IN RE: PETITION FOR SPECIAL HEARING
North Side of Poplar Road, 36' SW of
Centerline of Beach Road
15th Election District
6th Councilmanic District
(1922 Poplar Road)

Robert E. & Dana A. Edmond
Legal Owners

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 06-365-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 1922 Poplar Road in the Essex area of Baltimore County. The Petition was filed by Robert E. and Dana A. Edmond, Legal Owners. Special Hearing relief is requested pursuant under Sections 500.7 and 500.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine and/or confirm the proper zoning line and buffer area pursuant to Section 417 of the B.C.Z.R.

The property was posted with Notice of Hearing on February 7, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on February 9, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: A ZAC comment was received by the Department of Environmental Protection and Resource Management (DEPRM) received February 23, 2006, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing were Robert and Dana Edmond, Petitioners, as well as William Bafitis, from Bafitis & Associates, Inc., who prepared the site plan. J. Carroll Holzer, Esquire represented the Petitioners. There were no Protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Holzer proffered that the Petitioners have retained Bafitis & Associates, Inc. to prepare the site plan (Exhibit 1). Mr. Bafitis indicated that he wanted to determine the waterfront division lines for this portion of Sue Creek and noted the shoreline was irregular. He first determined the mean low water line by actual soundings of the waterfront along Poplar Road at 1920 (the Sample property), 1922 (the Edmond property) and 1924 (the Owens property). This mean low water line is shown on Exhibit 1. He then projected the property lot lines of these three (3) properties into Sue Creek intersecting the low mean water line as shown. He connected the intersections of the low mean water line and projected lot lines to form the baseline for each property. He then constructed lines 90 degrees from the baseline at each intersection into Sue Creek. Finally, following the regulations specified in Section 417.3 of the

Date 3-1-06
By

B.C.Z.R. he constructed the waterfront divisional lines and open access strips as shown on Exhibit 1. Also see Appendix J of the B.C.Z.R.

He also located all existing piers and pilings again as shown. As a result, he opined that there are three (3) pilings which had been installed by Mr. Owens, which violate the open access strip regulations and which the Petitioner's want removed. Ms. Edmond testified that these three (3) pilings were installed by Mr. Owens after he purchased the property in 2003. In support thereof, she presented photographs of the Edmond and Owen piers in the winter of 2003, which showed no pilings, and the same piers in the winter of 2006 which show the subject pilings. See Exhibits 4 and 5. Remarkably, Exhibit 1 also shows the Edmonds have their own pilings on the Sample side of the waterfront division line which also must be removed.

Ms. Edmonds was aware of this fact but explained she wanted to extend her pier and build a boatlift for her new boat as shown in Exhibit 2. This requires several pilings and the pier to hold the boat. She did not want to invest in piers, pilings and boat lifts unless the locations for same are proper or prejudice the Samples from building their own pier on the other side of her property.

Finally, Mr. Holzer noted this Commission's recent decision in Case No. 06-047- SPHA, which adjudicated a dispute about piers and pilings between Mr. Owens and his neighbor to the east, Mr. Weinreich. However, he opined that the decision in that case did not involve any of the issues in this case.

Findings of Fact and Conclusions of Law

The location of waterfront divisional lines does not turn on expert opinion as to whether the shoreline is irregular or not. One can apply the rules of Section 417.3 to straight or curved shorelines and the results would be the same. If one always constructs a baseline according to

the rules, and then constructs lines 90 degrees from the baseline, the resulting divisional lines will simply overlap if the shoreline is straight.

However, the location of divisional lines does greatly depend on what we call the "shoreline" when applying the rules. I have been unable to find a definition of "shoreline" in either the B.C.Z.R. or the Code. Mr. Bafitis, who has extensive experience in these shoreline cases, suggests that mean low water line is the right definition for "shoreline" under these circumstances. The properties each have a bulkhead which distorts the location of the natural shoreline. I have no dispute with a Petitioner taking depth measurements to establish the mean low water line but simply note that this is a relatively sophisticated approach which I am not sure even a property owner can afford. I also agree with Mr. Bafitis that if one were to use the bulkhead as the "shoreline" in this case, the division line would pull even further over into Mr. Owens area that perhaps his pier would be illegal. Finally, if one were to use the record plat shoreline as shown on Exhibit 1, the divisional line would be even further skewed toward Mr. Owens that he might not have any practical use of the water in front of his property. So I take Mr. Bafitis at his word that mean low water line is the best approach in this case.

I further find from the evidence presented that the three (3) pilings located in the open access strip on the east side of the property (the Owens side) which were installed by Mr. Owens are contrary to the regulations. Similarly, I find that the piling located on the west side open access strip owned by the Petitioner is likewise contrary to the regulations. However, Mr. Owens is not a party to this case and frankly I do not see how I can order him to do anything. That said, it may be that the Zoning Enforcement Office will determine and order that the pilings be removed. How quickly and under what circumstances these piling will be removed I leave to the Permits and Development Management Office.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 1st day of March 2006, that the Petitioner's request for Special Hearing relief requested pursuant under Sections 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm the proper waterfront divisional lines and open access strip pursuant to Section 417.3 of the B.C.Z.R., are hereby found to be as shown on Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

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

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

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

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

ORDER RECEIVED FOR FILING
Date 3-1-06
By D. Wiegand

JVM:dlw

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 28, 2006

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

Re: Petition for Special Hearing
Case No. 06-365-SPH
Property: 1922 Poplar Road

Dear Mr. Holzer:

Enclosed please find the decision rendered in the above-captioned case.

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

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:dlw
Enclosure

c: Robert E. and Dana A. Edmond, 1922 Poplar Road, Baltimore, MD 21221
William Bafitis, Bafitis & Associates, Inc., 1249 Engleberth Road, Baltimore, MD 21221
Howard Alderman, Esquire, Levin & Gann, 502 Washington Avenue, 8th Floor,
Towson, Maryland 21204
People's Counsel; Zoning Enforcement Office; Case File
CBCA Comm., 1804 W. St., Ste. 100, Annap., MD 21401

F. P. x CBCA

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1922 Poplar Road, Baltimore MD 21221
which is presently zoned RC5

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 ↳ and 500.6

(SEC. SEE LTR FOR WORDING)

(RET. WORDING →) *"Petitioners are requesting the Zoning Commissioner to determine the proper zoning line and buffer area pursuant to BCZR, Sec. 417."*

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.

Robert E. Edmond
~~Name - Type or Print~~
Dana A. Edmond
Signature
1922 Poplar Road 410-574-0174
Address / Telephone No.
Baltimore Md. 21221
City / State / Zip Code

Attorney For Petitioner:

Name - Type or Print
[signature]
Signature

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286
Telephone No.

City / State / Zip Code

Legal Owner(s):

Robert E. Edmond
Name - Type or Print
Robert E. Edmond
Signature
Dana A. Edmond
Name - Type or Print
Dana A. Edmond
Signature
1922 Poplar Road 410-574-0174
Address / Telephone No.
Baltimore, Maryland 21221
City / State / Zip Code

Representative to be Contacted:

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286
410-825-6961
Telephone No.

City / State / Zip Code

ORDER RECEIVED FOR FILING
Date 3-1-06
By [signature]

Case No. 06 365 SPH

REV 9/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS

UNAVAILABLE FOR HEARING —

Reviewed By Drop off / Filed JL Date 1/27/06

Pursuant to the Baltimore County Zoning Regulation, §500.6 and §500.7, Petitioners, individuals Robert and Dana Edmond, raise the following questions for the Zoning Commissioner's determination pursuant to this Special Hearing request:

Petitioners, Robert and Dana Edmond, residing at 1922 Poplar Road, have retained Bafitis & Associates, Inc., to prepare the attached Site Plan which reflects that the Owners of Lot #60, 1924 Poplar Road, Jon Reese Owens and Carole Denise Morgan, have constructed a pier and pilings on Sue Creek. The pilings for the Owens/Morgan pier extend either over the Zoning 417 Line (as shown on the attached Site Plan), or encroach into the 10' buffer area required by the Baltimore County Zoning Regulations.

Petitioners are requesting that the Zoning Commissioner determine and/or confirm the proper zoning line and buffer area pursuant to BCZR, Sec. 417 and further that the pilings erected by the owners of 1924 Poplar Road are in violation of said Zoning Regulations.

Respectfully submitted,

J. Carroll Holzer
508 Fairmount Ave.
Towson, MD 21286
410-825-6961
Attorney for Petitioners

C:\My Docs\Petitions 2006\Dana Edmond Petition 1-13-06

Bafitis & Associates, Inc.

