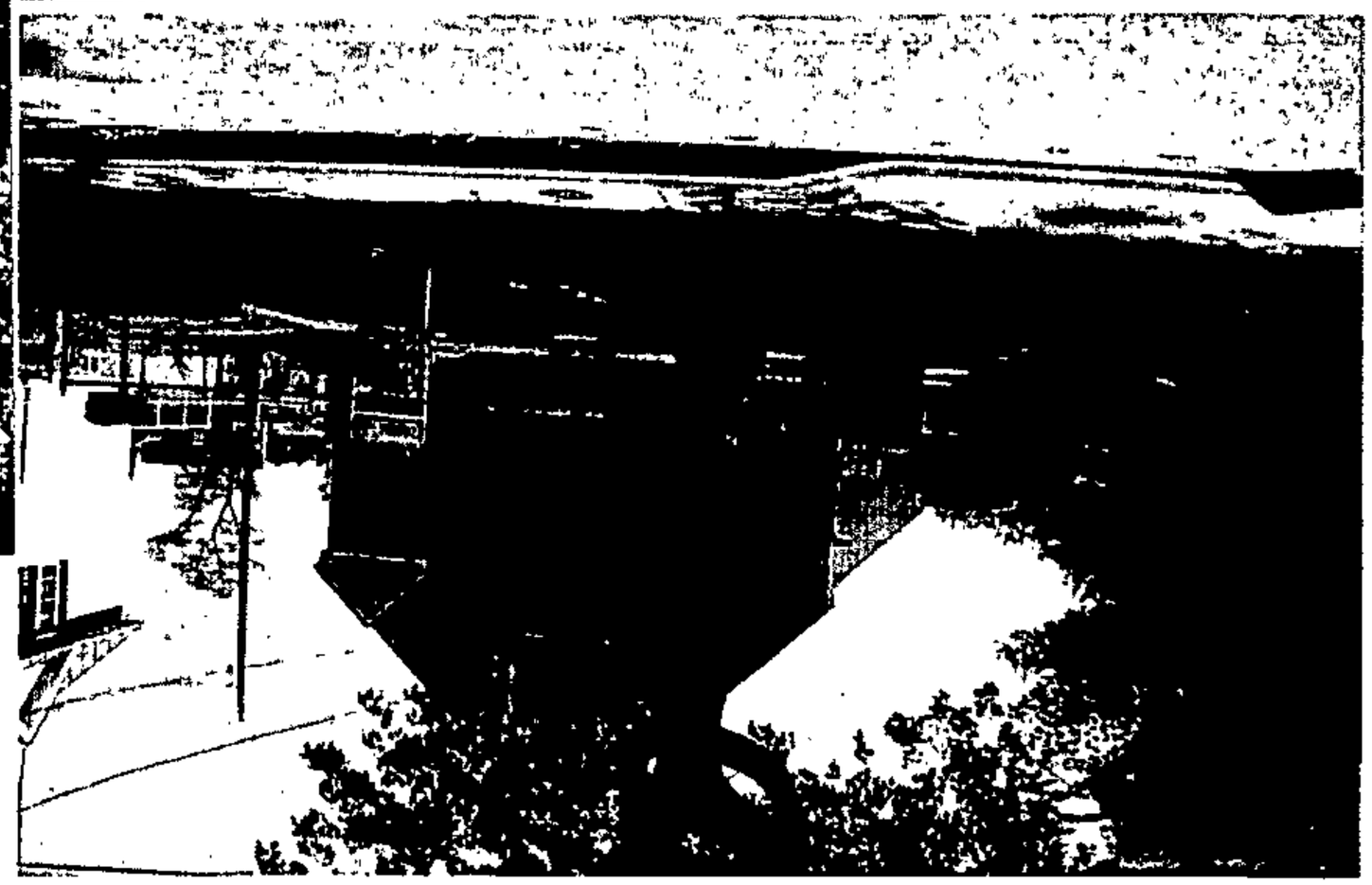
Prot 1 Photo

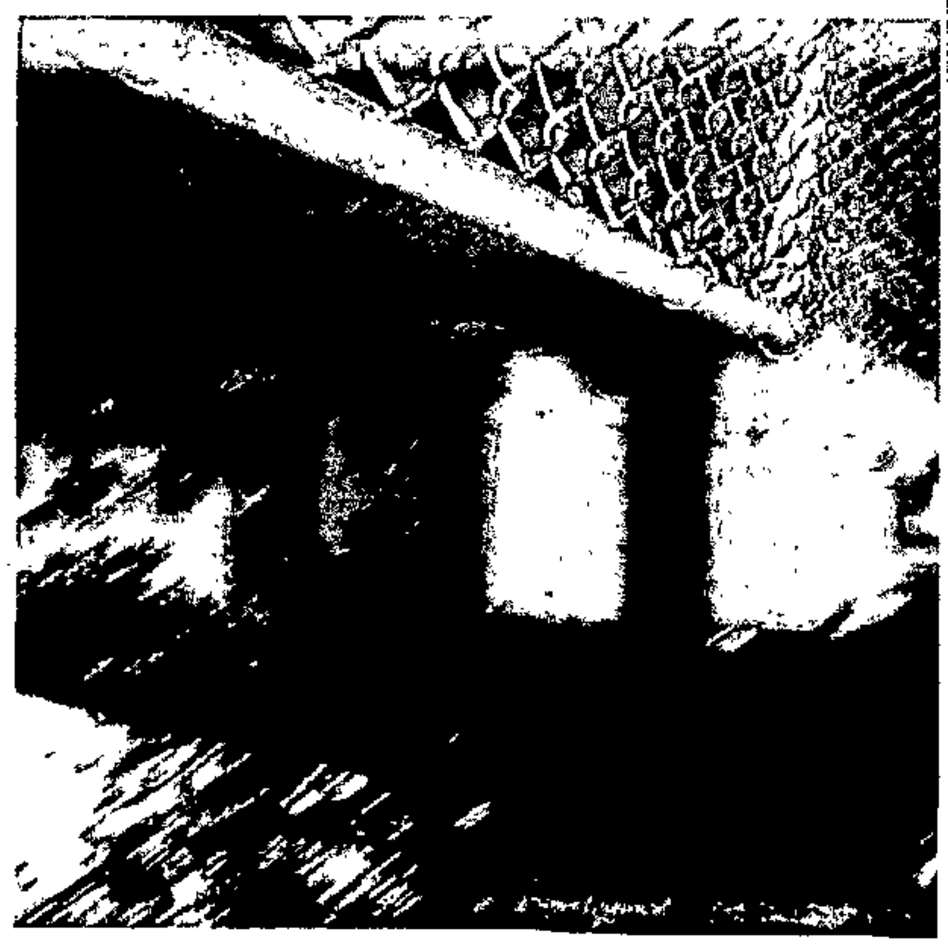
Prot 2 Photos
A - D

Prot 3 Neighbor Petitions



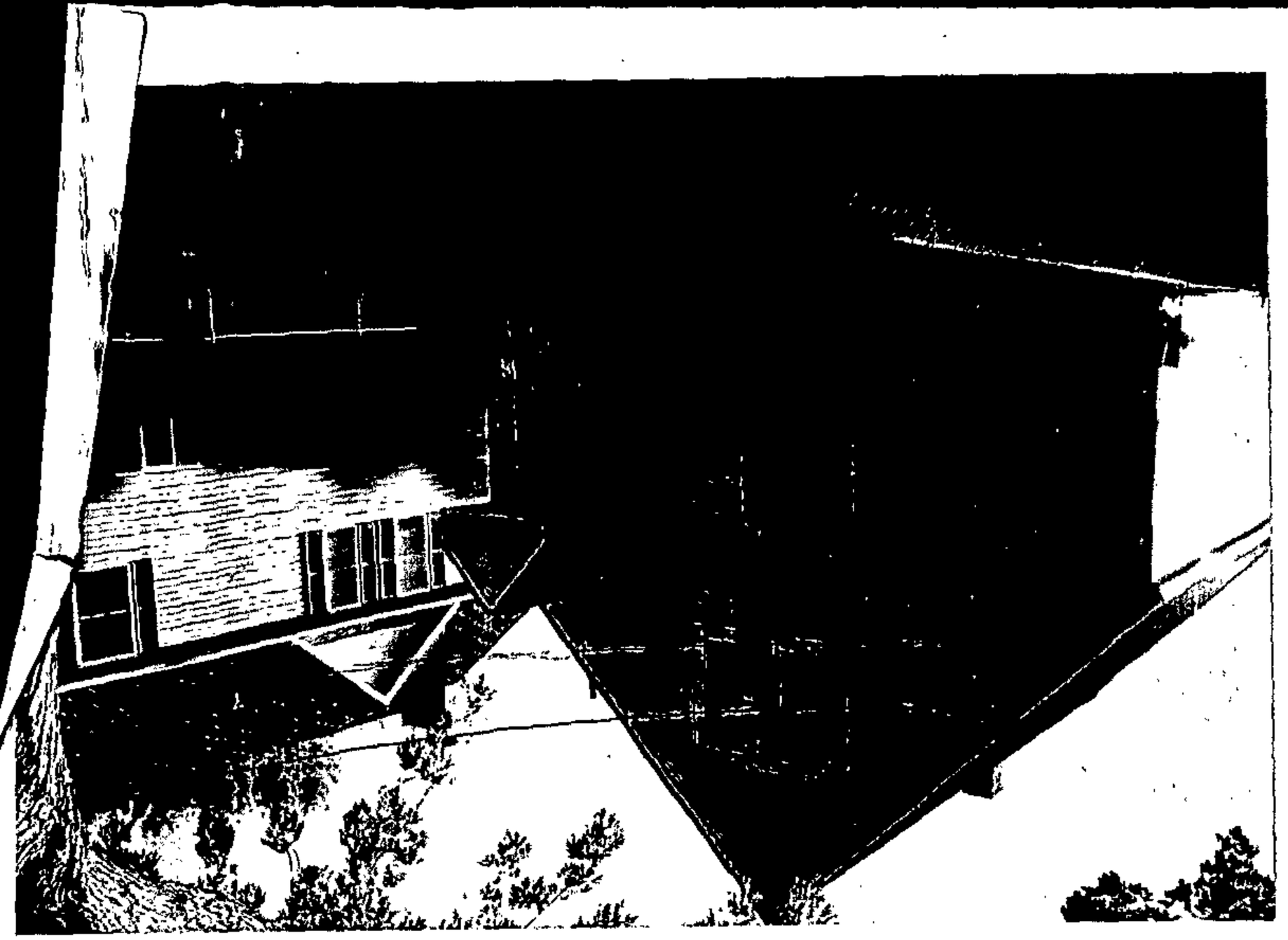


