

IN RE: **PETITION FOR ADMIN. VARIANCE** \* BEFORE THE  
 NE/S Baltimore Yacht Club Road, 650'N of the c/l  
 Holly Neck Road \* ZONING COMMISSIONER  
**(901 Baltimore Yacht Club Road)**  
 15<sup>th</sup> Election District \* OF BALTIMORE COUNTY  
 6<sup>th</sup> Council District \* Case No. 06-457-A  
  
 Nicholas DiNicola, et ux  
 Petitioners \*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Nicholas DiNicola and his wife, Bertha DiNicola. The Petitioners request variance relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet for proposed additions. 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 Petitioner has 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.

ORDER RECEIVED FOR FILING  
 Date 5-9-06  
 By [Signature]

Based upon the information contained within the case file, I am persuaded to grant the requested variance. Relief is necessitated given the unique configuration of the lot, its waterfront location, and the layout and location of existing improvements thereon. It was indicated that the existing house was built prior to the effective date of current setback requirements and that the garage addition will be located the same distance from the side property line as the house. Moreover, the proposed garage addition will utilize an area of pre-existing macadam driveway and concrete parking pad, and thus, will not increase the impervious surface area of the lot. There were no adverse Zoning Advisory Committee (ZAC) comments from any County reviewing agency and the neighbors on either side support the proposal as evidenced by the signed affidavit contained within the case file. Thus, I am persuaded that relief can be granted without detrimental impact to adjacent properties or the surrounding locale. However, given the property's waterfront location adjacent to Middle River, the proposed improvements must comply with Chesapeake Bay Critical Areas regulations.

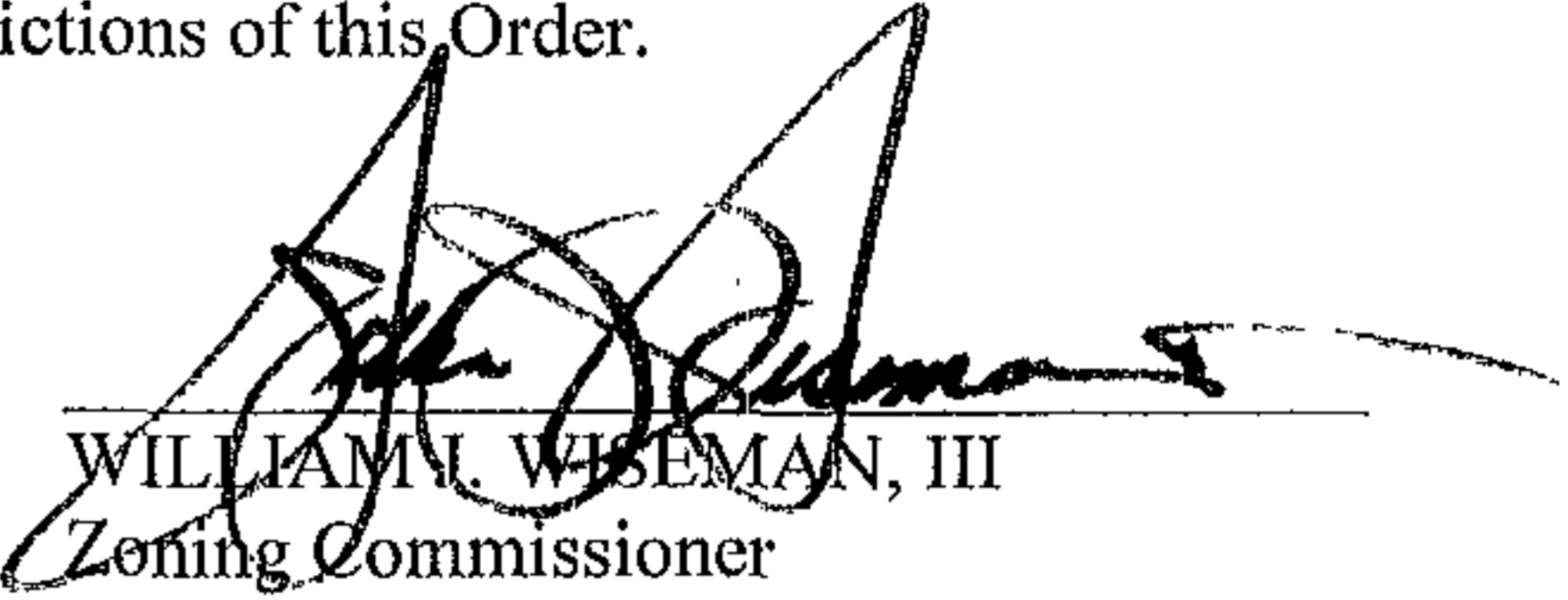
Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9<sup>th</sup> day of May 2006 that the Petition for Administrative Variance seeking relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet for a proposed garage addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

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

ORDER RECEIVED FOR FILING  
Date 5-9-06  
By [Signature]

- 2) Compliance with Chesapeake Bay Critical Areas regulations as set forth in the ZAC comments submitted by the Department of Environmental Protection and Resource Management (DEPRM), dated May 8, 2006, a copy of which is attached hereto and made a part hereof.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

  
WILLIAM N. WISEMAN, III  
Zoning Commissioner  
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING  
Date 5-9-06  
By Debra Wiley



**BALTIMORE COUNTY**  
M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

May 9, 2006

WILLIAM J. WISEMAN III  
*Zoning Commissioner*

Mr. & Mrs. Nicholas DiNicola  
901 Baltimore Yacht Club Road  
Baltimore, Maryland 21221

RE: **PETITION FOR ADMINISTRATIVE VARIANCE**  
NE/S Baltimore Yacht Club Road, 650' N of the c/l Holly Neck Road  
(901 Baltimore Yacht Club Road)  
15<sup>th</sup> Election District -- 6<sup>th</sup> Council District  
Nicholas DiNicola, et ux - Petitioners  
Case No. 06-457-A

Dear Mr. & Mrs. DiNicola:

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:dlw

cc:  Chesapeake Bay Critical Areas Commission  
1804 West Street, Suite 100, Annapolis, Md. 21401  
Office of Planning; DEPRM; People's Counsel; Case File

# 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 901 Baltimore Yacht Club Rd  
Address  
Balto. MD 21221  
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):

1. Existing House was built prior to the currently established side yard setback requirements of 50 ft.
2. Existing house has side yard setback of 25 ft.
3. Location of proposed garage addition would also have a side yard setback of 25 ft. due to the existing location of the house.
4. Location of proposed garage addition will utilize an area of pre-existing macadam drive and concrete parking pad.
5. Relocating area of proposed garage addition would result in covering additional impervious surface and interference of underground utilities.
6. Neighbors approve of location as vehicle lights shine into bedroom window.

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.

