

10/20/10

IN RE: PETITION FOR SPECIAL HEARING *

SE/Corner Cuckold Point Road and
4th Street *

(9033 Cuckold Point Road) *

15th Election District *

7th Council District *

Michael J. Poleski, et al
Petitioners *

10/20

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 06-102-SPH

* * * * *

**DETERMINATION OF THE ZONING COMMISSIONER ON REMAND
FROM THE BALTIMORE COUNTY BOARD OF APPEALS**

This matter comes before the Zoning Commissioner pursuant to the Order of the Circuit Court for Baltimore County (Barbara K. Howe, Judge) dated June 22, 2010. Therein, Judge Howe ordered that this matter be remanded to the County Board of Appeals of Baltimore County with instructions that it be further be remanded to the Zoning Commissioner for Baltimore County, "for him to conduct a public hearing . . . as may be required in compliance with the Mutual Release and Settlement Agreement, so as to legitimize the Poleski's present use of their property known as 9033 Cuckold Point Road as a boatyard and an associated/accessory use and permit the expansion of same on a 15-foot wide strip of land formerly known as the bed of 5th Street, an unimproved paper road." Upon receiving the file from the Court and in accordance with Judge Howe's Order, the Board of Appeals' issued an Order dated August 20, 2010, which remanded this matter to the undersigned. Upon remand, the case was scheduled for public hearing; notice of which was given to the parties via mail and the property was posted with a sign to provide public notice.

Appearing at the public hearing were the property owners, Michael J. Poleski and Robert P. Poleski (Petitioners or Poleskis). Also present was George Junkin, of American Land Concepts, the consultants who prepared the site plan (Petitioners' Exhibit 1). The Poleskis were

10/25/10 This is the result of a settlement between the Poleskis and Lawrence Thanner, owner of the adjacent property, PM2

represented by Lawrence E. Schmidt, Esquire, of Gildea & Schmidt, LLC. There were no Protestants or other interested persons present.

An overview of the property under consideration and zoning history is appropriate to frame the issues presented in the case. Michael and Robert Poleski are brothers and the sons of William Poleski and Agnes Poleski. The senior Mr. & Mrs. Poleski are both deceased. Michael and Robert Poleski own eight (8) lots of record as shown on the revised plat of Swan Point, which was recorded in the Land Records of Baltimore County on January 20, 1928.¹ This area is commonly known as Millers Island and is a waterfront community in eastern Baltimore County.

Originally, the senior Mr. & Mrs. Poleski acquired several waterfront lots and these properties have been passed down to Michael and Robert by inheritance. Over the years, the family acquired additional lots so that eight (8) total lots are now under the Poleskis' ownership. Five (5) of the lots owned are shown on the original plat as Lots 506-510. These are on the south side of Cuckold Point Road and are waterfront lots which abut Cuckold Cove. These five (5) lots total approximately 1.64 acres in area and are used as a single parcel. They are zoned B.M. and except for an existing dwelling on the northwest corner of the overall parcel occupied by Robert Poleski and his family; the collective property is used as a boatyard, known as Bill's Boats. The property is improved with boat racks and other open areas for land storage of the boats, macadam paved areas for vehicular parking and other structures associated with the boatyard use. The storage facilities include a number of two level and three level boat racks on which boats are stored, one on top of another. Under the Baltimore County Zoning Regulations (B.C.Z.R.) Section 101.1, this rack storage is designated as an Out-of-Water Storage Facility, Class-B.

¹ The plat of Swan Point originally laid out the peninsula known as Millers Island with mostly 50-foot wide lots and also showed future roads for access. The plat was recorded in the Land Records of Baltimore County at Book L.McL.M. No. 9, Pages 4-5.

In addition to Lots 506-510, the Poleskis own three (3) additional lots which are immediately cattycorner from the boatyard property. These lots are on the opposite side of Cuckold Point Road and Fifth Street. These lots are shown on the original plat as Lots 73, 74 and 75 and are approximately one-third of an acre in area. These lots are also used in conjunction with the boatyard operation and for vehicular parking. Presently, there are storage containers on these lots that are utilized in connection with the boat yard operation. The use of these containers is appropriate in that it provides for an enclosed storage area and improves the appearance of those lots.

All the lots (Lot 506-510 and Lots 73-75) are zoned B.M. (Business, Major) which permits a boatyard as a matter of right.² In total, the area of the Poleski's three (3) lots equal 1.95 acres.

A boatyard has existed on this site for many years. Prior to the current operation by the Poleski brothers, the boatyard was run by their father William Poleski; hence the name "Bill's Boats." Before that, the facility was operated as a boatyard by the Waldman family, the prior owners.

Additionally, there is a zoning history attached to the property. In Case No. 95-151-A, a zoning variance was approved for construction of Robert Poleski's dwelling. This variance was to approve a lot width narrower than required and certain setback variance relief for the dwelling as it is measured to the closest property line. This approval was granted on December 13, 1994.³ The second case was Case No. 98-3-SPH. In that case, special hearing relief was granted on

² A "boatyard" is defined in B.C.Z.R. Section 101.1 as "a commercial or nonprofit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling and general servicing of marine craft of all types."

³ That case permitted the Robert Poleski lot/dwelling to be situated on the overall parcel (Lots 506-510) owned by the Poleski brothers. The decision allowed both uses (residence/boatyard) to coexist on the overall parcel.

December 17, 1997, to allow a portion of Lot 509 (then zoned D.R.5.5) to be designated as a non-conforming use for boatyard operations. This relief became moot when the property was rezoned to B.M. in 2000. Additionally, under that case, a modified parking plan under B.C.Z.R. Section 409.12 was approved. This approval permitted a parking layout which does not strictly comply with the parking regulations in B.C.Z.R. Section 409. The third case was Case No. 04-046-SPHXA. In that case, dated October 20, 2002, certain modifications were granted to the prior order. Specifically, as noted above, although the B.C.Z.R. permits boatyard operations on the property by right, the rack storage (i.e. an Out-of-Water Storage Facility, Class-B) is permitted only by special exception. Thus, the Out-of-Water Storage Facility, Class-B (boat racks) were permitted on the property by grant of a special exception in that case. Also, a variance was granted pursuant to B.C.Z.R. Section 417.7 for the proposed boat racks. This relief was to permit boat racks on a property with an area less than required by the regulations.⁴

The instant case arises as a result of a 30-foot wide by approximately 284-foot long strip (0.21 acres) which abuts the Poleski property (Lot 506). As clearly shown on the site plans and plats, which are part of the record of this case, when the Swan Point subdivision was laid out in 1928, Cuckold Point Road was constructed along a southwest/northeast axis to extend down the spine of this peninsula. A number of cross streets (1st Street, 2nd Street, etc.) run in a perpendicular fashion to Cuckold Point Road. One such perpendicular roadway is 5th Street. This road extends across much of the Millers Island peninsula; however, the paved portion terminates at the Poleski property at Cuckold Point Road. The 284-foot distance from 5th Street's termination at Cuckold Point Road to the water (Cuckold Cove/Pleasure Island Channel)

⁴ All of the written opinions/orders in these cases are public record. A review of the same is helpful in understanding the history and development of this property. As is applicable, these previous findings and conclusions are adopted herein.

is unimproved. It is this unimproved roadbed or strip which was the subject of the instant case.

This case originally came before me under a Petition for Special Hearing filed by the Poleskis.⁵ Testimony at the original hearing was that the Poleskis, their parents and the Waldman family had used the strip for their boatyard operation for many years. Although they did not have paper title to the strip, it had been part of the boatyard operation. At the time of the hearing, the Poleskis were in contract to purchase the strip from the Estate of Rose Sapperstein. Testimony presented was that Ms. Sapperstein (deceased) was the last heir of the original developer of the Millers Island/Swan Point subdivision and as such, owned all the roadbeds on Millers Island that had not been dedicated to Baltimore County (as public roads) or others.

Approval was requested under the Petition for Special Hearing to permit the expansion of the boatyard and boat racks onto the strip. This Petition was vehemently opposed by Lawrence Thanner, owner of the adjacent property which is improved with the Dock of the Bay restaurant. Mr. Thanner has owned the Dock of the Bay restaurant since 2004.

Following the issuance of my Order on March 29, 2006, granting the Petition, the case was appealed by Mr. Thanner to the Board of Appeals. After a public hearing before the Board, the Board denied the Poleski's Petition for Special Hearing due to the dispute between the parties as to the ownership of the strip of land. Later, the contract between the Poleskis and the Estate of Rose Sapperstein was terminated and Mr. Thanner purchased the strip from the Personal Representative of the Estate of Rose Sapperstein. The Board's decision was appealed to the Circuit Court for Baltimore County. Moreover, separate litigation between the Poleskis, Mr. Thanner and the Estate of Rose Sapperstein commenced through a series of claims/counterclaims for trespass, breach of contract, adverse possession and the like. Ultimately, all of the cases were

⁵ The Petitioners sought approval to amend the prior plans/orders to incorporate the strip into the boatyard operation.

consolidated. Fortunately for all concerned, a Settlement Agreement was ultimately entered into by the parties.

The essential terms of the settlement were that the strip would be divided lengthwise between Thanner and the Poleskis so that Mr. Thanner would own the 15-foot wide section immediately adjacent to his property and the Poleskis would own the 15-foot wide section closest to their boatyard operation. Moreover, as noted above, the Settlement Agreement (as reflected in the Order of Judge Howe) required that the case be remanded to the Zoning Commissioner to consider such zoning relief as may be appropriate to put the Settlement Agreement into place and legitimize the Poleskis boatyard/rack storage operation.

It is to be noted that the strip itself is split zoned. The half of the strip closest to the Poleski property (which is now owned by them) is zoned B.M. Thus, boatyard operations may continue in their half of the strip as a matter of right. Insofar as the storage racks, the Poleskis testified that they employ two (2) different types of racks at the site. The first is a two level rack upon which one (1) boat is stored on top of another. Several of these two level boat racks are also double wide, so that a total of four (4) boats (side by side and one on top of another) can be stored on a single rack. Michael Poleski testified that these racks are manufactured so as to be temporary in nature and can be relocated anywhere on the site. The other type of racks used by the Poleskis at the boatyard are triple racks. These allow three (3) boats to be stored in a vertical fashion. Given the height and weight load, these racks are permanent structures and are not easily relocated.

The Poleskis boatyard operation is similar to other such facilities in Baltimore County. During the winter, there is a significant amount of land storage of boats in not only the racks but within the parking spaces shown on the plan (including the additional acreage across Cuckold

Point Road); however, during the warmer months, customers routinely remove boats from the land storage for active recreational use. While a modified parking plan has been approved for this property which takes this typical boatyard arrangement into account, there are some minor changes to the plan with the addition of the dock bar and reconfiguration of the property to incorporate the expanded section of 5th Street. I do not find the changes to be of such order that they significantly alter my analysis as expressed in the opinion I authored when this case was first before me. Therefore, in review of the plan I have determined that an amended modified parking plan should be approved in conformance with the site plan before me where the parking may be used by either boats and/or cars and passenger trucks.

Additionally, as shown on the site plan, the facility features several floating piers extending into the water, which contain 42 water slips. It is to be noted that the entire Poleski property (including the three [3] lots on the other side of Cuckold Point Road) are part of the boatyard facility and that use is permitted under the B.M. zoning. During busier times of the year, boats are stored throughout the property, including the three (3) lots south of Cuckold Point Road (although storage on this property is not on any two or three level racks). Additionally, and in view of the modified parking plan previously approved, vehicular parking arrangements can be subject to change. During the winter, much of the macadam parking lot is used for boat storage. In the summer, when there is increased traffic with people retrieving their boats, more vehicular parking is available. It is the intent of this decision to approve the use of the property which reflects that arrangement.

Additionally, there are a series of amenities throughout the site in connection with the boatyard operation. The site plan shows a small (30' x 32') dock bar, with a proposed deck, which provides an amenity to customers. This dock bar is accessory to the boatyard operation;

as it provides an area where beverages are sold to patrons (both non-alcoholic and alcoholic, pursuant to a liquor license issued by Baltimore County to the Poleskis) and a limited area for seating and entertainment (e.g. music). Additionally, there is an existing one-story block building which is used as an office in connection with the boatyard operation. Moreover, as noted above, the site plan also shows a proposed one-story metal building on the lots across Cuckold Point Road (Lots 73-75), to be used as a repair shop/storage accessory to the boatyard operation. Michael Poleski also proposes the construction of a residence for his family on the site as is shown on the site plan. Finally, in that the piers are floating, certain relocation of the water slips is possible, i.e. the floating pier parallel to the land which houses slips 23 through 42 may be connected to either the perpendicular pier containing slips 1 through 10 or the perpendicular pier containing slips 11 through 22. The future reconfiguration of these piers (designated as waterfront construction in B.C.Z.R. Section 417) should be permitted as within the spirit and intent of this Order, however, any reconfiguration will require compliance with the divisional line standards, absent a zoning variance for the same via a public hearing.

It is to be noted that in the hearings before me and before the Board of Appeals, Mr. Thanner challenged the Poleskis use of the property on a number of grounds. One such challenge was as to the variance which was granted (Case No. 04-046-SPHXA) for the Out-of-Water Storage Facility, Class-B. Mr. Thanner contended that this variance was illegal and not permitted in the B.C.Z.R. However, a closer review of the B.C.Z.R. reveals that although variance relief for out of water storage facilities is prohibited in certain zones (B.M.B. and B.M.M.), variances may be granted for out of water storage facilities in the B.M. zone (*See* B.C.Z.R. Section 417.7.G). Thus, Mr. Thanner's allegation in this regard is without merit.

Due to the fact that there is an incorporation of an additional parcel as part of the boat

storage operation, that variance, which was granted to allow storage on 1.43 acres, requires amendment. Given the previous Case No. 04-046-SPHXA found the property to satisfy the necessary tests to be granted a variance, I find that the incorporation of the 15-foot strip of 5th Street (0.105 acres) does not change my analysis in a significant way to modify the outcome of the variance test and that such property may be legally used as part of the boat yard and boat storage operation. The prior variance should be amended hereby to reflect that it is a lesser variance in that the Poleskis now are closer to satisfying the acreage requirements than their previously approved plan, as their total combined holdings are greater than two (2) acres.

Additionally, there were previous complaints from Mr. Thanner about other aspects of the boat storage. Pursuant to Judge Howe's Order, it is the intent of this Order to clarify and approve all aspects of the existing boat rack setup. Pursuant to B.C.Z.R. Section 417.7, two (2) boat high racks are required to be setback from a residential zone by 30-feet and three (3) boat high racks need to be setback from a residential zone by 60-feet. The two level high boat racks as shown have a setback of 22-feet on the plan and the three level high boat racks are setback 25-feet.⁶ This property and its configuration have been previously found unique in Case No. 04-046-SPHXA. I remain of the belief that this property is unique, due to the configuration of the property, and that this uniqueness confers a practical difficulty upon the owners. The boat storage is laid out on the plan in the optimal way to allow for heavy equipment to properly maneuver boats around this unique site. I believe that the granting of this variance will not cause any detriment to the public safety or welfare. I also find it appropriate because the setback is measured in this case to the center of Cuckold Point Road and not to any residential property line, and so has additional distance from the nearest residential lot. For those reasons, I believe

⁶ The area of the property on which the boat racks are located does not directly abut any residentially zoned property. The zoning line is located in the roadbed of Cuckold Point Road and 5th Street.

this variance should be granted.

In addition to approval to amend the prior approved plans, incorporate the setup for the boat yard and rack storage and approve relief as may be required as to area and bulk regulations, it is also the intent of this Order to formally approve the relocation of the Poleski lot line to reflect division of the strip between the parties. As referenced hereinabove, this conveyance increased the amount of property now owned by the Poleskis which will be used in connection with their boat yard and rack storage operation. Through this Order, that configuration and lot line relocation are deemed approved.

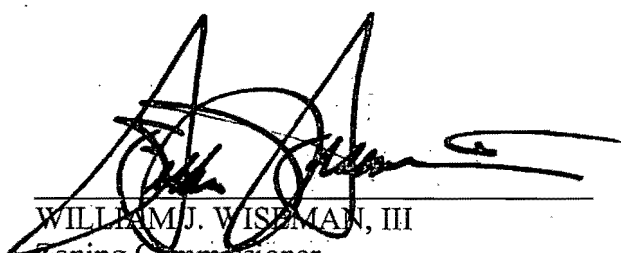
Based upon the testimony and evidence presented, I am persuaded to grant relief in order to incorporate the parties' Settlement Agreement and hopefully end the dispute between them. It is the intent of this decision and the Order which follows to approve the Poleskis boatyard operation and Out-of-Water Storage Facility, Class-B, all as more particularly shown on the site plan marked as Petitioners' Exhibit 1 and the comments made herein.

I therefore find that the use (Boatyard/Out-of-Water Storage Facility, Class-B), accessory structures and location thereof on the site is appropriate and in compliance with all applicable County regulations and the B.C.Z.R. This includes, but is not limited to, the boatyard operation, the Out-of-Water Storage Facility, Class-B (boat racks), the vehicular parking arrangements, the piers and water slips and the accessory structures/uses as shown on the site plan for the eight (8) lots owned by the Poleskis. I am pleased that the parties have been able to reach a settlement in this matter which will hopefully allow each party to use their respective properties without interference from the other.

Pursuant to the Order of Remand, dated June 22, 2010, from Judge Barbara K. Howe and the public hearing held thereon; and

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 20th day of October, 2010, that a Special Exception to allow expansion of the area for the Class B Out-of-Water Storage Facility; a Special Hearing to approve an amendment of the prior plans as provided herein, and a Variance from area and setback regulations to allow the Class B Out-of-Water Storage Facility, in accordance with Petitioners' Exhibit 1, be and are hereby GRANTED.

In accordance with Baltimore County Code (B.C.C.) Section 32-3-401, any appeal from this Order shall be filed within thirty (30) days of the date of this Order.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

IN THE MATTER OF
THE APPLICATION OF
ROBERT P. POLESKI AND MICHAEL J.
POLESKI; ESTATE OF ROSE SAPPERSTEIN
FOR SPECIAL HEARING ON PROPERTY
LOCATED ON THE SE/COR OF CUCKOLD
POINT ROAD AND 4TH STREET
(9033 CUCKOLD POINT ROAD)
15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH

*

* * * * *

ORDER OF THE BOARD OF APPEALS ON THE
REMAND ORDER FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

This matter comes before the Board on remand by Order of Judge Barbara Kerr Howe,
Circuit Court for Baltimore County, filed June 22, 2010, in which Judge Howe orders as follows:

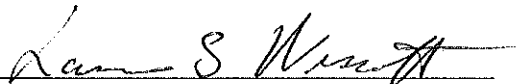
"**ORDERED**, that the matters that are the subject of Case Nos.: 03-C-08-00949 and 03-C-08-004410 (i.e. Petitions for Judicial Review of the written opinion and orders of the County Board of Appeals for Baltimore County) be and are hereby remanded to the County Board of Appeals of Baltimore County; and

IT IS FURTHER ORDERED, that the County Board of Appeals of Baltimore County shall further remand these matters to the Zoning Commissioner for Baltimore County for him to conduct a public hearing on petitions for zoning relief as may be required in compliance with the Mutual Release and Settlement Agreement, so as to legitimize the Poleski's present use of their property known as 9033 Cuckold Point Road as a boatyard and associated/accessory use and permit the expansion of same on a 15-foot wide strip of land formerly known as the bed of Fifth Street, an unimproved paper road."

IT IS THEREFORE this 20th day of August, 2010, by the County Board of Appeals of Baltimore County

ORDERED that, consistent with the Remand Order of the Honorable Barbara Kerr Howe, Judge, Circuit Court for Baltimore County, filed on June 22, 2010; the matter before the Board of Appeals in case number 06-102-SPH, is hereby REMANDED to the Zoning Commissioner for the purposes established.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Panel Chair


Wendell H. Grier


Robert W. Witt



County Board of Appeals of Baltimore County

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AUG 20 2010

August 20, 2010 People's Counsel
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RE: *In the Matter of: Robert Poleski and Michael Poleski – Petitioners*
Case No.: 06-102-SPH

Dear Counsel:

Enclosed please find a copy of the Order of the Board of Appeals on Remand from the Circuit Court for Baltimore County issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. 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,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Original Cover letter

c: Sebastian Cross, Esquire
Edward Stein, Personal Representative for the Estate of Rose Sapperstein
Thomas F. McDonough, Esquire
Office of People's Counsel
Arnold F. "Pat" Keller, III, Director/Planning
Michael Mohler, Deputy Director/PDM
John E. Beverungen, County Attorney
Robert Poleski and Michael Poleski
Lawrence J. Thanner, Jr.
William J. Wiseman, III, Zoning Commissioner
Timothy M. Kotroco, Director/PDM
Nancy C. West, Assistant County Attorney

MICHAEL POLESKI, et al.

Plaintiffs/Counter-Defendants

v.

LAWRENCE THANNER, et al.

Defendants/Counter-Plaintiffs

* IN THE

* CIRCUIT COURT

* FOR

* BALTIMORE COUNTY

*

* Case No.: 03-C-08-012680 QT

* * * * *

JOINT MOTION FOR REMAND

WHEREAS, that this matter comes before the Court on Petitions for Judicial Review of the written opinions and orders of the County Board of Appeals of Baltimore County (hereinafter "Board") dated December 28, 2007 and March 18, 2008. The matter was before the Board on a de novo appeal of a decision of the Zoning Commissioner of Baltimore County, wherein a Petition for Special Hearing was granted to expand a previously approved boatyard/Class B Out of Water Boat Storage operation on March 29 2006. The relief granted by the Zoning Commissioner related to the use of a portion of the unimproved bed of Fifth Street, adjacent to Cuckold Point Road in Millers Island, Baltimore County (hereafter known as the "Disputed Property"). The zoning relief which was granted was requested by Michael Poleski and Robert Poleski (hereinafter collectively "Poleski"), who own adjacent property which is operated as a boatyard operation known as Bill's Boats. The Poleski's request was opposed by Lawrence Thanner, Jr. and Fifth Street, LLC (hereinafter collectively "Thanner"), owners of adjacent property on which is operated a restaurant known as the Dock of the Bay. Following the Zoning Commissioner's approval, an appeal thereof was filed by Thanner to the Board. The Board conducted a de novo hearing and denied the Poleski's Petition, based upon claims of disputed ownership of the Disputed Property. The Board's denial was contained in a written Opinion and Order issued by it on December 28, 2007. Following the issuance of the December 28, 2007

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opinion and order, cross Motions for Reconsideration were filed by the parties to the Board. The Board, by a 2-1 decision, denied the Motions for Reconsideration and thereafter cross appeals (i.e. Petitions for Judicial Review) were filed of the Board's decisions to this Honorable Court by the parties; and

WHEREAS, the appeal of the Board's decision of December 28, 2007 was docketed as Case No.: 03-C-08-00949 and the appeal of the Board's decision of March 18, 2008 (which adopted, in part, the decision of December 28, 2007) was docketed as Case No.: 03-C-08-004410; and,

WHEREAS, that these appeals were subsequently consolidated, at the joint request of the parties by this Honorable Court, and docketed as Case No.: 03-C-08-004410; and,

WHEREAS, in addition to the Petitions for Judicial Review of the administrative opinions and orders issued by the Board, the parties subsequently instituted further litigation against each other regarding the Disputed Property. This civil litigation included claims and counter-claims under the theories of adverse possession, intentional interference with contract, trespassing, etc.; all identified through a series of pleadings filed in Case No.: 03-C-08-012680 QT; and,

WHEREAS, that, at the request of the parties, the Court has consolidated those Petitions for Judicial Review/Administrative Appeals (Case No.: 03-C-08-00949 and Case No.: 03-C-08-004410) with the litigation/claims in Case No.: 03-C-08-012680 QT under Case No. 03-C-08-012680 QT; and,

WHEREAS, following extensive negotiations and discussions between the parties, the parties have entered into a Mutual Release and Settlement Agreement (attached hereto as Exhibit A and hereinafter known as the "Agreement") whereby all of their disputes and claims against one another involving the ownership and use of the Disputed Property giving rise to their claims

are resolved and addressed. That the Agreement requires, in part, that the ownership of the disputed property be divided between them, that the property thereafter be used in a manner agreed and that certain money be paid by Poleski to Tanner, all as more fully set forth in the Agreement. Further, that as part of the Agreement, the parties agree to request that this Honorable Court remand the matters which are the subject to the Petitions for Judicial Review/Administrative Appeals to the Board, for further proceedings as set forth herein below, in that the disputed ownership issue upon which the Board relied in denying the Petition has been resolved; and,.

WHEREAS; that the remand requested shall direct that the Board further remand these matters to the Office of the Zoning Commissioner of Baltimore County; for the Zoning Commissioner to take such further action, including the convening of a public hearing, to readopt his findings, so as to permit the operation of a boatyard and storage of boats on that part of the property to be owned by Poleski in accordance with the Agreement of the parties, and the continuation of the boat yard on the Poleski property adjacent to the disputed property.

NOW WHEREFORE, the parties jointly request;

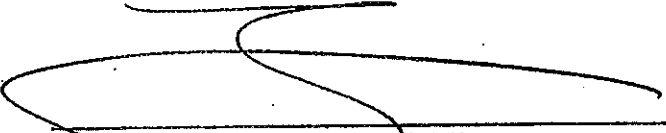
- A) That the matters in Case No.: 03-C-08-00949 and Case No.: 03-C-08-004410 be remanded to the County Board of Appeals of Baltimore County; with instructions that the Board further remand these matters to the Zoning Commissioner for Baltimore County, for further proceedings as described herein; and,
- B) That the Zoning Commissioner be further directed to conduct a public hearing and grant such zoning relief as, in his judgment, is required to implement the terms of the Agreement between the parties, in order to facilitate and allow the operation of a boatyard and storage of boats on the Poleski property (including

the portion of the disputed property to be acquired by them pursuant to the Settlement Agreement between the parties); and,

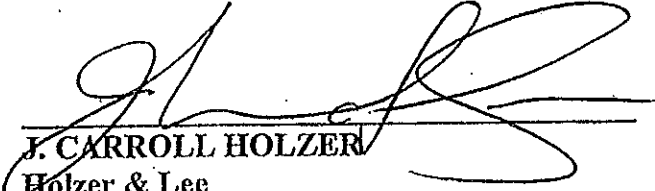
C) That the terms and conditions of the Agreement be incorporated in the Court's Order of Remand, as if fully set forth herein; and,

D) For such other and further relief as the nature of these cases may require.

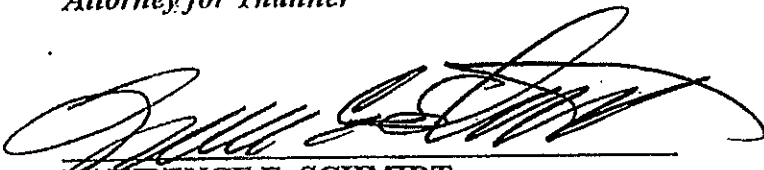
APPROVED AS TO CONTENT AND FORM:



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MICHAEL POLESKI, et al.

Plaintiffs/Counter-Defendants

v.

LAWRENCE THANNER, et al.

Defendants/Counter-Plaintiffs

* IN THE

* CIRCUIT COURT

* FOR

* BALTIMORE COUNTY

*

* Case No.: 03-C-08-012680 QT

* * * * *

ORDER

Upon the Joint Motion for Remand filed by all parties herein it is this 22nd day of

June, 2010,

ORDERED, that the matters that are the subject of Case Nos.: 03-C-08-00949 and 03-C-08-004410 (i.e. Petitions for Judicial Review of the written opinion and orders of the County Board of Appeals for Baltimore County) be and are hereby remanded to the County Board of Appeals of Baltimore County; and

IT IS FURTHER ORDERED, that the County Board of Appeals of Baltimore County shall further remand these matters to the Zoning Commissioner for Baltimore County for him to conduct a public hearing on petitions for zoning relief as may be required in compliance with the Mutual Release and Settlement Agreement, so as to legitimize the Poleski's present use of their property known as 9033 Cuckold Point Road as a boatyard and associated/accessory use and permit the expansion of same on a 15-foot wide strip of land formerly known as the bed of Fifth Street, an unimproved paper road.

Barbara Kerr Howe
Judge

True Copy Test
RICHARD D. ARNOLD, JR., Clerk
Per Bathy McLean
Assistant Clerk

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

This **MUTUAL RELEASE AND SETTLEMENT AGREEMENT** ("Agreement") is made this 8th day of June, 2010, by **MICHAEL POLESKI** and **ROBERT POLESKI** (collectively the "Poleskis"), parties of the first part, and **LAWRENCE J. THANNER, JR.** ("Thanner") and **FIFTH STREET, LLC** ("Fifth Street"), parties of the second part, and the **ESTATE OF ROSE SAPPERSTEIN** (the "Estate"), party of the third party.

RECITALS

WHEREAS, Thanner and the Poleskis have disputed ownership of a strip of land approximately 30 feet wide, shown as an extension of Fifth Street on the revised plat of Swann Point and recorded among the Plat Records of Baltimore County in Plat Book 9, Folio 5 (the "Disputed Property"); and

WHEREAS, the Poleskis and Thanner each own property adjacent and on either side of the Disputed Property, which is used for certain respective commercial uses and other purposes related thereto by them; and,

WHEREAS, Thanner acquired the Estate of Rose Sapperstein's rights to the Disputed Property by Deed dated June 6, 2008 and recorded among the Land Records of Baltimore County at Liber 27082, Folio 373; and

WHEREAS, the Poleskis have filed a lawsuit in the Circuit Court for Baltimore County, identified as *Poleski, et al. v. Thanner, et al.*, Case No. 03-C-08-012680 QT, claiming ownership of the Disputed Property on the basis of, *inter alia*, adverse possession, and Thanner has counterclaimed for, *inter alia*, trespass; and

WHEREAS, the Estate is a named Defendant in the aforesaid litigation initiated by the Poleskis and denies liability as to the claims asserted therein; and

WHEREAS, the Poleskis, Thanner and the Estate seek to resolve the disputes between them; and

WHEREAS, the Poleskis seek to release any claim they may have against Thanner, Fifth Street or the Estate, and Thanner, Fifth Street and the Estate seek to release any claim they may have against the Poleskis.

NOW, THEREFORE, it is agreed by the parties, for good and valuable consideration, as follows:

1. Thanner and the Poleskis will equally divide the Disputed Property in a linear fashion so that Thanner and the Poleskis each own the 15 feet of Disputed Property adjacent to their respective properties. The new line of division will be a straight line running perpendicularly from Cuckold Point Road to the water.

2. The Poleskis will pay Thanner the sum of Ten Thousand Dollars (\$10,000.00) in five equal monthly installments of Two Thousand Dollars (\$2,000.00), the first such installment being due 30 days from the date of this Agreement. That no interest shall be payable on said sum.

3. The above-referenced lawsuit (Case No. 03-C-08-012680 QT), including all claims and counter demands asserted therein, will be dismissed with prejudice.

4. The division referenced in paragraph 1 hereof shall be effected by the execution of a deed by Thanner conveying the 15 feet of the Disputed Property to the Poleskis. Thanner, at his expense, will retain the surveying firm of Morris & Ritchie Associates to perform a survey dividing the Disputed Property and providing a metes and bounds description to be utilized in the deed conveying one-half of the Disputed Property to the Poleskis and for use as might be necessary in a road closing proceeding as described in paragraph 5 herein below.

5. The Poleskis, at their expense, will undertake a proceeding to close the Disputed Property with respect to any claim by the public, i.e., to eliminate any claim that any member of the public might assert by virtue of rights accorded to members of the Swann Point community arising in the Disputed Property's chain of title. That said road closing proceeding pursuant to Baltimore County Code Title 18, Subtitle 3 and other applicable provisions of law. Upon the request of the attorney representing the Poleskis at the road closing hearing, Thanner shall provide written support and/or testimony at such proceeding.

6. Within ninety (90) days of the date the survey is completed, the Poleskis will relocate, at their expense, the existing fence on the Disputed Property to the dividing line established by the Morris & Ritchie survey previously referenced.

