

10/28/08

PETITION OF: SILVER LAKE COMMUNITY
ASSOCIATION; DOUG DUNLAP, PRESIDENT;
DOUG DUNLAP and MIKE RYAN,
INDIVIDUALLY

FOR JUDICIAL REVIEW OF THE DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

IN THE MATTER OF: THE APPLICATION OF
I.H. HAMMERMAN AND MARK L. HAMMERMAN,
LEGAL OWNERS
FOR SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE S/SIDE OF
OLD BOSLEY ROAD AND THE INTERSECTION OF
SW CORNER OF BOSLEY ROAD (2005 Old Bosley Rd.)*

8th Election District
3rd Councilmanic District

Case No.: 06-513-SPHA

* * * * *

**WITHDRAWAL OF PETITION
FOR JUDICIAL REVIEW**

Petitioners, *Silver Lake Community Association, et al.*, by and through their attorney,
J. Carroll Holzer, Esquire, Holzer & Lee, herein files this Withdrawal of the Petition for
Judicial Review filed from the Opinion of the County Board of Appeals, dated August 5, 2008.

Respectfully submitted,


J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Petitioners

OCT 26 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of October, 2008, a copy of the foregoing Withdrawal of Petition for Judicial Review was mailed first class, postage pre-paid to the following: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, Maryland 21204, People's Counsel for Baltimore County, Jefferson Building, 105 West Chesapeake Avenue, Room 204, Towson, Maryland 21204, Baltimore County Board of Appeals, Jefferson Building, 105 West Chesapeake Avenue, Second Floor, Suite 203, Towson, Maryland 21204, Mr. Doug Dunlap, 8 Sugar Tree Place, Cockeysville, Maryland 21030 and Mr. H. Michael Ryan, President, Springdale Community Association, Inc., P.O. Box 194, Cockeysville, Maryland 21030.



J. CARROLL HOLZER, Esquire

9/16/08

PETITION OF

Silver Lake Community Assn, and
Doug Dunlap and Mike Ryan, individually

FOR JUDICIAL REVIEW OF THE
DECISION OF COUNTY BOARD OF APEALS
Of BALTIMORE COUNTY

Jefferson Bldg., 105 W. Chesapeake Ave
Towson, Maryland 21204

IN THE MATTER OF:

I. H. Hammerman and Mark L. Hammerman
2005 Old Bosley Rd
Baltimore, Maryland 21222

8th Election District
3rd Councilmanic District

CBA Case No. 06-513 SPHA

* IN THE
*
* CIRCUIT COURT FOR
*
* BALTIMORE COUNTY
*
* CIVIL ACTION
*
* NO. 3-0C-07-010576
*
*
*
*
*
*

RESPONSE TO PETITION FOR JUDICIAL REVIEW

I.H. Hammerman and Mark L. Hammerman, Petitioners below and Respondents herein, by Arnold Jablon, their attorney, in accordance with Maryland Rule 7-204, submit this Response to the Petition for Judicial Review filed by the Silver Lake Community Assn and Doug Dunlap and Mike Ryan, individually, and state that they intend to participate in this action for judicial review. Respondents were parties to the above-referenced proceeding before the County Board of Appeals for Baltimore County.



Arnold Jablon
210 Allegheny Ave.
Towson, Maryland 21285-5517
410 494 6298

RECEIVED AND FILED

Attorney for Respondent

2008 SEP 16 PM 3: 37

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

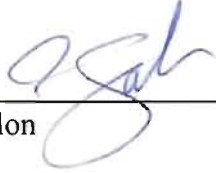
RECEIVED

SEP 29 2008

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14 day of September, 2008, copies of the foregoing Response to Petition for Judicial Review were hand delivered to the County Board of Appeals, Jefferson Bldg, 105 W. Chesapeake Ave, Suite 203, Towson, Maryland 21204, and mailed, by first class delivery, postage prepaid, to J. Carroll Holzer, Esq., 508 Fairmount Ave., Towson, Maryland 21286.



Arnold Jablon

9/9/08

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
SILVER LAKE COMMUNITY ASSOCIATION,
DOUG DUNLAP, PRESIDENT, DOUG DUNLAP
AND MIKE RYAN, INDIVIDUALLY

CIVIL ACTION
NO. : 03-C-08-009331

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING - ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF :
I. H. HAMMERMAN AND MARK L.
HAMMERMAN - LEGAL OWNERS
FOR SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE S/SIDE OF
OLD BOSLEY ROAD AND THE
INTERSECTION OF SW CORNER OF
BOSLEY ROAD (2005 OLD BOSLEY ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 06-513-SPHA

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

I.H. Hammerman, II
3704 N. Charles Street
Unit 1203
Baltimore, MD 21218

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

RECEIVED AND FILED

2008 SEP -9 AM 11:11

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Mark L. Hammerman
3704 N. Charles Street
Unit 1203
Baltimore, MD 21218

H. Michael Ryan
10526 Lake Spring Way
Cockeysville, MD 21030

Silver Lake Community Association
Doug Dunlap, President
8 Sugar Tree Place
Cockeysville, MD 21030

Office of Peoples Counsel
The Jefferson Building, Suite 204
150 W. Chesapeake Avenue
Towson, MD 21204

Doug Dunlap
8 Sugar Tree Place
Cockeysville, MD 21030

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


Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

I **HEREBY CERTIFY** that on this 9th day of September, 2008, a copy of the foregoing Certificate of Notice has been mailed to: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204; J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, MD 21286; I.H. Hammerman, II, 3704 N. Charles Street, Unit 1203, Baltimore, MD 21218; Mark L. Hammerman, 3704 N. Charles Street, Unit 1203, Baltimore, MD 21218; Silver Lake Community Association, Doug Dunlap, President, 8 Sugar Tree Place, Cockeysville, MD 21030; Doug Dunlap, 8 Sugar Tree Place, Cockeysville, MD 21030; H. Michael Ryan, 10526 Lake Spring Way, Cockeysville, MD 21030; Office of Peoples Counsel, The Jefferson Building, Suite 204, 150 W. Chesapeake Avenue, Towson, MD 21204.


Sunny Cannington, Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180



County Board of Appeals of Baltimore County

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

FAX: 410-887-3182
September 9, 2008

Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-08-9331
Petition for Judicial Review of Silver Lake Community Association, et al.
Hammerman Property
Board of Appeals Case No.: 06-513-SPHA

Dear Mr. Jablon:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on September 3, 2008 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 03-C-08-009331.**

Very truly yours,

Sunny Cannington
Legal Secretary

Enclosure

c: J. Carroll Holzer, Esq
I. H. Hammerman
Mark L. Hammerman
Silver Lake Community Assoc.
Doug Dunlap
H. Michael Ryan
Joseph L. Larson
Kathy Nardone
David Bischoff
James and Ruth Krawczyk
William Caltrider

Office of People's Counsel
Pat Keller, Director/Planning
William J. Wiseman, III/Zoning Commissioner
Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

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

September 9, 2008

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

RE: **Circuit Court Civil Action No. 03-C-08-9331**
Petition for Judicial Review of Silver Lake Community Association, et al.
Hammerman Property
Board of Appeals Case No.: 06-513-SPHA

Dear Mr. Holzer:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

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

Carolyn Peatt
TELEPHONE: 410-828-4160
HEARING DATE: August 29, 2007 and January 8, 2008

This office has also notified Ms. Peatt that the transcripts on the above captioned matter are due by November 5, 2008, for filing in the Circuit Court. A copy of your Petition, which includes your telephone number, has been provided to the Court Reporter, which enables her to contact you for payment provisions.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Sunny Cannington
Sunny Cannington
Legal Secretary

Enclosure

c: Carolyn Peatt
J. Carroll Holzer, Esq.
Arnold Jablon, Esq.
I.H. Hammerman
H. Michael Ryan

Silver Lake Community Assoc
Doug Dunlap
Mark L. Hammerman
Office of People's Counsel

9/3/08

PETITION OF: SILVER LAKE COMMUNITY
ASSOCIATION; DOUG DUNLAP, PRESIDENT;
DOUG DUNLAP and MIKE RYAN,
INDIVIDUALLY

FOR JUDICIAL REVIEW OF THE DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

IN THE MATTER OF: THE APPLICATION OF
I.H. HAMMERMAN AND MARK L. HAMMERMAN,
LEGAL OWNERS
FOR SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE S/SIDE OF
OLD BOSLEY ROAD AND THE INTERSECTION OF
SW CORNER OF BOSLEY ROAD (2005 Old Bosley Rd.)

8th Election District
3rd Councilmanic District

Case No. 06-513-SPHA

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

Case No.: C089331

RECEIVED AND FILED

2008 SEP -3 PM 1:56

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

PETITION FOR JUDICIAL REVIEW

PETITIONERS, SILVER LAKE COMMUNITY ASSOCIATION, DOUG
DUNLAP, PRESIDENT, 8 SUGAR TREE PLACE, AND INDIVIDUALS DOUG
DUNLAP, ALSO OF 8 SUGAR TREE PLACE; AND H. MICHAEL RYAN, 10526
LAKE SPRING WAY, ALL OF COCKEYSVILLE, MD 21030, by and through their
attorney, J. Carroll Holzer, P.A. herein file their Petition for Judicial Review pursuant to
Rule 7-203 (b) from the Opinion of the County Board of Appeals for Baltimore County
in the above referenced matter rendered on August 5, 2008 and attached hereto.

Petitioners were parties below and fully participated in the hearing below.

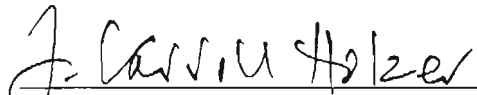
LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
08 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

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

RECEIVED
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BALTIMORE COUNTY
BOARD OF APPEALS

Respectfully submitted,



J. CARROLL HOLZER, Esquire

Holzer & Lee

508 Fairmount Avenue

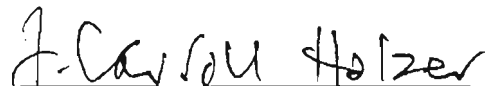
Towson, Maryland 21286

410-825-6961

Attorney for Petitioners

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 3rd day of September, 2008, a copy of the foregoing Petition for Judicial Review was mailed first class, postage pre-paid to the following: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Ave., Towson, MD 21285; People's Counsel for Baltimore County, Jefferson Building, 105 West Chesapeake Ave., Room 204, Towson, MD 21204; and Baltimore County Board of Appeals, Jefferson Building, 105 West Chesapeake Ave., Suite 203, Towson, MD 21204.


J. Carroll Holzer

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-08-009331

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Jefferson Building
105 West Chesapeake Avenue Suite 203
Towson, MD 21204

IN THE MATTER OF
THE APPLICATION OF
I.H. HAMMERMAN AND MARK L.
HAMMERMAN - LEGAL OWNERS
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE
S/SIDE OF OLD BOSLEY RD AND THE
INTERSECTION OF SW CORNER OF
BOSLEY RD
(2005 OLD BOSLEY ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 06-513-SPHA

*

*

* * * * *

OPINION

This matter comes before the Board of Appeals as an appeal from the decision of the Deputy Zoning Commissioner in which a request for special hearing was denied and the request for variances from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (BCZR) requesting certain setbacks was granted. Petitioners, I.H. Hammerman II, and Mark Lee Hammerman, were represented by Arnold Jablon, Esquire, and Venable LLP. Protestants, Silver Lake Community Association, Springdale Community Association, and Individuals, H. Michael Ryan, Jr., Doug Dunlap, Kathy Nardone, and David Bischoff, were represented by J. Carroll Holzer, Esquire, Holzer and Lee. Hearings were held on August 29, 2007, and January 8, 2008. Briefs were filed and the public deliberation was held on March 6, 2008.

Background

The subject property is a corner lot, triangular in shape, located on the southwest corner of Bosley and Old Bosley Roads. The property is identified as parcel "A" on Plat 9, a part of Section III, of Springdale, established in August 1967 and recorded in the Land Records of Baltimore County on January 10, 1968. The property is 0.24 acre and is zoned D.R. 3.5. Across from the site is Warren Elementary School and immediately adjacent to it on the other side is

property owned by Baltimore County. Next to the Baltimore County property is a townhouse development known as Silver Lake. Petitioners propose to construct a single family dwelling forty (40) feet by thirty-five (35) feet fronting on Old Bosley Road. The setbacks shown on the site plan for the proposed dwelling are thirty (30) feet to the property line on Old Bosley, fifteen (15) feet to the property line at Bosley, fourteen (14) feet to the opposite side of the property and thirty (30) feet to the rear. The latter setbacks are measured from the closest point of the dwelling to the applicable property line. The zoning in place at the time the development of Springdale was approved was R-40.

The special hearing request is pursuant to Section 500.7 of the BCZR, to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or side yard and, if a side yard, to confirm that a setback variance is not required. The variance request is in the alternative from Section 1B02.3C.1 of the BCZR to request a front yard setback of fifteen (15) feet from the proposed dwelling to Bosley Road in lieu of the required thirty (30) feet if the Board finds that the front of the dwelling should be on Bosley Road.

Petitioners propose that their driveway entrance to the site would extend from Old Bosley Road south of the intersection and would bisect the ten (10) foot drainage and utility easement and sidewalks that runs along Old Bosley Road.

Petitioners presented Joseph Larson, president of Spellman, Larson and Associates, who was accepted as an expert in land use and zoning in Baltimore County. He testified about the location of the subject site and the proposed single-family dwelling. Mr. Larson testified as to the creation of the development of Springdale and the fact that Old Bosley Road did not exist until Springdale was created, then Bosley was straightened to make a ninety (90) degree intersection to follow the R-40 zoning line in an easterly direction. Old Bosley was thus created from the creation of new Bosley. Mr. Larson stated that the parcel in question became a residue part,

known as Parcel "A" after the creation of Springdale. Larson's testimony and the Plat of Springdale indicated that most of the lots in Springdale development were rectangular or square. Parcel "A" was the only triangular lot in the development.

When Springdale was created, the R-40 zoning required a minimum lot size of 40,000 square feet. Therefore Parcel "A" was not identified as a buildable lot at the time. Subsequently, the zoning was changed to D.R. 3.5, which required only a 10,000 square foot lot in order for a house to be constructed. This made Parcel "A" a buildable lot under the present zoning requirements.

Protestants presented a number of witnesses in support of their position. Jim Clements, a resident of Springdale, Renee Miller, a Springdale resident and president of the PTA at Warren Elementary, Frank Thomas of Springdale and Warren Elementary PTA and Joe Maloney, a Springdale resident, all testified with respect to the traffic in the area and the dangerous intersections they consider with respect to children walking back and forth from their homes to Warren Elementary School. Ms. Crowder from Silver Tree town homes testified that the traffic on Bosley and Old Bosley Roads was severe and extremely dangerous in the morning and evening.

James Krawczyk, an engineer, testified with respect to the traffic at the intersection in the morning and evening and the site distances that he felt would create difficulty with turning movements and with children crossing Old Bosley to get to school. Jim Pecunis, a member of the Springdale Board of Directors, and H. Michael Ryan, Jr., President of the Springdale Community Associate, both testified with respect to the plat in question. They contended that the lot was undersized and would not be compatible with the community even if the house to be constructed were compatible. In addition, they felt that the property had been abandoned by the owners since Baltimore County Department of Recreation and Parks had been maintaining the property for

over 30 years. In addition they raise the question as to why the Petitioners did not pay the annual Homeowner's Association fees on the lot if they considered it to be a buildable lot. Delores Shammer, who resides in Silver Lake, and Douglas Dunlap, President of Silver Lake Community Association, also testified and objected to the Petitioners' request mainly on the fact that the traffic has been difficult for years and numerous accidents have occurred at Bosley and Old Bosley Roads. They were concerned for the safety of the students going to Warren Elementary School.

In addition to Mr. Larson, the Petitioners presented Mickey Cornelius, a traffic engineer, who indicated that the site distances at the intersection of Bosley and Old Bosley Roads were sufficient for one car coming either way to see another car coming from the opposite direction. It was his opinion that traffic generated by a single home would not make a great deal of difference with respect to the current traffic situation at Bosley and Old Bosley Roads.

Issues

The Board determined that the following issues were presented:

1. What zoning applies?
2. Is a front yard variance needed?
3. If a Variance is needed, do the Petitioners meet the requirements for the granting of a Variance?

Issue No. 1: What zoning applies?

The Board had a similar question raised in four cases which were recently decided on January 10, 2008 (In the Matter of Joseph Stepcich, Legal Owner/Petitioner, 06-419-SPH and CBA-06-020 and In the Matter of Pridgeon Property Case No.: CBA-06-019 and CBA-04-159.) The Board reviewed Council Bill 24-06 relating to vesting as reflected in the Baltimore County Code Section 32-4-262. That bill stated:

(1) Any material amendment to an approved NON-RESIDENTIAL Development Plan shall be reviewed and approved in the same manner as the original plan.

[(2) Any other material amendment shall be in accordance with the comprehensive manual of administrative policy.]

(2) ANY MATERIAL AMENDMENT TO AN APPROVED RESIDENTIAL DEVELOPMENT PLAN OR PLAT SHALL BE REVIEWED IN ACCORDANCE WITH THIS TITLE, AND WITH RESPECT TO THAT PORTION OF THE ORIGINAL PLAN OR PLAT TO WHICH THE AMENDMENT PERTAINS, THE AMENDMENT SHALL BE REVIEWED FOR COMPLIANCE WITH ALL CURRENT LAW AND REGULATIONS, INCLUDING THE DEVELOPMENT REGULATIONS AND THE ZONING REGULATIONS.

§32-4-273 Time Limit for [Validity of Plats and Plans.] VESTING

(d) Development. A subdivision or section or parcel of the subdivision is considered [developed and] vested if [any of the following has occurred with respect to the subdivision, section, or parcel:

(1) Building permits have been issued; or

(2) Substantial construction on required public improvements or private improvements has occurred on the subdivision, section or parcel in accordance with the applicable regulations and requirements of the Department of Public Works.]

BUILDING PERMITS HAVE A BUILDING PERMIT HAS BEEN ISSUED FOR ANY LOT IN ACCORDANCE WITH AN APPROVED PLAN OR PLAT, AND INSPECTION BY THE COUNTY CONFIRMS THAT SUBSTANTIAL CONSTRUCTION HAS OCCURRED ON WITHIN THE SUBDIVISION, INCLUDING ANY LOT, TRACT, SECTION, OR PARCEL THEREOF, WITHIN FOUR YEARS AFTER THE DATE OF THE FINAL, NONAPPEALABLE APPROVAL OF THE PLAN OR PLAT OR ANY EXTENSION THEREOF AUTHORIZED UNDER SECTION 32-4-261(A).

At that time the Board held

Moreover, the County Council in 2003 clearly set forth in what was then section 32-4-273(b)(d) that the issuance of a building permit for a lot or substantial construction thereupon vested the property in question. The change in Council bill 24-06 was only to separate out and enunciate a new requirement as to "material" changes, but allowed other parts of the existing law to remain unaffected-namely the treatment of "non-material" changes to property, which was still subject to the status quo of statutory vesting and amendment according to the zoning requirements existing at the moment of vesting.

The Board concludes that the plat in question with respect to the Springdale development is not a lapsed plat. The Board considers the construction of a home on the proposed property to be a material amendment. Under Bill 24-06 any material amendment to an approved residential plan or plat "shall be considered in accordance with this title." Therefore it is the decision of this Board that the current zoning of DR 3.5 applies.

Issue No. 2: Is a front yard variance needed?

The Board credits the testimony of Mr. Larson and finds that the home to be constructed should face Old Bosley Road. This makes the side yard facing Bosley Road. Thus a variance for a side yard setback is not required. However the front yard will not meet the thirty (30) foot setback requirement. Therefore, the Board finds that the property meets the requirements for a variance, as set forth below, and will grant a variance for a fifteen (15) foot setback in lieu of the required thirty (30) feet.

Issue No. 3: Does the Petitioner meet the requirements for the granting of a Variance under the current law.

Under the case of *Cromwell v Ward*, 102 Md App 691 (1995), the condition of uniqueness was defined by the Court. The Court stated:

In the zoning context the "unique" aspect of the variance requirement does not refer to the extent of the improvements upon the property, or upon the neighboring property. The "uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-service condition, environmental factors, historical significance, access or non-access to navigatable waters, practical restrictions imposed by a budding property (such as obstructions), or other similar restrictions...

...the property is...peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impacted upon the neighboring property.

Once the uniqueness is determined, the Board must then determine whether or not is a practical difficulty exists unless remedied by the grant of a variance.

The Board feels that the property in question is definitely unique. In reviewing the plat of the Springdale subdivision, it is noted that all of the lots are either square or rectangular. The lot in question is the only one that is configured in a triangle. Therefore, the Board considers the property is unique "...when compared to other properties in the neighborhood...".

With respect to practical difficulty, the Board notes that Mr. Larson testified that there was no other configuration on the subject lot that would be practical or meet zoning requirements to build a house other than where proposed, presuming a variance. Without a variance, it was theoretically (though not practically) possible to build a 25-foot wide home, which, he noted, would be inconsistent with the surrounding neighborhood. He likened it to building one home of a town home community.

In the case *McLean v. Soley*, 270 Md 208 (1973), the Court of Appeals confirmed granting of a variance and approved the test with regard to practical difficulty as follows:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

The Board feels that the granting of the variance would be in strict harmony with the spirit and intent of the regulations. The Board recognizes that there are traffic problems in the area; the Board does not feel that one house is going to add substantially to the traffic problems. The site distances at the corner appear to be enough to allow for caution when going through the intersection. The Board accepts the testimony of Mr. Cornelius that there would be no injury to the public health and safety and general welfare. In addition, the home would be more in keeping with the other homes in the Springdale area and would not be a radical departure from those homes by building a smaller house on the property, which would not be in keeping with the neighboring properties. The Board feels that it makes more sense for the home to be facing Old Bosley Road than to be facing Bosley Road and the front yard requires a variance. The Board

does not feel that there will be a negative impact on other residents in the area by the building of a single-family home on this lot.

With respect to the issue concerning back dues being paid to the community association, this is not an issue for the Board of Appeals but for the Circuit Court of Baltimore County.

ORDER

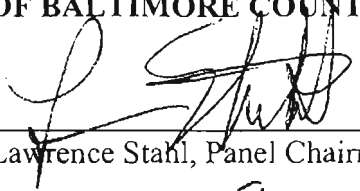
THEREFORE, IT IS, this 5th day of August, 2008, by the Board of Appeals of Baltimore County hereby

ORDERED that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (BCZR) is granted. The Board finds that the zoning applicable to the Petitioners' property is D.R. 3.5. The Board also finds that the distance from the proposed dwelling to Bosley Road is a side yard, and a variance is not required; and it is further

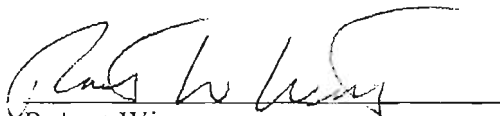
ORDERED that the request for Variance from § 1B02.3C.1 of the Baltimore County Zoning Regulations (BCZR) to request a front yard setback of fifteen (15) feet from the proposed dwelling to the right of way of Old Bosley Road in lieu of the required thirty (30) feet is hereby granted.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence Stahl, Panel Chairman


Wendell Grier


Robert Witt

8/5/08



County Board of Appeals of Baltimore County

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

August 5, 2008

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

RE: *In the Matter of: I.H. Hammerman II and Mark Lee Hammerman*
- Legal Owners /Petitioners Case No. 06-513-SPHA

Dear Mr. Holzer:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen Bianco /sc

Kathleen C. Bianco
Administrator

Enclosure

c: Silver Lake Community Association,
Doug Dunlap, President, and individually
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
H. Michael Ryan, Jr.
Kathy Nardone
David Bischoff
James and Ruth Krawczyk
Arnold Jablon, Esquire
I.H. Hammerman and Mark Lee Hammerman
Joseph Larson /Spellman Larson and Associates
William Caltrider
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

2/12/08

IN THE MATTER OF:
I. H. HAMMERMAN, II AND
MARK LEE HAMMERMAN
Legal Owners/Petitioners
2005 Old Bosley Road

8th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 06-513-SPHA

* * * * *

MEMORANDUM OF PROTESTANTS

Silver Lake Community Association, Springdale Community Association, and individuals, H. Michael Ryan, Jr., Doug Dunlap, Cathy Nardone and David Bischoff, by *J. Carroll Holzer, Esquire*, Holzer & Lee, hereby submits this Memorandum in lieu of Final Argument and says:

STATEMENT OF THE CASE

This matter comes before the County Board of Appeals as Petitions for Special Hearing and Variance filed by the Legal Owners of the subject property, I. H. Hammerman, II and Mark Lee Hammerman. The Petitioners are requesting a Special Hearing and variance relief for the property located at 2005 Old Bosley Road. The Special Hearing is pursuant to §500.7 of the Baltimore County Zoning Regulations to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required. The Variance request is in the alternative from §1B02.3.C.1 of the B.C.Z.R. to request a front yard setback of fifteen feet (15') from the proposed dwelling to Bosley Road in lieu of the required thirty feet (30'). The case was heard before the Board on August 29, 2007, and January 8, 2008.

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

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

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STATEMENT OF FACTS

A. Petitioners Case.

The Petitioner presented Joseph Larson, President of Spellman-Larson to testify as an expert, Land Surveyor, not a civil engineer. He testified that the subject site is located in Cockeysville at the intersection of Bosley Road and Old Bosley Road at a triangular piece of property left over from the Springdale subdivision. The site area is .24 acres, with existing zoning of D.R. 3.5. Immediately south of the property is the Silver Lake Townhome Community and north of Bosley Road is the remaining Springdale Subdivision.

Petitioners Exhibit #2 entitled Plat 9, Part of Section III, Springdale, recorded in August, 1967 in OTG 32, folio 108, establishes that the subject site was identified as Parcel A, a leftover parcel, which at the time was not buildable under the then zoning requirements. It can be seen from that Exhibit that the other lots in the Springdale Subdivision had a forty-foot (40') minimum building setback for the corner lots and twenty-five (25') minimum building setback for the interior lots. The zoning at the time of the Springdale Subdivision was R-40. The zoning was changed to D.R. 3.5 of the 1971 Comprehensive Rezoning. Larson testified that the home to be constructed on the site is approximately forty feet (40') in width by thirty-five feet (35') in depth. He proposed the driveway entrance to the site on the Old Bosley Road side, south of the subject intersection. The driveway would bisect a ten-foot (10') drainage and utility easement and sidewalk that runs along the Old Bosley Road side of the triangle. He testified that there would be no adverse impact on the neighborhood and that the property met the 307.1 standards. He testified the Petitioner has made no effort to amend to the Final Development Plan for Springdale.