Nicholas DiNicola  
Signature

Nicholas DiNicola  
Name - Type or Print

Bertha DiNicola  
Signature

Bertha DiNicola  
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 20 day of March, 2006, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Nicholas DiNicola Bertha DiNicola  
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Bertha E. DiNicola  
Notary Public

My Commission Expires Nov. 18, 2009

PROPERTY

ZONING-DESCRIPTION FOR 901 BALTIMORE YACHT CLUB ROAD

Beginning at a point on the northeastern side of Baltimore Yacht Club Road

Which is 20 feet wide at the distance of 650 feet North of the

Centerline of the nearest improved intersecting street Holly Neck Road

Which is 20 feet wide. "As recorded in Deed Liber 21053, Folio 358"

And include measurements and directions (metes and bounds only) here

And on the plat in the correct location.

N.  $20^{\circ} 03' 29''$  E. 265.44 ft., N.  $1^{\circ} 39' 29''$  E. 225 ft.  
S.  $75^{\circ} 50' 31''$  E. 152.00 ft., S.  $62^{\circ} 51' 53''$  E. 75.13 ft.  
S.  $12^{\circ} 15' 59''$  W. 377.26 ft., S.  $51^{\circ} 08' 00''$  W. 31.14 ft.  
189.26 ft., S.  $26^{\circ} 35' 54''$  W. 23.32 ft.,  
N.  $50^{\circ} 55' 41''$  W. 9.90 feet to the place of beginning.

OG-457-A

BALTIMORE COUNTY, MARYLAND  
OFFICE OF BUDGET & FINANCE  
MISCELLANEOUS RECEIPT

26-4-7-17

No. 4980

DATE 03-21-06 ACCOUNT R. C. H. 666666 (50)

AMOUNT \$ 65.90

RECEIVED FROM: Wesley Pe... Nigeria

FOR: Pres. Laboul. (IDM...)  
ATL Plant. Youth Center B.D.

DISTRIBUTION  
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

507

CASHIER'S VALIDATION

MID...  
ADDRESS...  
CITY...  
STATE...  
ZIP...

# CERTIFICATE OF POSTING

RE: Case No.: 06-457-A

Petitioner/Developer: BERTHA

DINICOLA

Date of Hearing/Closing: 4-17-06

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

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

Ladies and Gentlemen:

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

901 BALTIMORE YACHT CLUB RD

The sign(s) were posted on 4-2-06  
(Month, Day, Year)

Sincerely,

Robert Black 4-5-06  
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

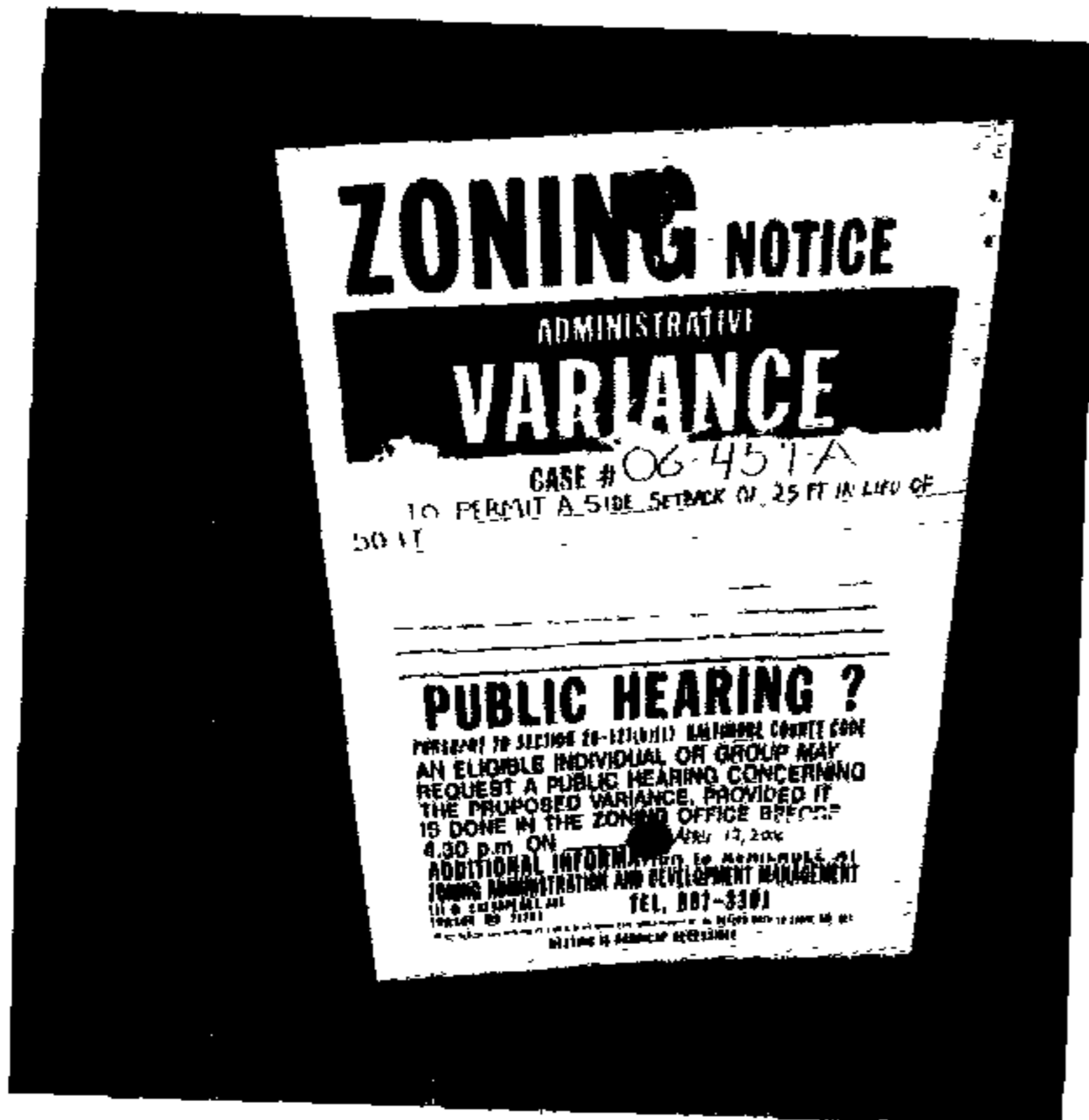
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)





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.

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For Newspaper Advertising:

Item Number or Case Number: 06-457-A  
Petitioner: BERTUVA & NICOLAUS DI NICOLA  
Address or Location: 901 BALT YACHT CLUB RD

PLEASE FORWARD ADVERTISING BILL TO:

Name: BERTUVA & NICOLAUS DI NICOLA  
Address: 901 BALT YACHT CLUB RD  
BALT. MD. 21221  
Telephone Number: 410 - 335-8857

Revised 2/20/98 - SCJ

06-457-A

**ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES**

Case Number 06- 457 -A Address 901 BALTIMORE YACHT CLUB RD.