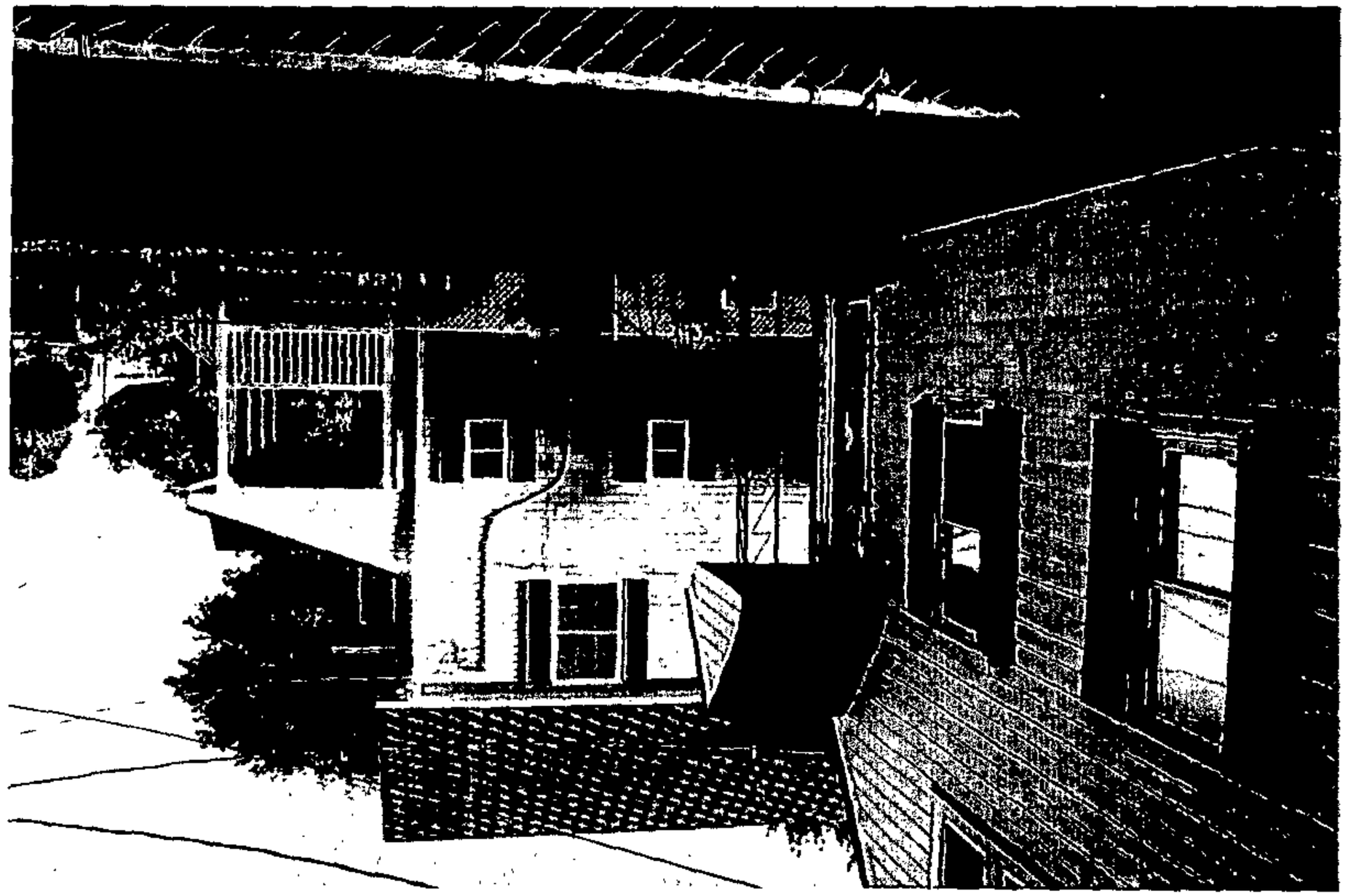


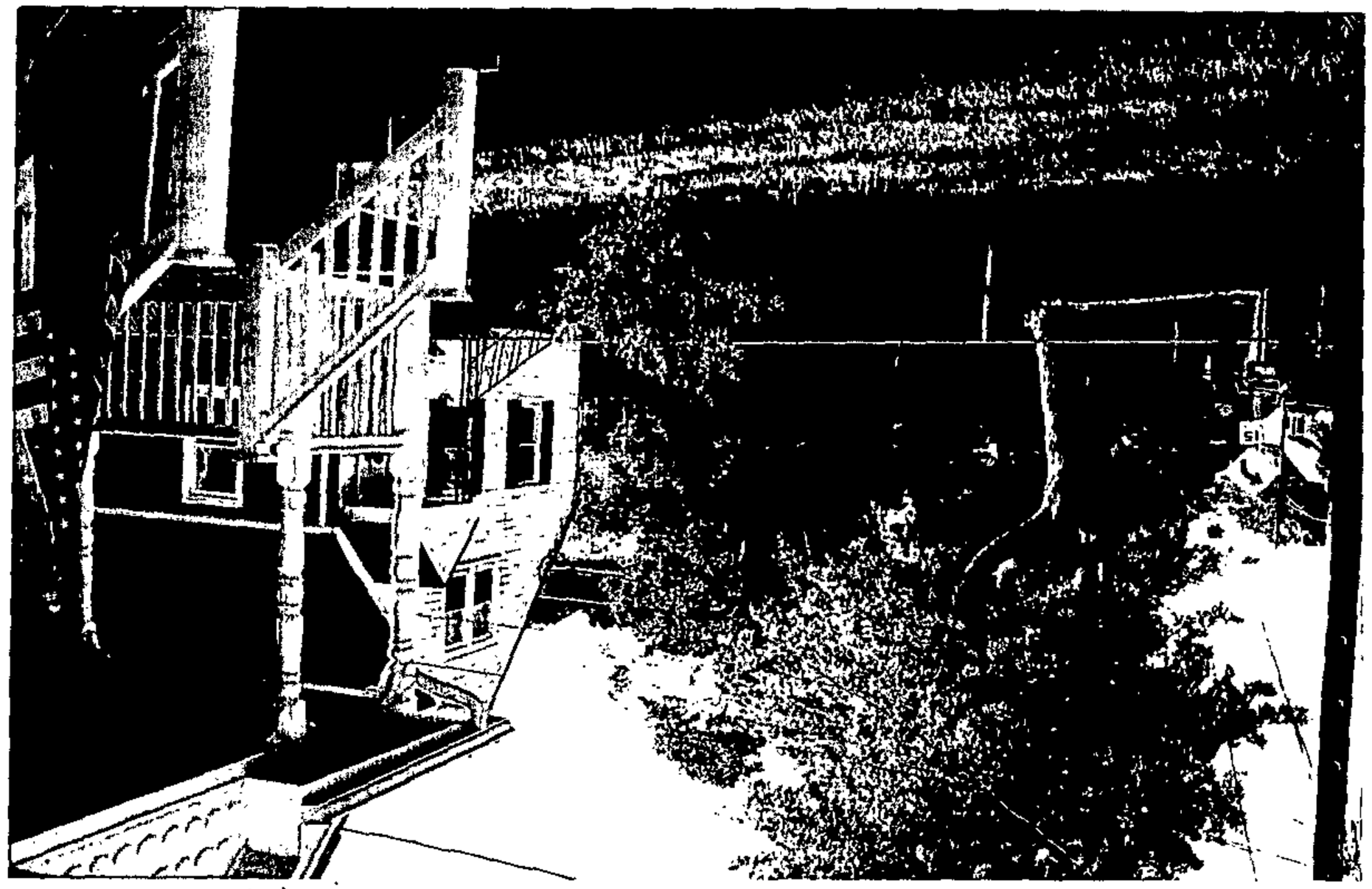


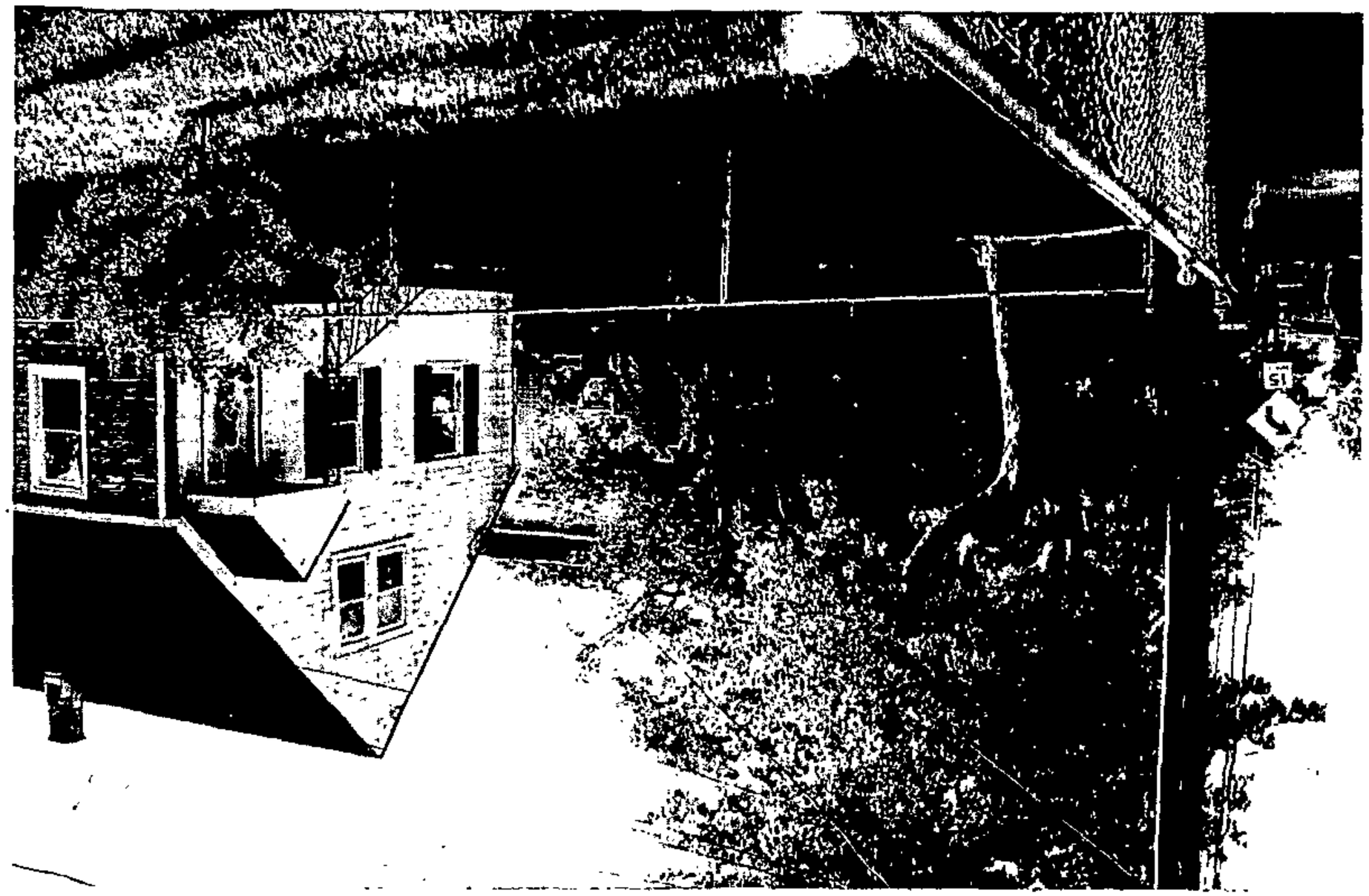
Petitioners' Exhibit Photos