He testified there was no difference between a lot in the recorded Springdale Plat and Parcel A. However, it is clear from the subdivision, Plat Exhibit, that Parcel A was not a lot proposed on the subdivision Plat in that it did not meet the then area requirements.

Larson testified that it was possible to make a smaller house than the one proposed, but he indicated that it would not be compatible with the rest of the homes in Springdale. He neglected to mention that the size of the proposed Parcel A was not anywhere near as large as any of the other lots in Springdale, so therefore while the house may be compatible, the subject site is clearly not.

Further, Larson could not answer how the hardship that is created by not being able to obtain the variance was not a hardship for thirty-four (34) years from 1971 and just became one upon the current Petition for Special Hearing and Variance.

There were no further witnesses presented for the Petitioner.

B. Protestant's Case.

The Protestants presented the following witnesses who objected to the Special Hearing and Variance Request:

1. Jim Clements, 1013 Saxon Hill Drive, who testified that he resides in Springdale, that he has two (2) children attending Warren Elementary School, that the intersection of Old Bosley Road and Bosley is a hectic intersection with difficult sight distance, many conflicting turning movements and many walking children crossing the intersection to and from Warren Elementary School.

2. Renee' Miller, 3 Sand Springs Dale Drive, testified as the President of the PTA, with strong opposition to this proposed Special Hearing and Variance to permit a house on this corner. Her objections and those of the PTA were based upon the safety of the walking children, who must walk from the Silver Lake Townhome Community and other locations south of the subject site along Old Bosley Road and cross at the subject intersection which is protected by a school guard, but which however, stacks up with cars in the morning and in the afternoon which create a dangerous situation for the walking children.

3. Frank Thomas, 10801 Sandingham Road testified also as a member of the PTA Board. He testified that the intersection is a very crowded one in the morning and afternoon and that traversing the intersection is already difficult. He testified that as a member of the "Springdale Homes Association," maintenance and care of thirty-four (34) acres of open space, including mowing, maintenance, and clearing of snow; that the fee of Sixty-Five Dollars (\$65.00) annually, has never been paid for the subject site known as Parcel A by the Petitioners.

4. Joe Maloney, 10828 Sandingham Road, is a retired consulting engineer, he testified again as to the dangerous intersection, the limited sight distance, the number of turning movements that create a problem at this intersection, both in the morning and in the evening.

5. Sue Crowder, 10 Silver Tree Place, testified as to the fact that she was a professional nurse, that she has resided since the early 1980's at Silver Tree Place Townhomes, that fire and ambulances use Bosley Road and Old Bosley and the traffic interplay at that intersection in the morning and in the evening is extremely dangerous.

6. James Krawczyk, 18 Sugar Tree Place, testified as an engineer, at the subject intersection that both in the morning and in the evening has limited sight distance, has difficulty with turning movements and inter-relationship with the school children crossing Old Bosley and that placing a driveway where it is proposed will cause a blockage for children walking to the school via Old Bosley Road which only has one sidewalk on the west side of the street.

7. Jim Pecunis has been a member of the Springdale Board of Directors and has forty-five (45) years as a realtor in the Sprindale area. He testified that the County and the developer established setbacks of forty feet (40') for corner lots and thirty feet (30') minimum setbacks along Bosley Road in the 1960's. That the Board of Directors of the Springdale Association over the years rejected variances of both setbacks of forty feet (40') and thirty feet (30') and twenty-five feet (25') along some other internal streets of Springdale. They have also rejected side yard variances as well. He testified that this lot is undersized based on all the other seven hundred plus (700+) lots in Springdale and is not compatible with the Community. He testified that the lot directly across the street (south and east corner) has no sidewalks and is fenced and hedged which causes a sight distance problem for cars attempting to turn out of Old Bosley Road onto Bosley Road. He testified that in looking at the Springdale Plat 9, it is obvious that this Parcel A was wasteland and never intended to be built upon because of the realignment of the intersection of Bosley and Old Bosley. He testified that Baltimore County (Recreation and Parks Department) has been maintaining the property for over thirty (30) years and raised the question as to why Hammerman, if he contends this is a buildable lot has not paid the annual Homeowners' Association fees if he knew he had a buildable lot.

He further advised that regardless of the outcome of this case, the Board of Directors desire to put the Petitioners on notice and that any future purchaser of the property on notice that the Covenants and restrictions of the Association will prevail and the Board would vote to deny this proposal. He further indicated that the Homeowners' Association Directors are in the process of calculating the past fees, if in fact, this parcel is declared buildable.

8. The President of the Springdale Community Association, is H. Michael Ryan, Jr. His letter was presented to the Board because of the Board's change in hearing dates and he could not appear. He again, in filing Rule 8, the Springdale Community Association over seven hundred plus (700+) homes objected to the proposed Special Hearing and Variance on a number of basis. First, the danger inherent in the Bosley and Old Bosley Road with the school location. The access from a driveway will create in the Springdale Community Association's mind, a dangerous situation involving either the backing out of a car onto Old Bosley Road or pulling and/or backing into the driveway a dangerous situation not only to the school children walking on that side of the road (which is the only side containing a sidewalk on Old Bosley Road) but also for motorists.

He likewise made an issue of Springdale's Covenants (over which the Protestants recognized this Board has no enforcement power) but that the Community Association's Board of Directors would oppose any variance or setbacks from that required by the Covenants.

9. Delores Shammer, who resides in Silver Lake II which is on the north side of Old Bosley Road adjacent to the County water tower likewise objected to the Petitioners request.

10. Douglas Dunlap, President of Silver Lake Community Association.

Dunlap testified that he was a resident of Sugar Tree Place since 1981 and that he had lived in Springdale from 1972 to 1977 and is currently a property owner of a home in Springdale as well as Silver Lake. Further, he was with the Baltimore County Police Department for twenty-two (22) years and assigned to the Traffic Division and handled hundreds of accidents and issued thousands of citations. He testified that the Bosley Road and Old Bosley Road intersection is very dangerous. He testified that Old Bosley is twelve feet (12') wide with a thirty (30) mile per hour speed limit; that Bosley Road is eighteen feet (18') wide with a twenty-five (25) mile per hour speed limit. Further, he testified that there no parking at any time on both sides of Old Bosley in front of the property for one hundred eighty feet (180') south from Bosley to parking signs on Old Bosley. He further testified there is no parking at any time on Bosley along the property for ninety feet (90') from Old Bosley to the no parking sign. He testified that these signs were posted by traffic engineering for the safety aspect of the intersection and being opposite Warren Elementary School. He testified there was no sidewalk on the east side of Old Bosley and that in 2007, when the MTA attempted to route a full size transit bus through this intersection, the Community, both Springdale and Silver Lake strongly objected and the route was eliminated by the State on safety issues.

He testified that the parking pad or driveway for the subject site will access Old Bosley Road and that with multiple cars there will be a blocking of the only sidewalk leading to the school. He testified that there is no one in either Springdale or Silver Lake who

has come forward to support the Petitioners request. He testified that the Zoning Commissioner, who articulated his reasons for granting the variance on the basis that there would not be overcrowded schools or increased traffic or additional environmental problems; however Dunlap testified that this opinion completely missed the point and that safety and health and welfare of the Community was involved in terms of the location and impact of the driveway of this proposed home. He further introduced Protestants photographs Exhibits 5 through 8 which showed the traffic on Old Bosley stacked up in the morning at the intersection and it further showed where the vehicle which was heading to the photographer would be about where the entranceway would be for the proposed house all of which would produce problems for the safety of children and pedestrians walking as well as the traffic flow.

Finally, the Protestants produced the comments from the Zoning Office which are incorporated in the Record. The comments from the County Zoning Reviewer indicated that:

“the Plat referenced on the Plan and Review indicates that this is a Parcel in an vested Record Plat. The Zoning Map in place at the time of vesting indicates that the Parcel was zoned R-40. This Parcel designation is made clear by this fact as it was not sufficient in area (40,000 sq. ft.) to be approved as a lot.

You are variancing the wrong section setbacks. If you wish to argue material change and therefore current Regulations under Bill 24-06, you must present your Plan to the DRC for determination prior to filing the Petition. If you want to try to drop the whole thing in the Commissioner’s lap, then present the issue in the Special Hearing wording... Mr. Jablon desires to file understanding that this Memo will be placed in the file.”

C. Rebuttal.

The Petitioner presented Mickey Cornelius from the Traffic Group as an expert who testified that in general there was no traffic problem and that the ten (10) trips total and one vehicle would not impact the traffic flow at this intersection. His testimony missed the point in that no one in the area that this home is located has one vehicle and in fact, most residences have two (2) or three (3) vehicles in the family throughout Silver Lake and Springdale. Secondly, his testimony dismissed the clear and convincing evidence of the photographs and the testimony of those who live in the area as to the safety aspects of the location of this house and its impact on vehicles utilizing the intersection and the school children and pedestrians crossing the intersection.

ARGUMENT

Legal Argument #1

The requirement that the Springdale Final Development Plan must be amended pursuant to B.C.Z.R. §1B01 3 A.7.

The People's Counsel, as well as the Protestants, have raised this issue as an error below which should be corrected by this Board. The argument is as follows:

“Suffice it to say for purposes of this letter that the subject property is within the boundary of the Springdale residential community, which was developed in the 1960's under the then applicable R-40 zone. The minimum lot size in R-40 was 40,000 sq. ft., nearly an acre. At .24 acres, the subject property, known as Parcel A, could not be developed and was designated as open space. The parcel adjoins the Silver Lake townhouse community. The residents of the community testified they were told Parcel A would remain open space, along with other land around the Silver Lake Community maintained by the Baltimore County Department of Recreation and Parks.

In 1972, the site was rezoned to D.R. 3.5, which has a minimum lot size of 10,000 sq. ft. In a rare consequence of rezoning, the undersized Parcel A now meets the minimum lot size. Petitioner seeks to reverse the long-time passive use of the site to construct a dwelling. Petitioner also seeks setback variances, or a determination that variances are not needed under the applicable law...

Separately, we believe it would be helpful to comment at this time on another issue in this case, which we hope will assist the Board. We are concerned that the Deputy Zoning Commissioner failed to consider the application of B.C.Z.R. §1B01.3.A.7 (attached) pertaining to amendment of development plans. Even if the zoning here were unchanged, an amendment to a Development Plan or Plat is subject to review under the Special Hearing process of B.C.Z.R. 1B01.3. Enacted as part of Bill 100, 1970, it includes Special Exception standards and a test of whether the proposal is consistent with the spirit and intent of the original plan.

The Silver Lake Community adjoins the subject site. As such, it is entitled to a hearing under 1B01.3A7 b.(2). The Petitioner is required to meet specific standards before the plan can be approved. Unfortunately, the Deputy Zoning Commissioner failed (i) to apply the standards in 1B01.3A7 b. for a Special Exception under B.C.Z.R. 502.1, and (ii) to determine that *'the amendment would be consistent with the spirit and intent of the original plan and this article'* under 1B01.3A7 b.(3).

The purpose of this statute is *'To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; ...'* Here, Silver Lake Community residents testified that the lot size and proposed residence is out of character with the existing residential lots in Springdale and eliminates open space integral to the development of Springdale and the adjoining Spring Lake Community. At a minimum, these issues are relevant to Special Exception standards such as general safety and welfare, road congestion, and overcrowding the land. In addition, the Deputy Zoning Commissioner, and now the Board, must determine if the proposal is consistent with the spirit and intent of the original plan, including lot size and open space designations. Petitioner must prove the proposed plan satisfies these standards, whether R-40 or D.R. 3.5 applies.

We submit the decision of the Deputy Zoning Commissioner is erroneous and that the Board must apply B.C.Z.R. 1B01.3.”¹

LEGAL ARGUMENT II

The Zoning file, the Deputy Zoning Commissioner and the Record before the Board, demonstrates the Petitioners failure to follow the proper procedure.

It is clear from the Zoning Office comments that the Petitioner failed to follow the appropriate procedure for requesting relief. (See Zoning Office Note in the file). As the Planning Note says, “the Plan should have been presented to the DRC for a determination prior to the filing of the Petition under Bill 24-06.” Counsel for the Petitioner elected to ignore this procedural requirement. This procedure and comment was ignored by the Petitioner and as a result the Petition for Special Hearing and Variance should be denied by the Board at this time.

LEGAL ARGUMENT III

The totality of the circumstances related to the health, safety and welfare of the two Communities involved require denial.

The testimony of the Protestants concerning the traffic flow and problems inherent with the intersection of Bosley and Old Bosley, combined with the Warren Elementary School and the lack of sidewalks on Old Bosley present a clear picture of a congested intersection and a traffic problem both as to sight distance for drivers and conflicts with pedestrians. This traffic problem at the subject intersection is compounded by the fact that Warren Elementary School produces a large number of walking students who must cross this very intersection to get to school. The

¹ Adopted from People’s Counsel’s letter dated August 23, 2007.

placing of a driveway so close to this intersection creates a clear and present danger not only to pedestrians, but also to drivers on Old Bosley Road as a result of vehicles accessing this subject site either by backing out onto Old Bosley or backing into the parking pad as described by the Petitioners.

For all of the reasons provided by the Protestants witnesses, this Variance should be denied.

LEGAL ARGUMENT IV

Improper Actions

The subject property was a leftover Parcel of the Springdale Community created by the Petitioners in 1960. It failed to comply with the then Zoning Regulations and as a result, was in effect abandoned by the Petitioners for over forty (40) years. The Petitioners neither maintained the property, leaving it to Baltimore County to cut and maintain as part of the Silver Lake Townhouse Community open space. Furthermore, the Petitioners failed (if they truly believed it was an appropriate lot) to pay the yearly dues necessary of a lot owner to the Springdale Association as part of their responsibility as a lot owner. Since 1971, this property has been rezoned from R-40 and yet the Petitioners took no action until recently to suggest that the subject site was a potential buildable lot. This failure constitutes laches or abandonment as it relates to this Parcel A. The failure of the Petitioners to either recognize that the subject site was a

buildable lot and pay their fair share to the Springdale Community and to further allow the County to maintain this property is the height of arrogance and disrespect for both the Spingdale Community and the Silver Lake Community.

The Petitioners actions should require this Board to deny the Variance request.

Respectfully Submitted,



J. CARROLL HOLZER, Esquire

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of February, 2008, a copy of the foregoing Memorandum of Protestants was mailed first class, postage pre-paid to the following: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, Maryland 21204 and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



J. CARROLL HOLZER, Esquire

2/12/08

IN MATTER OF:

I. H. Hammerman II and Mark
Hammerman, Legal Owners
S/s of Old Bosley Road & i/s of
S/w corner of Bosley Road
(2005 Old Bosley Road

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

3rd Councilmanic District
8th Election District

* Case No.: 06-513 SPHA
*

* * * * *

PETITIONERS' POST-HEARING MEMORANDUM

Petitioners I. H. Hammerman and Mark Hammerman, by Arnold Jablon with Venable, LLP, their attorney, hereby submit this Hearing Memorandum for consideration by the County Board of Appeals.

INTRODUCTION

In the *de novo* hearing before the Board of Appeals, as described below, Petitioners presented strong and substantial evidence for the Board of Appeals to conclude that no variance is required for the setback from the proposed dwelling to Bosley Road, or, in the alternative, if a variance is required, sufficient evidence to approve a "front" yard setback of 15' from the proposed dwelling to Bosley Road in lieu of the required 30'.

FACTUAL BACKGROUND

Pogo once said that he met the enemy, and the enemy was "us". The facts are not complicated. We have complicated them. The subject property is a corner lot, triangular in shape, located on the southwest corner of Bosley and Old Bosley Roads. The property is identified as "Parcel A" on plat 9, a part of Section III, Springdale (hereinafter referred to as "Springdale"), approved in 1967 and recorded in the Land Records of Baltimore County on January 10th, 1968. See *Petitioners' Exhibit 2, the record plat*. It is .24 acres and is zoned DR 3.5. Across Bosley Road from the instant site is Warren elementary

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school; immediately adjacent, on the other side, is property owned by Baltimore County and adjacent thereto is a townhouse development, Silver Lake. See *Petitioners' Exhibit 1, the site plan*. The Petitioners propose to construct a single family dwelling, 40' x 35', fronting on Old Bosley. The setbacks as shown on the site plan for the proposed dwelling are 30' to the property line at Old Bosley, 15' to the property line at Bosley, 14' to the opposite side property line and 30' to the rear. The latter setbacks as shown on *Exhibit 1* are measured from the closest point of the dwelling to the applicable property line. The zoning in place at the time Springdale was approved was R-40. *Petitioners' Exhibit 3 (1953 zoning map); Transcript (hereinafter referred to as "T"), 8/29/07, page 8, lines 1 and 10-16.*

The Petitioners presented Joseph Larson (hereinafter referred to as "Larson"), accepted by the Board as an expert in land use and zoning in Baltimore County, (*T, 8/29/07, p. 22, line 13*), who testified extensively about the location of the subject site and the proposed single-family dwelling. Using the 1953 zoning map, he described Bosley Road traversing from the southeast, then making a 90° turn as it continued in a westerly direction, pointing to a private road as identified on the map that continued north. At this corner, where Bosley and the private roadway met, he identified, and marked on the map, the subject property. See *Petitioners' exhibit 3*. Then, as is today, the subject property was triangular in shape. The zoning in 1953, which continued until 1971, was R-40. Old Bosley did not exist. *T, 8/29/07, p. 29, lines 17-20*. When Springdale was created, Bosley was straightened out to make a 90° intersection, to follow the R 40 zoning line in an easterly direction. *T, 8/29/07, p. 30, lines 16-21; p. 31, lines 1-13*. Old Bosley was thus created.

In 1953, the land around the subject site was all vacant. *T, 8/29/07, p. 31, line 17*. By 1967, the property immediately adjoining the site was owned by the Board of Education, where Warren Elementary School is now located. Then, using the 1971 zoning map, Larson identified, and marked, the subject property, triangularly shaped as it was on the 1953 map. The 1971 map showed that the property was zoned DR 3.5. *Petitioners' Exhibit 4 (1971 zoning map)*. Mr. Larson testified that the subject site, part

of an overall farm tract as shown on the 1953 zoning map, had become part of the Springdale subdivision. The subject property became a residue parcel due to the re-alignment of Bosley Road and the creation of Old Bosley Road. *T, 8/29/07, p. 37, lines 8-11.* The subject site has never been used.

ISSUES PRESENTED

1. What zoning is applicable?
2. When is a front yard, a side yard?
3. If a variance is required, do the Petitioners meet their burden to satisfy the criteria for the variance to be granted?

ARGUMENT

I. "It's not all about the Vesting"

A. CONUNDRUM—"a question or problem to which only a conjectural answer can be made"

Webster's Third New International Dictionary, p. 497.

The Protestants present the conundrum what zoning regulations should apply, DR 3.5 or R-40?

When is a conundrum not a conundrum—when the answer is clear, obvious and unambiguous.

§32-4-104 (b), BCC, as amended by Bill 24-06, states as follows:

"Present zoning classification. Proposed development shall be in compliance with the present zoning classification on the property to be developed."

The Protestants argue that the original R-40 zoning should apply. But why? Is it because the subject site has been unused, open space, of which they believe they have a proprietary interest?

§32-4-101 defined development as follows:

"...the improvement of property for any purpose involving building."

This is the unequivocal answer to the Protestants' conundrum.

The Board of Appeals in, *In the Matter of: Joseph Stepcich/Stepcich Property, et. ux.*, Case No. 06-419SPH, CBA 06-019, et. ux., concluded the question as to what zoning applies to a previously approved subdivision has been decided by statute. See *Petitioners' Exhibit A, attached hereto*. After analyzing Bill No. 24-06 and its effect on existing law, the Board concluded the County Council had re-defined when current law or the law in place at the time of original plan approval should be applied.

The current zoning, DR 3.5, is applicable. §32-4-104(b) requires the application of the present zoning classification, DR 3.5.

As the Deputy Zoning Commissioner correctly concluded in his decision below, "...I find that Bill 24-06 applies to this request and current regulations apply." See *Deputy Zoning Commissioner's Decision, Petitioners' Exhibit B, attached hereto, p. 8*. Normally, of course, Protestants argue against applying old regulations and demand the application of current regulations. *Id., p. 6*. Usually, the old regulations are more liberal than the new. This, then, is there conundrum.

On cross-examination of Larson, Protestants asked him why he did not seek approval of the Development Review Committee (DRC), to "change Parcel A to a buildable lot" (*T, 8/29/07, p. 101, lines 18-21*). Larson testified there was no reason for doing so. *T, 8/29/07, p. 102, lines 2-5*. Then, he was questioned about a Final

Development Plan (FDP), his answer was there was none in 1967. *See T, 8/29/07, p. 97, lines 7-16.*

The Protestants argument continued in two parts. The first, by the use of the term "parcel" on the record plat, they argue this meant that the subject site was, and should be, undevelopable, forever. Any attempt to make it "developable", they argue, would be a material change to the original subdivision, requiring an amendment to some approved plan. They create the following syllogism, from which they evolve their conundrum: (a) conversion of a non-buildable "parcel" to a buildable "lot" is a material change, (b) which requires an amendment to an approved development plan or plat (which is not explained) and (c) thereby requires the application of the original zoning. The Protestants, of course, presented no evidence to support the allegation that the site was "*undevelopable*" in 1967, other than the site has not been *developed*!

Mr. Jablon: Mr. Larson, do you why, in 1967, if you know, on the subdivision plat, this particular lot of record was marked as Parcel A?

Mr. Holzer: Objection. Unless he was there and did it, I object.

Chairman: Sustained.

T, 8/29/07, p. 38, lines 20, 21; p. 39, lines 1-4.

The BCZR recognizes no legal difference between a "parcel" and "lot". *§101 (Definitions)* defines a "lot of record" as a "parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof".

For whatever the reason in 1967 for the use of the word “parcel” on the plat, the Protestants present only conjecture. But there is an answer—provided by the Board in *Stepcich*—it does not make any difference. By statute, the current zoning is applicable

It is unambiguous—§32-4-104 (b), says it all. Whatever the reason, it is immaterial.

Even so, Larson testified the site could have been developed, with variances. He testified, while the subject site could not comply with the R-40 area requirement, variances were permitted by the 1963 BCZR, just as they are today. See §§202.1, 202.2, 202.3 and 202.4 BCZR, 1963 (*lot area and setbacks in R 40 zone*) and §307, BCZR, 1963 (*variance provision*). *Petitioners' Exhibits C and D, attached hereto*. No matter how the Protestants present this argument, the end result is the same—the answer is not conjectural, but it is definitive.

B. Bill No. 24-06 confirms that the proposed single family dwelling is subject to the current zoning.

Bill No. 24-06 clearly and unambiguously changed the “vesting” landscape in Baltimore County. See *Petitioners' Exhibit E, attached hereto*. The issue here, however, is not about vesting. There is no question about what zoning applies; it is the current zoning, DR 3.5. §32-4-104 (b) requires it.

The second part of the Protestants’ argument apparently is that the change from open space to a dwelling causes a material and negative impact on the neighborhood, which requires the application of the original zoning. However, only when there is a *non-material amendment or a refinement to a previously approved plan or plat* is the original zoning applied. §32-4-262 (2), provides as follows:

"Any ***material amendment*** to an approved ***residential development*** plan or plat shall be reviewed in accordance with this title, and with respect to that portion of the original plan or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all current law and regulations, including the development regulations and the zoning regulations." (emphasis added)

There is no proposed or required amendment to an approved residential development plan or plat, material or otherwise. There is no proposed movement of a previously recorded lot line; no proposed re-subdivision of an existing lot of record. The subject property has been and is unchanged and unaltered and there is no suggestion to do otherwise. Even though they admit that an FDP was not required in 1967, somehow, they argue, one still should be amended. There is no law or regulation that requires Springdale's record plat to be amended for what the Petitioners' propose.

Mr. Holzer: Now, back in 1967, was there any other document required to be filed either with the county, or on record in the Baltimore County Circuit Court clerk's office, other than was filed here marked as Petitioners Exhibit No. 2?

Mr. Larson: The record plat is the only document that's normally filed with the clerk's office to be recorded.

Mr. Holzer: This is a record plat, Petitioners exhibit 2 is a record plat?

Mr. Larson: That's correct.

T, 8/29/07, p. 96, lines 7-16.

Mr. Holzer: Now, since 1970, we have created something called a final development plan. It that your understanding?

Mr. Larson: Yes.

Mr. Holzer: Now, the final development plan is the thing that would be recorded in the Land Records, and it would be the thing that someone would look at for purposes of determining whether they wanted to live in that community or not, is that right?

Mr. Larson: That's right.

T, 8/29/07, p. 97, lines 5-15. See also Bill 100-1970, which created the FDP.

Mr. Jablon: I put in front of you Section 1B01.3, plans and plats, A, development plans, correct?

Mr. Larson: Right.

Mr. Jablon: Now, I thought—and I could be wrong, I apologize if I am—that Mr. Holzer asked or seemed to imply—and you agreed—that that plan in front of you [the record plat], that section [§1B01.3] is also recorded. Did you say that? [language added for clarification only]

Mr. Larson: No, I didn't testify to that. I don't think he asked that. This is not recorded.

Mr. Jablon: So that plan is what? How would you describe that plan that's covered in that section?

T, 8/29/07, p. 110, lines 12-21.

Mr. Larson: This plan is a plan that's submitted in the development process that is reviewed and commented upon and approved by the county agencies prior to moving to a record plat.

Mr. Jablon: In other words, is it characterized as a zoning plan?

Mr. Larson: That's a good description. Yes.

Mr. Jablon: That's not recorded?

Mr. Larson: No, sir.

Mr. Jablon: So when this 1967 subdivision marked as Petitioners Exhibit 2 was approved in 1967, was that plan known as the FDP, was that plan required by either county code or by the zoning regulations?

Mr. Larson: No.

T, 8/29/07, p. 111, lines 1-15.