Contact Person: Jordan R Alexander Phone Number: 410-887-3391  
Planner, Please Print Your Name

Filing Date: 03-21-06 Posting Date: 04-07-06 Closing Date: 04-17-06

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

- 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.
- 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.
- 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.
- 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- 457 -A Address 901 BALTIMORE YACHT CLUB RD.

Petitioner's Name BERTUAS NICOLAS DI NICOLA Telephone 410-335-8857

Posting Date: 04-02-06 Closing Date: 04-17-06

Wording for Sign: To Permit A SIDE SETBACK OF 25 FT  
IN LIEU OF 50 FT.

**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*

April 17, 2006

Bertha DiNicola  
Nicholas DiNicola  
901 Baltimore Yacht Club Road  
Baltimore, MD 21221

Dear Mr. and Mrs. DiNocola:

RE: Case Number: 06-457-A, 901 Baltimore Yacht Club Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 21, 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 that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)



## Fire Department

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



## Baltimore County

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

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

April 4, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: April 3, 2006

Item Numbers: 446, 457-470

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

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P. Bosley Jr.  
Fire Marshal's Office  
410-887-4881 (C) 443-829-2946  
MS-1102F

cc: File

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)



**BALTIMORE COUNTY, MARYLAND**  
**INTEROFFICE CORRESPONDENCE**

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

**DATE:** April 6, 2006

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

**SUBJECT:** Zoning Advisory Committee Meeting  
For April 10, 2006  
Item Nos. 446, ~~457~~, 458, 459, 462, 463,  
464, 465, 467, 468, 469, and 470

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-04062006.doc

**BALTIMORE COUNTY, MARYLAND**

**Inter-Office Correspondence**



TO: Timothy M. Kotroco  
FROM: Jeff Livingston, DEPRM - Development Coordination  
DATE: May 8, 2006  
SUBJECT: Zoning Item # 06-457  
Address 901 Baltimore Yacht Club Road

Zoning Advisory Committee Meeting of April 3, 2006

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

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

\_\_\_\_\_ 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).

X 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:

Chesapeake Bay Critical Area regulations for Limited Development Area (LDA) must be met on this site. Impervious surface area is limited to 15% of the lot's area and 15% tree cover must be met and maintained onsite.

Reviewer: K. Brittingham

Date: May 3, 2006

BW  
cls.  
4/17

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

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

**DATE:** April 17, 2006

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

**SUBJECT:** Zoning Advisory Petition(s): **Case(s) 6-457- Administrative Variance**

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

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

**Prepared By:**



**Division Chief:**



CM/LL

RECEIVED

APR 24 2006

ZONING COMMISSIONER



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

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

Maryland Department of Transportation

Date: 3.31.06

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

RE: Baltimore County  
Item No. 457 JRA

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief  
Engineering Access Permits Division

My telephone number/toll-free number is \_\_\_\_\_

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

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



**Debra Wiley - Re: Case 06-457-A - Admin. Variance - CBCA - 901 Baltimore Yacht Club Road, 21221**

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**From:** Jeffrey Livingston  
**To:** Wiley, Debra  
**Date:** 05/08/06 3:51 PM  
**Subject:** Re: Case 06-457-A - Admin. Variance - CBCA - 901 Baltimore Yacht Club Road, 21221

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Here is 457. I'll get to the rest of the ones in my inbox as soon as I get a chance.

Jeff

>>> Debra Wiley 05/08/06 11:52 AM >>>  
Hi Jeff,

The closing date on this one is 4/17 and the petitioner called our office last week to inquire. She is now contacting our office via email and has indicated that she has left a voice mail with your department but has not heard anything.

Can you please give us an update as to when to expect a DEPRM comment.

Thanks for your usual cooperation.

**Debra Wiley - Coning Commission Question- Re: Case 06-457-A**

**From:** "Bertha DiNicola" <thedrywallqueen@comcast.net>  
**To:** <jvmurphy@co.ba.md.us>  
**Date:** 05/07/06 10:06 AM  
**Subject:** Coning Commission Question- Re: Case 06-457-A  
**CC:** <wwiseman@co.ba.md.us>

Just checking to see if a decision has been granted yet on this case. I spoke with your office last week and was told you were awaiting the DEPRM comments and was referred to Mr. Livingston. I left a voice mail but did not hear anything. I understand he has a new baby so perhaps he has been out of the office. If there are any problems holding it up please contact me at this e-mail or at 410-335-8857.

Thank you,  
Bertha DiNicola  
901 Baltimore Yacht Club Road  
Baltimore, MD 21221

Zoning Review  
Department of Permits and Development Management  
111 West Chesapeake Avenue  
Room 111  
Towson, MD 21204

Re: DiNicola - 901 Baltimore Yacht Club Road - variance request

To Whom It May Concern;

This is to inform you that we, the undersigned,

*Thelma Sue Johnson*  
Thelma Sue Johnson

And

*Herbert Johnson*  
Herbert Johnson

residing at 903 Baltimore Yacht Club Road have reviewed the plans for the proposed addition to our neighbor's residence (Nicholas & Bertha DiNicola) located at 901 Baltimore Yacht Club Road directly adjacent to our property.

We have no objections at this time to their application for permit.

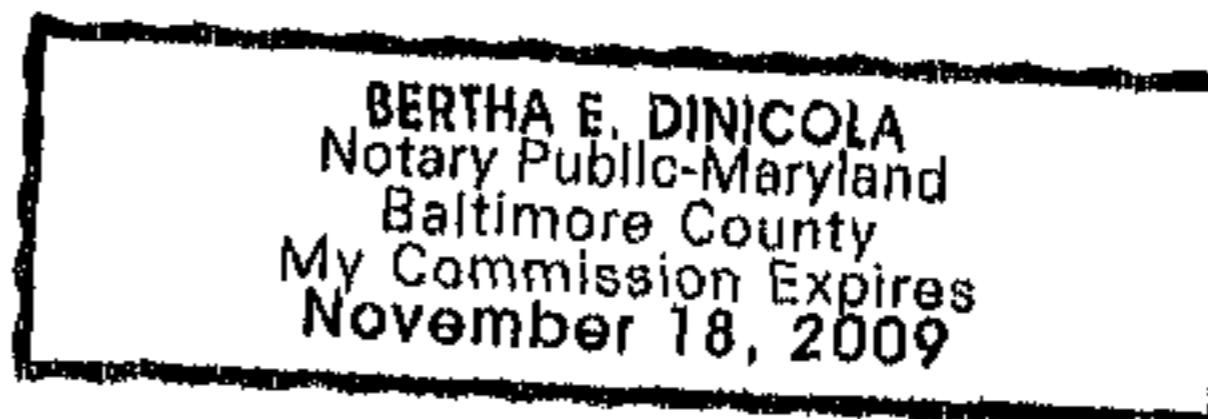
State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY, this 16 day of February, 2006,  
before me, a Notary Public of the State of Maryland, in and for the County aforesaid,  
personally appeared

*Herbert Johnson, Bertha DiNicola*  
Herbert and Sue Johnson, personally known or satisfactorily identified to me as such.  
*Thelma*

AS WITNESS my hand and Notarial Seal

*Bertha E. DiNicola*  
Notary Public  
My commission Expires 11/18/09



Zoning Review  
Department of Permits and Development Management  
111 West Chesapeake Avenue  
Room 111  
Towson, MD 21204

Re: DiNicola - 901 Baltimore Yacht Club Road - variance request

To Whom It May Concern;

This is to inform you that we, the undersigned,

*Thelma Sue Johnson*  
Sue Johnson

And

*Herbert Johnson*  
Herbert Johnson

residing at 903 Baltimore Yacht Club Road have reviewed the plans for the proposed addition to our neighbor's residence (Nicholas & Bertha DiNicola) located at 901 Baltimore Yacht Club Road directly adjacent to our property.