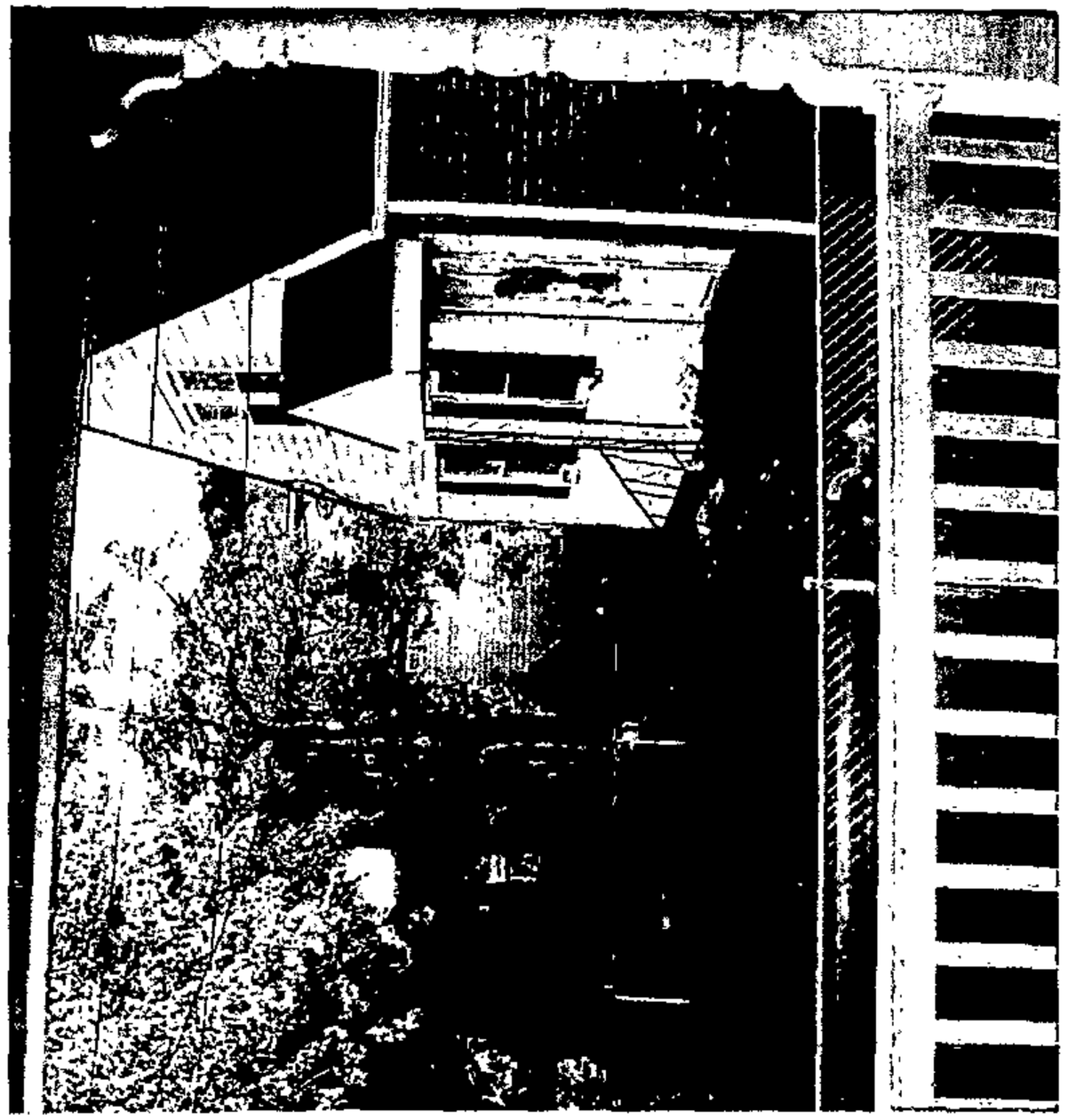
Ex #6A - #6K

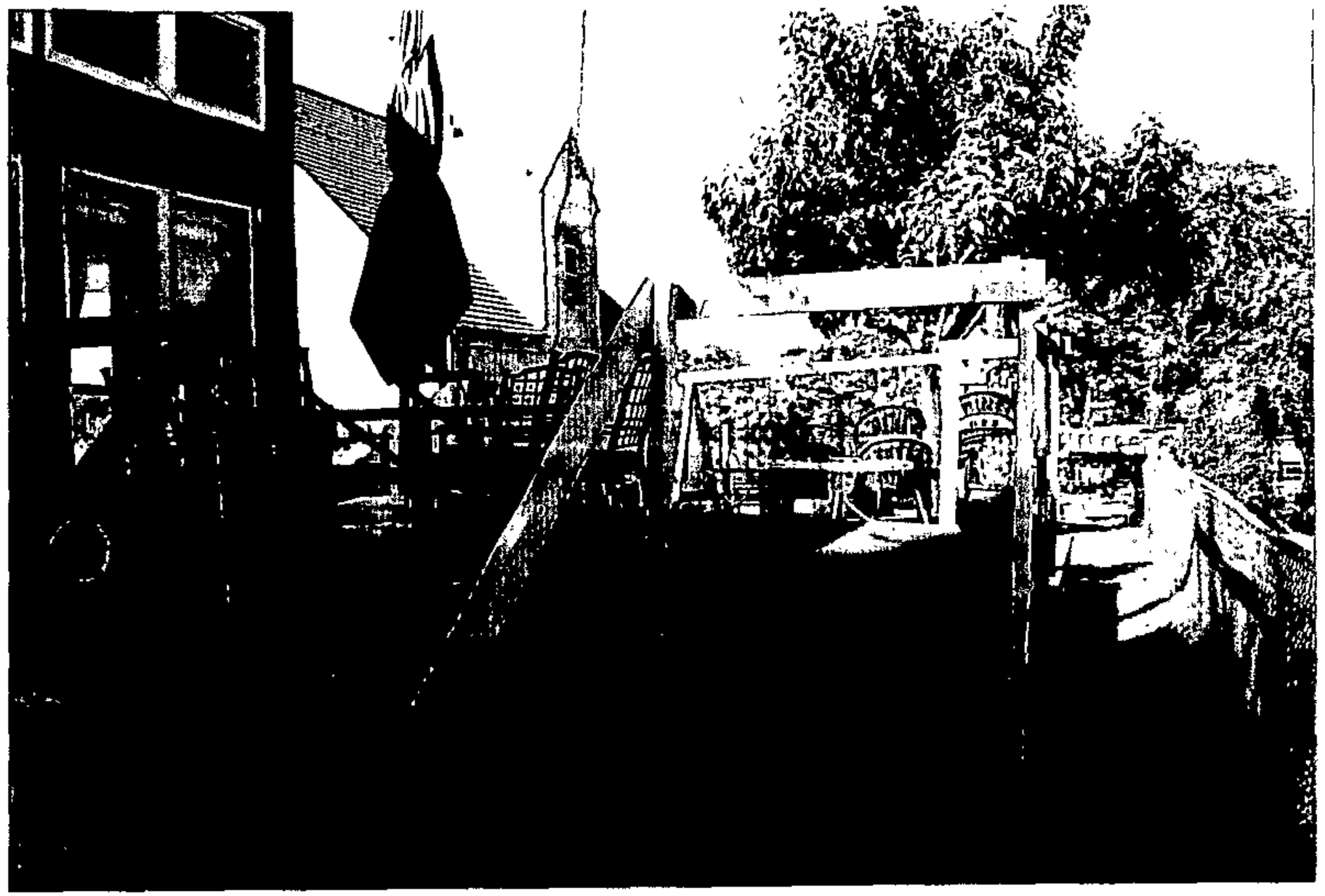








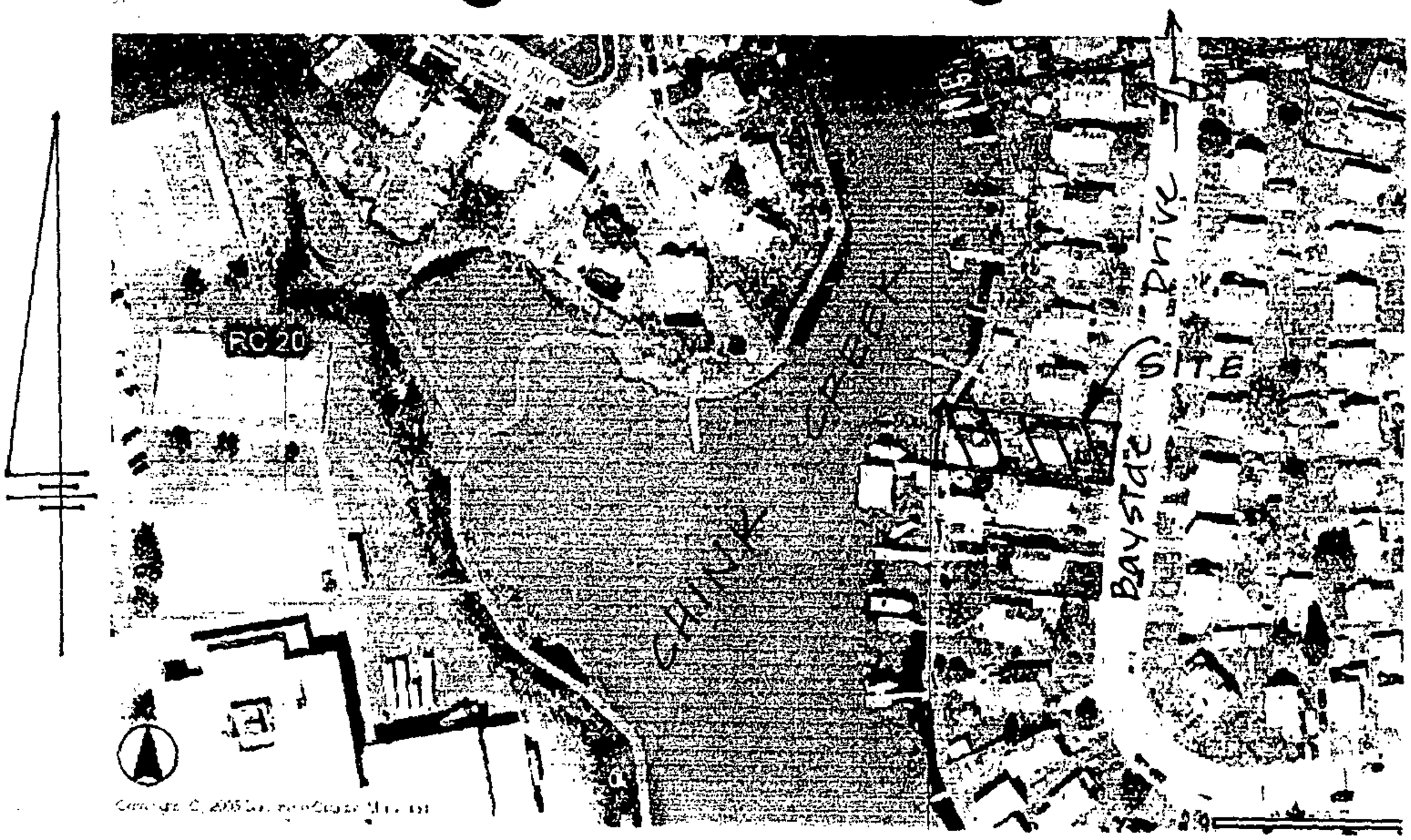




ZONING NOTICE