It is of interest to note that if an FDP were to exist for Springdale, an amendment would not be required:

Subdivision lot sales, development and use subject to partial development plan. No interest in any lot which is in a DR Zone and is *hereafter created by subdivision* of a record lot existing on the effective date of this article or *created by consolidation* of such lots may be sole unless a final or partial development plan applicable to the lot has been approved as required under Paragraph 6, below; further, no use may be established and no construction may take place on any lot so created except in accordance with such a plan... (emph added)

1B01.3.A. 3, BCZR.

There is no subdivision and no consolidation of lots.

§32-4-101 (q), BCZR, defines "development plan" as "...a written and graphic representation of a proposed development prepared in compliance with Subtitle 2 of this title." The development plan referred to in the County Code makes no reference to the FDP, which is a zoning plan. The FDP is not a development plan within the meaning of §32-4-262 (2). Whatever their argument, there is no amendment to any such development plan or plat proposed, material or otherwise. There is no amendment required of the approved record plat. The Protestants argument is that the proposed house in and of itself is so significant an amendment should be required. If there were to be an amendment, if an amendment were required, then by their own testimony, any such amendment would be a ***material amendment***, subject to the current zoning.

What the law in Baltimore County was, or what John Lewis, of the Zoning Office, thinks it is, is not at all relevant. However vesting was defined prior to the adoption of

Bill No. 24-06, it is now what this Board confirmed in *Stepcich* and what the Deputy Zoning Commissioner concluded: the current zoning is applicable.

However the Protestants frame their argument, it must be viewed within the context of their testimony. The sum and substance of which were the severity of the perceived problems they foresaw, i.e., potential impact. However, they frame their argument, though, the current zoning is applicable. For otherwise to occur, the Protestants would have to admit that the proposed house would have only minimal impact, and would have to promote the non-materiality of an amendment or refinement to whatever plan or plat they argue needed to be amended. Each of the Protestants testified about negative impact of this one, single family dwelling on the neighborhood. They testified about traffic, parking, accidents, and school overcrowding, just but a few of the perceived major impacts about which they offered testimony. Certainly, the totality of their testimony spoke to their view of the materiality of the proposal. If so dramatic, if so material to the continued well-being of the neighborhood, then, assuming an amendment were required, the current zoning would apply. If not material, then the impact, they would have to admit, must be minimal. The law changes; property owners' rights change as the law changes. This is what zoning is all about

II. "Well, we really and truly only have one front yard."

Mr. Larson, T, 8/29/07, p. 40, lines 4-5.

There is no zoning regulation that requires a side yard to be treated or considered as a front yard on a corner lot. *T, 8/29/07, p. 52, lines 3-7.* Larson, the Petitioners' expert, testified as to the application of setback requirements

delineated in the zoning regulations. *T, 8/29/08, p. 52, lines 3-7.* He testified that, in his opinion, no variance was required because there is only one front. *T, 8/29/08, p. 51, lines 18-21; p. 52, lines 1-2.* What constitutes the front or side yard, or rear, cannot be determined as a matter of law based solely on the Baltimore County Zoning Regulations (hereinafter referred to as "BCZR"), but on fact. *Swoboda, et al v. Wilde, et ux*, 173 Md App 615 (2007). See *Exhibit F, attached hereto.* Here, there is a front, to Old Bosley, and two sides, one of which is to Bosley Road. The testimony by Larson was unequivocal: the front yard of the proposed house is oriented to Old Bosley. A corner lot is defined as "a lot abutting on and at the intersection of two or more streets." *§101, BCZR.* There is no legal basis on which to conclude that a dwelling on a corner lot creates two front yards.

The proposed house will front Old Bosley Road. *T, 8/29/07, p. 40, lines 6-7.*

The side of the house will face Bosley Road. *T, 8/29/07, p. 40, line 8.*

The front door will face Old Bosley Road. *T, 8/29/07, p. 41, lines 4-5.*

The address is Old Bosley Road. *T, 8/29/07, p. 41, line 8.*

The driveway providing on-site parking will be off of Old Bosley Road. *T, 8/29/07, p. 41, lines 9-11.*

The proposed house is 40' long and 35' wide.

"Everything would orient to Old Bosley Road." *T, 8/29/07, p. 41, lines 11-12.*

There is only one front yard.

In *City of Baltimore v. Swinski*, 235 Md. 262 (1964), the Court of Appeals addressed a comparable orientation dispute in the context of a Baltimore City zoning ordinance that required a main entrance of a building to face the "street side" of a lot. The Court concluded that a determination of which side of a building is the "front"

requires examination of the particular physical characteristics of the property in question, including the orientation of any main entrance that is both architecturally and functionally prominent:

[W]e think it is clear that the physical construction of a building establishes the frontage for purposes of determining whether there has been compliance with the zoning ordinance.

Id., at 264.

In *Swoboda*, supra, this Board faced a similar issue. The property there at issue was a corner lot, improved with a townhouse end unit situated at the intersection of Pinehurst and Murdock Roads, in Rodgers Forge in Baltimore County. The property owners wanted to construct a 1-story extension to their kitchen and add a covered porch connected to the kitchen addition. The issue was similar to here: which were the front, side, and rear yards, which in turn would determine compliance with county setback requirements. If the front of the house was determined to be one way, then the addition would be in the side yard and therefore in compliance with the 10' side yard setback. If the front of the house was determined to be another, then the proposed addition would be in the rear yard, which would require a 50' setback. The Board, the Circuit Court and the Court of Special Appeals, on appeal, were asked to decide what was the front and to determine what setback was thereby applicable.

The Board is not inclined to rule that, as a matter of law, either Pinehurst Road or Murdock Road is the front of the property in question. The Board considers that the law is either ambiguous or flexible in this area as noted by People's Counsel in his brief, and feels that the totality of the circumstances may be taken into consideration in this case.

Swoboda, quoting from the Board's decision, at p. 630.

The Board at no point, nor did the Courts, ever consider that both Pinehurst and Murdock Roads were fronts. The Board concluded there were one front and one rear. While there was no discussion of side yards, the issue there is the same as here. The Board would still have had to decide which was the front yard in order to determine which was the rear, in order to determine the required setbacks. The Board looked at various factors in deciding the front yard.

The BCZR defines "yard, front": "A yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building." It defines "yard, side": "A yard extending from the front yard to the rear yard, between the side lot line and the side foundation wall of the main building." **§101, BCZR.**

If a word or term is not defined, the BCZR provides that either will have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary. **§101, BCZR.** A "front yard" is set apart from "side yard" by its "width". Webster's definition of "width" is a "distance from side to side; a measure taken at right angles to length; largeness or greatness in extent and girth at the widest part." *Webster's Third New International New Dictionary, p. 2614. See Petitioners' Exhibit G, attached hereto.* The length and width of the proposed house is determined by the unique shape of the subject lot, with its orientation dictated by the site's shape.

§1B01.2C, BCZR, entitled "building setback requirements", establishes for a single-family detached dwelling, in a DR zone, a 25' front to public street right of way or property line and a 15' side to public street right of way. Larson testified that the subject dwelling would comply with this section. **T, 8/29/08, p. 49, lines 10-15.** §1B02.3C,

BCZR, entitled "special regulations for certain existing developments or subdivision and for small lots or tracts in DR zones, development standards for small lots or tracts", known as the "small lot table", also establishes certain minimum area and setback requirements. The minimum lot area in DR 3.5 is 10,000 square feet, minimum lot width is 70 feet, front yard is 30', combination of side yards is 25 feet with a side yard minimum of 10', and rear of 30 feet. Larson testified the proposed dwelling also complies with all of these requirements. He testified, in his opinion, no variance should be required. *T, 8/29/08, p. 50, lines 2-12; p. 51, lines 13-17; p. 52, lines 1-2.* Question: How can there be two fronts and one side yard? Answer: Based on the evidence and testimony presented, there can't!

The issue is one of fact, not law. The front orientation of this house, as established by the substantial evidence presented by the Petitioners, is to Old Bosley Road. The required setback from the house to Old Bosley is 30' and from the house to Bosley is 10'. The Protestants could present no factual evidence to the contrary, indeed they can't. No variance is thus required.

III. The Deputy Zoning Commissioner's decision to grant the requested variance should be upheld.

Assuming the Board should find that a variance is required, the evidence and testimony presented by the Petitioners are sufficient for a variance of 10' in lieu of a required 15' side yard setback to be granted.

A. The subject property is "unique".

The property at issue here is indeed "unique" and satisfies the criteria established in *Cromwell v. Ward*, 102 Md App 691 (1995) and *North v. St. Mary's County*, 99 Md App 502 (1994).

Mr. Jablon [on cross examination]: Based on what I heard you say, do you agree that the particular lot at issue here is unique in terms of the neighborhood?

Mr. Pecunes: Well, it doesn't even appear to be a lot.

Mr. Jablon: I didn't ask you that. Do you agree that it is unique when you look at the other lots existing within the neighborhood?

Mr. Pecunes: Yes.

T, 1/8/08, p. 18, lines 5-12.

Mr. Holzer [redirect examination]: When you say it's unique, do you mean that it is smaller than the other lots?

Mr. Pecunes: It's not conforming to the rest of the development.

T, 1/8/08, p. 18, lines 18-21.

A review of Petitioners' site plan shows that there are no other properties in the area that have a similar type formation as the instant property, thereby making this property unique.

Mr. Jablon: Based on the location of the property, the area that can be utilized and the intended use, do you have an opinion on whether or not this particular lot has any special circumstances or conditions that exist peculiar to this area?

Mr. Larson: Well, absolutely. The site is peculiar or unusual in the fact it is triangular shaped tract, and if you look at the subdivision plat that was just reviewed prior to, all of the lots in Springdale are all rectangular or squarish, whereas this lot is a very unusual triangular shape.

T, 8/29/08, p. 42, lines 2-12.

It is not just that the property is triangular; it is the narrowness of the triangle, with its hypotenuse stretching from Old Bosley Road to Bosley Road, from the front of the site to its rear.

"Uniqueness" as used in *Cromwell v. Ward*, 102 Md App 691 (1995) is a "special circumstances or conditions" requirement. The use of the term "uniqueness" within the context of zoning law carries a "specialized meaning" in zoning law. See *Umerley v.*

People's Counsel for Baltimore County, 108 Md. App. at 506.

...the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property.

Umerley, 108 Md. App. at 506.

Cromwell's thrust is to determine where, by reason of the property's shape, or by the other special circumstance as cited as examples by the Court, the literal enforcement of the zoning regulation at issue would make it "exceptionally difficult" for the applicant for the variance to comply with the regulation. *North v. St. Mary's County*, 99 Md. App. 502, 514—15 (1994).

The Court of Special Appeals in *Cromwell* stated:

...The Baltimore County ordinance requires "conditions"...peculiar to the land...practical difficulty..." Both must exist...However, as is clear from the language of

the...ordinance, the initial factor that must be established before the practical difficulties, if any are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties..."

The Court then went on to state its interpretation of the "uniqueness" factor.

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of the improvements upon the property, or upon the neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions...

The property is

...peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties.

The configuration of the subject site existed prior to Springdale. *See Petitioners' Exhibit 3, 1953 zoning map.* In 1967, when the Springdale subdivision was approved, the configuration of Bosley Road was altered, as described Mr. Larson, and referred to above. *T, 8/29/07, p. 37, lines 8-12.* The configuration of Bosley Road was altered in order to provide road frontage for the Board of Education property, and Old Bosley was created. At some point, between 1953 and before the 1967 subdivision plat was approved, the Board of Education purchased the property directly opposite the site, *T, 8/29/07, p. 32, lines 10-12.* Based on the 1953 zoning map, the Board's property was

land locked. It had no direct access to Bosley Road. Bosley Road was on the opposite side of the subject property than it is today. *T, 8/29/0, p. 37, lines 19-21; p. 38, line 2.*

It is not just the shape itself, which, when compared to other properties in the neighborhood, satisfies *Cromwell*. It is also the property's location, at the corner of Bosley and Old Bosley, which makes it "unique". It is also how Bosley Road was reconfigured and how Old Bosley came to be created. Larson testified: "...it binds on the townhouse development to the south, which is somewhat separated by an expansive green open space area, but then binds on Bosley and Old Bosley." *T, 8/29/08, p. 42, lines 18-21.*

B. To deny the variance would cause a practical difficulty.

The property is definitely irregular, long and narrow, with the hypotenuse stretching from Old Bosley to Bosley. There is no other place to construct a dwelling than that where it is proposed, and, without the variance requested, if required, the use of the site for a house would severely be restricted by the zoning requirements. Mr. Larson testified, as follows:

Mr. Jablon. What facts, what analysis, what analysis, did you make in order to prepare this plan?

Mr. Larson. ...we had to develop a house size which we would look to be consistent with the neighborhood and then position the house on the lot. Because of the configuration of the lot, it was somewhat of a difficult task. But in doing so, we have managed to do it, and only require relief for one side yard. If, in fact, that relief is required.

T, 8/29/07, p. 25, line 21; p. 26, lines 1-6.

Mr. Jablon. Can the proposed house be located elsewhere on this site?

Mr. Larson. No, it can't.

Mr. Jablon. Why not?

Mr. Larson. Base of the configuration of the property, again, the narrow acute type of triangular shape. The only location for a building pad would be in the front of the property at the intersection.

Mr. Jablon. Well, could you plan a smaller house?

Mr. Larson. You could make a smaller house, but then you'd be creating something that would be inconsistent with the neighborhood, and really, it would be like building one townhouse. Not practical.

T, 8/29/07, p. 60, line 20; p. 61, lines 1-11.

Mr. Holzer, on cross examination, asked Larson what would the effect be if the Board should deny the variance, *T, 8/29/08, pp. 77, 78, lines 21-line 2*, to which he responded:

A. It would be basically unbuildable.

T, 8/29/07, p. 77, line 3.

Mr. Larson did agree that a house, 35' x 25', shorter than that proposed, could be constructed, with an 875' first floor, a basement, and a second floor, but his opinion was that a 25'- wide house is "just not doable". *T, 8/29/08, p. 79, line 16.*

There are no other properties in the neighborhood similarly shaped: a corner lot, triangular, surrounded by apartments and single family dwelling and with a school directly across the street.

“Strict implementation” of the 10’ setback would “impede” the proposed use due to “the features of the site or other circumstances other than financial considerations.” *Mastandrea v. North*, 361 Md. 107, 141-42 (2000).

The area where the Petitioners propose to construct dwelling is the only place on the property possible. It is in the front of the property, facing Old Bosley. The triangular shape of the lot and the abutment on two streets limit the placement of any structure on this site.

The construction of a dwelling in strict compliance with the setback requirements would unreasonably prevent the Petitioners from using their property for the permitted purpose intended.

The subject property is unique in a zoning sense, and the reasoning for this is as defined by *Cromwell*, supra. The regulations as applied here impact the Petitioners’ property disproportionately from other properties within the subdivision or neighborhood.

The Petitioners’ property is an “island” surrounded by a “sea” of residential uses.

Regarding practical difficulty, we look to *McLean v. Soley*, 270 Md 208 (1973), where the Court of Appeals confirmed the variance granted below and approved the test in regard to practical difficulty as follows

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give

substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Considering the evidence and testimony presented to the Board, the tenets set out in *McLean* were certainly established. The variance if granted would be in strict harmony with the spirit and intent of the regulations, and there certainly would not be any injury to the public, health, safety and general welfare.

The testimony of the Petitioners' experts, Larson and Mickey Cornelius, accepted by the Board as an expert traffic engineer, demonstrates that strict compliance with the requisite zoning setbacks to the unique characteristics of the property would cause "peculiar or unusual practical difficulties" justifying the variance requested and that there would no injury to the public, health, safety and general welfare. *Montgomery County v. Rotwein*, 169 Md App 716 (2006), citing *Cromwell*, 102 Md App at 706.

Larson testified that there was no other place, no other area, on the subject property on which a building could be placed. "Ample" room does not exist. The location of the building is not a "matter of convenience." *Rotwein*, 176 Md App at 730. The lot size and shape were not self-created. There are no alternative locations for the building. *T*, 8/29/07, p. 61, lines 3-6.

The expression "practical difficulties or unnecessary hardships" means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant....

Carney v. City of Baltimore, 201 Md 130, 136-37 (1952)

Protestants imply that the Petitioners would suffer no practical difficulty because they could build a smaller house. However, the Petitioners are not required to prove that by application of the zoning regulations there would be no use of their property, just that their reasonable use of the property would be restricted for the use it proposes. *Rotwein, 176 Md App at 733* citing *Marino v. City of Baltimore*, 215 Md. 206, 218 (1957).

The Petitioners' proposal complies with the regulations' intent and satisfies the strictures required for approval of the requested variances.

Without repeating the obvious, the subject site is unique in a zoning sense and the Petitioners would further suffer a practical difficulty if the requested variance was to be denied.

CONCLUSION

For the above stated reasons, the Petitioners respectfully request that the Board of Appeals of Baltimore County find that:

1. The applicable zoning to the property owned by the Petitioners is DR 3.5, the current zoning;
2. The distance from the proposed dwelling to Bosley Road is a side yard, and therefore no setback variance is required; or, in the alternative, if a front yard variance is required,
3. The Petitioners have complied with §307, BCZR, and the variance for a front yard setback of 15' from the proposed dwelling to Bosley Road in lieu of the required 30' should be granted.

Respectfully submitted,



Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, Maryland 21285-5517
(410) 494-6298

Certification of Service

IT IS HEREBY CERTIFIED that a copy of the foregoing Petitioners' Hearing Memorandum was mailed by first class delivery, postage prepaid, on this 12th day of February 2008 to J. Carroll Holzer, Esq. 508 Fairmount Ave, Suite 503, Towson, MD 21286.



Arnold Jablon

IN THE MATTER OF
THE APPLICATION OF
JOSEPH STEPCICH – LEGAL OWNER /PETITIONER*
FOR SPECIAL HEARING ON PROPERTY
LOCATED AT 3 STONEHURST ROAD
W/S STONEHURST ROAD, 218' S OF C/L OF
WINDEMERE PARKWAY
11TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

AND

IN THE MATTER OF
STPCICH PROPERTY
WINDEMERE /3 STONEHURST ROAD
11TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
RE: DRC DECISION /DENIAL OF APPLICANT'S
REQUEST TO RECONFIGURE LOTS

AND

IN THE MATTER OF
PRIDGEON PROPERTY
WINDEMERE /6 STONEHURST ROAD
PHOENIX, MD 21131
11TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
RE: DRC DECISION /DENIAL OF APPLICANT'S
REQUEST TO RECONFIGURE LOTS

AND

IN THE MATTER OF
PRIDGEON PROPERTY
WINDEMERE /6 STONEHURST RD
11TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
RE: JSPC DECISION /DENIAL OF PROPOSED
LOT LINE ADJUSTMENT /AMENDMENT TO JSPC

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

* Case No. 06-419-SPH

* and

* Case No. CBA-06-020

* and

* Case No. CBA-06-019

* and

* Case No. CBA-04-159

* * * * *

OPINION

The appeals in this matter come before the Baltimore County Board of Appeals as the result of several determinations by the Director of Permits and Development Management. The first was to deny Petitioner Pridgeon's request for a proposed lot line adjustment /amendment to a JSPC subdivision plan and to deny his request to reconfigure lots of record into two buildable lots. He further, in a separate matter, denied Petitioner Stepcich's request to reconfigure his lot

PETITIONER'S EXHIBIT A

of record into two buildable lots. Petitioner Stepcich additionally appeals to the Board the decision of the Baltimore County Zoning Commissioner granting in part and denying in part his Petition for Special Hearing.

The Board heard these matters on three hearing dates, followed by a public deliberation. The Petitioners were represented by Arnold Jablon, Esquire, and David Karceski, Esquire. The Office of People's Counsel was represented by Peter Max Zimmerman, People's Counsel for Baltimore County; and Protestants were represented by J. Carroll Holzer, Esquire. Baltimore County was represented by Nancy C. West, Assistant County Attorney.

Brian Dietz, a practicing, licensed land surveyor employed by Dietz and Surrey Surveyors, was, after *voire dire*, accepted by the Board as an expert in preparing plats and the minor subdivision process in Baltimore County. He testified that he was hired by Petitioner Stepcich to prepare the plat accompanying the request for an amendment from the DRC of the original JSPC Plan for Mr. Stepcich's property. He related that the original 1970 R-40 zoned lot, which became an RSC zone, permitted one house on 1 acre of land, pursuant to the original development plan. The original subdivision was 19 acres, and had a potential for 19 lots, but only actually had four lots and two parcels platted. He then described the Stepcich request to divide one lot of 5.3 acres into two lots, with sizes of 2 acres and 2.6 acres respectively. Mr. Stepcich resides in one of the two proposed lots and noted that the proposed second lot had already obtained an acceptable perc test.

David Martin, of Martin, Phelps Design and Land Planning, was called by Petitioners and after *voire dire* was accepted as an expert in Baltimore County development and zoning regulations. He testified that the lots in question of the "Windemere Development III" were zoned R.C. 4 when the Petitioners filed with the DRC for the proposed changes, but that it was now R.C. 6 property. He placed before the Board the plat of Section III, superimposed over the

original JSPC Plan. According to his analysis, the JSPC Plan allowed for 17 lots, although by density calculation the whole tract, some 239 lots, would have been permitted. In fact, 183 were actually approved. Section III consists of four lots and two parcels. Turning his attention to Bill 24-06 of the Baltimore County Council, he opined that the lot line adjustments requested by Petitioners were indeed "refinements" and not material changes; that, therefore, the original regulations at the time of the approval of the subdivision and the R 40 zoning would apply. He stated that, while not permitted under the R.C. 6 zoning, the previous R.C. 4 zoning would in fact have presented no bar to the request.

Charlotte Pine, a past president and board member of the Protestant Long Green Valley Association, submitted Rule 8 documentation and testified on behalf of the organization. She was concerned about the fact of resubdividing an older subdivision according to zoning in effect at its inception, in contrast to the requirements of current rules.

Jeffrey Long, Deputy Director of the County Office of Planning, testified as to his view of the applicable zoning of the properties in question. He maintained that County Council Bill 24-06 was simply a re-acknowledgement of what is already County policy. He believes that it was appropriate to deny Petitioners' requests, as the present R.C. 6 zoning does not provide sufficient density for the proposed changes. He believes that once the Council alters the zoning, the old zoning is no longer in effect, nor is it an issue at all. The new density controls – and is the basis for all subsequent requested changes.

Under cross-examination, the witness maintained that he acknowledged no distinction between a "material change" and a "nonmaterial change" or "refinement," and stated that "a change is a change." He disagreed categorically to the contrary position taken by Mr. Kotroco, Director of Permits and Development Management, that the JSPC "refinement" could go forward under the old zoning.

Dr. Eusebio Gonzales, who lives next door to the Stepcich Property, told the Board of his concerns regarding the effect of Petitioner's proposal on the septic arrangements of that portion of Windemere III. He did, however, acknowledge, that his well was presently good and that he is aware of no danger to others in the area, real or anticipated.

The Board has reviewed the full testimony, exhibits, and the applicable statutes and case law relative to the issues raised in this matter. Counsel are correct in that the issue of vesting and changes to existing plans are governed by statute in Baltimore County. We have reviewed County Council Bill 24-06 relating to vesting, as reflected in *Baltimore County Code* (BCC) § 32-4-262 which states:

(1) Any material amendment to an approved non-residential Development Plan shall be reviewed and approved in the same manner as the original plan.

(2) Any material amendment to an approved residential Development Plan or plat shall be reviewed in accordance with this title, and with respect to that portion of the original plan or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all current law and regulations, including the development regulations and the zoning regulations.

as well as BCC § 32-4-273, which states:

§ 32-4-273. TIME LIMIT FOR VESTING.

(a) *"Same ownership" defined.* In this section the term "same ownership" means an ownership interest by the same individual, corporation, firm, entity, trust, estate, partnership, or unincorporated association.

(b) *Time limit.*

(1) Unless extended under § 32-4-274 of this subtitle, a subdivision plat shall lapse and become invalid for either the entire subdivision or any section or parcel of the subdivision according to the applicable time limits specified under paragraph (2) of this subsection if the subdivision, section, or parcel has not been developed, as provided under subsection (d) of this section.

(2) (i) Except as provided under subparagraph (ii) of this paragraph, a plat, whether recorded or not, shall expire 8 years after the date of approval of the Development Plan pursuant to which the plat was prepared.

(ii) A plat for which there is an approved reclamation plan in accordance with Subtitle 5 of this title shall expire 8 years after the date of CRG approval pursuant to which the plat was approved, but in no event later than 20 years after the date of approval of the reclamation plan by the Planning Board.

(c) *Future development of lapsed subdivision plat.* Upon the lapse of a plat for any undeveloped subdivision, section, or parcel of the subdivision, the future development of the undeveloped subdivision, section, or parcel shall comply with the development laws in effect at the time of its development.

(d) *Development.* A subdivision or section or parcel of the subdivision is considered vested if a building permit has been issued for any lot in accordance with an approved plan or plat, and inspection by the county confirms that substantial construction has occurred within the subdivision, including any lot, tract, section, or parcel thereof, within four years after the date of the final, non-appealable approval of the plan or plat or any extension thereof authorized under § 32-4-261(a).

(e) *Exception.* Lots in the same ownership, not to exceed three in number, if used for single-family dwellings, are exempt from the lapse provisions of this section.

The actual chronological facts as to each Petitioner were presented to the Board and are essentially unchallenged. Petitioner Stepcich lives, since 1970, on a lot of 5.137 acres in Section III of the Windemere Subdivision, which development was approved in 1970. The lot is improved by the Petitioner's residence, constructed in 1972. Petitioner Pridgeon resides in the same section and development on a lot which comprises 3.43 acres. He owns an adjacent parcel of .75 acre.

Petitioner Stepcich inquired as to subdividing his property in 2002. After being informed that the zoning at the time of approval of the subdivision was still controlling, he filed, at the County's suggestion, with the DRC for approval to proceed. By letter dated May 23, 2002 (Petitioner's Exhibit #2) he was advised by the DRC that the original JSPC rules would apply to his current request, that he needed to obtain and file an appropriate transmittal form, and forward a copy to the Office of Planning. He then requested the Baltimore County Planning Board to approve the resubdivision plat of his property. Shortly thereafter, he received a letter from Jeffrey Long, Deputy Director of the Office of Planning, that his JSPC request had been denied.

