

IN RE: **PETITION FOR ADMIN. VARIANCE** * BEFORE THE
N/S Stoddard Court, 42' W of the c/l *
York Road * ZONING COMMISSIONER
(4 Stoddard Court) *
8th Election District * OF BALTIMORE COUNTY
3rd Council District *
Margret Schmitt *
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owner of the subject property, Margret Schmitt. The Petitioner requests a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard. 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.

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

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

RECEIVED FOR FILING
Date 3/2/06
By [Signature]

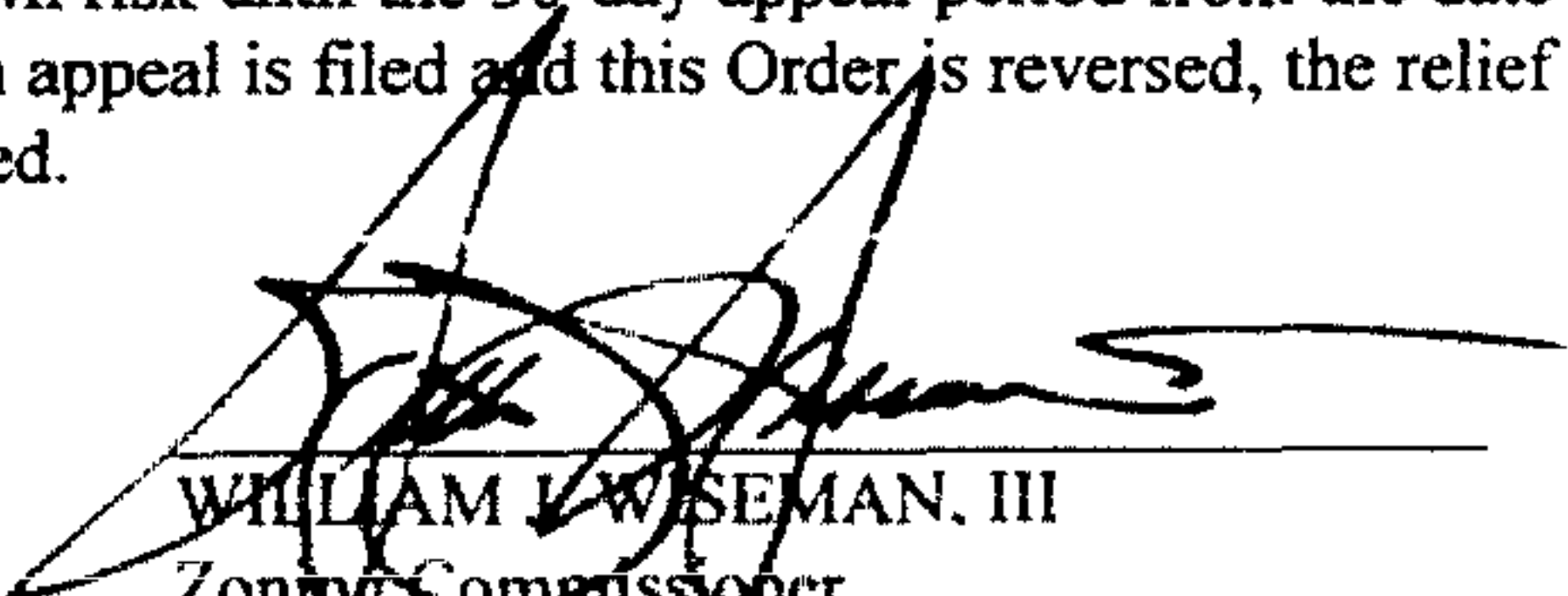
Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the site constraints associated with the property and the location of existing improvements. As shown on the site plan, the property is heavily wooded on both sides and steeply sloped to the rear. Thus, strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioner. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any opposition. Thus, it appears that the relief requested can be granted and that there will be no detrimental impact to adjacent properties or the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of March 2006 that the Petition for Administrative Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

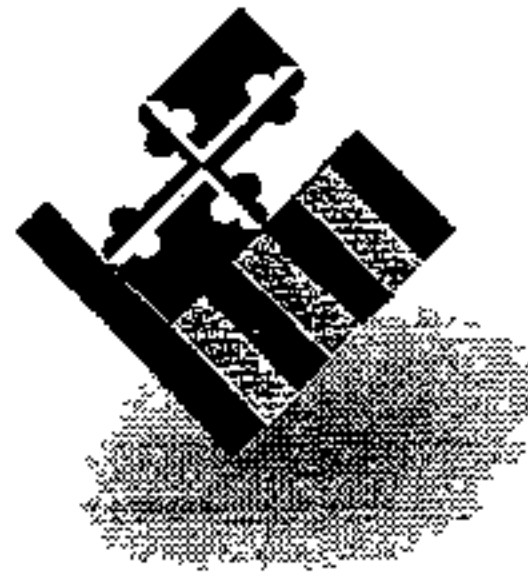
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

WJW:bjs


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 3/7/06



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 7, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Ms. Margret Schmitt
4 Stoddard Court
Sparks, Maryland 21152

RE: PETITION FOR ADMINISTRATIVE VARIANCE
N/S Stoddard Court, 42' W of the c/l York Road
(4 Stoddard Court)
8th Election District – 3rd Council District
Margret Schmitt - Petitioner
Case No. 06-339-A

Dear Ms. Schmitt:

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

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

Very truly yours,

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: Mr. Dean Gennerella, 1010 Edgewood Road, Edgewood, Md. 21040
People's Counsel; Case/File



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 4 Stoddard Court.
which is presently zoned RC4

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 (BCZR)

TO PERMIT AN ACCESSORY STRUCTURE (POOL) TO BE LOCATED
IN THE SIDE YARD IN LIEU OF THE REQUIRED REAR YARD.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Margaret Seifmitt (Peggy)
Name - Type or Print

Margaret Seifmitt (Peggy)
Signature

Name - Type or Print

Signature 4 Stoddard Court 410-472-1521

Address Telephone No.

SPRING, MD 21152
City State Zip Code

Representative to be Contacted:

DEAN GEMMERELLA
Name

1010 Edgewood Rd. 410-538-6900
Address Telephone No.

EDGWOOD, MD 21040
City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 3/12/06 day of March, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 06-339-A

Reviewed By D.T. Date 3/11/06

Estimated Posting Date 3/22/06

REV 10/25/01

Date
BY

WHEN RECEIVED FOR FILING

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at

Address

City

State

Zip Code

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

The Apellant seeks to construct a 20 x 40' inground pool in the side yard of the Property. The pool must be constructed in the side yard due to the drop off of the land in the rear yard. The cost to construct a pool in the rear yard would far exceed the available funds of the Petitioner due to the amount of work needed to construct the pool.

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

Signature Margaret Schmitt

Signature _____

Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 30th day of November, 2005, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Margaret Schmitt
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Notary Public

My Commission Expires

REV 10/25/01

MELISSA KUNDRATIC
NOTARY PUBLIC STATE OF MARYLAND
 My Commission Expires June 22, 2009

Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at

Address

City

State

Zip Code

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

The Petitioner seeks to construct a 20x40 inground pool in the side yard of the property. The pool must be constructed in the side yard due to the drop off of the land in the rear yard. In order to construct the pool in the rear yard the Petitioner would need far more funds than available.