7. That the parties to this Agreement are also parties in a collateral matter before the Court; to wit; certain Petitions for Judicial Review (Case No. 03-C-08-004410 & Case No. 03-C-08-00949) consolidated as Case No. 03-C-08-004410. That said case arises as an appeal of a decision by the County Board of Appeals of Baltimore County on certain zoning approvals sought by the Poleskis. That said decision denied the zoning approvals sought by Poleskis to extend the boatyard operation, including but not limited to, the storage of watercraft on boat racks from the Poleskis property onto the Disputed Property. That Thanner and the Estate agree not to oppose the boatyard operation and the Poleskis' administrative requests to utilize their 15 foot portion of the Disputed Property as a part of the boatyard operation with two level high boat racks in the Disputed Property and will not oppose (either directly or indirectly) any procedural or substantive efforts to accomplish the aforesaid. Thanner agrees to join in a motion to remand the matter to the zoning commissioner due to the jurisdictional issues surrounding the ownership of the Disputed Property throughout the administrative process. Thanner also agrees to not oppose, either directly or indirectly, Poleskis' efforts to obtain the requisite governmental approvals for the land uses described hereinabove before any tribunal of competent jurisdiction.

8. Thanner, Fifth Street, and any other entity wholly or partially owned by Thanner, shall not ask or encourage Baltimore County, the State of Maryland and/or the federal government to fine, cite, assess, inspect and/or penalize the Poleskis based upon the operation and/or location of the boatyard and boat racks, so long as such boatyard operation is confined to the Poleskis' property.

9. The Poleskis, on behalf of themselves and their agents, representatives, successors, predecessors, heirs, assigns and trustees, hereby release and discharge Thanner, Fifth Street and the Estate, his/its agents, representatives, successors, predecessors, heirs, assigns and trustees, from any liability, causes of action, proceedings, demands, suits, damages, claims of demand, whether based upon alleged breach of contract, negligent, reckless, or intentional conduct, known or unknown, of any nature whatsoever, in law or equity,

against Thanner, Fifth Street, and/or the Estate which the Poleskis have ever had from the beginning of the world to the date of this Agreement.

10. Thanner and Fifth Street, on behalf of himself and itself, and their agents, representatives, successors, predecessors, heirs, assigns and trustees, hereby release and discharge the Poleskis, their agents, representatives, successors, predecessors, heirs, assigns and trustees, from any liability, causes of action, proceedings, demands, suits, damages, claims of demand, whether based upon alleged breach of contract, negligent, reckless, or intentional conduct, known or unknown, of any nature whatsoever, in law or equity, against the Poleskis which Thanner and/or Fifth Street have ever had from the beginning of the world to the date of this Agreement.

11. The Estate, on behalf of itself and its agents, representatives, successors, predecessors, heirs, assigns and trustees, hereby release and discharge the Poleskis, their agents, representatives, successors, predecessors, heirs, assigns and trustees, from any liability, causes of action, proceedings, demands, suits, damages, claims of demand, whether based upon alleged breach of contract, negligent, reckless, or intentional conduct, known or unknown, of any nature whatsoever, in law or equity, against the Poleskis which the Estate has ever had from the beginning of the world to the date of this Agreement.

12. This Agreement is not intended, nor should it be construed to be, an admission or concession by any of the parties hereto of any wrongdoing or illegal or actionable conduct.

13. Each of the parties acknowledge that this Agreement is fair and reasonable and is not the result of fraud, duress, coercion, pressure, or undue influence exercised by either party upon the other and that each party has approved and/or entered into this Agreement and any related documents knowingly, freely and voluntarily. The parties represent and acknowledge that they have been adequately represented by counsel and that each and every term and condition of this Agreement has been fully explained to them.

14. Each party shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations and easements now or hereafter imposed by the provisions of this Agreement. Failure by such party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

15. This Agreement is binding upon all parties hereto, and the parties executing this Agreement represent that they have authority to sign the document and that such Agreement is a binding commitment on the part of the respective parties.

16. In the event that any provision of this Agreement is deemed unenforceable, the provisions deemed enforceable shall remain in full force and effect.

17. This Agreement contains the entire understanding of the parties regarding the subject matter of the Agreement and this Agreement may not be modified or assigned except in writing signed by all parties hereto.

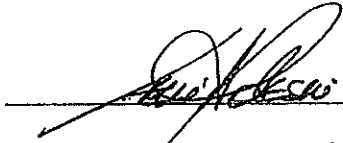
18. This Agreement has been drafted jointly by counsel for the respective parties and therefore any ambiguities herein shall not be construed for or against any party.

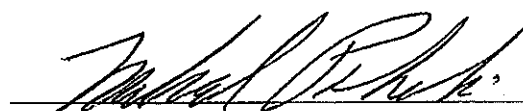
19. This Agreement may be executed in counterparts and also may be executed (i.e. delivered) by facsimile, which facsimile shall have the same force and effect as if it were an original.

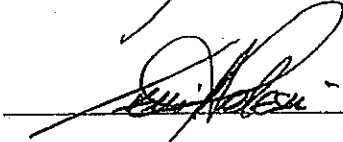
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURES APPEAR ON NEXT PAGE

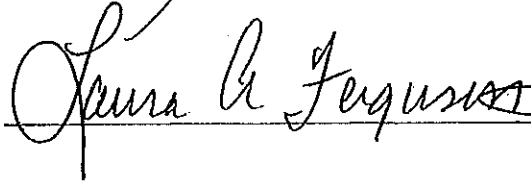
WITNESS:

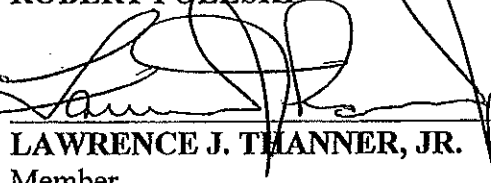



MICHAEL POLESKI

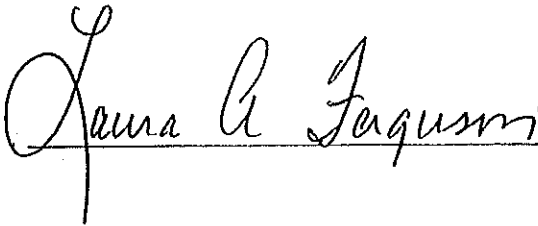


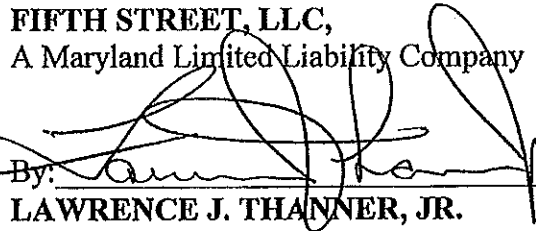
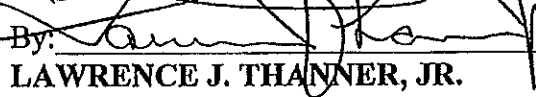

ROBERT POLESKI

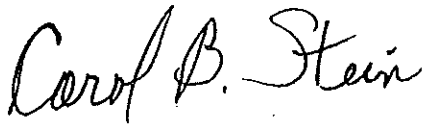



LAWRENCE J. THANNER, JR.
Member

FIFTH STREET, LLC,
A Maryland Limited Liability Company




By: 
LAWRENCE J. THANNER, JR.
Individually



ESTATE OF ROSE SAPPERSTEIN

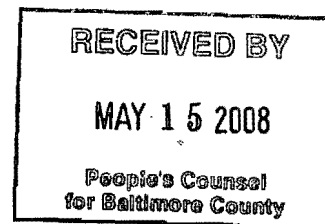

By: 
EDWARD STEIN, Personal Representative
of the Estate of Rose Sapperstein

5/15/08

PMZ

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
FIFTH STREET, LLC, AND LAWRENCE
THANNER, JR., MANAGING MEMBER, AND
LAWRENCE THANNER, JR., INDIVIDUALLY
c/o J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286



FOR JUDICIAL REVIEW OF THE
DECISION OF:

THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

CIVIL ACTION
No. 03-C-08-4410

IN THE MATTER OF
THE APPLICATION OF
ROBERT P. AND MICHAEL J. POLESKI -
PETITIONERS FOR SPECIAL HEARING
AND MOTION FOR RECONSIDERATION
ON PROPERTY LOCATED AT
9033 CUCKOLD POINT ROAD
15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

Board Of Appeals Case No.: 06-102-SPH

* * * * *

CROSS-PETITION 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 Cross Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

J. Carroll Holzer, Esquire
Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286

Lawrence J. Thanner
9025 Cuckold Point Road, Baltimore, MD 21219

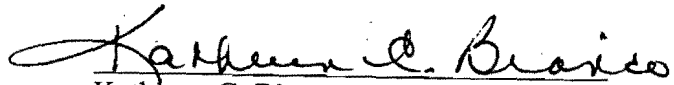
**Cross Petition of Fifth Street, LLC, and Lawrence J. Thanner
In the Matter of: Robert P and Michael J. Poleski /Sapperstein
CBA Case No. 06-102-SPH /Civil Action No. 03-C-08-4410**

Lawrence E. Schmidt
Gildea and Schmidt, LLC, 600 Washington Avenue
Suite 200, Towson, MD 21204

Robert Poleski and Michael Poleski
9033 Cuckold Point Road, Baltimore, MD 21219

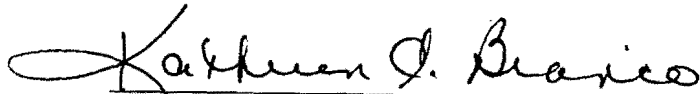
Peter Max Zimmerman, People's Counsel for Baltimore County and
Carole S. Demilio, Deputy People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue, Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Kathleen C. Bianco, Administrator
County Board of Appeals, Suite 203
The Jefferson Building, 105 W. Chesapeake Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to J. Carroll Holzer, Esquire, HOLZER AND LEE, 508 Fairmount Avenue, Towson, MD 21286; Lawrence J. Thanner, 9025 Cuckold Point Road, Baltimore, MD 21219; Lawrence E. Schmidt, GILDEA AND SCHMIDT, LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204; Robert Poleski and Michael Poleski; 9033 Cuckold Point Road, Baltimore, MD 21219; Peter Max Zimmerman, People's Counsel for Baltimore County and Carole S. Demilio, Deputy People's Counsel, The Jefferson Building, Suite 204, 105 W. Chesapeake Avenue, Towson, MD 21204, this 14th day of May, 2008.



Kathleen C. Bianco, Administrator
County Board of Appeals, Suite 203
The Jefferson Building, 105 W. Chesapeake Avenue
Towson, MD 21204 (410-887-3180)

4/29/08

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:

ROBERT P. POLESKI & MICHAEL J. POLESKI
9033 Cuckold Point Road
Baltimore, MD 21219

FOR JUDICIAL REVIEW OF THE
DECISION OF:

THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

IN THE MATTER OF
THE APPLICATION OF
ROBERT P. AND MICHAEL J. POLESKI -
PETITIONERS FOR SPECIAL HEARING
AND MOTION FOR RECONSIDERATION
ON PROPERTY LOCATED AT
9033 CUCKOLD POINT ROAD
15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

Board Of Appeals Case No.: 06-102-SPH

CIVIL ACTION
No. 03-C-08-4410

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:

Lawrence E. Schmidt
Gildea and Schmidt, LLC, 600 Washington Avenue
Suite 200, Towson, MD 21204

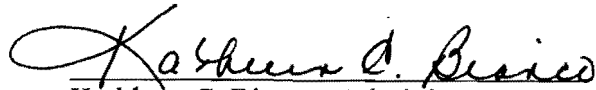
Robert Poleski and Michael Poleski
9033 Cuckold Point Road, Baltimore, MD 21219

J. Carroll Holzer, Esquire
Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286

Lawrence J. Thanner
9025 Cuckold Point Road, Baltimore, MD 21219

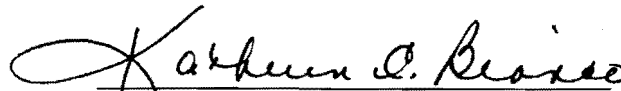
Peter Max Zimmerman, People's Counsel for Baltimore County and
Carole S. Demilio, Deputy People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue, Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Kathleen C. Bianco, Administrator
County Board of Appeals, Suite 203
The Jefferson Building, 105 W. Chesapeake Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Lawrence E. Schmidt, GILDEA AND SCHMIDT, LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204; Robert Poleski and Michael Poleski; 9033 Cuckold Point Road, Baltimore, MD 21219; J. Carroll Holzer, Esquire, HOLZER AND LEE, 508 Fairmount Avenue, Towson, MD 21286; Lawrence J. Thanner, 9025 Cuckold Point Road, Baltimore, MD 21219; Peter Max Zimmerman, People's Counsel for Baltimore County and Carole S. Demilio, Deputy People's Counsel, The Jefferson Building, Suite 204, 105 W. Chesapeake Avenue, Towson, MD 21204, this 29th day of April, 2008.



Kathleen C. Bianco, Administrator
County Board of Appeals, Suite 203
The Jefferson Building, 105 W. Chesapeake Avenue
Towson, MD 21204 (410-887-3180)



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

April 29, 2008

Lawrence E. Schmidt, Esquire
GILDEA & SCHMIDT LLC
600 Washington Avenue – Suite 200
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-08-4410
Petition for Judicial Review
Robert P. Poleski and Michael J. Poleski
Board of Appeals Case No. 06-102-SPH

Dear Mr. Schmidt:

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 that you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

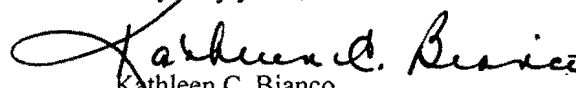
CAROLYN PEATT
TELEPHONE: 410-486-8209

DATES:
September 25, 2007
September 26, 2007

This office has also notified Ms. Peatt that a transcript on the above captioned matter is due by **June 18, 2008**, for filing in the Circuit Court.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,


Kathleen C. Bianco
Administrator

Enclosure

c: Carolyn Peatt, Court Reporter
Robert P. Poleski and Michael J. Poleski
J. Carroll Holzer, Esquire
Office of People's Counsel



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

April 29, 2008

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RECEIVED BY

APR 29 2008

for Baltimore County

Circuit Court Civil Action No. 03-C-08-4410

Petition for Judicial Review

Robert P. Poleski and Michael J. Poleski
Board of Appeals Case No. 06-102-SPH

Dear Mr. Holzer:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on April 15 2008, 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. 03-C-08-4410.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Lawrence Thanner
Lawrence E. Schmidt, Esquire
Robert P. Poleski and Michael J. Poleski
Thomas Hoff
Jack Shear
Sheri Hipsley
Office of People's Counsel
William J. Wiseman, Zoning Commissioner
Pat Keller, Planning Director
Mike Mohler, Code Enforcement /PDM
Timothy Kotroco, Director/PDM

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>THE ESTATE OF ROSE SAPPERSTEIN;</u>	*	
<u>ROBERT P. POLESKI AND MICHAEL J.</u>	*	OF
POLESKI - PETITIONERS	*	
FOR SPECIAL HEARING ON PROPERTY	*	BALTIMORE COUNTY
LOCATED AT 9033 CUCKOLD POINT ROAD	*	
15 th ELECTION DISTRICT	*	Case No. 06-102-SPH
7 th COUNCILMANIC DISTRICT	*	

* * * * *

MAJORITY RULING ON MOTION FOR RECONSIDERATION

Robert P. Poleski and Michael J. Poleski, co-Petitioners, by Lawrence E. Schmidt, Esquire, and GILDEA & SCHMIDT, LLC, their attorneys, filed a Motion for Reconsideration of the Opinion and Order of the Board of Appeals from a decision dated December 28, 2007. This Motion was filed on January 24, 2008, and was considered timely filed by the Board. Protestant, Lawrence J. Thanner, by J. Carroll Holzer, Esquire, his attorney, filed a Motion for Reconsideration and Reply to Petitioners' Motion on February 7, 2008. Rule 10 of the Board's Rules of Practice and Procedure requires that a party file a Motion for Reconsideration of an Order of the Board of Appeals within 30 days after the date of the original Order. Therefore, the Board denied the Motion for Reconsideration filed by Protestants as being untimely filed. However, the Board considered Protestants' Reply to the Motion.

Public deliberation was held on the Motion on February 14, 2008. A Majority of the Board panel, members Wescott and Grier, voted to deny the Motion for Reconsideration filed by Petitioners. Member Witt dissented from that opinion and would reopen the hearing to consider additional testimony.

Argument

In its original decision, the Board refused to approve a special hearing to allow the property in question to be added to the Poleskis' property in order to construct a Class B out of water storage facility. It based its decision in part on the fact that the strip of property in

question was the bed of Fifth Street in the original development of Swann Point. Both sides presented experts during the hearing stating their positions with respect to the right of lot owners in the Swann Point development to use Fifth Street by way of easement. The expert for the Petitioners was of the opinion that the easement of the lot owners had been extinguished for a lack of use. The expert for the Protestants rendered an opinion that the right of the lot owners to use the easement over Fifth Street had not been extinguished. The rights of easement were given to the lot owners by the Deed from Hart Miller Islands Company to Frederick W. Hoffman and Wife, recorded March 7, 1925 in the Land Records of Baltimore County and was referred to in the Deed from Joseph M. Hranicka to Fifth Street, LLC, dated March 10, 1999. Mr. Thanner, Protestant herein, is the principal owner of Fifth Street, LLC. While the Board would ordinarily decide a question of a special exception or variance with respect to a large piece of property through which an easement was given, where the sole property in question covers the easement which is alleged by the Protestants, the Board felt that it could not grant the special exception while the issue of who is entitled to use the easement was outstanding. The Board was of the opinion that it had no jurisdiction to decide the issue of the use of the easement and therefore it refused to rule on the special exception with respect to the easement until such time as the Circuit Court shall determine who has the right to use that easement.

Petitioners assert that the question regarding the public's right to access on the property in question has already been decided in the case of *Baltimore County, Maryland v Allan J. Godlewski, et al*, in the Court of Appeals of Maryland, September Term 1995, # 125 and 126, filed June 6, 1997. This case was not presented to the Board by Petitioners in the presentation of their original case. However, the Board reviewed the case.

In the *Godlewski* case, the land in question was one of the 12 road ends terminating at the waters of Hawk Cove at the mouth of Back River. The strip of land was known as Fourth Street and was adjacent to the property owned by the Godlewskis. On March 21, 1991, Rose

Sapperstein and the White Eagle Polish American Building and Loan Association of Baltimore City, Inc., deeded the Fourth Street road end to the Godlewskis. Fearing a termination of their access to Hawk Cove after the sale of the Fourth Street road end, local homeowners petitioned County officials for the condemnation of all 12 road ends to preserve access to Hawk Cove by residents for emergency purposes, for flood control, and for recreational use. Thereafter, the County agreed to the condemnation of the road ends between First and Twelfth Streets. The case in the Circuit Court in the *Godlewski* case held that there was no necessity for the condemnations, and found that there were other means of access to the water which the public could utilize. The Court of Appeals, however, felt that the question of whether there is a necessity for a particular condemnation is primarily for the legislative and/or executive branches of government. It upheld the right of the County to condemn Fourth Street for the use of the public.

In the opinion of the Board, this case does not resolve the issue as to whether or not the property owners have the right of easement over the Fifth Street property in question. The *Godlewski* case involved condemnation of Fourth Street and did not cover Fifth Street. In addition, there was no finding that the property owners in the Swann Point area could not utilize the easement over Fifth Street; therefore, the Board upholds its original decision based upon the question of easement rights over Fifth Street.

Petitioners also state that the Deed identified by the Protestants as conferring the right of others to use the strip is not in the chain of title of either the Poleski or Thanner lots, an issue that should be presented to the Circuit Court for determination as to the easement rights of the lot owners in Swann Point. Protestants contend that the Deed from Miller Island Company to Frederick Hoffman dated March 20, 1925 and recorded WPC 610, Folio 229, is within the chain

of title of the Thanner lots and therefore they would be entitled to utilize the easement. Again, this is a question for the Circuit Court to determine.

As their third point, Petitioners state that the Board improperly found that a zoning variance was required to grant the special exception to amend the special exception and site plan approved in prior Case No. 04-046-SPHXA, to encompass the expansion of the area used for Class B out of water storage facility. The Board found that the acreage of the land in question was 0.21 acre and that this was considerably less than the 2 acres required for the construction of a Class B out of water storage facility under § 417.7B of the *Baltimore County Zoning Regulations* (BCZR). Protestants had contended that the proper zoning for the Poleskis' boatyard should have been Business Maritime Marina (BMM) or Business Maritime Boatyard (BMB). If that were the case, the Zoning Commissioner could not permit a variance of more than 20 percent of the minimum acreage for such facilities, which require at least 5 acres. The Board found that the zone allows the construction of a boatyard and that the only restriction on a Class B out of water storage facility is the restriction that it must be on a 2-acre piece of property if the boat racks are two boats high. The proposed Class B outdoor water storage facility is located on the 0.21 acre piece of property and does not meet the 2-acre requirement. Even if the land of Fifth Street, which encompasses 0.21 acre, were added to the marina side of the Petitioners' boatyard, this would only amount to 1.64 acres at the most, and would also not meet the 2-acre requirement. The Board is of the opinion that, even though the Zoning Commissioner in Case No. 04-046-SPHXA granted the special exception in that case, this Board is not obligated to automatically tack on an additional 0.21 acre to the undersized boatyard which was the subject of that special exception. The boatyard would still be undersized. The Majority feels that it was correct in its original decision to refuse to add the property in question to the original special exception, particularly because no variance was requested. It will deny the Motion for Reconsideration.

ORDER

FOR THE ABOVE REASONS, IT IS THEREFORE THIS 18th day of
March, 2008 by the County Board of Appeals of Baltimore County

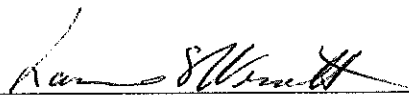
ORDERED that the Motion for Reconsideration filed by the Petitioners herein to approve the special hearing seeking approval of an amendment to the special exception on the site plan approved in Case No. 04-046-SPHXA and for an expansion of the area used for Class B out of water storage facility be and is hereby **DENIED**; and it is further

ORDERED that Motion for Reconsideration filed by the Protestants herein be and is hereby **DENIED** as being untimely; and it is further

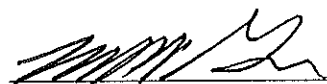
ORDERED that the previous Order of the Board dated December 28, 2007 be and is hereby **AFFIRMED**.

Any Petition for Judicial Review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Panel Chair



Wendell H. Grier

IN THE MATTER OF
THE APPLICATION OF
THE ESTATE OF ROSE SAPPERSTEIN;
ROBERT P. POLESKI AND MICHAEL J.
POLESKI - PETITIONERS
FOR SPECIAL HEARING ON PROPERTY
LOCATED AT 9033 CUCKOLD POINT ROAD
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH

* * * * *

DISSENTING OPINION /Motion for Reconsideration

This matter came before the Board of Appeals of Baltimore County as a Motion for Reconsideration pursuant to Rule 10 – Motion for Reconsideration – of the Rules of Practice and Procedure of the Baltimore County Board of Appeals effective May 30, 2005. The Motion was timely filed by Lawrence E. Schmidt, Esquire, on January 24, 2008, on behalf of co-Petitioners Robert P. Poleski and Michael J. Poleski. The Motion requested the Board to reconsider its Order dated December 28, 2007, denying Petitioners' Petition for approval of an amendment to the special exception and site plan approved in Case No. 04-046-SPHXA. A Response to the Petitioners' Motion for Reconsideration was filed on February 7, 2008, by J. Carroll Holzer, Esquire, on behalf of Protestant Lawrence J. Thanner, Jr. A public deliberation was held by the Board on Thursday, February 14, 2008, at 9:30 a.m. to consider the Motion for Reconsideration. By a vote of two to one, the Board denied the Motion for Reconsideration. This opinion is to explain my reason for casting the vote for approval of the Motion.

The Petition before the Board concerned two issues: Do the Petitioners have exclusive right to use the 30-foot wide paper strip known as Fifth Street after the purchase from the Estate of Rose Sapperstein; and can the Petitioners use the 30-foot wide strip as an out-of-water storage facility.

As to the first issue of exclusive use of the 30-foot strip, the Board ruled that the Petitioners' exclusive use of Fifth Street is not within the jurisdiction of the Board to decide but rather for the Circuit Court, and denied Petitioners' request.

As to the second issue, the Board ruled that the use of the 30-foot strip as an out-of-water storage facility required a variance, and, because a variance was not requested, the Petition was denied.

Mr. Schmidt, in his Motion for Reconsideration, cites two cases that I believe have bearing on the Board's decision and warrant reconsideration.

The first is Case No. 126, *Baltimore County, Maryland, v. Allan J. Godlewski, et al*, in the Court of Appeals of Maryland. It concerned a parcel of land 30 feet wide and 144 feet deep in the same community of Millers Island as the Poleskis' property. On March 21, 1991, Rose Sapperstein and the White Eagle Polish American Building and Loan Association of Baltimore City deeded the strip known as Fourth Street to the Godlewskis. The strip is adjacent to the Godlewskis' lots, #61 and 62, and is on the north side of Cuckold Point Road toward Hawk Cove. The Godlewskis desired to acquire and use the strip in conjunction with and part of Lots 60 and 61, which they owned. Local homeowners, fearing the termination of their access to Hawk Cove, petitioned County officials for the condemnation of 12 road-ends to preserve access to Hawk Cove. The County filed a Petition for Condemnation of the Fourth Street road-end in the Circuit Court for Baltimore County. The Circuit Court denied the Petition. Baltimore County filed a timely appeal in the Court of Special Appeals. Ultimately, the Court of Appeals reversed the decision of the Circuit Court and permitted the condemnation to proceed. Mr. Schmidt concludes that "the Court would not have allowed Baltimore County to condemn these strips for public use and enjoyment as a public park if the public's right to use the strip already

existed under the deed.” Mr. Schmidt further states, “The right to use this strip by members of the public, other than the owner, has been repudiated by the highest Court in the state.”

In my opinion, this case mirrors the Petitioners’ request to the use of Fifth Street. If the Protestant feels that his right to use Fifth Street as a public access street is being lost as the result of the Petitioners using it as an extension of their adjoining property, the burden of proof is on the Protestants to file a Petition for Judicial Review in the Circuit Court. We have been advised that the Protestant filed a petition to the Circuit Court on January 24, 2008.

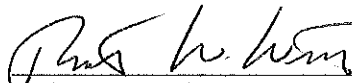
Based on the similarities of the Poleski and Godlewski cases, it is my opinion that reconsideration of the Board’s decision denying Petitioners’ request on the basis of the public’s use of Fifth Street would be in order. The ruling by the Court of Appeals in the *Godlewski* case established a basis on which the Board could have ruled on the merits of the Petitioners’ request for the amendment and not whether the public does or does not have a right of access to Fifth Street.

As to the second issue concerning the use of Fifth Street as an out-of-water storage facility, Mr. Schmidt, in his exhibit 3A of his Motion for Reconsideration, references Case No. 07-535-SPHXA, dated September 10, 2007, before the Deputy Zoning Commissioner for Baltimore County. The Petitioner, Genesis Health Care, requested a special hearing to approve an amendment to the previous special exception granted in the previous case to add a parking area to a previously approved assisted living facility. The request was granted. In his ruling, the Deputy Zoning Commissioner states: “I find that the proposed parking lot will be used as a component of the nursing home, in that it will be used only by Genesis employees and visitors as an addition or extension of the present parking at the facility and not for the public’s use or by any other business in the vicinity. Hence, the proposed parking lot is part and parcel of the previously approved special exception use.” We have a similar situation here as we had with the

Poleskis and the Godlewskis. The Poleskis requested an amendment to a previously approved facility to add an adjacent piece of land to that facility and expand their operation as an out-of-water storage facility. Genesis Health Care requested an amendment to add a parking facility to a previously approved health care facility. Genesis Health Care did not request a stand-alone parking facility, nor did the Poleskis ask for a stand-alone out-of-water storage facility, which would have required a variance.

Conclusion

My opinion is that the Motion for Reconsideration submitted on behalf of the Petitioners contains sufficient argument, based on the two cases cited, for the Board to convene a hearing to review the arguments presented and determine if they are relevant to the Poleskis' Petition. My vote to approve the Motion is not meant to be construed as a reflection on the merits of the Board's decision dated December 18, 2007. That Order was rendered based on the testimony and evidence presented at the 3 days of hearings. Said testimony and evidence did not include the two cases cited in Petitioners' Motion for Reconsideration.


Robert W. Witt
Dissenting Member, Board of Appeals

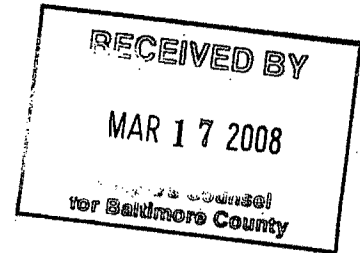
DATE: March 18, 2008



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 18, 2008



J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Estate of Rose Sapperstein; Robert P. Poleski
and Michael J. Poleski – Petitioners* Case No. 06-102-SPH

Dear Mr. Holzer:

Enclosed please find a copy of the final Ruling on Motion for Reconsideration issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of Mr. Witt's Dissenting Opinion.

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: Lawrence J. Thanner, Jr.
Sebastian Cross, Esquire
Lawrence E. Schmidt, Esquire
Jack Shear, P.R. /Est. of Rose Sapperstein
Robert P. Poleski
Michael J. Poleski
Thomas J. Hoff
✓ Sheri Hipsley
✓ Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Mike Mohler, Code Enforcement /PDM [Case No. 04-8710]
Timothy M. Kotroco, Director /PDM

12/28/07
IN THE MATTER OF
THE APPLICATION OF
ROBERT P. POLESKI AND MICHAEL J.
POLESKI; ESTATE OF ROSE SAPPERSTEIN
FOR SPECIAL HEARING ON PROPERTY
LOCATED ON THE SE/COR OF CUCKOLD
POINT ROAD AND 4TH STREET
(9033 CUCKOLD POINT ROAD)

15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH
*

* * * * *

OPINION

This case is an appeal to the Board from a decision of the Zoning Commissioner for Baltimore County (ZC) in which he granted a Petition for Special Hearing which sought approval of an amendment to the special exception and site plan approved in prior Case No. 04-046-SPHXA for an expansion of the area used for a Class B out of water storage facility in accordance with Petitioner's Exhibit #4. A hearing was held on October 25, 2006, September 25 and September 26, 2007. Petitioners were represented by Lawrence E. Schmidt, Esquire, and Sebastian Cross, Esquire. Protestants were represented by J. Carroll Holzer, Esquire. Briefs were filed on November 5, 2007 and public deliberation was held on December 6, 2007.

Background

Petitioners are Jack Shear, Personal Representative for the Estate of Rose Sapperstein, and Robert P. Poleski and Michael J. Poleski, Contract Purchasers, the owners of Bill's Boat Yard. The Petitioners filed a Petition for Special Hearing for the property located at 9033 Cuckold Point Road, presently zoned B.M. to approve "an amendment of previous special exception granted in Case No. 04-046-SPHXA for expansion of an area used for Class B out of water storage facility."

Petitioners, Poleski brothers, own an irregularly shaped waterfront parcel on property located on the southeast side of Cuckold Point Road and the east side of 5th Street in Miller's Island. The property contains a gross area of 1.95 acres +/- zoned B.M. and is comprised of five lots identified as Lots 506 through 510 of the subdivision known as Swan Point. Collectively, the property was previously split-zoned B.M. and D.R. 5.5; however, in 2000, the entire property was classified B.M. The bulk of the site fronts on Hawk's Cove and is improved with several buildings, including a one-story metal building, which is used as an office; a one-story shed and two single-family residences. The lot located across Cuckold Point Road, which is part of the site, is improved with a one-story building and is used as a workshop in association with the marina /boatyard operation.

The property in question is a 30-foot wide by 284-foot long paper road known as 5th Street comprising a gross area of 0.21 acre. It is currently owned by the Estate of Rose Sapperstein who was the surviving heir of the developers of the Swan Point development. The small piece of property is split-zoned B.M. and B.L. It is currently utilized by the Poleskis to store boats. They have constructed a wrought iron fence at the top of the property near Cuckold Point Road and a chain-link fence along the side of the property next to the Protestants' property. There is a question as to whether or not Bill's Boats and the Poleskis have utilized the strip in question for storage of boats for a number of years. However, this issue is not pertinent since there is no request for a nonconforming use with respect to the strip of land in question.

Protestant Lawrence J. Thanner is the owner of the Dock of the Bay Restaurant that borders on the east side of the strip of land in question. The Dock of the Bay and its previous owners have utilized a small portion of the land in question at the bottom of the property next to Hawk's Cove for a clam shed and other activities. The strip contains a right-of-way easement by

Baltimore County for the installation of sewer and water, as well as a right-of-way by BGE for the installation of power lines.