365

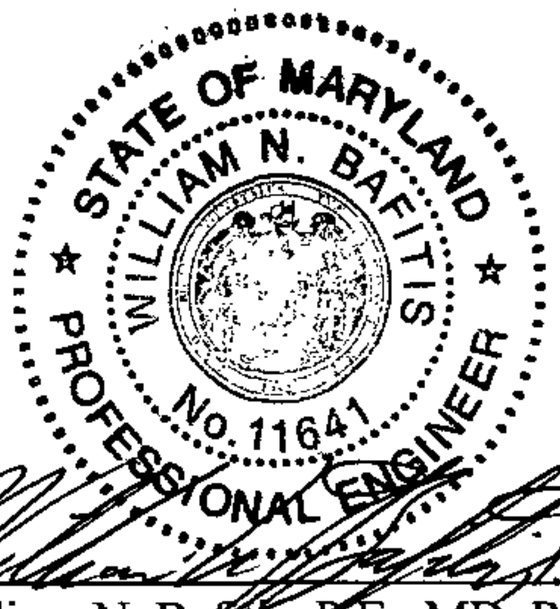
ZONING DESCRIPTION
FOR
1922 POPLAR ROAD

Beginning for same at a point north side of Poplar Road 30 feet wide; and 36'± Southwesterly from the centerline intersection of Beach Road 30 feet wide;

1) Thence leaving Poplar Road North 05°-09'-18" West 201.00 feet to the shoreline of Sue Creek.
2) Thence running along said shore line 59'± Easterly.
3) Thence leaving said shoreline South 05°-09'-18" East 171.00 feet to a point on the north side of Poplar Road.
4) Thence running along said road South 84°-50'-42" West 50.00 feet to the point of beginning.

Containing 9,300 S.F. or 0.213 Acres more or less.

Being known as Lot 59 as shown on a plat, Entitled "Cedar Beach", recorded among the Land Records of Baltimore County, Maryland Plat Reference Book 07, Folio 186.



P.E.(Seal)
William N. Bafitis, P.E., MD. Reg. No. 11641

1/06/06
Date

B[illegible]LTIMORE COUNTY, MARYLAND
[illegible]ICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

365 DROP OFF No. [illegible]078

DATE 1/27/06 ACCOUNT 001 006 6150

AMOUNT $ 130.00

RECEIVED FROM: J. Carroll Holzer

FOR: Re SPH to establish divisional line between (2) lots

DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

B[illegible]LTIMORE COUNTY, MARYLAND
[illegible]ICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

365 DROP OFF No. 1078

DATE 1/27/06 ACCOUNT 001 006 6150

AMOUNT $ 130.00

RECEIVED FROM: J. Carroll Holzer

FOR: Re SPH to establish divisional line between (2) lots

DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
1/30/2006 1/27/2006 10:59:50
REG WS06 WALKIN [illegible]
>>RECEIPT # 478161 1/27/2006 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 001078
Recpt Tot $130.00
$130.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

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

Case: #06-365-SPH
1922 Poplar Road
North side of 1922 Poplar Road, 36 feet southwest of Beach Road
15th Election District
6th Councilmanic District
Legal Owner(s): Dana A. & Robert E. Edmond

Special Hearing: requesting the Zoning Commissioner to determine the proper zoning line and buffer area pursuant to Section 417 of the B.C.Z.R.

Hearing: Friday, February 24, 2006 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 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) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

2/131 February 9 83741

CERTIFICATE OF PUBLICATION

2/9/, 2006

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 2/9/,2006.

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

P. Wilkinson

LEGAL ADVERTISING

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE# 06-365-SPH
PETITIONER/DEVELOPER:
Dana A. & Robert E. Edmond
DATE OF HEARING: February 24, 2006

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

LOCATION:
1922 Poplar Road

(see page 2 for full size photo)

POSTED ON: February 7, 2006

SIGNATURE OF SIGN POSTER

John J. Dill

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1922 Poplar Road Baltimore, MD 21221

which is presently zoned RC5

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 and 500.6

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

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

Legal Owner(s):

Robert E. Edmond
Name - Type or Print
Robert E Edmond
Signature
Dana A. Edmond
Name - Type or Print
Dana A. Edmond
Signature
1922 Poplar Road 410-574-0174
Address Telephone No.
Baltimore, Maryland 21221
City State Zip Code

Attorney For Petitioner:

Name - Type or Print
Signature
J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286
Telephone No.
City State Zip Code

Representative to be Contacted:

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286
410-825-6961
Address Telephone No.
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. _____

Reviewed By _____ Date _____

REV 9/15/93

Pursuant to the Baltimore County Zoning Regulation, §500.6 and §500.7, Petitioners, individuals Robert and Dana Edmond, raise the following questions for the Zoning Commissioner's determination pursuant to this Special Hearing request:

Petitioners, Robert and Dana Edmond, residing at 1922 Poplar Road, have retained Bafitis & Associates, Inc., to prepare the attached Site Plan which reflects that the Owners of Lot #60, 1924 Poplar Road, Jon Reese Owens and Carole Denise Morgan, have constructed a pier and pilings on Sue Creek. The pilings for the Owens/Morgan pier extend either over the Zoning 417 Line (as shown on the attached Site Plan), or encroach into the 10' buffer area required by the Baltimore County Zoning Regulations.

Petitioners are requesting that the Zoning Commissioner determine and/or confirm the proper zoning line and buffer area pursuant to BCZR, Sec. 417 and further that the pilings erected by the owners of 1924 Poplar Road are in violation of said Zoning Regulations.

Respectfully submitted,

J. Carroll Holzer
508 Fairmount Ave.
Towson, MD 21286
410-825-6961
Attorney for Petitioners

C:\My Docs\Petitions 2006\Dana Edmond Petition 1-13-06

02/07/2006


ZONING NOTICE
CASE # :06-365-SPH
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.
PLACE: Room 407 County Courts Building
401 Bosley Avenue, Towson, MD
11:00 AM Friday February 24, 2006
Special Hearing requesting the
Zoning Commissioner to
etermine the proper zoning line
buffer area pursuant to
ection 417 of the B.C.Z.R.
HEARINGS ARE HAN APPED ACCESSIBLE
02/07/2006

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: 06 365 SPH

Petitioner: EDMOND

Address or Location: 1922 POPLAR RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: V. Carroll Holzer

Address: 508 FAIRMOUNT AVE

Towson MD. 21286

Telephone Number: 410 825 6961

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 9, 2006 Issue - Jeffersonian

Please forward billing to:
J. Carroll Holzer, Esq. (410-825-6961)
508 Fairmount Avenue
Towson, MD 21286

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: 06-365-SPH
1922 Poplar Road.
North side of 1922 Poplar Road, 36 feet southwest of Beach Road
15th Election District, 6th Councilmanic District
Legal Owners: Dana A. & Robert E. Edmond

Special Hearing requesting the Zoning Commissioner to determine the proper zoning line and buffer area pursuant to Section 417 of the B.C.Z.R.

Hearing: Friday, February 24, 2006 @ 11:00 a.m. in Room 407 County Courts Building, 401 Bosley Avenue, Towson, MD 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 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits and Development Management

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

January 31, 2006

Baltimore County

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

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: 06-365-SPH
1922 Poplar Road.
North side of 1922 Poplar Road, 36 feet southwest of Beach Road
15th Election District, 6th Councilmanic District
Legal Owners: Dana A. & Robert E. Edmond

Special Hearing requesting the Zoning Commissioner to determine the proper zoning line and buffer area pursuant to Section 417 of the B.C.Z.R.

Hearing: Friday, February 24, 2006 @ 11:00 a.m. in Room 407 County Courts Building, 401 Bosley Avenue, Towson, MD 21204

Timothy Kotroco
Director

TK:raj

c: J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, MD 21286
Robert & Dana Edmond, 1922 Poplar Road, Baltimore, MD 21221

NOTES: (1) **THE PETITIONERS MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 9, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-3868.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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

February 20, 2006

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

Dear J. Carroll Holzer:

RE: Case Number: 06-365-SPH, 1922 Poplar Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 27, 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Robert E and Dana A Edmond 1922 Poplar Road Baltimore 21221

jfm 2/24

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 14, 2006

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

FEB [illegible] 2006

SUBJECT: Zoning Advisory Committee Meeting
For February 13, 2006
Item Nos. 357, 359, 360, 361, 362, 363, 365

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-02142006.doc

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

SHA
State Highway Administration
Driven to Excel

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

Maryland Department of Transportation

Date: 2·3·06

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

RE: Baltimore County
Item No. 365 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,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

2/24

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 22, 2006

RECEIVED

FEB 27 2006

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

ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-365- 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 Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By: Curtis Murray

Division Chief: Lynn Lanham

CM/LL

W:\DEVREVIZAC\6-365.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

FEB 23 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: R. Bruce Seeley

DATE:

SUBJECT: Zoning Item # 06-365-SPH
Address 1922 Poplar Rd.

Zoning Advisory Committee Meeting of February 6, 2006

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

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

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: Glenn Shaffer Date: Feb. 10, 2006

S:\Devcoord\ZACSHEL-9-7-05rbs.doc

ORDER RECEIVED FOR FILING
Date 3-1-06
By [signature]

RE: PETITION FOR SPECIAL HEARING 1922 Poplar Road; N/S Poplar Road, 36' SW Beach Road 15th Election & 6th Councilmanic Districts Legal Owner(s): Robert & Dana Edmond Contract Purchaser(s): Robert & Dana Edmond Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 06-365-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
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of February, 2005, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioner(s).

