

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
NE/Corner Hinton Avenue and		
12 th Street	*	ZONING COMMISSIONER
(2811 12th Street)		
15 th Election District	*	OF BALTIMORE COUNTY
7 th Council District		
	*	Case No. 06-497-A
Richard Kowalewski, et ux		
Petitioners	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Administrative Variance filed by the owners of the subject property, Richard Kowalewski, and his wife, Shirley Kowalewski. The Petitioners seek relief from Sections 400.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The petition, as filed, was to permit an accessory structure (garage) to be located in the front yard in lieu of the required rear yard, with a setback of 14.5 feet to the front property line in lieu of the required 40 feet. However, a discrepancy was apparent when viewing the relief requested with the site plan submitted. The Zoning Review Office of the Department of Permits and Development Management (DPDM) contacted the Petitioners and required them to obtain the requisite letter of support from the adjacent neighbors indicating their concurrence with an amended description of the setback as to correctly reflect a setback of 7 feet in lieu of the required 40 feet. The subject property and requested relief are more particularly described on the site plan submitted with the Petition and marked into evidence 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, any property owner residing within 1,000 feet of the property in question who

ORDER RECEIVED FOR FILING
 Date 6-26-06
 By D. J. [Signature]

objects to the relief requested has 15 days from the date of the sign posting to demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

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

Based upon the evidence contained therein, I am persuaded to grant the requested variance. As shown on the site plan, the Petitioners propose to construct a 12' x 16' garage in the front yard (or street side) of the property, which is completely paved. It was indicated that the property was previously the site of a now defunct restaurant (Augie's Crab House), which was destroyed as a result of Hurricane Isabel, and that the front yard once served as the parking lot for that business. The Petitioners purchased the property and obtained variance relief under prior Case No. 04-360-A to redevelop the site for residential purposes. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any objection. Thus, it appears that the relief requested can be granted without detrimental impact to adjacent properties or the surrounding locale. However, due to the property's waterfront location on Hawk Cove and its location within a floodplain, the proposed construction shall comply with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, in accordance with the attached ZAC comments submitted by the Department of Environmental Protection and Resource Management (DEPRM) and the Development Plans Review Division of the Department of Permits and Development Management.

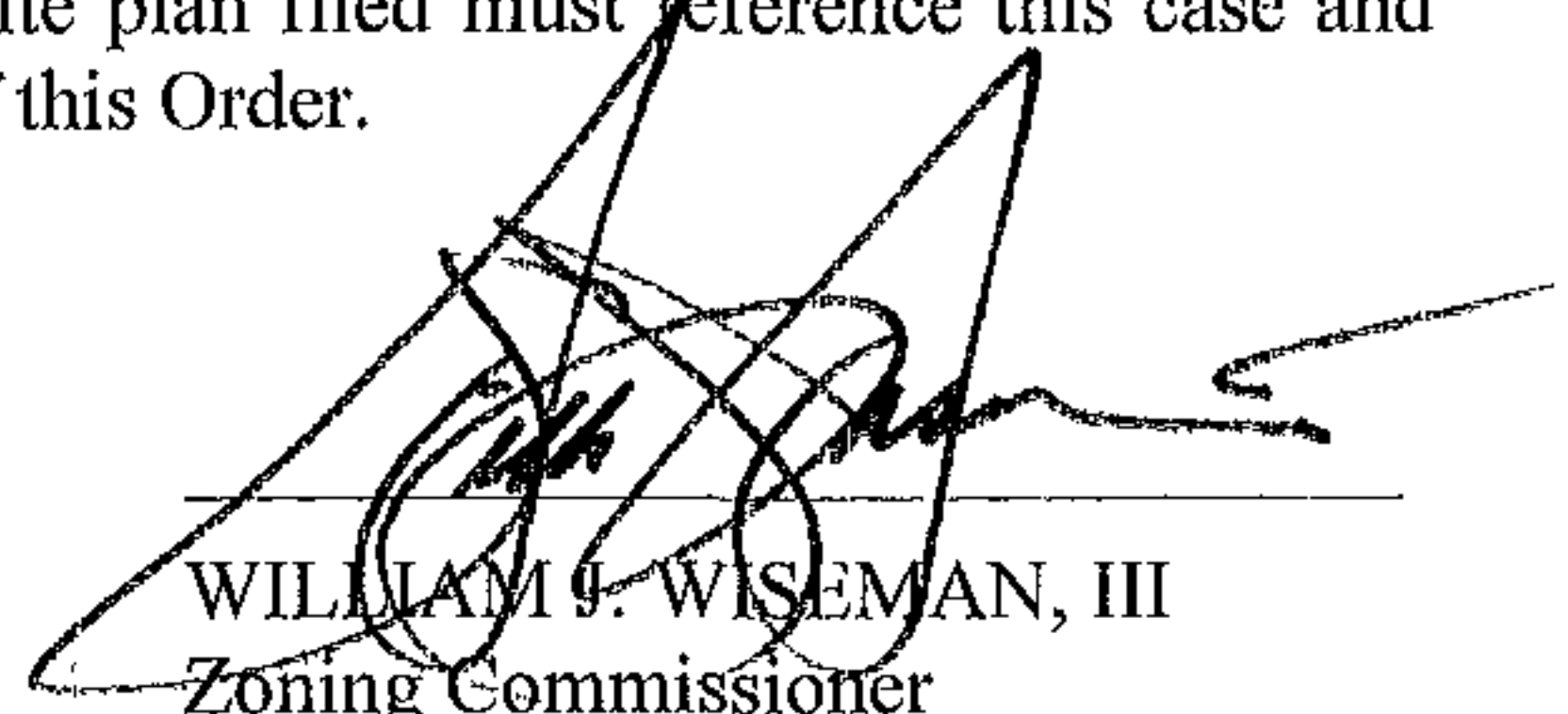
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

ORDER RECEIVED FOR FILING
Date 1-10-03
By [Signature]

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of June 2006 that the amended Petition for Administrative Variance seeking relief from Sections 400.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (12' x 16' garage) to be located in the front yard in lieu of the required rear yard, with a setback of 7 feet to the front property line in lieu of the required 40 feet, in accordance with 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, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. See attached comments from the Department of Environmental Protection and Resource Management (DEPRM) received June 26, 2006, and Development Plans Review Division dated April 25, 2006.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 9-26-06
By 3



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

June 26, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Mr. & Mrs. Richard Kowalewski
2811 12th Street
Baltimore, Maryland 21219