This matter began with variance relief granted by Deputy Zoning Commissioner Timothy Kotroco in Case No. 95-151-A, which allowed a proposed dwelling on Lot No. 510 in the Development of Swan Point. A subsequent case pertaining to this property (Case No. 98-3-SPH) was a special hearing to confirm and continue a pre-existing nonconforming use as a boatyard and to amend a previously approved site plan and to approve a modified parking plan. On December 11, 1997, then Commissioner Lawrence E. Schmidt found that a portion of Petitioner's property known as Lot 509 was designated as a nonconforming use for a boatyard /marina. He found Lot 510 was not designated as a nonconforming use and could not be used for any commercial purpose and approved amendments to the previously approved site plan.

The next case involving this property was 04-046-SPHXA. In that case, Commissioner Schmidt heard a Petition for Special Hearing, Special Exception, and Variance filed by the Petitioners to amend the site plan approved in Case No. 98-3-SPH. The Petition sought approval of a special exception to permit a Class B out of water storage facility on the subject property by special exception and to grant a variance from § 417.7B of the *Baltimore County Zoning Regulations* (BCZR) to allow 1.43 acres in lieu of the required 5 acres for a "Class B out of water storage facility." In that case, the requested storage racks were shown on the Poleskis' property and not on the 30-foot wide road extension of 5th Street, which is in question in the instant matter. Commissioner Schmidt granted the requested special exception and variance. No appeal was taken from that decision. Subsequently, Baltimore County Code Enforcement cited the Poleskis and Bill's Boats for a violation for placing boat storage facilities in the 30-foot road

end of 5th Street. After receiving the citations, the Poleskis filed the instant Petition to approve the expansion of the special exception area used for the out of water storage.

Protestants have raised a number of issues with respect to this matter. They are as follows:

1. As a preliminary motion, Protestants moved to disqualify Lawrence E. Schmidt as attorney representing the Petitioners since he presided over several previous cases involving the present property as Zoning Commissioner for Baltimore County and should be disqualified under Rule 1.11 of the Maryland Rules of Procedure.
2. Protestants contend that the special hearing in the instant case, 06-102-SPH, reopens the issue of Case No. 04-046-SPHXA as to whether an extension can be granted to area requirements which are already deficient; and whether Case No. 04-046-SPHXA was an illegal grant of a variance by the Zoning Commissioner in that case.
3. That the Petitioners' proposed expansion into the 30-foot platted road at the end of Fifth Street should not be permitted under the Baltimore County Zoning Regulations § 502.1 as a result of:
 - a. BGE right-of-way
 - b. County right-of-way
 - c. The right of all lot owners to use the 30-foot strip.
4. Other issues raised by the Protestants, such as setbacks and parking, etc.

Decision

1. The Representation of Petitioners by Lawrence E. Schmidt, Esquire.

After oral argument on the question of representation presented on October 25, 2006, the Board deferred its decision until the resumption of the hearing in September 2007. At that time, the Board ruled that Mr. Schmidt was eligible to represent the Petitioners in the case. The Board

recognized the fact that Mr. Schmidt was the Zoning Commissioner and the decision-maker in two previous cases involving the boatyard owned by the Poleski brothers. It was the feeling of the Board that the present case involving the piece of land not owned by the Poleskis was a separate matter, even though the attempt was being made to add the property onto the Poleskis' land. The previous cases, 98-3-SPH and 04-046-SPHXA, had never been appealed by any protestant. The Board considered the present matter involving the 30-foot strip of land to be a separate matter from the previous cases and not a matter within the purview of § 1.12 of the *Maryland Rules*. The Board feels that Mr. Schmidt's participation in the two previous cases can have no bearing on the present situation with respect to the possibility of amending the special exception to grant the use of the 30-foot strip for Class B out of water storage facility. The Board is not prepared to review the status of the previous decisions involving a nonconforming use and the granting of variance which were never appealed. Therefore, the Board reaffirms its decision to allow Mr. Schmidt to represent the Petitioners herein.

2. The request to find that the previous granting of variances in Case No. 04-046-SPHXA was illegal.

As stated above, the Board is not prepared to render a decision with respect to the legality of the decisions in Case No. 04-046-SPHXA.

3. The Petitioners' proposed expansion into the 30-foot paper road at the end of Fifth Street should not be permitted under BCZR 502.1.

As pointed out by the Protestant, § 502.1 states that before a special exception may be granted or extended, it must meet the following criteria. It must be shown that it will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets, or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration in population;

E. Be inconsistent with the purposes of the property's zoning classifications nor in any other way inconsistent with the spirit and intent of the zoning regulations.

A major question which arose during the hearing was the right of adjacent landowners to utilize the strip in question. Of course, if the Poleskis purchase the strip, they take the possession subject to all rights and restrictions which Rose Sapperstein had in the property.

Petitioners presented Scott Breza, Esquire, a real estate attorney who testified as to the chain of ownership of the 30-foot piece of property, showing it was owned by Rose Sapperstein. He stated that the street was laid out as a paper street and that it was never taken over by the County. It was his opinion that the remaining rights on the part of property owners in the subdivision to utilize the road to access the water had been extinguished because they had never used the 30-foot strip for that purpose.

Protestants presented James D. O'Connor, Esquire, a real estate attorney who represented Mid-Atlantic Title Company, the company that prepared a report for Mr. Thanner on the property in question. In that report, the title company stated that the property is "subject to the rights of lot owners in Swan Point to use-in-common of the property as a road." It was Mr. O'Connor's opinion that the rights of the adjacent property owners to utilize the strip had not been extinguished since there had never been a road closing in accordance with the procedures prescribed by the County, nor had the rights been extinguished by a decision of the Circuit Court for Baltimore County. Both O'Connor and Breza testified as to the granting of the rights of way granted to BGE and Baltimore County by the various owners of the property.

Mr. Thanner testified that as the owner of the Dock of the Bay Restaurant he has had problems with respect to parking in his parking lot. The restaurant has become very popular, and particularly on weekends when his parking lot is full, patrons are parking on various streets in

in the neighborhood causing congestion and irritation to the neighbors. He would like to utilize the strip of land in question for access to his parking lot by patrons so that they could come down the strip and pull over onto his parking lot giving him another full row of parking with patrons parking head to head on the west side of the property.

The issue with respect to the use of the right of way by adjacent property owners is not something that can be determined by this Board. That is a matter for the Circuit Court for Baltimore County. Therefore, this Board is not prepared to grant a special hearing to allow the property to be added to the Poleskis' property in order to construct boat racks on the property.

If it is ultimately determined that the adjacent property owners have a right to utilize the property, construction of boat racks would not meet the criteria of § 502.1 in that it would be detrimental to the health, safety and general welfare of the locality, create congestion in roads, streets or alleys, and create a potential hazard from fire, panic or other dangers. The boat racks would not allow Protestant Thanner, an adjacent property owner, or any other property owner to use the strip of land. In addition, it would be difficult for BGE or Baltimore County to get onto the property to make repairs of sewer /water lines or electrical lines in an emergency situation since the boat racks would have to be moved.

The Board also notes that § 417.7B of the BCZR states: "An out of water storage facility, Class B, is permitted at a boat yard or marina by special exception according to the following requirements:

	Minimum Acreage	Setback from Residential Zone	Maximum Height
2 boats high	2	30 feet	25 feet

The acreage of the land in question is 0.21 acre which is considerably less than the 2 acres required for the construction of a Class B out of water storage facility under § 417.7B. No

request for a variance was made; therefore, the Board would be unable to grant the special hearing in any event.

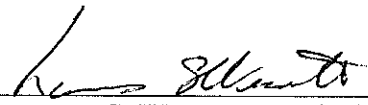
ORDER

THEREFORE, IT IS THIS 28th day of December, 2007 by the
County Board of Appeals of Baltimore County

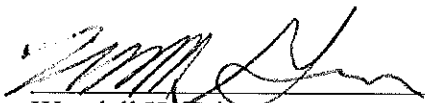
ORDERED that the Petition for Special Hearing seeking approval of an amendment to the special exception and site plan approved in Case No. 04-046-SPHXA for an expansion of the area used for Class B out of water storage facility be and is hereby **DENIED**.

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

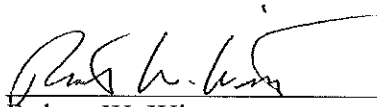
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Panel Chair



Wendell H. Grier

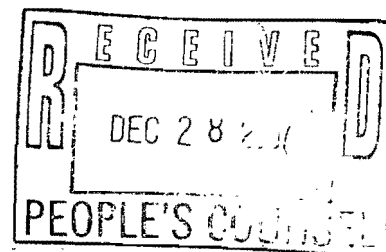


Robert W. Witt



County Board of Appeals of Baltimore County

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



December 28, 2007

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Estate of Rose Sapperstein; Robert P. Poleski
and Michael J. Poleski – Petitioners* Case No. 06-102-SPH

Dear Mr. Holzer:

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
Administrator 27

Enclosure

c: Lawrence J. Thanner, Jr.
Sebastian Cross, Esquire
Lawrence E. Schmidt, Esquire
Jack Shear, P.R. /Est. of Rose Sapperstein
Robert P. Poleski
Michael J. Poleski
Thomas J. Hoff
Sheri Hipsley
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Mike Mohler, Code Enforcement /PDM [Case No. 04-8710]
Timothy M. Kotroco, Director /PDM



**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 4, 2006

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Dear Mr. Holzer:

RE: Case: 06-102-SPH, Lots 506-510, 9033 Cuckold Point Road

Please be advised that we received your appeal of the above-referenced case on April 3, 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,

A handwritten signature in black ink that reads "Timothy Kotroco". The signature is fluid and cursive, with the first name "Timothy" and last name "Kotroco" clearly distinguishable.

Timothy Kotroco
Director

TK:raj

c: William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director of PDM

Office of People's Counsel, M.S. 2010
Code Enforcement

Sebastian Cross, Esq., Gildea & Schmidt, LLC, 300 E. Lombard St., Baltimore, MD 21202

Jack Shear, 3829 Hanover St., Baltimore, MD 21225

Robert & Michael Poleski, 9033 Cuckold Point Rd., Baltimore, MD 21219

Thomas J. Hoff, 406 W. Pennsylvania Ave., Towson, MD 21204

Lawrence J. Thanner, Jr., 9025 Cuckold Point Rd., Baltimore, MD 21219

4/3/06

IN RE: PETITION FOR SPECIAL HEARING
SE/Corner Cuckold Point Rd. and
4th Street
(Lots 506-510, 9033 Cuckold Pt. Rd.)

15th Election District
7th Councilmanic District

Estate of Rose Sapperstine, Owner;
Robert P. Poleski & Michael J. Poleski
Contract Purchasers/Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
* Case No.: 06-102-SPH
*

* * * * *

NOTICE OF APPEAL

Individual Lawrence A. Thanner, managing member of the 5th Street LLC, 9025 Cuckold Point Road, Millers Island, MD 21219, Appellant in the above captioned case, by and through his attorney, J. Carroll Holzer and Holzer and Lee, feeling aggrieved by the decision of the Zoning Commissioner in the above captioned matter, hereby notes an appeal to the County Board of Appeals from the Findings of Fact and Conclusion of Law of the Zoning Commissioner of Baltimore County dated March 29, 2006 attached hereto, and incorporated herein as **Exhibit #A**.

Filed concurrently with this Notice of Appeal is Appellant's check made payable to Baltimore County to cover the costs of the appeal. Appellant was a party below and fully participated in the proceedings.

RECEIVED

APR 03 2006

Per *[Signature]*.....

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

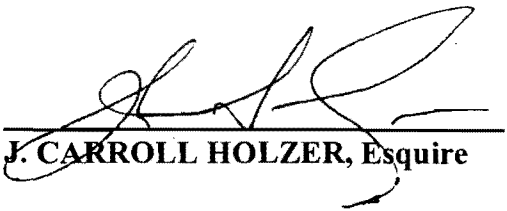
Respectfully submitted,


J. CARROLL HOLZER, Esquire

Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of April, 2006, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to Sebastian Cross, Esquire, Gildea and Schmidt, LLC, 300 E. Lombard Street, Suite 1440, Baltimore, MD 21202; County Board of Appeals, Basement Old Court House, 400 Washington Ave., Towson, MD 21204; People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Ave., Towson, MD 21204.


J. CARROLL HOLZER, Esquire

7/29/06
IN RE: PETITION FOR SPECIAL HEARING
SE/Corner Cuckold Point Road and
4th Street
(Lots 506-510, 9033 Cuckold Point Road)
15th Election District
7th Council District

Estate of Rose Sapperstine, Owner;
Robert P. Poleski & Michael J. Poleski,
Contract Purchasers/Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 06-102-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Jack Shear, Personal Representative of the Estate of Rose Sapperstine, property owner, and the Contract Purchasers, Robert P. Poleski and his brother, Michael J. Poleski, through their attorney, Sebastian A. Cross, Esquire. The Petitioners request a special hearing to approve an amendment to the special exception relief granted in prior Case No. 04-046-SPHXA for an expansion of the area used for a Class B Out-of-Water Storage facility. The subject property and requested relief are more particularly described on the revised site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 4.

Appearing at the requisite public hearing held in support of the request were Jack Shear, personal representative of Rose Sapperstine, property owner, and Robert and Michael Poleski, Contract Purchasers and Owners/Operators of Bill's Boats. Also appearing were Thomas J. Hoff, the consultant who prepared the site plan for this property; and Sebastian A. Cross, Esquire, attorney for the Petitioners. In addition, a number of prior and current residents from the surrounding community appeared in support of the Petitioners' request, including Tony Goolsbee, David Jaworski, Wayne and Patricia Waldmann. Finally, 13 affidavits of support were received from other individuals and were collectively marked into evidence as Petitioner's Exhibit 5.

Appearing in opposition to the request was Lawrence A. Thanner, Jr., managing member of the 5th Street LLC, and their attorney, J. Carroll Holzer, Esquire. Mr. Thanner owns the adjacent property, known as the Dock of the Bay Restaurant, formerly the Fisherman's Inn.

The subject property is an irregular shaped waterfront parcel located on the southeast side of Cuckold Point Road and the east side of 5th Street in Millers Island. The property contains a gross area of 1.95 acres, more or less, zoned B.M. and is comprised of five lots, identified as Lots 506 through 510 of the subdivision known as Swan Point. Collectively, the property was previously split-zoned B.M. and D.R.5.5; however, was entirely reclassified in 2000 to B.M. The bulk of the site has frontage on Hawks Cove and is improved with several outbuildings, including a one-story metal building, which is used as an office, a one-story shed, and two single-family residences. The lot located across Cuckold Point Road is improved with a one-story metal building and is used as a workshop in association with the marina/boatyard operation.

The 50-plus year history of Bill's Boats (formerly known as Paul's Boats), and the Poleski brothers' acquisitions is set forth in prior zoning Cases Nos. 98-3-SPH (Confirmation of a Pre-existing Nonconforming Use and Modified Parking Plan) and 04-046-SPHXA (Class B Out-of-Water Storage Facility on 1.43 acres in lieu of the required 5.0 acres), received as Petitioner's Exhibits 1A and 1B. Suffice it to say that the subject property has been utilized since at least the mid 1950s as a boat yard/marina and most recently obtained special exception relief to establish a Class B out-of-water storage facility on a portion of the site. The Petitioners now come before me seeking approval to expand the special exception area used for their out-of-water storage.

In this regard, the Petitioners propose the acquisition of a 30' wide by 284' long paper road, known as 5th Street, which runs from Cuckold Point Road to Hawks Cove. This strip, which is currently owned by the Estate of Rose Sapperstine, contains a gross area of 0.21 acres, more or less, and is more particularly shown on the site plan as the hatch marked area. Testimony offered by the previously identified witnesses, affidavits submitted, and photographic evidence (Petitioner's Exhibits 3A through 3M), was undisputed that Bill's Boats (previously Paul's Boats) has used the subject 30' wide strip for the out-of-water storage of boats for decades. However, when the Petitions for Special Hearing (1997) and Special Exception (2003) were filed, this 30' strip was not shown on the site plan(s), since the Poleski brothers did not own or have a leasehold interest in the property. As testified to by Mr. Shear, and evidenced by his sworn affidavit, received as Petitioner's Exhibit 6, the

Petitioners have contracted to purchase this strip and therefore request approval of the amended site plan. As shown thereon, the gross area of the subject property, including the 30' strip, will consist of 2.16 acres total (acreage on both sides of Cuckold Point Road).

The opposition to this request seems to revolve around the claimed property rights of other lot owners in Swan Point to use the subject 30' right-of-way and not have that right precluded by Bill's Boats, who has fenced in the area. While Mr. Thanner elected not to testify or submit formal documentary evidence to support his right to use this property, his position was made clear in correspondence to the Director of the Department of Development Management. As the Zoning Commissioner for Baltimore County my jurisdiction is limited to that set forth in statute. For instance, I cannot determine the ownership of real property, or the claimed rights to individuals in that property; those determinations are vested solely in the Circuit Court. As to disputes and/or differences that Mr. Thanner and the 5th Street LLC may have with the Petitioners, their respective remedies must be obtained elsewhere.

Insofar as the proposed expansion area, I found the testimony of Patricia Waldmann, with her 47 years of personal knowledge and observations, to be most persuasive. She established, as a matter of fact, that the 30-foot wide strip in question has been used for boat storage for several decades. Moreover, while not deciding property rights, or interest in the disputed property, I am guided by land use principles. The Petitioners have an executed contract of sale for the purchase of the property. Based on the testimony of Mr. Shear and the authority of Palazzolo v. Rhode Island, 533 U.S. 606 (2001) and Roeser v. Anne Arundel County, 368 Md. 294 (2001) Petitioners, when the sale as contemplated, will receive all the rights Rose Sapperstine had in the subject property. Restrictions upon the use of land are in derogation of the natural right an owner possesses to use and enjoy his property. See Norris v. Williams, 189 Md. 73 (1947). Any doubts should therefore be resolved in favor of unrestricted use of real property. In sum, I find that the location of boat racks on the subject 30-foot wide strip is appropriate and will not negatively impact the adjacent properties. In support of the request, Mr. Hoff testified that the continued use of this strip would not create any adverse impact at the subject location more burdensome than that typically expected from such use at similarly zoned

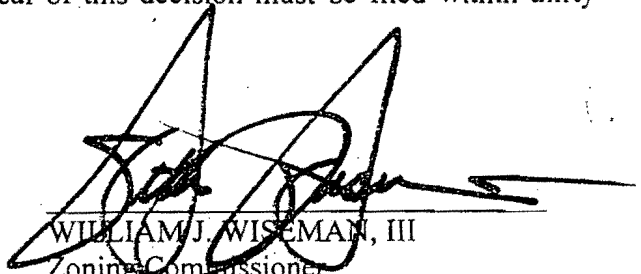
property, and the proposed expansion of the special exception area meets the burden imposed by Section 502.1 of the B.C.Z.R.

Pursuant to the advertisement, positing of the property and public hearing on this Petition held, and for the reasons set forth above, and pending a further resolution of the interest in the subject property by the Circuit Court for Baltimore County, the relief requested shall be granted.

29th THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of March 2006 that the Petition for Special Hearing seeking approval of an amendment to the special exception and site plan approved in prior Case No. 04-046-SPHXA for an expansion of the area used for Class B Out-of-Water Storage facility, in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED, subject to the following restrictions:

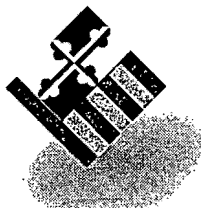
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Use of the 30' wide by 284' long paper road, known as 5th Street for a Class B Out-of-Water Storage facility, will be limited to 42 boats stored on eight (8) portable racks, four (4) boats per rack, with ground storage of up to ten (10) boats. This restriction shall remain until such time as the Circuit Court and/or the Department of Permits and Development Management determines what rights, if any, the 5th Street LLC or the County has with respect to the right-of-way and the utilities lying under the bed of the paper road.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that any appeal of this decision must be filed within thirty (30) days of the date of this Order.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

3/29



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

March 29, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
300 E. Lombard Street, Suite 1440
Baltimore, Maryland 21202

RE: **PETITION FOR SPECIAL HEARING**
SE/Corner Cuckold Point Road and 4th Street
(Lots 506-510, 9033 Cuckold Point Road)
15th Election District – 7th Council District
The Estate of Rose Sapperstine, Owner;
Robert P. Poleski & Michael J. Poleski – Contract Purchasers/Petitioners
Case No. 06-102-SPH

Dear Mr. Cross:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Wiseman III', written over a circular stamp.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Jack Shear, 3829 Hanover Street, Baltimore, Md. 21225
Messrs. Robert P. Poleski and Michael J. Poleski
9033 Cuckold Point Road, Baltimore, Md. 21219
Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Md. 21286
Mr. Lawrence J. Thanner, Jr., 9025 Cuckold Point Road, Baltimore, Md. 21219
DEPRM; Development Plans Review; People's Counsel; Case File



CBCA FLOOD ORIGINAL KEEP IN FILE
Petition for Special Hearing
to the Zoning Commissioner of Baltimore County

for the property located at 9033 Cuckhold Point Road

which is presently zoned ~~BR~~ BM

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

Amendment of previous special exception approval granted in Case No. 04-046-SPHXA for expansion of area used for Class B out-of-water storage facility.

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

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

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

Contract Purchaser/Lessee:

Robert Poleski

Name - Type or Print

Signature

9033 Cuckhold Point Road

Address

Telephone No.

Baltimore

MD

21219

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Signature

Lawrence E. Schmidt

Gildea & Schmidt, LLC

Company

300 East Lombard Street, Suite 1440

410-234-0070

Address

Telephone No.

Baltimore

MD

21202

City

State

Zip Code

Legal Owner(s):

JACK SHEAR

Name - Type or Print

Signature

3829 HANOVER Street

Name - Type or Print

Balto

MD

21225

Signature Wayne M. Rush

Address

Telephone No.

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross

Name

300 East Lombard Street Suite 1440

410-234-0070

Address

Telephone No.

Baltimore

MD

21202

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

1 HR

UNAVAILABLE FOR HEARING

Reviewed By

NA

Date

8/19/05

Case No. 06 102 SPH

DROPPED
FILED JL

THOMAS J. HOFF, INC.
Landscape Architects and Land Development Consultants
406 WEST PENNSYLVANIA AVENUE
TOWSON, MD. 21204
410-296-3668
FAX 410-296-5326

August 10, 2005

Description of Bill's Boats, 9033 Cuckold Point Road, to Accompany Special Hearing for amendment to previous Special Exception granted in Case No. 04-046-SPHXA.

BEGINNING FOR THE SAME at a point formed by the intersection of the southeast side of Cuckold Point Road (30' R/W) and the southeast side of 5th Street (30' R/W).

Thence binding on the southeast side of Cuckold Point Road,

- 1) North 44 degrees 22 minutes East 30.00 feet, to the intersection of the northeast side of Cuckold Point Road and the northeast side of 5th Street, thence continuing to bind on Cuckold Point Road,
- 2) North 44 degrees 22 minutes East 260.00 feet, thence leaving the southeast side of Cuckold Point Road,
- 3) South 45 degrees 10 minutes East 150 feet more or less, to the westernmost shore line of Hawk Cove and running thence and binding on the westernmost shore line of Hawk Cove,
- 4) Southerly and Southwesterly 300 feet, more or less, to the northeast side of 5th Street, thence,
- 5) South 44 degrees 22 minutes West 30.00 feet, thence, to the southeast side of 5th Street, thence binding on the southeast side of 5th Street,
- 6) North 45 degrees 10 minutes West 284 feet, more or less to the intersection of the southeast side of Cuckold Point Road and the southeast side of 5th Street, thence crossing Cuckold Point Road,
- 7) North 45 degrees 10 minutes West 30.00 feet, to the intersection of the northwest side of Cuckold Point Road and the southwest side of 5th Street, thence binding on the northwest side of Cuckold Point Road,
- 8) South 44 degrees 22 minutes West 150.00 feet, thence leaving the northwest side of Cuckold Point Road,
- 9) North 45 degrees 38 minutes West 150.00 feet, thence
- 10) North 44 degrees 22 minutes East 150.00 feet, thence binding on the southwest of 5th Street,
- 11) South 45 degrees 38 minutes East 150.00 feet, to the intersection of the northwest side of Cuckold Point Road and the southwest side of 5th Street, thence crossing Cuckold Point Road,
- 12) South 45 degrees 10 minutes East 30.00 feet, to the place of beginning.

Containing 2.16 acres of land more or less.

Note:

This Description has been prepared for zoning purposes only.

102



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/neighbor 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: 06-102-SPH
Petitioner: Bills Boats
Address or Location: 7033 Cuckold Point Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Gildea + Schmidt LLC
Address: 300 E. Lombard, Suite 1440
Balt. Md 21202
Telephone Number: 410 234-0070

06102 SPH
FREQUENT FLYER ATTORNEYS
DROP OFF ZONING PETITIONS
POLICY PROCEDURES

KEEP IN FILE

The following zoning policy is related to the filing of zoning petitions and is aimed at expediting the petition filing process with this office:

1. The Director of the Office of Permits and Development Management (PDM) allows zoning attorneys who frequently file for zoning hearings and who are capable of filing petitions that comply with all technical aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of an appointment for review by zoning personnel.
2. Any attorney using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. In the event that the petition has not been filed correctly, there is the possibility that another hearing will be required or the zoning commissioner may deny the petition due to errors or incompleteness. All petitions filed in this manner will receive a cursory review and if necessary they will be commented on by zoning personnel prior to the hearing. A corrective memo by zoning review may be placed in the hearing file to be considered by the Hearing Officer.
3. When a petition has been dropped off by the attorney, it will only be reviewed for very basic necessary input, logging, and distribution information.

3/22/05
JLL/rjc

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 148157

DATE 8/19/05 ACCOUNT 001 006 6150

AMOUNT \$ 325.00

RECEIVED FROM: Salvatore S. Sabatelli

FOR: Drop off SPH - phone

9033 Quaker Rd Pk Rd

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT

RECEIVED BY: Salvatore S. Sabatelli
DATE: 8/19/2005 TIME: 09:00 AM
BY: 001 006 6150
FOR: Drop off SPH - phone
AMOUNT: 325.00
TOTAL: 325.00
BALANCE: 000.00

CD
PMZ

06-102

LAW OFFICES
J. CARROLL HOLZER, P.A.
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND 21286
(410) 825-6961
FAX (410) 825-4923 / E-MAIL: JCHOLZER@BCPL.NET

— 80000 —
Facsimile Cover Sheet
— 80000 —

To: Pete Zimmerman

From: J. Carroll Holzer/Sterling Leese/Peggy Gilley

Date: _____ Time: _____ a.m./p.m.

Total Number of Pages Including this Cover: _____

Original Will _____ / Will Not _____ Follow.

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

For Sending Office Purposes:

Fax Number: 410-

Main Number: 410-

Client & Matter:

File Number: #

CONFIDENTIALITY NOTICE

The information in this transmittal is intended only for the individual or entity named above. The attached letter or documents may be legally privileged and confidential. If you have received this information in error, please notify the sender immediately and return the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited and a breach of confidentiality.

C.FORMS Faxcover



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1985

THOMAS J. LEE

OF ATTORNEY

THE 508 BUILDING

205 FARMGATE AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JHOLZER@PROBUDNET

January 19, 2007
#7531

VIA FAX 410-887-3182

Lawrence Wescott, Esquire

Chair, Baltimore County Board of Appeals

400 Washington Avenue, Room 49

Towson, Maryland 21204

RE: Case No.: 06-102-SPH

In the Matter of: Jack Shear, Personal Representative for the

ESTATE OF ROSE SAPPERSTEIN, legal Owner

Robert P. Poleski & Michael Poleski, Contract Purchasers

Dear Mr. Wescott:

On Wednesday, October 25, 2006, the Board of Appeals conducted a hearing in the above captioned matter. In the Notice of Assignment, dated June 20, 2006, which is attached hereto, counsel for Legal Owners/Petitioners is listed as Sebastian Cross of the firm of Gildea and Schmidt. At the hearing, I objected to the entry of appearance of former Zoning Commissioner Lawrence Schmidt replacing former counsel Sebastian Cross, of the same firm representing Contract Purchasers/Petitioners because Mr. Schmidt, while Zoning Commissioner, rendered his Findings of Fact and Conclusions of Law favorable to his clients, Robert and Michael Poleski. That decision of October 20, 2003 involved the same property, 9033 Cuckold Point Road, with similar zoning issues, but now is before this Board of Appeals. I have attached hereto the Findings of Fact and Conclusions of Law of the Zoning Commissioner. I argued before the Board at the last hearing that I believe the appearance of Mr. Schmidt was improper and that he should recuse himself from the instant case. It is my client's position that the Zoning Commissioner went beyond his authority under BCZR in Case No. 04-046 SPHXA.

On October 31, 2006, Mr. Schmidt wrote a letter to me saying that his appearance before the Board of Appeals was proper and complied with the provisions of Section 7-1-303 of the Baltimore County Code (Public Ethics and Open Government). He articulated in his letter to me that Section 7-1-303 (c) (2) and (3) prohibited former public officials from representing "a party in connection with a county issue during the 12-month period immediately following the former public official's termination from county service ..." and "during the second 12-month period following a former public official's termination from county service, the former public official

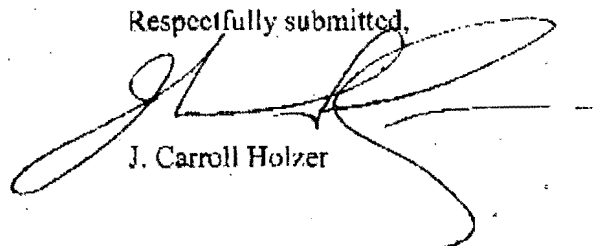
may represent a party" if he discloses to the county agency that he significantly participated as a public official with that agency. Mr. Schmidt left County service on October 1, 2004.

On January 16, 2007, Mr. Schmidt wrote to Your Honor again repeating that his appearance is not barred by the Baltimore County Code. However, in the instant case my objection to the appearance of Mr. Schmidt goes much deeper than the County Code and is tainted with the appearance of being granted undue deference by this Board because of his previous Order and Opinion involving the same property three years earlier that granted relief requested by his present clients.

Specifically, I cite Maryland Lawyers' Rules of Professional Conduct, Rule 1.12. Section (a) states, "Except as stated in paragraph (d), a lawyer shall not represent anyone (emphasis supplied) in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing." (emphasis supplied) In this case, no consent has been requested, nor granted and my client is not willing to give such consent. In fact, Rule 1.12 goes on to state in Section (c) (1) and (2) that if a lawyer is disqualified by paragraph (a), then no lawyer in the same firm may knowingly undertake representation unless the disqualified lawyer is screened from participation and apportioned no part of the fee and a mechanism is established to confirm compliance. The Petitioners in the previous zoning case, # 04-046-SPHXA, were successfully represented by Francis X. Borgerding who has appeared before this Board of Appeals many times. But Petitioners in this case chose to retain the previous Zoning Commissioner as their counsel who ruled in their favor three years earlier, to represent them before the Board of Appeals.

Therefore, on behalf of my client, Appellant/Protestant, I must respectfully reiterate my objection to the appearance of the former Zoning Commissioner in this case and ask that Rule 1.12 (a) and (c) be fully enforced.

Respectfully submitted,



J. Carroll Holzer

JCH:mlg

Enclosures

cc: Lawrence Schmidt, Esquire
Sebastian Cross, Esquire
Lawrence Thanner, Jr.

MARYLAND RULES

Jan-19-07 11:18A J Carro | | Hoizer



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 #: 06-102-SPH

IN THE MATTER OF: Jack Shear, Personal Representative for the
ESTATE OF ROSE SAPPERSTEIN – Legal Owner: Robert P.
Poleski and Michael J. Poleski, Contract Purchasers
9033 Cuckold Point Road 15th Election District, 7th Councilmanic District

3/29/06 - Z.C.'s Order in which requested zoning relief was GRANTED with
restrictions.

ASSIGNED FOR:

WEDNESDAY, OCTOBER 25, 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
Appellant /Protestant

: J. Carroll Holzer, Esquire
: Lawrence J. Thanner, Jr.