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

IN THE MATTER OF 1922 Poplar Road	*	BEFORE THE ZONING
N side of 1922 Poplar Road, Southwest of Beach Road	*	COMMISSIONER OF
15th Election District 6th Councilmanic District	*	BALTIMORE COUNTY
Legal Owners: Dana & Robert Edmond	*	Case No. 06-365-SPH

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

SUBPOENA

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

TO: Mike Kulis, DEPRM
County Courts Building, 4th Floor

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

(X) Personally appear and produce documents or objects;

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

on Friday, the 24th day of February, 2006 at 11: 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:
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 2/16/06

John V. Murphy
Zoning Commissioner

SHERIFF'S RETURN

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

Date: _____

Fee: $

_____
SHERIFF

2/24 11:00 a.m. FRL
JM
06-365-SPH

C:\My Docs\Subpoenas 2006-Dana Edmond 2-15-06

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 10, 2005

Mr. & Mrs. Leroy Weinreich
1926 Poplar Road
Baltimore, Maryland 21220

Mr. John R. Owens
Ms. Carol Morgan
1924 Poplar Road
Baltimore, Maryland 21220

Re: The Piers of 1924 & 1926 Poplar Road

To All Interested Parties:

Kindly accept this letter as the findings of my office after fully reviewing the facts as they have been presented by the owners of the above properties and their representatives. A joint meeting was held between representatives of the Departments of Environmental Protection and Resource Management and Permits and Development Management. Based on the information provided, we have reached the following conclusions:

1. The owner of the property located at 1926 Poplar Road constructed a pier without first obtaining a proper building permit. An inspection of the property revealed that the pier, as it currently exists, exceeds 100 feet in length, which requires the approval of State, Federal and Baltimore County permitting and reviewing agencies. In addition, the pier was constructed to a width of 7 feet, which exceeds the maximum allowable width per the Chesapeake Bay Critical Area Code which is 6 feet. Furthermore, the property owner has constructed a platform at the end of the pier that is at the maximum square footage of 200 feet, with additional decking yet to be constructed. The property owner will have to file for the requisite permits and must make adjustment to the pier in order to bring the structure into compliance with all applicable building codes. This can be accomplished through the permitting process.

In addition, the extensions constructed to the pier apparently violate zoning setbacks to adjacent properties. In order to keep the pier in its present configuration and location, the property owner will have to file a Petition for Variance before the Zoning Commissioner's Office, in order to obtain the requisite relief necessary for the pier to remain. The staff of this office will assist this property owner in filing the necessary paperwork for this Zoning relief. Proper Zoning relief will have to be granted in order for the permit to be processed.

2. The owner of the property located at 1924 Poplar Road applied for an "after the fact" permit (B568679WF) to perform pier and deck work and to install an additional mooring pile. An inspection of this property revealed that the end platform of the pier exceeds the 200 square foot requirement of the Chesapeake Bay Critical Area Code. In addition, a second mooring pile was installed over and above the one requested. The property owner also installed a boatlift that was not reflected on the permit. The property owner will have to file for the requisite permits and must make adjustment to the pier in order to bring the structure into compliance with all applicable building codes. This can be accomplished through the permitting process.

   In addition, the extensions constructed to the pier apparently violate zoning setbacks to adjacent properties. In order to keep the pier in its present configuration and location, the property owner will have to file a Petition for Variance before the Zoning Commissioner's Office, in order to obtain the requisite relief necessary for the pier to remain. The staff of this office will assist this property owner in filing the necessary paperwork for this Zoning relief. Proper Zoning relief will have to be granted in order for the permit to be processed.

3. Lastly, both property owners submitted surveys of their properties that were prepared and sealed by licensed surveyors. These surveys do not agree with one another as they should, given that these are adjacent properties. One or perhaps both of these surveys is in error. This is a factual issue that should be resolved at the time of the public hearing before the Zoning Commissioner. The Commissioner should make a finding, based on the testimony and evidence presented at the hearing before him as to which of these surveys is correct, if either.

Therefore, based on our investigation of this matter, we will afford each property owner a 30 day time period within which to decide whether to proceed with the filing of a Petition for Variance or modify their pier locations to comply with all applicable codes. We will be happy to meet with these owners and their representatives in an effort to assist them in bringing their piers into compliance. Taking no action within this 30 day time period will result in enforcement actions being taken against the non-responding party.

Sincerely,

Timothy M. Kotroco, Director

cc: Howard Alderman & Thomas Dolina
Ms. Dana Edmunds
Ms. Cathy Bevins
David Carroll, Director, Deprm

SECTION
417.3 THESE DIAGRAMS ARE TO BE USED AS A GUIDE IN DETERMINING DIVISIONAL PROPERTY LINES ON WATERFRONT CONSTRUCTION