RE: PETITION FOR ADMINISTRATIVE VARIANCE
NE/Corner Hinton Avenue and 12th Street
(2811 12th Street)
15th Election District – 7th Council District
Richard Kowalewski, et ux - Petitioners
Case No. 06-497-A

Dear Mr. & Mrs. Kowalewski:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been granted with restrictions, 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', written over a circular stamp.
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
DEPRM; Development Plans Review; People's Counsel; Case File

CEA Flood



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 2811 12th St
which is presently zoned BL

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

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____ City _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

Richard Kowalewski
Name - Type or Print _____
Richard Kowalewski
Signature _____
Shirley Kowalewski
Name - Type or Print _____
Shirley Kowalewski
Signature _____
2811 12th St 410 477-6847
Address _____ Telephone No. _____
Baltimore Md 21219
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

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

Zoning Commissioner of Baltimore County

CASE NO. 16-497-A Reviewed By RK Date 4/11/06

REV 9/15/98

Estimated Posting Date 4/23/06

COPIES RECEIVED FOR FILING

Date 6-26-06

By [Signature]

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 2811 12th Street
Address Baltimore, Maryland 21219
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):

Petitioner would like to place a 12' X 16' storage shed in the front yard of the property (opposite of the waterfront side) closest to the street. The property resides in a Chesapeake Bay Critical Area. The front of the yard was once a parking lot from the former business, however now is considered residential. Placing the shed in the front of the yard on existing asphalt will not consume or utilize any remaining pervious soil. Storage shed buildings on Hinton Ave are commonly placed on the street side of properties in the area. See sample photos for property comparisons.

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.

Richard Kowalewski
Signature
Richard Kowalewski
Name - Type or Print

Shirley Kowalewski
Signature
Shirley Kowalewski
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 11 day of April, 2006, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

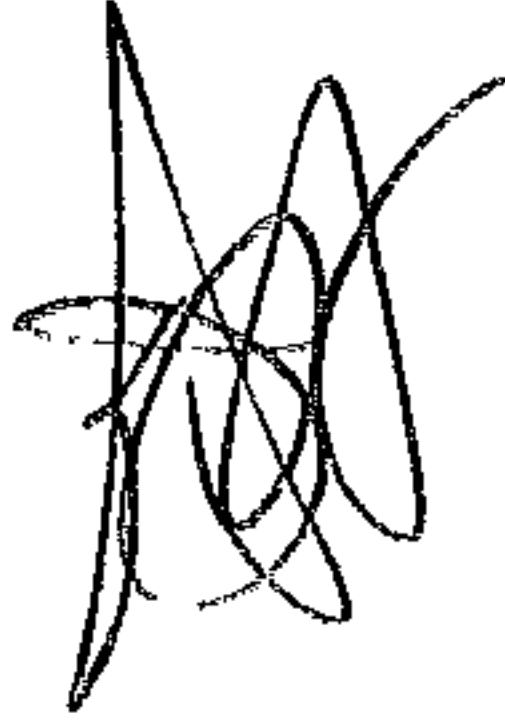
State of Maryland
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS, my hand and Notarial Seal

04/11/2006
Date

Shirley Kowalewski
Notary Public
My Commission Expires 08/01/2006

400.1 and Section 303.1 to permit an accessory structure (garage) be located in the front yard with a setback of ~~14.5~~¹ ft. to the front property line in lieu of the required rear yard and 40 ft. setback to the front property line, respectively.



ZONING DESCRIPTION

Zoning Description For 2811 12th Street

Beginning for the same at the northwest corner of Lot 196 as laid out and shown on the Revised Plat of Swan Point, said plat being recorded among the land records of Baltimore County in Plat Book 5 folio 4 and 5, said point of beginning also being the east side of 12th Street (30 feet wide) with the south side of Hinton Avenue (15 feet wide) thence running and binding on the south side of Hinton Avenue North 61 degrees 58 minutes East 10 feet, thence running for a line of division South 17 degrees 00 minutes West 14.15 feet to the east side of 12th Street thence binding on the east side thereof North 27 degrees 58 minutes West 10 feet to the place of beginning.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 0054

DATE 11/14/84 ACCOUNT 111/3004

AMOUNT \$ 633.00

RECEIVED FROM: 111/3004

FOR: 111/3004

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

310 RECEIPT
DATE 11/14/84
AMOUNT \$633.00
ACCOUNT 111/3004
RECEIVED FROM 111/3004
FOR 111/3004
CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 06-497-A

Petitioner/Developer: RICHARD

KOWALEWSKI

Date of Hearing/Closing: 5-8-06

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:

2811 12th STREET

The sign(s) were posted on

4-22-06

(Month, Day, Year)

Sincerely,

Robert Black
(Signature of Sign Poster)