In August 2004 Petitioner Pridgeon made the same initial request to the DRC as had Stepcich as to what regulations would be applicable regarding requested changes to his two properties. By letter dated September 2, 2004, he was also advised that the original regulations

and zoning controlled and was given the same procedural instructions as Petitioner Stepcich. He did not immediately file with the Planning Board, but was similarly informed in a letter dated December 3, 2004 from Jeffrey Long that the JSPC had, in his case, also turned down his request.

In both instances, Mr. Long has taken the position that, in effect, only present zoning controls present subdivision amendments. He does not appear, pursuant to his testimony and letters, to recognize a difference or, for that matter, the existence of "material" versus "nonmaterial" changes, or "refinements."

The Board believes that, under the statutes listed above, as well as the text of Baltimore County Council Bill 24-06, nonmaterial amendments do, in fact, exist in Baltimore County. It is equally clear that the Baltimore County Council has consistently and most recently in its Bill 24-06 taken the position that **material** amendments in approved developments must comport with presently existing development and zoning regulations. They clearly opted not to include in 24-06 any different treatment of "nonmaterial amendments or refinements" than that which already exists. We conclude that there can be different standards applied to different types of amendments, be they yesterday's standards or regulations or today's. It follows that we then need to inquire whether or not the Petitioners qualify for treatment by the earlier regulations.

Therein lies the underlying question in this matter of whether or not the Petitioners are "vested," that is, do they have a right to rely upon the regulations existing at the time of the original development approval under the JSPC process, including the original R 40 or RSC zoning.

As stated before, vesting in Baltimore County is defined by statute. Under § 32-4-273(d)(2), an approved development plan had been granted for Windemere Section III, both Stepcich and Pridgeon had obtained building permits and had constructed homes. We disagree

with Mr. Long and the Protestants and find that, under the auspices of Bill 24-06, the granting of a permit for one lot in Windemere vested the subdivision for purposes of later change requests. Moreover, the County Council in 2003 clearly set forth in what was then § 32-4-273(b)(d) that the issuance of a building permit for a lot or substantial construction thereupon vested the property in question. The change in Council Bill 24-06 was only to separate out and enunciate a new requirement as to "material" changes, but allowed other parts of the existing law to remain unaffected—namely the treatment of "nonmaterial" changes to property, which were still subject to the status quo of statutory vesting and amendment according to the zoning requirements existing at the moment of vesting.

Accordingly, we find that the amendments requested by Petitioners Stepcich (to divide his lot into two lots) and Pridgeon (to alter a lot line) are "nonmaterial" changes or "refinements" to the existing Windemere III subdivision. We further conclude that the properties of both Petitioners are vested under Baltimore County statute by the issuance of building permits and construction thereupon. We therefore unanimously conclude that, based upon the foregoing, Petitioners Stepcich and Pridgeon may process their respective requests pursuant to the existing JSPC procedures and subject to the zoning regulations and density requirements in existence at the time of vesting.

ORDER

IT IS THEREFORE this 10th day of January, 2008, by the Board of Appeals for Baltimore County,

ORDERED that the request for special hearing in Case No. 06-419-SPH be and the same is hereby **GRANTED**; and it is further

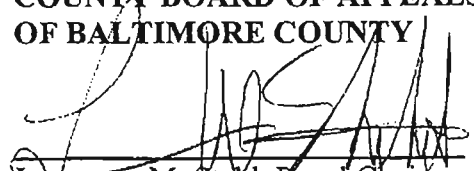
ORDERED that the request to reconfigure lots of record into two buildable lots in Case No. CBA-06-020, 3 Stonehurst Road, Stepcich Property, be and the same is hereby **GRANTED**; and it is further

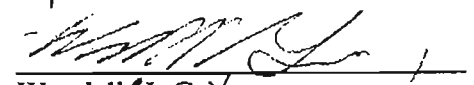
ORDERED that the request to reconfigures lots of record into two buildable lots in Case No. CBA-06-019, 6 Stonehurst Road, Pridgeon Property, be and the same is hereby **GRANTED**; and it is further

ORDERED that the request for a lot line adjustment /amendment to JSPC subdivision plan, in Case No. CBA-04-159, 6 Stonehurst Road, Pridgeon Property, is therefore rendered **MOOT**.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence M. Stahl, Panel Chairman


Wendell H. Grier


Edward W. Crizer, Jr.

IN RE: PETITION FOR SPECIAL HEARING
AND VARIANCE

S/S of Old Bosley Road and the inter-
section of SW corner of Bosley Road
8th Election District
3rd Councilmanic District
(2005 Old Bosley Road)

I.H. Hammerman II and Mark Lee Hammerman
Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 06-513-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Variance filed by the legal owners of the subject property, I.H. Hammerman II and Mark Lee Hammerman. The Petitioners are requesting special hearing and variance relief for property located at 2005 Old Bosley Road. The special hearing is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required. In the alternative variance request from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet.

The property was posted with Notice of Hearing on June 24, 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 July 6, 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

PETITIONER'S EXHIBIT B

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 3

Bill No. 24-06

Councilmembers Kamenetz, Bartenfelder, Moxley, McIntire & Olszewski

By the County Council, February 6, 2006

A BILL
ENTITLED

AN ACT concerning

Development

FOR the purpose of requiring previously approved developments to comply with the current law and the current development procedural review process; defining terms; defining the manner of the vesting of a project; clarifying the methodology employed by the Office of Planning in compiling its ~~annual~~ recommendation regarding overcrowded school districts; providing for the extension and expiration of development plan approvals; providing for the application of the Act; providing for the effective date of the Act; and generally relating to the scope of the County's development regulations and the vesting of development plans and plats.

BY repealing and re-enacting, with amendments

Sections 32-4-104, 32-4-261(a) and (b), 32-4-262, 32-4-273(d) and 32-6-103(d)
Article 32 - Planning, Zoning and Subdivision Control
Baltimore County Code 2003

EXPLANATION:

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

PETITIONER'S EXHIBIT E

BY adding

Section 32-4-101(bbb)
Article 32 - Planning, Zoning and Subdivision Control
Baltimore County Code 2003

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Sections 32-4-104, 32-4-261(a) and (b), 32-4-262, 32-4-273(d) and 32-6-103(d) of Article 32, Planning, Zoning and Subdivision Control, of the Baltimore County Code 2003, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

§32-4-104. Scope of Title.

(a) Applicability of title. [Except as provided in subsection (b) of this section, this title shall apply to all development.

(b) Exceptions.

(1) This title does not apply to a development that before the effective date of this article, June 11, 1982:

- (i) Received tentative approval of the preliminary plan by the Planning Board;
- (ii) Has a valid unexpired building permit;
- (iii) Has a current executed public works agreement;
- (iv) Received a CRG approval, reclamation plan approval, or was otherwise vested by law; or
- (v) Where a CRG plan was accepted for filing by the Department of Public Works before the date of adoption of Bill 1-92.

(2) An exempt development under paragraph (1) of this subsection shall be governed by the subdivision regulation in effect at the time:

- (i) Of the preliminary plan approval in the case of a development that received tentative approval by the Planning Board;
- (ii) The development received a CRG approval, reclamation plan approval, or was otherwise vested by law;
- (iii) The valid unexpired building permit was issued;
- (iv) The current public works agreement was executed; and
- (v) Of the acceptance for filing in the case of a CRG plan that was accepted for filing by the Department of Public Works before the date of adoption of Bill 1-92.]

THIS TITLE SHALL APPLY TO THE PROCESS OF REVIEW FOR APPROVAL OF ALL DEVELOPMENT.

[(c)] (B) Present zoning classification. Proposed development shall be in compliance with the present zoning classification on the property to be developed.

§32-4-261. Expiration of Development Plan Approval.

(a) In general. Unless extended under SUBSECTION (B) OR UNDER §32-4-274(a) of this subtitle, Development Plan approval shall expire [5] 4 years after the date [of] A FINAL, NON-APPEALABLE approval was granted.

(b) Request for extension.

(1) An applicant may make a written request to the Hearing Officer for [an] A ONE YEAR extension of the [5] 4 year Development Plan approval period provided under subsection (a) of this section UPON A SHOWING THAT A COUNTY AGENCY FAILED TO PROPERLY PROCESS AN ESSENTIAL REQUEST NECESSARY TO ACHIEVE VESTING IN A TIMELY FASHION, CAUSING A DELAY BEYOND THE INITIAL FOUR YEARS AFTER THE FINAL, NON-APPEALABLE APPROVAL WAS GRANTED.

(2) THE REQUEST FOR EXTENSION SHALL BE FILED PRIOR TO THE

EXPIRATION OF FOUR YEARS FROM THE DATE OF APPROVAL OF THE DEVELOPMENT PLAN.

[(2)] (3) The Hearing Officer SHALL ACT WITHIN 60 DAYS OF THE FILING OF THE REQUEST AND may grant, in writing, the request for an extension [upon certification by the applicant that the Development Plan meets the development regulations in effect at the time of the requested extension].

[3] (4) The Hearing Officer may not act upon the request for an extension until comments from the applicable agencies are received.

(5) ANY APPEAL OF THE EXTENSION GRANTED UNDER SUBSECTION (B) SHALL BE ON THE RECORD. THE STANDARD OF REVIEW SHALL BE BASED UPON AN ABUSE OF DISCRETION.

§32-4-262. Amendments to Development Plans.

(1) Any material amendment to an approved NON-RESIDENTIAL Development Plan shall be reviewed and approved in the same manner as the original plan.

[(2) Any other material amendment shall be in accordance with the comprehensive manual of administrative policy.]

(2) ANY MATERIAL AMENDMENT TO AN APPROVED RESIDENTIAL DEVELOPMENT PLAN OR PLAT SHALL BE REVIEWED IN ACCORDANCE WITH THIS TITLE, AND WITH RESPECT TO THAT PORTION OF THE ORIGINAL PLAN OR PLAT TO WHICH THE AMENDMENT PERTAINS, THE AMENDMENT SHALL BE REVIEWED FOR COMPLIANCE WITH ALL CURRENT LAW AND REGULATIONS, INCLUDING THE DEVELOPMENT REGULATIONS AND THE ZONING REGULATIONS.

§32-4-273. Time Limit for [Validity of Plats and Plans.] VESTING.

(d) Development. A subdivision or section or parcel of the subdivision is considered [developed and] vested if [any of the following has occurred with respect to the subdivision, section, or parcel:

(1) Building permits have been issued; or

(2) Substantial construction on required public improvements or private improvements has occurred on the subdivision, section, or parcel in accordance with the applicable regulations and requirements of the Department of Public Works.]

~~BUILDING PERMITS HAVE A BUILDING PERMIT HAS BEEN ISSUED FOR~~
ANY LOT IN ACCORDANCE WITH AN APPROVED PLAN OR PLAT, AND
INSPECTION BY THE COUNTY CONFIRMS THAT SUBSTANTIAL CONSTRUCTION
HAS OCCURRED ~~ON~~ WITHIN THE SUBDIVISION, INCLUDING ANY LOT, TRACT,
SECTION, OR PARCEL THEREOF, WITHIN FOUR YEARS AFTER THE DATE OF
THE FINAL, NONAPPEALABLE APPROVAL OF THE PLAN OR PLAT OR ANY
EXTENSION THEREOF AUTHORIZED UNDER SECTION 32-4-261(A).

Title 6. Adequate Public Facilities

§32-6-103. Overcrowded School Districts.

(d) Recommendation. [The Office of Planning shall make the recommendation of whether a district is an overcrowded school district and whether the proposed Development Plan, in conjunction with any other proposed or approved development plan, would result in the school district becoming an overcrowded school district at the time of the filing date.]

(1) THE OFFICE OF PLANNING SHALL MAKE THE
RECOMMENDATION OF WHETHER A DISTRICT IS AN OVERCROWDED SCHOOL

DISTRICT AND WHETHER THE PROPOSED DEVELOPMENT PLAN WOULD RESULT IN THE SCHOOL DISTRICT BECOMING AN OVERCROWDED SCHOOL DISTRICT AT THE TIME OF THE FILING DATE.

(2) IN MAKING ITS RECOMMENDATION ON THE PROPOSED DEVELOPMENT PLAN, THE OFFICE OF PLANNING SHALL CONSIDER THE CUMULATIVE EFFECT OF:

(I) THE SCHOOL IMPACT ANALYSIS FILED UNDER SUBSECTION (G) WITH RESPECT TO THE PROPOSED PLAN;

(II) THE IMPACT OF ANY DEVELOPMENT PLAN, OR PORTION OF A DEVELOPMENT PLAN, APPROVED WITHIN FOUR YEARS PRIOR TO THE FILING DATE; AND

(III) THE IMPACT OF ANY DEVELOPMENT PLAN APPROVED PRIOR TO THE FILING DATE, IF AN EXTENSION WAS GRANTED.

SECTION 2. AND BE IT FURTHER ENACTED, that Section 32-4-101(bbb) be and it is hereby added to Article 32, Planning, Zoning, and Subdivision Control of the Baltimore County Code 2003, to read as follows:

§32-4-101. Definitions.

(BBB) SUBSTANTIAL CONSTRUCTION MEANS ACTUAL CONSTRUCTION ACTIVITY OCCURRING ON THE GROUND OR BUILDING SITE FOR WHICH A ~~PERMIT IS SOUGHT~~ DEVELOPMENT PLAN OR PLAT HAS BEEN APPROVED THAT IS DIRECTLY RELATED TO THE ~~FACILITY OR STRUCTURE FOR WHICH THE~~ PERMIT IS SOUGHT APPROVED PLAN OR PLAT AND IS SUFFICIENTLY SUBSTANTIVE AND VISIBLE AND IS BEING PURSUED TO COMPLETION WITH REASONABLE DILIGENCE SO AS TO PUT THE PUBLIC ON NOTICE THAT THE GROUND OR SITE IS BEING DEVOTED TO THE CONSTRUCTION OF A FACILITY

OR STRUCTURE.

SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall apply to any development, subdivision, parcel of land, or plat which received any form of approval from Baltimore County prior to the effective date of this Act as follows: ~~including approval from the Planning Commission or Baltimore County Planning Board or CRC or DRC, prior to the effective date of this Act.~~

(A) A development plan or plat that vested in accordance with the law in effect prior to the effective date of this Act is subject to the zoning regulations and development regulations in effect at the time the plan or plat was approved, if those regulations were not otherwise subsequently abrogated or superseded by other law; however, with respect to a material amendment to the plan or plat, the provisions of Section 32-4-262 shall apply.

(B) An unexpired development plan or plat that was approved prior to the effective date of this Act, but not yet vested, shall have four years from the effective date of this Act to achieve substantial construction, as defined in this Act. The plan or plat shall be in compliance with the zoning regulations and development regulations in effect at the time of the original approval, or any extension properly granted under Section 32-4-261(b), if those regulations were not otherwise subsequently abrogated or superseded by other law. Upon the failure to achieve substantial construction or to obtain an extension within the four-year period, the plan or plat shall be deemed to be expired.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the rights to the vesting of a development that would otherwise accrue from the zoning or development regulations or other County laws.

~~SECTION 5. AND BE IT FURTHER ENACTED, that a development plan that was approved prior to the effective date of this Act, but not yet vested, shall have three years from the effective date of this Act to achieve substantial construction as defined herein. The plan shall be in compliance with the zoning classification in effect on the property at the time of the original approval, or any extension properly granted, as the case may be. Upon the failure to achieve substantial construction or obtain an extension within the three year period, the plan shall be deemed to be expired.~~

SECTION 5. AND BE IT FURTHER ENACTED, that this Act does not apply to any development plan for which a Hearing Officer's hearing was commenced prior to March 17, 2006 or to any request accepted for filing prior to March 17, 2006 for a material amendment to a previously approved plan.

SECTION 6. AND BE IT FURTHER ENACTED, that this Act, having been approved by the affirmative vote of five members of the County Council, shall take effect on March 17, 2006.

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(3) Solely because the resident is a member or organizer of any tenant's organization.

The circuit court held that the statute required that the owners' motive must be "solely" retaliatory and the evidence was undisputed that appellees intended to change the use of the property. Thus, the motives could not be "solely" retaliatory. On appeal, appellants do not challenge that holding.

Instead, appellants argue that the court failed to consider the County ordinance, which contained different language. Section 16.516(c) provides that no mobile home park owner shall evict a tenant

(1) Because the resident or other occupant has filed a written complaint, or complaints, against the mobile home park owner or operator with any public agency or agencies;

(2) Because the resident or other occupant has filed a lawsuit, or lawsuits, against the mobile home park owner or operator; or

(3) Because the resident or other occupant is a member of any tenants'; or residents' organization.

Appellants argue that the County law does not require that the motive be solely retaliatory and whether it was in part retaliatory is a question of fact, thus defeating summary judgment.

We expressly do not decide whether and, if so, under what circumstances, the retaliatory eviction provisions may apply to a tenant holding over proceeding. We only address the situation before us in the context of appellants' limited contention.

[5, 6] With respect to any differences between the Act and local law, a local law cannot "diminish or limit any right or remedy granted" under the Act. § 8A-1801. This applies to owners as well as tenants. Section 8A-202(c)(3) recognizes that a mobile home park owner has the right to cease operating as a mobile home park, upon giving the requisite notice. At the end of the notice term, the owner had the right to initiate tenant holding over proceedings, as discussed above. The

retaliatory eviction provisions do not apply under these circumstances.

JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANTS.

920 A.2d 518

Lawrence SWOBODA, et al.

v.

Charles WILDER, et ux.

No. 0070, Sept. Term, 2006.

Court of Special Appeals of Maryland.

April 4, 2007.

Background: Neighbors and community association petitioned for judicial review of decision of county board of appeals approving a building permit for proposed addition to end unit of a townhouse group. The Circuit Court, Baltimore County, Jakubowski, J., affirmed. Neighbors and community association appealed.

Holdings: The Court of Special Appeals, Adkins, J., held that:

- (1) determination of end unit's yard orientation required consideration of all physical characteristics of the property;
- (2) substantial evidence supported board's determination that end unit fronted on the intersecting street, rather than the end unit's address street which the townhouse group's interior homes fronted on;
- (3) board was not required to give dispositive weight to the opinions expressed by the opponents' zoning and real estate experts; and
- (4) opinion of unit owners' architectural expert was supported by ample factual evidence.

Affirmed.

1. Administrative Law and Procedure ⇨751, 760

The scope of the Court of Special Appeals' review of administrative agency action is narrow and the Court is not to substitute its judgment for the expertise of those persons who constitute the administrative agency.

2. Administrative Law and Procedure ⇨791, 796

When reviewing administrative agency action, the Court of Special Appeals is tasked with determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.

3. Zoning and Planning ⇨745.1

In reviewing the decision of an administrative zoning agency, the Court of Special Appeals reevaluates the decision of the agency, not the decision of the lower court.

4. Zoning and Planning ⇨745.1

Court of Special Appeals may uphold the decision of a zoning board only on the basis of the board's reasons and findings.

5. Zoning and Planning ⇨605

In reviewing the rationale given by zoning agency for its decision, the expertise of the agency in its own field should be respected; consequently, on some legal issues, a degree of deference should often be accorded the position of the agency.

6. Statutes ⇨219(1)

An administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts.

7. Administrative Law and Procedure ⇨789

With regard to questions of fact, the Court of Special Appeals will only disturb the decision of an administrative agency if a reasoning mind reasonably could not have reached the factual conclusion the agency reached; thus, the Court

should defer to the agency's fact-finding and drawing of inferences if they are supported by the record.

8. Zoning and Planning ⇨256

Whether townhouse end unit situated at corner of intersecting streets fronted the same street as the interior homes of the townhouse group or the intersecting street could not be determined as a matter of law based merely on the applicable zoning regulations, the end unit's street address, the townhouse group's foundation walls, and the placement of garage in end unit's yard; rather, determining the front, side, and rear orientation of the end unit required consideration of all physical characteristics of the property, including exterior appearance, interior layout, length of each face, and consistent use of main entrance.

9. Zoning and Planning ⇨256

An end unit of townhouse group located at the corner of two intersecting streets does not necessarily front its address street; although end unit's street address and the fact that all units in townhouse group were given consecutive addresses on the same street might be considered substantial evidence to support a finding that the end unit fronts on the address street, this finding is not required in all cases.

10. Zoning and Planning ⇨255

Substantial evidence supported determination of county board of appeals that townhouse end unit situated at corner of intersecting streets fronted on the intersecting street, rather than the end unit's address street which the townhouse group's interior homes fronted on, for purposes of determining whether proposed addition to the end unit would comply with zoning requirements for front, side and rear yards; both the aesthetics of the end unit, including its floorplan, roofline, width, and windows, as well as the location of the unit's main entrance indicated that the unit fronted on the intersecting street, and end unit did not share foundation walls that were common to the interior units.

11. Zoning and Planning ¶252

When determining the front, side, and rear orientation of townhouse end unit situated at the corner of intersecting streets, for purposes of deciding whether proposed addition to the end unit complied with county setback requirements, county board of appeals was not required to give dispositive weight to the opinions expressed by opponents' zoning and real estate experts, when compared to the lay testimony presented by owners of the end unit.

12. Zoning and Planning ¶231

Courts appropriately defer to a local zoning agency's expertise in interpreting the zoning regulations it administers.

13. Zoning and Planning ¶252

Architectural expert's opinion that, from an architectural perspective, a townhouse end unit situated at corner of intersecting streets fronted on the intersecting street, rather than the end unit's address street which the townhouse group's interior homes fronted on, was supported by ample factual evidence, such that county board of appeals could consider such opinion when determining the end unit's front, side, and rear orientation for purposes of deciding whether proposed addition to the end unit complied with setback requirements; location of end unit's main entrance, as well as its exterior appearance and interior floor plan, supported expert's opinion.

14. Zoning and Planning ¶572

In proceedings to review decision of county board of appeals approving a building permit for proposed addition to end unit of a townhouse group, opponents to the proposed addition waived their objection to board's consideration of architectural expert's opinion, where opponents did not object to the expert's testimony.

15. Zoning and Planning ¶256

Determination by county board of appeals that townhouse end unit situated at corner of intersecting streets fronted on the intersecting street, rather than the end unit's address street which the townhouse group's interior homes fronted on,

was not inconsistent with board's prior decision finding that the end unit of another townhouse group fronted on its address street, and thus board's decision was not arbitrary and capricious; although both decisions involved corner lots, there were material factual differences between the two cases.

J. Carroll Holzer, Towson, for appellant.

Justin J. King, Towson, for appellee.

Panel ADKINS, WOODWARD and CHARLES E.
MOYLAN, JR. (Retired, Specially Assigned) JJ.

ADKINS, J.

In this appeal from the approval of a Rodgers Forge building permit, we shall hold that determining the front, side, and rear orientation of a townhouse end unit situated at the corner of intersecting streets requires consideration of all physical characteristics of the property, not merely street address and foundation walls, and that in an appropriate case an end unit may front on a different street than the interior units in the same townhouse group.

The residence at the center of this litigation is an end of group townhouse at the corner of Pinehurst and Murdock Roads. The hotly debated question in Rodgers Forge is: which of these intersecting streets does this property front? The answer mattered to appellees Charles and Brigid Wilder,¹ because it determined where the front, side, and rear yards are located on their property, and consequently, whether the renovation plans approved by the Baltimore County Board of Appeals (the Board) comply with county setback requirements.

The interior townhomes that lie between the Wilder home and the corresponding end unit of this housing group unquestionably face Murdock Road. Like these neighbors, the Wilder

1. After briefing, the Wilders advised that they sold the property. They elected not to participate in oral argument.

home has a Murdock Road mailing address. Unlike the interior homes and the other end unit in this townhouse group, however, both the front door and the floor plan of Wilder property are oriented toward Pinehurst Road. Citing that orientation, the Department of Permits and Management, the Zoning Commissioner, and the Board concluded that the property fronts on Pinehurst Road for setback purposes. The Circuit Court for Baltimore County affirmed the Board.

Appellants are the Wilders' neighbors and the Rodgers Forge Community Association (the Protestants).² They challenge the Board's decision, decrying its precedential effect on their individual properties and their community as a whole. They raise three questions for our review, which we restate as follows:

- I. Did the Board err in failing to rule as a matter of law that Murdock Road is the front of the subject site?
- II. Did the Board err in considering the testimony of the Wilders and their architectural expert Warren G. Nagey of Chesapeake Design Group?
- III. Is the Board's decision arbitrary and capricious in light of its "inconsistent" prior decision in *Dorothy K. and Cheryl A. Milligan*, No. 02-519-A?

We find neither error nor inconsistency, and affirm the judgment.

FACTS AND LEGAL PROCEEDINGS

Baltimore County Zoning Laws

The setback requirements for the Wilder property are 10 feet for side yards and 50 feet for rear yards. *See* Baltimore

2. Appellants are the Rodgers Forge Community Association and individual residents of Rodgers Forge: Lawrence Swoboda, Joseph Segreti, John and Norma O'Hara, Ron and Carol Zielke, Renee Rees, Sarah Kahl, Doug Campbell, Jennifer Clouse, Brent and Ann Matthews, Claire McGinnis, Jean Duvall, Bruce Hirshauer, Jeff Wible, Jennifer Sheggrud, Bernice Hirshauer, Barbara Leons, Robert Williams, and Roxanne and John Rinehart.

County Zoning Regulations (BCZR) Art. 1B01.C. The County defines front, rear, and side yards as follows:

YARD, FRONT—A yard extending across the full width of the lot, between the front lot line and the front foundation wall of the main building.

YARD, REAR—A yard extending across the full width of the lot, between the rear lot line and the rear foundation of the main building.

YARD, SIDE—A yard extending from the front yard to the rear yard, between the side lot line and the side foundation wall of the main building.

BCZR § 101 (emphasis added).

Section 400 of the BCZR governs accessory buildings in residential zones, providing in pertinent part:

400.1 Accessory buildings in residence zones ... shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. . . .

400.2.b For the purposes of determining required setbacks, ... alleys shall be considered the same as existing (improved) streets. The same shall apply to corner lots regarding the placement of accessory buildings

400.3 The height of accessory buildings ... shall not exceed 15 feet. (Emphasis added.)

The Neighborhood And Property

Rodgers Forge is a Baltimore County community of approximately 1,800 brick residences that were developed beginning in the late 1930's by the James Keelty Company as a planned row house development. The neighborhood consists of six parallel streets running east-west and four intersecting streets running north-south; it lies between Bellona Avenue and York Road.