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

Signature Margaret D. Schmitt

Signature

Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 30th day of November, 2005, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

margaret D. Schmitt
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s)

AS WITNESS my hand and Notarial Seal

Notary Public

My Commission Expires

REV 10/25/01

MELISSA KUNDRATIC
NOTARY PUBLIC STATE OF MARYLAND
 My Commission Expires **June 22, 2009**



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 4 Stoddard Ct.
which is presently zoned RC 4

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 (BCZR)

TO PERMIT AN ACCESSORY STRUCTURE (POOL) TO BE LOCATED
IN THE SIDE YARD IN LIEU OF THE REQUIRED REAR YARD.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

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

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

Zoning Commissioner of Baltimore County

CASE NO. 06-339-A

Reviewed By DT Date 1/11/06

REV 10/25/01

Estimated Posting Date 1/22/06

ZONING DESCRIPTION FOR 4 STODDARD COURT, BALTIMORE, MD 21152

Beginning at a point on the north side of Stoddard Court which is 20 feet wide at a distance of 42 feet west of the centerline of the nearest improved intersecting street York Road which is 66 feet wide. *Being Lot # 2 in the subdivision of Stoddard as recorded in Baltimore County Plat Book S.M. No. 60 Folio # 29, containing 4.21 acres. Also known as 4 Stoddard Court and located in the 8th Election District, 3rd Councilmanic District.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 2841

DATE 1/11/06

ACCOUNT

010000150

AMOUNT

365.00

MELISSA KUNDRATIC

BY MEM # 309 OL-22942

STODOLSKY

DOUG THOMPSON

DEPT. CHIEF

FILE - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

DEBITED SECTION TYPE
1/11/2006 1/11/2006 0000000000
DEB WAGE WAIL. 1/11/2006
DEBITED BY 000000 1/11/2006
DEPT 3 3000000000000000
CR NO. 000000

Receipt Tot 365.00
\$365.00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: Kristen Mathhews

DATE: 2/21/06

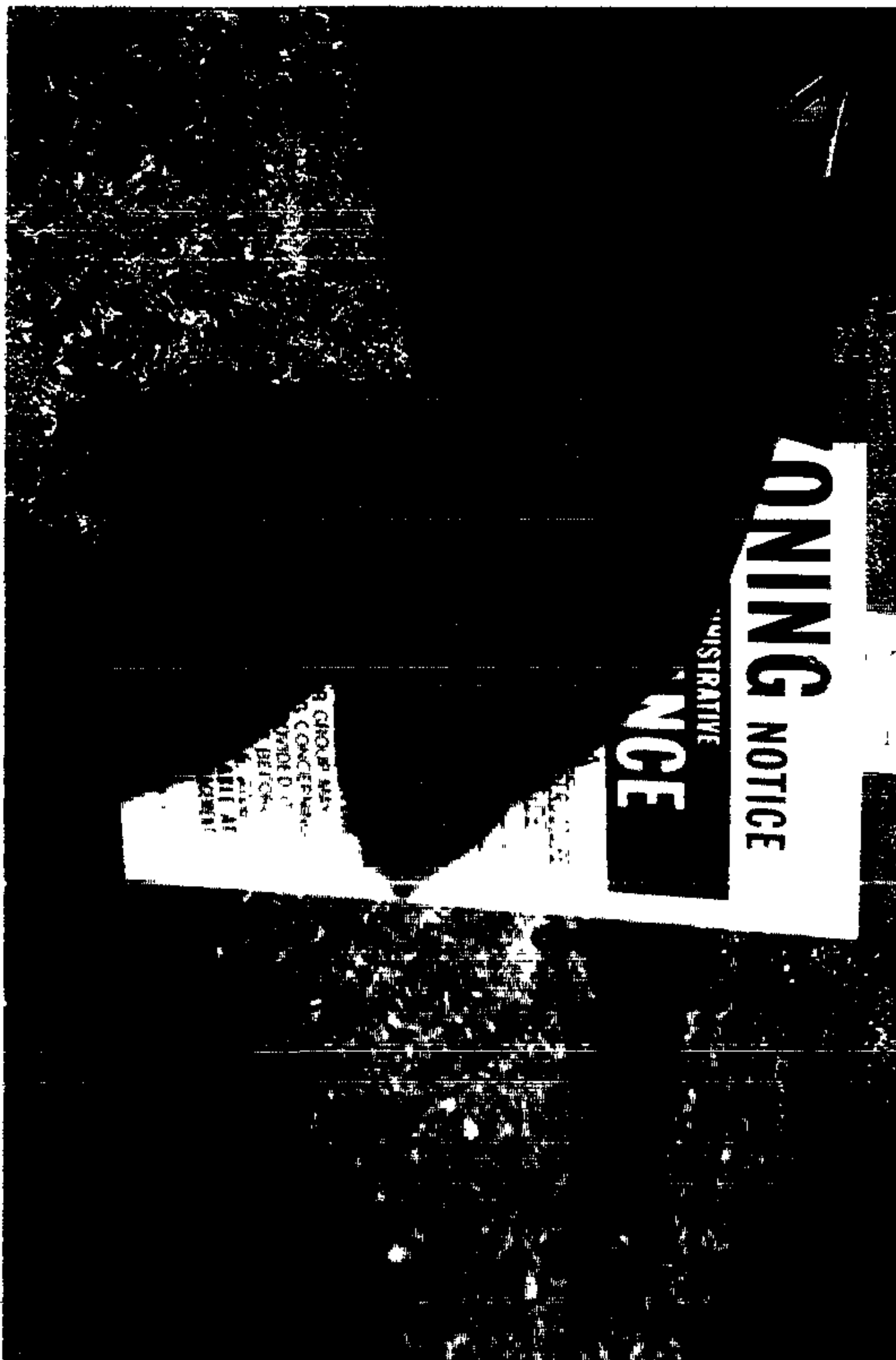
Case Number: 06-339-A

Petitioner/Developer: SCHMITT

Date of Hearing (Closing): 3/06/06

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 4 STODDARD COURT

The sign(s) were posted on: 2/19/06



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley Maryland 21030
(City, State, Zip Code of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES**Case Number 06- 339 -AAddress 4 STODDARD COURTContact Person: DONNA THOMPSON
Planner. Please Print Your Name

Phone Number: 410-887-3391

Filing Date: 1/11/06Posting Date: 2/19/06Closing Date: 3/6/06

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only**USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT**Case Number 06- 339 -AAddress 4 STODDARD COURTPetitioner's Name SCHMITTTelephone 410-472-1521Posting Date: 2/19/06Closing Date: 3/6/06

Wording for Sign: To Permit AN ACCESSORY STRUCTURE (POOL) TO BE
LOCATED IN THE SIDE YARD IN VIEW OF THE REQUIRED REAR
YARD.

WCR - Revised 6/25/04

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06-339-A
Petitioner: SCHMITT
Address or Location: 4 STODDARD CT.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MS. MARGARET SCHMITT
Address: 4 STODDARD CT.
SPARKS, MD 21152

Telephone Number: 410-472-1521

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 06- 339 -A Address 4 STODDARD CT.