4-24-06
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

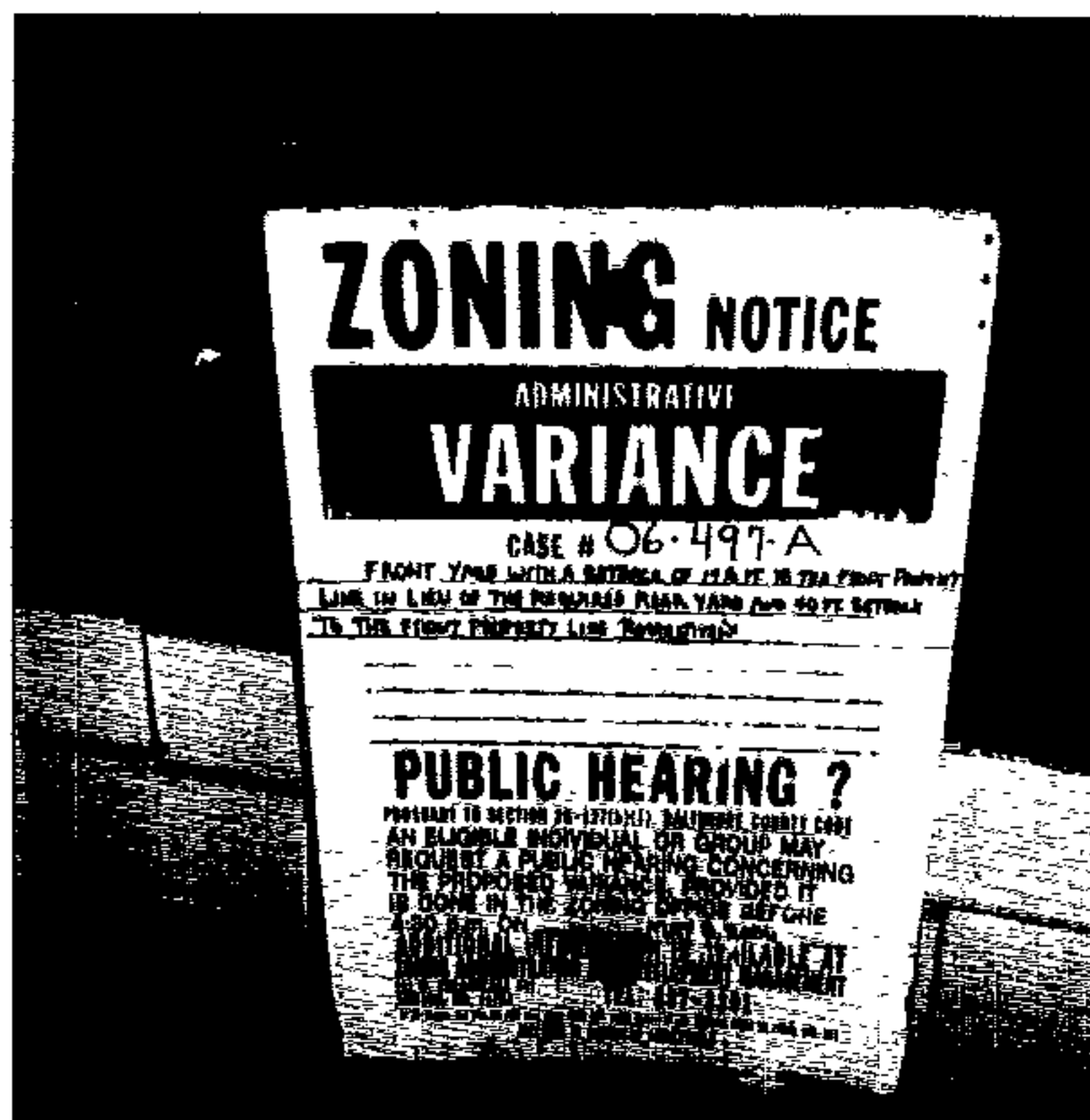
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



APR 27 1968

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 06- 497 -A Address 2811 12th St.

Contact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 4/4/06 Posting Date: 4/23/06 Closing Date: 5/8/06

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

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

(Detach Along Dotted Line)

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

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 06- 497 -A Address 2811 12th St.

Petitioner's Name Richard Kowalewski Telephone 410 - 477 - 6347

Posting Date: 4/23/06 Closing Date: 5/8/06

Wording for Sign: To Permit an accessory structure (garage) be located in the front yard with a setback of 14 1/2 ft. to the front property line in lieu of the required rear yard and 40 ft. setback to the front property line, respectively.

WCR - Revised 6/25/04

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06-497-A
Petitioner: Richard Kowalewski
Address or Location: 2811 12th Street

PLEASE FORWARD ADVERTISING BILL TO:

Name: Richard Kowalewski
Address: 2811 12th Street
Baltimore Md 21219

Telephone Number: (410) 477-6347

**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

May 8, 2006

Richard Kowalewski
Shirley Kowalewski
2811 12th Street
Baltimore, MD 21219

Dear Mr. and Mrs. Kowalewski:

RE: Case Number: 06-497-A, 2811 12th Street

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

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

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



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 25, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For May 1, 2006
Item No. 497

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

The base flood elevation for this site is 9.4 Baltimore County Datum.

The flood protection elevation for this site is 10.4 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the county.

DAK:CEN:clw

cc: File

ZAC-ITEM NO 497-04252006.doc

ORDER RECEIVED FOR FILING

Date 9-1-02

BY [Signature]

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUN 26 2006

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *JWL*

DATE: June 6, 2006

SUBJECT: Zoning Item # 06-497
Address 2811 12th Street
Baltimore, MD 212219

Zoning Advisory Committee Meeting of April 24, 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:

This waterfront lot is in a Limited Development Area of the CBCA, and is subject to a 25% impervious surface limit. The proposed shed is outside of the 100 foot buffer to tidal waters.

Reviewer: Glenn Shaffer

Date: June 6, 2006

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2006\ZAC 06-497.doc

ORDER RECEIVED FOR FILING
Date 6-26-06
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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 2, 2006

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

SUBJECT: Zoning Advisory Petition(s): Case(s) 6-497- 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 Amy Mantay in the Office of Planning at 410-887-3480.

Prepared By:

Curtis Murray

RECEIVED

MAY - 5 2006

Division Chief:

Super San Juan

ZONING COMMISSIONER

CM/LL

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 21, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: April 24, 2006

Item Numbers: 491-515

⁴⁹⁷
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



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



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

Maryland Department of Transportation

Date: 4.21.06

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

RE: Baltimore County
Item No. 497 BPR

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

DEBIS - for open info. Continue to hold onto the draft order.

Bill Wiseman - case 06-497-A

From: Bruno Rudaitis
To: Wiseman, Bill
Date: 05/25/06 10:12 AM
Subject: case 06-497-A

I got a hold of the applicant (Kowalewski) and he agreed to obtain a letter from the adjacent neighbor indicating no problem with a 7 ft. front yard setback for the shed. The applicant is off to Disney World so the letter will not be forthcoming until next week. Will keep you posted. Have a nice holiday.

*Note to say we still need
an amended site plan
01 Amended Platton*

*talk to Bruno after the
letter is received*

*cf site plan
(shows 7' SB)
(not real clear)*

06-497

June 8, 2006

Re: Administrative Variance for Property Setback and Construction of Storage Structure

Buyers: Richard and Shirley Kowalewski
2811 12th Street
Sparrows Point, Md. 21219

On April 6, 2006 an Administrative Variance review took place in Baltimore County regarding the 2811 12th Street property located on Swan Point. The review addressed the petition requested by the legal property owners as follows:

Original Description:

Administrative Variance to permit an accessory structure (garage) to be located in the front yard with a setback of 14.5 feet to the front property line in lieu of the required rear yard and 40-foot setback to the front property line, respectively.

Amended Description:

Administrative Variance to permit an accessory structure (garage) to be located in the front yard with a setback of 7 feet to the front property line in lieu of the required rear yard and 40-foot setback to the front property line, respectively.