Petitioners' Photographs

Ex #7A - #7B

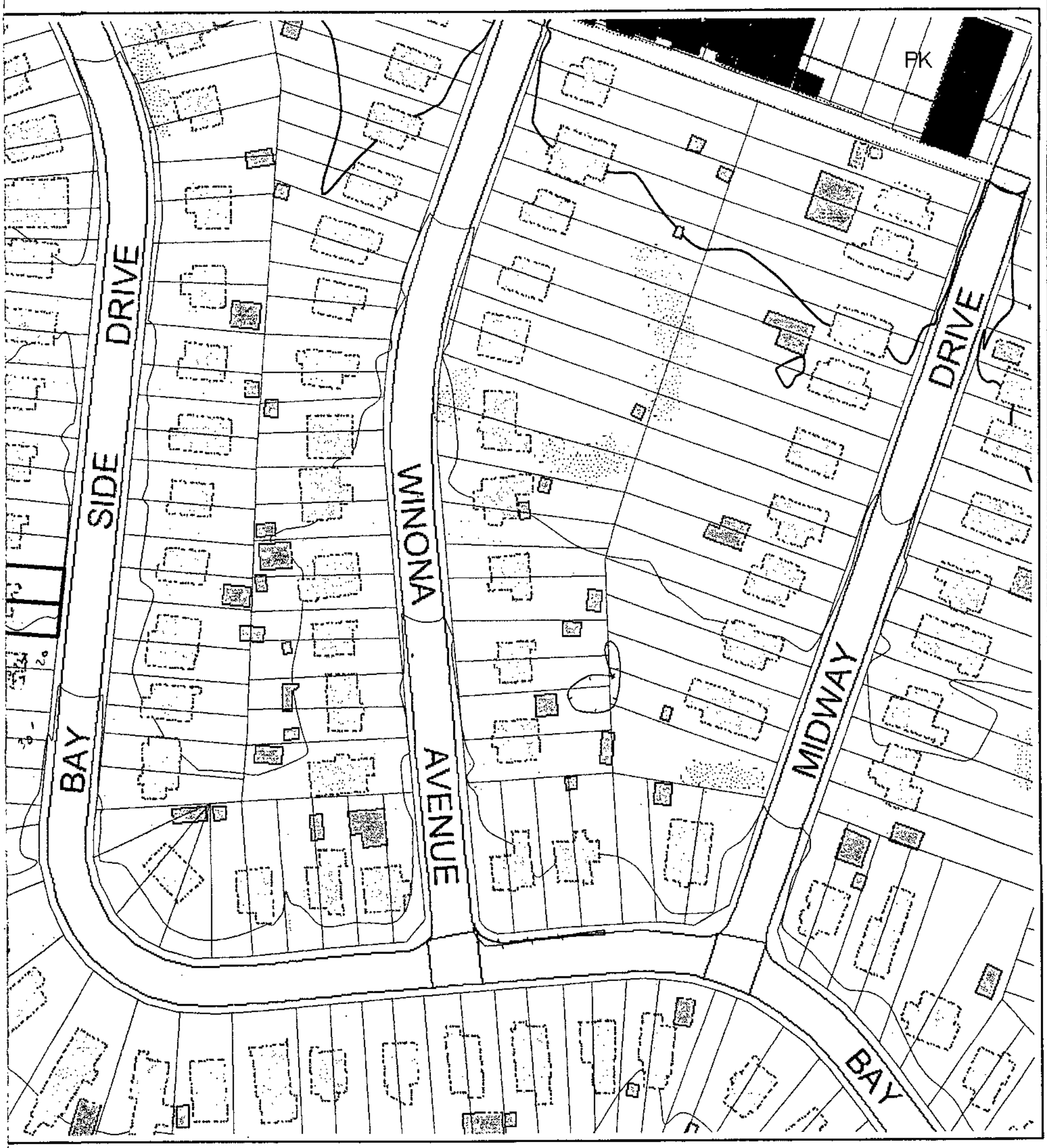


Zoning map: D.R.5.5
#527 Bayside Drive
Baltimore Co. MD

P.O.B. 680' SW OF
℄ of Wise Ave.