Contact Person: DONNA THOMPSON Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 1/11/06 Posting Date: 1/22/06 Closing Date: 2/6/06

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
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(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 06- 339 -A Address 4 STODDARD CT

Petitioner's Name SCHMITT Telephone 410-412-1521

Posting Date: 1/22/06 Closing Date: 2/6/06

Wording for Sign: To Permit AN ACCESSORY STRUCTURE (POOL) TO BE

LOCATED IN THE SIDE YARD IN LIEU OF THE REQUIRED

REAR YARD

WCR - Revised 6/25/04

**Department of Permits
Development Management**

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



Baltimore County

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

February 6, 2006

Margaret Schmitt
4 Stoddard Court
Sparks, Maryland 21152

Dear Mr. and Mrs. Schmitt:

RE: Case Number:06-339-A, 4 Stoddard Court

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 11, 2006.

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,

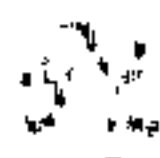
A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Dean Gennerth 1010 Edgewood Road Sparks 21152



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: January 31, 2006

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For January 30, 2006
Item Nos. 336, 337, 338, 339, 340, 341,
343, 344, and 345

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

DAK:CEN:clw

cc. File

ZAC-NO COMMENTS-01/30/2006 doc



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

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

Maryland Department of Transportation

Date: 1.20.06

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

RE: Baltimore County
Item No. 339 DT

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

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

January 25, 2006

ATTENTION: Zoning Review planners

Distribution Meeting of: January 23, 2006

Item No.: 335-A, 6-336-A, 6-337-A, 6-338-A, 6-339-A, 6-340-SPH, 6-341-A, 6-342-A, 6-343-A, 6-344-A and 6-345-SPHXA

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

The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Acting Lt. W T Moffitt
Fire Marshal's Office
(O) 410-887-4881 (C) 443-829-2946
Ms-1102F

cc: File

INTER-OFFICE CORRESPONDENCE

DATE: January 23, 2006

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-339- Administrative Variance**

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

Curtis Perry

Jeff Mahan

CM/LL

FEB - 21

THE UNIVERSITY OF CHICAGO



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 7, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Ms. Margret Schmitt
4 Stoddard Court
Sparks, Maryland 21152

RE: PETITION FOR ADMINISTRATIVE VARIANCE
N/S Stoddard Court, 42' W of the c/l York Road
(4 Stoddard Court)
8th Election District – 3rd Council District
Margret Schmitt - Petitioner
Case No. 06-339-A

Dear Ms. Schmitt:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Wiseman III".
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: ✓ Mr. Dean Gennerella, 1010 Edgewood Road, Edgewood, Md. 21040
People's Counsel; Case File



BALTIMORE COUNTY

MARYLAND

RETURN SERVICE REQUESTED

#3-3-06 BALTIMORE DISTRICT

File
16-339-A

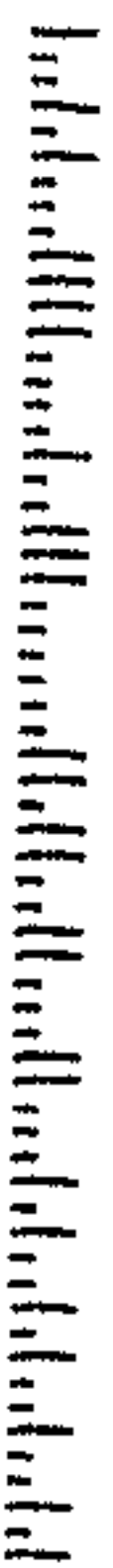
10300H
STREET

Mr. Dean Gennarella
1010 Edgewood Road
Edgewood, Md. 21040

Return Service Requested

NS3

RRB3K3 21040



IN RE: PETITION FOR ADMIN. VARIANCE	* BEFORE THE
N/S Stoddard Court, 42' W of the c/l	
York Road	* ZONING COMMISSIONER
(4 Stoddard Court)	
8 th Election District	* OF BALTIMORE COUNTY
3 rd Council District	
	* Case No. 06-339-A
Margret Schmitt	
Petitioner	*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owner of the subject property, Margret Schmitt. The Petitioner requests a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard. 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.

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In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

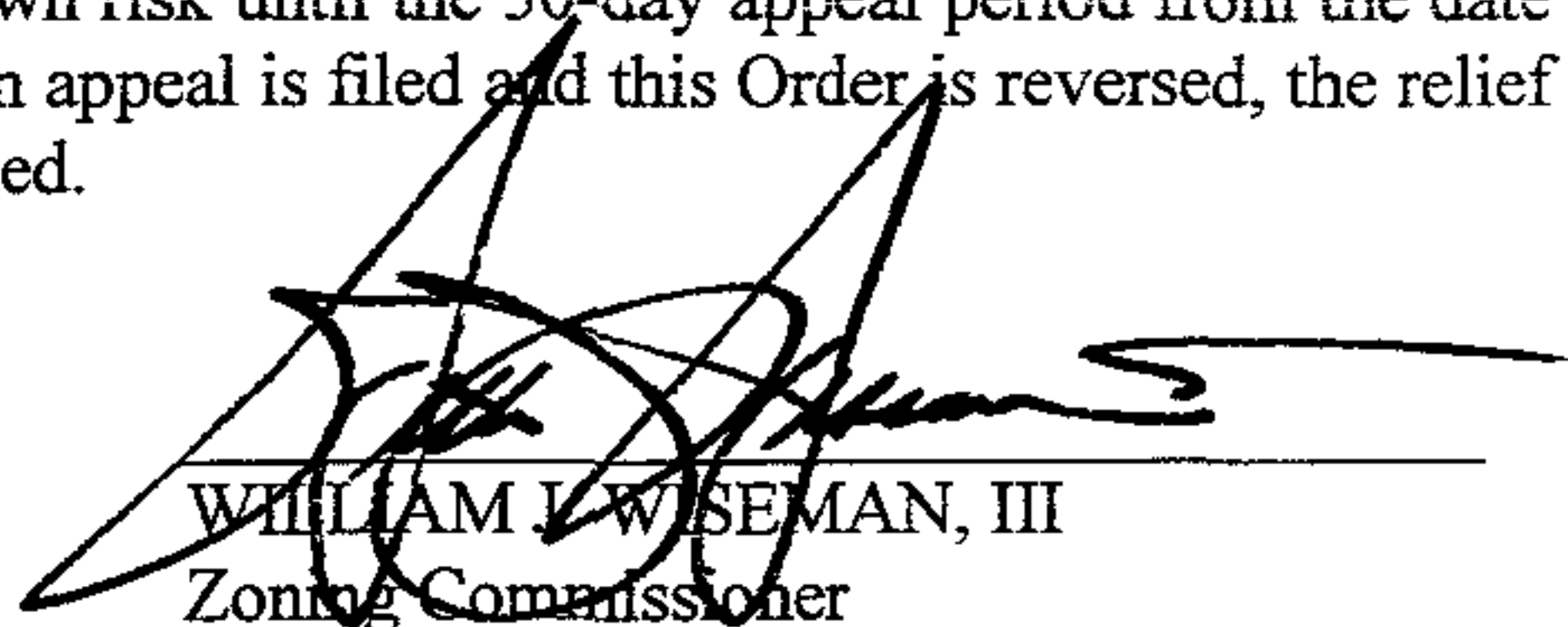
Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the site constraints associated with the property and the location of existing improvements. As shown on the site plan, the property is heavily wooded on both sides and steeply sloped to the rear. Thus, strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioner. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any opposition. Thus, it appears that the relief requested can be granted and that there will be no detrimental impact to adjacent properties or the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of March 2006 that the Petition for Administrative Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