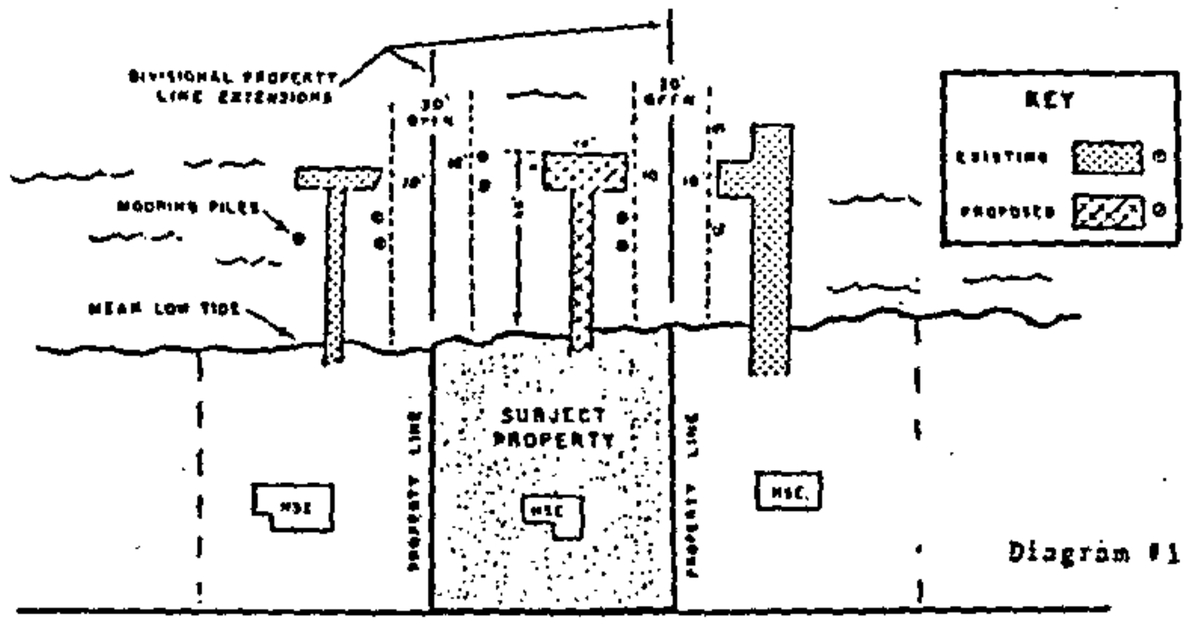


Diagram #1

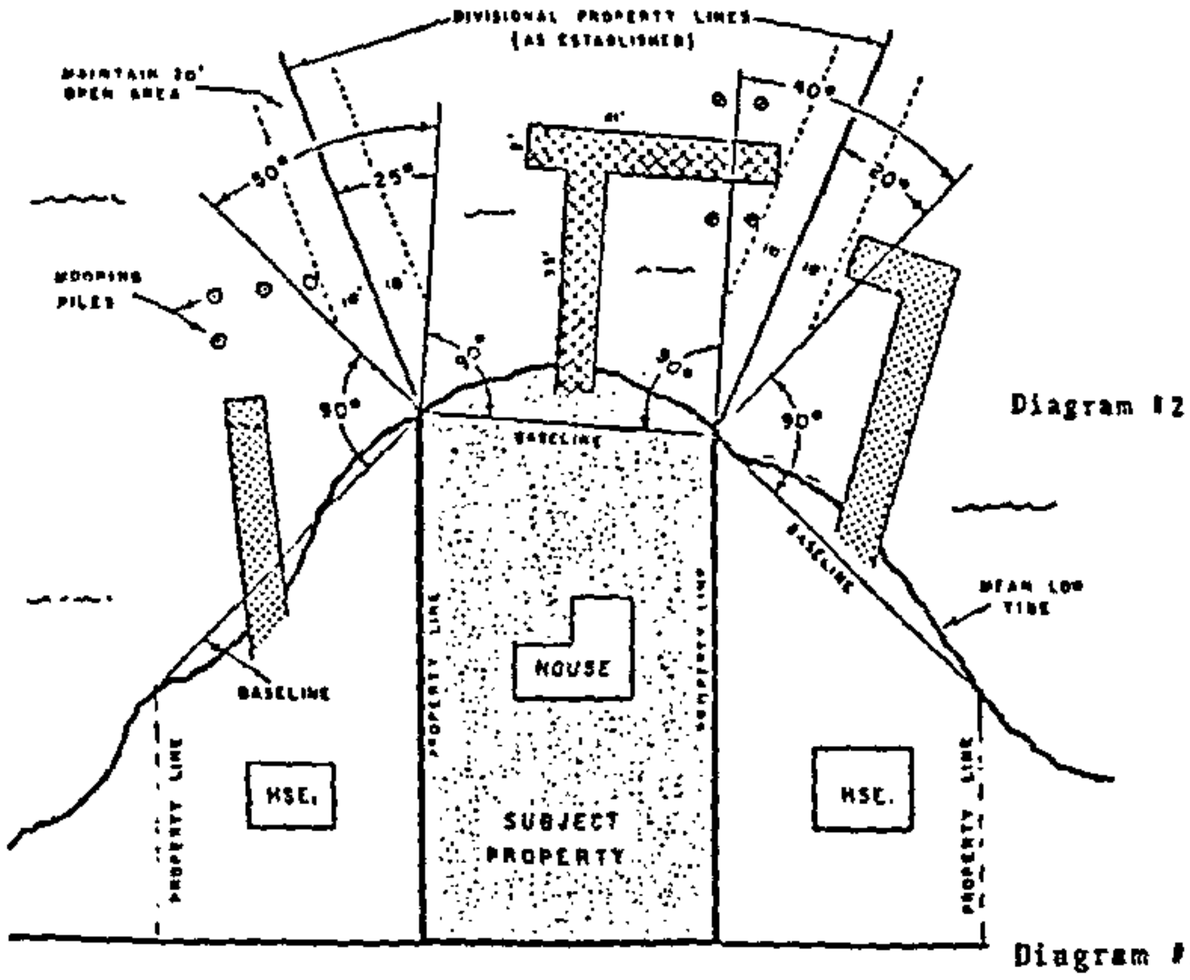
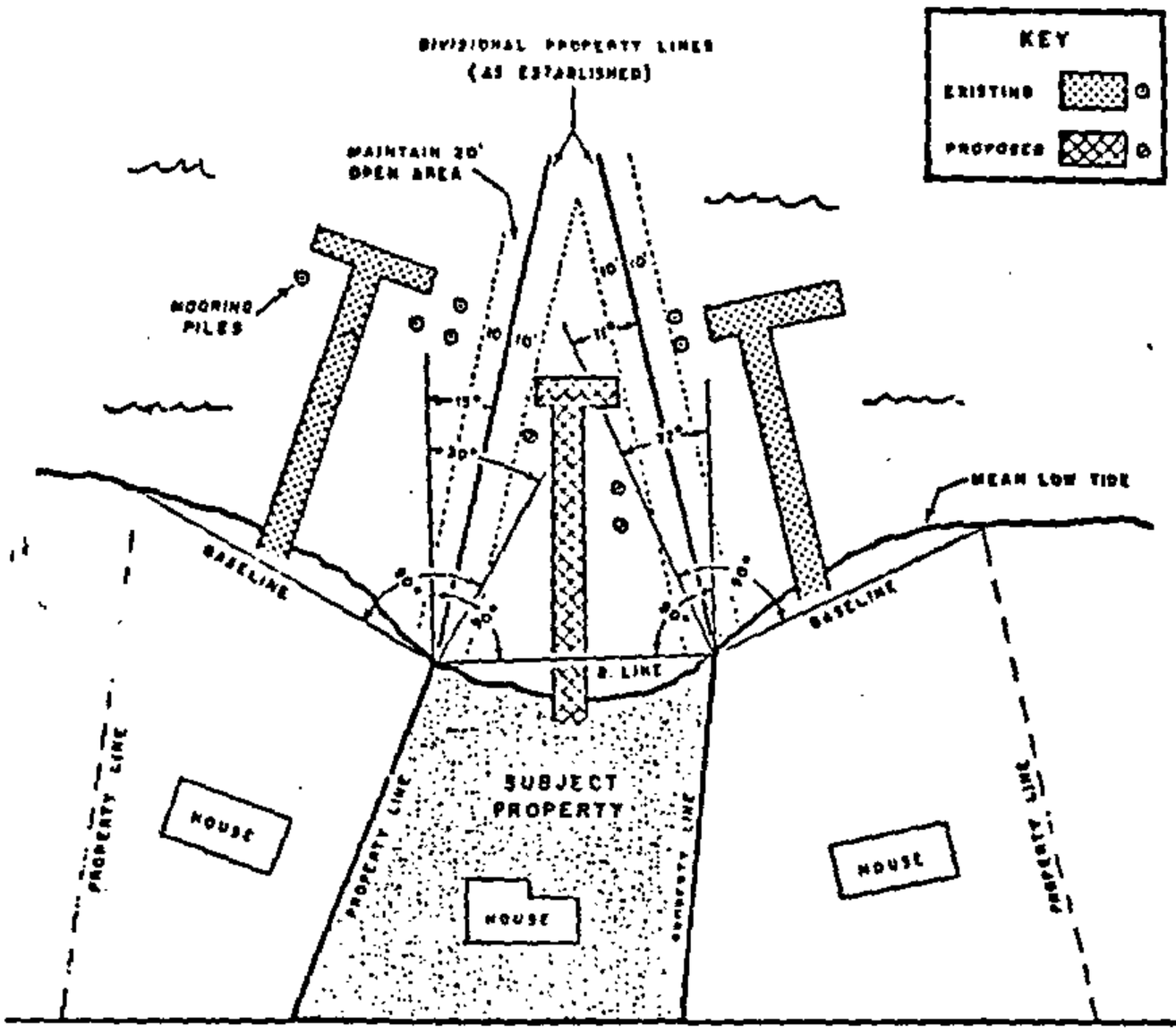


Diagram #2

Diagram #3



§ 33-2-702. SEDIMENT CONTROL PLAN.

(a) *Required for certain timber harvests.* A Sediment Control Plan under § 33-5-104 of this article is required for all tree harvesting, including harvesting on agricultural land, that would disturb more than 5,000 square feet of surface area in one year.

(b) *Forest management plan.* If the Sediment Control Plan affects a total of more than one acre of forest or developed woodland, the plan shall be accompanied by a Forest Management Plan approved by the Department of Environmental Protection and Resource Management, the forestry programs of the State Department of Natural Resources, and the County Forest Conservancy District Board.

(c) *Approval.* A Sediment Control Plan shall be submitted and approved under § 33-5-104 of this article.
(1988 Code, § 14-264) (Bill No. 10-96, § 2, 3-23-1996; Bill No. 94-02, § 2, 7-1-2004)

SUBTITLE 8. NAVIGABLE WATERS

§ 33-2-801. WORK IN NAVIGABLE WATERS BELOW TIDE.

(a) *Permit required.* A person may not drive a pile, erect a platform, or conduct filling, construction, repairs, alterations, removals, dredging, demolitions, or other work of any kind in the navigable waters of the county below mean tide without a written permit from the County Building Engineer and approval of the Director of Environmental Protection and Resource Management or the Director's designee.

(b) *Penalty.* A person who violates this section is guilty of a misdemeanor.
(1988 Code, § 14-1) (Bill No. 94-02, § 2, 7-1-2004)

§ 33-2-802. WATERWAY IMPROVEMENT FUND - SPUR DREDGING.

(a) *Loans authorized.* A residential property owner abutting a channel adjacent to a main channel or harbor whose property has been included in a waterway improvement district by the county may apply for an interest-free loan to dredge the adjacent channel or spur.

(b) *General terms.*

(1) The property owner shall certify the cost of the dredging to the Director of Budget and Finance.

(2) The assessment under subsection (c) of this section shall constitute a lien on the property until the loan is repaid.

IN RE: **PETITIONS FOR SPECIAL HEARING & VARIANCE** – N/S Poplar Road, 65' E of the c/l Pine Road
(1926 Poplar Road)
15th Election District
6th Council District

Leroy A. Weinreich
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 06-047-SPHA
*

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owner of the subject property, Leroy Weinreich. The Petitioner requests a special hearing to approve an existing pier as a pre-existing nonconforming use. In addition, variance relief is requested from Section 417.3, Appendix J of the Baltimore County Zoning Regulations (BCZR) to allow a side yard setback of 0 feet in lieu of the required 10 feet. 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 and testifying on behalf of the Petitioner was Michael Moran, Esquire, attorney for the Petitioner, Edward Kirby, Professional Land Surveyor who prepared the site plan for this property, and Edward Mamolito. Appearing as a Protestant was John R. Owens and his attorney, Howard Alderman, Esquire.

As a preliminary matter, Mr. Alderman presented a motion asking for the dismissal of the Petition for Special Hearing on grounds of improper advertising and notice. Mr. Alderman contends that as the Petition for Special Hearing was not advertised in two newspapers as required by Section 500.7 of the BCZR but only one, that Petitioner has not met the mandatory notice requirements set forth in said section, and therefore, should be prohibited from moving forward. I find that the Protestant has waived any such objection by his appearance at the hearing and lack of identification, even generally, of any other interested parties that might have attended the hearing,

but for the alleged lack of notice. Based on the authority of Cassidy, et al v. County Board of Appeals of Baltimore County, et al, 218 Md. 418 (1958), I find that there has been substantial compliance with the notice provisions of Section 500.7 of the BCZR, and thus, will deny said Motion.

Testimony and evidence presented disclosed that the subject property is a rectangular shaped waterfront lot located with frontage on Sue Creek and the north side of Poplar Road, in the Cedar Beach community in Essex. The property contains a gross area of 0.16 acres, more or less, zoned R.C.5 and is improved with a one-story frame dwelling, an in-ground swimming pool, and a 20' x 16' block garage. At issue in the instant case is the Petitioner's extension of an existing pier over the divisional property line of the adjacent neighbor's property and whether the proposed improvements are considered nonconforming. The neighbor subsequently registered a complaint with the Code Enforcement Division of the Department of Permits and Development Management (Violation Case No. 05-2866), and the Petitioner was advised to file the instant Petitions to resolve the matter.