This document is to serve as an acknowledgment to the proposed zoning/variance changes. This is not a contract binding any parties, but merely a declaration stating that you are not opposed to the petitioned changes for development of the property. This document will be presented to the Zoning Commissioner for their review and for support to the petitions filed on the 2811 12th Street property.

John P. Reader Jr. 2810 12TH ST.

Madame T. Traudema 2808 12TH ST.

Wynne L. Hunter 2809 12TH ST.

From: Debra Wiley
To: Livingston, Jeffrey
Date: 05/15/06 9:10:13 AM
Subject: DEPRM Comments Needed - Administrative Variances

Good morning Jeff,

The following Administrative Variances (closing date of 5/8) are in need of DEPRM comments:

06-497-A (Kowalewski, 2811 12th St., 21219 - CBCA)

06-503-A (Hofferbert, 1207 Bayside Drive, 21221 - Isabelle Replacement/CBCA/Flood)

As always, thanking you in advance for your cooperation. Have a great day!

IN RE: PETITION FOR VARIANCE
E/S of 12th Street,
404 ft. N of Miller Island Boulevard
15th Election District
7th Councilmanic District
(8800 Hinton Avenue)

Carolyn Mattson & Madeline Travalena,
Legal Owners *and*
Richard Kowalewski, *Contract Purchaser*
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-360-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Carolyn M. Mattson and Madeline Travalena and the contract purchaser, Richard Kowalewski.. The Petitioners are requesting variance relief for property located at 8800 Hinton Avenue in the eastern area of Baltimore County. Variance relief is requested from Section 1B02.3.C.1 (Chart) of the Baltimore County Zoning Regulations (B.C.Z.R.), Section 304; ZCPM Section 1-1.3.a as follows:

1. to permit a side yard setback of 8 ft. in lieu of the required 25 ft.;
2. to permit a lot width of 50 ft. in lieu of the required 55 ft.; or, in the alternative;
3. to permit an undersized lot.

The property was posted with Notice of Hearing on March 22, 2004, 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 March 23, 2004 to notify any interested persons of the scheduled hearing date

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Section 304 of the B.C.Z.R. – Use of Undersized Single Family Lots

Section 304, Use of Undersized Single-Family Lots [BCZR 1955; Bill No. 47-1992]

304.1 [Bill Nos. 64-1999; 28-2001] Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;**
- B. All other requirements of the height and area regulations are complied with; and**
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in 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 from the Department of Environmental Protection & Resource Management (DEPRM) dated March 22, 2004 stating that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof. A ZAC comment was also received from the Bureau of Development Plans Review dated March 12, 2004 setting forth several federal and county code requirements the Petitioners must comply with for this project

Interested Persons

Appearing at the hearing on behalf of the variance request were Rich and Shirley Kowalewski, Petitioners, Kay Staszak, Yuri Shcherbiner, B. Hall. and Paul Lee. Arnold Jablon, Esquire represented the Petitioners. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property consists of 13,750 sq. ft. and is zoned BL. Mr. Jablon proffered that this waterfront property is presently improved by Augie's Crab House, a defunct restaurant. The contract purchasers would like to raze the old restaurant and construct their home on the property. The new home would meet all the environmental regulations including being elevated sufficiently above the floodplain. This is important because the old restaurant was damaged by Hurricane Isabel. In addition, the new home would be compatible with the neighboring homes including the new upscale homes going into the neighborhood.

The property is zoned BL, presumably in recognition of the commercial uses of the crab house. When business zoned property is to be used for residential purposes, the regulations of the adjacent residential zone control. In this case, the residential zone nearest the property is DR 5.5 as shown on Exhibit No. 1. The property is Lot 194 of the old Revised Plat of "Swan Point" subdivision, which was recorded in 1928. This lot, along with the other lots in Swan Point, is 50 ft. wide. The BL and by implication DR zoning was applied many years after the lot was created. DR 5.5 regulations require 55 ft. lot widths. Consequently, the Petitioners argue that they could not possibly meet the new zoning regulations.

In addition, the crab house is already built out to the property line as shown by the photographs of Petitioners' Exhibit No. 5. The Petitioners are requesting variance from the side street setback requirement of the Zoning Commissioner's Policy Manual Section 1B02.3.C.2.c.iii which requires a set back from a side street of 25 ft. pursuant to the DR 5.5 regulations. However, the Petitioners' new home will have only 8 ft. to the property line. Mr. Jablon pointed out that the proposed use is an improvement regarding setback and, that 12th Street which dead ends in the water, is clearly not used by the public. Consequently, there will not be any adverse impact on the community. The Connelly property line across 12th Street and is an additional 30 ft. away from the Petitioners' property line so there is no overcrowding. Mr. Jablon proffered that there is no land available to purchase on either side of the subject site, which would alleviate the need for a variance. To make this point, the neighbor on the east side, Mr. Hall, attended the hearing in support of the petition. In addition, the Petitioners presented a petition signed by nine neighbors again approving of the petition.

Mr. Jablon argued that the subject property was constrained by the existing zoning, the waterfront nature of its location by 12th Street, and the 1928 subdivision. He further argued that if the home met the 25 ft. side yard to street setback and the 10 ft. side yard setback there would only be 15 ft. in which to erect the house. This is an impractical home in this area and would be wholly incompatible with the community. He also indicated the lot would qualify as an undersized lot under Section 304 of the B.C.Z.R.

Findings of fact and conclusions of law

While I do not disagree this lot would qualify under Section 304 of the B.C.Z.R. as an undersized lot, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This is an old subdivision of 50 ft. lots

which can not comply with the more recently applied DR zoning regulations. I further find that the application of the newer regulations impacts lots in these old subdivisions more than other lots in the DR 5.5 zones. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Requiring the Petitioners to build a home 15 ft. wide is impractical. No increase in residential density beyond that otherwise allowable by the Zoning was requested. Furthermore, I find that the variance requested can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The new home is compatible with the new upscale and existing homes in the area. Razing the damaged crab house will improve the neighborhood.

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' variance request should be granted.