Counsel for Legal Owners /Petitioners
Legal Owners /Petitioners

: Sebastian Cross, Esquire
: Jack Shear, P.R. /Est. of Rose Sapperstein
Robert P. Poleski
Michael J. Poleski

Thomas J. Hoff
Sheri Hipsley

Office of People's Counsel
William J. Wiseman-III /Zoning Commissioner
Pat Keller, Planning Director
James H. Thompson, Supervisor, Code Enforcement /PDM [Case No. 04-8710]
Timothy M. Kotroco, Director /PDM

RECEIVED

**BALTIMORE COUNTY
BOARD OF APPEALS**

IN RE: PETITIONS FOR SPECIAL HEARING,
SPECIAL EXCEPTION & VARIANCE -
SE/S Cuckold Point Road, 60' S of the c/l
4th Street
(9033 Cuckold Point Road)
15th Election District
7th Council District

Robert P. Poleski and
Michael J. Poleski, Owners/Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 04-046-SPHXA

* * * * *
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Robert P. Poleski and his brother, Michael J. Poleski, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners request a special hearing to approve an amendment to the site plan previously approved in Case No. 98-3-SPH and removal of Restriction No. 3 thereof. In addition, a special exception is requested to permit a Class B out-of-water storage facility on the subject property. Lastly, a variance is requested from Section 417.7.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow 1.43 acres in area in lieu of the required 5.0 acres for a Class B out-of-water storage facility. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Robert Poleski, co-owner of the subject property, Joseph Larson, the consultant who prepared the site plan, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing in support of the request was William P. Jones on behalf of Baltimore County's Department of Economic Development. In addition, a number of neighbors from the surrounding locale appeared in support of the request and their attendance is reflected on the sign-in sheet that was circulated at the hearing. There were no Protestants or other interested persons present.

SALISBURY BEAUTY SCHOOLS ET AL. v. STATE
BOARD OF COSMETOLOGISTS

[No. 78, September Term, 1972.]

Decided February 7, 1973.

SUMMARY JUDGMENTS—*Function Is Not To Try Issues Of Fact But Merely To Determine Whether An Issue Has Been Raised And If There Is None, To Cause Judgment To Be Rendered Accordingly.* p. 40

SUMMARY JUDGMENTS—*Bare Allegation That A Dispute As To Material Facts Exists Is Never Sufficient To Defeat A Motion For Summary Judgment Nor Is The Mere Filing Of An Answer To A Bill Of Complaint Necessarily Fatal To Such A Motion.* p. 40

SUMMARY JUDGMENTS—*Where The Resolution Of A Factual Dispute Is Not Material To The Controversy, Such Dispute Does Not Prevent Entry Of Summary Judgment.* pp. 40-41

SUMMARY JUDGMENTS—*Function Of Trial Judge In Resolving A Motion For Summary Judgment Is Much The Same As When Presented With A Motion For Directed Verdict.* p. 41

SUMMARY JUDGMENTS—APPEAL—*In Reviewing The Propriety Of The Granting Of Summary Judgment, The Concern Is Primarily With Deciding Whether A Factual Issue Did Exist Which Was Material To The Resolution Of The Controversy.* p. 41

CONSTITUTIONAL LAW—*Constitutional Questions Generally Are Not Dealt With Abstractly But Only When Concrete And Specific Issues Are Raised.* p. 41

SUMMARY JUDGMENTS—DECLARATORY JUDGMENTS—CONSTITUTIONAL LAW—STATUTES—*Summary Judgment Procedure Is Proper In Some Declaratory Judgment Actions Where The Constitutionality Of A Statute Is Attacked.* pp. 41-44

ADMINISTRATIVE LAW—JUDICIAL NOTICE—*Judicial Notice Cannot Be Taken Of Rules And Regulations Said To Have Been Promulgated By A State Regulatory Board Where Such Rules*

And Regulations Have Not Been Filed With The Clerk Of The Court Of Appeals—Code (1957, 1971 Repl. Vol.), Art. 41, Secs. 9 and 246. pp. 44-45

ATTORNEY AND CLIENT—*Stipulation By An Attorney That There Is No Genuine Dispute As To Any Material Fact Is Binding Upon His Client.* pp. 45-46

POLICE POWER—*Defined.* pp. 47-48

POLICE POWER—LEGISLATURE—*Legislature Exercises A Large Discretion In Determining What The Public Welfare Requires, In What May Be Injurious To The General Welfare And Also What Measures Are Necessary And Appropriate To Protect And Promote These Interests.* p. 48

POLICE POWER—*Will Not Be Interfered With By The Courts Unless It Is Shown To Be Misused Or Abused, Or Where It Is Shown To Be Exercised Arbitrarily, Oppressively Or Unreasonably.* p. 48

STATUTES—*Burden Is Upon The Challenger To Affirmatively Establish The Invalidity Of A Statute—Statute Presumed To Be Valid Where A Substantial Relationship Exists Between Its Object And The Means Employed To Attain That Object.*

pp. 48-49

POLICE POWER—CONSTITUTIONAL LAW—*Cosmetologists—Prohibition Against Charges For Treatment By Cosmetology Students Other Than For Materials Has A Substantial Direct Relationship To The Health, Safety And Welfare Of The Public And Is Within The Constitutional Purview Of The State's Police Power—Code (1957, 1971 Repl. Vol.), Art. 43, Sec. 537 (a).*

pp. 49-56

POLICE POWER—CONSTITUTIONAL LAW—*Cosmetologists—Prohibition Against Charges For Treatment By Cosmetology Students Other Than For Materials Does Not Invidiously Or Unconstitutionally Control Prices Or Affect Competition Since It Is A Lawful Exercise Of The Police Power—Code (1957, 1971 Repl. Vol.), Art. 43, Sec. 537 (a).* pp. 56-60

POLICE POWER—CONSTITUTIONAL LAW—*Cosmetologists—Application To Schools Of Beauty Culture Of The Prohibition Against Charges For Treatment By Cosmetology Students Other*

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1992, LEGISLATIVE DAY NO. 17
BILL NO. 149-92

(w+E)
Passed 9-8-92
Effective 9-15-92

MR. VINCE GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, SEPTEMBER 8, 1992

AN ACT concerning

Business Maritime Zones

FOR the purpose of creating two Business Maritime Zones in the Baltimore County Zoning Regulations which will permit commercial waterfront facilities; updating the list of zone classifications; defining terms; stating legislative intent; authorizing certain uses in the zones by right or by special exception; providing bulk regulations, parking and signage requirements; setting performance standards; creating a special exception for off-premises directional signs for waterfront businesses; creating two classes of out-of-water storage facilities; conforming certain provisions of the development regulations; and generally relating to uses in Maritime Zones.

BY repealing and reenacting, with amendments,

Section 100.1.A.2 and Section 101, the definition of "Marina"

Baltimore County Zoning Regulations, as amended

BY adding

Section 101, the definitions of "Out-of-Water Storage Facility, Class A" and "Out-of-Water Storage Facility, Class B" and Sections 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 413.7 and 502.9.

Baltimore County Zoning Regulations, as amended

BY repealing and reenacting with amendments,

Sections 409.6A.4 and 417.7

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
SPECIAL EXCEPTION & VARIANCE - *
SE/S Cuckold Point Road, 60' S of the c/l * ZONING COMMISSIONER
4th Street *
(9033 Cuckold Point Road) * OF BALTIMORE COUNTY
15th Election District *
7th Council District * Case No. 04-046-SPHXA

Robert P. Poleski and *
Michael J. Poleski, Owners/Petitioners *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter came before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Robert P. Poleski and his brother, Michael J. Poleski, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners requested a special hearing to approve an amendment to the site plan previously approved in Case No. 98-3-SPH and removal of Restriction No. 3 thereof. In addition, special exception and variance relief were requested to permit a Class B out-of-water storage facility on the subject property, in accordance with the site plan submitted at the hearing and marked into evidence as Petitioner's Exhibit 1.

Pursuant to the provisions of law, the Petitions were scheduled for public hearing before the Zoning Commissioner of Baltimore County on September 23, 2003. As required, public notice of the hearing was given by the posting of a sign on the property for a period of at least 15 days prior to the hearing and an advertisement of the hearing appeared in the Jeffersonian Newspaper. At the public hearing, Robert Poleski, co-owner of the subject property appeared in support of the request along with Joseph Larson, the consultant who prepared the site plan, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing in support of the request was William P. Jones on behalf of Baltimore County's Department of Economic Development. In addition, a number of neighbors from the surrounding locale appeared in support of the request. No one appeared in opposition.

IN THE MATTER OF:
ROBERT POLESKI &
MICHAEL POLESKI

Petitioners
9033 Cuckold Point Road
15th Election District
7th Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY

PETITION FOR SPECIAL HEARING
GRANTED IN PART AS INDICATED
IN ZONING COMMISSIONER'S ORDER

CASE #: 98-3-SPH

PREVIOUS
CASES
SAME
PROPERTY

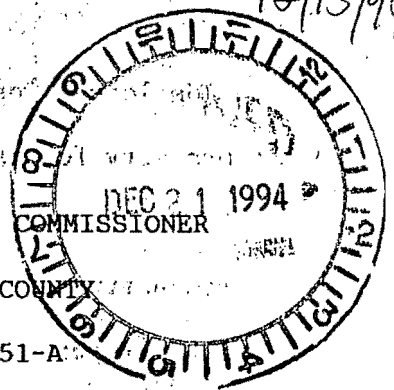
OPINION

Petitioners Robert Poleski and Michael Poleski by and through their attorney John B. Gontrum filed a Petition for Special Hearing, which Petition was granted in part by the Zoning Commissioner by Order dated December 11, 1997, approving a non-conforming use as to a portion of Petitioners' property, amending a site plan, and allowing the storage of up to 25 boats on another portion of Petitioners' property on which no non-conforming use was found. The office of People's Counsel for Baltimore County by and through attorneys Peter Max Zimmerman and Carole S. Demilio noted a timely appeal.

This matter came on for hearing on August 31, 1999. At that time People's Counsel clarified that their appeal pertained solely to condition number 2 of the Zoning Commissioner's Order permitting no commercial use of Lot 510 of Petitioners' property except for boat storage of up to 25 boats and to the related portion of the Petitioners' site plan indicating that boat storage on Lot 510. Counsel stated that it was not their intent to appeal any other portion of the Zoning Commissioner's Order.

Petitioners upon the presentation of the Opening Statement of People's Counsel

12/13/94



IN RE: PETITION FOR VARIANCE FOR THE
S/S Cuckold Point Road, 55' W
of the c/l of 4th Street DEPUTY ZONING COMMISSIONER
(9035 Cuckold Point Road)
15th Election District OF BALTIMORE COUNTY
7th Councilmanic District
Case No. 95-151-A
William Poleski, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a
Petition for Variance for that property known as 9035 Cuckold Point Road,
located in the vicinity of Edgemere in southeastern Baltimore County. The
Petitions were filed by the owners of the property, William and Agnes
Poleski. The Petitioners seek relief from Section 1B02.3.C.1 of the Balti-
more County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet
in lieu of the minimum required 55 feet and a side yard setback of 8 feet
in lieu of the minimum required 10 feet for a proposed dwelling reconstruc-
tion. The subject property and relief sought are more particularly de-
scribed on the site plan submitted and marked into evidence as Petition-
er's Exhibit 1. On the day of the hearing, the following persons appeared:
Appearing at the hearing on behalf of the Petition were Agnes
Poleski, property owner, and Patrick O'Keefe, development consultant.
Appearing as an interested party was Adam Szczypinski, adjoining property
owner. There were no Protestants present. The testimony and evidence offered revealed that the subject property
consists of 8,700 sq. ft., zoned D.R. 5.5 and is improved with a single
family dwelling which is proposed to be removed. The property is located
within the Chesapeake Bay Critical Areas on Hawk Cove in an older subdivi-
sion known as Swan Point, which was developed many years ago with 50-foot

reasonable restriction. p. 42



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9033 Cuckhold Point Road

which is presently zoned DR BM

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

Amendment of previous special exception approval granted in Case No. 04-046-SPHXA for expansion of area used for Class B out-of-water storage facility.

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

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

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

Contract Purchaser/Lessee:

Robert Poleski

Name - Type or Print

Signature

9033 Cuckhold Point Road

Address

Telephone No.

Baltimore

MD

21219

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Signature

Lawrence E. Schmidt

Gildea & Schmidt, LLC

Company

300 East Lombard Street, Suite 1440

410-234-0070

Address

Telephone No.

Baltimore

MD

21202

City

State

Zip Code

Legal Owner(s):

JACK SHEAR

Name - Type or Print

Signature

3829 HANOVER Street

Name - Type or Print

Balto

MD

21225

Signature Wayne M. Rush

Address

Telephone No.

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross

Name

300 East Lombard Street Suite 1440

410-234-0070

Address

Telephone No.

Baltimore

MD

21202

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

1/42

UNAVAILABLE FOR HEARING

Case No.

06 102 SPH

REV 9/15/98

Reviewed By

NA
DROP OFF
FILED JL

Date

8/19/05

CERTIFICATE OF POSTING

RE: Case No.: OG-102-SPH

Petitioner/Developer: ROBERT

POLESKI

Date of Hearing/Closing: OCT 18, 2005

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

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

Ladies and Gentlemen:

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

9033 CUCKOLD PT. RD.

The sign(s) were posted on

10-2-05
(Month, Day, Year)

Sincerely,

Robert Black 10-3-05
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



9033 Cuckold PT RD

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: #06-102-SPH

9033 Cuckold Point Road

S/east side of Cuckold Point Road at the intersection with 5th Street

15th Election District - 7th Councilmanic District

Legal Owner(s): Jack Shear

Contract Purchaser: Robert Poleski

Special Hearing: to allow an amendment of previous special exception approval granted in Case No. 04-043-SPHXA for expansion of area used for a Class B out of water storage facility

Hearing: Tuesday, October 18, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley 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/10/606 Oct. 4 69658

CERTIFICATE OF PUBLICATION

10/6/2005

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 10/4/2005.

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



LEGAL ADVERTISING

DAVID K. GILDEA
DAVIDGILDEA@GILDEALLC.COM

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LSCHMIDT@GILDEALLC.COM

SEBASTIAN A. CROSS
SCROSS@GILDEALLC.COM

JOSEPH R. WOOLMAN, III
JWOOLMAN@GILDEALLC.COM

D. DUSKY HOLMAN
DHOLMAN@GILDEALLC.COM

JASON T. VETTORI
JVETTORI@GILDEALLC.COM

GILDEA & SCHMIDT, LLC

300 EAST LOMBARD STREET

SUITE 1440

BALTIMORE, MARYLAND 21202

TELEPHONE 410-234-0070

FACSIMILE 410-234-0072

www.gildeallc.com

REV. ON MAY 6/02
SPK E TO L.E.S.
7/18/05
ABOUT SENDING BACK THIS
TOWSON, MD OFFICE / WOULD
220 BOSLEY AVENUE / WOULD
TOWSON, MARYLAND 21204 / WOULD
TELEPHONE 410-337-7057 / WOULD
PLANS OUT
ATTACH
PLAN

June 2, 2005

Via Hand Delivery

Mr. Donald (Don) Rascoe
Deputy Director
Permits and Development Management
MS1105, 111 W. Chesapeake Avenue
Towson, MD 21204

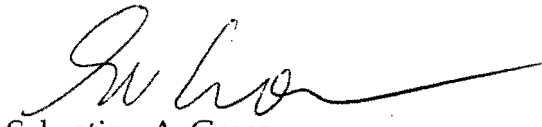
Re: Bill's Boat/9033 Cuckold Point Road

Dear Don:

Attached please find the filing materials you requested for the above referenced matter. You will also find attached this firm's check in the amount of \$325.00 for the filing costs.

Should you have any questions or comments, or should you require additional information, please contact me. With kind regards, I am

Very truly yours,


Sebastian A. Cross

SAC:bhb
Enclosures

102

need 1 more
Plan Flood Plain

REVISIONS
RCVD
FOR
FILING
BY
DEPT OF
8/19/05

J. CARROLL HOLZER, P.A.
ATTORNEY AT LAW
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND 21286
410-825-6961

REMITTANCE ADVICE					

7-77/520

4151

PAY

Four Hundred and

X4
(10)

DOLLARS

DATE	TO THE ORDER OF
4/3/06	Baltimore County

Appeal L. Thanner to
CBA

CHECK AMOUNT

400	00
-----	----

FIRM ACCOUNT

CARROLLTON BANK
BALTIMORE, MARYLAND 21227

[Signature]

004151

052000773

58 9044694

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 5577

DATE

4-4-06

ACCOUNT

001-006-6150

AMOUNT

\$ 400.00

RECEIVED
FROM:

J. Carroll Holzer, Esq.

FOR:

Appeal of L. Thanner to CBA

Per Case #06-462-SPH 96-23 Cockold Pl. Rd.

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

RECEIVED 4/04/06 11:05
4/05/2006 4/04/2006 12:41:05
REQ DATA MARKIN RICH KOW
RECEIPT # 043002 4/04/2006
Dept 5 538 BUDGET VERIFICATION
EX NO. 005677

Receipt Tot 4400.00
\$400.00 CR \$4.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 4, 2005 Issue - Jeffersonian

Please forward billing to:

Gildea & Schmidt
300 E. Lombard Street, Ste. 1440
Baltimore, MD 21202

410-234-0070

NOTICE OF ZONING HEARING

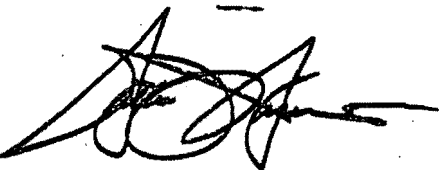
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 06-102-SPH

9033 Cuckold Point Road
S/east side of Cuckold Point Road at the intersection with 5th Street
15th Election District – 7th Councilmanic District
Legal Owner: Jack Shear
Contract Purchaser: Robert Poleski

Special Hearing to allow an amendment of previous special exception approval granted in Case No. 04-046-SPHXA for expansion of area used for a Class B out-of-water storage facility.

Hearing: Tuesday, October 18, 2005 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley 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.



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

August 26, 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: 06-102-SPH

9033 Cuckold Point Road
S/east side of Cuckold Point Road at the intersection with 5th Street
15th Election District – 7th Councilmanic District
Legal Owner: Jack Shear
Contract Purchaser: Robert Poleski

Special Hearing to allow an amendment of previous special exception approval granted in Case No. 04-046-SPHXA for expansion of area used for a Class B out-of-water storage facility.

Hearing: Tuesday, October 18, 2005 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink, reading "Timothy Kotroco".

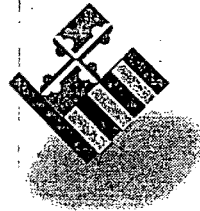
Timothy Kotroco
Director

TK:klm

C: Sebastian Cross, 300 E. Lombard St., Ste. 1440, Baltimore 21202
Jack Shear, 3829 Hanover Street, Baltimore 21225
Robert Poleski, 9033 Cuckold Point Road, Baltimore 21219

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, OCTOBER 3, 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.





BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 15, 2005

WILLIAM J. WISEMAN III
Zoning Commissioner

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
300 E. Lombard Street, Suite 1440
Baltimore, Maryland 21202

RE: **PETITION FOR SPECIAL HEARING**
SE/Corner Cuckold Point Road and 5th Street
(9033 Cuckold Point Road)
15th Election District – 7th Council District
Robert Poleski, et al - Petitioners
Case No. 06-102-SPH

Dear Mr. Cross:

This letter is to confirm that the above-captioned matter, which was continued in open hearing on October 18, 2005, has been scheduled for further proceedings. By agreement of all parties, the matter has been scheduled for Wednesday, December 21, 2005, at 9:00 AM in Room 407 of the Circuit Courts Building in Towson. Please notify your clients/witnesses of the continued hearing date, time and location.

In the meantime, should anyone have any questions on the subject, please do not hesitate to call me.

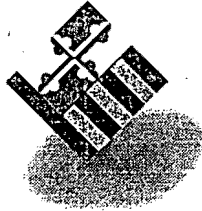
Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Wiseman III".

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Messrs. Robert & Michael Poleski, 9033 Cuckold Point Road, Baltimore, Md. 21219
Mr. Jack Shear, 3829 Hanover Street, Baltimore, Md. 21225
Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Md. 21286
Mr. Lawrence J. Thanner, Jr., 9025 Cuckold Point Road, Baltimore, Md. 21219
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
Development Plans Review, DPDM; DEPRM; Office of Planning; People's Counsel; File



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

December 23, 2005

WILLIAM J. WISEMAN III
Zoning Commissioner

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
300 E. Lombard Street, Suite 1440
Baltimore, Maryland 21202

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286

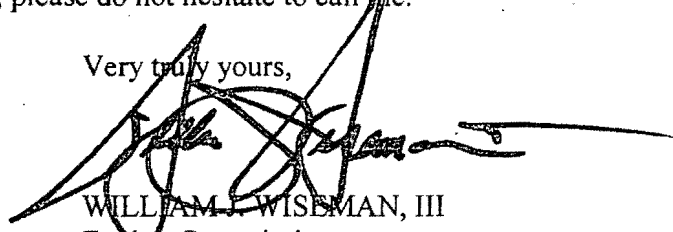
RE: **PETITION FOR SPECIAL HEARING**
SE/Corner Cuckold Point Road and 5th Street
(9033 Cuckold Point Road)
15th Election District – 7th Council District
Robert Poleski, et al - Petitioners
Case No. 06-102-SPH

Dear Messrs. Cross & Holzer:

This letter is to confirm that the above-captioned matter, which was continued in open hearing on October 18, 2005, was postponed from its rescheduled date of December 21, 2005 to allow time for further negotiations. By agreement of all parties, the matter has been scheduled to reconvene on Wednesday, February 22, 2006, at 9:00 AM in Room 407 of the Circuit Courts Building in Towson. Please notify your respective clients/witnesses of the continued hearing date, time and location.

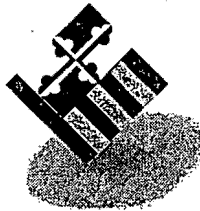
Should anyone have any questions on the subject, please do not hesitate to call me.

Very truly yours,


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Messrs. Robert & Michael Poleski, 9033 Cuckold Point Road, Baltimore, Md. 21219
Mr. Jack Shear, 3829 Hanover Street, Baltimore, Md. 21225
Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
Mr. Lawrence J. Thanner, Jr., 9025 Cuckold Point Road, Baltimore, Md. 21219
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
Development Plans Review, DPDM; DEPRM; Office of Planning; People's Counsel; File



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 22, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
300 E. Lombard Street, Suite 1440
Baltimore, Maryland 21202

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286

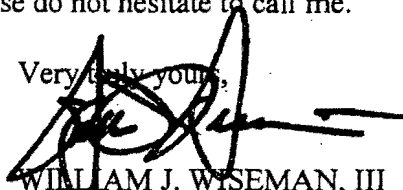
RE: **PETITION FOR SPECIAL HEARING**
SE/Corner Cuckold Point Road and 5th Street
(9033 Cuckold Point Road)
15th Election District – 7th Council District
Robert Poleski, et al - Petitioners
Case No. 06-102-SPH

Dear Messrs. Cross & Holzer:

This letter is to confirm that the above-captioned matter, which was continued in open hearing on October 18, 2005, was postponed from its rescheduled date of February 22, 2006 at the request of Mr. Holzer for medical reasons. By agreement of all parties, the matter has been scheduled to reconvene on Wednesday, March 15, 2006, at 9:00 AM in Room 106 of the County Office Building in Towson. Please notify your respective clients/witnesses of the continued hearing date, time and location.

Should anyone have any questions on the subject, please do not hesitate to call me.

Very truly yours,


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Messrs. Robert & Michael Poleski, 9033 Cuckold Point Road, Baltimore, Md. 21219
Mr. Jack Shear, 3829 Hanover Street, Baltimore, Md. 21225
Mr. Thomas J. Hoff, 406 W. Pennsylvania Avenue, Towson, Md. 21204
Mr. Lawrence J. Thanner, Jr., 9025 Cuckold Point Road, Baltimore, Md. 21219
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
Development Plans Review, DPDM; DEPRM; Office of Planning; People's Counsel; File ✓

**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*

October 17, 2005

Sebastian A. Cross
Gildea & Schmidt, LLC.
300 East Lombard Street, Ste. 1440
Baltimore, Maryland 21202

Dear Mr. Cross:

RE: Case Number: 06-102-SPH, 9033 Cuckhold Point Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 19, 2005.

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Jack Shear 3829 Hanover Street Baltimore 21225
Robert Poleski 9033 Cuckhold Point Road Baltimore 21219

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 14, 2006

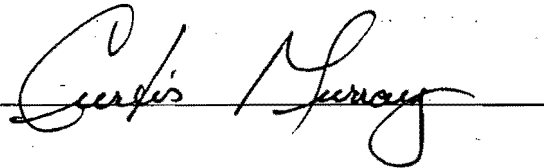
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 6-102- [REDACTED] Variance

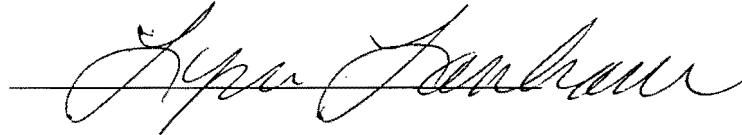
The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:



Division Chief:



CM/LL

BW
10/18

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 14, 2005

RECEIVED

SEP 14 2005

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

ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-102- Special Hearing**

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 Curtis Murray in the Office of Planning at 410-887-3480.

Prepared By:

Curtis Murray

Division Chief:

John J. Latham

CM/LL

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 14, 2006

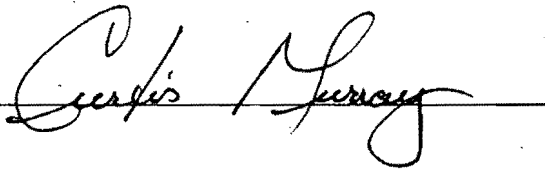
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-102- Administrative Variance**

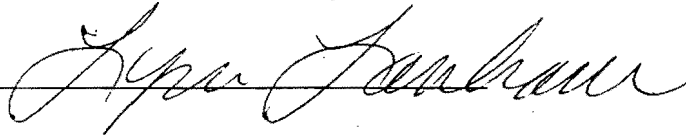
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For further questions or additional information concerning the matters stated herein, please contact Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:



CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: September 2, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For September 6, 2005
Item No. 102

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

The minimum right-of-way for all public roads in Baltimore County is 40-feet. Show the future right-of-way for Cuckold Point Road centered on the existing 30-foot-wide right-of-way.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 102-09022005.doc

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



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

Maryland Department of Transportation

Date: 8.30.05

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

RE: Baltimore County
Item No. 102 JLL

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

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

Department of Permits&Development Management
Room 111 County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204 (Mail Stop#1105)

August 26, 2005

ATTENTION: Kristen Matthews

Distribution Meeting of: August 29, 2005

Item No.: 091-094, 096-102 & 104

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

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

Lt. Jimmie Mezick
Fire Marshal's Office
410-887-4880
MS-1102F

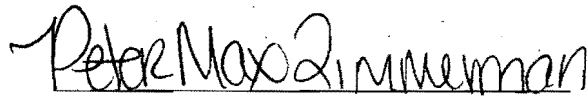
cc: File

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
9033 Cuckold Point Road; SE/side Cuckold * ZONING COMMISSIONER
Point Road, intersection 5th Street *
15th Election & 7th Councilmanic Districts *
Legal Owner(s): Jack Shear * FOR
Contract Purchaser(s): Robert Poleski *
Petitioner(s) * BALTIMORE COUNTY
* 06-102-SPH

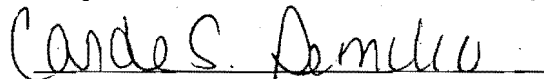
* * * * *

ENTRY OF APPEARANCE

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



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 26th day of August, 2005, a copy of the foregoing Entry of Appearance was mailed to Sebastian A. Cross, Esquire, Gildea & Schmidt LLC, 300 E. Lombard Street, Suite 1440, Baltimore, MD 21202, Attorney for Petitioner(s).



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED

AUG 26 2005

Per.....

APPEAL

Petition for Special Hearing
9033 Cuckold Point Road
Southeast corner of Cuckold Point Road
and 4th Street
15th Election District – 7th Councilmanic District
Legal Owner: Estate of Rose Sapperstine
Contract Purchasers/Petitioners: Robert P. Poleski & Michael J. Poleski

Case No.: 06-102-SPH

Petition for Special Hearing (August 19, 2005)

Zoning Description of Property

Notice of Zoning Hearing (August 26, 2005)

Entry of Appearance by People's Counsel (August 26, 2005)

Certificate of Posting (October 2, 2005) by Robert Black

Certificate of Publication (October 4, 2005– The Jeffersonian)

Zoning Advisory Committee Comments

Petitioner(s) Sign-In Sheet

Citizen(s) Sign-In Sheet

Petitioner's Exhibits

- 1A Prior Order 04-046-SPHXA (9033 Cuckold Point Road)
- 1B Prior Order 98-03-SPH (9033 Cuckold Point Road)
- 2A Contract of Sale dated 10/15/04
- 2B Contract of Sale dated 10/22/04
- 3A-3K Photographs of boat storage facility at subject address
- 3L-3M Aerial Photographs of boat storage facility at subject address
- 4 Site Plan for "Bill's Boats" @ 9033 Cuckold Point Road
- 5 13 Affidavits of Support from neighbors
- 6 Affidavit of Support from Jack Shear, Personal Representative for Petitioner

Protestant's Exhibit

- 1 Permit 1A – B-589396 and 1B Application for fence

Miscellaneous (Not Marked as Exhibits)

- 1 Division of Code Inspections & Enforcement Violation Case Documents for Violation Case No. 04-8710, 9033 Cuckold Point Road
- 2 1/2/05 letter from Sebastian Cross, Esq. to Donald Rascoe
- 3 Agreement of Sale dated 5/13/91
- 4 MDAT Report w/ map dated 10/14/05 – residential use
- 5 MDAT Report w/ map dated 10/14/05 – commercial use
- 6 10/13/05 Subpoena for Praful Bhatt, P.E., Water Design Section.
- 7 11/15/05 letter from Zoning Commissioner to Sebastian Cross, Esq. w/ copies to parties involved – re: new hearing date 12/21/05
- 8 12/13/05 (3) Subpoenas to: Praful Bhatt, P.E., Water Design Section; John Lewis, Zoning Review; and Eric Rockel, Land Acquisition
- 9 12/21/05 Phone Message from Sterling Leese (J. Holzer's Office) re: postponement of 12/22/05 hearing
- 10 12/23/05 letter from Zoning Commissioner to Sebastian Cross, Esq. & J. Carroll Holzer, Esq. w/ copies to parties involved re: new hearing date 2/22/06
- 11 2/22/06 letter from Zoning Commissioner to Sebastian Cross, Esq. & J. Carroll Holzer, Esq. w/ copies to parties involved re: new hearing date 3/15/06
- 12 3/14/06 ZAC comments from Office of Planning

Zoning Commissioner's Order (Petition for Special Hearing –GRANTED) dated 3/29/06

Notice of Appeal received on April 3, 2006 from J. Carroll Holzer, Esquire on behalf of Lawrence A. Thanner, Jr.

c: William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director of PDM
Office of People's Counsel, M.S. 2010
Code Enforcement
Sebastian Cross, Esq., Gildea & Schmidt, LLC, 300 E. Lombard St., Baltimore, MD 21202
Jack Shear, 3829 Hanover St., Baltimore, MD 21225
Robert & Michael Poleski, 9033 Cuckold Point Rd., Baltimore, MD 21219
Thomas J. Hoff, 406 W. Pennsylvania Ave., Towson, MD 21204
J. Carroll Holzer, Esq., Holzer & Lee, 508 Fairmount Ave., Towson, MD 21286
Lawrence J. Thanner, Jr., 9025 Cuckold Point Rd., Baltimore, MD 21219

date sent April 4, 2006, raj

Bette Schuhmann - Fwd: RE: Re: Case No. 06-102-SPH, Jack Shear/Robert PoleskiProperty

From: Bette Schuhmann
To: jcholzer@bcpl.net
Subject: Fwd: RE: Re: Case No. 06-102-SPH, Jack Shear/Robert
CC: scross@gildeallc.com; Wiseman, Bill

Gentlemen: I have taken the liberty of selecting Wednesday, February 22, 2006 as the continued hearing date for the above-captioned matter and will forward a formal letter confirming same tomorrow. Thanks again for your prompt response. In the meantime, Happy Holidays/Merry Christmas to you!!