We have no objections at this time to their application for permit.

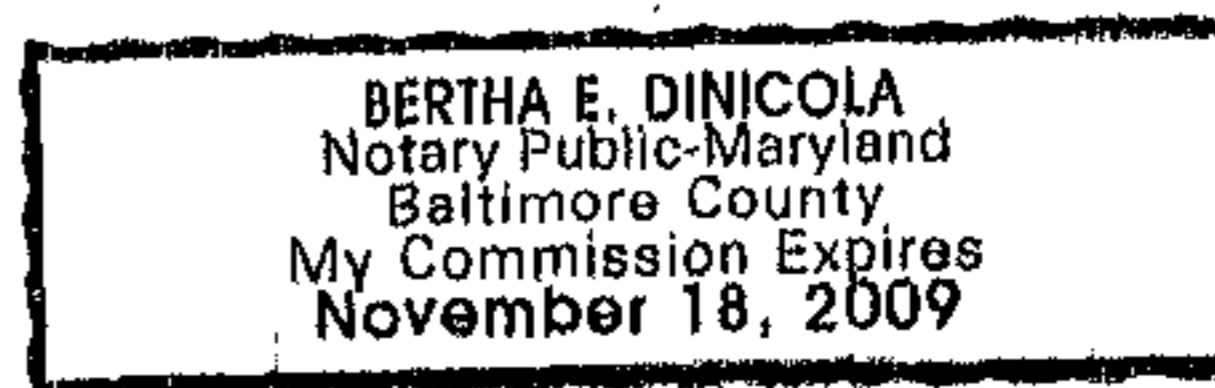
State of Maryland, County of Baltimore, to wit:

I HEREBY CERTIFY, this 16 day of February, 2006,  
before me, a Notary Public of the State of Maryland, in and for the County aforesaid,  
personally appeared

*Herbert Johnson* *Thelma Sue Johnson*  
Herbert and Sue Johnson, personally known or satisfactorily identified to me as such.  
*Thelma*

AS WITNESS my hand and Notarial Seal

*Bertha E. DiNicola*  
Notary Public  
My commission Expires 11/18/09



06-457-A

IN RE: PETITION FOR ZONING VARIANCE \* BEFORE THE  
 P/S Baltimore Yacht Club Road, \* DEPUTY ZONING COMMISSIONER  
 658' N of Holly Neck Road \* OF BALTIMORE COUNTY  
 (901 Baltimore Yacht Club Road)  
 15th Election District  
 5th Councilmanic District \* Case No. 92-300-A

Daniel Homberg  
 Petitioner \*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the legal owner of the subject property, Daniel Homberg, by and through his attorney, G. Scott Barhight, Esquire, in which the Petitioner requests relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 50 feet for the existing one-story dwelling on Lot 1, and side yard setbacks of 25 feet and 28 feet for a proposed one-story dwelling on Lot 2, all in lieu of the required 50 feet for each, as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Daniel Homberg, property owner, John A. Etzel, Registered Land Surveyor, and Herbert and Sue Johnson. There were no Protestants.

Testimony indicated that the subject property, known as 901 Baltimore Yacht Club Road, consists of 3.64 acres, more or less, zoned R.C. 5, and is improved with two, one-story dwellings. Said property is located within the Chesapeake Bay Critical Areas on Middle River. Testimony indicated that the Petitioner is desirous of subdividing the subject property into two separate lots, each containing one of the existing dwelling units. In addition, the Petitioner proposes to rebuild the dwelling on proposed Lot 2 in accordance with that depicted on Petitioner's Exhibit 1. Testimo-

ORDER RECEIVED FOR FILING  
 Date 8/17/92  
 By [Signature]

ny indicated that Gerhold, Cross and Etzel, Registered Professional Land Surveyors, were consulted to perform the subdivision of this property. John Etzel located the line of subdivision between the two existing single family dwellings approximately down the center of the subject property. By virtue of this line of subdivision, the need for the requested variances was created. The B.C.Z.R. require a side yard setback of 50 feet for each single family dwelling. However, there simply is not enough property between the two houses in order to meet setback requirements. Furthermore, the Petitioner's property is a waterfront property located on the Middle River, just off of Holly Neck Road. Therefore, any development of the property is subject to Chesapeake Bay Critical Areas legislation.

The proposed subdivision was closely scrutinized by the Department of Environmental Protection and Resource Management (DEPRM) as to its compliance with the goals of the Chesapeake Bay Critical Areas program. In furtherance of requests made by DEPRM, it became necessary for the Petitioner to relocate the new dwelling on proposed Lot 2 further away from the tidal wetlands located on the east side of the subject property. As a result, the subject dwelling is now closer to the property line, or the line of subdivision, and a greater variance is needed than originally requested in this Petition.

Therefore, it became necessary for the Petitioner to amend the Petition for Zoning Variance to permit a side yard setback of 3 feet in lieu of the required 50 feet for the new dwelling on proposed Lot 2. The requested variance for Lot 1 remains the same. It should be noted that the amended Petition was as a result of the Petitioner's efforts to comply with DEPRM requests. The Petitioner submitted a revised site plan, marked

By \_\_\_\_\_  
Date 8/19/92

DG-157-A

06457-A

Revised Petitioner's Exhibit 1, which clearly demonstrates the amended Petition and satisfies the concerns and requirements of DEPRM.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of

By \_\_\_\_\_  
Date 8/17/82

the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17<sup>th</sup> day of August, 1992 that the Petition for Zoning Variance requesting relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25

\_\_\_\_\_  
 \_\_\_\_\_  
 Date  
 By




lot in lieu of the required 50 feet for the existing one-story dwelling on Lot 1, and a side yard setback of 3 feet in lieu of the required 50 feet for a proposed one-story dwelling on Lot 2, in accordance with Revised Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

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

2) Compliance with the Chesapeake Bay Critical Areas Findings Plan, approved by DEPRM, dated March 25, 1992, latest revisions made July 23, 1992.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated July 28, 1992, attached hereto and made a part hereof.