THEREFORE, IT IS ORDERED, this th13 day of April, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1B02.3.C.1 (Chart) of the Baltimore County Zoning Regulations (B.C.Z.R.), and ZCPM Section 1B02.3.C.2.c.iii as follows:

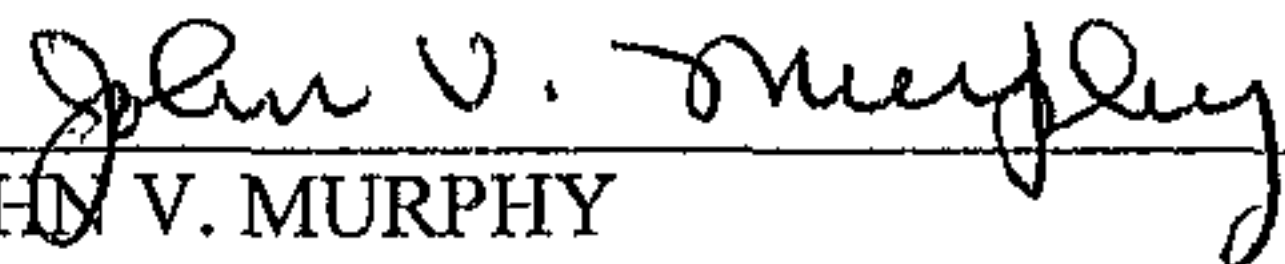
1. to permit a side yard setback of 8 ft. in lieu of the required 25 ft.;
2. to permit a lot width of 50 ft. in lieu of the required 55 ft.;

be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired.

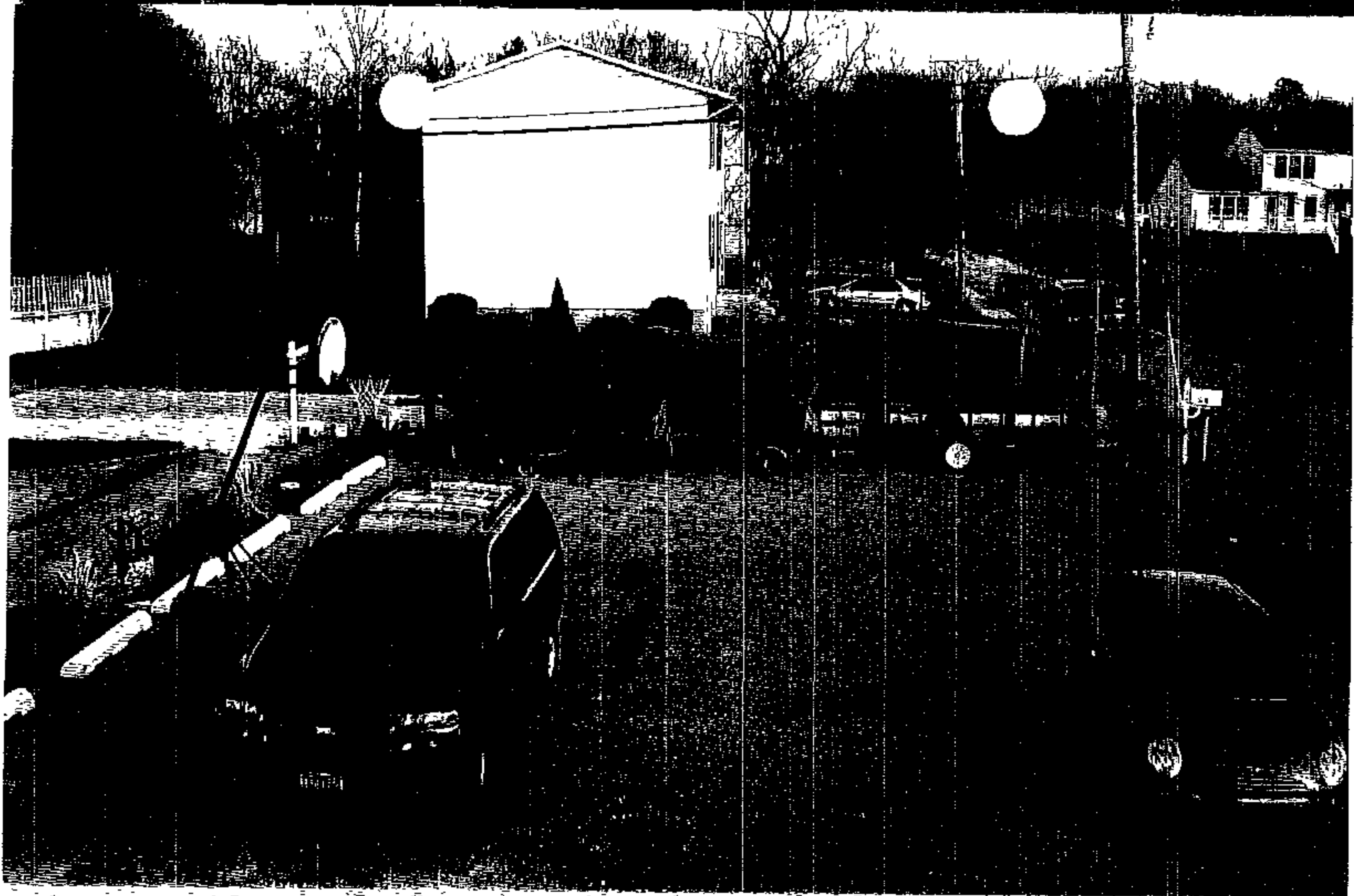
If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;