>>> "Sebastian Cross" <scross@gildeallc.com> 12/22/2005 12:01 PM >>>
Those dates are good for me as well.

-----Original Message-----

From: Bette Schuhmann [mailto:bschuhmann@co.ba.md.us]
Sent: Thursday, December 22, 2005 11:25 AM
To: scross@gildeallc.com
Subject: Fwd: Re: Case No. 06-102-SPH, Jack Shear/Robert PoleskiProperty

Sebastian - Sterling sent me the following dates that work for Holzer. Please let me know at your earliest convenience which one works best for you and your client. Thanks!

Bette Schuhmann
bschuhmann@co.ba.md.us
410-887-3868

>>> "J. Carroll Holzer" <jcholzer@bcpl.net> 12/22/2005 10:51 AM >>>

Betty:

The following dates are good for Carroll Holzer and our client: February 21, 22 and 24. Any one of those dates for an all day hearing would work.

Thanks,
Sterling Leese

----- Original Message -----

From: Bette Schuhmann
To: jcholzer@bcpl.net ; scross@gildeallc.com
Cc: Bill Wiseman
Sent: Wednesday, December 21, 2005 2:40 PM
Subject: Case No. 06-102-SPH, Jack Shear/Robert Poleski Property

Gentlemen: Bill asked me to e-mail you with some dates he will be available to hear the above-captioned case. I understand that you were looking for something in mid-February. Here is what we have available at this time:

Wednesday, Feb. 15th; Thursday, February 16th; Friday, February 17th; Tuesday, February 21st; Wednesday, February 22nd; and Friday February 24th. Please let me know at your earliest convenience which dates work best for either of you and your respective clients.

Thank you!

Bette Schuhmann

Bette Schuhmann - RE: Re: Case No. 06-102-SPH, Jack Shear/Robert PoleskiProperty

From: Bette Schuhmann
To: Cross, Sebastian
Subject: RE: Re: Case No. 06-102-SPH, Jack Shear/Robert PoleskiProperty

Great - Thanks so much for the prompt response!

>>> "Sebastian Cross" <scross@gildeallc.com> 12/22/2005 12:01 PM >>>
Those dates are good for me as well.

-----Original Message-----

From: Bette Schuhmann [<mailto:bschuhmann@co.ba.md.us>]
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bschuhmann@co.ba.md.us
410-887-3868

Bette Schuhmann - Re: Case No. 06-102-SPH, Jack Shear/Robert Poleski Property

From: Bette Schuhmann
To: Holzer, J.
Subject: Re: Case No. 06-102-SPH, Jack Shear/Robert Poleski Property

Thanks, Sterling. I have taken the liberty of forwarding these dates to Sebastian Cross and as soon as I hear back from him, I will send a letter to everyone confirming the date.

>>> "J. Carroll Holzer" <jcholzer@bcpl.net> 12/22/2005 10:51 AM >>>

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bschuhmann@co.ba.md.us
410-887-3868

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From: Bette Schuhmann
To: jcholzer@bcpl.net; scross@gildeallic.com
Date: 12/21/2005 2:40:34 PM
Subject: Case No. 06-102-SPH, Jack Shear/Robert Poleski Property
CC: Wiseman, Bill

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Thank you!

IN THE MATTER OF
9033 CUCKOLD POINT ROAD

S/east side of Cuckold Point Rd.
at the intersection with 5th Street
15th Election District
7th Councilmanic District

Legal Owner: Jack Shear

* BEFORE THE ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
*
* Case No. 06-102-SPH

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Praful Bhatt, P.E.
Water Design Section
County Office Building, Room 200

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; () Produce documents and or objects only; () Personally appear and produce documents or objects;

at Room 407, County Courts Building, Towson
(Place where attendance is required)

on Tuesday, the 18th day of October, 2005 at 9:00 a.m. for such witness' testimony and continuing thereafter as necessary without need for separate subpoena for such witness' testimony as determined by the Zoning Commissioner. The witness can be "on call" and available in their office until called to appear as a witness.

YOU ARE COMMANDED to produce the following documents or objects:

Testify that witness copied water and sewer plans for the utility easement on subject site and what the plans represent

J. Carroll Holzer, 508 Fairmount Ave., Towson, MD 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 10/13/05

John V. Murphy
D. Zoning Commissioner

SHERIFF'S RETURN

()- Served and copy delivered on date indicated below.

()- Unserved, by reason of

Date: _____

Fee: \$

SHERIFF

PETITION FOR SPECIAL HEARING
(9033 Cuckold Point Road)
SE/Corner Cuckold Point Rd. & 5th St.
15th Election District
7th Councilmanic District

Robert Poleski, et al.-Petitioners

* BEFORE THE ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

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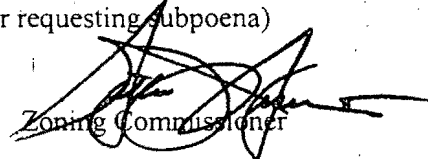
at Room 407, County Courts Building, Towson
(Place where attendance is required)

on Wednesday, the 21st day of December, 2005 at 9: 00 a.m.(see attached Notice) **for such witness' testimony and continuing thereafter as necessary without need for separate subpoena for such witness' testimony as determined by the Zoning Commissioner. The witness can be "on call" and available in their office until called to appear as a witness.**

YOU ARE COMMANDED TO produce the following documents or objects:
Any and all files, letters, memos, comments, plats, maps, deeds, etc. in the above captioned case

J. Carroll Holzer, 508 Fairmount Ave., Towson, MD 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 12/13/05


Zoning Commissioner

SHERIFF'S RETURN

()- Served and copy delivered on date indicated below.
()- Unserved, by reason of

Date: _____

Fee: \$

SHERIFF

PETITION FOR SPECIAL HEARING
(9033 Cuckold Point Road)
SE/Corner Cuckold Point Rd. & 5th St.
15th Election District
7th Councilmanic District

Robert Poleski, et al.-Petitioners

* BEFORE THE ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: John Lewis, PDM
County Office Building

YOU ARE HEREBY COMMANDED TO: ☐ Personally appear; ☐ Produce documents and or objects only;
☒ (X) Personally appear and produce documents or objects;

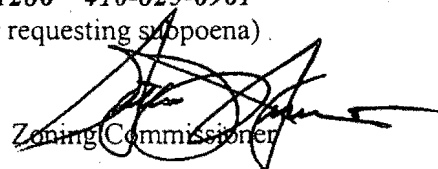
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(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 12/13/05


Zoning Commissioner

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☐ - Served and copy delivered on date indicated below.
☐ - Unserved, by reason of

Date: _____

Fee: \$

SHERIFF

PETITION FOR SPECIAL HEARING
(9033 Cuckold Point Road)
SE/Corner Cuckold Point Rd. & 5th St.
15th Election District
7th Councilmanic District

Robert Poleski, et al.-Petitioners

* BEFORE THE ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
* Case No. 06-102-SPH

* * * * *

SUBPOENA

Please process in accordance with Zoning Commission Rule IV (c).

TO: Eric Rockel, PDM
County Office Building

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and or objects only;

(X) Personally appear and produce documents or objects;

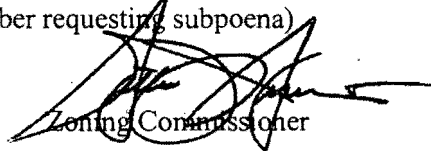
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(Place where attendance is required)

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(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 12/13/05


Zoning Commissioner

SHERIFF'S RETURN

()- Served and copy delivered on date indicated below.
()- Unserved, by reason of

Date: _____

Fee: \$

SHERIFF

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1523001872

Owner Information

Owner Name: POLESKI AGNES C
 POLESKI MICHAEL J/ ROBERT P
Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: 9033 CUCKOLD POINT RD
 BALTIMORE MD 21219-1635
Deed Reference: 1) /11492/ 319
 2)

Location & Structure Information

Premises Address
 9033 CUCKOLD POINT RD

Legal Description

SE COR FIFTH STREET
 SWAN PT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	Plat Ref:
112	15	4		WATERFRONT			506	3		9/ 4

Special Tax Areas	Town Ad Valorem Tax Class	Primary Structure Built	Enclosed Area	Property Land Area	County Use
		0000		17,160.00 SF	34
Stories	Basement		Type	Exterior	

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	103,790	103,790		
Improvements:	1,870	1,870		
Total:	105,660	105,660	105,660	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller: POLESKI WILLIAM	Date: 03/22/1996	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11492/ 319	Deed2:
Seller: WALDMAN PAUL E,JR	Date: 07/30/1984	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 6756/ 122	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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Account Identifier: District - 15 Account Number - 1516600740

Owner Information

Owner Name: POLESKI AGNES C
POLESKI MICHAEL J/ ROBERT P
Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 9033 CUCKOLD POINT RD
BALTIMORE MD 21219-1635
Deed Reference: 1) /11492/ 319
2)

Location & Structure Information

Premises Address
9033 CUCKOLD POINT RD

Legal Description

160 E FIFTH ST
SWAN POINT

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	Plat Ref:
112	15	4					509	3		9/ 4

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		10,250.00 SF	06
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	136,200	136,200		
Improvements:	9,900	9,900		
Total:	146,100	146,100	146,100	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller: POLESKI WILLIAM	Date: 03/22/1996	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11492/ 319	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

CASE NAME 00-102-SPH
CASE NUMBER _____
DATE 10/18/05

[illegible]

CASE NAME 06-102 SPH
CASE NUMBER _____
DATE 10/18/05

[illegible]

IMPORTANT MESSAGEFOR Bice.
DATE 2-21 TIME 2:20 A.M. P.M.M Steering
OF Carroll Holzger's Inc.
PHONE 410.825-6961
AREA CODE NUMBER EXTENSION☐ FAX☐ MOBILE
AREA CODE NUMBER TIME TO CALL

TELEPHONED	☒	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Re: 6-102-SPH hearing
tonerawlMr. Holzger has a medical apt.
procedure today that was more
extensive than he thought →

SIGNED

FORM 3002P
MADE IN U.S.A.

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
Lawrence E. Schmidt, Zoning Commissioner

51000 goldenk.c.com

2/21/15 - 2/21/17
2/21, 2/22, 2/23, 2/24

jc holzer@bcpl.net
jc holzer@bcpl.net

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

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 04-8710

9033 Cuckold Point Road

ZONING CASE: 06-102-SPH
9033 CUCKOLD POINT ROAD

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: September 7, 2005

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 102
Legal Owner/Petitioner: Jack Shear
Contract Purchaser: Robert Poleski
Property Address: 9033 Cuckold Point Road
Location Description: Southeast side Cuckold Point Road at intersection with 5th Street

VIOLATION INFORMATION: **Case No.: 04-8710**
Defendants: Robert, Michael, Agnes and Kimberly Poleski

Please be advised that the aforementioned petition is the subject of an active violation case.

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
State Tax Parcel Map
Deed
Photographs including dates taken
Correction Notice/Code Violation Notice
Citation and Proof of Service
Certified Mail Receipt
Other: Various other letters

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/

c: Alfonso Griffin

CITY OF ENFORCEMENT REPORT

DATE: 10/14/04 INTAKE BY: CHT CASE #: 04-8710 INSPEC: _____

COMPLAINT LOCATION: 9033 Cuckold Point Road

ZIP CODE: 21219 DIST: _____

COMPLAINANT NAME: JENIFER GERMAN PHONE #: (H) _____ (W) X 3495

ADDRESS: _____ ZIP CODE: _____

PROBLEM: Boat racks in area on the
site plan reserved for a 30 Ft.
right-of-way

IS THIS A RENTAL UNIT? YES _____ NO _____

IF YES, IS THIS SECTION 8? YES _____ NO _____

OWNER/TENANT INFORMATION: Robert P. Poleski; Michael J.
Poleski; Agnes C. Poleski; Kimberly Ann Poleski

TAX ACCOUNT #: 15-16-600740 15-02-650260 ZONING: BM
" " " 41 15-23-001870

INSPECTION: INSPECTION made
9/23/04 by D. Taylor
photos taken - boats in R/W, boats
are to be 26 Ft. away from

REINSPECTION: existing fence per site plan
and that is not the case

REINSPECTION: _____

REINSPECTION: _____

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BALTIMORE COUNTY
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Account Identifier: District - 15 Account Number - 1502650260

Owner Information

Owner Name: POLESKI ROBERT P/KIMBERLY ANN
POLESKI MICHAEL J Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 9015 CUCKOLD POINT RD
BALTIMORE MD 21219-1635 Deed Reference: 1) /16782/ 159
2)

Location & Structure Information

Premises Address
9035 CUCKOLD POINT RD

Legal Description

9035 CUCKOLD POINT RD
SWAN POINT

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
112	15	4					510	82		9/ 5

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1929		9,519.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of	Phase-in Assessments	
		01/01/2003	07/01/2004	07/01/2005
Land:	97,510	135,500		
Improvements:	323,000	349,900		
Total:	420,510	485,400	463,770	485,400
Preferential Land:	0	0	0	0

Transfer Information

Seller: POLESKI ROBERT P	Date: 09/04/2002	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /16782/ 159	Deed2:
Seller: POLESKI WILLIAM	Date: 03/24/2000	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /14374/ 162	Deed2:
Seller: BROZNOWICZ STANISLAUS	Date: 05/26/1986	Price: \$25,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 7169/ 357	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1523001872

Owner Information			
Owner Name:	POLESKI AGNES C POLESKI MICHAEL J/ ROBERT P	Use:	RESIDENTIAL
Mailing Address:	9033 CUCKOLD POINT RD BALTIMORE MD 21219-1635	Principal Residence:	NO
		Deed Reference:	1) /11492/ 319 2)

Location & Structure Information									
Premises Address					Legal Description				
9033 CUCKOLD POINT RD					SE COR FIFTH STREET SWAN PT				
WATERFRONT									
Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No: Plat Ref:
112	15	4					506	82	9/ 4
Special Tax Areas			Town Ad Valorem Tax Class						
Primary Structure Built			Enclosed Area		Property Land Area			County Use	
0000					17,160.00 SF			34	
Stories		Basement		Type			Exterior		

Value Information				
	Base Value	Value As Of	Phase-in Assessments	
		01/01/2003	As Of	As Of
			07/01/2004	07/01/2005
Land:	75,790	103,790		
Improvements:	2,160	1,870		
Total:	77,950	105,660	96,422	105,660
Preferential Land:	0	0	0	0

Transfer Information					
Seller:	POLESKI WILLIAM	Date:	03/22/1996	Price:	\$0
Type:	MULT ACCTS ARMS-LENGTH	Deed1:	/11492/ 319	Deed2:	
Seller:	WALDMAN PAUL E,JR	Date:	07/30/1984	Price:	\$0
Type:	NOT ARMS-LENGTH	Deed1:	/ 6756/ 122	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	

Exemption Information			
Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:
Special Tax Recapture:
* NONE *

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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Account Identifier: District - 15 Account Number - 1523001870

Owner Information

Owner Name: POLESKI AGNES C Use: RESIDENTIAL
POLESKI MICHAEL J/ ROBERT P
Principal Residence: NO
Mailing Address: 9033 CUCKOLD POINT RD Deed Reference: 1) /11492/ 319
BALTIMORE MD 21219-1635 2)

Location & Structure Information

Premises Address
COCKOLD POINT RD

Legal Description

WATERFRONT

SWAN POINT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
112	15	4					507	82		9/ 4

Special Tax Areas Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		14,229.00 SF	34

Stories	Basement	Type	Exterior
---------	----------	------	----------

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	75,050	103,050		
Improvements:	0	0		
Total:	75,050	103,050	93,716	103,050
Preferential Land:	0	0	0	0

Transfer Information

Seller: POLESKI WILLIAM	Date: 03/22/1996	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11492/ 319	Deed2:
Seller: WALDMANN PAUL E,JR	Date: 07/30/1984	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 6756/ 122	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

The Hart-Miller Islands Company Deed to Frederick W. Hoffmann and wife.

This Deed made this 4th day of March in the year one thousand nine hundred twenty-five by and between Hart-Miller Islands Company a body corporate duly incorporated under the Laws of the State of Maryland hereinafter generally called the Company party of the first part and Frederick W. Hoffmann and Euerica G. Hoffmann his wife of the City of Baltimore in the State of Maryland hereinafter generally called the Grantees party of the second part.

Witnesseth that in consideration of the payment of the sum of Five Dollars (\$5.00) and other valuable considerations the receipt whereof is hereby acknowledged and the fulfillment of the covenants and agreements hereinafter set out to be fulfilled by the said Grantees their heirs and assigns the said Company does hereby grant and convey unto the said Grantees as tenants by the entireties their assigns and unto the survivors of theirs his or her heirs and assigns subject to the said covenants and agreements all that land and premises situate and lying on Patapsco Neck in Baltimore County in the State of Maryland part of that tract of land known as Sparrows Point and described as follows:

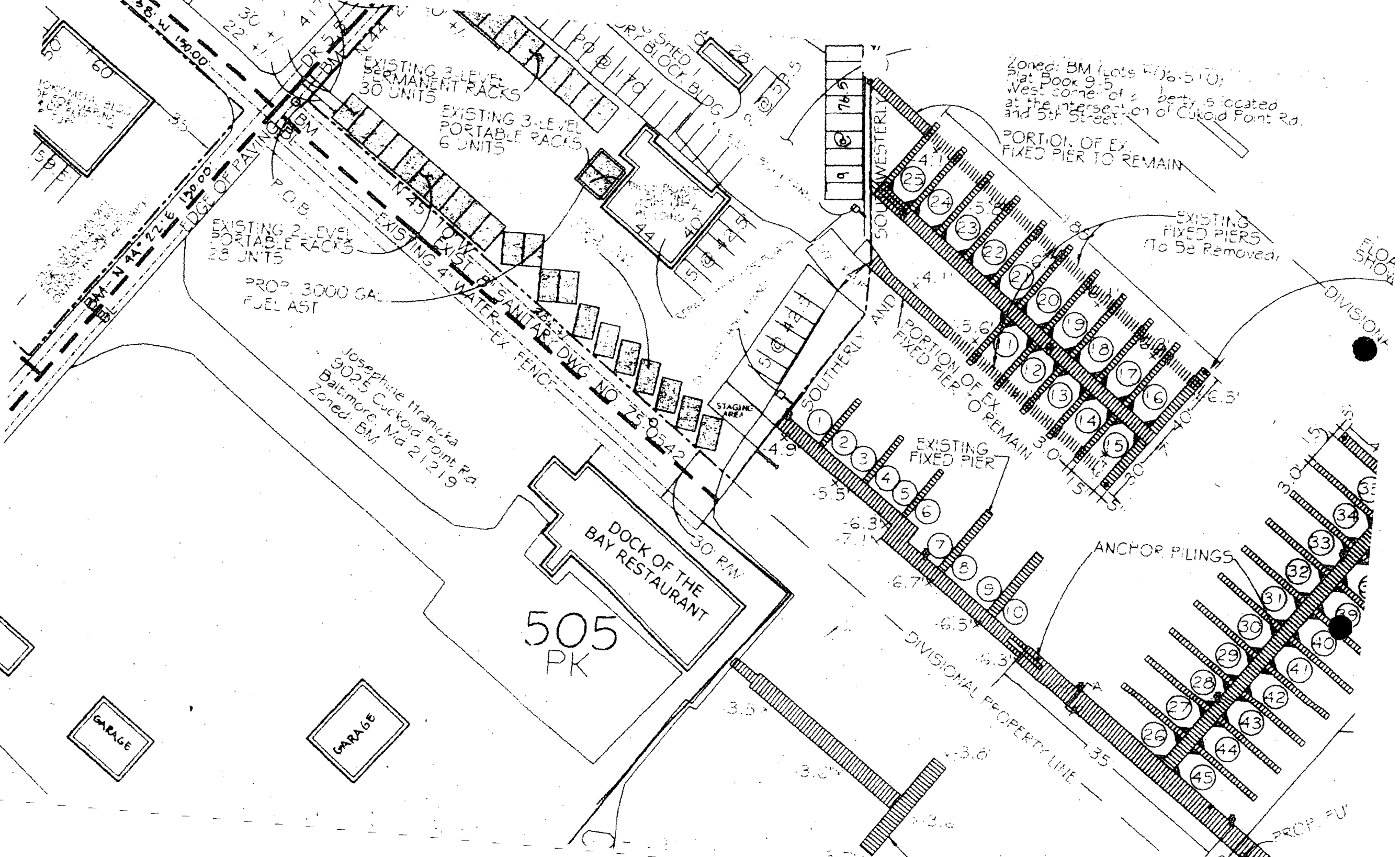
Being lot numbers ninety-nine (99) and one hundred (100) situate at the southwest corner of Sixth Street and Back River as shown on a plat of the property recorded among the Land Records of Baltimore County in Plat Book WPC no. 7 folio 163 which said plat including the endorsements thereon is hereby referred to and made a part of this deed.

Together with the improvements thereon and the rights and appurtenances thereto belonging or appertaining.

To have and hold the above granted land and premises unto the said Grantees as tenants by the entireties their assigns and unto the survivors of theirs his or her heirs and assigns forever in fee simple subject however to the following covenants and agreements which are hereby entered into by the said Grantees their heirs and assigns with the said Company as a part of the consideration for this deed.

12. That all right title and interest in and to the arteries, streets, roads, lanes, sidewalks, allies, paths, and beaches below high water line as the same are laid out and shown on the plat of the property filed among the land records of Baltimore County in plat book WPC #7 folio 163th and which may constitute one or more of the lines of the land or any part thereof hereby intended to be conveyed are hereby expressly reserved by the Company its successors or assigns subject nevertheless to a right of way to the said grantees their heirs and assigns over and from the said arteries streets, roads, lanes, sidewalks, allies, beaches below high water lines or paths except as the same have been or may hereafter be changed or modified by material or artificial relocation or accretion on the premises and subject to right of way to the said grantees their heirs and assigns over and upon the said changed or modified location when and as often as changed or modified and that all reference to or indication of arteries, streets, roads, lanes, sidewalks, allies, paths, and beaches in this deed will be and are for the purpose of clarification only and not for the purpose of dedication.

And said Company subject to the above covenants and agreements on the part of the said Grantees their heirs and assigns covenants that it will warrant specifically the land and premises hereby granted and conveyed and that it will execute said further assurances of said land and premises as maybe requisite.



THIS DEED, made this 10th day of March, 1999, by and between Josephine M. Hranicka, party of the first part, and Fifth Street, LLC, party of the second part.

WITNESSETH, that in consideration of the sum of \$300,000.00, the said party of the first part does grant and convey to the said Fifth Street, LLC his/her heirs, personal representatives/successors and assigns, in fee simple, all that piece or parcel of land situate, in BALTIMORE COUNTY, Maryland, and described as follows, to wit;

BEGINNING for the same and being known and designated as Lots Nos. 500, 501, 502, 503, 504 and 505, as laid out on the revised Plat of Swan Point, which Plat is recorded among the Land Records of Baltimore County in Plat Book L.McL.M. No. 9, folios 4 and 5. The improvements thereon being known as No. 9025 Cuckold Point Road.

BEING six of the lots of ground described in a Deed dated November 6, 1968 and recorded among the Land Records of Baltimore County in Liber OTG 4938 folio 60 was granted and conveyed by Property Transfer Co., Inc. unto Edward F. Hranicka and Josephine M. Hranicka, his wife.

BEING also the same six lots of ground as described in a Merger Deed dated November 6, 1968 and recorded among the Land Records of Baltimore County in Liber OTG 4938 folio 62 was granted and conveyed by John H. Herold and Jean L. Herold, his wife unto Edward F. Hranicka and Josephine M. Hranicka, his wife.

The said Edward F. Hranicka having departed this life on or about January 23, 1980.

TOGETHER WITH the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the property hereby conveyed unto the party of the second part, Fifth Street, LLC his/her personal representatives, heirs and assigns, in fee simple, forever.

AND the party of the first part hereby covenants that he/she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he/she will warrant specially the property hereby granted; and that he/she will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal the day and year first hereinbefore written.

Witness:

Josephine M. Hranicka (SEAL)
Josephine M. Hranicka

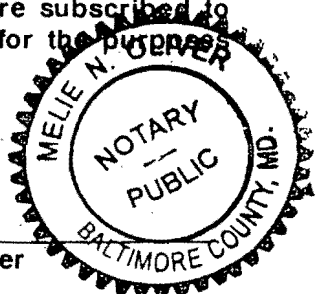
STATE OF MARYLAND
County of Baltimore, TO WIT;

I Hereby Certify, That on this 10th day of March, 1999, before me, the subscriber, a Notary Public of the state and county aforesaid, personally appeared Josephine M. Hranicka, known to me (or satisfactorily proven) to be the person whose name is/are subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained, and signed the same in my presence.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: 3/1/2002

NOTARY PUBLIC - Melie N. Oliver





04- 8710



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 CORRECTION NOTICE

Citation/Case No: 04-8710 Property No: 1516600741 1523001870 Zoning: BM

Name(s): ROBERT P. POLESKI; MICHAEL J. POLESKI; AGNES C. POLESKI; KIMBERLY ANN POLESKI

Address: 9033 Cuckold Point Rd. Bldg. 21219

Violation Location: 9033 Cuckold Point Rd (Lots 506-510)

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

102.1, 233, 500.6 - BCLZ
26-121(a) - BCL

Failure to comply with the site plan filed in Case No. 04-046, in that boat storage racks have been placed in a 30 ft. right-of-way.

Relocate these racks in accordance with the site plan (petitioner's Exhibit #1) by the compliance date.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 10-22-04 Date Issued: 10-5-04

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: DAVID J TAYLOR

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than: Date Issued:

INSPECTOR:

AGENCY



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 AGENT, CORPORATE OWNER, OWNER, TENANT, OR AS APPLICABLE

Citation/Case No. 04-8710	Property No. 15-16-600741	Zoning: BM
-------------------------------------	-------------------------------------	----------------------

Name(s): **Robert P. Poleski Agnes C. Poleski**
Michael J. Poleski Kimberly A. Poleski

Address: **8033 Cuckold Point Rd Suite 21219**

Violation Location: **8033 Cuckold Point Rd (Lots 506-510)**

Violation Dates: **10/5/04 to 5/17/05**

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

102.1°, 233°, 500.6 - B.C.Z.R.
32-3-102 - B.C.C.

Non-compliance with the site plan filed in case No. 04-046-SPHXA, in that boat storage racks are located in an area designated as a 30 ft. Right-of-Way.

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: **224 days X \$200 per day**

\$44,800

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for:

Date: **5-17-05**

Time: **9:00 AM**

Citation must be served by:

Date: **4-15-05**

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: **DAVID J. TAYLOR**

Date: **3-31-05**

Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.: **04-8710**

Address:

Date

Defendant's Signature

AGENCY

To: Carroll Holzer
From: Vin Hoang

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

County Office Building, Room 119
111 West Chesapeake Avenue
Towson, Maryland 21204

46 C 11

BALTIMORE COUNTY, Plaintiff, vs. Poleski, Defendant

Case # 04-8710 Violation Address 9033 Cuckold Point Zip 21219

Hearing Date 5.17.05 Issued Date 3.31.05 Expiration Date 4.15.05

Author of Citation D Taylor

REQUEST FOR SERVICE

Please serve the attached process on the person shown.

ORDER FOR SERVICE

You are hereby commanded to serve the attached process and to make your return promptly on this Order if served, and if you are unable to serve, you are to make your return on this Order and return the original process no later than the last day following the termination of the validity of the process.

PROOF OF SERVICE

I hereby CERTIFY that:

☐ A Citation and all other papers filed with it were served by restricted delivery mail, return card attached.

☒ A Citation and all other papers filed with it were served by personal delivery to Robert Poleski
Individual or firm served

9033 Cuckold Point Rd Zip 21219 on 4.4.05 at 11:41 AM

Description of Person Served: Race W Sex: ☒ M ☐ F Height: 6 ft. 2 in. Wt. 170 lbs.
Age: 50 yrs. Other: _____

Telephone verification of citation acknowledgment from _____ on _____

I was unable to serve:

1 st Attempt	_____	_____ a.m./p.m.	because _____	Initials _____
2 nd Attempt	_____	_____ a.m./p.m.	because _____	Initials _____
3 rd Attempt	_____	_____ a.m./p.m.	because _____	Initials _____

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief, and do further affirm that I am a competent person over 18 years of age and not a party to the case.

111 W. Chesapeake Ave. Towson, MD 21204
Server's Address

410-887-3351
Telephone

S Jennings
Server's Name (Print)

4.4.05
Date

SCA
Server's Signature

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robert P. Agnes C. Poleski
Michael Jr. Kimberly A. Poleski
9033 Cuckold Point Rd
Baltimore MD 21219

DJT/JHT 04-8710

2. Article Number

(If from service label)

7003 3110 0005 5900 1094

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

4-5-05

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

**Department of Permits and
Development Management****Baltimore County**

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

Director's Office

County Office Building

111 W. Chesapeake Avenue

Towson, Maryland 21204

Tel: 410-887-3353 • Fax: 410-887-5708

February 14, 2005

Robert Poleski
Bill's Boats
9033 Cuckold Point Road
Baltimore, MD 21219

Dear Poleski,

I am writing in response to your letter dated January 3, 2005, requesting a determination that the changes proposed to your property are within the "spirit and intent" of the special hearing granted December 11, 1997.

The property between Bill's Boats and the property at 9035 Cuckold Point Road is a 30-foot wide strip of property currently owned by the Estate of Mrs. Rose Sapperstein. The property runs from Cuckold Point Road to the water. You do not own the property nor Baltimore County and Baltimore County does not have any claim to its use.

My understanding, based on photographic evidence submitted by you, is that Bill's Boats have used the 30-foot wide strip for several decades, even though you never acquired the underlying fee. When you filed a special hearing for a boat yard in 1997, this 30 foot piece of property was not shown on the site plan since you did not have actual ownership of or have a leasehold interest in the property.

With your letter of January 3, 2005, you submitted a contract of sale evidencing that you are in the process of purchasing the 30-foot strip from the Estate of Mrs. Sapperstein. Until settlement you have obtained permission from the owner to continue to store boats on this property.

To continue the use of this 30 foot strip of property to store boats, you will need to file for a special hearing before the Baltimore County Zoning Commissioner or his deputy to amend the special hearing granted in Case 98-3 SPH. This will need to occur whether you gain ownership of the property or continue to lease it.

Given the fact that the current conditions exist as a violation to the Baltimore County zoning regulations, I ask that you schedule a meeting to file your petition for special hearing prior to March 8, 2005. The public hearing is required before the Baltimore County Zoning Commissioner or his deputy to amend the previously approved special exception.

Should you wish to contact me, you may do so at 410-887-3321.

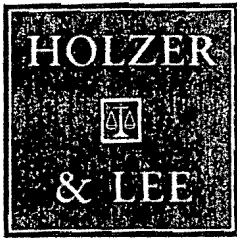
Sincerely,

A handwritten signature in black ink that reads "Donald T. Rascoe".

Donald T. Rascoe
Deputy Director

CC: Timothy M. Kotroco, Director
James H. Thompson, Supervisor
Lawrence J. Thanner, Jr.

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



LAW OFFICES

J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

March 28, 2005
#7531

*3/30/05
Don called owner's
attorney to check on
status of Petition.
Hold pending outcome
of that conversation
TJH*

HAND DELIVERED

James Thompson, Supervisor
Bureau of Code Enforcement
Department of Permits &
Development Management
County Office Building
Towson, MD 21204

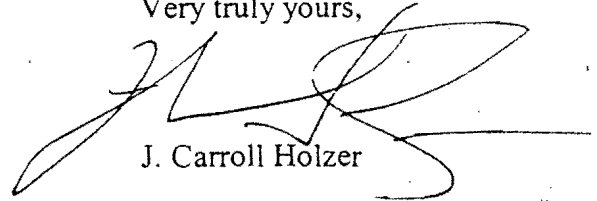
Re: Bill's Boats; 9033 Cuckold Point Road
Code Violations on Site

Dear Mr. Thompson:

It is my understanding that the owner of the property at 9033 Cuckold Point Road is in violation of the Baltimore County Zoning Regulations and that Donald Rascoe, Deputy Director of PDM wrote a letter Robert Poleski of Bill's Boats dated February 14, 2005 advising that he should file a Petition for Special Hearing before March 8, 2005 to resolve some issues surrounding the 30' right of way. There is no indication, in discussing this matter with staff in PDM that a petition has been filed.