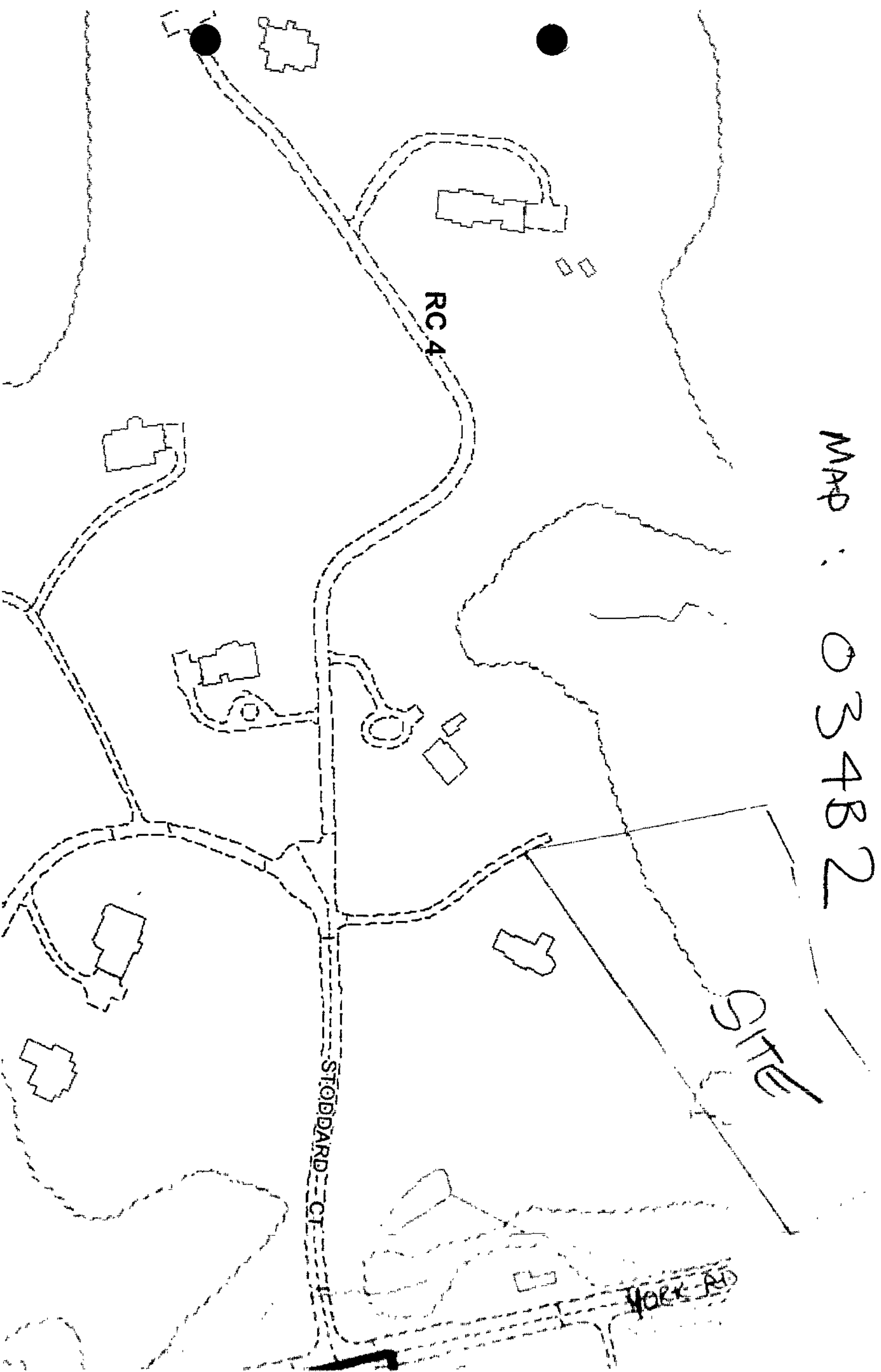
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