The Wilder lot is a trapezoid shaped 0.8 acre corner lot, zoned D.R. 10.5, with its longest street frontage being 113'4" along Pinehurst Road and its shortest frontage being 31'6" along Murdock Road. The property gradually widens from Murdock Road, to a width of 58'3" along a 15' alley that parallels Murdock Road and intersects Pinehurst Road. Although approximately 600 homes in "the Forge" are end of group units, many of these differ from the Wilder residence in that they (a) are not located on a corner lot, (b) have their main entrances leading from the same street as all the interior homes in their housing group, (c) have only one exterior door that faces the "address" street, and/or (d) share the same roofline, footprint, and common foundation walls as the interior units in the same group.

Photographs show that the roofline of the Wilder residence is trussed perpendicularly to the common roof line of the interior units in the same housing group, so that the Wilder roof faces west toward Pinehurst Road rather than north toward Murdock Road. In addition, the Wilder residence has a different and larger footprint than the adjacent interior residences in the housing group. Specifically, the Wilder residence is wider and deeper than adjacent interior units, so that the east wall separating appellant Goldman's residence from the Wilder residence is only partially shared. Moreover, as a result of this larger footprint, the common foundation wall facing north toward Murdock Road, in which all interior units of this housing group have their front entrances, "dead ends" into the east wall of the Wilder residence, forming a 90 degree corner where Goldman's residence intersects with the Wilder residence. Similarly, the rear foundation wall common to the interior units ends at another 90 degree corner into the alley side of the Wilders' east wall.

The floor plan of the Wilders' home is oriented so that a centrally located entry door and hallway faces west toward Pinehurst Road. Off this foyer are a living room, dining room, and staircase. Leading out from this door to the sidewalk along Pinehurst Road, there is an approximately 6' by 4' stone stoop and matching path. To the right and left of the door are

symmetrical bay windows that extrude from the 39 foot wide fascia facing Pinehurst. On the second floor, centered above the door and bay windows, are three smaller windows flanked by shutters. On the third floor are three dormer windows.

The north side of the Wilder home facing Murdock Road measures only 22.5 feet in width. It has a door located to the right of a brick chimney, a shuttered window to the left of the chimney, and a raised 16' by 8' stone porch. The door from the patio leads directly into the living room. There are no steps or path leading from the porch to the sidewalk on Murdock Road. On the second floor are two shuttered windows on either side of the chimney. On the third floor, where the pitch of the roof reduces the width of this side, two smaller and unshuttered windows flank the chimney.

The south side of the property has a door leading from the kitchen to a yard. A detached 20' by 20' brick garage lies between this side of the house and the alley paralleling Murdock Road. A gated wooden privacy fence extends from the corner of this face to the sidewalk on Pinehurst Road, then continues along that sidewalk to a gated masonry wall that separates the Wilder yard from the alley. Another wooden privacy fence separates the Wilder yard from the adjacent yard of appellant Jill Goldman.

The east side of the Wilder residence separates it from the Goldman residence. As noted above, however, the Wilder's east wall extends beyond the footprint of the Goldman residence.

Representing that the front yard of their home faces Pinehurst Road, the Wilders obtained a building permit to add a 13' by 13' one story extension to their kitchen, as well as an 8.5' by 13' covered porch connected to the kitchen addition, for a total expansion of 21.5' by 13'. If the front of the Wilder home does face toward Pinehurst Road, then the kitchen addition would be in the "alley" side yard, between the house and the garage, and therefore in compliance with the 10 foot side yard setback required under Baltimore County zoning law. If the front of the Wilder home faces Murdock Road,

however, then the proposed addition would be in the rear yard, so that a variance reducing the 50 foot setback to 29 feet would be necessary.

Neighborhood Objections

An anonymous complaint to zoning authorities asserted that the Wilder home fronts on Murdock rather than Pinehurst Road. The County inspected the property, then issued a stop work order on the ground that the Wilders' permit had been obtained through "false or misleading information" regarding the orientation of the property. The Wilders successfully challenged the stop work order, obtaining the Zoning Commissioner's ruling that their property faces Pinehurst Road.

The Protestants object that the construction of the proposed addition in the yard between the Wilder home and the alley would break up the continuity of the open yards in the rear of interior units comprising the Wilders' townhome group. When the stop work order was rescinded, the Protestants appealed to the Board.

Asserting "a public interest in the proper definition or analysis of the situation of front, side, and rear yards in a townhouse (row) setting," People's Counsel for Baltimore County also filed a hearing memorandum with the Board, but did not participate in the ensuing evidentiary hearing. Counsel urged the Board to conclude that the relevant Baltimore County zoning laws were "either ambiguous or flexible," so that "the totality of the circumstances may be taken into consideration." Using that approach, the "preliminary view" expressed by People's Counsel, premised upon an incomplete factual record, was that "the front yard should be determined to be consistent with the Murdock Road frontage of the other houses in the row."

The Wilders' Case

At the evidentiary hearing before the Board, Mr. Wilder testified that when he first looked at the house, he was shown a brochure with a photograph featuring the Pinehurst Road side and describing the house as an "Attached Brick Center

Hall Colonial Facing Pinehurst Road." The brochure, along with exterior and interior photographs of the property, were introduced into evidence.

Wilder explained that on the Pinehurst Road side of the house are the main entrance door, doorbell, mailbox, porch light, lamppost, and a stone walkway leading from the sidewalk to the door. This door is centrally placed between two large bay windows. On the face of the house next to the door are house numbers and a welcome sign. The Wilder family and their visitors use the Pinehurst Road door exclusively for entry, mail, and deliveries.

Just inside the Pinehurst road door, the dining room is to the right of the central hallway and staircase, while the living room is to the left. Although there is a door leading from the living room out onto the stone porch facing Murdock Road, Wilder did not have a key to that door. Wilder was not aware of there ever having been a walkway from the sidewalk to the Murdock Road door or porch.

The galley style kitchen in the house has a door leading outside to a separate garage and a 15 foot wide alley. The kitchen did not provide satisfactory room for the Wilder family, which includes three school-age daughters. After visiting other homes in the neighborhood, Wilder preferred to add a breakfast room like others he saw. Wilder presented photographs of other end of group homes, depicting 13 of such homes with porches or additions in the analogous location proposed for the Wilder home. But Wilder did not know if variances were necessary or obtained for those additions.

Mrs. Wilder testified that visitors always come to the main door facing Pinehurst, where they ring the doorbell. No one has ever come to the Murdock Road door. Packages, mail, and the Rodgers Forge Community Association newsletter and correspondence are hand-delivered to that entrance as well.

The Wilders' contractor, Mr. Cooper, recounted that he reviewed a plat of the property with several people in the Zoning office, including Carl Richards, in order to discuss

what could be done. Cooper proceeded on the understanding that the addition could be built on the alley side of the house because the home faced Pinehurst Road. A building permit was issued on that basis. Construction proceeded until the stop work order was issued.

The Wilders also called Warren G. Nagey, of Chesapeake Design Group, who offered his expert opinion as an architect that the house fronts on Pinehurst. In his view, the house has two side yards and a front yard, with no back yard. He further opined that there was no other place to put an addition on the house, and that the proposed addition would not block the adjoining neighbor's residence. On cross-examination, Nagey acknowledged that the corner position of the lot means that if the Wilders wished to use the yard between their home and Murdock Road for a swing set or gazebo, that would interfere with the neighbor at 203 Murdock, whose front yard would be adjacent to such structures.

Carolyn Winston, a real property assessor with the Maryland State Department of Assessments and Taxation, reported that when she visited the Wilder house to perform a tax reassessment, she went to the main door on the Pinehurst side. Two Rodgers Forge homeowners, one of whom is a licensed real estate broker, testified that they live in similar homes. Each considered the Wilder home to front on Pinehurst Road. Neither these homeowners, nor another neighbor who lived on Murdock Road, objected to the proposed addition or felt that it would detract from neighborhood integrity or property values.

The Protestants' Case

Joseph A. Segreti testified on behalf of the Board of Directors of the Rodgers Forge Community Association, which opposes the proposed addition. He asserted that property values in the neighborhood reflect the community's strict adherence to the Keelty Company's original concept. In his view, the Wilder addition would harm the architectural integrity of the neighborhood and reduce property values, by mixing incompatible design and materials and reducing the airflow

and sunlight through the back yards of other homes in the same housing group.

The Wilders' next door neighbor, Jill Goldman, recounted the concerns that led her to oppose the addition. Although she initially stated in writing that she agreed to the proposal, she did so in an effort to avoid conflict with the Wilders. When she discovered that the Wilders had rerouted electrical wires and attached them to the back of her house without her knowledge or consent, she changed her mind about opposing the addition. She expressed concern that the addition would block air and light into her home and decrease the value of her property.

Rodgers Forge resident Carol Zielke, a neighbor of the Wilders, testified that other end of group homes have the same floor plan as the Wilder home. She counted the number of group homes in the neighborhood and estimated that approximately one-third of all Rodgers Forge homes could be affected by a ruling that the Wilder home faces Pinehurst Road. She did not consider the size of the existing kitchen to be a hardship, pointing out that all homes in the community have had this same size kitchen for years.

Supervisor of Zoning Review Carl Richards reviews "all development proposals, permits and all information, referrals, to the zoning office." After receiving an anonymous phone call "from the community" complaining about the Wilder addition, he visited the site on his lunch hour.

Richards identified many factors that are considered in deciding where the front of a dwelling is locating. Among these are address, neighborhood design, placement of the front door, and arrangement of kitchen and bedrooms. The process by which Richards' office determines orientation includes "pretend[ing]" that "the building is in the center of a hundred acres." After walking "around the house," several questions arise:

What looks like the front? Where are your accessory buildings? What really physically is the physical construction of the building? What does it look like in the front?

That's without regard to what side it faces, whether it's front or rear. So its actual physical conditions are depended on more than anything else. The intent of the owner is not as important as physical conditions.

Richards then explained why he agrees with the Protestants that the Wilder home fronts on Murdock Road. He observed that it is not uncommon to have no entrance to the front of a home in Baltimore County. Disagreeing with the Zoning Commissioner, and noting that Baltimore County zoning regulations require garages to be in the rear yard, Richards regards the detached garage as an "elephant in the living room," requiring the conclusion that the yard where the addition is proposed is the back yard of the Wilder property.

Herbert A. Davis, a realtor, appraiser, and former member of the Board of Appeals, reported his expert opinion that the Wilder home faces Murdock Road. He cited its "appearance," "address at 201 Murdock Road," and "the garage ... in the rear[.]" but acknowledged that "by definition, a center hall colonial house ... has the hall in the center," where the front door opens. He feels that the proposed addition would negatively affect the use of adjacent properties owned by Mrs. Goldman and others in the townhouse group. Moreover, by setting precedent for other similarly situated homes in Rodgers Forge, approval of the addition could have a significant negative effect on the value of other homes in the group and the greater community.

James Keelty, grandson of the original developer of Rodgers Forge and current representative of the Keelty Company, also opposed the Wilder addition. He recalled watching as a boy when common foundations were poured "more or less in a monolithic foundation." Houses, garages, and alleys were built at the same time. At the time of the hearing, moreover, the Keelty Company was in the process of building townhouse groups with "the garage ... in the front of the house" on property immediately to the north of Rodgers Forge, in a development called Rodgers Choice. Keelty testified that the County had determined that an end of group home located at

One Anvil Court in that new community, which he believes is similar to the Wilder home, faced Anvil Court.

The Protestants' final witness was Jack Dillon, who testified as an expert in land use and planning. He formerly worked for Baltimore County in that capacity. Dillon opined that the Wilder home fronts on Murdock Road. In support, he explained that townhouse groups were built to a specified design that is consistent throughout the Rodgers Forge community. Each group has continuous and common foundation walls that lie at a specific setback, with the front foundation wall running parallel to the street of its address and the rear foundation wall running parallel to the alley. Interior walls separate each unit.

Dillon construed the BCZR section 101 definition of "front yard" as "a yard extending across the full width of a lot between the front lot line and the front foundation wall of the main building" to mean that the Wilder home fronts on Murdock Road. He views this construction as consistent with the BCZR section 400.2 and 400.3 requirements governing accessory buildings such as garages, which are not permitted in side yards. Using a community map, Dillon illustrated the potential harm that a contrary ruling might have on the Rodgers Forge community, given the typicality of the Wilder home.

The Protestants also presented two memoranda from the Office of Planning to Timothy M. Kotroco, Director of the Department of Permits and Development Management, regarding the proposed addition. These reflect that County planners initially approved the Wilder addition, then opposed it, then re-approved it with conditions.³ The later memo,

3. The memorandum dated December 2, 2004, authored by Pat Keller, Director of the Office of Planning, states:

After conducting a more detailed review of the subject proposal, the Office of Planning recommends that the [Wilders'] request be denied. This office is of the opinion that the ends of group units, such as the subject property, are unique. Their orientation is such that adding the proposed addition would not be appropriate or in keeping with

dated February 8, 2005, titled "2nd REVISED COMMENTS," authored by Mark A. Cunningham, and signed by Section Chief Lyn Lanham, states:

After further review of the [Wilders'] request, and another site visit of the subject property, the Office of Planning retracts the revised comments issued by this office dated December 2, 2004.

This office does not oppose the [Wilders'] request providing the following conditions are met:

1. Exterior building materials of the proposed addition shall be similar to the existing dwelling.
2. The proposed addition shall not go beyond 1 story.
3. Submit building elevations to this office for review and approval prior to the issuance of any building permits.

The Board's Decision

The Board affirmed the Zoning Commissioner's conclusion that the Wilder residence fronts on Pinehurst Road. Acknowledging "the laudable efforts of the Rodgers Forge Community Association to maintain the architectural integrity of the neighborhood[.]" the Board pointed out that "a number of homes in Rodgers Forge, similar to that of the Wilders in the instant case, have constructed porches or additions from the side of the building where the garage is located or on the opposite side from where the garage is located." The Board agreed with People's Counsel that the orientation of the home is not defined as a matter of law:

The Board is not inclined to rule that, as a matter of law, either Pinehurst Road or Murdock Road is the front of the property in question. The Board considers that the law is either ambiguous or flexible in this area as noted by People's Counsel in his Brief, and feels that the totality of the circumstances may be taken into consideration in this case.

neighborhood character, and would set a negative precedent in this older, well-established community.

The Board then considered the BCZR definition of "front yard" and the dictionary definition of "width" as "a distance from side to side; a measure taken at right angles to length; largeness or greatness in extent and girth at the widest part." It also "accept[ed] the testimony of architect Warren Nagey and the other residents" of similar end of group townhouses that certain of these corner residences in Rodgers Forge are constructed so that they face a different direction than the other units in their housing group. Collectively, the evidence and law persuaded the Board

that the Wilders' home is fronting on Pinehurst [Road]. The widest part of the building, 39 feet, fronts on Pinehurst Road. The 22.5-foot ends facing the alley and Murdock Road do not constitute the widest part of the building. . . . [T]he main entrance to the home is through the door facing Pinehurst Road. The home is a center-hall Colonial with a center hall beginning as one enters the door facing Pinehurst Road. The Pinehurst side of the house is the most attractive with two bay windows on either side of the door. There are no structures on the front of the house facing Pinehurst to detract from it. There is a stone walkway from the sidewalk on Pinehurst to the front door and a decorative lamppost on the corner of the walk between the front walk and the Pinehurst walkway. The welcome mat is located at the door as well as the mailbox and doorbell.

There is one door on the Murdock side of the home which goes to a stone patio. There is no walkway from the patio to the Murdock Road sidewalk, and testimony from a neighbor who has lived across the street for 43 years indicated that there never was a sidewalk from Murdock Road to the Murdock side of the Wilders' home.

As stated by Mr. Carl Richards in his testimony on behalf of the Protestants, if the Wilder home was placed in the middle of a 100-acre field, there would be no question that the front of the home was the side of the house facing Pinehurst Road.

The Board enumerated and rejected each of the Protestants' arguments. As for the location of the garage and fences, the Board explained:

The home was constructed in the late 1930s, long before any zoning ordinances were passed with respect to the construction of garages in the rear of homes. If anything, the garage may be a nonconforming use as it is presently located. The same can be said for the 6-foot fences which separate the Wilders' home from their neighbor at 203 Murdock Road and also runs along the side of the property next to the alley off of Pinehurst.

The Board distinguished the Keelty Company's new construction in Rodgers Choice:

The main and only entrance to the home [at One Anvil Court] faced Bellona Avenue. The side of the house, determined by the County to be the front, had a built-in garage and one window—no door. However, the plan of the house showed the main entrance on Bellona Avenue and a small porch with steps going down the side of the porch toward Anvil Court. It was not clear if a path from the garage and driveway to the porch was to be constructed, but no stairs were shown to lead from the porch to Bellona Avenue. Therefore, even if the main entrance was on the Bellona Avenue side of the house, visitors and residents would normally come to the Anvil Court side of the house and go around to the Bellona Avenue entrance. The Board can understand why the County determined that the Anvil Court side of the house would be the front. This does not change the position of the Board in the instant case.

With respect to the effect of the Wilder addition on other properties in Rodgers Forge, the Board concluded "that allowing the construction . . . would [not] affect the integrity of the other properties in Rodgers Forge." The "conditions set forth by the Planning Office in its February 8, 2005 memo" would be sufficient to preserve and protect other properties. Moreover, "it would be far more detrimental to find that the Pinehurst Side of the Wilder home was a side yard," because

that "would allow for an addition to be constructed within 10 feet of the property line on Pinehurst Road and would certainly have an adverse effect on the architectural integrity of the home as well as other homes in the neighborhood."

Finally, the Board concluded without discussion that it "considers that its position is consistent with its position in . . . *Dorothy K. and Cheryl A. Milligan*, Case No. 02-519-A, as well as the decision of the Court of Appeals in *City of Baltimore v. Swinski*, 235 Md. 262, 263, 201 A.2d 368 (1964)."

Judicial Review

The Protestants petitioned for judicial review by the Circuit Court for Baltimore County. The court affirmed the Board, agreeing that the orientation of the home was not purely a matter of law and finding substantial evidence to support the Board's determination that the Wilder home fronts on Pinehurst Road. Addressing the identical questions that appellants have renewed in this appeal, the circuit court held:

- The Board did not err in failing to rule as a matter of law that the Wilder property fronts on Murdock Road. The court agreed that County zoning regulations are not sufficiently definite to mandate that conclusion.
- The Board did not err in relying on the testimony of the Wilders, which was "rooted in personal knowledge and experience," and their architect, whose expertise was "accepted . . . without objection by the Association." Nor were "the material facts" supporting the conclusion that Murdock Road is the front "uncontradicted in the record," as the Protestants posit. The court cited the testimony of zoning expert Jack Dillon and zoning office employee Carl Richards. . . . Dillon stated that the placement of an alley does not, in and of itself, determine that the alley side of a lot is in the "rear." Rather, the alley's placement "must be taken in context with other things." Dillon also testified that the placement of a garage on a property "certainly is one of the things that [the zoning office] looks at."

Carl Richards presented a series of factors that the zoning office uses to resolve which face of a building is the front. That list of factors included the location of any accessory buildings, the location of the front door, the location of the interior rooms and their orientation within the home, which side "looks to the front" if situated "in the center of a hundred acres," and the "physical construction of the building."

- The Board's decision can be reconciled with its decision in *Dorothy K. and Cheryl Milligan*, and is therefore not arbitrary and capricious. The facts surrounding the Board's determination that the Milligans' corner residence in Stoneleigh fronts on Oxford Road are similar, in that the Board considered Oxford Road to be the front due to the location of the sidewalk and main entrance to the living quarters, as well as the street address.

DISCUSSION

The Protestants complain that the Board "ignored the BCZR and ignored the uncontested and undisputed facts before them in arriving at [its] decision." We address each of their assignments of error in turn.

Standard Of Review

[1, 2] The scope of our review of administrative agency action is narrow and we are "not to substitute [our] judgment for the expertise of those persons who constitute the administrative agency." Accordingly, this Court is tasked with "determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law."

Days Cove Reclamation Co. v. Queen Anne's County, 146 Md.App. 469, 484-85, 807 A.2d 156, cert. denied, 372 Md. 431, 813 A.2d 258 (2002) (citations omitted).

[3-7] "In reviewing the decision of an administrative [zoning] agency, 'we reevaluate the decision of the agency,

not the decision of the lower court.'" *Id.* at 484-85, 807 A.2d 156 (citation omitted). We may "uphold the decision of the Board only 'on the basis of the agency's reasons and findings.'" *Umerley v. People's Counsel for Baltimore County*, 108 Md.App. 497, 504, 672 A.2d 173, cert. denied, 342 Md. 584, 678 A.2d 1049 (1996) (citation omitted). In reviewing that rationale, "the expertise of the agency in its own field should be respected." *Marzullo v. Kahl*, 366 Md. 158, 172, 783 A.2d 169 (2001). Consequently, on "some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts." *Id.* at 173, 783 A.2d 169. The Board's "presumed expertise in interpreting the BCZR, developed over the ... years, is what gives weight to appropriate deference in our analysis of its legal reasoning[.]" *Id.* at 173 n. 11, 783 A.2d 169.

With regard to questions of fact, we will only disturb the decision of an administrative agency if "a reasoning mind reasonably could [not] have reached the factual conclusion the agency reached." Thus, "[a] reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record."

Days Cove Reclamation, 146 Md.App. at 485, 807 A.2d 156.

I.

Orientation

A.

Failure To Determine "Front Yard" As A Matter Of Law

[8] Renewing their threshold legal challenge to the Board's decision, the Protestants argue that "[t]he Board erred in failing to rule as a matter of law that Murdock Road was the front of the subject site, as required by [BCZR] § 101 defining 'front yard' and § 400.1, § 400.2 and § 400.3 defining accessory uses." In support, they cite the "undisputed" testimony of Keelty, Dillon, and Richards that the front foundation

wall for this group of townhouses is parallel to Murdock Road, as well as the County's requirement that the garage be located in the rear yard. In their view, the regulations defining front yard and requiring garages to be in the rear yard mandate a finding that the Wilder home fronts on Murdock Road.

The Wilders respond that the Board correctly concluded that yard orientation cannot be determined as a matter of law based solely on these BCZR regulations. They argue that the Board properly considered all of the evidence concerning the physical construction of the house, rather than limiting its analysis solely to the foundation and garage. We agree.

In *City of Baltimore v. Swinski*, 235 Md. 262, 265, 201 A.2d 368 (1964), the Court of Appeals addressed a comparable orientation dispute in the course of holding that the proposed apartment buildings would violate a Baltimore City zoning ordinance "requir[ing] the main entrance of a building to face the street side of a lot[.]" The *Swinski* Court interpreted analogous Baltimore City regulations⁴ and followed other courts in holding that the determination of which side of a building is the "front" requires examination of the particular physical characteristics of the property in question, including the orientation of any main entrance that is both architectural-ly and functionally prominent:

[W]e think it is clear that the physical construction of a building establishes the frontage for purposes of determining whether there has been compliance with the

4. The City ordinances at issue in *Swinski*

define[d] a *front yard* as the space "between the front line of the building and the front line of the lot." Ord. § 48(m); a *rear yard* as the space "between the rear line of the building and the rear line of the lot." Ord. § 48(n); and a *side yard* as the space "between the building and the side lot line." Ord. § 48(o). The *front* or *frontage* of a lot is defined as "that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot." Ord. § 48(t). *Swinski*, 235 Md. at 264, 201 A.2d 368 (1964). Cf. *Town of Berwyn Heights v. Rogers*, 228 Md. 271, 276, 179 A.2d 712 (1962)(reviewing Prince George's County zoning ordinance with detailed provisions for building on corner lots).

zoning ordinance. In *Rhinehart v. Leitch*, 107 Conn. 400, 140 A. 763 (1928), it was said (at p. 763 of 140 A.) that:

The word "front" as applied to a city lot has little, if any, inherent application, but it takes on a borrowed significance from the building which is or may be constructed thereon. *Connecticut Mutual Life Ins. Co. v. Ingarson*, 75 Minn. 429, 432, 78 N.W. 10; *Adams v. Howell*, 58 Misc. 435, 108 N.Y.S. 945, 947. As applied to a building "front" in general usage refers to that side of it in which is located the main entrance. *Howland v. Andrus*, 81 N.J.Eq. 175, 180, 86 A. 391; *Oxford and Standard Dictionaries*, "front." When used of a lot with a house upon it, it means that portion of the lot abutting upon the street toward which the house faces.

See also ... *Howard Homes, Inc. v. Guttman*, 190 Cal. App.2d 526, at p. 531, 12 Cal.Rptr. 244, at p. 247 (1961), where it was said that the "front" or "face" of a house means that portion which contains the main entrance and which is the most attractive aesthetically.

Id. at 264-65, 201 A.2d 368. Cf. *Bianco v. City Eng'r & Bldg. Inspector of City of North Adams*, 284 Mass. 20, 187 N.E. 101, 103 (1933)(determination of "rear lot line" was "largely a matter of fact" requiring "the exercise of sound judgment as applied to the particular neighborhood," although "partaking in some aspects of questions of law"); *Davis v. City of Abilene*, 250 S.W.2d 685, 687-88 (Tex.Civ.App.1952)(rejecting argument that building faced an alley, as an attempt to avoid 25 foot front yard setback requirement by "an unnatural construction of the side yard provision").

[9] In contrast, we find no precedent for the proposition that an end of group townhouse located at the corner of two intersecting streets necessarily faces its "address" street. To be sure, the street address of a particular property is relevant to any determination of orientation. And in most instances, all units in a townhouse group will be given consecutive addresses on the same street. In the absence of any other

evidence, these two facts might be considered substantial evidence to support a finding that the corner residence fronts on the address street. But such a finding is not required in all cases. As the Court of Appeals recognized in *Swinski*, the Board may examine other relevant evidence concerning the physical characteristics of the subject property as they bear on the orientation issue.