06-067-A

SIDE DRIVE



nty, MD
blic Works
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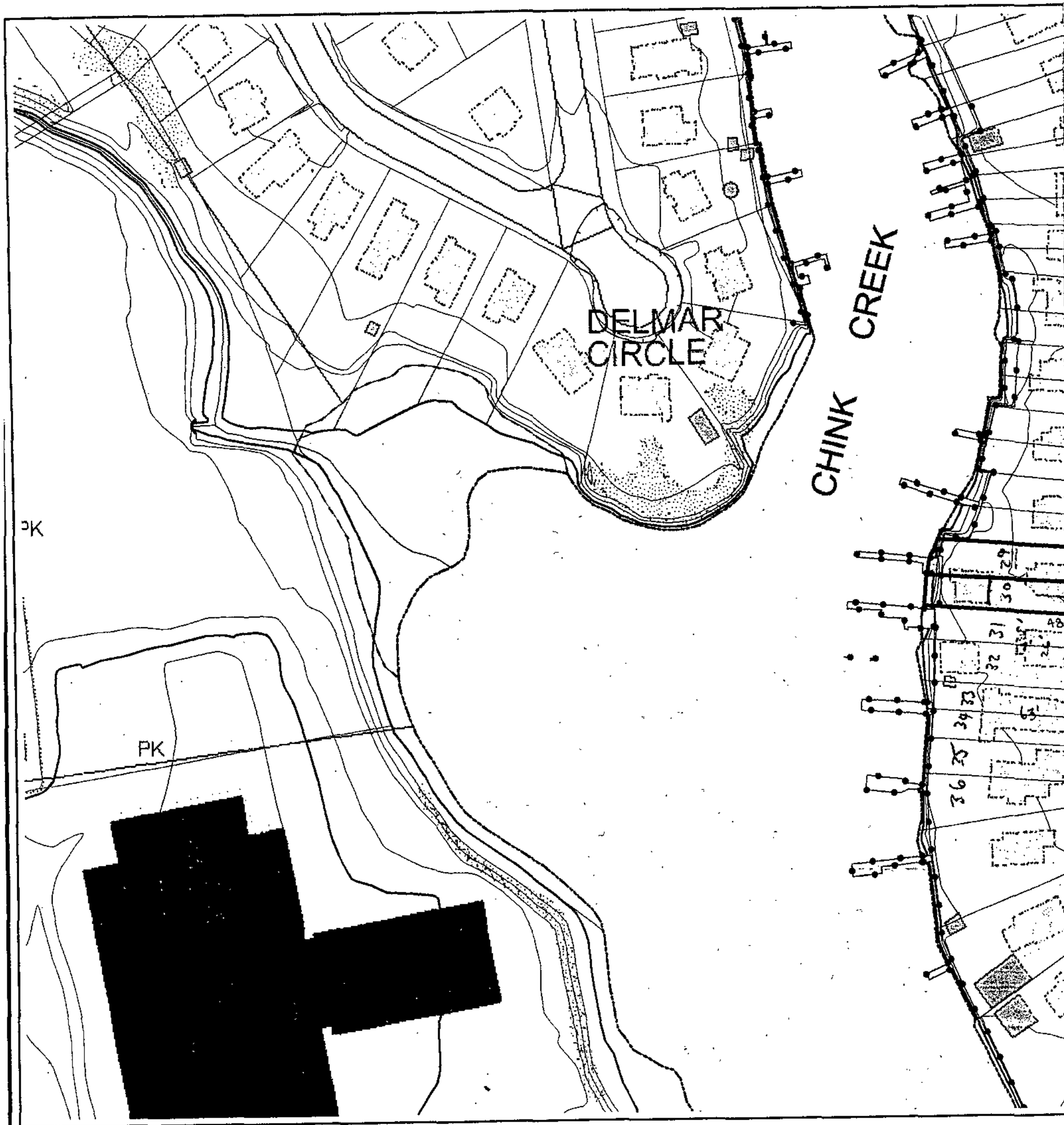
Pet #2

100 50 0 100 Feet

Prepared By:
Robin Hurley, EAI
DPW Directors Office
April 21, 2005

18

TOPO MAP FOR 527 BAY



Coordinate System:
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1996
Scale of Data Capture: 1" = 100'

Date of Aerial Photography: March 2002

For internal use only.
The cadastral information on this plot was compiled from existing deed information.
This information is not to be considered authoritative.
This survey information was not field checked and certified by a licensed land surveyor.

Baltimore Cou
Department of Pu
GIS Servi

Sharon -

Citation

Gave to hearing part. 4/26 9:00 AM

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
Counter Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER/TENANT, AS APPLICABLE

05-0880 | Property No. 1907048541 | Zoning: DR

Name(s): RIEMER ROBERT C
RIEMER CAROLE R

Address: 689 S KENWOOD AVE 21224

Violation Location: 589 BAYSIDE DR 21221

Violation Dates: 2/9/00 - 3/9/05

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 35-5-32(B)(1):

FAILURE TO REPAIR DEFECTIVE WINDOWS.

Pursuant to Section 1.8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 5600.00

A quasi-judicial hearing has been pre-scheduled in Room 47, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 4/26/05 Time: 9:00 AM

Citation was served by: Date: 3/31/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: ALPHONSO GRAFTON

Date: 3/9/05 Inspector's Signature: Alphonso Grafton

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: | Citation/Case No.: 05-0880 AG

Address:

Date | Defendant's Signature

ADDENDUM

Def #4

FAX - 2 pages

6/7/05

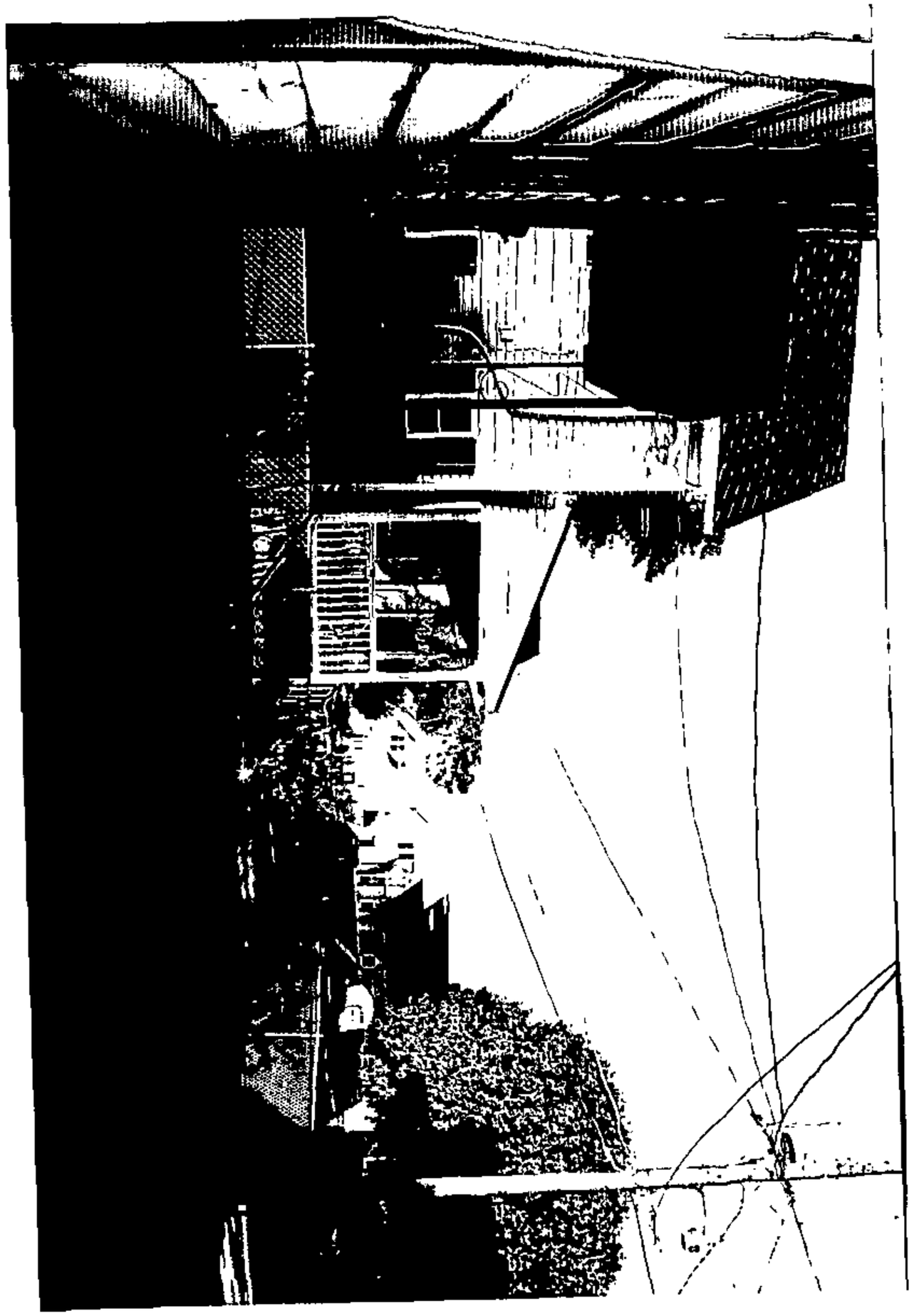
Bernadette -

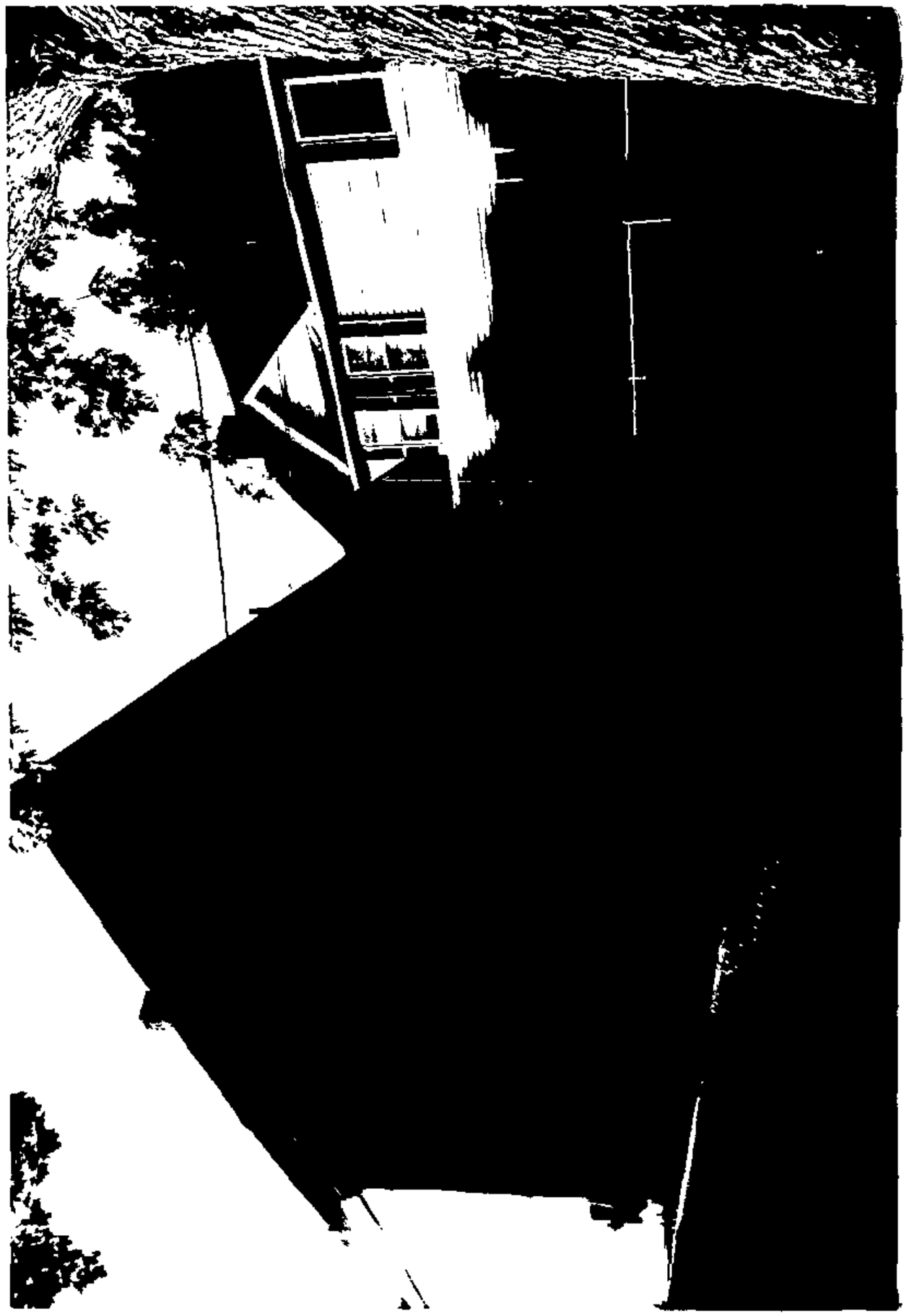
Attached is citation.

Joe spoke w/ Supervisor Jim Thompson, who supposedly talked w/ Bldg. Inspector A. Hughes, that the best thing Joe needed to do was repair the ceiling, but said he was going to get a permit, the matter/cita was dropped.

Carol R. Ramir

ZONING NOTICE





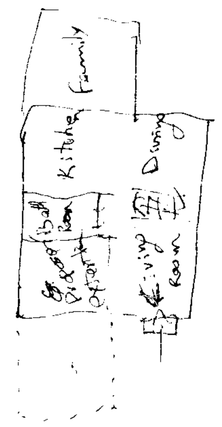
5217

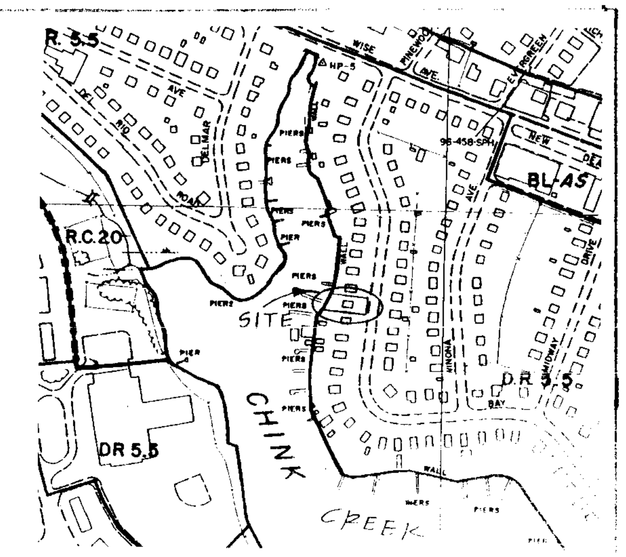
Carmen & Robert Brewer
Pet. for Variance
Case No.: 06-067A
Photos enclosed.

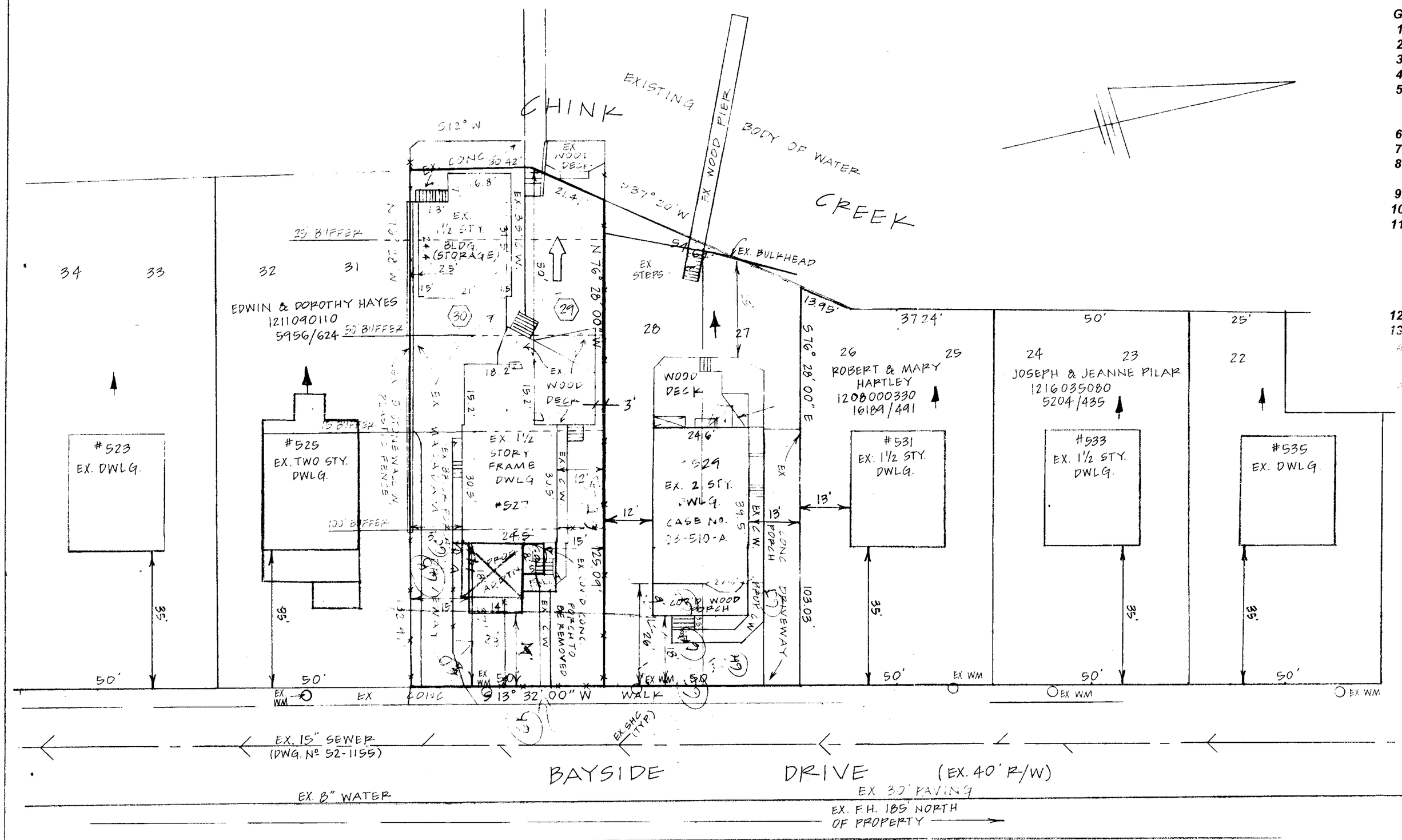
(Petroni &
Pertsoni's)

Carne F Robert Burner
527 Bayside Drive
Pet. for Varini
06-067-A

Plans enclosed







GENERAL NOTES

1. LOT SIZE: [illegible]
2. EXISTING ZONING: D.R.5.5
3. 200' SCALE ZONING MAP:
4. LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (BMA 11-2)
5. LOCATED IN THE 100 YEAR FLOOD PLAIN AREA
   COMMUNITY PANEL NO.: 240010 0440 C
   ZONE: "A9"
6. NOT LOCATED IN THE HISTORIC AREA
7. EXISTING USE: SINGLE FAMILY DWELLING
8. PROPOSED USE: SINGLE FAMILY DWELLING WITH PROPOSED ADDITION
9. NO PRIOR ZONING HISTORY
10. PUBLIC WATER AND AND SEWER AVAILABLE
11. PROPOSED IMPERVIOUS SURFACE:
    EXISTING DWELLING: [illegible]
    PROPOSED ADDITION: [illegible]
    DRIVEWAY: [illegible]
    WALKS/ [illegible]
    TOTAL: [illegible]
12. EXISTING DWELLING BUILT IN [illegible]
13. EXISTING LOTS OF RECORD ON PLAT DATED AUG. 1937