The Petitioner, Mr. Weinreich was the first witness to testify. He indicated that he has lived on the subject property for the last 25 years and that a pier existed when he and his parents first took ownership of the property, as well as the two mooring piles marked in orange on Petitioner's Exhibit 1. He testified that he used to moor his 28-foot Owens boat to the end of the original pier and would tie one end to the pier and the other end to the two piles. Testimony indicated that as a result of silting in of the area around the pier it became apparent that it would be necessary to extend the pier further into the water to access sufficient water depth to accommodate the Petitioner's boat. Mr. Weinreich testified that the former owner of the adjacent Owens' property had dredged the area around and in front of their pier as a result of the silting problem and that he wanted to dredge but lacked sufficient funds at that time. Further testimony disclosed that as a result of Hurricane Isabelle damage in 2003, the Petitioner made certain repairs to the existing pier and added a "T" section at the end of the pier. These improvements were done without the necessary permits and the above-referenced violation resulted.

Next to testify was Mr. Weinreich's neighbor, Edward Mamolito. Mr. Mamolito has resided across the street from Mr. Weinreich for the past 29 years. He testified that he kept his boat tied to the subject pier with the permission of the prior owner, identified as Mr. George, and that there has always been a pier and tie–off pilings appurtenant to Mr. Weinreich's property since he has lived across the street.

Mr. Edward Kirby, a consultant and Professional Land Surveyor with the firm of Spellman and Larson, testified next. Mr. Kirby testified relative to the history of the regulations as they pertain to pier location and the method of determining divisional lines between adjoining property owners for the purposes of pier construction. Mr. Kirby testified after reviewing the documentary evidence that there has been a pier at the subject property since 1938 and that a 1971 aerial photograph offered into evidence depicts a boat moored at the end of the subject pier.

After due consideration of the testimony and evidence presented and considerable study of same in the weeks post-hearing, I am convinced that the Special Hearing relief must be granted. The Petitioner, and to some extent the Protestant, via Protestant's Exhibits, have demonstrated that the 70-foot pier and the two most northerly piles, highlighted in orange on Petitioner's Exhibit 1, meet the requirements for a legal nonconforming status. Aerials submitted by the Protestant show a boat tied to the end of the pier, ostensibly secured to the two most northerly pilings shown as existing on Petitioner's Exhibit 1. However, the five pilings labeled as "new" on said exhibit must be removed, as well as any decking that might have been constructed between the end of the pier shaded in blue on Petitioner's Exhibit 1 and the two most northerly piles. The undisputed evidence presented established that the pier pre-existed the 1963 amendment to the BCZR that implemented Section 417 relative to pier construction (also see Section 104.2 regarding the repair of legal non-conforming structures after casualty). Protestant's aerial Exhibits show a boat moored at the end of the pier, and it is a reasonable inference that the necessary piles to safely secure the boat were also present, as the boat is shown moored, projecting in a linear position from the end of the pier. Therefore, after due consideration of the testimony and evidence presented, I am persuaded to grant the requested Special Hearing relief consistent with this Order.

Turning next to the requested Variance relief, Section 417 of the BCZR creates "Divisional" lines, not property lines. These divisional lines were for the purpose of providing a means for reviewing proposed waterfront improvements, such as piers, and to promote, to the extent possible, the orderly construction of same, thereby affording all waterfront property owners sufficient area to construct a pier to serve their property. The divisional lines are clearly not property lines, as neither the Petitioner nor the Protestant owns the navigable waterway or the bed that underlies it. Although variance relief can be granted from the projected division lines, I am not persuaded that the Petitioner has met the burden set forth in Cromwell v. Ward, 102 Md. App. 691 (1995) regarding the uniqueness of his property or situation. Therefore, there is no basis for the granting of the requested variance relief, and I must deny same.

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 in part and granted in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of January, 2006 that the Petition for Special Hearing to approve the existing pier to remain as a pre-existing non-conforming use, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the restrictions set forth below:

1) The five pilings labeled as "New Pilings" on Petitioner's Exhibit 1 must be removed, as well as all decking between the "new pilings" and the end of the existing pier shaded in blue. The two most northerly pilings, shaded in orange, shall be permitted to remain, as they are legally nonconforming. The removal of the indicated piles and pier extension must be completed within six (6) months of the date of this Order.

2) Nothing in this Order should be construed as prohibiting the Petitioner from constructing a pier platform on the east side of the subject pier, in accordance with all Baltimore County rules and regulations and with the necessary building permits.

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

IT IS FURTHER ORDERED, for the reasons stated above, that the Petition for Variance seeking relief from Section 417.3, Appendix J of the Baltimore County Zoning Regulations (BCZR) to allow a side yard setback of 0 feet in lieu of the required 10 feet, be and is hereby DENIED.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

3. If, after a period of operation, the collection trailer proves to be detrimental to the shopping center function or the surrounding community by creating traffic problems, or if it is not maintained in a clean and orderly condition, the Zoning Commissioner may:

   a. Require that the trailer be relocated on the site;

   b. Require that the trailer be removed from the site upon 30 days' notice;

   c. Revoke the permit; or

   d. Impose additional conditions upon the continuance of the use permit.

Section 416
Dry Cleaning (Store-Plant) Retail
[Bill No. 133-1958]

416.1 through 416.5 (Reserved)[6]

416.6 All goods processed on the premises shall be delivered at retail on the premises.

Section 417
Waterfront Construction
[Bill No. 64-1963]

417.1 All waterfront construction, such as piers, wharves, docks, bulkheads or other work extended into navigable waters beyond mean low tide as prescribed in Baltimore County Design Manual, shall be governed by these regulations as well as by § 33-2-801 of the Baltimore County Code, except that nothing in these regulations shall apply to the M.H. Zone and to the extension of industrial waterfront facilities to the limit of Corps of Engineers' established pierhead or bulkhead lines. **[Bill No. 137-2004]**

417.2 All applications for waterfront construction, when filed with the Building Engineer, shall be accompanied by a plot diagram suitable for filing permanently with the permit record, showing the outlines of the property in question and of adjoining properties, and showing any existing construction beyond mean low tide, as well as details of the proposed construction; whenever required by the Building Engineer, in his discretion, the application must be accompanied by a plan prepared by a professional engineer or land surveyor, showing to scale the outlines of the property in question, as well as the outlines of the adjoining properties, including any existing construction beyond mean low tide, and a plan and details of the proposed construction.

417.3 For the purpose of defining boundaries within which waterfront construction may take place, divisional lines shall be established in accordance with the following rules:[7]

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6 **Editor's Note: Former Sections 416.1 through 416.5 were repealed by Bill No. 142-1962.**

7 **Editor's Note: See Appendix J for diagrams to be used as a guide in determining property divisional lines.**

A. With straight shore lines. If the shoreline is straight, the divisional lines are to be extended from the intersection of the property line and the shoreline into the water perpendicular to the shoreline, or where the property lines are parallel and it is practical to do so, the property boundary line shall be extended in a straight line into the water.

B. With irregular shorelines. Where the shoreline is not straight, draw a baseline between the two corners of each lot at mean low water line. Then draw a line from the corner of each proprietor's property into the water at right angles with the base line. If by reason of the curvature of the shore, the lines, when projected into the water, diverge from each other, the area excluded by both lines shall be equally divided between the two adjoining proprietors. If by reason of the curvature of the shore, the lines, when projected into the water, converge with each other, the area included by both lines shall be equally divided between the two adjoining proprietors.

C. Conflict with existing construction. Where proposed construction will conflict with existing facilities, it will be the duty of the Office of Planning and Zoning to specify the limits of construction to conform as closely as possible to the rules as set forth herein so as to cause the least interference with existing and/or possible future construction. Notice of the proposed construction shall be given by the Department of Permits and Development Management to adjoining property owners affected.

417.4 No construction, beyond mean low tide, including mooring piles, will be permitted within ten feet of divisional lines as established. The effect of this requirement will be to maintain a twenty-foot open access strip between the facilities of adjoining property owners.

417.5 Any structure built beyond mean low tide must be contained within construction offsets as prescribed. In addition to meeting these requirements, the structure must not extend beyond any of the following limits:

A. Three hundred feet beyond mean low tide.

B. In the absence of a definable channel, not more than 1/3 the width of waterway.

C. Not beyond the near boundary of a definable channel.

417.6 No new waterfront facilities, such as boatyards or marinas, or any service building or structure used in connection therewith, shall be established without the approval of and subject to the regulations and requirements of the Baltimore County Department of Health. Written approval shall be a required condition prior to issuance of a permit.

417.7 Out-of-water storage facilities. **[Bill No. 149-1992]**

A. An out-of-water storage facility, Class A, shall be permitted at a marina or boatyard. Such a facility shall be placed so that boats do not overhang property lines.

B. An out-of-water storage facility, Class B, is permitted at a boatyard 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
3 boats high	5	60 feet	36 feet

C. Notwithstanding the provisions of these regulations, a four-boat-high out-of-water storage facility is permitted by special exception within a building existing before the effective date of Bill No. 129-1992.