TMK:bjjs

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

Date 8/17/92  
By [Signature]

06-457-P



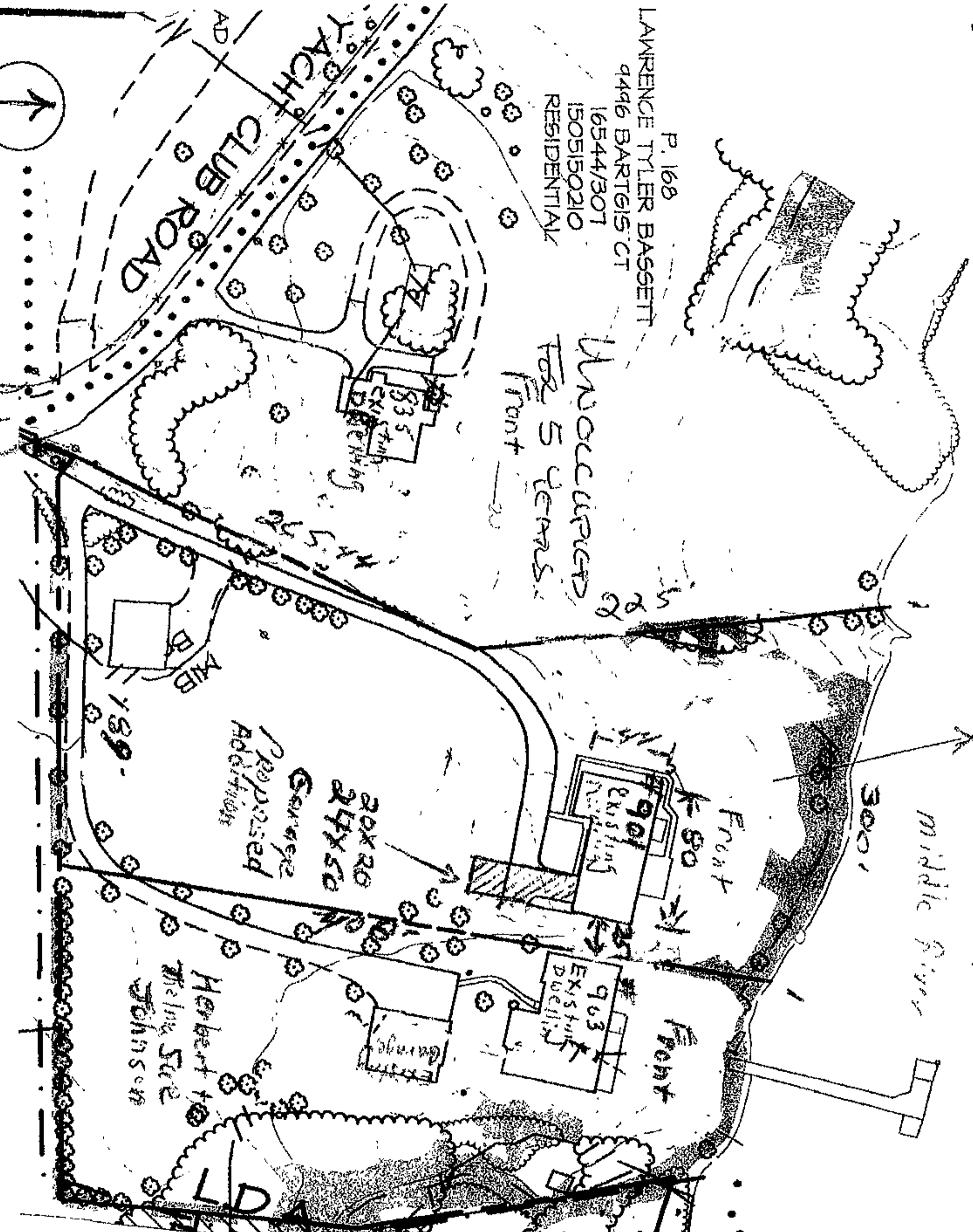
# PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING

PROPERTY ADDRESS 901 Baltimore Yacht Club Rd. SEE PAGES 5 & 6 OF THE CHECKLIST FOR

SUBDIVISION NAME Howeswager Trust Sub.

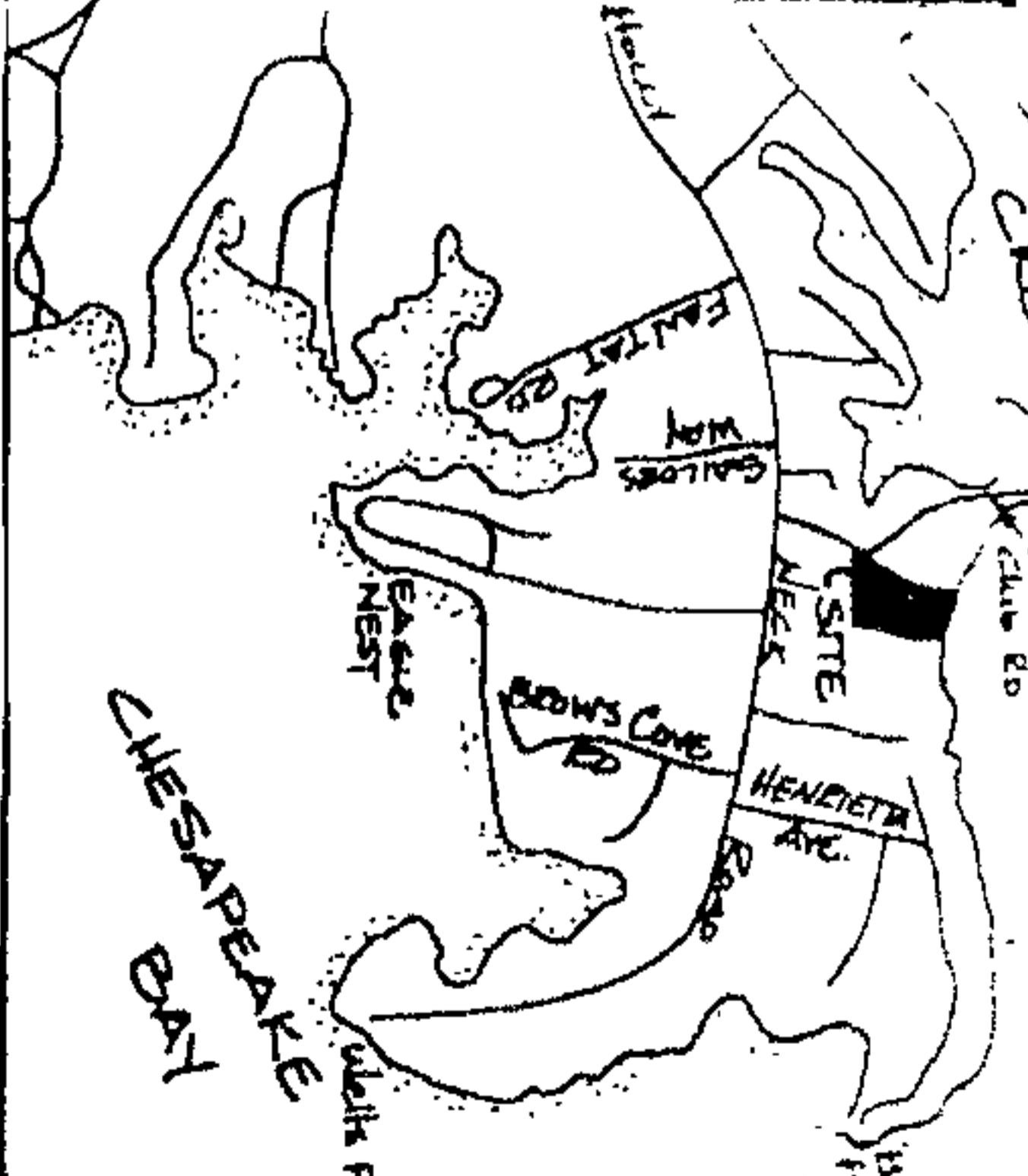
PLAT BOOK #        FOLIO # 358 LOT # 1 SECTION #       