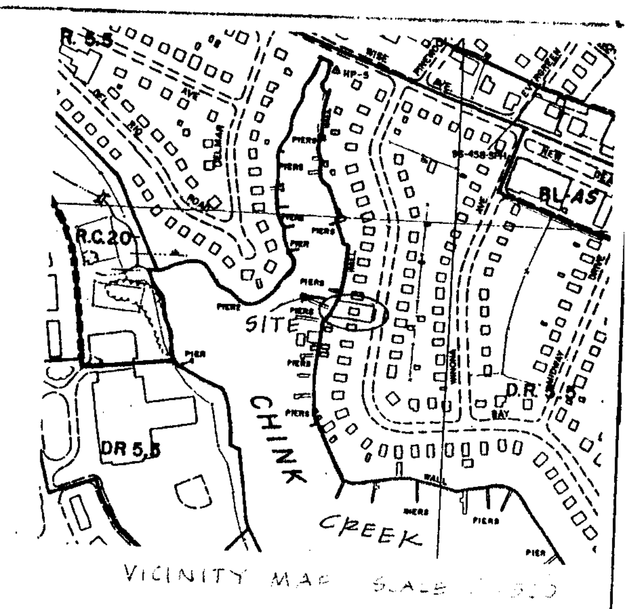
[illegible]

PLAT TO ACCOMPANY PETITION FOR AN ADMINISTRATIVE VARIANCE
 # [illegible] BAYSIDE DRIVE
LOTS [illegible] AND [illegible]
"INVERNESS" 10/128
TAX MAP: 104 GRID: 13 PARCEL: 197
TAX ACCOUNT NO. [illegible]
ELECTION DISTRICT NO. 12
COUNCILMANIC DISTRICT NO. 7
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'

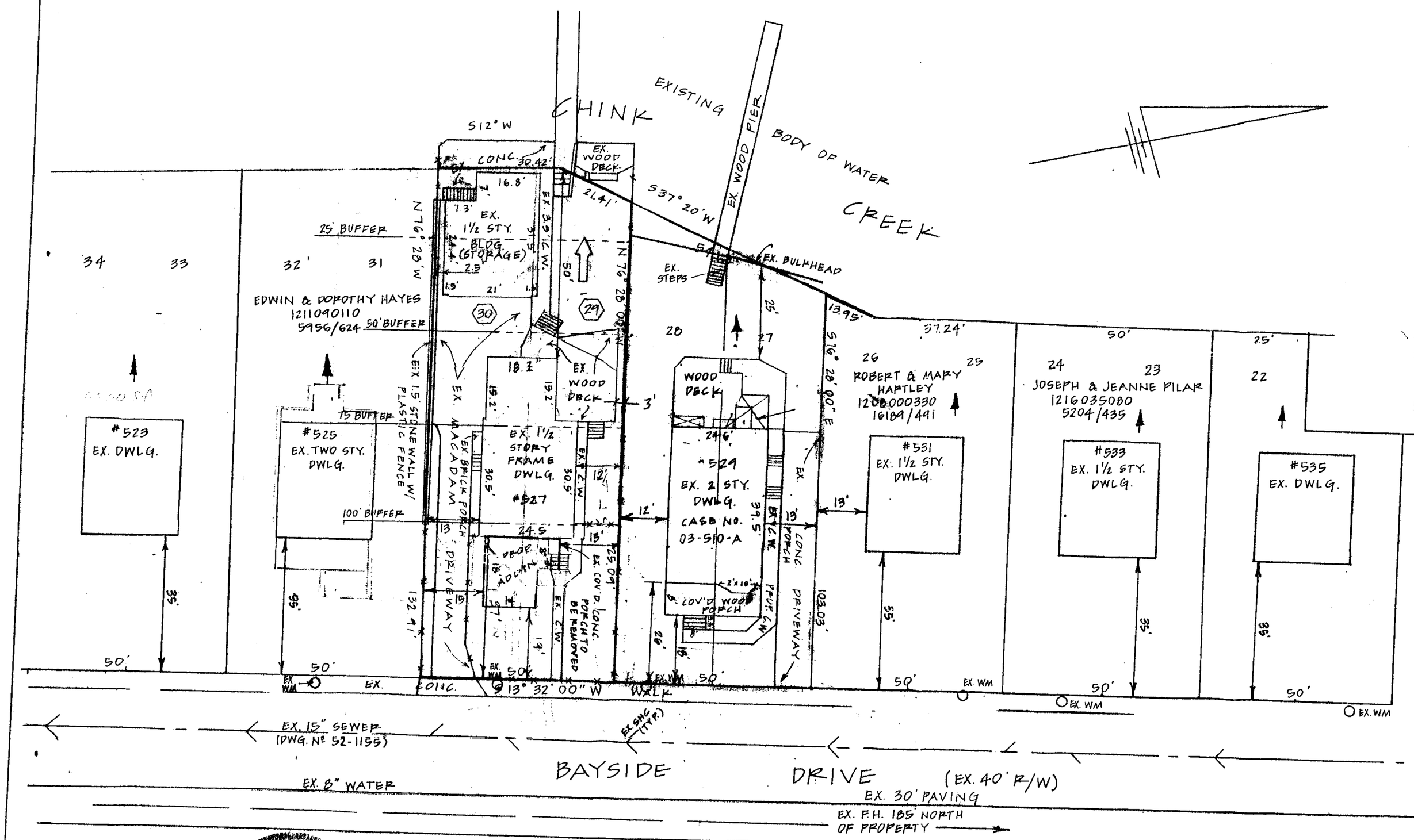
Ret #1

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

OWNER [illegible]



VICINITY MAP SCALE 1" = 1000'



GENERAL NOTES

1. LOT SIZE: 6400 S.F. ± OR 0.14 ACRE ± (25' × 100' × 2)
2. EXISTING ZONING: D.R.5.5
3. 200' SCALE ZONING MAP:
4. LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (BMA 11-2)
5. LOCATED IN THE 100 YEAR FLOOD PLAIN AREA
   COMMUNITY PANEL NO.: 240010 0440 C
   ZONE: "A9"
6. NOT LOCATED IN THE HISTORIC AREA
7. EXISTING USE: SINGLE FAMILY DWELLING
8. PROPOSED USE: SINGLE FAMILY DWELLING WITH PROPOSED ADDITION
9. NO PRIOR ZONING HISTORY
10. PUBLIC WATER AND AND SEWER AVAILABLE
11. PROPOSED IMPERVIOUS SURFACE: 2925 S.F.
    EXISTING DWELLING: 1023 S.F. QUEST HOUSE 703 S.F.
    PROPOSED ADDITION: ~~2925 S.F.~~
    DRIVEWAY: 1150 S.F.
    WALKS/PORCHES: 350 S.F.
    TOTAL: 3518 S.F. (54%)
12. EXISTING DWELLING BUILT IN 1942
13. EXISTING LOTS OF RECORD ON PLAT DATED AUG. 1937.
14. VIOLATION NOTICE 05-0830 FOR DEFECTIVE SIDING, REMEDY PERMIT FILED FOR.
15. WATERFRONT ADDITION AND WOOD DECK CONSTRUCTED UNDER BLDG. PERMIT NO B534021

CBA Pet 1

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

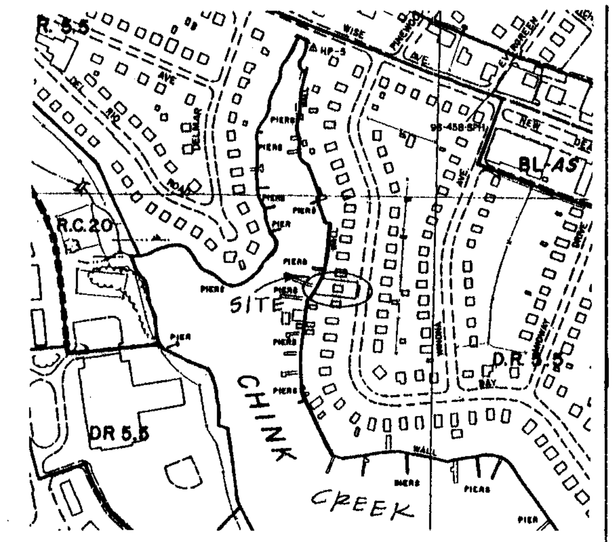
STATE OF MARYLAND
VINCENT MOSCA
NO. 9115
PROFESSIONAL LAND SURVEYOR

OWNER: CAROLE & ROBERT RIEMER
509 BAYSIDE DRIVE
BALTIMORE, MD 21222
(410) 284-7046
DEED: 17907/114

PLAT TO ACCOMPANY PETITION FOR AN ADMINISTRATIVE VARIANCE
 # 527 BAYSIDE DRIVE
LOTS 29 AND 30
"INVERNESS" 10/128
TAX MAP: 104 GRID: 13 PARCEL: 197
TAX ACCOUNT NO. 1207048541
ELECTION DISTRICT NO. 12
COUNCILMANIC DISTRICT NO. 7
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'
JUNE 14, 2005