Consequently, on behalf of my client, Larry Thanner, I am requesting that immediate action be taken to enforce the zoning violations on the subject property. If there is anything that I can do to assist you in this matter, please let me know.

Very truly yours,

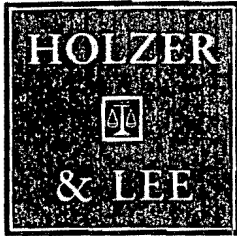


J. Carroll Holzer

JCH: bdm

cc: Timothy Kotroco, Director
cc: Donald Rascoe, Deputy Director
cc: Larry Thanner

MAR 29 2005
05-457



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

April 28, 2005
#7531

HAND DELIVERED

Mr. Timothy Kotroco, Director
Permits & Development Management
111 Chesapeake Avenue
Towson, Maryland 21204

*RE: Bill's Boats
9033 Cuckold Point Road*

Dear Mr. Kotroco:

I previously corresponded with your Department in which I advised that I represent Larry Thanner, owner of the Dock of the Bay restaurant located at 9025 Cuckold Point Road.

I had previously been alerted that a Zoning violation for Bill's Boats had been issued by your Department on April 15, 2005 for non-compliance with the Site Plan filed in Case No.: 04-046-SPH in that boat storage racks are located within a 30-foot private right-of-way. All members of the Miller's Island Subdivision have a right to utilize the paper road. There is currently a violation hearing scheduled on May 17, 2005.

The owners of Bill's Boats erected a ten (10) foot high 7.5-foot wrought iron fence in front of the Marina on Cuckold Point Road. The steel posts are at least 12 inches thick and the iron spindles are at least eight (8) feet high. The fence completely blocks the 30-foot private easement to which all members of the Community, in addition to my client, have a right to access the water.

Permit No. B589396 issued on April 19, 2005 (after the fence was constructed) specifically notes that the "fence cannot enclose paper road until Special Hearing is granted." In addition, the application also shows that the paper road cannot be fenced. The existing fence clearly is in violation of both of those statements.

Today, April 28, 2005 at 10:00 a.m., I visited the site and requested a representative of Code Enforcement to be there so that this matter could be discussed. No one showed up from Code Enforcement.

Mr. Timothy Kotroco, Director
April 28, 2005
Page two

I am, therefore, writing this letter to you, copying Don Roscoe and Jim Thompson, to advise that a violation should be noted and action taken by your Department to require removal of the fence crossing and blocking the paper road. Bill's Boats was specifically advised that a Special Hearing needed to be filed to amend the previous Site Plan. To my knowledge to this date, no such request has been made by Bill's Boats. The conduct of Bill's Boats has demonstrated repeated violations of Zoning Regulations and a disregard for your Department's orders. I believe action needs to be taken immediately to ensure compliance with the Regulations and to alleviate the harm already done to the property owners who have a right to use the 30-foot right-of-way.

I would appreciate upon immediate inspection of the site that you advise me of what actions your Department intend to take.

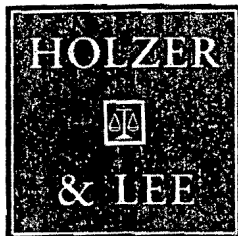
Very truly yours,

J. Carroll Holzer mlg
J. Carroll Holzer

JCH:mlg

Enclosure

cc: Mr. Don Roscoe
Mr. James Thompson
Mr. Larry Thanner
Mr. David Taylor



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

June 20, 2005

#7531

HAND DELIVERED

Mr. Timothy Kotroco, Director
Permits & Development Management
111 Chesapeake Avenue
Towson, Maryland 21204

RE: *Bill's Boats*
9033 Cuckold Point Road

Dear Mr. Kotroco:

On April 28, 2005, I prepared a letter that was hand delivered to your office outlining specific code violations involving Bill's Boats located at 9033 Cuckold Point Road. On May 5, 2005, you responded to my letter wherein you wrote, in part, "This (boat) storage was not reflected in their most recently approved site plan. Their site plan must be amended to include this area. I understand that the proprietors of Bill's Boats have retained the law firm of Gildea and Schmidt and will be filing their Special Hearing request shortly, if not already filed."

I have been informed by Don Rascoe and others in your office that the proprietors of Bill's Boats were told by PDM to file their Petition for Special for Special Hearing by March 8, 2005. The petition was not filed then and when the County held a code violation hearing on the subject property on May 17, 2005 which I attended, the owners of the property never showed up, and the hearing never went forward. In exchange for not going forward with the code violation hearing, I was informed, however, that PDM required the owners of Bill's Boats to file their Petition for Special Hearing immediately.

On June 2, 2005, Sterling Leese of my office met with Carl Richards and John Lewis in PDM regarding the site plan and Petition for Special that were filed that day by Bill's Boats. John Lewis told Sterling that the plan was rejected and that PDM was requiring that their engineer resubmit the plan. Through today, I have been informed by PDM that Bill's Boats has not resubmitted the appropriate site plan to accompany their petition.

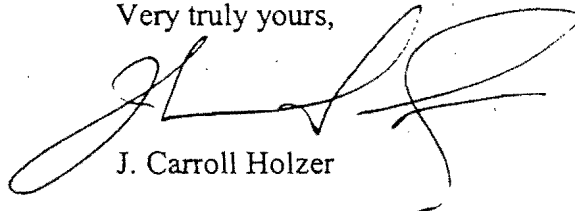
This is particularly frustrating for my client, Larry Thanner, because Baltimore County issued Permit No. B589396 on April 19, 2005 (after the fence was constructed) with the caveat

Mr. Timothy Kotroco, Director
June 20, 2005
Page two

that the "fence cannot enclose paper road until Special Hearing is granted." Despite that condition, the fence was built across the easement without approval of the Zoning Commissioner through the Special Hearing request, which has not even been filed and accepted by the County.

Therefore, I respectfully request that the county cite and proceed immediately against Bill's Boats for zoning violation and set an immediate deadline at which time Bill's Boats must file an appropriate site plan and petition seeking approval to utilize the 30 foot right of way. It is my view that the County must proceed with a code violation hearing. Without some consequence to their inaction, Bill's Boats will continue to utilize the 30' right of way illegally and which was not part of their most recent approved site plan irrespective of the separate argument that the right of way must be available for use by all property owners of the subdivision.

Very truly yours,

A handwritten signature in black ink, appearing to be "J. Carroll Holzer", written over a horizontal line.

J. Carroll Holzer

JCH:mlg

cc: Mr. Don Roscoe
Mr. James Thompson
Mr. Larry Thanner
Mr. David Taylor

**Department of Permits
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*

June 29, 2005

J. Carroll Holzer, Esquire
508 Fairmount Ave.
Towson, Maryland 21286

Re: Bill's Boats
9033 Cuckold Point Road

04- 8710

Dear Mr. Holzer:

Thank you for your letter dated June 20, 2005 and kindly accept this letter as my response thereto. I understand your frustration regarding the speed at which the Special Hearing is being filed by the owners of 9033 Cuckold Point Road. However, my office cannot control the pace at which engineers and attorneys present information to my office. We have been experiencing tremendous delays in submittals to this office on many projects. I attribute this to the pace of development in Baltimore County and the great demand on the services of land use attorneys and engineers at this time.

We will continue to encourage this property owner to follow through with this technical revision to their site plan. As you know, the modification requested to be made to the site plan is for the storage of boats on an area of the property where boats have been stored for decades. Given the history of this use, I fail to see the urgency of the matter. In fact, I originally believed that the plan should have been red-lined administratively without the need for a hearing at all. However, out of an abundance of caution, I required the matter to go to the Zoning Commissioner.

The eventual hearing before the Zoning Commissioner brings me to my last concern. In my opinion, the overriding issue in this case is the title dispute to the land whereupon this boat storage is located. When this petition makes its way to the Zoning Commissioner, he will be confronted with having to rule upon a request that involves a cloud on title. You may recall that I occupied a position in the Zoning Commissioner's office for 12 years. There were occasions wherein this same title issue presented itself to me as Deputy Zoning Commissioner. Our office would refuse to entertain such issues as we were without authority to resolve such disputes. I always placed the burden on the neighboring property owner to file a Petition to Quiet Title in the Circuit Court, in the event that they were serious about their claim to have an interest in the disputed property. To place the burden otherwise would encourage all protestants to simply state at a hearing that they were the lawful owners of the property to be developed. Naturally, the current Commissioners may rule a different way. We simply will have to wait and see. My point is that you could make it to a hearing only to have no action or decision being made by the presiding Commissioner, until such time as the Circuit Court Judge makes a decision.

Accordingly, to avoid that occurrence, and to get this matter to the true issue at hand, I would urge you to file on behalf of your client the proper pleading before the Circuit Court to resolve this title issue. Otherwise, I suspect that we will encounter additional frustrating delays.

I am available to discuss this matter in more detail should you wish.

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy M. Kotroco", is written over a light blue circular stamp.

Timothy M. Kotroco, Director
Permits and Development Management

cc: Donald T. Rascoe
James H. Thompson

TIME: 15:48:30 AUTOM/ ID PERMIT TRACKING SYSTEM AST UPDATE 04/19/2005
DATE: 04/20/2005 GENERAL PERMIT APPLICATION DATA PDM 15:40:17

PERMIT #: B589396 PROPERTY ADDRESS
RECEIPT #: A517849 9033 CUCKOLD POINT RD
CONTROL #: MC- SUBDIV: SWAN POINT
XREF #: B589396 TAX ACCOUNT #: 1523001872 DISTRICT/PRECINCT 15 01
OWNERS INFORMATION (LAST, FIRST)
FEE: 20.00 NAME: POLESKI, ROBERT + MICHAEL
PAID: ADDR: 9033 CUCKOLD POINT RD, BALTO, MD 21219-1635
PAID BY: WAIVE

DATES

APPLICANT INFORMATION

APPLIED: 04/19/2005 NAME: ROBERT POLESKI
ISSUED: 04/19/2005 COMPANY:
OCCPNY: ADDR1: 9033 CUCKOLD POINT RD
FINAL INSPECT: ADDR2: BALTIMORE, MD 21219-1635
INSPECTOR: 15C PHONE #: 410 477 5137 LICENSE #:
NOTES: LW

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY



BUILDING PERMIT PROCESSING
CASH RECEIPT

No. 517849

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 100
TOWSON, MARYLAND 21204

RECEIPT
BUSINESS ACTUAL TIME
4/19/2005 15:52:06
SERIES: DALKIN DRN. SMD
RECEIPT # 309971 4/19/2005 OFI
TYPE: 2 209 BUILDING PERMIT APPLICATION
DOCUMENT # 4517849
Receipt for \$20.00
\$20.00 OK \$1.00 CA
Baltimore County, Maryland

OFFICE OF FINANCE USE ONLY

APPLICANT

ADDRESS

ZIP CODE

CHECK ITEM	ITEMS	PAY CODE	G/L ACCOUNT NUMBER	FEE
	ABANDONED WATER METER APPLICATION	200	231-2874	
	APPEAL PROCESS FEE	204	001-006-6150	
	BUILDING PERMIT APPLICATION	209	001-006-2510	20
	CHANGE OF OCCUPANCY	210	001-006-2520	
	COUNTY FINANCING APPLICATION	211	231-006-7120	
	ELECTRICAL ADMINISTRATIVE BOARD EXAM FEE	212	001-006-6090	
	ELECTRICAL ADMINISTRATIVE BOARD LICENSE	213	001-006-2210	
	ELECTRICAL PERMIT	214	001-006-2600	
	FIRE HYDRANT METER	217	231-006-6180	
	FIRE INSPECTION	246	001-006-6019	
	GAS PERMIT APPLICATION	220	001-006-2420	
	MASTER'S FEE	249	001-006-6135	
	PERCOLATION TEST	224	001-006-6750	
	PHOENIX WATER CHARGE	248	030-006-6133	
	PLUMBING BOARD LICENSE	225	001-006-2220	
	PLUMBING PERMIT APPLICATION	226	001-006-6220	
	SEPTIC TANK PERMIT	228	001-006-2430	
	SEWER PROPERTY CONNECTION APPLICATION	229	231-006-6051	
	SEWER SERVICE CHARGE, PRORATED	230	030-006-6012	
	SEWER SYSTEM CHARGE	231	231-006-6141	
	STORM DRAIN CONNECTION	233	001-006-2440	
	SUB-SOIL DRAIN INSTALLATION	234	001-006-6220	
	WASTEWATER DISCHARGE PERMIT	240	030-006-2630	
	WATER DISTRIBUTION	241	030-006-6043	
	WATER METER APPLICATION	242	231-006-6060	
	WATER METER FEE	243	231-2874	
	WATER SURCHARGE	244	231-006-6151	
	WATER SYSTEM CHARGE	245	231-006-6151	

CHECK/MONEY ORDER PAYABLE TO BALTIMORE COUNTY, MARYLAND

TOTAL

DESCRIPTION:

PREPARER'S NAME

DATE

THIS IS NOT A PERMIT OR LICENSE AND DOES NOT AUTHORIZE CONSTRUCTION OF ANY KIND. NO BUILDING, PLUMBING, OR ELECTRICAL PERMIT FEE IS REFUNDABLE.

WHITE-AGENCY

YELLOW-APPLICANT

PINK-FINANCE

542 186
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE, TOWSON, MD 21204

Fees: \$10.00 Residential; \$20.00 Commercial

Permit No. B589396

Receipt No. A517849

Make checks payable to Baltimore County, Maryland --- PERMIT FEES ARE NON-REFUNDABLE

Tax Account # 1523 001 872

Type or print in ink:
Work Site Address 9033 Cockold Point Rd

Election District _____

Owner's Name Robert Poleski

Phone No. 410 477-5137

Mailing Address _____

Owner's Agent Robert Poleski

Phone No. _____

COMPLETE BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS:

Property line dimensions, easements, existing buildings, road names, and location of alleys.

Proposed fence total length 114+10, height 7.5', and type iron.

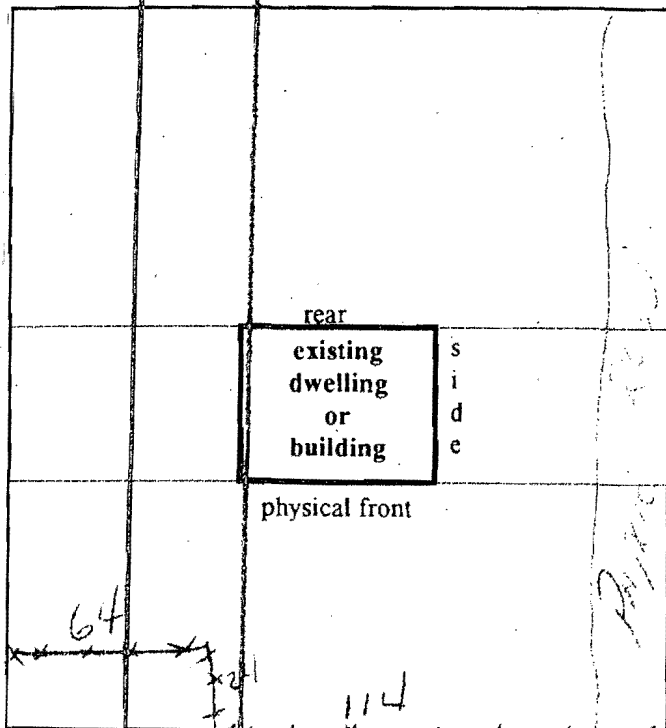
Property line setbacks: front 6, sides N/C, and N/C, and rear N/C.

Property use _____ Rear/Side yard abuts adjoining front yard: Yes ☐ No ☐

Corner Lot: Yes ☐ No ☒

Historic District: Yes ☐ No ☒

SITE PLAN



Road Name Cockold Rd

FENCE REGULATIONS

Permit is required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

Building Code, Section 509:

509.1 - Residential Fences - Maximum height of 42 inches in front yard as determined by BCZR and 6 feet in side and rear yards at the property line. Maximum height of 10 feet in side and rear yards, provided set back 2 feet for vertical foot over 6 feet.

509.2 - Commercial Fences - Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of and when not a safety hazard to the public. No projections less than 4 feet high. Barbed wire and other retarding material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)

102.5 - Corner Lot -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

427 - Residential Fences in side or rear yard which adjoins residential front yard (setback and maximum height): zero to 10 feet - 42 inches, 10 to 20 feet - 48 inches, 20 to 30 feet - 60 inches, and over 30 feet - no limit. Required pool fence and houses more than 200 feet apart are exceptions.

County Code, Section 21-3, Obstruction of Drivers' View:

Corner Lots: The County Code (Section 21-3) does not allow a fence on a corner lot to obstruct the vision of drivers as they reach the intersection. If a sight problem is noted later, the property owner will be required to move the fence. So, to be safe, contact Traffic Engineering at 410-887-3554 for a free site inspection before you build the fence. An issued permit does **NOT** certify that the fence will be in compliance.

CERTIFICATION (OWNER/AGENT)

I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, will not

**Department of Permits and
Development Management**



Baltimore County

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

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

February 14, 2005

Robert Poleski
Bill's Boats
9033 Cuckold Point Road
Baltimore, MD 21219

Dear Poleski,

I am writing in response to your letter dated January 3, 2005, requesting a determination that the changes proposed to your property are within the "spirit and intent" of the special hearing granted December 11, 1997.

The property between Bill's Boats and the property at 9035 Cuckold Point Road is a 30-foot wide strip of property currently owned by the Estate of Mrs. Rose Sapperstein. The property runs from Cuckold Point Road to the water. You do not own the property nor Baltimore County and Baltimore County does not have any claim to its use.

My understanding, based on photographic evidence submitted by you, is that Bill's Boats have used the 30-foot wide strip for several decades, even though you never acquired the underlying fee. When you filed a special hearing for a boat yard in 1997, this 30 foot piece of property was not shown on the site plan since you did not have actual ownership of or have a leasehold interest in the property.

With your letter of January 3, 2005, you submitted a contract of sale evidencing that you are in the process of purchasing the 30-foot strip from the Estate of Mrs. Sapperstein. Until settlement you have obtained permission from the owner to continue to store boats on this property.

To continue the use of this 30 foot strip of property to store boats, you will need to file for a special hearing before the Baltimore County Zoning Commissioner or his deputy to amend the special hearing granted in Case 98-3 SPH. This will need to occur whether you gain ownership of the property or continue to lease it.

Given the fact that the current conditions exist as a violation to the Baltimore County zoning regulations, I ask that you schedule a meeting to file your petition for special hearing prior to March 8, 2005. The public hearing is required before the Baltimore County Zoning Commissioner or his deputy to amend the previously approved special exception.

Should you wish to contact me, you may do so at 410-887-3321.

Sincerely,

A handwritten signature in black ink that reads "Donald T. Rascoe".

Donald T. Rascoe
Deputy Director

CC: Timothy M. Kotroco, Director
James H. Thompson, Supervisor
Lawrence J. Thanner, Jr.

**Department of Permits and
Development Management**

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



Baltimore County

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

February 14, 2005

Lawrence J. Thanner, Jr.
Managing Partner
Fifth Street, LLC
9025 Cuckold Point Road
Baltimore, MD 21219

Dear Mr. Thanner,

Two letters addressed to James Thompson, Supervisor, Code Enforcement Section, Baltimore County Department of Permits and Development Management (PDM), have been forwarded to me for response.

The property between your property and Bill's Boats is a 30-foot wide strip of property currently owned by the Estate of Mrs. Rose Sapperstein. The property runs from Cuckold Point Road to the water. The property is not owned by Baltimore County nor does Baltimore County have any claim to its use.

My understanding, based on photographic evidence submitted by Mr. Poleski, is that the 30-foot wide strip has been used by Bill's Boats for several decades, even though they never acquired the underlying fee. When they filed a special hearing for a boat yard, this 30 foot piece of property was not shown on their site plan since they did not have actual ownership of or have a leasehold interest in the property.

In addition to the historical photographs, Mr. Poleski submitted a contract of sale evidencing that he is in the process of purchasing the 30-foot strip from the Estate of Mrs. Sapperstein. Until settlement, they have obtained permission from the owner to continue to store boats on this property.

Given the totality of the circumstances presented to this office, Bill's Boats shall be permitted to continue to store boats on this property as they have for the past several decades. My office has notified representatives of Bill's Boats of the need to file for a special hearing to amend their previously approved Special Exception to include this 30-strip of land. A revised site plan will be submitted to my office showing the boat storage as it exists today. If successful in their Special Hearing request, then Bill's Boats will be in compliance with county zoning requirements.

A public hearing is required before the Baltimore County Zoning Commissioner or his deputy to amend the previously approved Special Exception. At that time you and other representatives of the community will have the opportunity to participate in the ultimate outcome of the use of the property in question.

Should you wish to contact me, you may do so at 410-887-3321.

Sincerely,

A handwritten signature in black ink that reads "Donald T. Rascoe".

Donald T. Rascoe
Deputy Director

CC: Timothy M. Kotroco, Director
James H. Thompson, Supervisor
Mr. Robert Poleski

IN RE: PETITIONS FOR SPECIAL HEARING,
SPECIAL EXCEPTION & VARIANCE -
SE/S Cuckold Point Road, 60' S of the c/l
4th Street
(9033 Cuckold Point Road)
15th Election District
7th Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 04-046-SPHXA

Robert P. Poleski and
Michael J. Poleski, Owners/Petitioners

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter came before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Robert P. Poleski and his brother, Michael J. Poleski, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners requested a special hearing to approve an amendment to the site plan previously approved in Case No. 98-3-SPH and removal of Restriction No. 3 thereof. In addition, special exception and variance relief were requested to permit a Class B out-of-water storage facility on the subject property, in accordance with the site plan submitted at the hearing and marked into evidence as Petitioner's Exhibit 1.

Pursuant to the provisions of law, the Petitions were scheduled for public hearing before the Zoning Commissioner of Baltimore County on September 23, 2003. As required, public notice of the hearing was given by the posting of a sign on the property for a period of at least 15 days prior to the hearing and an advertisement of the hearing appeared in the Jeffersonian Newspaper. At the public hearing, Robert Poleski, co-owner of the subject property appeared in support of the request along with Joseph Larson, the consultant who prepared the site plan, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing in support of the request was William P. Jones on behalf of Baltimore County's Department of Economic Development. In addition, a number of neighbors from the surrounding locale appeared in support of the request. No one appeared in opposition.

RECEIVED FOR FILING
11/10/03
[Signature]



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9033 Cuckold Point Rd. (Lots 506-510)
which is presently zoned B.M.

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve amendment to site plan approved pursuant to Case No. 98-3-SPH to remove restriction no. 3.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Francis X. Borgerding, Jr.

Name - Type or Print

Signature

Company

409 Washington Ave., Ste. 600

410-296-6820

Address

Telephone No.

Town or

MD

21204

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

Date

Case No. 04 046 SPHXA

Date 9/15/98

JL

7/29/03

FILED IN 1120/13



Baltimore County
Department of Permits and
Development Management

Code Inspection and Enforcement
County Office
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, CORPORATION, OR OWNER OF TENANT'S APPLIANCE

Citation/Case No. 04-8710	Property No. 15-16-600741	Zoning: BM
Name(s): ROBERT P. POLESKI AGNES C. POLESKI MICHAEL J. POLESKI KIMBERLY A. POLESKI		
Address: 2033 CUCKOLD POINT RD BALTO MD 21219		
Violation: 2033 CUCKOLD POINT RD (LOTS 506-510)		
Location:		
Violation:		
Dates: 10/5/04 to 5/17/05		

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

102-1-233, 500.6 - B.C.Z.R.
32-3-102 - B.C.C.

**NON-COMPLIANCE WITH THE SITE
PLAN FILED IN CASE NO. 04-046-
SPHX A, IN THAT WOOD STORAGE
RACKS ARE LOCATED IN AN AREA
DESIGNATED AS A 30 FT. RIGHT-OF-WAY**

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: **224 DAYS X \$200 PER DAY**

\$44,800

A quasi-judicial hearing has been pre-scheduled in Room 116,
111 West Chesapeake Avenue, Towson, Maryland, for:

Date: **5-17-05**

Time: **9:00 AM**

Citation must be served by:

Date: **4-15-05**

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: **DAVID J. TAYLOR**

Date: **3-31-05**

Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No. **04-8710**

Address:

Date

Defendant's Signature

AGENCY

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1516600740

Owner Information

Owner Name: POLESKI AGNES C Use: RESIDENTIAL
POLESKI MICHAEL J/ ROBERT P
Principal Residence: YES
Mailing Address: 9033 CUCKOLD POINT RD Deed Reference: 1) /11492/ 319
BALTIMORE MD 21219-1635 2)

Location & Structure Information

Premises Address
9033 CUCKOLD POINT RD

Legal Description

160 E FIFTH ST
SWAN POINT

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
112	15	4					509	82		9/ 4

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		10,250.00 SF	29
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	88,200	136,200		
Improvements:	26,400	26,400		
Total:	114,600	162,600	146,600	162,600
Preferential Land:	0	0	0	0

Transfer Information

Seller: POLESKI WILLIAM	Date: 03/22/1996	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11492/ 319	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 15 Account Number - 1516600741

Owner Information

Owner Name: POLESKI AGNES C
POLESKI MICHAEL J/ ROBERT P
Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 9033 CUCKOLD POINT RD
BALTIMORE MD 21219-1635
Deed Reference: 1) /11492/ 319
2)

Location & Structure Information

Premises Address
CUCKOLD POINT RD

Legal Description

WATERFRONT

SWAN POINT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
112	15	4					508	82		9/ 4

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1986	1,800 SF	12,400.00 SF	29

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	Phase-in Assessments As Of 07/01/2005
Land:	90,400	144,400		
Improvements:	11,900	54,300		
Total:	102,300	198,700	166,566	198,700
Preferential Land:	0	0	0	0

Transfer Information

Seller: POLESKI WILLIAM	Date: 03/22/1996	Price: \$0
Type: MULT ACCTS ARMS-LENGTH	Deed1: /11492/ 319	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

MID-ATLANTIC TITLE COMPANY

100 West Road, Suite 215 • Towson, Maryland 21204
Phone (410) 321-6075 • Fax (410) 337-8607

REPORT OF TITLE

TO: Fifth Street, LLC and Lawrence Thanner

FROM: Mid-Atlantic Title Company

DATE: March 19, 2004

PROPERTY: Bed of 5th Street Adjoining Lots 502 to 505, Revised Plat of Swan Point

LAND RECORDS: All references are to the Land Records of Baltimore County.

1. Legal Description:

IN AND TO the bed of 5th Street, adjoining Lots 502 to 505 as shown on the "Revised Plat of Swan Point", which Plat is recorded among the Plat Records of Baltimore County in Liber L.McL.M. No. 9, folios 4 and 5, being a portion of the property more fully described in a Deed dated January 11, 1967 and recorded among the Land Records of Baltimore County in Liber 4714, folio 578.

2. Title:

Title to the Property is vested in ESTHER SHUVALSKY, JACK SHEAR, and EDWARD STEIN, Personal Representatives of the Estate of Rose Sapperstein, by virtue of the aforesaid Deed by and between The White Eagle Polish American Building and Loan Association of Baltimore City, Incorporated, Grantor, and Katharine Korbien, Irene W. Korbien and Rose Sapperstein, Grantees, as joint tenants, in fee simple. The said Katharine Korbien and Irene W. Korbien having died, thereby vesting fee simple title in Rose Sapperstein, absolutely. The said Rose Sapperstein departed this life and Esther Shuvalsky, Jack Shear, and Edward Stein were appointed Personal Representatives of her Estate.

3. Title to the Property is subject to the following:

- A. Open Mortgages: None.
- B. Review of Estate of Rose Sapperstein.
- C. Surveyed description is required.

ASSIGNMENT OF LLC MEMBERSHIP INTERESTS

THIS ASSIGNMENT OF LLC MEMBERSHIP INTERESTS (this "Assignment") is made this 6th day of October, 2003, by and between ROBERT GLEN TROMBERO, having an address at 1824 Elk Road, Baltimore, Maryland 21221, and RAYMOND ANDREW TROMBERO, having an address at 428 Calvary Road, Churchville, Maryland 21028 (collectively the "Assignor"), and LAWRENCE J. THANNER and KATHERINE B. THANNER, having an address at 2515 Boston Street Place, Baltimore, Maryland 21224 (jointly the "Assignee").

EXPLANATORY STATEMENT

The Assignor is the owner of 100% of the Membership Interests (the "Membership Interests") in FIFTH STREET, LLC, a Maryland limited liability company (the "Company");

The Company is governed by the provisions of any Operating Agreement by and between the Assignor and the Company; and

The Assignor desires by this Assignment to assign to the Assignee 100% of the Membership Interests as set forth below, and the Assignee desires by this Assignment to accept the same.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the payment by the Assignee to the Assignor of the sum of [REDACTED] (the "Purchase Price") subject to adjustment pursuant to paragraph 2.1.6 hereof, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged by each party, the parties agree as follows:

1. *ASSIGNMENT.*

Effective as of the date hereof (the "Effective Date"), the Assignor assigns to the Assignee and the Assignee accepts and assumes from the Assignor (a) the Membership Interests (so that from and after the Effective Date, Lawrence J. Thanner shall own 50% of the Membership Interests, Katherine B. Thanner shall own 50% of the Membership Interests, and the Assignor shall own no Membership Interests), and (b) any and all right, title, and interest which the Assignor has under the provisions of §4A of the Corporations and Associations Article, Annotated Code of Maryland, in and to any of the Company's assets, with respect to the Membership Interests so assigned.

2. *REPRESENTATIONS.*

2.1. *By Assignor.* To induce the Assignee to accept the delivery of this Assignment, the Assignor hereby represents and warrants the following to the Assignee that, on the date hereof and as of the Effective Date:

1314 215

STATE OF MARYLAND - BALTIMORE CITY TO WIT

I Hereby Certify that on this 5th day of November in the year nineteen hundred and forty three before me a Notary Public of the State of Maryland in and for the County aforesaid personally appeared Michele Mariella and Adelina Mariella his wife the Mortgagors named in the foregoing Mortgage and each acknowledged the foregoing Mortgage to be their act. At the same time also appeared George A. Schnader and Anna B. Schnader his wife the Mortgagees above named and made oath in due form of law that the consideration set forth in said Mortgage is true and bona fide and therein set forth.

Witness my hand and notarial seal

(Notarial seal)

Walter J. MacDermott

Notary Public

Received Nov 9 1943 at 3:30 P.M. & Paid for

Robert J. Spittal - Clerk (Red M2)

Examiners (J&S)

Balance of \$1.10
for the balance of the mortgage of 1943
for the balance of the mortgage of 1943
for the balance of the mortgage of 1943
for the balance of the mortgage of 1943

DUPLICATE MAR 29 1944

49993

White Eagle Polish American Bldg. & Loan Ass'n

Deed to

Edward F. Hranicka & wife

Paid \$1.65 STs \$1.10

This Deed Made this 27th

day of September in the year one thousand nine hundred and forty-three by and between WHITE EAGLE

POLISH AMERICAN BUILDING AND LOAN ASSOCIATION OF BALTIMORE CITY INC

a body corporate of the State of Maryland of Baltimore City in the State of Maryland of the first part and EDWARD F. HRANICKA and EUGENE HRANICKA his wife of the second part Witnesseth that in consideration of the sum of five dollars and other good and valuable considerations the receipt of which is hereby acknowledged the said White Eagle Polish American Building and Loan Association of Baltimore City Inc doth grant and convey unto the said Edward F. Hranicka and Eugene Hranicka his wife as tenants in fee simple their assigns the survivor of them and the survivor's heirs and assigns in fee simple all those six lots in Fifteenth Election District of Baltimore County State of Maryland

extra copy

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
Lawrence E. Schmidt, Zoning Commissioner

October 20, 2003

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
SE/S Cuckold Point Road, 60' S of the c/l 4th Street
(9033 Cuckold Point Road)
15th Election District - 7th Council District
Robert P. Poleski & Michael J. Poleski - Petitioners
Case No. 04-046-SPHXA

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: ✓ Messrs. Robert P. Poleski and Michael J. Poleski
9033 Cuckold Point Road, Baltimore, Md. 21219
Chesapeake Bay Critical Areas Commission
1804 West Street, Suite 100, Annapolis, Md. 21401
Mr. William P. Jones, DED; DEPRM; Office of Planning; People's Counsel; Case File

102



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

December 10, 1997

John B. Gontrum, Esquire
314 Eastern Boulevard
Baltimore, Maryland 21087

RE: Petition for Special Hearing
Case No. 98-3-SPH
Property: 9033 Cuckold Pt. Road
Robert & Michael Poleski, Petitioners

Dear Mr. Gontrum:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted in part and denied in part, with restrictions.