WJW:bjs



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

Map : 034B2



034B2

06-339-A

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

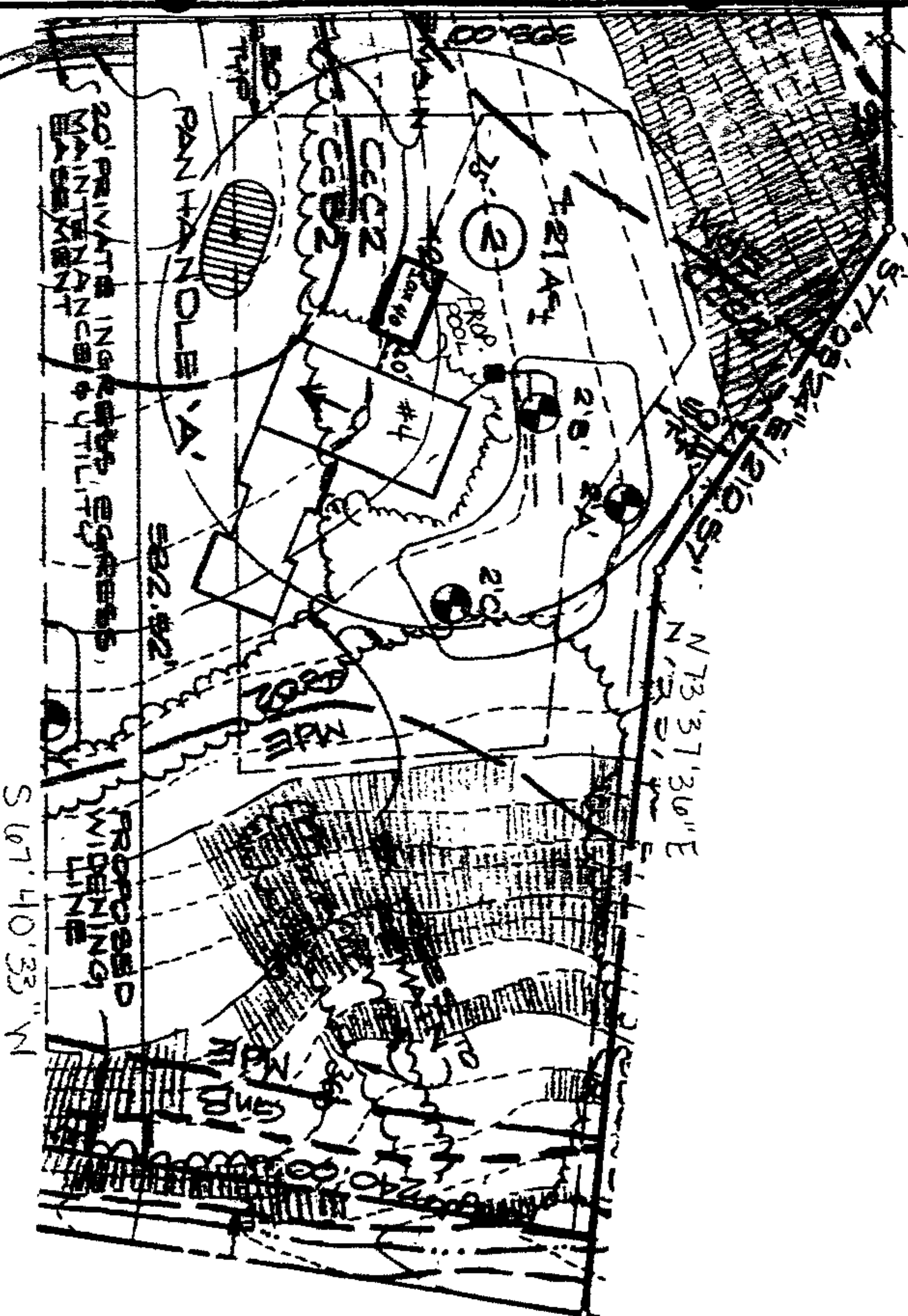
PROPERTY ADDRESS 14 Stoddard Court

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

SUBDIVISION NAME Stoddard

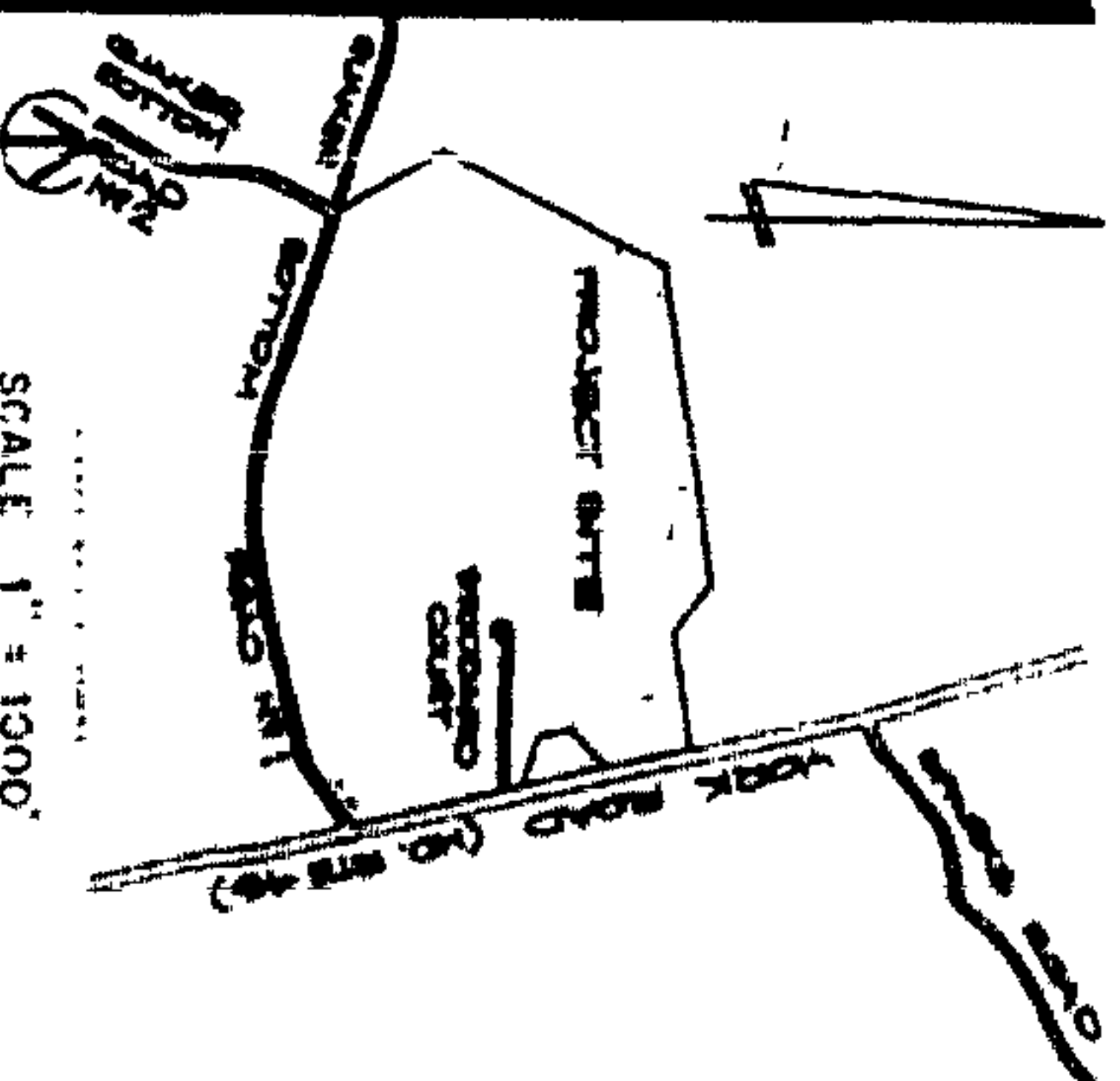
PLAT BOOK # 160 FOLIO # 29 LOT # 2 SECTION # 2

OWNER Margaret Schmitt



PREPARED BY _____

SCALE OF DRAWING: 1" = 100'



SCALE 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 8 ED

COUNCILMANIC DISTRICT 3 CD

1" = 200' SCALE MAP # 034B2

ZONING CC-4

LOT SIZE 4.71 ACRES 162,347 SQ. FT.