D. All Class B out-of-water storage facilities for boats, located adjacent to a residentially zoned or used property shall be screened according to the Class A screening requirements contained in the Landscape Manual. The Zoning Commissioner may indicate additional planting standards in the granting of a special exception.

E. Each berth in a Class A or Class B out-of-water storage facility shall be subject to the parking space requirements and exemptions of 409.6.

F. The required minimum acreage shall be contiguous and shall not be divided by a public right-of-way.

G. In addition to the provisions of Section 307, in the Business Maritime Marina (B.M.M.) Zone and in the Business Maritime Boatyard (B.M.B.) Zone, the Zoning Commissioner may not:

1. Reduce the minimum setback required of an out-of-water storage facility by more than 20%; however, the provisions of this Paragraph 1 apply only if the out-of-water storage facility is adjacent to residentially zoned property.

2. Permit a variance of more than 20% of the minimum acreage for such facilities which require at least five acres.

3. Permit a variance of the minimum acreage for such facilities which require at least two acres.

4. Permit a variance of the maximum height of such facilities regardless of acreage.

5. Permit a variance pursuant to this subsection unless such variance will not be of substantial detriment to adjacent properties and will not materially impair the purpose of this section.

417.8 Waterfront construction must also comply with all applicable provisions of §§ 33-2-604 through 33-2-607 of the Baltimore County Code, pertaining to water-dependent facilities, water-dependent structures, non-water-dependent structures and shore erosion protection works, and Section 103.5 of these regulations pertaining to grandfathering in the Chesapeake Bay Critical Area. **[Bill Nos. 32-1988; 9-1996; 137-2004]**

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 27, 2006

Howard Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 06-365-SPH
Property: 1922 Poplar Road

Dear Mr. Alderman:

For your information, on February 24, 2006, I heard Case No. 06-365-SPH, which involves establishing waterfront division lines for the Edmonds property at 1922 Poplar Road. Testimony indicated the three pilings belonging to Mr. Owens were within the 20-foot open access strip and should be removed. Mr. Holzer, the Edmond's attorney, indicated that you represented Mr. Owens in a similar case on the other side of the Owens property in Case No. 06-047-SPHA decided by Commissioner Wiseman on January 31, 2006. Mr. Holzer also indicated that he sent the attached letter to the Commissioner on January 30, 2006 to notify the Commission of the pending subject case. Mr. Owens did not attend the hearing in Case No. 06-365-SPH.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:dlw
Attached

c: J. Carroll Holzer, Esq., Holzer & Lee, The 508 Building, 508 Fairmount Avenue, Towson, MD 21286
Case File

HOLZER & LEE

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

To: DPDM
File
365 SPH

January 30, 2006
#7600

HAND DELIVERED

William Wiseman, Esquire
Zoning Commissioner for Baltimore County
County Courts Building
Towson, Maryland 21204

RE: Petition for Special Hearing, 1922 Poplar Road

Dear Mr. Wiseman:

I represent Robert and Dana Edmond who reside at 1922 Poplar Road. On Friday, January 13, 2006, I filed a Petition for Special Hearing asking that the Zoning Commissioner determine the proper zoning lines and buffer area pursuant to BCZR, Sec. 417. I have enclosed a copy of the Plat that accompanied our SPH along with Questions to be presented to the Zoning Commissioner. I believe you are already aware of the dispute between Jon Reese Owens and Carole Denise Morgan who own Lot # 60.

You already have a Zoning Case between Owens/Morgan and their neighbor, Leroy Weinreich.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosures

cc: Mr. Don Roscoe
Dana Edmond

HOLZER & LEE

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

365

January, 13 2006
7600

HAND DELIVERED
Carl Richards
Department of Permits &
Development Management
County Office Building
Towson, MD 21204

Re: In the Matter of Petition for Special Hearing, Robert & Dana Edmond
1922 Poplar Road

Dear Mr. Richards:

On behalf of my clients, Robert and Dana Edmond, regarding their property located at 1922 Poplar Road, attached hereto is their Petition for Special Hearing regarding the proposed pier and pilings of their neighbor, Jon Reese Owens and Carole Denise Morgan who reside at 1924 Poplar Road. Petitioners are aware of no zoning violations involving their property.

The following is the language is to be used for posting and advertising purposes only:

Ref. wording

"Petitioners are requesting the Zoning Commissioner to determine the proper zoning line and buffer area pursuant to BCZR, Sec. 417."

I appreciate ~~your~~ assistance in this matter and if ~~you need to~~ call, I can be reached at 410-825-6961

Very truly yours,

J. Carroll Holzer

JCH:clh

cc: Dana Edmond.

F:\Letters 2006\Richards-Dana Edmond 1922 Poplar Rd. 1-13-06.doc

Office of Law is supposed to file an injunction to enforce this decision.
YMK

Baltimore County
Office of Law

400 Washington Avenue
Towson, Maryland 21204
Phone: 410-887-4420
Fax: 410-296-0931

FACSIMILE TRANSMITTAL COVER SHEET

TO: Errol Ecker, PDM DATE: August 1, 2006

FAX NO.: 410.887.8081

FROM: Nancy C. West
Assistant County Attorney

PAGES: 5 (including cover sheet)

RE: 1922 Poplar Road (Edmonds)

Errol, attached is a copy of the decision of the Deputy of the Zoning Commission, John Murphy. Please call Dana Edmonds at 410.493.7581 (about ½ hour before) who will meet you at the site. If you have any questions, please do not hesitate to call me.

NCW

Thanks Errol

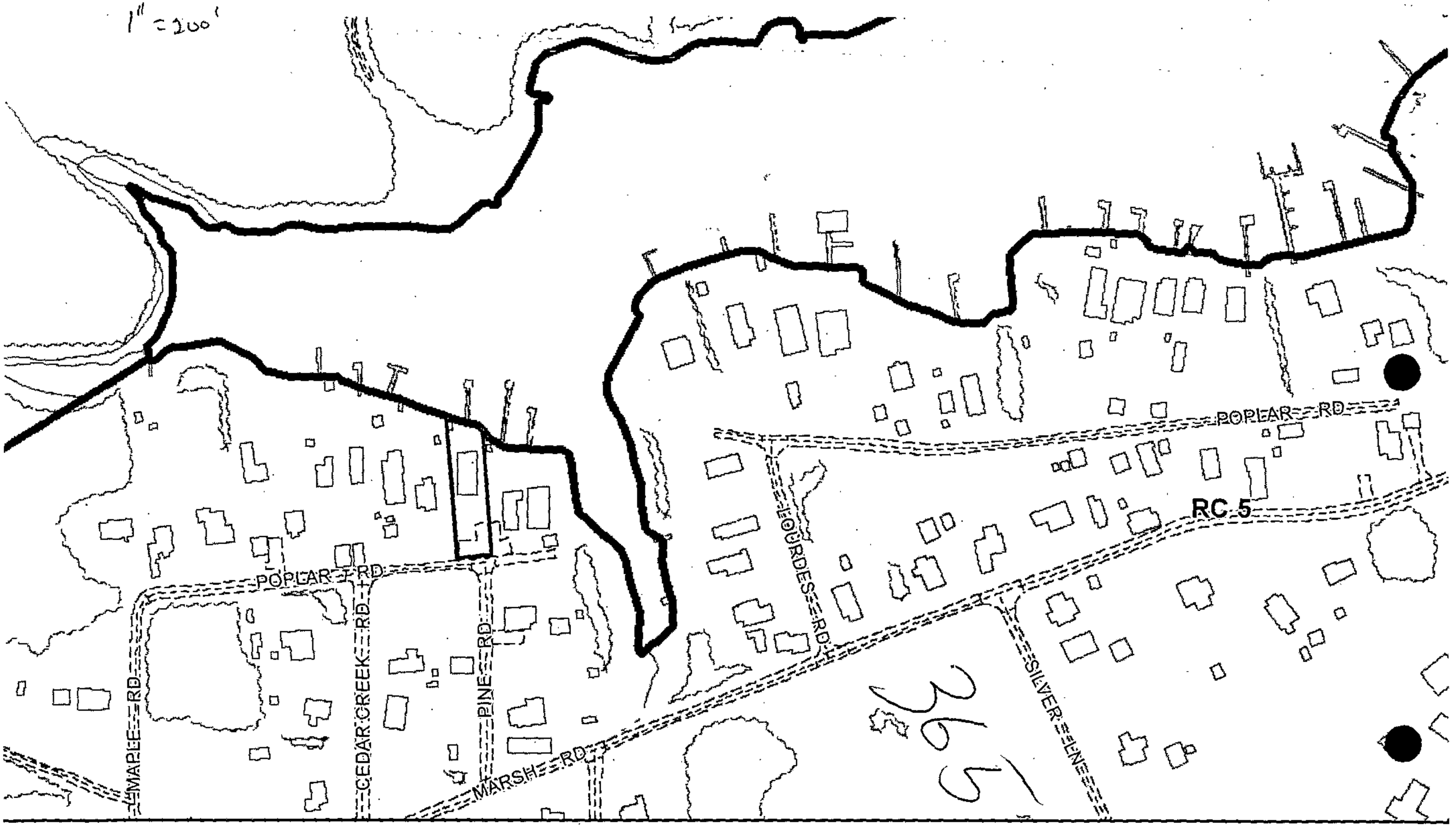
PLEASE PRINT CLEARLY

CASE NAME________________
CASE NUMBER______________
DATE____________________

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Robert Edmond	1922 POPLAR Rd	BALT. MD 21221	
Dana Edmond	1922 Poplar Road	Balt. MD 21221	
Bill Bafitis	1249 ENGLEBERTH Rd	Balto Md. 21221	bainc@Comcast.Net
J. Carroll Holzer	508 Fairmount Ave	Towson Md 21286	

1" = 200'



Baltimore County
Office of Planning and Zoning
Official Zoning Map

097B2	097C2	098A2	098B2
097B3	097C3	098A3	098B3
104B1	104C1	105A1	105B1

Professional Profile

William N. Bafitis, P.E.