[10] In this case, we agree with the Board, the Wilders, and People's Counsel that, in addition to considering the location of foundation walls and the garage, the Board also properly considered other physical factors, including exterior appearance, interior layout, length of each face, and consistent use of the Pinehurst Road door as the main entrance. Moreover, we conclude that these characteristics provide substantial evidence to support the Board's factual finding that the end of group townhouse at 201 Murdock Road fronts on Pinehurst Road for purposes of determining front, side, and rear yards. As the *Swinski* Court recognized, identifying the front of a dwelling has historically and properly been accomplished by examining, *inter alia*, the aesthetics and location of the main entrance. Here, there is no debate that both the aesthetics of the house (floorplan, roofline, width, windows, etc.) as well as the location of the main entrance indicate that the house fronts on Pinehurst Road. The Murdock Road street address, the door into the living room, and the attachment of the Wilder unit to the interior units facing Murdock Road are the only contrary physical characteristics. We are not persuaded that one of the latter characteristics "trumps" other aesthetic and entrance characteristics, or that, collectively, they mandate a finding that the Murdock Road side of the house is the front yard.

Similarly, we reject the Protestants' argument that language in the BCZR definition of "front yard" and BCZR restrictions on placement of garages dispositively answers the orientation question presented by this "corner townhouse" case. Specifically, there is nothing in the garage regulation requiring us to apply that restriction as an irrebuttable pre-

sumption that a nonconforming garage, built before any restrictions on garage location went into effect, necessarily is located in the rear yard by *post hoc* virtue of said regulation. Nor do we agree that the common foundation wall reference in the definition of "front yard" aids the Protestants' cause, given that this particular end of group corner townhouse does not share either the front or the rear foundation walls that are common to the interior units in this townhouse group.⁵

We therefore hold that the Board did not err in considering physical factors other than the foundation wall and garage. The Board's examination of evidence concerning the location of the front door and front walkway, the width of the Pinehurst Road side, the floor plan and positioning of bay windows, the usage of those who live in and visit the house, and the exterior attributes of the house when viewed out of its end of group and corner context (including the roofline) was consistent with the analytical approach approved by the Court of Appeals in *Swinski*.

B.

Alleged Failure To Give Proper Weight To Evidence

[11] The Protestants argue in the alternative that, even if the BCZR regulations are not dispositive, the testimony of zoning and real estate experts Dillon, Richards, and Keelty "trumps" the lay testimony presented by the Wilders." In support, they cite *Harford County People's Counsel v. Bel Air Realty Assocs. Ltd. P'ship*, 148 Md.App. 244, 811 A.2d 828 (2002), for the proposition that the testimony of planning and zoning experts is "entitled to more credibility based upon

5. As discussed above, photographs, testimony, and plans reveal that the Wilder residence does not share the common front and rear foundation walls with its interior unit neighbors in the same housing group. The common wall into which the front doors of these interior units are placed "dead ends" into the east wall of the Wilder residence, creating a 90 degree angle rather than a continuous front foundation wall. In this respect, the Wilder residence materially differs from those Rodgers Forge end units that share a common front foundation wall and substantially the same footprint as their interior unit neighbors.

long-standing administrative practice and custom" than the testimony of any witness presented by the Wilders.

The Protestants' reliance on *Bel Air Realty Assocs.* is misplaced. Our decision and rationale in that case actually supports the Board's decision in this case, because this Court relied on the local planning department's expertise in interpreting the county zoning laws as grounds to affirm its decision that a proposed commercial project was not "directly accessible" within the meaning of zoning laws restricting conventional development with open space to properties with direct ingress/egress to arterial or collector roads. *See id.* at 258-61, 811 A.2d 828. Harford County zoning authorities concluded the project was not directly accessible because it did not front on such a road, but the Board, relying on expert testimony presented by the developer, concluded there was no direct access. The circuit court reversed and this Court affirmed that decision. *See id.* at 268, 811 A.2d 828. In doing so, we observed that, "even if the phrase 'directly accessible' were ambiguous to the point of obscuring the evident meaning of the statute," nevertheless, "the administrative interpretation of the 'directly accessible' requirement" by the Department of Planning and Zoning "trumps the testimony of Bel Air Realty's experts and its interpretation to the contrary." *Id.* at 267, 811 A.2d 828. Citing established reasons for judicial deference to an agency's expertise in interpreting a statute that it is charged with enforcing, we were "convinced that the Department's interpretation is a persuasive articulation of the 'directly accessible' language of" the zoning statute. *See id.* at 267-68, 811 A.2d 828.

[12] The Protestants misunderstand our "trumping" language in *Bel Air Realty* as an instruction to defer to *any* zoning expert's opinion regarding the meaning and application of a zoning statute, regardless of whether the Baltimore County Department of Permits and Management and the Board concur with that opinion. To the contrary, *Bel Air Realty* merely confirms that courts appropriately defer to a local zoning agency's expertise in interpreting the zoning

regulations it administers, as occurred in this case. Accordingly, we conclude that the Board did not err in failing to give dispositive weight to the opinions expressed by the Protestants' zoning experts.

II.

Testimony Of Wilders' Architectural Expert

[13] Despite the substantial evidence in the record to support the Board's determination that the Wilder home faces Pinehurst, the Protestants contend that "uncontradicted" material facts establish that Murdock Road is the front of the Wilder home, because "the Board erred in not disregarding the speculative testimony of the Wilders and their architectural expert Warren G. Nagey of Chesapeake Design Group." They analogize this case to *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 429-30, 833 A.2d 563 (2003), in which the Court of Appeals concluded, *inter alia*, that the expert who testified on behalf of the local agency had no empirical data to support her conclusions. In the Protestants' view, the two cases are similar because the only expert evidence the Board had was favorable to a finding that the Wilder home fronts on Murdock, i.e., that "there was a common front foundation wall on Murdock Road as evidenced by the Keelty and Dillon testimony and that the garage was located in the rear yard in compliance with the BCZR § 400 as again articulated by Dillon and Richards[.]"

[14] We are not persuaded by this argument. As a threshold matter, the Protestants did not object to the testimony of Mr. Nagey, and therefore waived their objection to the Board's consideration of it. Moreover, as discussed in section I, neither the garage location nor the foundation wall requires acceptance of the Protestants' argument. We conclude that Nagey's opinion that, from an architectural perspective, the Wilder home fronts on Pinehurst, was supported by ample factual evidence, as enumerated above with respect to the location of the main entrance, as well as its exterior appearance and interior floor plan. In this respect, this case

stands in stark contrast to *Lewis*, in which the agency's expert had no factual data to support her opinion.⁶

III.

Consistency With Prior Decision

[15] In their final assignment of error, the Protestants argue that "[t]he Board was arbitrary and capricious in ignoring its opposite conclusion in [the] previous case [of] *Dorothy K. and Cheryl A. Milligan*, Case No. 02-519-A." They contend that the Board's decision in *Milligan*, that a Stoneleigh residence located at the corner of Oxford and Hatherleigh Roads faces Oxford Road, is irreconcilably inconsistent with its decision that the Wilder home does not front on its address street, Murdock Road. See, e.g., *Aspen Hill Venture v. Montgomery County*, 265 Md. 303, 289 A.2d 303 (1972) (reaching opposite conclusion in substantively similar cases may constitute "arbitrary, capricious and discriminatory" decision). The Wilders respond that the *Milligan* decision "is completely distinguishable," as the Board recognized.

Ms. Milligan sought a variance for a 20' by 12' art studio that she built as an accessory structure. On corner lots such as Milligan's, such structures must be located in the rear third of the yard. See BCZR § 400.1. Milligan argued that she had complied with that requirement because her house fronted on Oxford Road, where her mail is addressed and delivered. Although the house has an enclosed porch with an exterior door on the Oxford Road side, the main entry door and driveway are on the Hatherleigh Road side, which is also the longer side of the house. Both the Stoneleigh Community Association and the Rodgers Forge Community Association

6. In *Lewis*, the Court of Appeals held that the decision to deny a special exception for hunting cabins had been "improperly influenced by the [Chesapeake Bay] Commission's expert, Ms. Chandler," who admitted on cross-examination that she did not have an environmental study or any other quantifiable data to support her opinion that the "cumulative impacts" of the proposed cabins on the estuary island environment justified denial of a special exception. See *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 429-31, 833 A.2d 563 (2003).

opposed the variance, expressing concerns about its immediate and precedential impact for other corner lots.

A majority of the Board found "as a matter of fact that the Petitioner has offered convincing and substantial evidence that the accessory structure has been constructed in the rear third of the lot" as required. It cited "several reasons" as follows:

First the one and only address given to the subject site is 7116 Oxford Road. This side of the house has a sidewalk and an entrance into the main living quarters. **This is the address and entrance where the mail and other deliveries are directed.**

Secondly the plat shows clearly that **the setback from Oxford Road is 25 feet, a "front yard setback"** whereas the setback from the adjacent lot at 7112 and from Hatherleigh Road on the other side is a 10-foot "side yard" setback.

Thirdly, all services to the subject site including utility poles and lines come in from Hatherleigh Road. We find this to be typical of subdivisions that such services and **utilities are not placed in the front of the house.**

Finally the evidence and testimony presented is uncontradicted that from York Road into the subdivision all corner lot houses have entrances fronting on the intersecting side streets with driveways off Hatherleigh Road. **Only two houses, those of Ms. Milligan and Mr. Gill, also have entrances that face Hatherleigh.** As Mr. Gill, a Protestant, testified, having two entrances does cause some confusion.

Accepted by the Board as an expert in architecture and urban design, we found the testimony of Mr. Hill to be persuasive. Mr. Hill noted that "attractive facades" was typical of the design attributes when Stoneleigh was constructed....

The majority did not find compelling the testimony of Mr. Thompson of PDM that his department determines the front of a property from its physical characteristics and using common sense. Similarly Mr. Thompson produced

no evidence to support his opinion that the subject property would be given an address on Hatherleigh Road if it were to be built today.

We do not find the Board's decision in this case to be inconsistent with its decision in *Milligan*. Although both decisions concern corner lots, the Stoneleigh case involved a separate accessory structure for a single family home, rather than an addition to a townhouse end unit. Most importantly, in both cases, the Board cited the factors of mail and package delivery as evidence that supported its orientation decision. Similarly, in both cases, the Board relied on architectural expert opinion that it found persuasive.

One material difference between the decisions in *Milligan* and *Wilder* is that the 25' setback applicable to the Milligan house strongly supported the Board's conclusion that the house fronted on Oxford Road, whereas there is no evidence of a comparably "telltale" setback differential that could help identify the front and side yards of the Wilder home.⁷ The most significant distinction between the two residences is that the Milligan house has a commonly used path from the sidewalk to its Oxford Road door, which is used for mail and package delivery, whereas there is no path from Murdock Road to the Wilder townhome and only the Pinehurst Road door is used for entry, mail, and deliveries.⁸ In these circumstances, the Board's decision that the Wilder home fronts on

7. The front and side yard setbacks for the Wilder home in Rodgers Forge are both ten feet. According to the Protestants, if the Wilder residence fronts on Murdock Road, as they contend it should, there would be no setback obstacle to an addition on the Pinehurst Road side, although Rodgers Forge homeowners "would probably object . . . from a covenant standpoint," based on Rodgers Forge covenants that "privately adjust and determine what could be done and what can't be done[.]" We have not been directed to any such covenants in the record before us.

8. Although the Board explicitly criticized the County zoning authority's reliance on physical characteristics of the property and "common sense" to justify the decision in *Milligan*, we regard this statement in context as merely disapproving the County's effort to use undefined "common sense" rather than duly enacted BCZR benchmarks such as setback distances.

Pinehurst Road is not inconsistent with its decision that the Milligan home fronts on Oxford Road.

JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANTS.

920 A.2d 536

Rena CHANCE

v.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY.

No. 240, Sept. Term, 2006.

Court of Special Appeals of Maryland.

April 4, 2007.

Background: Employer filed petition for judicial review of order of the Workers' Compensation Commission which reinstated claimant's first claim, which had been mistakenly dismissed by claimant, and dismissed claimant's second claim as a duplicate claim. The Circuit Court, Montgomery County, Thompson, J., denied claimant's motion to dismiss the petition and granted employer's motion for summary judgment. Claimant appealed.

Holding: The Court of Special Appeals, Woodward, J., held that rule providing for a three-day extension to a prescribed period, when the period commences after service upon the party and service is by mail, does not apply to extend the 30-day period for filing an appeal from order of the Workers' Compensation Commission.

Reversed and remanded with instructions.

1. Workers' Compensation §1874

The 30-day time period for filing a petition for judicial review of decision of the Workers' Compensation Commission is in the nature of a statute of limitations and thus subject to

11/16/06

IN RE: PETITION FOR SPECIAL EXCEPTION
AND VARIANCE

S/S of Old Bosley Road and intersection
of SW corner of Bosley Road

(2005 Old Bosley Road)

8th Election District

3rd Councilmanic District

I.H Hammerman, II & Mark Lee Hammerman,
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* Case No.: 06-513-SPHA
*

* * * * *

NOTICE OF APPEAL

Silver Lake Community Association, Doug Dunlap, president, 8 Sugar Tree Place;
Springdale Community Association, Inc., P.O. Box 194, Cockeysville, MD 21030, H. Michael
Ryan, Jr., president, and individuals H. Michael Ryan, Jr., 10526 Lakespring Way and Doug
Dunlap, 8 Sugar Tree Place; James and Ruth Krawczyk, 18 Sugar Tree Place; Kathy Nardone, 34
Sugar Tree Place; and David Bischoff, 25 Sugar Tree Place, all of Cockeysville, MD 21030,
Appellants in the above captioned matter, by and through their attorney, J. Carroll Holzer and
Holzer and Lee, feeling aggrieved by the decision of the Deputy Zoning Commissioner in Case
No. 06-513-SPHA, hereby note an appeal to the County Board of Appeals from the Findings of
Fact and Conclusions of Law of the Deputy Zoning Commissioner of Baltimore County dated
October 19, 2006 attached hereto, and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to
Baltimore County to cover the costs of the appeal. Appellants were parties below and fully
participated in the proceedings.

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

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

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Per. 

Respectfully submitted,



J. CARROLL HOLZER, Esquire

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of November, 2006, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to: Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Ave., Towson, MD 21204; County Board of Appeals, Basement Old Court House, 400 Washington Ave., Towson, MD 21204; People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Ave., Towson, M, 21204.



J. CARROLL HOLZER, Esquire

IN RE: PETITION FOR SPECIAL HEARING
AND VARIANCE

S/S of Old Bosley Road and the inter-
section of SW corner of Bosley Road
8th Election District
3rd Councilmanic District
(2005 Old Bosley Road)

I.H. Hammerman II and Mark Lee Hammerman
Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 06-513-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing and Variance filed by the legal owners of the subject property, I.H. Hammerman II and Mark Lee Hammerman. The Petitioners are requesting special hearing and variance relief for property located at 2005 Old Bosley Road. The special hearing is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required. In the alternative variance request from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet.

The property was posted with Notice of Hearing on June 24, 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 July 6, 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

10/19/06

IN RE: PETITION FOR SPECIAL HEARING
AND VARIANCE

S/S of Old Bosley Road and the inter-
section of SW corner of Bosley Road
8th Election District
3rd Councilmanic District
(2005 Old Bosley Road)

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 06-513-SPHA

I.H. Hammerman II and Mark Lee Hammerman
Petitioners

* * * * *

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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.

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."

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 Zoning Office dated March 17, 2006 indicating the Zoning Office disagreement with the Petitioner's format of the requested relief. This comment was not recognized prior to the hearing, but was subsequently sent to the Parties in a letter dated July 26, 2006 inviting the attorneys to respond to the comment. Both attorneys declined to respond.

Interested Persons

Appearing at the hearing on behalf of the variance and special hearing requests were Joseph Larson, of Spellman Larson and Associates who prepared the site plan, and William Caltrider for the Petitioners. Arnold Jablon, Esquire, represented the Petitioner. Appearing in opposition to the requests were James and Ruth Krawczyk, Kathy Nardone, David Bischoff and

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Doug Dunlap, president of the Silver Lake Community Association. J. Carroll Holzer, Esquire, represented the Silver Lake Community Association in opposition to the requests. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 0.24 acres zoned DR3.5 and is currently vacant. This triangular shaped property is located at the intersection of Old Bosley Road and Bosley Road. Petitioner would like to erect a single family dwelling as shown on Petitioner's exhibit 1. The Petitioners propose to have the front of the house face Old Bosley Road with access to the garage or parking pad off Old Bosley Road. The new home would be two story with a 35 x 40 feet footprint.

Mr. Jablon indicated that the Zoning Office contends that dwellings on lots at the intersection of two roads require front yard setbacks from both streets. In this case the new dwelling would have to be 30 feet from the right of way of both Bosley and Old Bosley Roads. The Petitioner disagrees with this interpretation which is the issue of the Special Hearing. The Petitioner contends this interpretation is not supported in law and is overly restrictive. The Petitioner proposes to have 15 feet as a side yard setback from Bosley Avenue. On the other hand, if the new home must be setback 30 feet from both Old Bosley and Bosley Avenues, than the Petitioner requests a variance from this requirement to allow 15 feet in lieu of 30 feet.

Mr. Larson testified that the lot contains 10,500 square feet and consequently meets the minimum lot area of DR 3.5. In addition there is sufficient lot width regardless of which road the dwelling faces. He noted the property is triangular in shape which greatly impact the size and location of any home on the lot. In fact any location of a dwelling on the property will require a variance if the Petitioner's interpretation of the side yard is not accepted. The proposed location of the front is the most desirable location.

Mr. Larson indicated that the subject property is a residual parcel created in 1967 when the Springdale plat 9 Section III plat was recorded in the land records as shown on Petitioner's exhibit 2. He indicated that the parcel has its separate tax assessment account number and has been continuously owned by the Petitioners since its creation. The site is across Bosley Road from an elementary school and borders a townhouse development (Silver Lake) as shown in Petitioner's exhibit 4, the GIS aerial photograph. The County Department of Recreation and Parks owns and maintains the property between the subject property and the Silver Lake community.

He opined that the property was unique from a zoning perspective because of its triangular shape as compared to the rectangular lots in the Springdale community of which it is a part. He noted that due to its triangular shape he could not push the house to the south, or west to meet the 30 foot setbacks required by the Zoning Office as this would violate the rear or side yard setback regulations. He opined the lot is useless and the owner would suffer hardship without a variance.

He admitted that a smaller house could be built on the lot without a variance by reducing the width from 40 to 25 feet but that such a house is not compatible with the neighborhood which all have larger homes on individual lots. Finally he indicated that the variance would be within the spirit and intent of the regulations and would not adversely affect the community. In regard to the latter, he noted that one house will not affect traffic or schools.

Upon questioning he admitted that he had not performed school impact analysis or traffic studies, that the 25 x 35 foot house which would meet the regulations would be compatible in size with the Silver Lake townhouse community, the proposed home would not be setback 40 feet from Bosley Road like the Springdale community and that Petitioner's exhibit 2, the Springdale Plat, does not list the subject property as a buildable lot. He was unaware of any

private covenant applicable to the property, or that the Recreation and Parks Department personnel cut the grass on the parcel, or speed limits or safety signs in the area, or where the sidewalks along Old Bosley and Bosley Roads were located. He opined that the DRC could grant a Springdale Plat amendment. He indicated that the subject property would become a "lot" if the subject zoning relief is granted.

Upon questioning by this Deputy Zoning Commissioner he indicated that the interior roads shown on Petitioner's exhibit 2, the Springdale Plat were created by the plat but that both Bosley and Old Bosley Roads preexisted the Plat and were extended to intersect as shown.

Mr. Dunlap, president of the Silver Lake Community Association, testified against the requests on behalf of the Association. He indicated that the Silver Lake residents were told when they purchased their properties that the subject property would be open space maintained by the County and not subject to development. He was concerned about the safety of children walking to the elementary school along Old Bosley Road if a new home were built on the subject site. He described traffic problems including excessive speed by motorists in the area, limited sight distance for traffic entering Bosley from Old Bosley Road as shown by prohibited parking at the intersection, and that children would have to walk out onto Old Bosley Road if vehicles at the new home extend out to the sidewalk. Finally he noted that the new house would increase storm water runoff for his community. He indicated that private covenants apply to the subject property. Upon questioning he admitted that children living in the subject house would walk to school, and he had no evidence the County owned the subject property.

Ms. Nardone testified she was told all the land around the Silver Lake townhouse community was open space, the setback for any home on the subject property should have the same 40 foot setback requirements as Springdale, and described that traffic congestion on Old Bosley Road. She expressed concern concerning the illegal parking on Old Bosley Road,

crosswalks for the children going to the elementary school, and noted that Old Bosley Road was originally a carriage road from early Baltimore County.

Mr. Krawczyk expressed his concern that the "horrendous" traffic in the area would increase as the result of the new home, and the proposed driveway on Old Bosley Road would add to the congestion at the intersection.

Mr. Larson indicated as rebuttal that storm water runoff from new impervious surfaces on the property would be directed to Old Bosley Road and not flow down upon the Silver Lake community.

Findings of Fact and Conclusions of Law

This case should be extremely easy to decide. The Developer for the Springdale subdivision designed a development plan for this portion of Springdale in which parcel A, the subject property, was a non buildable parcel under the R-40 zoning regulations which applied at that time. R-40 required 40,000 square foot lots. This lot has one quarter that area. This parcel was non buildable in 1967 and the protestants argue should be not be buildable now.

However in 1972 the zoning classification on this parcel changed to DR 3.5. Lot area requirement dropped to 10,000 square feet and suddenly the parcel had enough area to meet the minimum lot size. The Petitioner contends that the present zoning regulations (DR 3.5) apply and requests special hearing to interpret the regulations and in the alternative variances from the regulations.

There is more than a little irony in this matter. Normally property owners fight against applying new regulations on the basis that the new regulations are much more restrictive than the earlier regulations. Community representatives normally argue the opposite again assuming later regulations are more restrictive. Here however the later regulations might allow development otherwise prohibited by prior zoning regulations.

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By [Signature]

What law applies?

As noted above the Zoning Office indicated in its memo in the file that the Petitioner is incorrectly requesting variances from the DR regulations. The representative points out that the subdivision is vested, that the zoning applicable to this parcel is R-40 which was the zoning classification when the subdivision was approved. The representative contends the Petitioner needs to request a special hearing based upon R-40 zoning.

Recently the County Council sought to eliminate applying superceded regulations to "development" in the County in Bill 24-06. Section 32-4-101 Definitions subsection (p)(1) tells us that "Development" means "Any improvement of property for any purpose involving building". The Petitioner proposes to build a single family dwelling on the parcel. Consequently, I find that the Petitioner's request to construct a dwelling on the parcel meets the definition of "development". Section 32-4-104, Scope of Title specifies "This title shall apply to the process of review for approval of all development." Consequently I find that Bill 24-06 applies to this request.

I realize that this causes the Administration more than a little difficulty. I will try to summarize the Administration's position as I understand it. The Administration takes a very practical view of the question of what regulations apply in light of Bill 24-06 and the changed zoning classification. The Administration takes the straightforward view that if there is any attempt to subdivide the property, new regulations apply. Scribe a line and the new regulations apply. However, they say that, if all that is being requested is to build something, the regulations in effect at the time apply. Consequently the Zoning Office opined as it did in this case that the applicable zoning is R-40 and any deviation from R-40 status requires a special hearing.

I understand that they base this interpretation reading Section 1B02.3 A and B of the BCZR along with Bill 24-06. They note that, while Bill 24-06 supercedes and essentially deletes

Section 103 of the BCZR, it did not eliminate, or modify Section 1B02.3 A and B of the BCZR. Section 103 had specified that the zoning regulations applicable to a development approved by the Planning Board continue to be applied to future development of the property. Bill 24-06 eliminates this provision. However Section 1B02.3 A 1 and B specifies minimum standards for any lot in a recorded residential subdivision approved by the Planning Board continue under the regulations at the time of approval. To make practical sense of this apparent conflict of laws, the Administration adopted the rule that mere building on the property means the old regulations apply, while any subdividing, new regulations apply.

I am very respectful of agency interpretation of statutes when those agencies are charged with enforcing the statute. However in this case I point out that Section 1B02.3 A 1 applies to lots in recorded subdivisions which have been approved by the Planning Board and "which have been used occupied or improved in accordance with the approved subdivision plan". (Emphasis supplied) This makes perfect sense to me so that new decks, sunrooms and the like added to homes in approved subdivisions follow the old regulations. This is completely consistent with Administration policy and practice after Bill 24-06. Literally hundreds of administrative variances applying the old regulations are processed and approved for these minor improvements each year. I see no need to change anything in this regard.

However in the subject case, the parcel has not been used or developed in any way. The Petitioner proposes to build a new house on a vacant lot. I do not see that Section 1B02.3 A and B apply to this situation. In addition as above, I find that the Petitioner's request to construct a dwelling on the parcel meets the definition of "development". Section 32-4-104, Scope of Title specifies "This title shall apply to the process of review for approval of all development." Consequently I find that Bill 24-06 applies to this request and current regulations apply.

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I acknowledge that one could argue a second line of reasoning against my interpretation. One could simply say that building a home on a lot is not "development" and therefore the original regulations apply. However I note that while Section 32-4-101 definitions subsection (p)(1) provides "Development" means "Any improvement of property for any purpose involving building", subsection (p)(2) goes on to list " the subdivision of property" as Development. Both "subdivision" and "involving building" are listed as evidence of development. In my view I must give effect to each and every subsection of the statute and cannot assume subdivision stands alone. If the proposed use involves building in my view it is "development".

I also understand that one could argue that Section 3 of Bill 24-09 specifies that that a vested development plat is subject to the zoning regulations and development regulations in effect at the time of approval. But then most remarkably Section 3 directs if those zoning regulations and development regulations "were not otherwise subsequently abrogated or superceded by other law". Clearly new regulations would supercede the old regulations. So it was not at all clear to me what was intended by this provision in Section 3. Perhaps the Bill intended somehow to differentiate between zoning classification of Section 1 and zoning regulations of Section 3. For example perhaps the Council intended to distinguish between zoning classifications (DR, RC, etc.) and zoning regulations (uses and setbacks). Regulations are not precisely the same as classifications, although once a classification is imposed, specific regulations follow. Could the Council have intended to differentiate between these words in a highly technical and narrow fashion? I think not. This would be a very strained interpretation which is not consistent with practice or common sense.