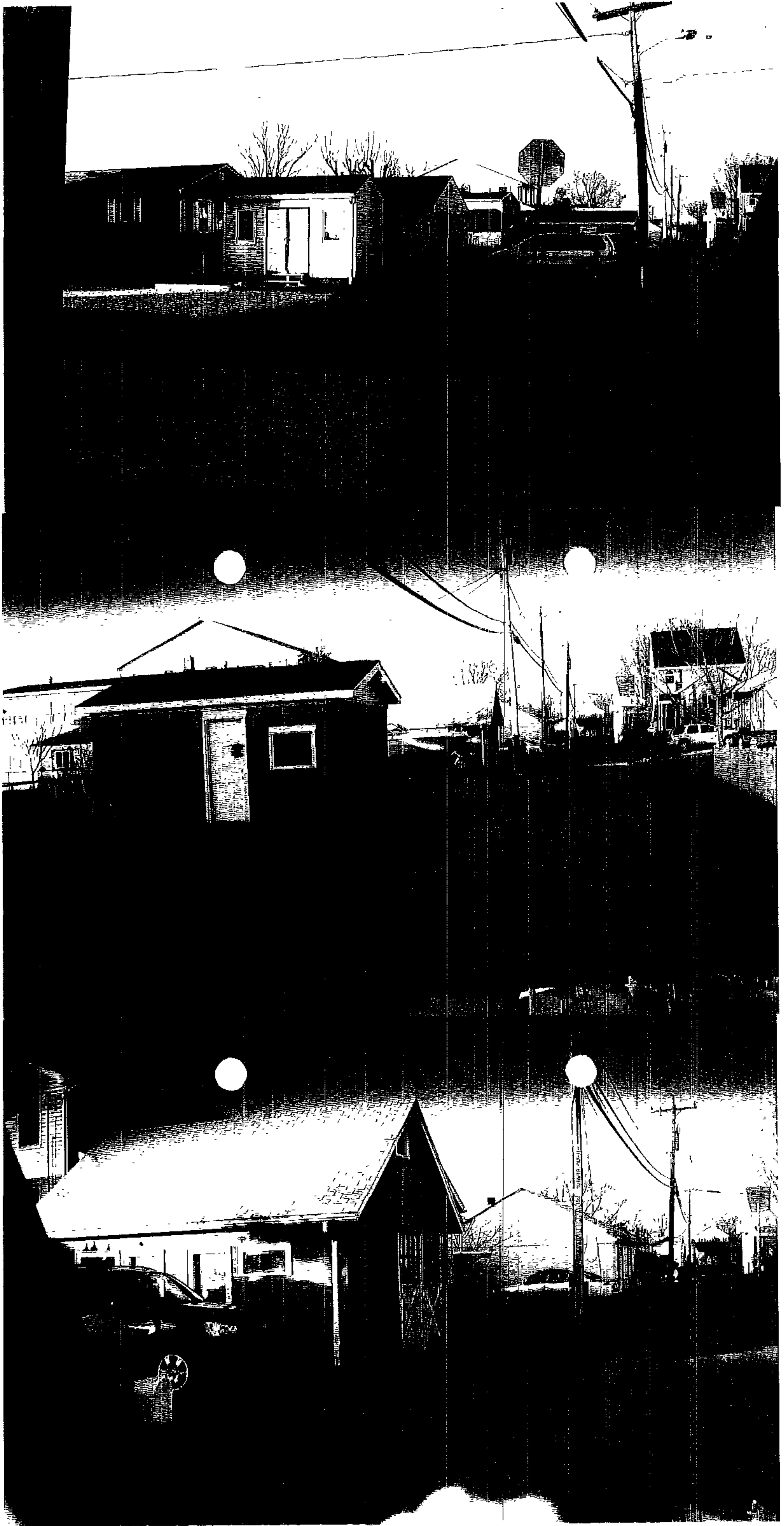
2. Compliance with the ZAC comments made by DEPRM dated March 22, 2004, a copy of which is attached hereto and made a part hereof.
3. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated March 12, 2004, a copy of which is attached hereto and made a part hereof.
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