SEWER

PUBLIC PRIVATE

WATER

CHESAPEAKE BAY

CRITICAL AREA

100 YEAR FLOOD PLAIN

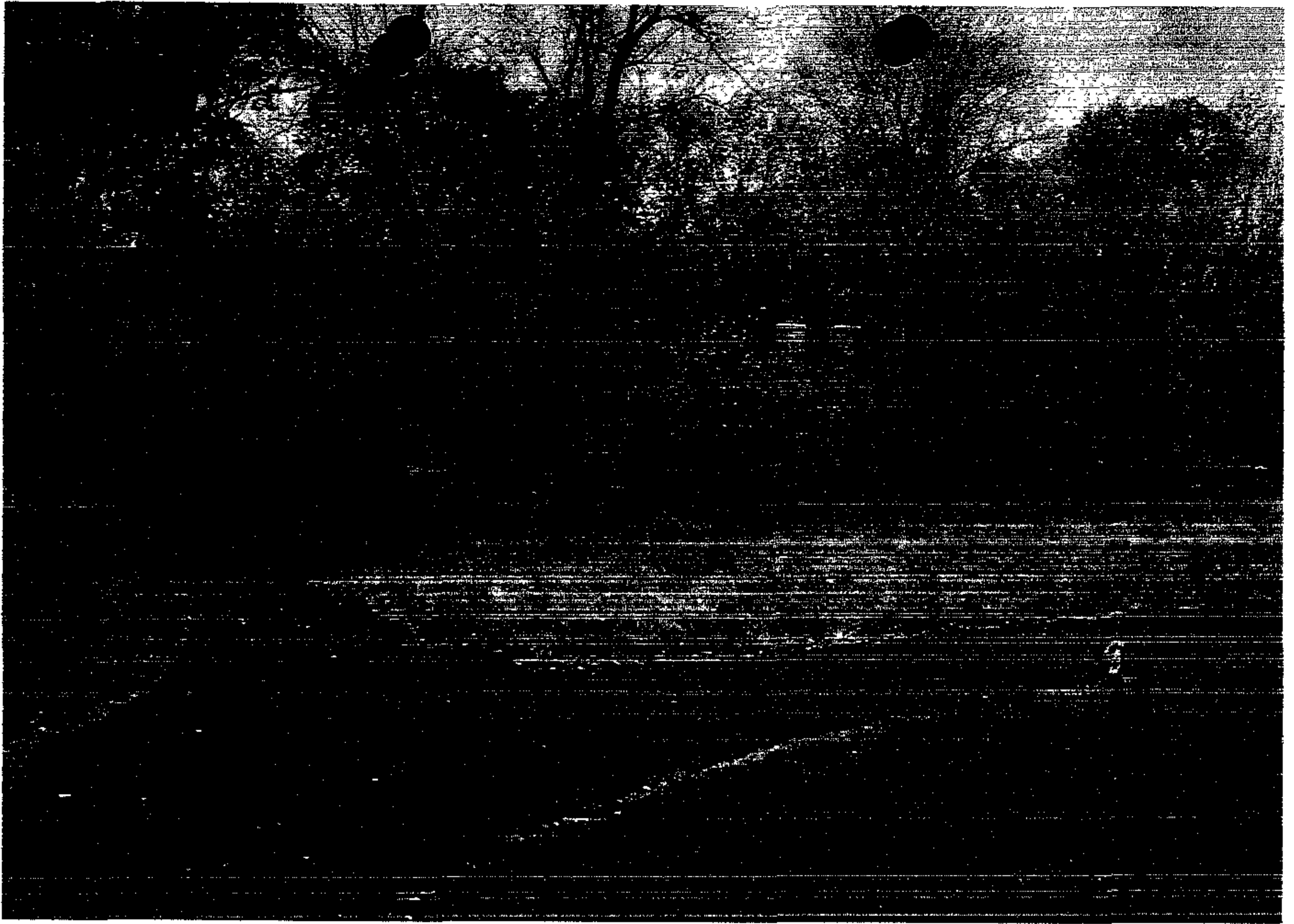
HISTORIC PROPERTY / BUILDING

PRIOR ZONING HEARING

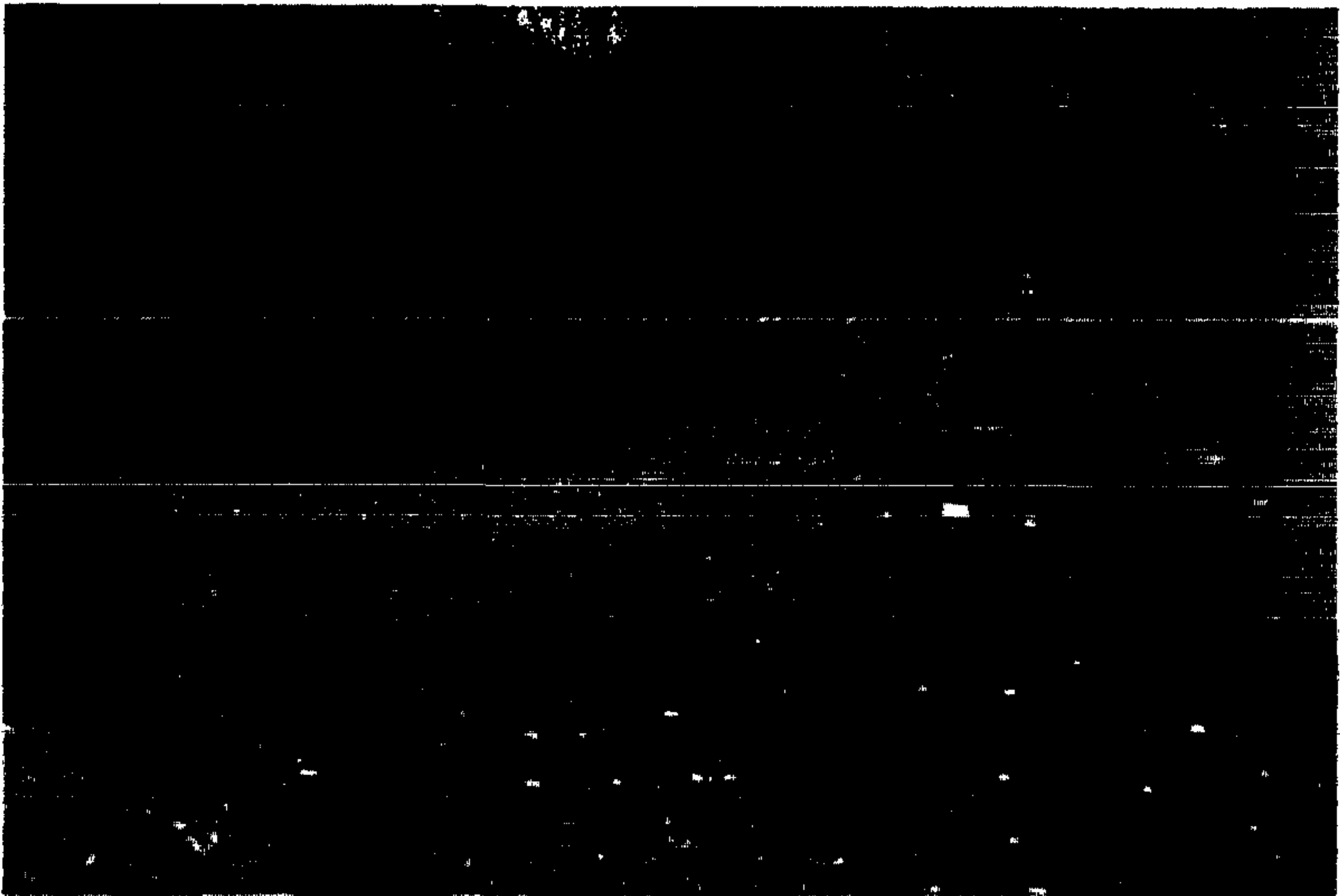
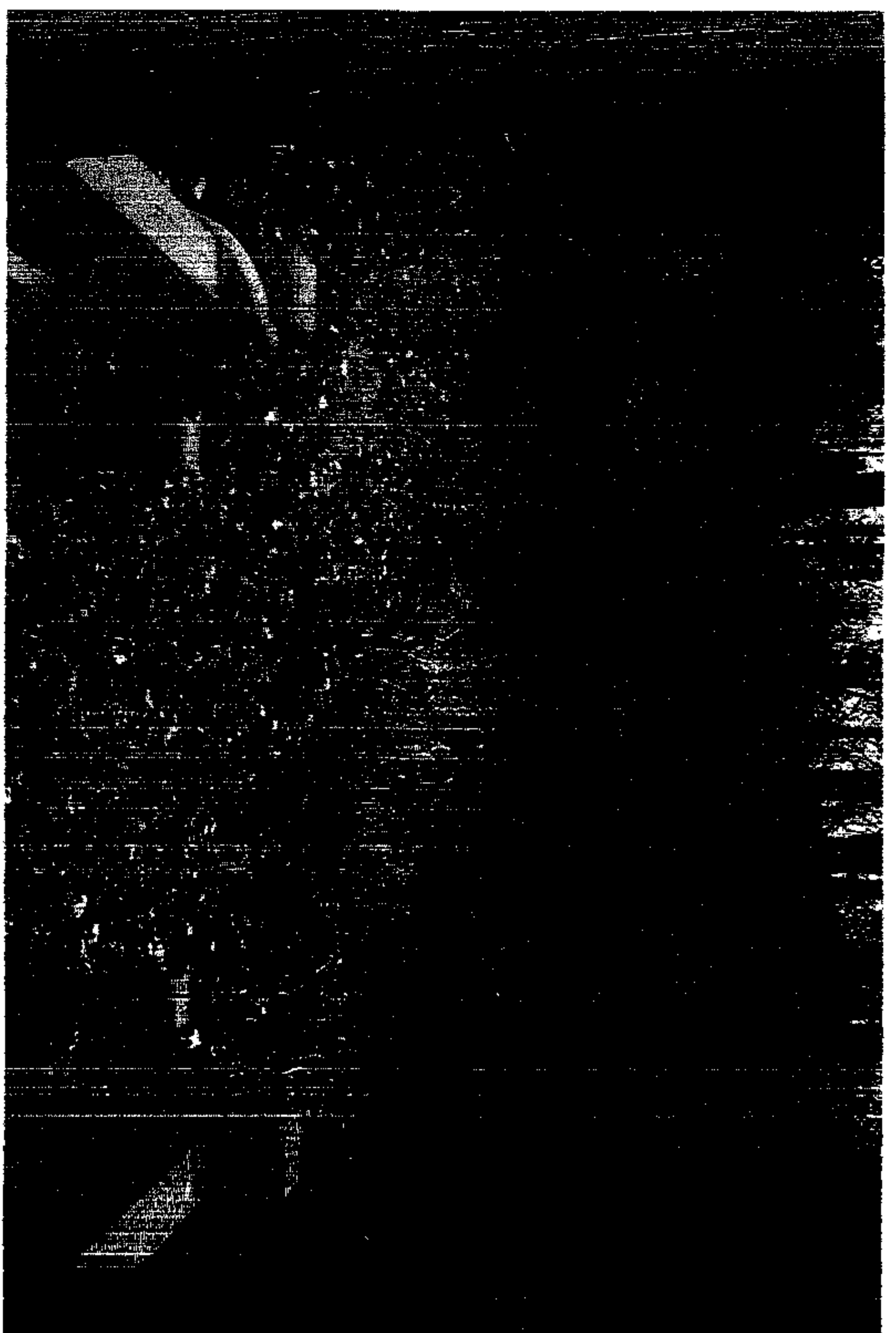
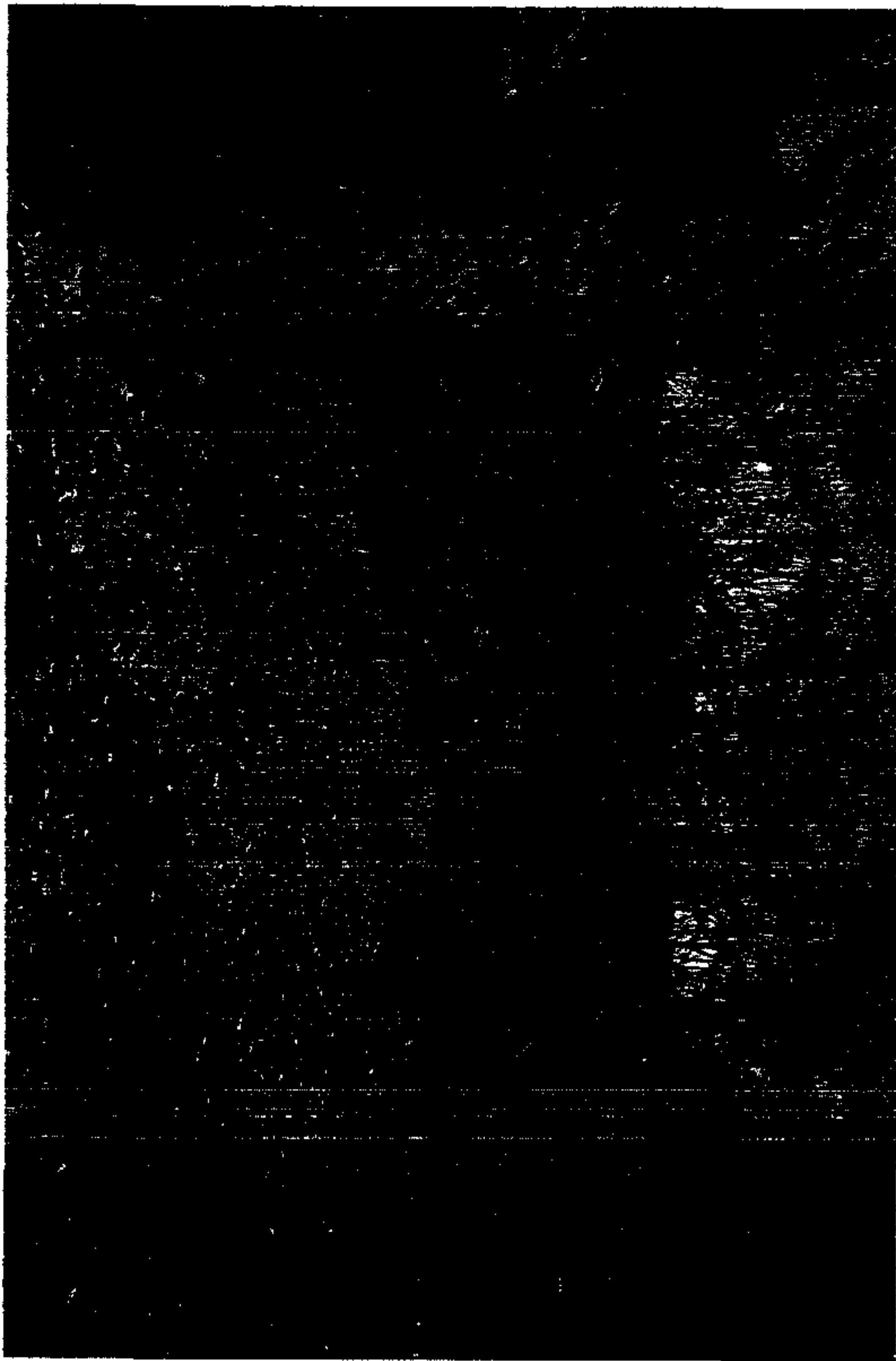
NO