After much deliberation I conclude that Section 3 merely restates the obvious that if the zoning classification changes, the new classification applies. Said another way while I recognize the Section 3 provision that R-40 regulations were in effect at the time of approval of this vested

subdivision, I find these regulations were subsequently superceded by the new classification and associated regulations. It seems clear to me that if the Council changed the zoning classification, the Council intended the new classification to apply.

In summary I find that the DR 3.5 regulations apply to this parcel because the parcel has not been used or developed in any way and because the Petitioner is proposing to build a new home which I find meets the definition of development.

Requested Relief

Having found the new DR 3.5 regulations apply I now will address the issues raised by the Petitioner.

Special Hearing

The purpose of the Zoning Office interpretation of the front yard setback requirements for a corner lot is to line up the new home on the corner lot with the houses on both streets. Homes along Bosley Road in the Springdale subdivision are set back 40 feet from the road as shown on exhibit 2. If a house on this lot were to meet only side yard setback of 10 feet, there would be a substantial discontinuity of structures along Bosley Road. Usually the front yard setback is much larger than the side yard setback. See Zoning Commissioner's Policy Manual, Section 1B02.3.C.2.c. As such the Zoning Office is not requiring 40 feet setback from Bosley Road but rather the small lot front yard setback of 30 feet. I agree with the Zoning Office and consequently will deny the request for special hearing. Said another way a variance is required for the proposed house which is 15 feet from Bosley Road in lieu of the required 30 feet.

Variance

In regard to the request for variance, I easily find the property unique in a zoning sense. The shape is triangular and as a result the DR zoning regulations impact the property differently and more severely than other lots in the Springdale subdivision. Mr. Larson's description of

10-19-06
P3

moving the home south and west demonstrates how true this is for this lot as compared to other lots in the subdivision.

The first question in regard to hardship is whether the request is self imposed. This lot clearly was not a buildable lot in 1967 when the Springdale subdivision was recorded. It was designated as "parcel A" to distinguish it from the buildable lots in the subdivision. So one could argue this Petitioner created parcel A and therefore any request for variance is self imposed. This Petitioner decided where to draw lot lines in this subdivision. If, as a result of the Petitioner's drafting, a variance is needed to make a parcel buildable, one could argue the variance would be self imposed.

However this Commission has recognized three exceptions to the above general rule. The first is "existing conditions". For example perhaps a new subdivision is created from an old farm and there is an existing barn which all would like to save. After drawing the lot lines of the new subdivision the old barn appears in the side yard rather than the back yard of a proposed house or perhaps is too high requiring a variance. We have often approved such variances applicable to a new subdivision under the theory that the Petitioner did not create the existing condition (such as a barn) whose location or height now requires a variance.

The second exception to the general rule against self imposition of variances occurs when the government "persuades" the Petitioner to apply for variances to serve a higher purpose which clearly does not apply here.

The third exception which for better words I will call the "no reasonable and significant use" exception. This has been articulated by Court of Appeals Judge Dale Cathell in a recent presentation to the Baltimore County Bar Association. Judge Cathell cited *Belvoir Farms v North* 355 Md. 259 (1999), for the proposition that a variance may be granted in cases in which the hardship is less severe than the unconstitutional taking standard, that is, the zoning

RECEIVED FOR FILING
10-19-06
P3

regulations result in denial of all viable economic use of the property. The new standard given by the Belvoir Farms Court is "denial of reasonable and significant use of the property". Judge Cathell then points out in *White v North*, 356 Md. 31 (1999) the Court of Appeals relaxed the standard once again to "denial of a reasonable and significant use of the property". In *White vs North* the owner wanted to build a swimming pool in the rear of his house which ran afoul of the Chesapeake Bay Critical Area Commission ruling on the subject.

In the subject case there is some conflicting evidence as to whether or not the intersection of Old Bosley and Bosley Roads was an existing condition which would justify an exception to the general rule against self imposed hardship. Both roads are external to the 1967 Springdale subdivision. Undoubtedly the Petitioner had some limited control of exactly how these roads would intersect but, if these were to intersect at a right angle, the configuration of the intersection would have to be as shown in exhibit 2. Said another way it would not make any sense to say that the Petitioner could have made parcel A buildable by gaining more land for it at the expense of lot 18. In theory the Petitioner could have Old Bosley make a hard turn to the south and then intersect Bosley so as to avoid a variance but the intersection created by such a maneuver would be neither conventional nor safe. Considering the evidence presented I find the configuration of parcel A and the intersection of Old Bosley and Bosley Roads is an existing condition which is an exception to the rule against self imposed hardship.

In addition if the variance is denied, the Petitioner will have "no reasonable and significant use" of the property. Consequently I find the proposed use, meets the third exception to the general rule. Consequently I find the hardship is not self imposed.

In regard to density the lot area meets the requirements of the DR 3.5 zoning and therefore granting the variance will not increase the density beyond that otherwise permitted.

In regard to spirit and intent I note that I have determined that DR 3.5 regulations apply to

this parcel. DR 3.5 is less restrictive than prior zoning. I find the request meets the spirit and intent of the later imposed DR 3.5 regulations which allow single family homes by right in lots of this size.

The remaining problem is whether one house on the subject lot will adversely affect the community. Clearly one house on this parcel will not create overcrowded schools, increase traffic significantly or cause neighborhood wide environmental problems. The new house may restrict sight distance for traffic coming out of Old Bosley Avenue onto Bosley Avenue to second or third vehicles stacked up on Old Bosley. However the new house is setback from the pavement of Bosley Avenue approximately 30 feet and so should not restrict the view of the first vehicle attempting to enter Bosley Avenue.

Silver Lake residents testified that someone (presumably their realtor or developer) that the subject property would always remain open space. While I have no doubt someone in fact told them as alleged, there is simply no evidence on the record to show this allegation was correct. The Petitioner owns the property.

In regard to the design of the new home, the Petitioner testified that he could erect a smaller home on the property and not require a variance. This narrow home would be comparable to the homes in Silver Lake but would not be compatible with the homes in Springdale. From my review of the evidence and particularly the aerial photograph of the area, it is clear to me the home on the subject lot should be part of the Springdale community and not Silver Lake. Therefore the home should be the size proposed even if this requires a variance. I am concerned that it be compatible in design with the homes in the Springdale community and so will require the Petitioner to submit plans and elevations to the Planning Office for review prior to building permit.

Considering the overall evidence presented and conditions I can impose, on balance I find

FILED
JAN 10-19-06
BY [signature]

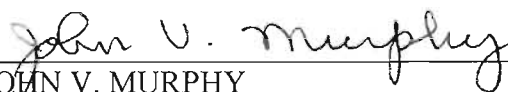
the new home will not adversely affect the neighborhood. Consequently I will grant the requested variances.

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' special hearing request should be denied and the variance request should be granted.

THEREFORE, IT IS ORDERED, this 19th day of October, 2006, by the Deputy Zoning Commissioner, that the Petitioner's request for special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine that the distance from the proposed dwelling to Bosley Road is a side yard and if a side yard, to confirm that a setback variance is not required is hereby DENIED; and

IT IS FURTHER ORDERED that the request for variance from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to request a front yard setback of 15 feet from the proposed dwelling to the right of way of Bosley Road in lieu of the required 30 feet, is hereby GRANTED.

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


JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

FILED
10-19-06
JVM



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

October 19, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

I.H. HAMMERMAN II AND MARK LEE HAMMERMAN
3704 NORTH CARLES STREET, UNIT 1203
BALTIMORE MD 21218

Re: Petition for Special Hearing and Variance
Case No. 06-513-SPHA
Property: 2005 Old Bosley Road

Dear Messrs. Hammerman:

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,

A handwritten signature in cursive script that reads "John V. Murphy".

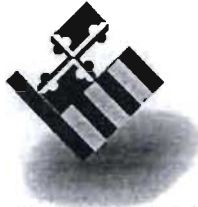
John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Enclosure

- c: Arnold Jablon, Esquire, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson MD 21204
Joseph Larson, 105 West Chesapeake Avenue, Towson MD 21204
J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson MD 21286
William Caltrider, 6200 North Charles Street, Baltimore MD 21212
James and Ruth Krawczyk, 18 Sugar Tree Place, Cockeysville MD 21030
Kathy Nardone, 34 Sugar Tree Place, Cockeysville MD 21030
David Bischoff, 25 Sugar Tree Place, Cockeysville MD 21030
Doug Dunlap, 8 Sugar Tree Place, Cockeysville MD 21030

FILED
10-19-06
pz



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

October 19, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

I.H. HAMMERMAN II AND MARK LEE HAMMERMAN
3704 NORTH CARLES STREET, UNIT 1203
BALTIMORE MD 21218

Re: Petition for Special Hearing and Variance
Case No. 06-513-SPHA
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Dear Messrs. Hammerman:

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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
for Baltimore County

JVM:pz

Enclosure

- cc: Arnold Jablon, Esquire, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson MD 21204
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Kathy Nardone, 34 Sugar Tree Place, Cockeysville MD 21030
David Bischoff, 25 Sugar Tree Place, Cockeysville MD 21030
Doug Dunlap, 8 Sugar Tree Place, Cockeysville MD 21030



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2005 Old Bosley Road

which is presently zoned DR 3.5

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)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

The argument and reasoning to support this Variance will be presented at the Hearing.

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:

Not applicable

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave

410 494 6298

Address

Telephone No.

Towson

Md 21204

City

State

Zip Code

Legal Owner(s):

I.H. Hammerman II

Name - Type or Print

Signature

Mark Lee Hammerman

Name - Type or Print

Signature

3704 N. Charles St. Unit 1203 410-935-2255

Address

Telephone No.

Baltimore

MD

21218

City

State

Zip Code

Representative to be Contacted:

Joseph L. Larson

Name

105 W. Chesapeake Ave.

410-823-3535

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

1 hr

UNAVAILABLE FOR HEARING

Reviewed By

Date

4/17/05

Case No.

06 513 ASPH

REV 9/15/98

ORDER RECEIVED FOR FILING
10-19-00
[Signature]

see memo - filed 4/17/05

PETITION FOR VARIANCE

1. TO REQUEST A FRONT YARD SETBACK OF 15' FROM THE PROPOSED DWELLING TO BOSLEY ROAD IN LIEU OF THE REQUIRED 30', PURSUANT TO §1B02.3C.1, BCZR



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

2005 Old Bosley Road

for the property located at _____
which is presently zoned DR 3.5

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

SEE ATTACHED

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print _____

Signature _____

Venable, LLP
Company _____

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

I. H. Hammerman II
Name - Type or Print _____

Signature _____

Mark Lee Hammerman
Name - Type or Print _____

Signature _____

3704 N. Charles St., Unit 1203 410 935 2255
Address Telephone No.
Baltimore, Md 21218

City _____ State _____ Zip Code _____

Representative to be Contacted:

Arnold Jablon
Name _____

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Md 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 HR

UNAVAILABLE FOR HEARING ?

Case No. 06 513 ASPH

REV 9/15/98

Reviewed By D. P. Hoff Date 4/17/06

ORDER RECORDED FOR FILING

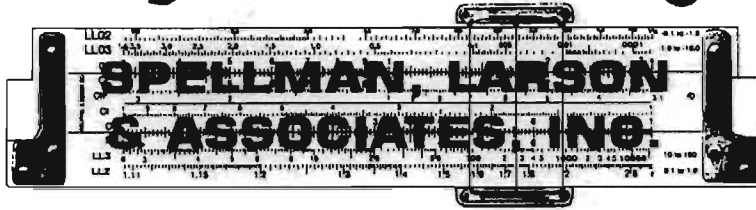
10-19-06

see memo -

filed in

PETITION FOR SPECIAL HEARING

1. TO DETERMINE WHETHER THE DISTANCE FROM THE PROPOSED DWELLING TO BOSLEY ROAD IS A FRONT YARD OR A SIDE YARD; and
- 2, IF A SIDE YARD, TO CONFIRM THAT A SETBACK VARIANCE IS NOT REQUIRED



ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
TEL (410) 823-3535 / FAX (410) 825-5215

**DESCRIPTION TO ACCOMPANY ZONING PETITION
2005 OLD BOSLEY ROAD
SPRINGDALE
32-108**

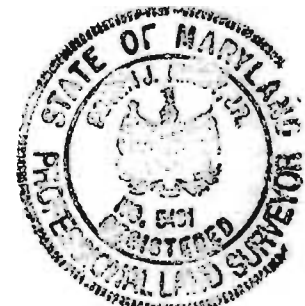
BEGINNING for the same at a point on the south side of Bosley Road also being at the southwest corner of Bosley Road and Old Bosley Road and running thence along the south side of Bosley Road due west 170.37 feet to a point on the south side of Bosley Road and continuing with a curve to the right with a radius of 735.00 feet and a length of 39.07 feet thence with a line of division south 65 degrees 50 minutes 22 seconds east 240.49 feet to a point on the west side of Old Bosley Road thence running along the west side of Old Bosley Road due north 87.40 feet and thence north 45 degrees 00 minutes 00 seconds west 14.14 feet to the place of beginning.

CONTAINING 0.24 acres of land more or less.

March 17, 2006

File#D02070601

513



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: #06-513-SPHA

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road

8th Election District — 3rd Councilmanic District

Legal Owner(s): I. H. Hammerman, II &

Mark Lee Hammerman

Variance: to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. **Special Hearing:** to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Thursday, June 15, 2006 at 2:00 p.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

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

JT 5/762 May 30

97003

CERTIFICATE OF PUBLICATION

6/11, 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 5/30/, 2006.

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

J. Wilkinson

LEGAL ADVERTISING

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: #06-513-SPH

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): I. H. Hammerman, II & Mark Lee

Hammerman

Variance: to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. **Special Hearing:** to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Monday, July 24, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

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

7/011 July 6

101091

CERTIFICATE OF PUBLICATION

7/6/2006

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 7/6/2006.

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

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23011

DATE 1-9-07 ACCOUNT 001-006-6150

AMOUNT \$ 400.00

RECEIVED FROM: J. Carroll Holzer, P.A.

FOR: Appeal

06513-ASPH

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAYEE RECEIPT

BUSINESS	DATE	TIME	INITIALS
12/10/2007	1:11	PM	044545-58
REG. NO.	NAME	DATE	TIME
RECEIVED	12/10/07	1:11	PM
Dept	001-006-6150	12/10/07	1:11
OF NO.	123011		
Receipt	001	000000	
PAID TO	001	000000	
PAID BY	001	000000	

CASHIER'S VALIDATION

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: 06 513 ASPH
Petitioner: I. H. Hammerman II
Address or Location: 2005 Buskey Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Dantell
Address: Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204
Telephone Number: (410) 494-6244

**Department of Permits and
Development Management**



Baltimore County

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

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

April 27, 2006

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: 06-513-SPHA

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road

8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Thursday, June 8, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, Venable, 210 Allegheny Avenue, Towson 21204

I.H. & Mark Lee Hammerman, 3704 N. Charles Street, Unit 1203, Baltimore 21218

Joseph Larson, 105 W. Chesapeake Avenue, Towson 21204

**NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN
APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MAY 24, 2006.**

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL
ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE
AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT
THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, May 23, 2006 Issue - Jeffersonian

Please forward billing to:

Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6244

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: 06-513-SPHA

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road
8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Thursday, June 8, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, May 30, 2006 Issue - Jeffersonian

Please forward billing to:
Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6244

CORRECTED 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: 06-513-SPHA

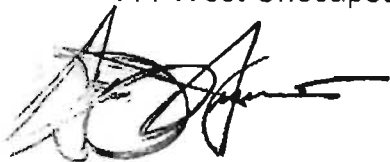
2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road
8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Thursday, June 15, 2006 at 2:00 p.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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

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

May 5, 2006

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: 06-513-SPHA

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road

8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Thursday, June 15, 2006 at 2:00 p.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

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

Timothy Kotroco
Director

TK:kim

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204

I. H. & Mark Lee Hammerman, 3704 N. Charles Street, Unit 1203, Baltimore 21218

Joseph Larson, 105 W. Chesapeake Avenue, Towson 21204

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MAY 31, 2006.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



TO: PATUXENT PUBLISHING COMPANY
Thursday, July 6, 2006 Issue - Jeffersonian

Please forward billing to:
Amy Dontell
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6244

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: 06-513-SPHA

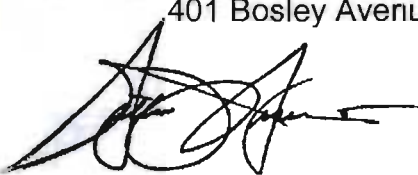
2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road
8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Monday, July 24, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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

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

June 7, 2006

NEW 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: 06-513-SPHA

2005 Old Bosley Road

South side of Old Bosley Road and the intersection of southwest corner of Bosley Road

8th Election District – 3rd Councilmanic District

Legal Owners: I. H. Hammerman, II & Mark Lee Hammerman

Variance to request a front yard setback of 15 feet from the proposed dwelling to Bosley Road in lieu of the required 30 feet. Special Hearing to determine whether the distance from the proposed dwelling to Bosley Road is a front yard or a side yard and if a side yard, to confirm that a setback variance is not required.

Hearing: Monday, July 24, 2006 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 Allegheny Avenue, Towson 21204
I. H. & Mark Lee Hammerman, 3704 N. Charles Street, Unit 1203, Baltimore 21218
Joseph Larson, 105 W. Chesapeake Avenue, Towson 21204
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JULY 8, 2006.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 12, 2007

NOTICE OF ASSIGNMENT

CASE #: 06-513-SPHA

IN THE MATTER OF: I.H. HAMMERMAN II AND MARK LEE

HAMMERMAN – Legal Owners /Petitioners
2005 Old Bosley Road 8th Election District; 3rd Councilmanic District

10/19/06 – D.Z.C.'s Order in which special hearing request was DENIED; and
request for variance was GRANTED.

ASSIGNED FOR:

WEDNESDAY, AUGUST 29, 2007 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants
Appellants /Protestants

: J. Carroll Holzer, Esquire
: Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners
Petitioners
Joseph Larson /Spellman Larson and Associates
William Caltrider

: Arnold Jablon, Esquire
: I.H. Hammerman and Mark Lee Hammerman

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

September 5, 2007

NOTICE OF ASSIGNMENT /Day #2

CASE #: 06-513-SPHA

IN THE MATTER OF: I.H. HAMMERMAN II AND MARK LEE

HAMMERMAN – Legal Owners /Petitioners

2005 Old Bosley Road 8th Election District; 3rd Councilmanic District

Day #2 from 8/29/07

10/19/06 – D.Z.C.'s Order in which special hearing request was DENIED; and request for variance was GRANTED.

ASSIGNED FOR:

TUESDAY, NOVEMBER 20, 2007 at 10:00 a.m. /Day #2

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants
Appellants /Protestants

: J. Carroll Holzer, Esquire
: Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners
Petitioners
Joseph Larson /Spellman Larson and Associates
William Caltrider

: Arnold Jablon, Esquire
: I.H. Hammerman and Mark Lee Hammerman

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

*pp'd @ reg.
of mu. ably;
next to
1-23-08*



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

October 30, 2007

NOTICE OF **POSTPONEMENT AND REASSIGNMENT /Day #2**

CASE #: 06-513-SPHA

IN THE MATTER OF: I.H. HAMMERMAN II AND MARK LEE

HAMMERMAN – Legal Owners /Petitioners

2005 Old Bosley Road 8th Election District; 3rd Councilmanic District

Day #2 from 8/29/07

10/19/06 – D.Z.C.'s Order in which special hearing request was DENIED; and request for variance was GRANTED.

which had been assigned for day #2 to 11/20/07 has been POSTPONED at the request of Counsel for Appellants /Protestants due to schedule conflict –Harford County Circuit Court; and, upon confirmation of date, has been

REASSIGNED FOR:

WEDNESDAY, JANUARY 23, 2008 at 10:00 a.m. /Day #2

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellants /Protestants
Appellants /Protestants

: J. Carroll Holzer, Esquire
: Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners
Petitioners

: Arnold Jablon, Esquire
: I.H. Hammerman and Mark Lee Hammerman

Joseph Larson /Spellman Larson and Associates
William Caltrider
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

*Reassigned to
1-08-08 -
conflict for L. Stahl
on 1/23.*





County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

November 15, 2007

NOTICE OF REASSIGNMENT /Day #2

CASE #: 06-513-SPHA

IN THE MATTER OF: I.H. HAMMERMAN II AND MARK LEE
HAMMERMAN – Legal Owners /Petitioners
2005 Old Bosley Road 8th Election District; 3rd Councilmanic District

Day #2 from 8/29/07

10/19/06 – D.Z.C.'s Order in which special hearing request was DENIED; and request for variance was GRANTED.

which had been reassigned for day #2 to 1/23/08 has been REASSIGNED at the request of the Board due to a schedule conflict for one of the panel members; and, upon confirmation of date, has been

REASSIGNED FOR:

TUESDAY, JANUARY 8, 2008 at 10:00 a.m. /Day #2

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellants /Protestants
Appellants /Protestants

: J. Carroll Holzer, Esquire
: Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners
Petitioners
Joseph Larson /Spellman Larson and Associates
William Caltrider
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

: Arnold Jablon, Esquire
: I.H. Hammerman and Mark Lee Hammerman





County Board of Appeals of Baltimore County

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

*Amended
notice sent
1-11-08 to
council time
to 9am*

January 8, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

I.H. HAMMERMAN AND MARK LEE HAMMERMAN –Legal Owners
Case No-06-513-SPHA

Having heard this matter on 8/29/2007 and 1/08/2008, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, MARCH 6, 2008 at 10:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing briefs are due on Tuesday, February 12, 2008
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants
Appellants /Protestants

: J. Carroll Holzer, Esquire
: Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners
Petitioners

: Arnold Jablon, Esquire
: I.H. Hammerman and Mark Lee Hammerman

Joseph Larson /Spellman Larson and Associates
William Caltrider
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 4-2-6





County Board of Appeals of Baltimore County

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

January 11, 2008

AMENDED NOTICE OF DELIBERATION

IN THE MATTER OF:

I.H. HAMMERMAN AND MARK LEE HAMMERMAN –Legal Owners
Case No-06-513-SPHA

This amended notice is TO CORRECT THE TIME OF DELIBERATION ONLY. The date remains as originally assigned.

Having heard this matter on 8/29/2007 and 1/08/2008, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, MARCH 6, 2008 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

**NOTE: Closing briefs are due on Tuesday, February 12, 2008
(Original and three [3] copies)**

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Silver Lake Community Association,
Doug Dunlap, President
Springdale Community Association, Inc.,
H. Michael Ryan, Jr., President
Individuals : H. Michael Ryan, Jr.
Doug Dunlap
Kathy Nardone
David Bischoff

James and Ruth Krawczyk

Counsel for Petitioners : Arnold Jablon, Esquire
Petitioners : I.H. Hammerman and Mark Lee Hammerman

Joseph Larson /Spellman Larson and Associates
William Caltrider
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 4-2-6





BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

July 19, 2006

Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case Number: 06-513-ASPH, 2005 Old Bosley Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 17, 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
I. H. Hammerman, II Mark Lee Hammerman 3704 N. Charles St. Unit 1203 Baltimore
21218
Joseph L. Larson 105 W. Chesapeake Avenue Towson 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 10, 2006

RECEIVED

JUL 20 2006

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

ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-513- 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 Bill Hughey in the Office of Planning at 410-887-3480.

Prepared By: CTM

Division Chief: [Signature]

CM/LL

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: April 25, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For May 1, 2006
Item Nos. 491, 492, 493, 494, 495, 498,
499, 500, 502, 504, 505, 507, 508, 509,
511, 513, 514, 515, 516, 517

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-04252006.doc

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

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



Printed on Recycled Paper

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



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

Maryland Department of Transportation

Date: 4.21.04

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

RE: Baltimore County
Item No. 513 JLL

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

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

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

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE *
2005 Old Bosley Road; S/S Old Bosley * ZONING COMMISSIONER
Road & intersection SW corner Bosley Road *
8th Election & 3rd Councilmanic Districts * FOR
Legal Owner(s): I.H., II & Mark Lee Hammerman *
Petitioner(s) * BALTIMORE COUNTY
* 06-513-SPHA

* * * * *

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 21st day of April, 2006, a copy of the foregoing Entry of Appearance was mailed Joseph Larson, 105 W. Chesapeake Avenue, Towson, MD 21204 and Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

APR 21 2006

Per

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

January 9, 2007

I. H. Hammerman, II
Mark Lee Hammerman
3704 N. Charles Street, Unit 1203
Baltimore, MD 21218

RECEIVED
JAN 10 2006

BALTIMORE COUNTY
BOARD OF APPEALS

Dear Sirs:

RE: Case: 06-513-ASPH, 2005 Old Bosley Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on November 16, 2006 by Carroll Holzer, P.A.. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Arnold Jablon Venable, LLP 210 Allegheny Avenue Towson 21204
Joseph L. Larson 105 W. Chesapeake Avenue Towson 21204
James P. and Ruth M. Krawczyk 18 Sugar Tree Place Cockeysville 21030
Kathy Nardone 34 Sugar Tree Place Cockeysville 21030
David Bischoff 25 Sugar Tree Place Cockeysville 21030
Doug Dunlap 8 Sugar Tree Place Cockeysville 21030
William Caltrider 6200 N. Charles Street Baltimore 21212

APPEAL

Petition for Variance and Special Hearing
2005 Old Bosley Road
South side of Old Bosley Road and the intersection of SW corner of Bosley Road
8th Election District – 3rd Councilmanic District
Legal Owner(s): I.H. Hammerman II and Mark Lee Hammerman

Case No.: 06-513-ASPH

Petition for Special Hearing and Variance (April 17, 2006, Drop-off)

Zoning Description of Property

Notice of Zoning Hearing (April 27, 2006, May 5, 2006 and June 7, 2006)

Certification of Publication (June 1, 2006 and July 6, 2006)

Certificate of Posting (May 29, 2006 and June 24, 2006) by Robert Black

Entry of Appearance by People's Counsel (April 26, 2006)

Petitioner(s) Sign-In Sheet – 1 Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – 1 Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plat to accompany Zoning Petition
2. Plat 9 a part of Section III Springdale
3. Zoning map – 052A1
4. Baltimore County GIS map of neighborhood

Protestants' Exhibits:

None

Miscellaneous (Not Marked as Exhibit)

1. County Council Bill No. 24-06
2. Zoning Commissioner's Policy Manual page 1B-26
3. Copy of fax from Petitioner
4. Letter detailing drop-off inclusions dated 4-14-06
5. Memo to file from reviewing Planner, JLL
6. Letter from Petitioner's lawyer requesting postponement
7. Letter from lawyer requesting postponement
8. Letter(with attachments) from John V. Murphy to opposing lawyers

Deputy Zoning Commissioner's Order (Special Hearing DENIED w/ accordance to order and Variance GRANTED w/ accordance to order – October 19, 2006)

Notice of Appeal received on November 16, 2006 from J. Carroll Holzer, P.A.