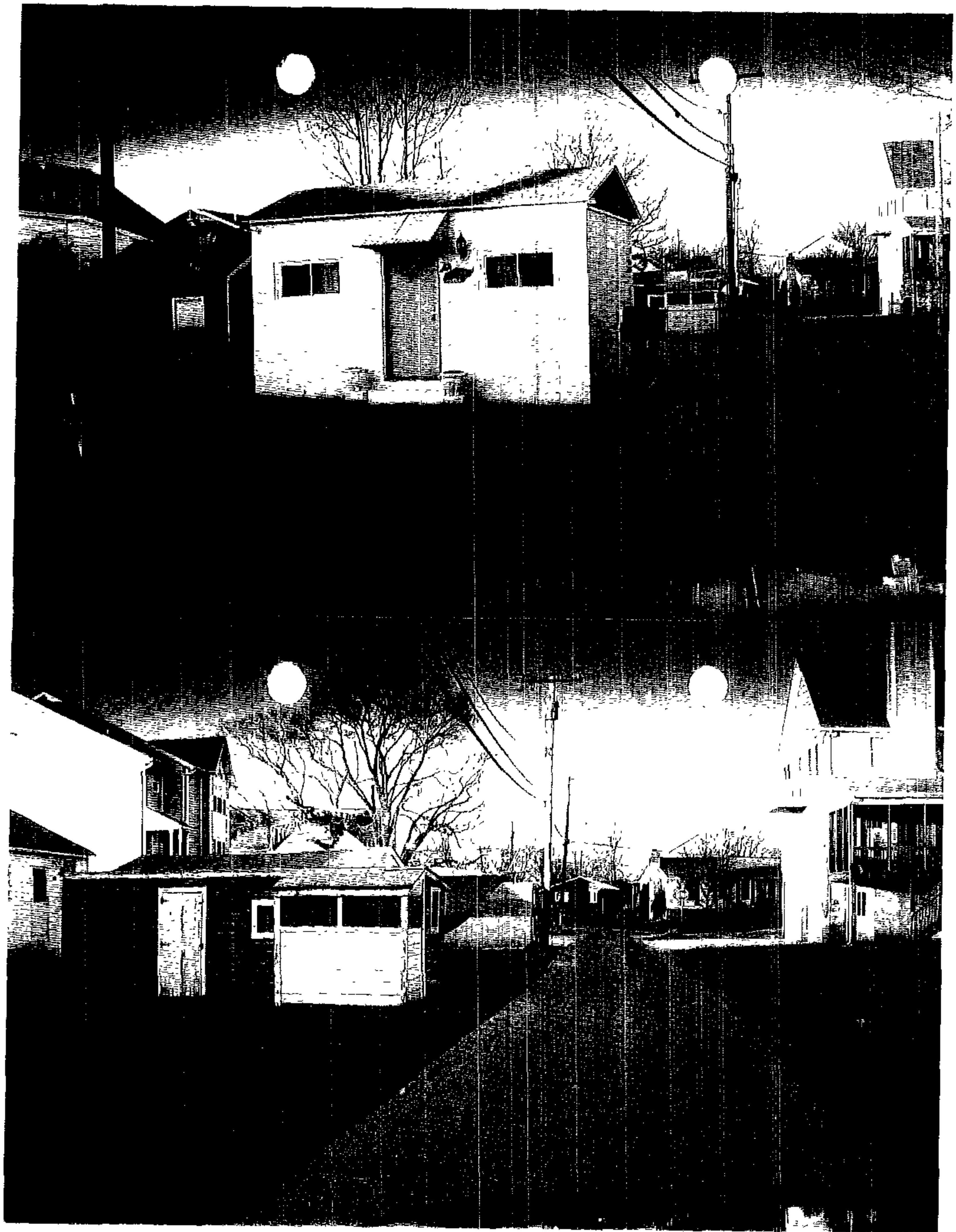


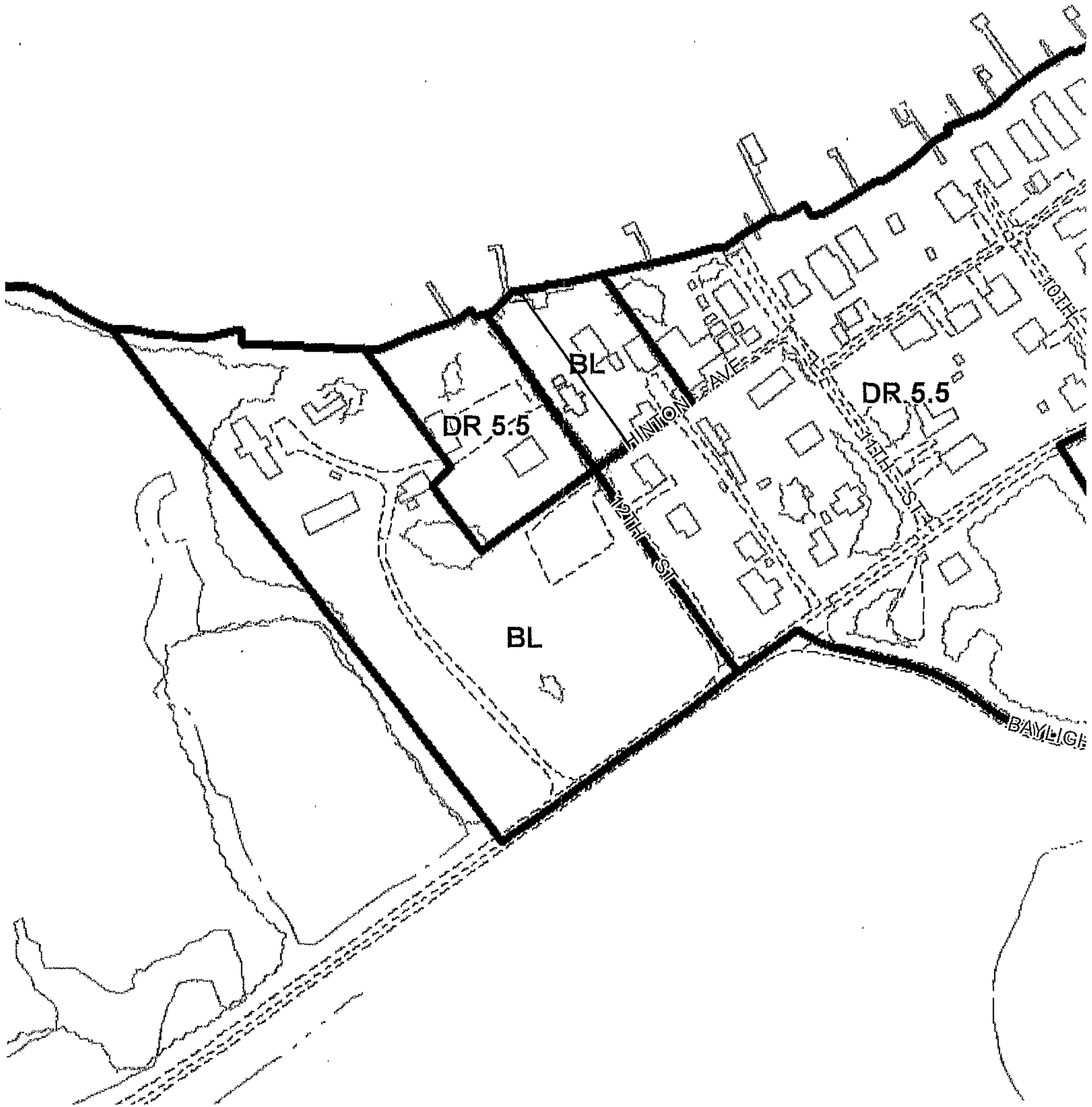
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj









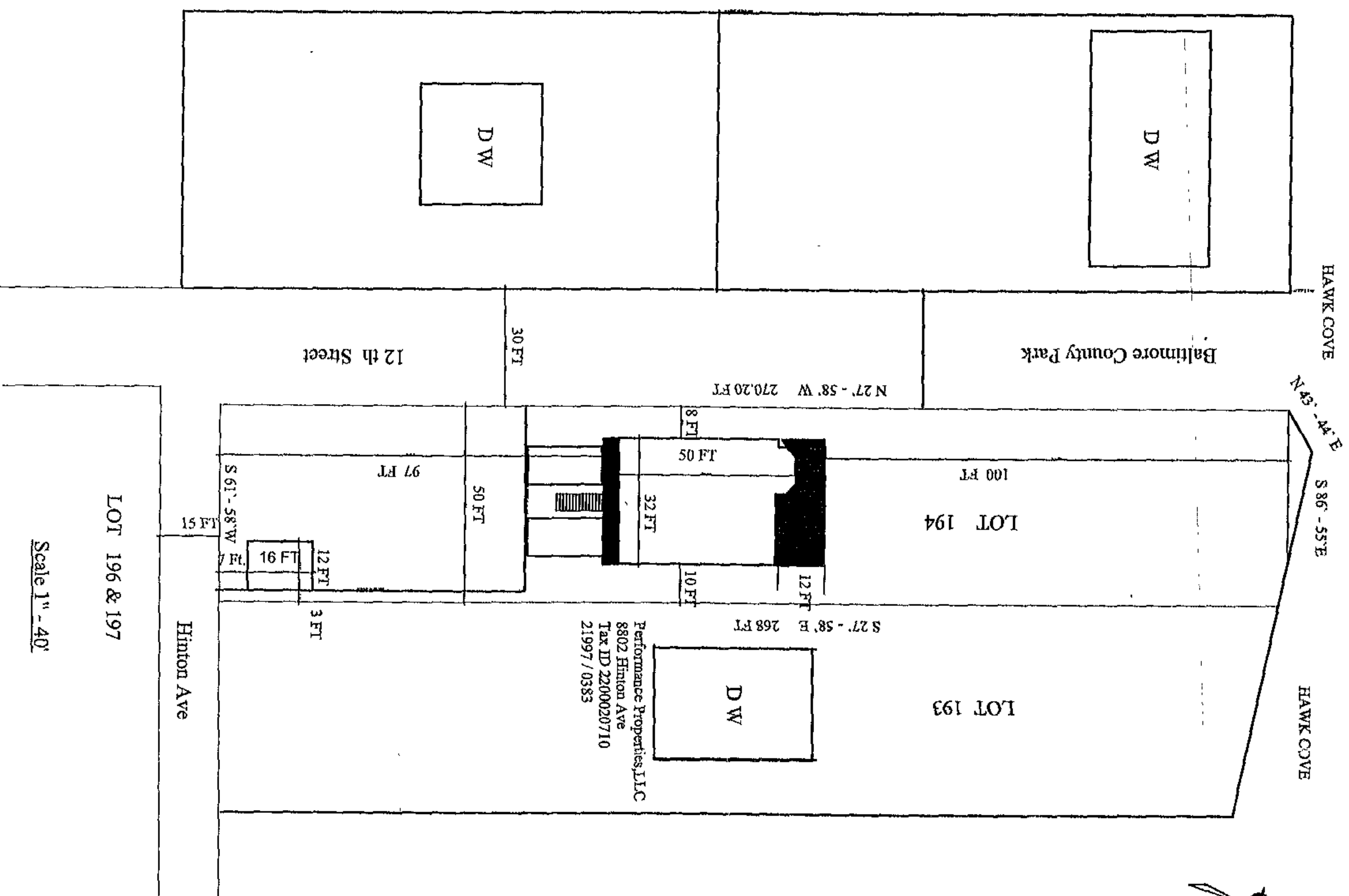
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PLAT TO ACCOMPANY PETITION FOR ZONING