8771

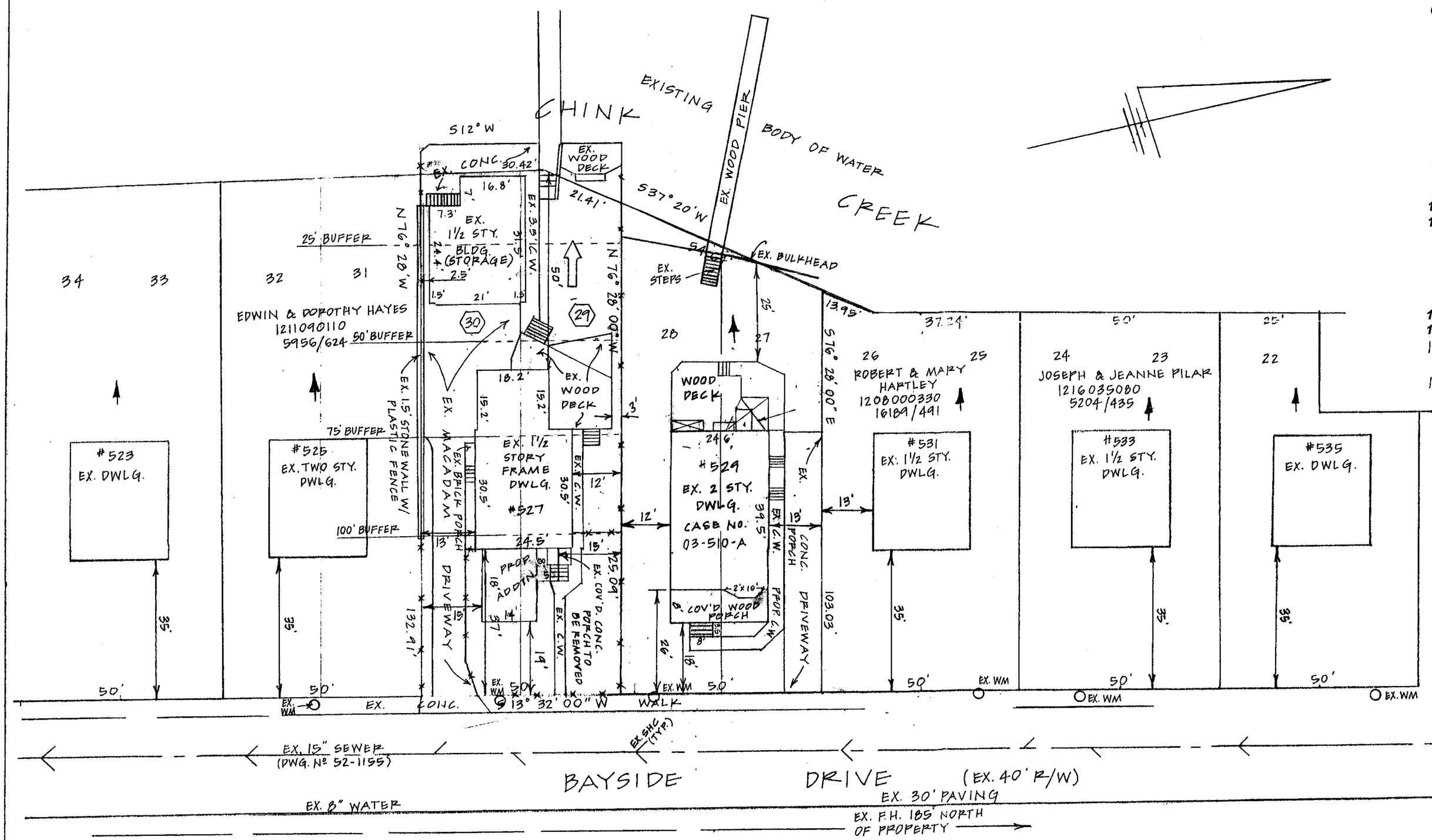
Ret #1



VICINITY MAP : SCALE: 1" = 500'

GENERAL NOTES

1. **LOT SIZE:** 6400 S.F.± OR 0.14 Ac.± (25% = 1600 S.F.±)
2. **EXISTING ZONING: D.R.5.5**
3. **200' SCALE ZONING MAP:**
4. **LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (BMA 11-2)**
5. **LOCATED IN THE 100 YEAR FLOOD PLAIN AREA**
   COMMUNITY PANEL NO.: 240010 0440 C
   ZONE: "A9"
6. **NOT LOCATED IN THE HISTORIC AREA**
7. **EXISTING USE: SINGLE FAMILY DWELLING**
8. **PROPOSED USE: SINGLE FAMILY DWELLING WITH PROPOSED ADDITION**
9. **NO PRIOR ZONING HISTORY**
10. **PUBLIC WATER AND AND SEWER AVAILABLE**
11. **PROPOSED IMPERVIOUS SURFACE:** 292 S.F.
    EXISTING DWELLING: 1023 S.F. GUEST HOUSE: 703 S.F.
    PROPOSED ADDITION: 292 S.F.
    DRIVEWAY: 1150 S.F.
    WALKS/PORCHES: 350 S.F.
    TOTAL: 3518 S.F. (54%)
12. **EXISTING DWELLING BUILT IN** 1942.
13. **EXISTING LOTS OF RECORD ON PLAT DATED AUG. 1937.**
14. VIOLATION NOTICE 05-0830 FOR DEFECTIVE SIDING, REMEDY PERMIT FILED FOR.
15. WATERFRONT ADDITION AND WOOD DECK CONSTRUCTED UNDER BLDG. PERMIT NO. B534821.



P.O.B. 680' SOUTH OF ℄ OF WISE AVENUE

OWNER: CAROLE & ROBERT RIEMER
509 BAYSIDE DRIVE
BALTIMORE, MD 21222
(410) 284-7046
DEED: 17907/114

PLAT TO ACCOMPANY PETITION FOR A VARIANCE
 # 527 BAYSIDE DRIVE
LOTS 29 AND 30
"INVERNESS" 10/128
TAX MAP: 104 GRID: 13 PARCEL: 197
TAX ACCOUNT NO. 1207048541
ELECTION DISTRICT NO. 12
COUNCILMANIC DISTRICT NO. 7
BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20'
JUNE 14, 2005

STATE OF MARYLAND
VINCENT MOORE
No. 21176
PROFESSIONAL LAND SURVEYOR

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

8771

06-067-A

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 25th day of September, 2007, a copy of the foregoing Certificate of Notice has been mailed to: Neil J. Bixler, Esquire, Bae & Bixler, LLC, 10019 Reisterstown Road – Suite 301-A, Owings Mills, MD 21117, Attorney for Petitioners and Leslie M. Pittler, Esquire, 25 Wandsworth Bridge Way, Lutherville, MD21093, Attorney for Dorothy Hayes.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

REASONS FOR PETITION FOR VARIANCE
#527 BAYSIDE DRIVE

1. ***THE LOTS ARE PART OF A RECORDED PLAT DATED 1937. THE PROPERTY WAS DEVELOPED PRIMARILY OF 25 FOOT LOT WIDTHS. THE SUBJECT PROPERTY CONSISTS OF TWO (2) 25 FOOT LOTS FOR A TOTAL OF 50 FEET. THIS IS CONSISTENT WITH THE ADJACENT PROPERTIES AND THE SURROUNDING NEIGHBORHOOD.***
2. ***THERE IS NO CONTIGUOUS OWNERSHIP TO BETTER SERVICE THE B.C.Z.R.. THIS PETITION IS WITHIN THE SPIRIT AND INTENT OF THOSE REGULATIONS.***
3. ***THE ADDITION IS TO ACCOMMODATE THE NEED FOR LIVING SPACE. THE PRESENT DWELLING WAS CONSTRUCTED IN 1942 AS A 1 ½ STORY DWELLING AND IS NOT ADEQUATE FOR THE SIZE OF THE FAMILY.***

06-067-A

Petitioner's Exhibits

1. Plat to accompany variance – revised 9/29/05.
2. Moskunas resume.
3. Zoning ariel map
4. Copy of zonig map.
5. Plat of subdivision.
6. Building permit for water front addition.
7. Petition for variance.
8. Letter from neighbor.
9. Petition from neighbors.
10. Photos – A thru K.
11. Photos – A – B
12. File from below.

Protestant's Exhibits

1. Photo
2. Photos – A thru D
3. Neighbors petitions.

Oct. 30, 2006	Notice of Deliberation mailed from the Board.
Dec. 5, 2006	Board held public deliberation. In house notes from 3/07/06 thru 12/05/06.
Aug. 31, 2007	Board issued its Opinion and Order stating the following: ORDERED that the variance requested from the *Baltimore County Zoning Regulations* to permit an addition with a 23-foot rear yard setback and an open projection (deck) in lieu of the required 30-feet, with a 3-foot side setback in lieu of the required 7.5 feet, be and the same is hereby DENIED.
Sept. 14, 2007	Copy of Letter to Civil Clerk of the Circuit Court for filing a Petition for Judicial Review.
Sept. 24, 2007	Copy of Petition for Judicial Review, reflecting case number, received from the Circuit Court.

As you know Bayside Drive is formed almost like a snake. If 527 extends out like 529 and closes in this area we cannot see the street for vehicles.

If the vehicle coming down the street is moving very fast, (and usually they are), this may cause an accident. As vehicles parked in driveways will then have to pull out into the street before seeing if this is allowed to happen. We are not protesting an open porch that can be seen thru, but we are opposing an enclosed area. We would greatly appreciate a deep investigation into this matter. We moved into these homes for visual openness. Not for it to become like the city. The property of 527 Bayside Drive extended out his house in the back which you consider the front and blocked the water view, which was a very important factor of living on waterfront. Now he as applied for an exception to extend even longer but on the other end of the house. Somewhere this has to stop. The only reason 529 Bayside was given permission to build out on the street side was because the water has eaten away her land in the back. The owner of 527 is now taking advantage of 529 extending out and 527 now wants the back extension enclosed along with an extension of the front enclosed. This creating a massive long wall of enclosed building.