OWNER Nicholas D. Niska, Bertha D. Niska



PREPARED BY AWD

SCALE OF DRAWING: 1" = 100'



VICINITY MAP  
SCALE: 1" = 1000'

## LOCATION INFORMATION

ELECTION DISTRICT 15

COUNCILMANIC DISTRICT 6

1" = 200' SCALE MAP # 098-B-3

ZONING R 2 S

LOT SIZE 2,021 ACREAGE 88034.76 SQUARE FEET

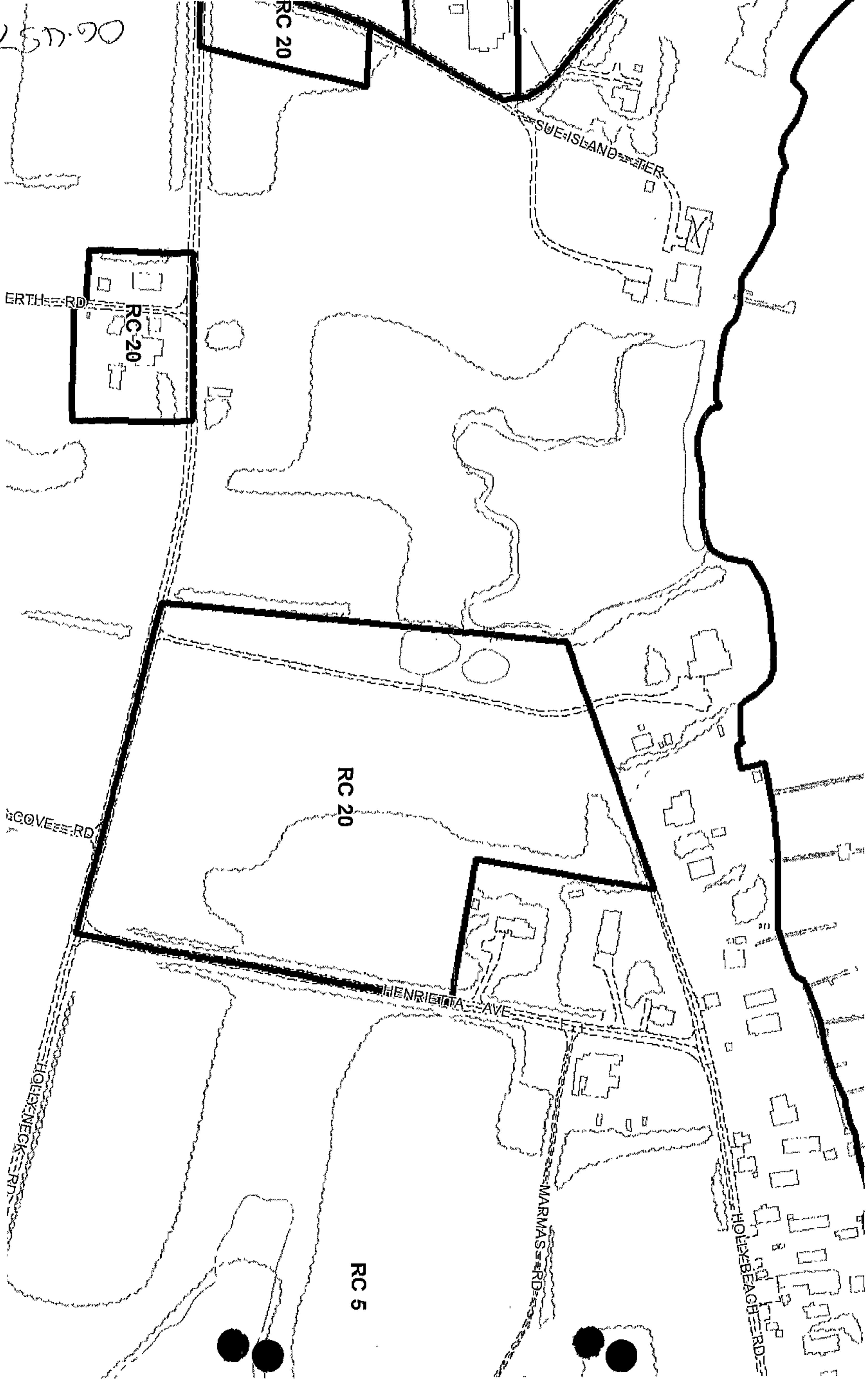
SEWER  PUBLIC  PRIVATE  
WATER

CHESAPEAKE BAY CRITICAL AREA  YES  NO  
100 YEAR FLOOD PLAIN    
HISTORIC PROPERTY / BUILDING    
PRIOR ZONING HEARING QR-300-A