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 of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

- c: Messrs. Robert & Michael Poleski
9033 Cuckold Point Road, Baltimore, Md. 21219-1635
- c: Mr. Joseph Larson
Spellman, Larson and Associates, 105 W. Chesapeake Avenue
Towson, Md. 21204
- c: Mr. Edward Idranicka, 9025 Cuckold Pt. Road 21219
- c: Ms. Christina K. Minnick 9103 Cuckold Point Rd., 21219
- c: Mr. Phillip J. Sessa, 2708 6th St., 21219
- c: Mr. Adam F. Szczypinski, 9039 Cuckold Point Road, 21219

DEC 15 1997

IN RE: PETITION FOR VARIANCE
S/S Cuckold Point Road, 55' W
of the c/l of 4th Street
(9035 Cuckold Point Road)
15th Election District
7th Councilmanic District

William Poleski, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* Case No. ~~95-151-A~~

95-151-A

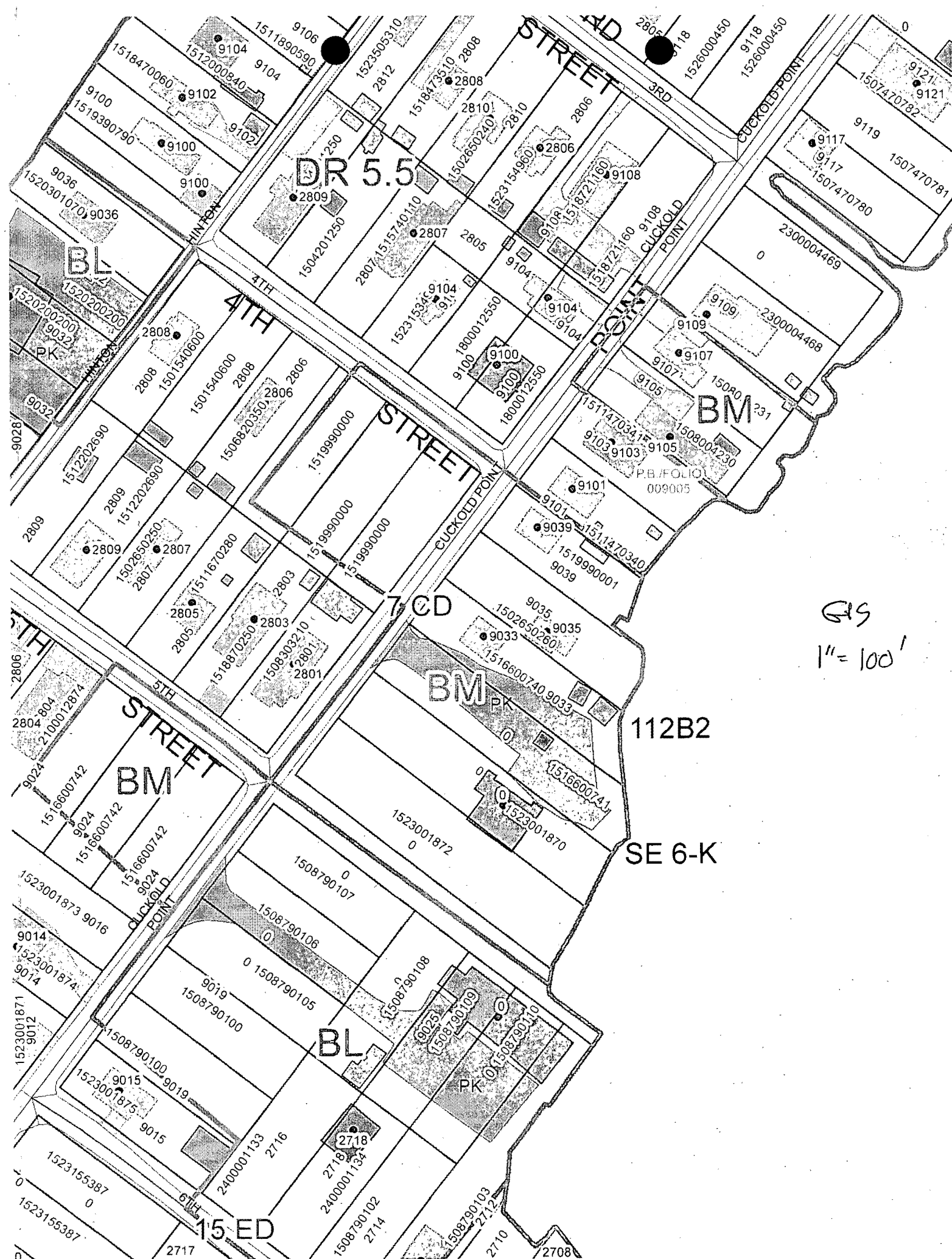
* * * * *

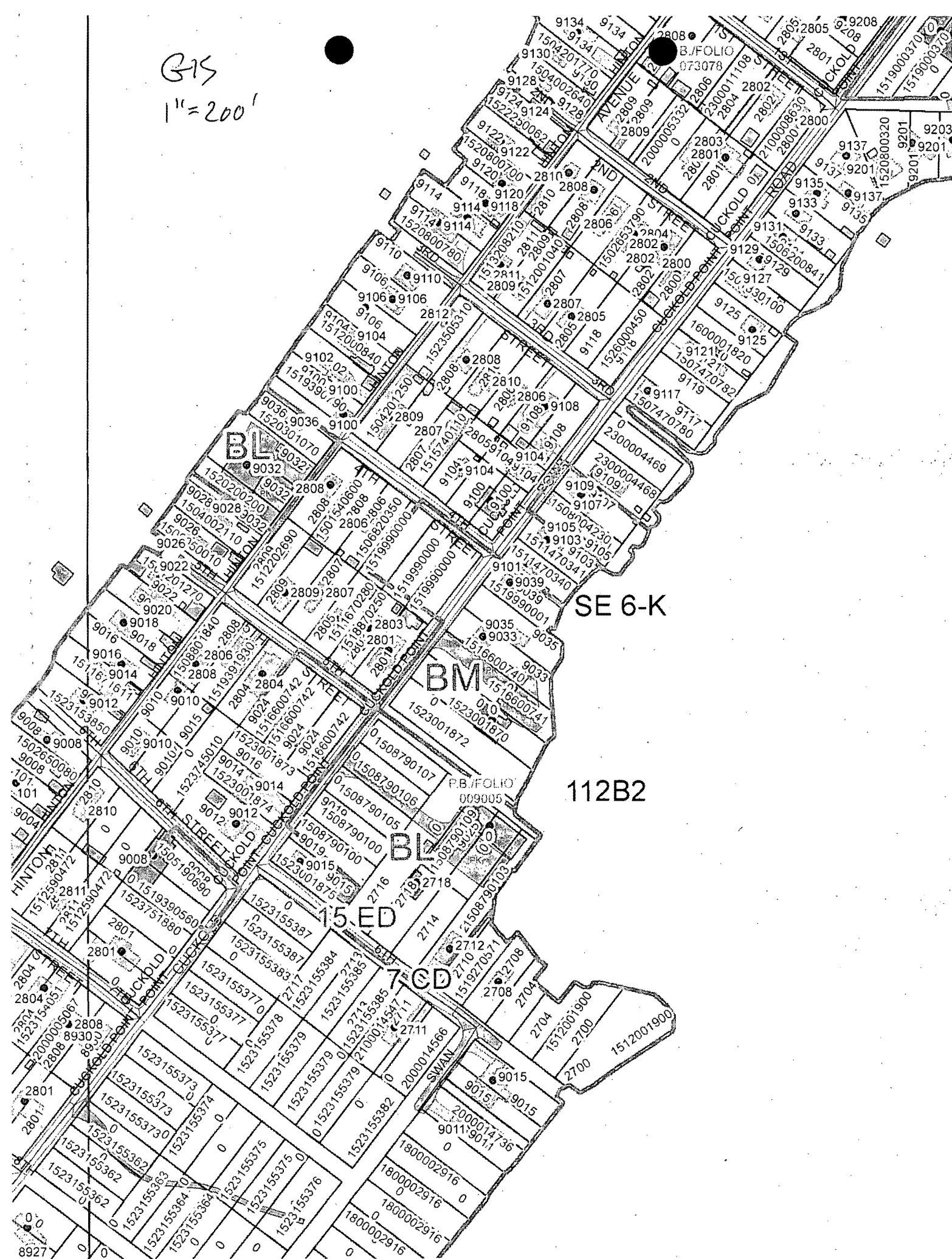
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 9035 Cuckold Point Road, located in the vicinity of Edgemere in southeastern Baltimore County. The Petitions were filed by the owners of the property, William and Agnes Poleski. The Petitioners seek relief from Section 1B02.3.C 1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 50 feet in lieu of the minimum required 55 feet and a side yard setback of 8 feet in lieu of the minimum required 10 feet for a proposed dwelling reconstruction. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Agnes Poleski, property owner, and Patrick O'Keefe, development consultant. Appearing as an interested party was Adam Szczypinski, adjoining property owner. There were no Protestants present.

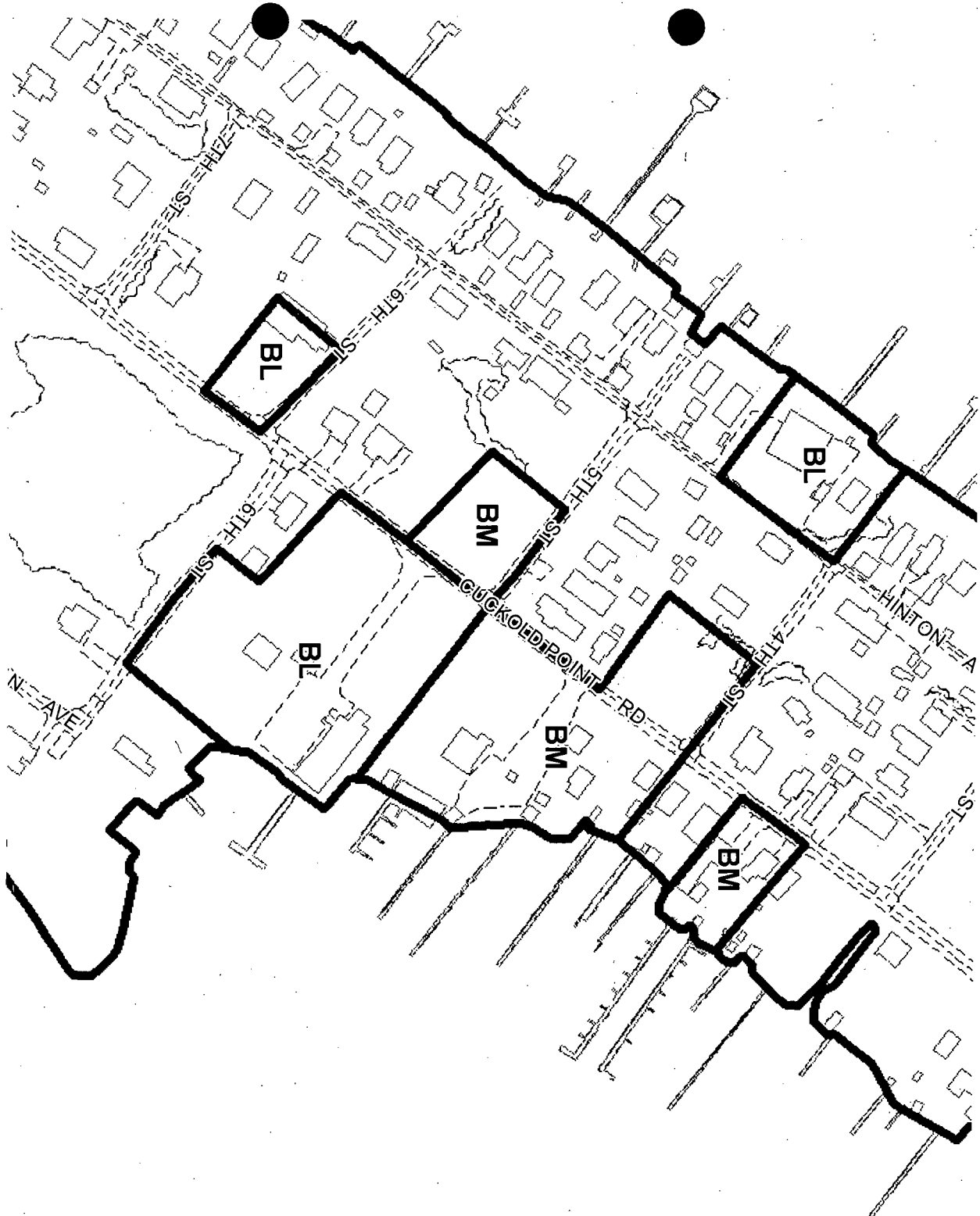
Testimony and evidence offered revealed that the subject property consists of 8,700 sq.ft., zoned D.R. 5.5 and is improved with a single family dwelling which is proposed to be removed. The property is located within the Chesapeake Bay Critical Areas on Hawk Cove in an older subdivision known as Swan Point, which was developed many years ago with 50-foot

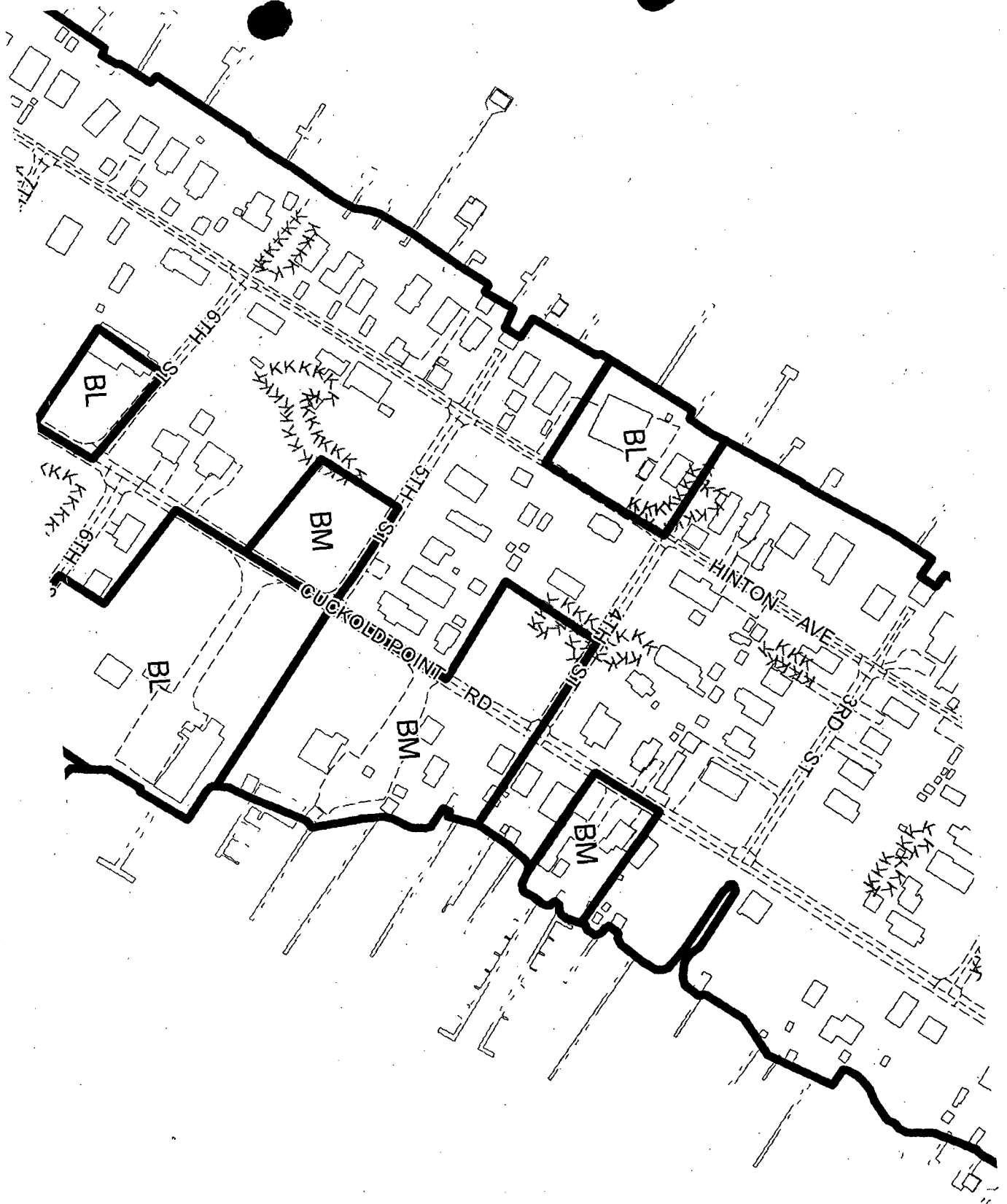


$$1'' = 200'$$


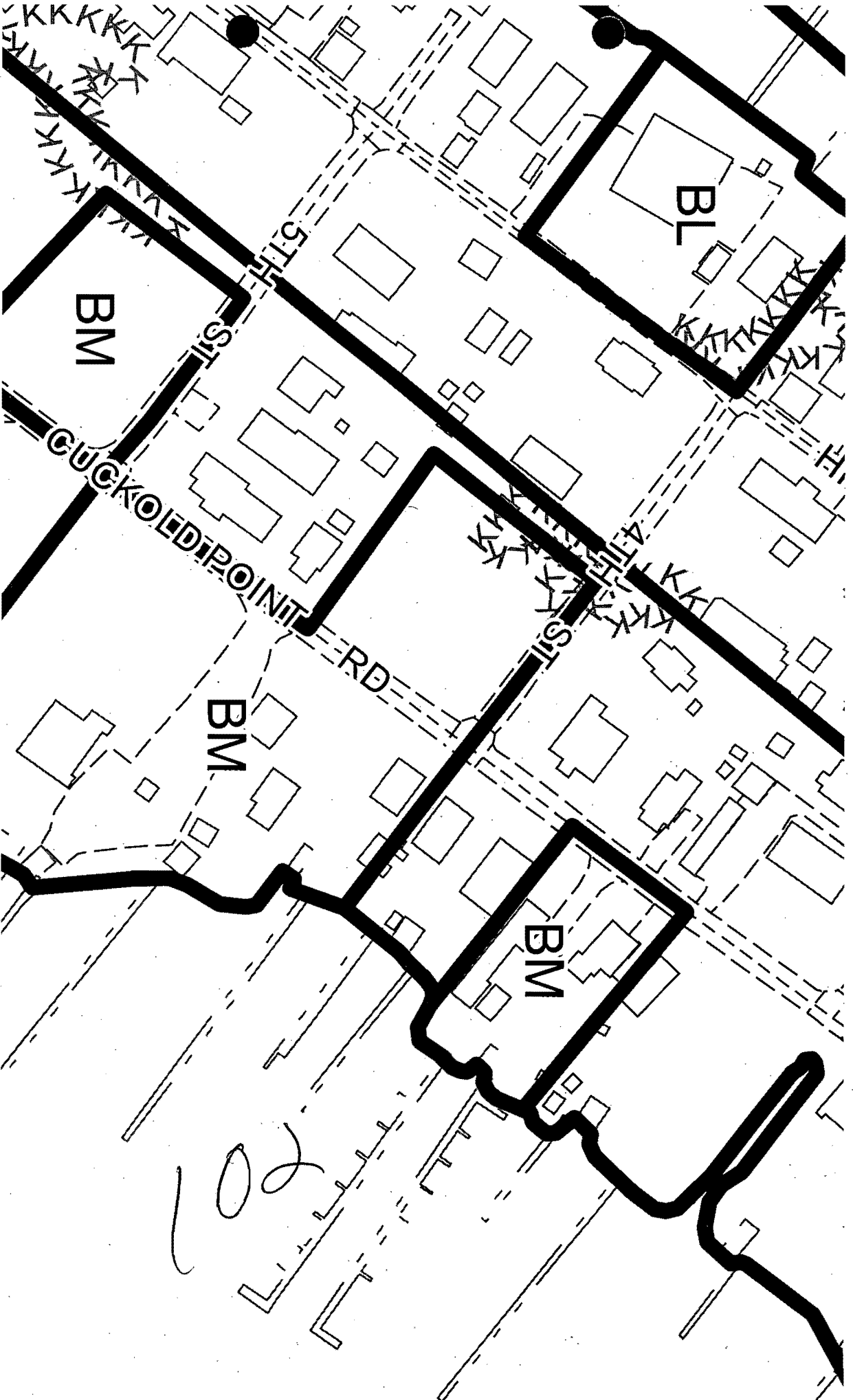
1121

112B2





102



nineteen hundred and ninety-one, between ROSE SARRAKA and
4505 Bancroft Road, Baltimore, Maryland 21215, Seller, and
WILLIAM POSECKI and Agnes, his wife, 9033 Cuckold Point Road,
Baltimore, Maryland 21219, Buyer

Baltimore County, State of Maryland, being that portion of the bed of unimproved road designated as Street No. 5 beginning at Cuckold Point Road and leading to the water at Cuckold Cove containing an area of ~~200~~ feet, plus or minus, by 30 feet, all of the designated area set forth in the revised Plat of Swan Point Book No. 9, folio 5. To the best knowledge of the parties the parcel has not been taxed and is not at present subject to any public charges, the Buyer is to be responsible for all costs involved in this transaction, including examination of Title, Transfer Stamps, Recording, etc., and all attorney fees.

of which, ~~Two Thousand and Five Hundred~~ ^{4,500.00} Dollars (4,500.00) ~~12~~
Five Thousand Dollars ^{2,500.00} 5,000.00
have been paid prior to the signing hereof, and the balance to be paid as follows:

The settlement shall take place within 30 days from the date of this Agreement and in the event Title examination discloses that the Seller is not a bonafide owner of the property then this Agreement shall be null and void without penalty or obligation, and all deposits will be refunded.

AND upon payment as above provided of the unpaid purchase money, a deed for the property shall be executed at the Buyer's expense by the Seller, which shall convey the property by a good and marketable title to the Buyer, free of liens and encumbrances except as specified herein; but subject, however, to all applicable restrictions, covenants, laws, ordinances, regulations, charges, taxes and assessments, if any.

[illegible]

It is also understood and agreed that the Seller shall immediately have all of the insurance policies on the property so endorsed as to protect all parties hereto, as their interests may appear, and continue said insurance in force during the life of this Contract. The parties agree that the parcel herein is not subject to policies of insurance, and no agreement between the parties hereto, and neither they nor their Agents

This Contract constitutes the final and entire Agreement between the parties hereto, and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written; time being of the essence of this Agreement. Cost of all documentary stamps and of transfer, recording, conveyancing and other similar taxes when applicable and where required by law, shall be shared equally by the parties hereto.

10/19/68 In duplicate the hands and arms of the parties hereto the day and year first above written.

Ester Shumel
WITNESS AS TO SIGNATURE

ROSE SARESTEIN (SEAL)
ROSE SARESTEIN

1
 WITHHOLD AS TO SELLER'S SIGNATURE

Rose Sapperstein (SEAL)
DEALER'S SIGNATURE

SECRET

131 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 (SEAL)

ATTENTION - NO SIGNATURE

William Folski - *[Signature]*
SEVERY SIGNATURE

14

Case No.:

06-102 SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	PRIOR ORDERS 1-A 04-046 1-B 98-3-SPH	Permit 1A 1B Application T3589396 - fence installation
No. 2	Contract(s) of Sale 2A - 10/15/04 2B - 10/22/04	
No. 3	PHOTOGRAPHS - Collectively 3A thru 3M	
No. 4	REVISED SITE PLAN	
No. 5	Affidavits Collectively (5) (13 NAMES)	
No. 6	J. JACK SHEAR PR AFFIDAVIT	
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Pet # 1A

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
SPECIAL EXCEPTION & VARIANCE - * ZONING COMMISSIONER
SE/S Cuckold Point Road, 60' S of the c/l *
4th Street *
(9033 Cuckold Point Road) * OF BALTIMORE COUNTY
15th Election District *
7th Council District * Case No. 04-046-SPHXA

Robert P. Poleski and *
Michael J. Poleski, Owners/Petitioners *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Robert P. Poleski and his brother, Michael J. Poleski, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners request a special hearing to approve an amendment to the site plan previously approved in Case No. 98-3-SPH and removal of Restriction No. 3 thereof. In addition, a special exception is requested to permit a Class B out-of-water storage facility on the subject property. Lastly, a variance is requested from Section 417.7.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow 1.43 acres in area in lieu of the required 5.0 acres for a Class B out-of-water storage facility. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Robert Poleski, co-owner of the subject property, Joseph Larson, the consultant who prepared the site plan, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing in support of the request was William P. Jones on behalf of Baltimore County's Department of Economic Development. In addition, a number of neighbors from the surrounding locale appeared in support of the request and their attendance is reflected on the sign-in sheet that was circulated at the hearing. There were no Protestants or other interested persons present.

PETITIONER'S
EXHIBIT NO. 1A

Pet # 1B

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SE/S Cuckold Point Road, 60 ft. *
+/- S from c/l 4th Street * ZONING COMMISSIONER
9033 Cuckold Point Road *
15th Election District * OF BALTIMORE COUNTY
7th Councilmanic District *
Robert Poleski & Michael * Case No. 98-3-SPH/
Poleski, Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the property known as lots 506 thru 510 (also known as 9033, 9035 and 9037 Cuckold Pt. Road) in the Swan Point subdivision in southeastern Baltimore County. The Petition was filed by Robert Poleski and Michael Poleski, property owners. The Petition requests that the Zoning Commissioner grant relief, "to confirm and continue a pre-existing nonconforming use of a boat yard/marina in a B.M./D.R.5.5 zone; to amend the previously approved site plan dated October 12, 1994; and to approve a modified parking plan pursuant to BCZR, Section 409.12". The subject property and requested relief are more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Special Hearing.

Appearing at the public hearing held for this case were Michael Poleski and Robert Poleski, property owners. Also appearing in support of the request was Joseph Larson, of Spellman, Larson and Associates, Inc., the consultants who prepared the site plan. The Petitioners were represented by John B. Gontrum, Esquire. A number of interested individuals who reside in the area also appeared in support of the Petition. They included Terri Lidard, Kim Poleski, Wayne Miskiewicz, Carl Hobson and Norman Anderson. Also appearing at the hearing were a number of neighbors who are concerned about the Petitioners' plans. Those individuals included Edward Idranicka, Christina K. Minnick, Phil [redacted] and Adam F. Szczypinski.

PETITIONER'S

EXHIBIT NO. 1-B

2A

CONTRACT OF SALE

This Agreement of Sale, made this 15TH day of OCTOBER, 2004 between Estner Shuvalsky, Co-Personal Representative for Estate of Rose Sapperstein, and J. Jack Shear, Co-Personal Representative for the Estate of Rose Sapperstein, Sellers; and Robert P. Poleski, his heirs and assigns, Buyer.

Witness that the said Sellers do hereby bargain and sell unto the said Buyer, and the latter does hereby purchase from the former the following described property, situate and lying in Baltimore County, Maryland, and known as Fifth Street on the revised Plat of Swan Point recorded in the land records in Plat Book No. 9 Folio 5. Said Fifth Street being 30 feet in width and running parallel and adjacent to Lot 506 from Cuckold Point Road to the water at Cuckold Cove, said property being in fee simple.

At and for the price of Twenty-Five Thousand Dollars (\$25,000.00) of which Two Thousand Five Hundred Dollars (\$2,500.00) has been paid prior to the signing hereof, and the balance to be paid at settlement, which shall be on November 15, 2004 or at a later date if additional time is needed to gain permission from the Orphans' Court for Baltimore City to proceed on this Contract.

Deposit monies are to be held pending settlement in the escrow account of Buyer's Attorney:

Francis X. Borgerding, Jr
Suite 600 - Mercantile Building
409 Washington Ave
Towson, Maryland 21204

Upon payment as above provided of the unpaid purchase money, a deed for the property containing covenants of special warranty and further assurance shall be executed at the Buyer's expense by the Sellers, which shall convey the property to the Buyer.

Title to the property shall be good and merchantable fee simple title, free of liens and encumbrances except for publicly recorded easements for public utilities.

Possession of the premises shall be given to Buyer as of date of settlement.

This Contract contains the final and entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

Time shall be of the essence of this Contract.

The cost of all documentary stamps, required by law, recordation tax and transfer tax, where required by law, shall be the responsibility of the Buyer.

PETITIONER'S

EXHIBIT NO.

2A

2 B

CONTRACT OF SALE

This Agreement of Sale, made this 22nd day of October, 2004 between Esther Shuvalsky, Personal Representative for Estate of Rose Sapperstein, Seller; and Robert P. Poleski, his heirs and assigns, Buyer.

Witness that the said Seller does hereby bargain and sell unto the said Buyer, and the latter does hereby purchase from the former the following described property, situate and lying in Baltimore County, Maryland, and known as Fifth Street on the revised Plat of Swan Point recorded in the land records in Plat Book No. 9 Folio 5. Said Fifth Street being 30 feet in width and running parallel and adjacent to Lot 506 from Cuckold Point Road to the water at Cuckold Cove, said property being in fee simple.

At and for the price of Twenty-Five Thousand Dollars (\$25,000.00) of which Two Thousand Five Hundred Dollars (\$2,500.00) has been paid prior to the signing hereof, and the balance to be paid at settlement, which shall be on November 15, 2004 or at a later date if additional time is needed to gain permission from the Orphans' Court for Baltimore City to proceed on this Contract.

Deposit monies are to be held pending settlement in the escrow account of Buyer's Attorney:

Francis X. Borgerding, Jr
Suite 600 - Mercantile Building
409 Washington Ave
Towson, Maryland 21204

Upon payment as above provided of the unpaid purchase money, a deed for the property containing covenants of special warranty and further assurance shall be executed at the Buyer's expense by the Seller, which shall convey the property to the Buyer.

Title to the property shall be good and merchantable fee simple title, free of liens and encumbrances except for publicly recorded easements for public utilities.

Possession of the premises shall be given to Buyer as of date of settlement.

This Contract contains the final and entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

Time shall be of the essence of this Contract.

The cost of all documentary stamps, required by law, recordation tax and transfer tax, where required by law, shall be the responsibility of the Buyer.

PETITIONER'S

EXHIBIT NO. 2 B

Notes *Drawn off*

Emergency oil spill equipment and pump-out equipment located in Shed 1.
Bill's Boats site configuration and minor expansion conditionally approved
by DEPRM on January 5, 2000.

Fire protection standpipes shall be installed in accordance with NFPA 14,
and NFPA 303; Installation and specifications shall also conform to
F-519.2 and F-520.0 of the Fire Prevention Code of Baltimore County.
Separate permit is required for fire prevention equipment/system.
Location of off-site features are not field located.

This plat is not intended for construction purposes.
Entire site falls within Tidal Flood Zone 'A' and C.B.C.A.
There are no historic buildings on-site.

SITE PLAN

Plat to Accompany Zoning Petitions,
Special Exception, Special Hearing and Variance

BILL'S BOATS

9033 Cuckold Point Road
Lots 506-510

Election District No. 15
Baltimore County, Maryland



AMERICAN LAND CONCEPTS
238 B MAIN STREET
REISTERSTOWN, MARYLAND 21136
PHONE: (410)-526-2688
FAX: (410)-526-2970

SCALE: 1"=50'

DATE: 06.24.02, rev. 12.16.02

JOB #: 99-35 *REV. 3-19-03*
REV. 7-19-03

DESIGNED: GMJ

DRAWN: GSH

CHECKED: GMJ, WJB

C:\DRAWINGS\Bill's Boats\Zoning Hearing Plan

SHEET: 1 OF 1

PETITIONER'S

EXHIBIT NO. 4

9033 Cuckold Point Road
 S/east side of Cuckold Point Road
 At the intersection with 5th Street
 15th Election District
 7th Councilmanic District
 Legal Owner: Jack Shear
 Contract Purchaser: Robert Poleski

* BEFORE THE
 * ZONING COMMISSIONER
 * FOR
 * BALTIMORE COUNTY
 * Case No.: 06-102-SPH

AFFIDAVIT

TO THE HONORABLE, THE JUDGES OF SAID COURT:

1. I hereby certify that I am over the age of eighteen (18) years and am competent to testify in matters regarding the above referenced case.
2. I do not have any financial interest in the outcome of this matter.
3. I live at 7115 Northpoint, which is in close proximity to the Petitioner's operation, Bill's Boats.
4. I have lived at this location for 42 years and over this time have observed the operation, including storage of boats on this facility.
5. Over a 15 year period, I have observed boats being stored in the same manner as they do today.
6. These boats have always been stored up to the western edge of the paper road extending across Cuckold Point Road from 5th Avenue.
7. I have experienced no detrimental effects from the storage of these boats at this location and, therefore, would support Petitioner's request for Special Hearing approval to extend their Special Exception for their Class B out of water storage facility up to their current position.