Professional Registration	Maryland: Professional Engineer 1979 Delaware: Professional Engineer 1991
Technical Expertise	Site feasibility studies, preliminary and final design analysis, and preparation of contract plans and specifications for large-scale development projects. Highway corridor analysis and design. Architectural design of maintenance and operations facilities and small miscellaneous buildings.
Professional Experience	Over 33 years experience in all facets of site investigation, design and project management for urban and rural land development. Project Engineer for design and alignment studies for interstate and arterial highways. Supervision of architectural projects, structural design and survey operations.
Credentials	B.S., Civil Engineering, The Johns Hopkins University, 1976 Essex Community College, 1969 Traffic Engineering Short Course, University of Maryland, 1978 Urban Hydrology and Storm Water Management Short Course, (1980), Economics Management of Professional Practice (1981), Lehigh University American Society of Civil Engineers Maryland Association of Professional Engineers Honor Award, American Society of Landscape Architects, Burdick Park Project in Baltimore, Maryland Baltimore County's "Business Excellence" Awards for Small Service Business Private Pilot License Executive Citation, 1994, Baltimore County Chesapeake Bay Critical Area Special Advisory Committee Baltimore County Economic Development Commission- 1994 Executive Citation- 1995, Baltimore County Crime Scan President Essex Middle River Chamber of Commerce- 1994 & 1995 President Eastern Baltimore County Community Development Corporation- 1996 Telecommunication Advisory Panel of Baltimore County - 1996 To 2000 Essex Community College Foundation Board of Directors Baltimore County - 1999 To Present Marine Trade Association of Baltimore County, Inc. Board of Directors President of Middle River Rotary Club - 2002 To 2003

Pat #3

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

In the Matter of

John Reese Owens
Carol Denise Morgan

Respondents

Civil Citation No.04-7708

1924 Poplar Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on June 7, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 102.1, 1A01.1B.3, 417.4, Baltimore County Code § 33-2-605(F)(1); International Building Code R 105 for failure to obtain building permit, failure to cease encroachment into required setback from divisional line; failure to reduce platform to 200 (two hundred) square feet or less on residential property zoned RC 5 located at 1924 Poplar Road, 21221.

On April 19, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Keith Parker, Code Enforcement Officer. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $23,400.00 (twenty three thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for June 7, 2005.

Mr. J. R. Owens, Respondent appeared represented by Howard L. Alderman, Esq.
Keith Parker, Code Enforcement Officer also testified.

Pet #6

Mr. Alderman entered as Respondent's Exhibit #1 a survey signed and sealed by W. Duvall and Associates, Inc. This survey shows that the existing pier and mooring piles are not encroaching into the setback from the divisional line on either side of the property. Therefore that portion of the citation for failure to correct encroachment into the required setback from the divisional line is hereby dismissed. The Respondent is also cited for failure to obtain a building permit. According to Michael Kulis of The Department of Environmental Protection and Resource Management (DEPRM), the Respondent reduced the length of the pier, placed new decking on the existing pier and reconstructed a tee platform at the end of the pier, which exceeds the maximum allowable square footage by 56 square feet. The pier was damaged by storm Isabel. The Maryland Department of the Environment's Tidal Wetland section has declared that there is no possibility of relief from the maximum platform size of 200 square feet. The size of the platform must be reduced to 200 square feet. The mooring piles also fell into question as to when the piles were actually installed. It was decided to amend the current permit application to include 2 mooring piles and the reduction of the platform tee to 200 square feet. Upon changing the description of work to accurately describe the proposed changes, the permit shall be issued. The Respondent has agreed to reduce the platform size to conform with the Maryland Department of the Environment (MDE) and County regulations. A building permit is not required to replace the deck boards on a pier. A permit is not required to reduce the length of an existing pier. A permit is required to add mooring piles and to enlarge any portion of the pier, in this case the tee platform. The Respondent applied for what he thought to be the required permit on September 2, 2004. Computer records show that each reviewing agency save for the Department of Environmental Protection and Resource Management (DEPRM) has approved the permit. It is my understanding that with the submission of a site plan showing the proposed alteration to the platform, two mooring piles, and change the description of work to accurately describe the scope of work, the permit can be issued. Zoning planners will have to review the location of the mooring piles as shown prior to issuance of the permit. In the meantime, I see no reason to prevent the Respondent from reducing the size of the platform so long as the reduction in size does not require the addition of, or relocation of existing piles supporting the platform.

The neighbors from 1922 Poplar Road expressed their concern that the pilings supporting a boat lift is encroaching into the required set back from the divisional line on their side of the property. The sealed site plan prepared by W. Duvall & Associates, Inc. does not show this to be the case. The Edmonds, 1922 Poplar Road were advised to consult with a surveyor of their choice and if a conflict is in fact determined, the conflict would have to be resolved in the Circuit Court of Maryland.

I find that the Respondent has made valid attempts to resolve the issues and violations thus cited. Finally it is clear what the Respondent must do to bring the property into compliance with State and County regulations.

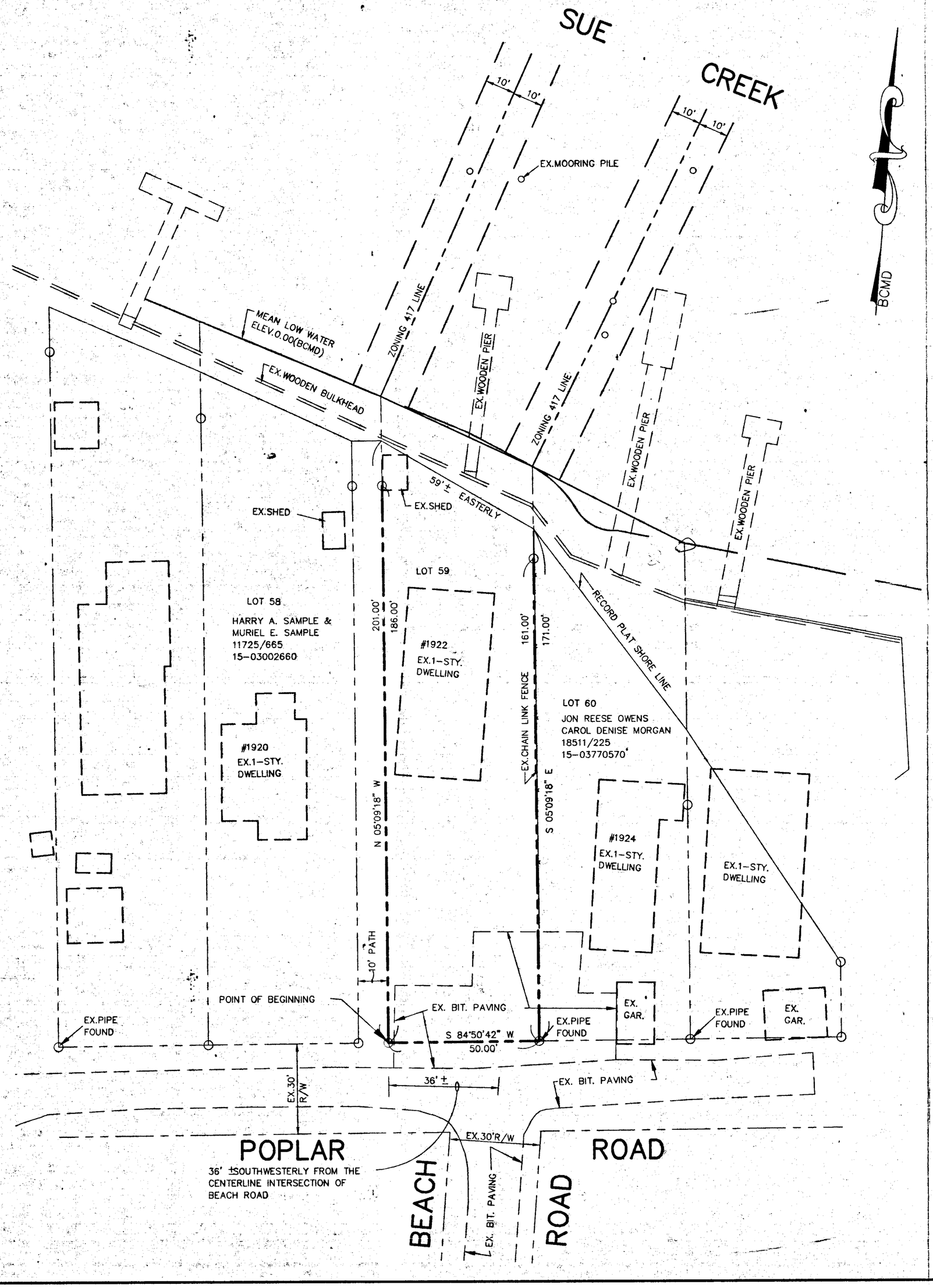
In view of the fact that Mr. Owens promptly filed for the requisite permit, and in view of the fact that the Respondent received word from the State the day of this Hearing that a waiver or variance of platform size is not possible to obtain. I find a civil penalty not appropriate at this time I have confidence that the corrective measures will be completed post haste. I find that this case this 10th day of June 2005 is hereby continued to August 2, 2005 whereupon a Hearing will be held to determine if a civil penalty should be imposed provided the permit has not been amended as set forth in this Order and the reduction in size of the platform have not been completed. If the permit has been amended to accurately reflect the scope of work, pilings and reduced platform and the platform is reduced prior to August 9, 2005 then the case shall be dismissed upon compliance at any time prior to August 9, 2005.