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

D T. 339 06-339-A



06-2291-A



06-2531-A

IN RE:	PETITION FOR SPECIAL HEARING	*	BEFORE THE
	W/S of Mt. Vista Road, 20' N of		
	Batter Brook Court	*	ZONING COMMISSIONER
	(6853 Mt. Vista Road)		
	11 th Election District	*	OF BALTIMORE COUNTY
	3 rd Council District		
		*	Case No. 06-340-SPH
	Joseph Glinowiecki, et ux.		
	Petitioners	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Joseph Glinowiecki and his wife Maureen M. Glinowiecki, through their attorney, Edward C. Covahey, Jr., Esquire. The Petitioners request a special hearing to approve a use permit for an assisted living facility for one to three residents in an RC-5 zone, and a finding that the provisions of Section 432A of the Baltimore County Zoning Regulations do not apply to the subject request. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioners' Exhibit 1B.

Appearing at the requisite public hearing and testifying on behalf of the Petitioners was Edward Covahey, Esquire. There were numerous Protestants in attendance as well as numerous letters submitted and placed in the file from protestant neighbors who were not in attendance, but their concerns were duly noted.

Testimony and evidence presented disclosed that the subject property is a rectangular shaped parcel with frontage on Mount Vista Road opposite Batter Brook Court in Kingsville. The property consists of 1.99 acres zoned RC-5, and is improved with a one-story single-family dwelling featuring a large deck and swimming pool in the rear yard. The Petitioners purchased the property in 1998 and subsequently applied for and received a building permit in 1999 to add a sizable addition to the original home. The uncontraverted testimony indicated that this addition

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Date 4-5-02

By E. C. Covahey, Jr.

was completed at least five years prior to the filing of the subject petition request. The Petitioners are now desirous of converting the dwelling into an assisted living facility for up to three residents.