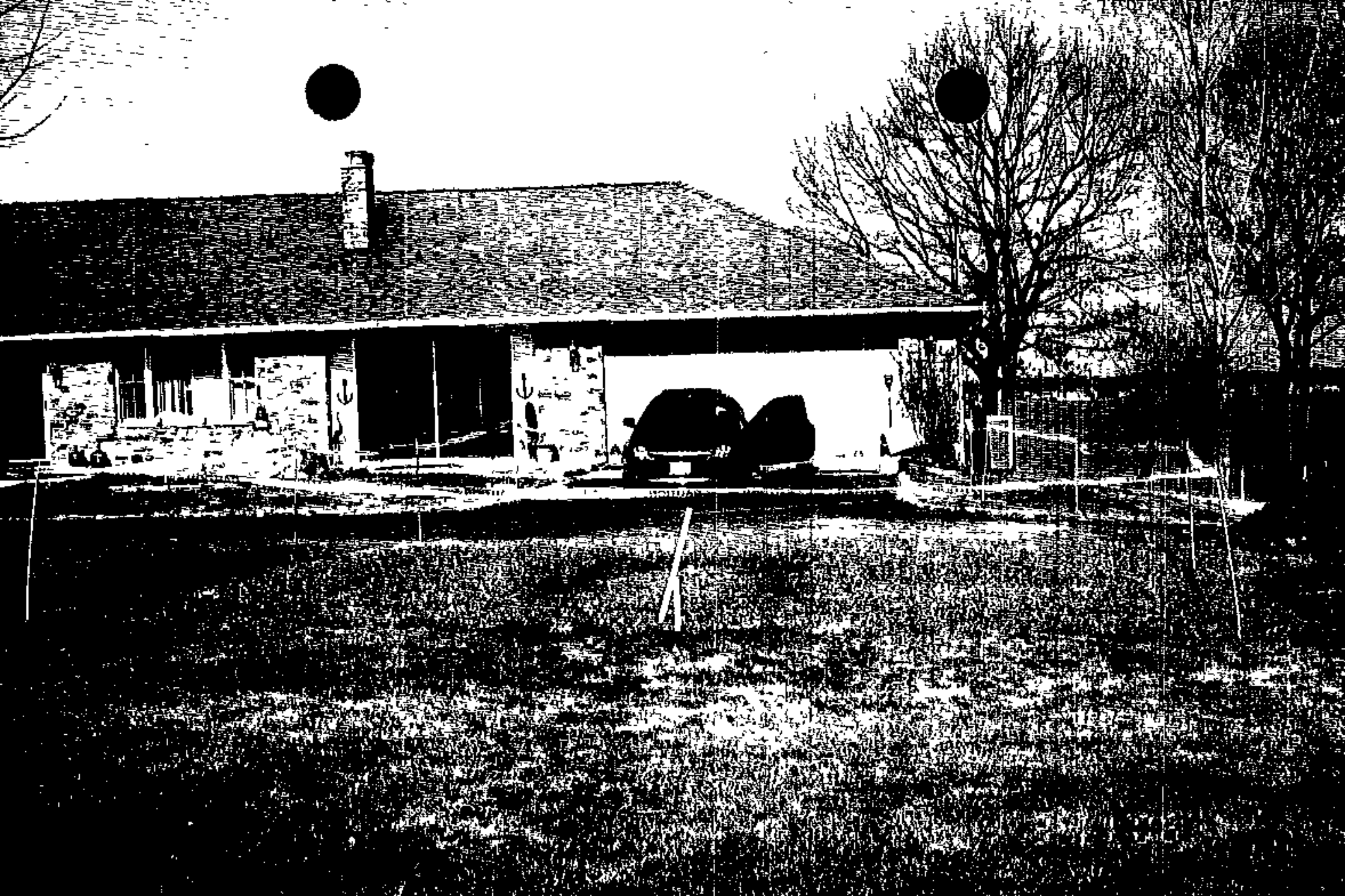
ZONING OFFICE USE ONLY  
REVIEWED BY STW ITEM #        CASE #       

10645T-0

06-157-00

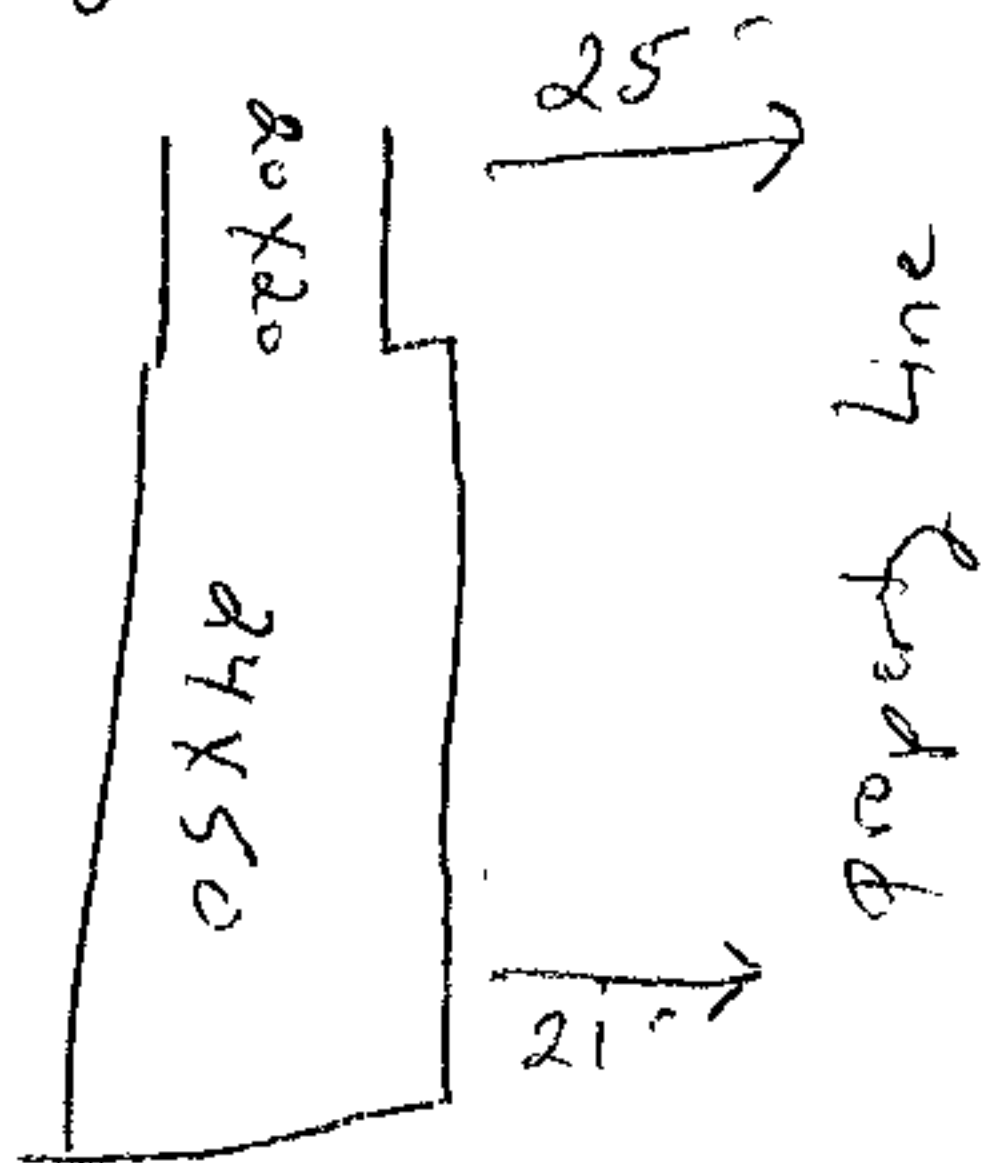


098-B-5



● yellow tape outline ●  
of proposed garage  
addition

20 x 20  
and  
24 x 50



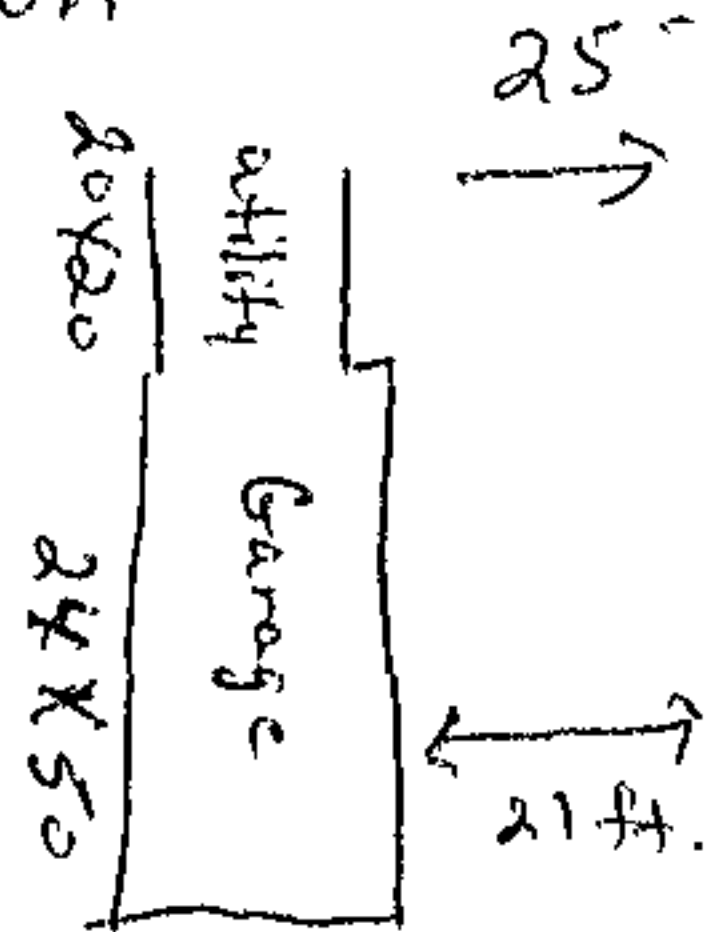
Y. D. D. (A)



Approximate layout of  
proposed addition

20 x 20  
and

24 x 50



06.15.07. (A)





Property Marker



We have a 25' side yard  
Setback.

20.15.12

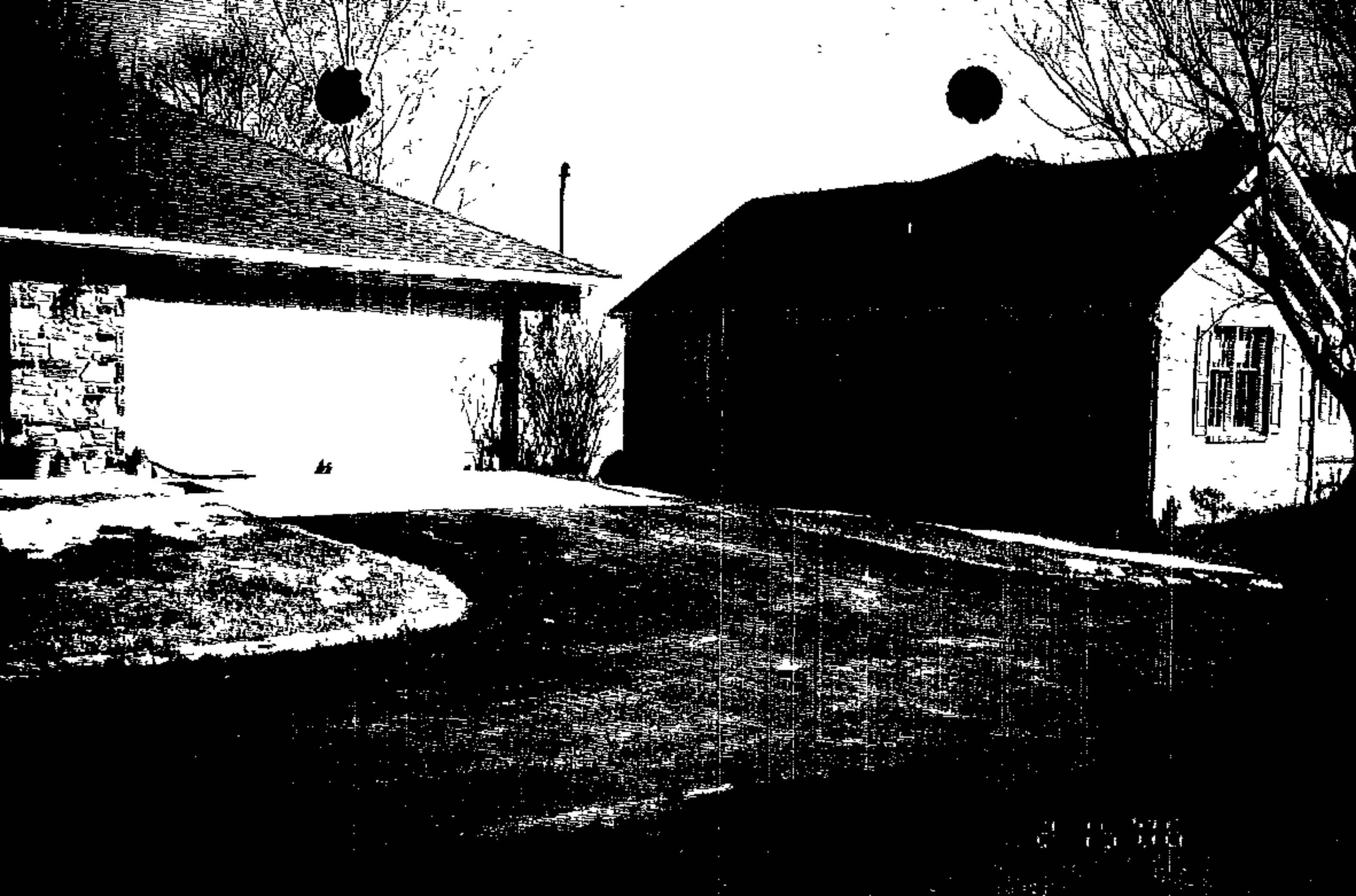


From end property line

377.26 ft.

to front property line

26.957 ft



Area of proposed addition

Existing concrete pad  
and macadam drive

20.05.10

CBCA



# Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 901 Baltimore Yacht Club Road  
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 Variance from Section(s)

1A04.3B.2.b. To Permit  
A SIDE SETBACK OF 25 FT. IN LIEU OF 50 FT.

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):

Bertha DiNicola  
Name - Type or Print

Bertha DiNicola  
Signature

Nicholas DiNicola  
Name - Type or Print

Nicholas DiNicola  
Signature

901 Baltimore Yacht Club Rd. 410-335-8857  
Address Telephone No.

Balto. MD 21221  
City State Zip Code

### Representative to be Contacted:

Bertha DiNicola  
Name

901 Baltimore Yacht Club Rd. 410-335-8857  
Address Telephone No.

Balto. MD 21221  
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. CG-457-A

Reviewed By [Signature] Date 03-21-06

Estimated Posting Date 04-02-06

ORDER RECEIVED FOR FILING  
Date By

EV 10/25/01