☒ VARIANCE

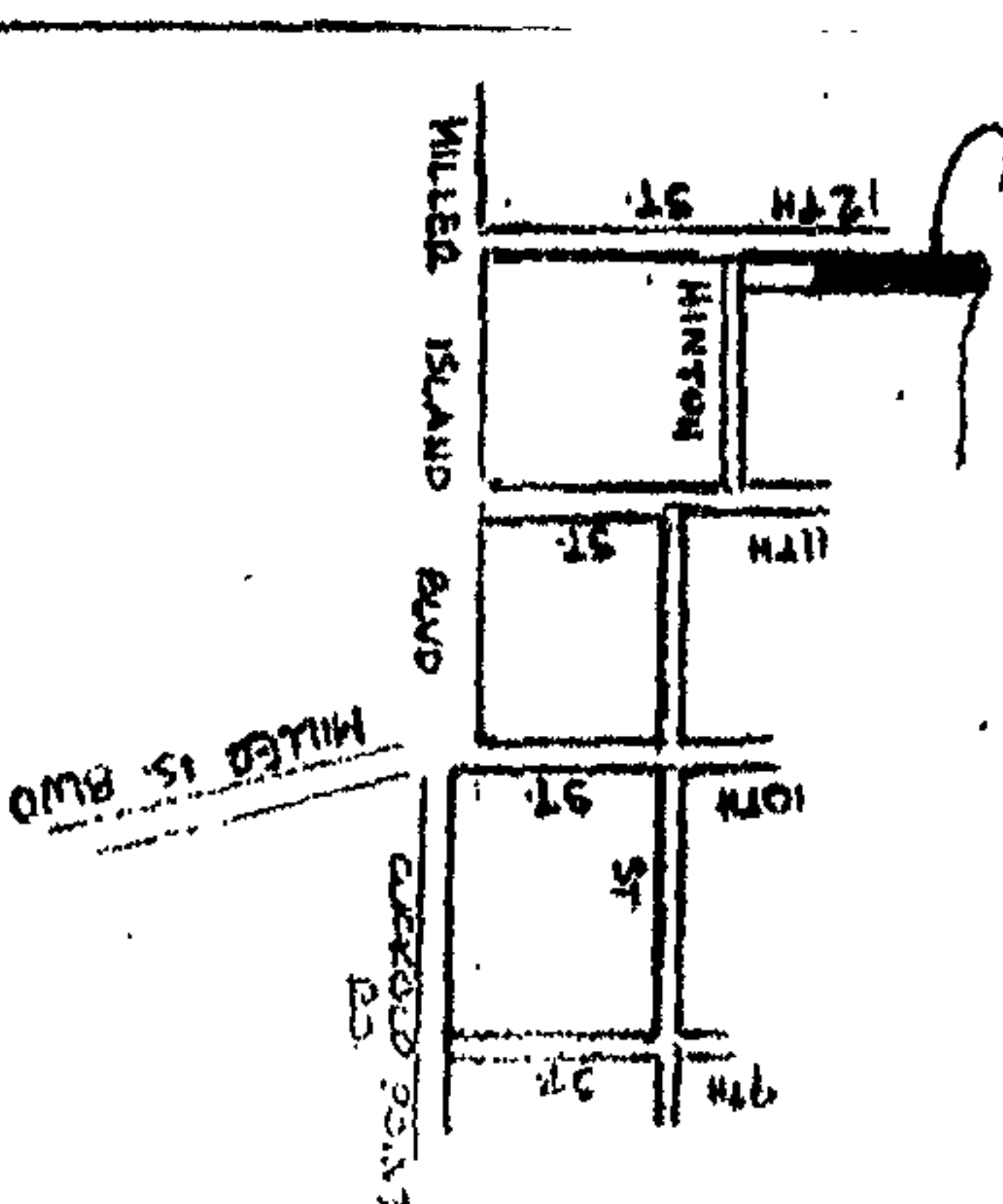
☐ SPECIAL HEARING



LOT 196 & 197
Scale 1" = 40'

Site Plan - Kowalewski Residence
2811 12th Street
Swan Point
Plat Book 9 Folio 5
15th District Baltimore County, Maryland

VICINITY SKETCH
SCALE 1" = 500'



LOCATION INFORMATION

ELECTION DISTRICT - 15th
COUNCILMANIC DISTRICT - 7th
1"=200' SCALE MAP # 112A2
ZONING - BL
LOT SIZE 13750 Square Feet
PUBLIC PRIVATE
SEWER X
WATER X
CHESAPEAKE BAY CRITICAL AREA - YES
100 YEAR FLOOD PLAIN - YES
HISTORIC PROPERTY/ BUILDING - NO
PRIOR ZONING HEARING - 04-360-A

ZONING OFFICE USE ONLY

REVIEWED BY ITEM# CASE#

3/1 497 06-497-A

Lot #1