Carl Holzer

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF
 _____, 2005.

 Notary Public

My Commission Expires:

PETITIONER'S

EXHIBIT NO. 5

IN THE MATTER OF

PETITION FOR SPECIAL HEARING

SE/Corner Cuckhold Point Road and 5th Street

(9033 Cuckhold Point Road)

15th Election District - 7th Council District

Robert Poleski, et al - Petitioners

* BEFORE THE

* ZONING

* COMMISSIONER

* FOR BALTIMORE

* COUNTY

* Case No. 06-12-SPH

AFFIDAVIT

I, J. Jack Shear, hereby certify that I am over the age of eighteen (18) years and am competent to testify in matters regarding the above referenced case. I affirm, under the penalties of perjury, and upon personal knowledge, that the contents of the foregoing paper are true.

1. I am the Personal Representative of the Estate of Rose Sapperstein who by virtue of the attached Deed by and between the White Eagle Polish American Building and Loan Association of Baltimore City, Incorporated, Grantor and Katherine Korbein, Irene W. Korbein, Grantees with Rose Sapperstein, as joint tenants, in fee simple held title to the roadbed that is the subject of this case.
2. As Catherine Korbein and Irene W. Korbein died prior to Rose Sapperstein, her Estate became solely vested in the fee simple title to all of property mentioned in aforementioned Deed including the referenced roadbed.
3. Included as a part of this property, Rose Sapperstein was the fee simple title owner absolutely to the bed in question in the above referenced case described as, the bed of 5th Street adjoining Lots 502 to 505 as shown on the Revised Plat of Swan Point", which Plat is recorded among the Plat Record of Baltimore County in Liber L.McL.M No. 9 folios 4 and 5, being a portion of the property more fully described in a Deed dated January 11, 1961 and recorded among the Land Records of Baltimore County in Liber 414, folio 578.
4. As Personal Representative, I am authorized to and desire to sell this portion of the roadbed to Robert and Michael Poleski. I certify that Robert and Michael Poleski have used this bed of 5th Street since 1981 for the storage of the boats in relation to their continuing marina operation.
5. I have no objection to the granting of the Special Hearing requested in this case to allow these boats to continue to be stored on a portion of the roadbed.

PETITIONER'S

EXHIBIT NO. 6

Case No.:

06-102 SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	PRIOR ORDERS 1-A 04-046 1-B 98-3-SPH	Permit 1A 1B Application T3589396 - fence installation
No. 2	Contract(s) of Sale 2A - 10/15/04 2B - 10/22/04	
No. 3	PHOTOGRAPHS - Collectively 3A thru 3M	
No. 4	REVISED SITE PLAN	
No. 5	Affidavits Collectively (5) (13 NAMES)	
No. 6	J. JACK SHEAR PR AFFIDAVIT	
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

Timothy Kotroco
TIMOTHY M. KOTROCO
DIRECTOR

BUILDING PERMIT

John R. Reisinger
JOHN R. REISINGER
BUILDINGS ENGINEER

PERMIT #: B587396 CONTROL #: MC- DIST: 15 PREC: 01
DATE ISSUED: 04/19/2005 TAX ACCOUNT #: 1523001872 CLASS: 29

PLANS: CONST PLOT R PLAT DATA ELEC PLUM
LOCATION: 9032 CUCKOLD POINT RD
SUBDIVISION: SWAN POINT

OWNERS INFORMATION

NAME: POLESKI, ROBERT & MICHAEL
ADDR: 9032 CUCKOLD POINT RD, BALTO, MD 21219-1635

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: ERECT 114 +10 FT OF 7.5' HIGH ROUGHT IRON FENCE
IN THE FRONT/2 ROADSIDE OF MARINIA AS PER SITE
PLAN. NOTE: FENCE CANNOT ENCLOSE PAPER ROAD
UNTIL SPH IS GRANTED.
VARIANCE CASE#04-046SPHXA.

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: MARINA + FENCE

EXISTING USE:

TYPE OF IMPRV:

USE:

FOUNDATION:

BASEMENT:

SEWAGE: PUBLIC EXIST

WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 10250SF

FRONT STREET:

SIDE STREET:

FRONT SETB: 6'

SIDE SETB: NC/NC

SIDE STR SETB:

REAR SETB: NC

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

PROTESTANT'S

EXHIBIT NO. 1A

238 B MAIN STREET
REISTERSTOWN, MARYLAND 21136.

PREVIOUS ZONING HISTORY

CASE # 95-151A

PETITION FOR VARIANCE SEEKING RELIEF FROM SECTION 1802.3.C.1 OF THE B.C.Z.R. TO PERMIT A LOT WIDTH OF 50 FEET IN LIEU OF THE MINIMUM REQUIRED 55 FEET AND A SIDE YARD OF 8 FEET IN LIEU OF THE MINIMUM REQUIRED 10' FOR PROPOSED DWELLING CONSTRUCTION. GRANTED DEC. 13, 1994

RESTRICTIONS:

1. PROPOSED DWELLING MUST BE SET BACK A MINIMUM DISTANCE OF 100' FROM HAWK COVE.

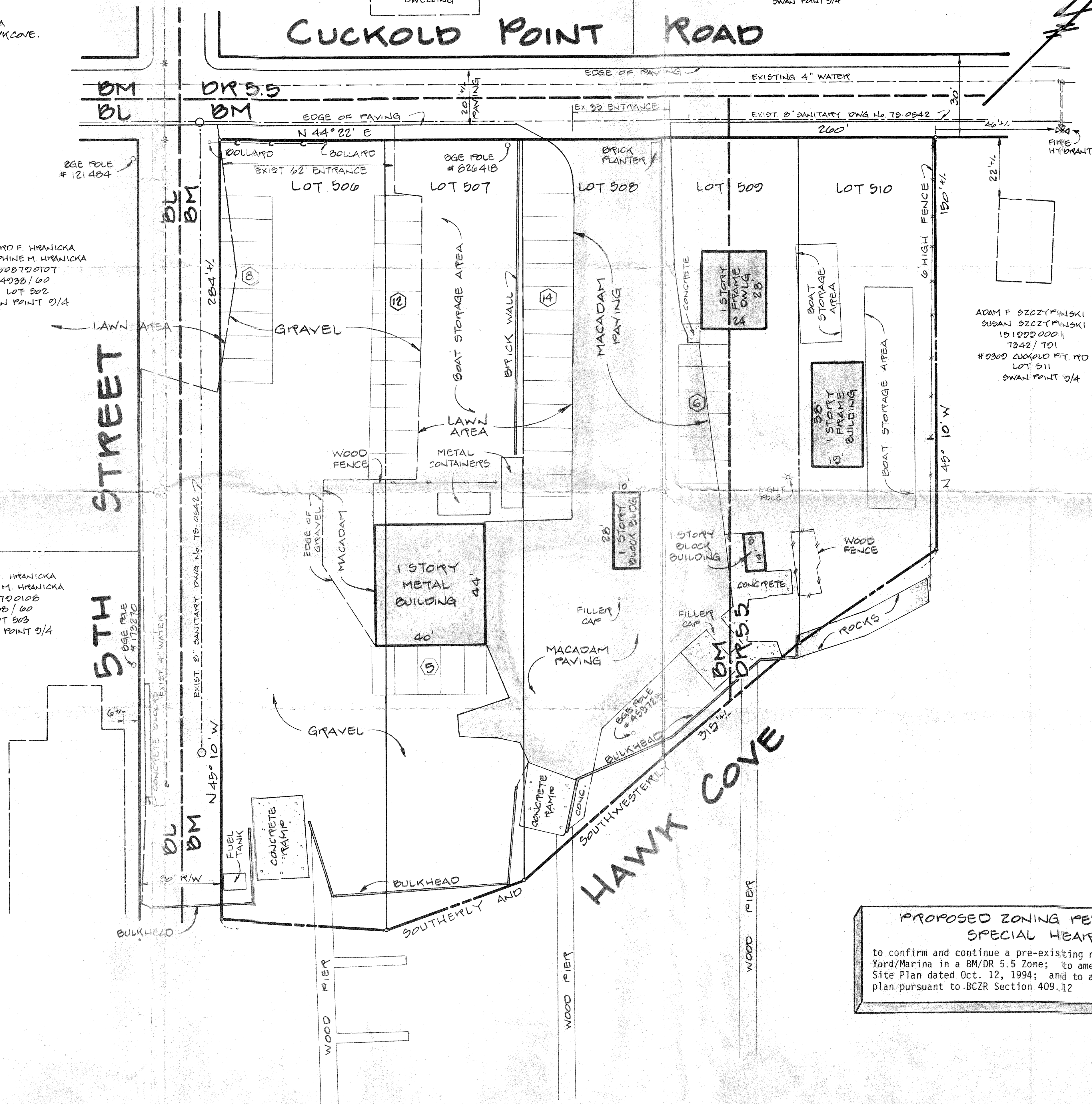
JOSEPH C. HETMANSKI
1508303210
4602/211
LOT 72 SWAN POINT 3/4

#2801
5TH STREET
EXISTING
DWELLING

ADAM F. SZCZYPINSKY
SUSAN M. SZCZYPINSKY
1510990000
7342/701
LOTS 506, 507, 508
SWAN POINT 3/4

EDWARD F. HRANICKA
JOSEPHINE M. HRANICKA
1508700107
4038/60
LOT 502
SWAN POINT 3/4

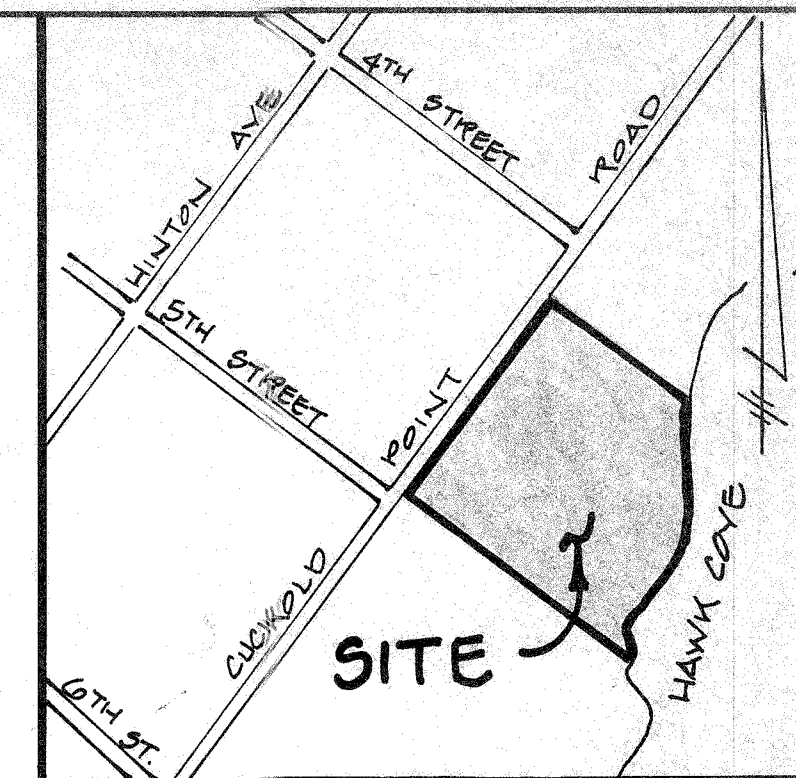
EDWARD F. HRANICKA
JOSEPHINE M. HRANICKA
1508700108
4038/60
LOT 503
SWAN POINT 3/4



GENERAL NOTES

1. THERE ARE NO PREVIOUS COMMERCIAL PERMITS FOR THE SUBJECT PROPERTY.
2. THE SUBJECT SITE IS IN THE CHESAPEAKE BAY CRITICAL AREA.
3. THE SUBJECT SITE IS SERVED BY PUBLIC WATER AND SEWER.

ADAM F. SZCZYPINSKI
SUSAN M. SZCZYPINSKI
1510990000
7342/701
#9033 CUCKOLD PT. RD
LOT 511
SWAN POINT 3/4



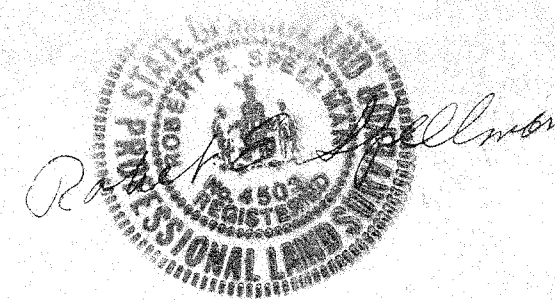
VICINITY MAP

SCALE: 1" = 200'

SITE DATA

DEED REFERENCES	7160/1957
TAX ACCOUNT NUMBERS	11492/310 1516000740 1523001878 1502650260
COUNCILMANIC DISTRICT	7
SITE AREA	62,110 SQ. FT. 1.43 AC. ±
FLOOR AREA RATIO	
TOTAL SQ. FT. OF BUILDINGS	= 3,570
F.A.R. = 3,570 / 62,110	= 0.06
EXISTING ZONING	BM: DR55
EXISTING USE	BOATYARD / MARINA

PARKING DATA
No. of PARKING SPACES PROVIDED ON SITE: 45 SPACES
NOTE: ALSO THERE IS OVERTFLOW PARKING AVAILABLE ON THE POLESKI PROPERTY ON THE SOUTHWEST CORNER OF CUCKOLD POINT ROAD AND 5TH STREET FOR APPROXIMATELY 50 CARS.



OWNER

WILLIAM POLESKI
AGNES C. POLESKI
9033 CUCKOLD POINT ROAD
BALTIMORE, MARYLAND 21210

REVISIONS	
NO.	DESCRIPTION

SPELLMAN, LARSON & ASSOCIATES, INC.

CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BLDG., TOWSON, MD 21204
PHONE: 823-3535

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

9033 CUCKOLD POINT RD

LOTS 506-510 "SWAN POINT"
POLESKI PROPERTY

#3

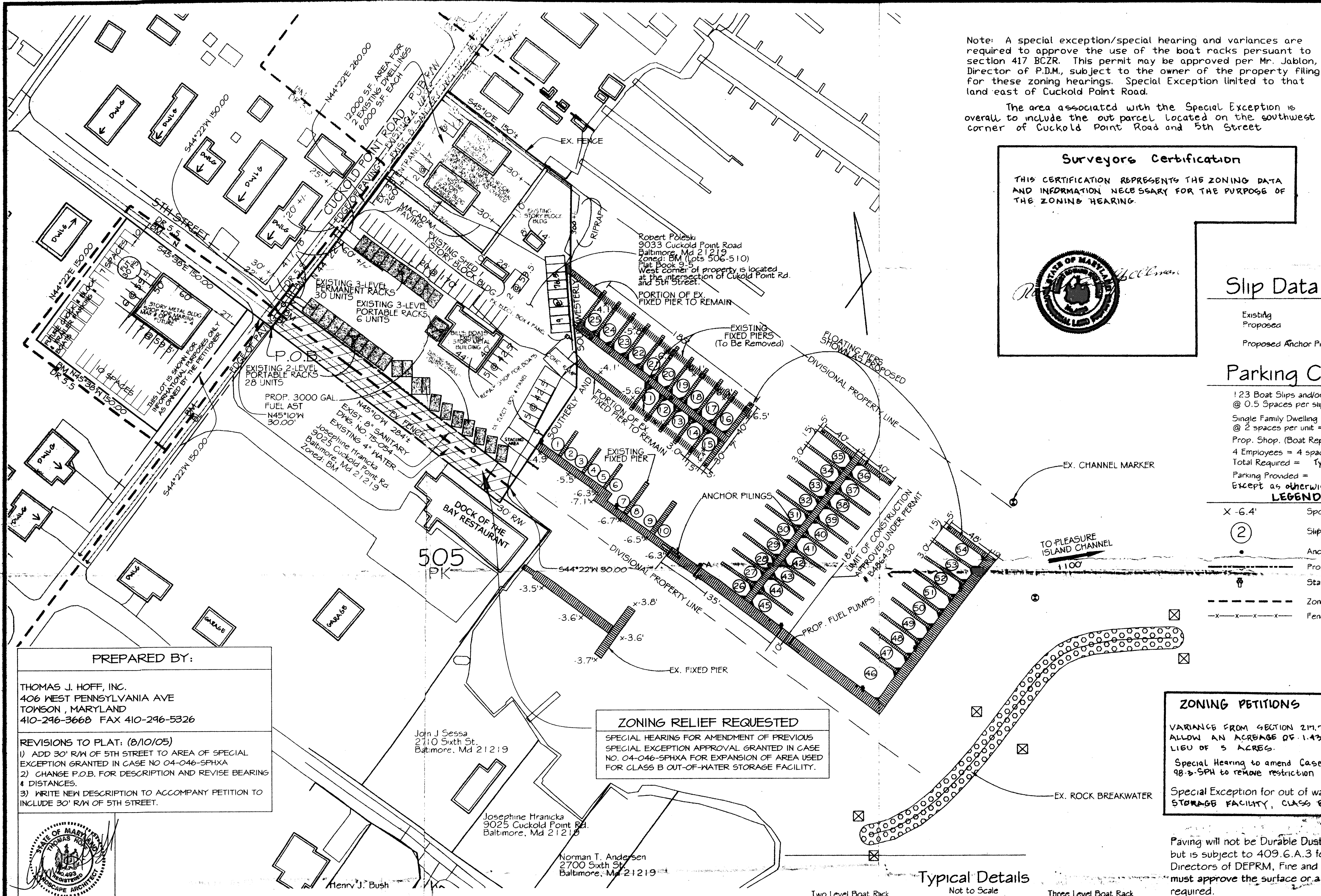
ELECTION DIST. No. 19 BALTIMORE COUNTY, MD

SCALE: 1" = 30' DES. BY: P.M.N. SHT. 1 OF 1
DATE: 6/27/97 DRN. BY: P.M.N.

PROPOSED ZONING PETITION FOR SPECIAL HEARING

to confirm and continue a pre-existing non-conforming use of a Boat Yard/Marina in a BM/DR 5.5 Zone; to amend a previously approved Site Plan dated Oct. 12, 1994; and to approve a modified parking plan pursuant to BCZR Section 409.12

98-3-SPH

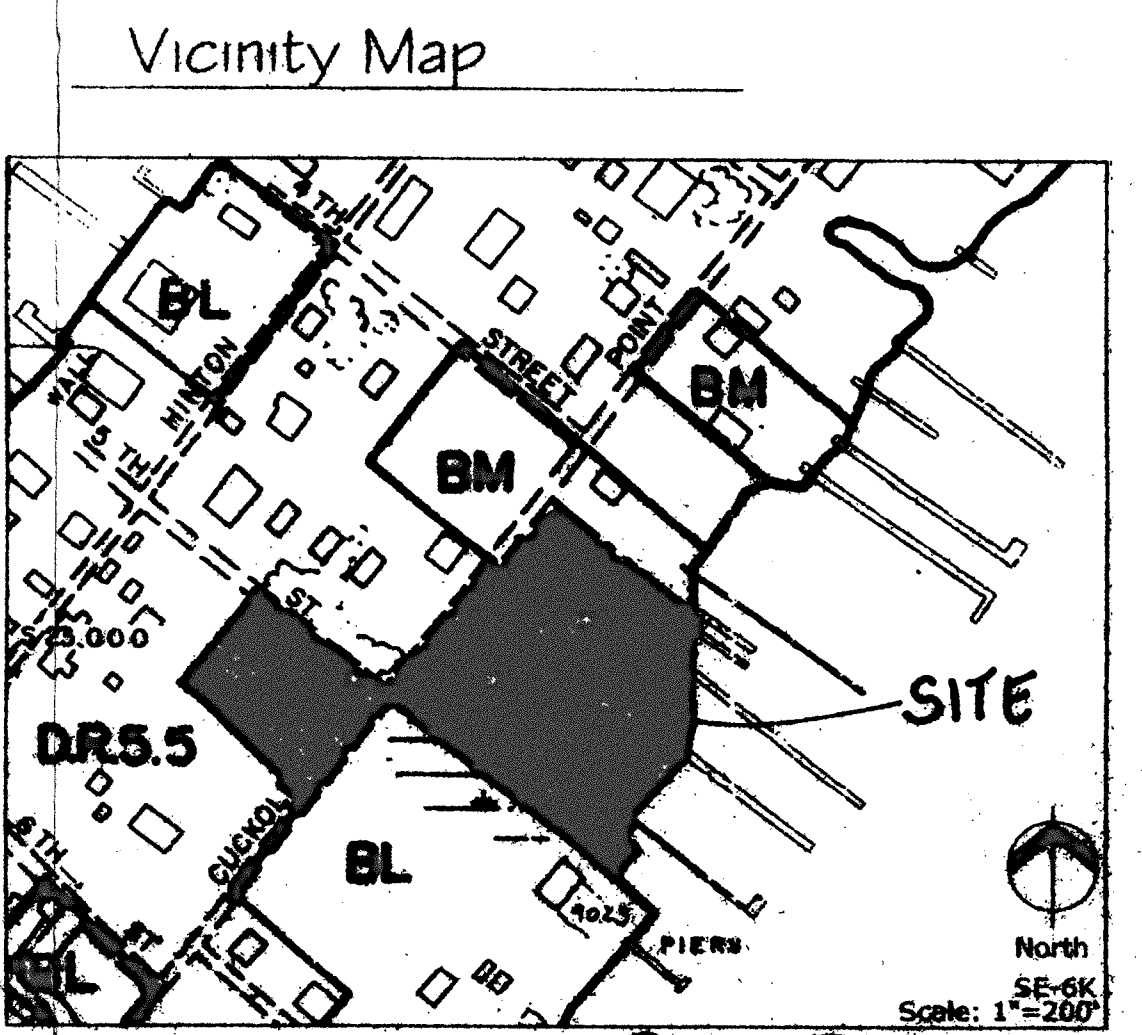


Note: A special exception/special hearing and variances are required to approve the use of the boat racks pursuant to section 417 BCZR. This permit may be approved per Mr. Jablon, Director of P.D.M., subject to the owner of the property filing for these zoning hearings. Special Exception limited to that land east of Cuckold Point Road.

The area associated with the Special Exception is overall to include the out parcel located on the southwest corner of Cuckold Point Road and 5th Street

Surveyors Certification

THIS CERTIFICATION REPRESENTS THE ZONING DATA AND INFORMATION NECESSARY FOR THE PURPOSE OF THE ZONING HEARING.



Slip Data

Existing	60 Slips
Proposed	54 Slips
Proposed Anchor Piling	17

Site Data

Deed References	7163/357 11492/319
Tax Account Numbers	1516600740 1516600741 1502650260
Councilmanic District	7th
Site Area	* 986.86 SQ. FT.
Existing Zoning	BM
Existing Use	Boatyard/Marina
Floor Area Ratio	Total Sq. Ft. of Buildings = 2,152 sq. ft. F.A.R. = 2.152/49,715 = 0.043
*ACREAGE OF VARIANCE = 1.64	(BOATYARD AREA ON WATER SIDE OF CUCKOLD POINT RD)
ACREAGE OF SPH & SPX = 2.16 AC.±	(PROPERTIES ON BOTH SIDES OF CUCKOLD POINT RD)
ACREAGE OF MARINA ONLY = 1.36 AC.±	

Parking Calculations

123 Boat Slips and/or Rack Spaces
@ 0.5 Spaces per slip and/or space = 62 Spaces

Single Family Dwelling
@ 2 spaces per unit = 4 Spaces

Prop. Shop. (Boat Repair)
4 Employees = 4 spaces req.
Total Required = Typical Site 70 Spaces

Parking Provided = 8 1/2 x 18 70 Spaces

Except as otherwise indicated all parking is existing

LEGEND

- X -6.4' Spot Elevation
- (2) Slip Number
- Anchor Piling
- Property Line
- Standpipe Location
- Zoning Line
- Fence

ZONING PETITIONS

VARIANCE FROM SECTION 217.7B TO ALLOW AN ACREAGE OF 1.43 IN LIEU OF 5 ACRES.

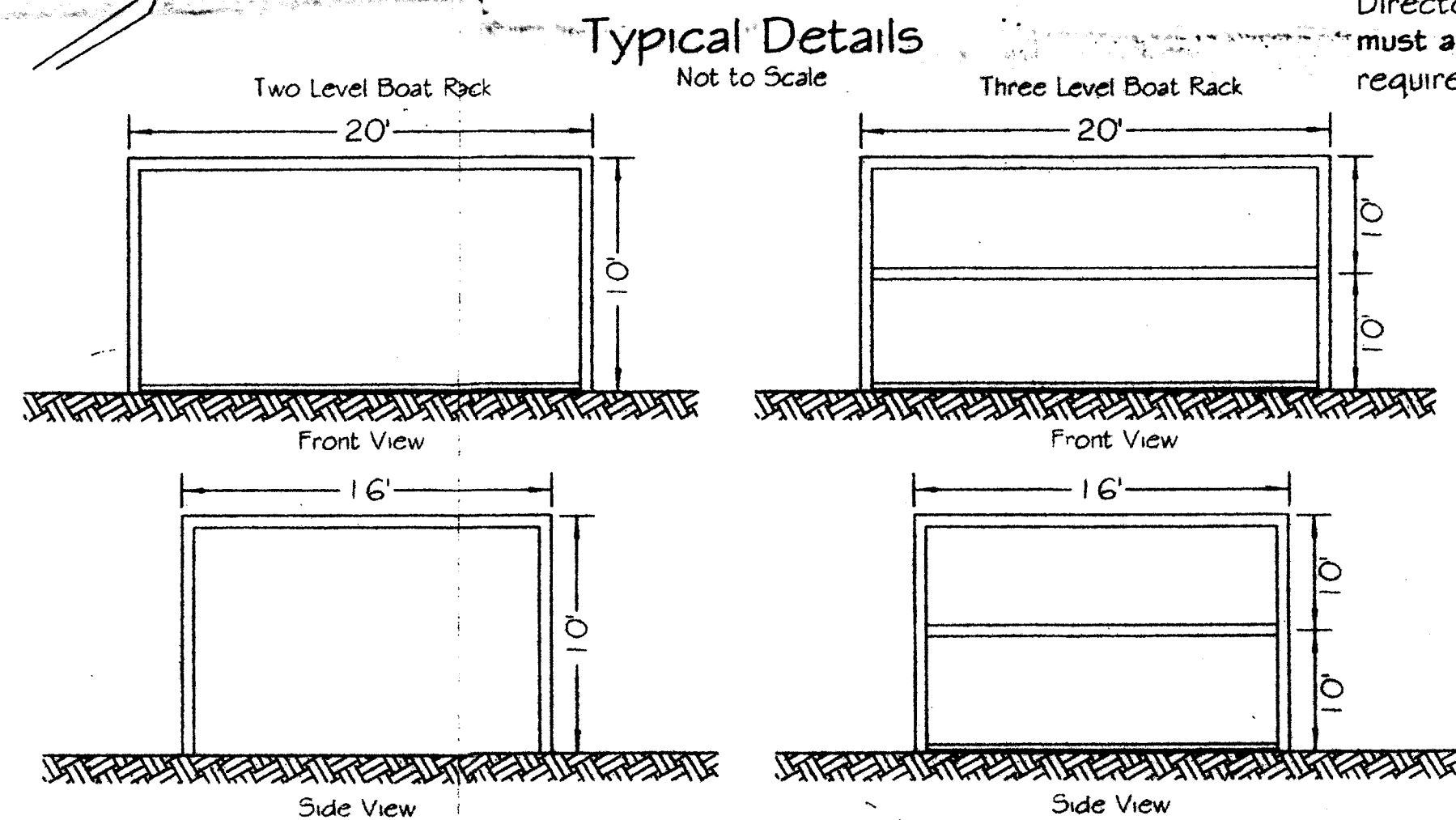
Special Hearing to amend Case No 98-3-SPH to remove restriction No. 3

Special Exception for out of water STORAGE FACILITY, CLASS B.

Notes *Drop-off*

102 046

- Emergency oil spill equipment and pump-out equipment located in Shed 1.
- Bill's Boats site configuration and minor expansion conditionally approved by DEPRM on January 5, 2000.
- Fire protection standpipes shall be installed in accordance with NFPA 1-4, and NFPA 303; Installation and specifications shall also conform to F-519.2 and F-520.0 of the Fire Prevention Code of Baltimore County. Separate permit is required for fire prevention equipment/system.
- Location of off-site features are not field located.
- This plat is not intended for construction purposes.
- Entire site falls within Tidal Flood Zone 'A' and C.B.C.A.
- There are no historic buildings on-site.



Paving will not be Durable Dustless Surface but is subject to 409.6.A.3 for marina. The Directors of DEPRM, Fire and Public Works must approve the surface or a variance is required.

SITE PLAN

Plat to Accompany Zoning Petitions, Special Exception, Special Hearing and Variance

BILL'S BOATS

9033 Cuckold Point Road
Lots 506-510

Election District No. 15
Baltimore County, Maryland

AMERICAN LAND CONCEPTS
238 B MAIN STREET
REISTERSTOWN, MARYLAND 21126
PHONE: (410)-526-2688
FAX: (410)-526-2970

SCALE: 1"=50'

DATE: 06.24.02, rev. 12.16.02

JOB #: 99-35 REV: 3-19-02

DESIGNED: GMJ

DRAWN: GSH

CHECKED: GMJ, WJB

C:\DRAWINGS\Bill's Boats\Zoning Hearing Plan

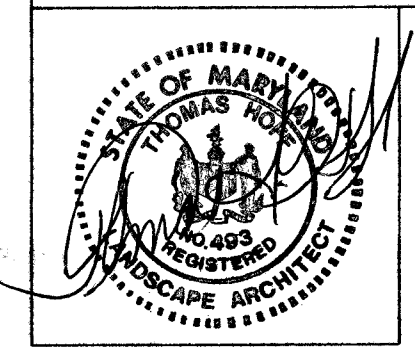
SHEET: 1 OF 1

PREPARED BY:

THOMAS J. HOFF, INC.
406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND
410-246-3668 FAX 410-246-5326

REVISIONS TO PLAT: (8/10/05)

- 1) ADD 30' R/W OF 5TH STREET TO AREA OF SPECIAL EXCEPTION GRANTED IN CASE NO 04-046-SPHXA
- 2) CHANGE P.O.B. FOR DESCRIPTION AND REVISE BEARING & DISTANCES.
- 3) WRITE NEW DESCRIPTION TO ACCOMPANY PETITION TO INCLUDE 30' R/W OF 5TH STREET.



Zoning Notes

1. December 13, 1994 -- Case Number 95-151A. Petition granted for variance seeking relief from Section 1B02.3.C.1 of the B.C.Z.R. to permit a lot width of 50 feet in lieu of the minimum required 55 feet and a side yard of 8 feet in lieu of the minimum required 10 feet for proposed dwelling construction.
 2. September 16, 1997 -- Zoning petition special hearing Case Number 98-3-SPH held "to confirm and continue a pre-existing non-conforming use of a boatyard/marina; and to amend previously approved site plan dated 10/12/94; and to approve a modified parking plan."
 3. December 11, 1997 -- Order of Findings of Fact and Conclusions of Law issued for Case Number 98-3-SPH. Lot 509, zoned D.R.5.5, was granted a non-conforming use for a boatyard/marina and Lot 510 was denied a use for commercial purpose. The amendment to the previously approved plan was granted and the modified parking plan was approved.
- Restrictions:
1. "The Petitioners shall engage in no commercial activity from Lot 510 and the storage of any boats thereon shall be limited to the Petitioner's own boats, not to exceed 25 in number and 16 feet in length."
 2. "Any expansion to existing commercial facilities on the subject property shall require a public hearing and an amendment to the Petition for Special Hearing granted herein."
4. October 10, 2000 -- Lot 510 rezoned to B.M. (Business Major) Zoning pursuant to the 2000 Comprehensive Zoning Process.
 5. Per a review by Mr. Lewis and Mr. Jablon of P.D.M. on Monday 5.02.2002, no hearing is required for these proposed piers since the site is now all BM zoned.