Mr. Covahey, Petitioners' Attorney, testified at length regarding his position that an assisted living facility is permitted as a matter of right in the RC-5 zone, and questioned the necessity for the zoning relief. The Protestants strongly disagreed with Mr. Cavahey's interpretation of the zoning regulations as was indicted by their testimony at the hearing and the many letters received by this Hearing Officer requesting that the subject assisted living facility be denied.

To a certain extent, I am sympathetic with the Petitioners' situation. They desire the "Assisted Living Facility" status to obtain federal funding, enabling them to further care for their disabled brother/brother-in-law in their home. However, after a careful review of the law, I am pursued that I have no choice but to deny the requested Assisted Living Facility for the following reasons. It has been stated that it is the responsibility of the Zoning Commissioner to determine the intent of the legislature when construing any regulation/statute. Marzullo v. Kahl, 36 Md. 158, 175, 2001. In this case, it falls upon the undersigned to determine the intent of the Baltimore County Council when it enacted Section 432A of the Baltimore County Zoning Regulations (BCZR), by Council Bill 19-04 effective May 29, 2004. Interpretation of this regulation is a daunting task and one made even more difficult given the Petitioners' situation and my respect for their counsel who appeared in this case and presented an excellent argument. I will endeavor to do so by examining the words contained in the regulation and the definitions provided.

Section 432A of the BCZR provides in pertinent part:

An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R. and B.M., Zones as follows:

1. An assisted living facility I is permitted by use permit.

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2. An assisted-living facility II is permitted by use permit if it has frontage on a principal arterial street.
3. An assisted-living facility III is permitted in a D.R. 16, R.A.E., R.O., R.O.A. or BM zone by use permit ...”

Prior to the enactment of Bill 19-04, assisted living facilities, class A, were specifically defined and permitted as a matter of right in the RC-5 zone. After the enactment of the new Bill, assisted living facilities, class A, were specifically removed and replaced with assisted living facilities, Types I, II and III. Section 432 not only removed the Class A designation, but also made clear, that assisted living facilities of any type would no longer be permitted in the RC-5 zone by conspicuously omitting all RC zones from the list of zones permitting such facilities (See Section 432A, BCZR). In ascertaining the County Council’s intent, I must look at the language in the regulation itself, giving that language its ordinary and natural meaning and avoiding a construction that is illogical, unreasonable or inconsistent with common sense. Papillo v. Pockets, Inc., 119 Md. App. 78, 83-84 (1997). With the County Council effectively eliminating the class A assisted living facility by removing it from Section 432 and any definition of such a facility in the BCZR definitional Section 101, I am of the opinion that the County Council’s clear intent was to eliminate class A assisted living facilities from the RC zones. I am persuaded the clearly articulated purpose of the legislation, along with its legislative history, indicates the intent of the County Council to remove, as a matter of right, assisted living facilities from the RC-5 zone. This is further evinced by the recent introduction of Council Amendment Bill No. 32-06 on March 3, 2006, subsequent to the Petitioner’s hearing, which removes the “assisted living facilities Class A” reference from Section 1A04.2A(4) of the BCZR. I am of the opinion that this amendment is in the nature of a “housekeeping” measure, to clean up an inadvertent over-site by the original drafters of Bill 19-04, and by so doing making Section 1A04.2A(4) consistent with Section 432 (BCZR).

After due consideration of the testimony and evidence presented, Counsel’s argument, an examination of the regulations and pertinent law and legislative history of BCZR Section 432A,

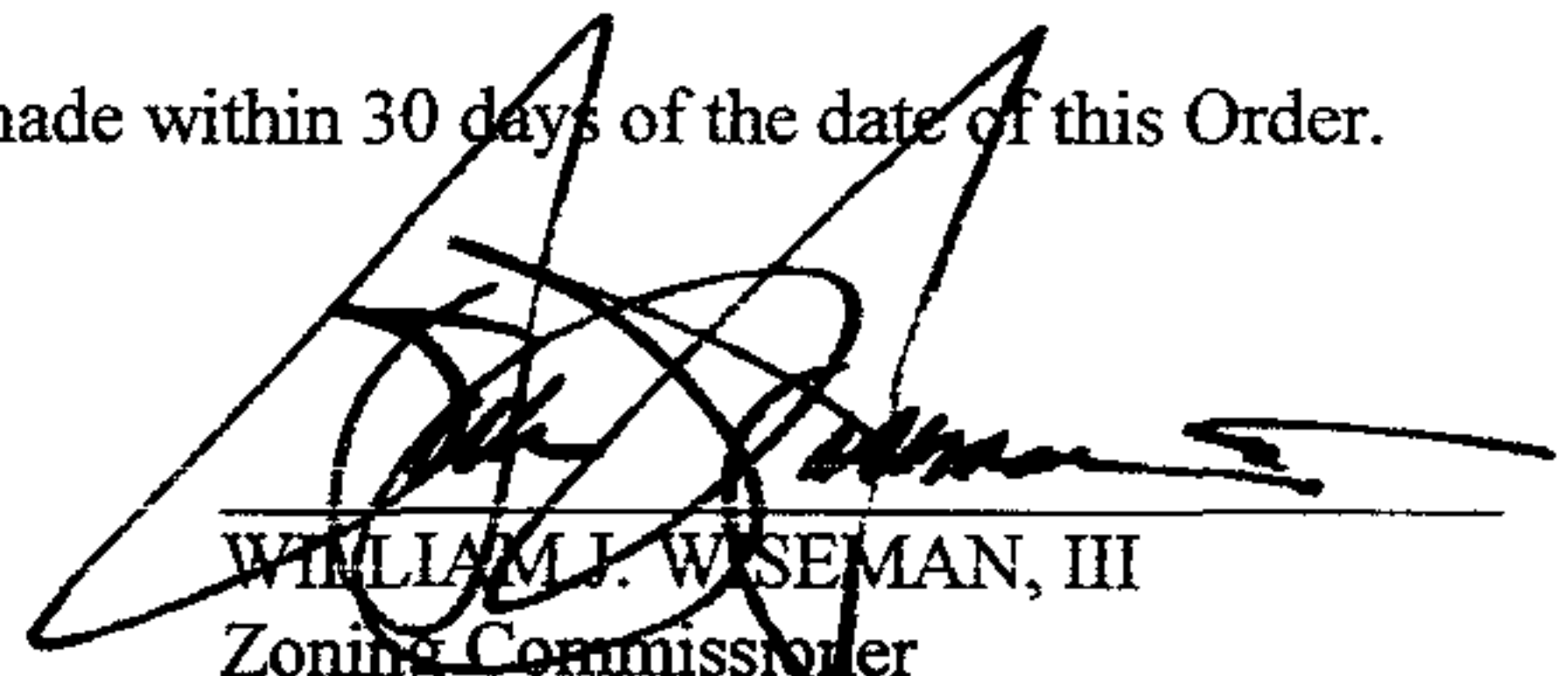
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Date 4-5-06
By [Signature]

I must deny the requested relief. I cannot decide this case based upon "extenuating circumstances".

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of April, 2006 that the Petition for Special Hearing to approve a use permit for an assisted living facility for one to three residents in an RC-5 zone, and a finding that the provisions of Section 432A of the Baltimore County Zoning Regulations do not apply to the subject request, be and are hereby DENIED.

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


WILLIAM J. WEISMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 4-5-06
By Debra D'Amico