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

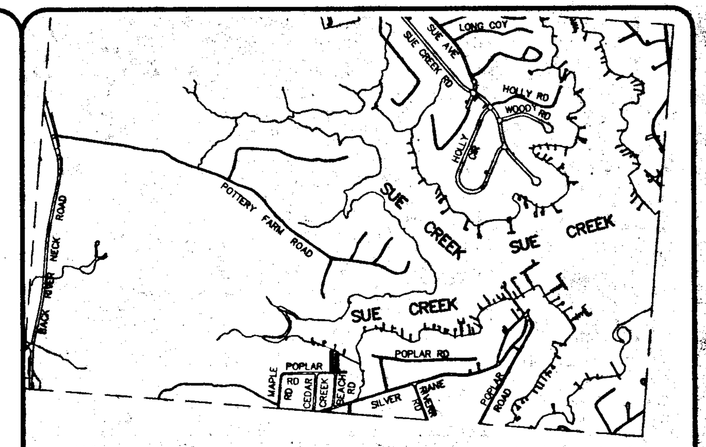
The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf



BENCH MARK

HUB NO. 16733
RAILROAD SPIKE FOUND IN MAC.
ON NORTH SIDE OF POPLAR ROAD
OPP. CEDAR CREEK ROAD.
ELEVATION 22.99 (BALTIMORE COUNTY DATUM)



VICINITY MAP

(SCALE: 1" = 1000')

SITE DATA

1) OWNER: ROBERT E. EDMOND & DANA A. EDMOND
#1922 POPLAR ROAD
BALTIMORE COUNTY,MARYLAND 21221
2) DEED REF: 18217/309
3) TAX ACC. NO.: 15-02201381
4) TAX MAP: 98 PARCEL: 239 LOT: 59
5) PLAT REF: CEDAR BEACH BOOK 07 FOLIO 186.
6) PLAT RECORDED: JUNE 11, 1924
7) ELECTION DISTRICT: 15TH
8) CONCILMANIC DISTRICT: 6TH
9) REGIONAL PLANNING DISTRICT: 328
10) CENSUS TRACT: 4509
11) SITE AREA: 9,300 S.F. OR 0.213 AC.

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

Bafitis & Associates, Inc.
William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

SITE PLAN FOR # 1922 POPLAR ROAD

365
Dropped

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND
WILLIAM N. BAFITIS
No. 11641
PROFESSIONAL ENGINEER
WILLIAM N. BAFITIS, P.E.

1

SHEET 1 OF 1

SCALE: 1" = 20'
JOB ORDER NO: 20530
DATE: 01/06/06

NO.	REVISIONS	DATE

Pet #1

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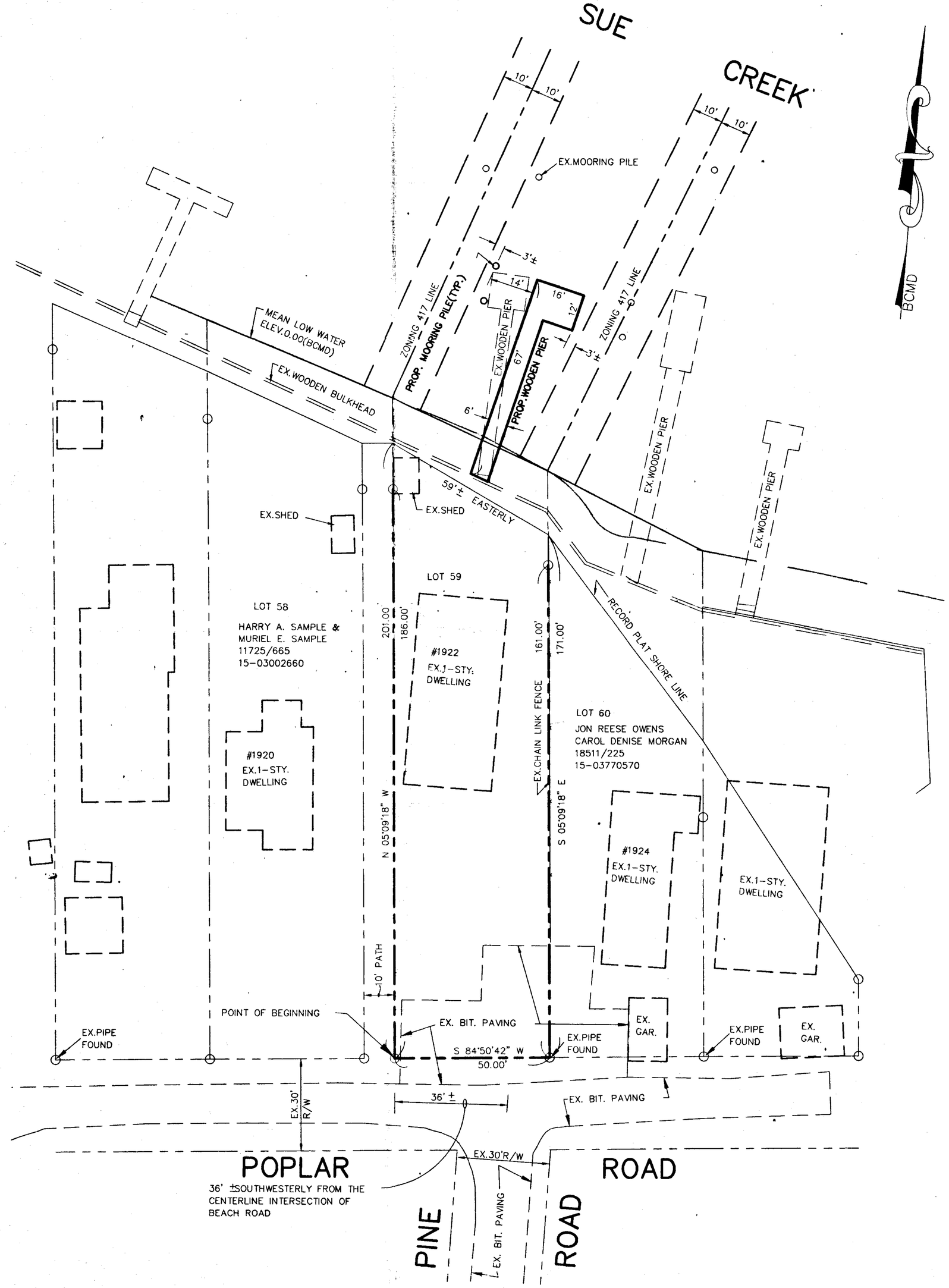

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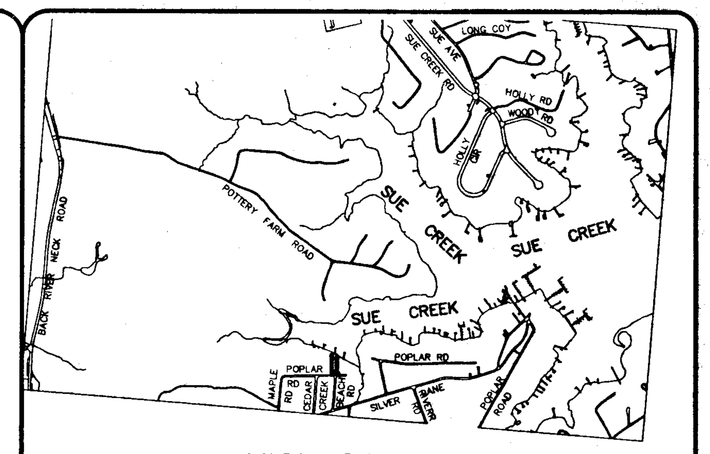

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PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PROPOSED PIER PLAN
FOR
1922 POPLAR ROAD

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND · WILLIAM N. BAFITIS · No. 11941 · PROFESSIONAL ENGINEER
WILLIAM N. BAFITIS, P.E.

1

SHEET 1 OF 1

SCALE: 1" = 20'
JOB ORDER NO: 20530
DATE: 02/21/06

NO.	REVISIONS	DATE

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Pet. Exh #2