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Arnold Jablon Venable, LLP 210 Allegheny Avenue Towson 21204
Joseph L. Larson 105 W. Chesapeake Avenue Towson 21204
James P. and Ruth M. Krawczyk 18 Sugar Tree Place Cockeysville 21030
Kathy Nardone 34 Sugar Tree Place Cockeysville 21030
David Bischoff 25 Sugar Tree Place Cockeysville 21030
Doug Dunlap 8 Sugar Tree Place Cockeysville 21030
William Caltrider 6200 N. Charles Street Baltimore 21212

date sent January 9, 2007, amf



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

TEL: 410-325-6961

FAX: (410) 325-4923

~~FOR YOUR INFORMATION~~

jcholzer@cavtel.net

October 26, 2007
#7599

VIA FAX 410-887-3182

Ms. Kathleen Bianco, Administrator
Baltimore County Board of Appeals
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: *In the Matter of: J.H. Hammerman, II, et al.-Legal Owners/Petitioners*
2005 Old Bosley Road
Case No.: 06-513-SPHA

Dear Ms. Bianco:

Hearing Day #2 has been scheduled in the above captioned matter for Tuesday, November 20, 2007. However, The Honorable William Carr, Administrative Judge of the Circuit Court for Harford County has scheduled a hearing on the same day *In the Matter of Karen R. Heavey, et al. v. City of Aberdeen, et al.* I, therefore, respectfully request that the Hammerman matter be rescheduled. You can let me know what dates the Board has and I will be glad to check with opposing counsel, Arnold Jablon, and my clients to work out a mutually agreeable date.

As always, I appreciate your assistance and cooperation.

Very truly yours,

J. Carroll Holzer

Attachment
JCH:mlg

cc: Arnold Jablon, Esq.
Silver Lake Comm. Assn.

03/31/2006 12:21 41048 058

HAMMERMAN

PAGE 02

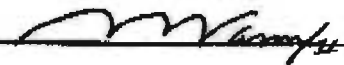
Zoning Office

Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Zoning Office:

Please be advised that we, the undersigned, have authorized Arnold Jablon, Esq., Venable, LLP, 210 Allegheny Ave., Towson, Maryland 21204, to be our attorney-in-fact and attorney-at-law and on our behalf file the attached petitions for zoning relief. We hereby understand that the relief requested is for property we own and we hereby and herewith acknowledge our express permission for said petitions to be filed on our behalf. The petition(s) filed are for property located at 2005 Old Bosley Road, property we own.

I. H. Hammerman II (owner)

By: 31 May 06 (Date)

3704 N. Charles St., Unit 1203, Baltimore, Maryland 21218
address

513

Arnold Jablon
Of Counsel

410-494-6298

ajablon@venable.com

May 3, 2006

Via Hand Delivery

Timothy Kotroco, Director
Department of Permits and
Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petitioner: I. H. Hammerman, II & Mark Lee Hammerman
Location: 2005 Old Bosley Road
Case No. 06-513-A

Dear Mr. Kotroco:

The Zoning Hearing for the above-referenced matter has been scheduled for Thursday, June 8, 2006 at 9:00. Unfortunately, I am unable to attend due to a previously scheduled hearing. By way of this letter, I am respectfully requesting that the hearing be postponed so that I may be present.

Thank you for your help with this matter.

Very truly yours,

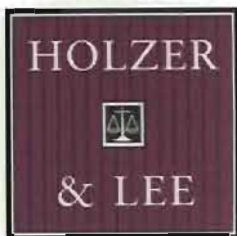
Arnold Jablon/ad
Arnold Jablon

AJ/a

cc: I. H. Hammerman

TO:DOCS1/#228332v1

*OK to postpone
for K.*



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

May 24, 2006
#7599

*Kristen:
OK to postpone. Call
Mr. Holzer + Mr.
Jablon to get a new
agreed upon date
JH*

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

RE: *I. H. Hammerman, II & Mark Lee Hammerman*
Case No.: *06-513-SPHA*

Dear Mr. Kotroco:

Please be advised that I have just been retained by the Silver Lake Community Association and various individuals concerning the above-referenced case number which requests a Variance and a Special Hearing for property at 2005 Old Bosley Road which is adjacent to the Silver Lake Development. I note that Mr. Arnold Jablon requested a postponement of this case from June 8th to June 15, 2006 based on a prior commitment.

I must also ask for postponement on this case. I will be out-of-town and unavailable to attend the Zoning Commissioner's Hearing.

By this letter I would like to enter my appearance in this matter and will assist in rescheduling this case promptly.

I have verbally advised Mr. Jablon that I would be asking for this postponement.

Thank you for your cooperation.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Mr. Doug Dunlap
Arnold Jablon, Esquire



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

September 8, 2006

ARNOLD JABLON, ESQUIRE
VENABLE, BAETJER & HOWARD, LLP
210 ALLEGHENY AVENUE
TOWSON, MD 21204

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

RE: Case No. 06-513-SPHA

Gentlemen:

I sent you the attached note in July, but have not heard from either of you in this regard. I would be happy to make my decision on the record we now have or if either of you would like to address Mr. Lewis' comment, please feel free to do so.

Sincerely,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Attachments



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

July 26, 2006

ARNOLD JABLON, ESQUIRE
VENABLE, BAETJER & HOWARD, LLP
210 ALLEGHENY AVENUE
TOWSON, MD 21204

J. CARROLL HOLZER, ESQUIRE
HOLZER & LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286

RE: Case No. 06-513-SPHA

Gentlemen:

As you know I try to review the file prior to the public hearing and to reproduce for the parties the ZAC comments and other notes which might be relevant. While I gave you the ZAC comments prior to the hearing, I failed to see the attached note from John Lewis which is in the file and may be relevant. I apologize for this oversight.

If you have any comments regarding Mr. Lewis' note, please let me hear from you in writing at your earliest convenience. I have also attached Bill 24-06 and the decision in Case 06-419-SPH for your consideration. Please note I assume you represent all the interested persons on the signup sheets and I do not have to send this letter to anyone other than yourselves.

Sincerely,

A handwritten signature in cursive script that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Enclosures

06-013-ASPH

4/13/06

CENTALTED
ATTNY

4/17/06

FILED
AT ATTNY'S
REQUEST

PETITION FILING CHECK RVW DROP-OFF
2005 OLD BOSLEY RD

KEEP
IN ALL
WORK
FILED

P/O

Drop-off
Policy

The Plat reference on plan indicates (review) that this is a parcel in a vested record plat. The zoning map in force at the time of vesting indicates that this parcel was zoned R-40. This parcel designation is made clear by this fact as it was not sufficient in area (40,000 sq ft) to be approved as a lot.

You are requesting the wrong section/setback. If you wish to argue material change & therefore current regulations under ~~the~~ Bill # 24-06 you must present your plan to the DRC for determination prior to filing petition. If you want to try to drop the whole thing in the commissioners lap; then present the issue in the special hearing working.

The fee is \$130.00 not \$650.00

~~STAFF CAN ONLY ASSURE THE~~

Called Anna D. 4/13/06
MR JABLON DESIRES TO FILE UNDERSTANDING THAT
THIS MEMO WILL BE PLACED IN FILE

26-513-ASPH

FREQUENT FLYER ATTORNEYS
DROP OFF ZONING PETITIONS
POLICY PROCEDURES

KEEP THESE 2
SHEETS / COPIES
IN ALL FILES.
FOR ZONING

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

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

To Zoning Commission
Please see attached
sheet. (JLL)

3/22/05
JLL/rjc

April 14, 2006

HAND DELIVERED

Mr. W. Carl Richards
Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petitions for Variance and Special Hearing
Petitioner: I. H. Hammerman II
Location: 2005 Bosley Road

Dear Mr. Richards:

I am drop filing the enclosed Petitions for Variance and Special Hearing for the above-referenced property. This property is not in violation of any zoning laws. With this letter, I have enclosed the following documents:

1. Petition for Variance (3)
2. Petition for Special Hearing (3)
3. Zoning Descriptions (3)
4. Site Plans (12)
5. Portion of 2004 200' Scale Zoning Map (1)
5. Newspaper advertising form (1)
6. Check in the amount of \$130.00

If you have any questions or concerns regarding this filing, please give me a call.

Very truly yours,



Amy L. Dontell
Paralegal

ALD
Enclosures
cc: Arnold Jablon, Esquire

TO1DOCS1/#225096v1

06 513 SPHA



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

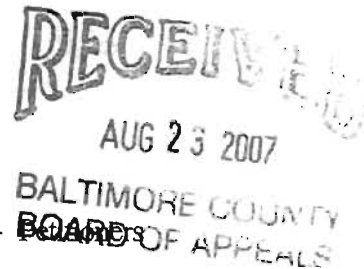
August 23, 2007

CAROLE S. DEMILIO
Deputy People's Counsel

Hand-delivered

Margaret Brassil, Chair
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Re: I H Hammerman & Mark Lee Hammerman -
2005 Old Bosley Road
Case No.: 06-513-SPHA



Dear Ms. Brassil:

Please enter our appearance in the aforementioned appeal scheduled for hearing on August 29, 2007. The Deputy Zoning Commissioner granted relief for a dwelling on the subject site on October 19, 2006 and a timely appeal was filed by the protestants, Silver Lake Community Association. Both sides are represented by counsel.

We believe the parties in this case will make a thorough presentation of the facts. Suffice it to say for purposes of this letter that the subject property is within the boundary of the Springdale residential community, which was developed in the 1960's under the then applicable R-40 zone. The minimum lot size in R-40 was 40,000 sq. ft., nearly an acre. At .24 acres, the subject property, known as parcel A, could not be developed and was designated as open space. The parcel adjoins the Silver Lake townhouse community. The residents of the community testified they were told parcel A would remain open space, along with other land around the Silver Lake Community maintained by the Baltimore County Department of Recreation and Parks.

In 1972, the site was rezoned to D.R. 3.5, which has a minimum lot size of 10,000 sq. ft. In a rare consequence of rezoning, the undersized parcel A now meets the minimum lot size. Petitioner seeks to reverse the long-time passive use of the site to construct a dwelling. Petitioner also seeks setback variances, or a determination that variances are not needed under the applicable law.

The Deputy Zoning Commissioner's opinion contains a lengthy discussion whether, under the recently enacted Bill 24-06, R-40 or D.R. 3.5 establishes the minimum lot size. The Deputy Zoning Commissioner concluded that parcel A contains sufficient area because D.R. 3.5 applies, but that a variance is required for a front yard setback of 15 ft. in lieu of 30 ft.

Our office defers to the Board to determine the applicable zone. We also trust the CBA will apply the variance standards under BCZR 307 and Cromwell v. Ward.

Separately, we believe it would be helpful to comment at this time on another issue in this case, which we hope will assist the Board. We are concerned that the Deputy Zoning Commissioner failed to consider the application of BCZR 1B01.3 A. 7 (attached) pertaining to amendment of development plans. Even if the zoning here were unchanged, an amendment to a development plan or plat is subject to review under the special hearing process of BCZR 1B01.3. Enacted as part of Bill 100, 1970, it includes special exception standards and a test of whether the proposal is consistent with the spirit and intent of the original plan.

The Silver Lake Community adjoins the subject site. As such, it is entitled to a hearing under 1B01.3A7 b.(2). The Petitioner is required to meet specific standards before the plan can be approved. Unfortunately, the Deputy Zoning Commissioner failed (i) to apply the standards in 1B01.3A7 b. for a special exception under BCZR 502.1, and (ii) to determine that *"the amendment would be consistent with the spirit and intent of the original plan and this article"* under 1B01.3A7 b.(3).

The purpose of this statute is *"To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; . . ."* Here, Silver Lake Community residents testified that the lot size and proposed residence is out of character with the existing residential lots in Springdale and eliminates open space integral to the development of Springdale and the adjoining Spring Lake community. At a minimum, these issues are relevant to special exception standards such as general safety and welfare, road congestion, and overcrowding the land. In addition, the Deputy Zoning Commissioner, and now the Board, must determine if the proposal is consistent with the spirit and intent of the original plan, including lot size and open space designations. Petitioner must prove the proposed plan satisfies these standards, whether R-40 or D.R. 3.5 applies.

We submit the decision of the Deputy Zoning Commissioner is erroneous and that the Board must apply BCZR 1B01.3. As noted, since the parties and counsel will make a presentation of the pertinent facts, and other or supplemental legal arguments, we do not believe our presence at the hearing is required.

Thank you for your consideration of these matters.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demizio

Carole S. Demizio

Deputy People's Counsel

PMZ/CSD/rmw

cc: Arnold Jablon, Esquire
J. Carroll Holzer, Esquire

2. Under the provisions adopted pursuant to the authority of Section 504.2, development in D.R. Zones may be made subject to additional standards of lot area, yard space, open-space distribution, building distribution or other aspects or characteristics of site planning or project design. Such standards shall be based upon specified existing, prospective or stipulated conditions or circumstances of development, and shall be designed to further the specific purposes of this article and the purposes of these zoning regulations in general.
3. Local open space. Local open space tracts in D.R. Zones shall be designed, established and maintained in accordance with the standards, guidelines and procedures set forth in the Baltimore County Local Open Space Manual as enabled in § 32-4-404 of the Baltimore County Code.⁴ [Bill No. 137-2004]

1B01.3 Plans and plats.

A. Development plans.

1. Purpose. This paragraph is intended:
 - a. To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; and
 - b. To provide for review of residential development plans to determine whether they comply with these regulations and with standards and policies adopted pursuant to the authority of Section 504.
2. Partial development plan. For the purposes of this article, a "partial development plan" is a portion of a final development plan, and a partial or final development plan is "applicable" to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself.
3. Subdivision lot sales, development and use subject to partial development plan. No interest in any lot which is in a D.R. Zone and is hereafter created by subdivision of a record lot existing on the effective date of this article or created by consolidation of such lots may be sold unless a final or partial development plan applicable to the lot has been approved as required under Paragraph 6, below; further, no use may be established and no construction may take place on any lot so created except in accordance with such a plan. The provisions of this paragraph shall not apply to Class A assisted living facilities. [Bill No. 188-1993]
4. Notice in conveyance. Any party who sells an interest in real property within an area covered by an approved partial or final development plan shall attach to the instrument of sale a notice directing the buyer's attention to the plan (including any amendment) and listing the location of the

⁴ Editor's Note: Former Subsection C, Open Space, Building Separation and Other Area Standards, which followed, was repealed by Bill No. 126-1992.

various certified copies which may be publicly inspected (Paragraph 6), together with a listing of the recorded plats covering all portions of the subdivision as a whole. The notice shall also generally apprise the buyer of the rights, requirements and remedies provided under the development plan, those provided under this article and these zoning regulations in general, and those set forth in provisions adopted pursuant to the authority of Section 504, and, to this end, the notice shall be on a form issued by the county and approved by the Office of Law, the Zoning Commissioner, and the Planning Board as being clear and sufficient for the purpose.

5. Forms and content of plans.

- a. Forms. Each partial development plan must be filed both as a separable document or set of documents and as part of a final development plan which includes all partial development plans as approved for other portions of the subdivision. Upon approval, each final development plan thus filed supersedes previous final development plans of the subdivision.
 - b. Content. Each partial and final development plan must show: the locations, types and exterior dimensions of all proposed structures and all existing structures to be retained; generalized floor plans to scale; layout of parking facilities; streets and drives giving access to and lying within the tract; existing topography and major vegetation; proposed grading; common amenity open space (including local open space); all additional information that may be required under procedures adopted pursuant to the authority of Section 504; and all additional information which is necessary, as determined by the Director of the Department of Permits and Development Management, to ascertain whether the project will comply with the zoning and subdivision requirements of Baltimore County. The plan shall contain the note that landscaping and screening shall conform to the standards contained in the Baltimore County Landscape Manual adopted pursuant to § 32-4-404 of the Baltimore County Code. [Bill No. 137-2004]
6. Initial review and approval procedure. Procedural steps and requirements in the submission and review of various preliminary versions of partial and final development plans shall be as established provisions adopted pursuant to the authority of Section 504 or, in the absence of such provisions, as established by the Office of Planning. In formulating such steps and requirements, the Planning Board or the Office of Planning shall effect maximum coordination between the integration with similar and related steps and requirements in the submission and review of plans pursuant to the subdivision regulations. If the partial and final development plans for a subdivision are approved by the Zoning Commissioner as complying with the zoning regulations, approved by the Director of Planning as being consistent with the subdivision regulations and any subdivision plans filed pursuant thereto, and approved in such other manner as may be prescribed

under provisions adopted pursuant to the authority of Section 504, copies of the plans, certified by the Zoning Commissioner and the Director of Planning as having been so approved, shall be filed with such county or state agencies as they may direct and as may otherwise be required, and shall be retained in the files of the Office of Planning, including the files of the Zoning Commissioner.

7. Amendment of approved development plans. After partial or final development plans have been approved as provided under Paragraph 6, preceding, they may be amended only as provided below:
 - a. Amendment prior to sale of interest in nearby property. The development plans may be amended by simple resubmission, or by the submission of appropriate documents of revision, subject to the same requirements as are applied to original plans, if there is no change with respect to any lot, structure or use within 300 feet of a lot or structure which has been sold since the original plans were filed.
 - b. Amendment after sale of interest in nearby property or upon demand for hearing. In the case of an amendment not allowed under Subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special exception procedures, in the manner provided under Section 502 and subject to the following provisions:
 - (1) The amendment must be in accord with the provisions of the Comprehensive Manual of Development Policies and with the specific standards and requirements of this article, as determined by the Office of Planning. The Director, on behalf of the Planning Board, shall notify the Zoning Commissioner accordingly. [Bill No. 29-1995]
 - (2) Only an owner of a lot abutting or lying directly across a street or other right-of-way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the subdivision regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing. [Bill No. 29-1995]
 - (3) It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article. [Bill No. 29-1995]
 - c. Amendment upon request by owner of lot within subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect

to a structure on an individual lot created under the plans and used according to the purpose stated therein, or with respect to such lot, at the request of the lot owner, under the following requirements and conditions:

- (1) Reasonable notification, by a standard method established pursuant to the authority of Section 504 and approved by the County Attorney, must be given to the occupants and owners of all real property which is fully or partially situated within 300 feet of the lot in question.
 - (2) It must be determined that a formal demand for hearing by an eligible individual or group, as described in Paragraph b, has not been filed.
 - (3) It must be determined that standards adopted under the authority of Section 504, in addition to the specific requirements under these regulations, will not be violated by the amendment.
 - (4) The Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article and other Baltimore County land use and development requirements administered by them, and both must certify that the amendment does not violate the spirit and intent of the original plan.
- d. Any amended development plan and any document of amendment of such a plan must be filed with all agencies or officials with whom copies of the original plan have been filed pursuant to paragraph above, and no amendment takes effect otherwise.

B. Final subdivision plat.

1. Purpose. Pursuant to the regulations for D.R. Zones, a portion of a tract of land may be subdivided for development at a higher residential density than the maximum average density permitted, lessening the permitted density of development on the remainder of the tract; or a portion of the tract may be subdivided for development at less than the maximum average density, thus increasing the density at which the remainder of the tract may be developed (Section 1B01.2.A). It is the purpose of this paragraph to assure that these factors will be identified in the sale of any portion of a development tract in a D.R. Zone and, in particular, to prevent the unknowing purchase of a tract which, as a result of such prior subdivision, may not itself be developed at the average gross density specified in the regulations.
2. Effect. No subdivision of a tract or a portion of a tract may be created after the effective date of this article, except as otherwise provided under Section 1B02.3.A.2 unless the final subdivision plat therefore contains a summary showing the total number of dwelling or density units allowed for the entire tract under the applicable D.R. Zones. The summary shall indicate, as appropriate, the number of dwelling or density units utilized by previous

final subdivision plats for portions of the same tract, the number of dwelling or density units contained in the current subdivision plat, and the balance of dwelling or density units allowed for the remainder of the tract under the applicable D.R. Zone(s). It is the intent of these zoning regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. Zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. Zone(s) for the entire tract.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 3

Bill No. 24-06

Councilmembers Kamenetz, Bartenfelder, Moxley, McIntire & Olszewski

By the County Council, February 6, 2006

A BILL
ENTITLED

AN ACT concerning

Development

FOR the purpose of requiring previously approved developments to comply with the current law and the current development procedural review process; defining terms; defining the manner of the vesting of a project; clarifying the methodology employed by the Office of Planning in compiling its annual recommendation regarding overcrowded school districts; providing for the extension and expiration of development plan approvals; providing for the application of the Act; providing for the effective date of the Act; and generally relating to the scope of the County's development regulations and the vesting of development plans and plats.

BY repealing and re-enacting, with amendments

Sections 32-4-104, 32-4-261(a) and (b), 32-4-262, 32-4-273(d) and 32-6-103(d)
Article 32 - Planning, Zoning and Subdivision Control
Baltimore County Code 2003

EXPLANATION:

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

- (i) Of the preliminary plan approval in the case of a development that received tentative approval by the Planning Board;
- (ii) The development received a CRG approval, reclamation plan approval, or was otherwise vested by law;
- (iii) The valid unexpired building permit was issued;
- (iv) The current public works agreement was executed; and
- (v) Of the acceptance for filing in the case of a CRG plan that was accepted for filing by the Department of Public Works before the date of adoption of Bill 1-92.]

THIS TITLE SHALL APPLY TO THE PROCESS OF REVIEW FOR APPROVAL OF ALL DEVELOPMENT.

[(c)] (B) Present zoning classification. Proposed development shall be in compliance with the present zoning classification on the property to be developed.

§32-4-261. Expiration of Development Plan Approval.

(a) In general. Unless extended under SUBSECTION (B) OR UNDER §32-4-274(a) of this subtitle, Development Plan approval shall expire [5] 4 years after the date [of] A FINAL, NON-APPEALABLE approval was granted.

(b) Request for extension.

(1) An applicant may make a written request to the Hearing Officer for [an] A ONE YEAR extension of the [5] 4 year Development Plan approval period provided under subsection (a) of this section UPON A SHOWING THAT A COUNTY AGENCY FAILED TO PROPERLY PROCESS AN ESSENTIAL REQUEST NECESSARY TO ACHIEVE VESTING IN A TIMELY FASHION, CAUSING A DELAY BEYOND THE INITIAL FOUR YEARS AFTER THE FINAL, NON-APPEALABLE APPROVAL WAS GRANTED.

(2) THE REQUEST FOR EXTENSION SHALL BE FILED PRIOR TO THE

§32-4-273. Time Limit for [Validity of Plats and Plans.] VESTING.

(d) Development. A subdivision or section or parcel of the subdivision is considered [developed and] vested if [any of the following has occurred with respect to the subdivision, section, or parcel:

(1) Building permits have been issued; or

(2) Substantial construction on required public improvements or private improvements has occurred on the subdivision, section, or parcel in accordance with the applicable regulations and requirements of the Department of Public Works.]

BUILDING PERMITS HAVE A BUILDING PERMIT HAS BEEN ISSUED FOR ANY LOT IN ACCORDANCE WITH AN APPROVED PLAN OR PLAT, AND INSPECTION BY THE COUNTY CONFIRMS THAT SUBSTANTIAL CONSTRUCTION HAS OCCURRED ON WITHIN THE SUBDIVISION , INCLUDING ANY LOT, TRACT, SECTION, OR PARCEL THEREOF, WITHIN FOUR YEARS AFTER THE DATE OF THE FINAL, NONAPPEALABLE APPROVAL OF THE PLAN OR PLAT OR ANY EXTENSION THEREOF AUTHORIZED UNDER SECTION 32-4-261(A).

Title 6. Adequate Public Facilities

§32-6-103. Overcrowded School Districts.

(d) Recommendation. [The Office of Planning shall make the recommendation of whether a district is an overcrowded school district and whether the proposed Development Plan, in conjunction with any other proposed or approved development plan, would result in the school district becoming an overcrowded school district at the time of the filing date.]

(1) THE OFFICE OF PLANNING SHALL MAKE THE RECOMMENDATION OF WHETHER A DISTRICT IS AN OVERCROWDED SCHOOL

OR STRUCTURE.

SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall apply to any development, subdivision, parcel of land, or plat which received any form of approval from Baltimore County prior to the effective date of this Act as follows: ~~including approval from the Planning Commission or Baltimore County Planning Board or CRC or DRC, prior to the effective date of this Act.~~

(A) A development plan or plat that vested in accordance with the law in effect prior to the effective date of this Act is subject to the zoning regulations and development regulations in effect at the time the plan or plat was approved, if those regulations were not otherwise subsequently abrogated or superseded by other law; however, with respect to a material amendment to the plan or plat, the provisions of Section 32-4-262 shall apply.

(B) An unexpired development plan or plat that was approved prior to the effective date of this Act, but not yet vested, shall have four years from the effective date of this Act to achieve substantial construction, as defined in this Act. The plan or plat shall be in compliance with the zoning regulations and development regulations in effect at the time of the original approval, or any extension properly granted under Section 32-4-261 (b), if those regulations were not otherwise subsequently abrogated or superseded by other law. Upon the failure to achieve substantial construction or to obtain an extension within the four-year period, the plan or plat shall be deemed to be expired.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the rights to the vesting of a development that would otherwise accrue from the zoning or development regulations or other County laws.

Joe - hope it is some help - B.M.

IN RE: PETITION FOR SPECIAL HEARING *	BEFORE THE
West Side of Stonehurst Road, 218' *	
South of c/l of Windemere Parkway *	ZONING COMMISSIONER
(3 Stonehurst Road) *	
11 th Election District *	OF
6 th Council District *	
	BALTIMORE COUNTY
Joseph A. Stepcich, et ux *	
Petitioners *	Case No. 06-419-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for Baltimore County for consideration of a Petition for Special Hearing filed by the owners of the subject property, Joseph A. Stepcich and his wife Joy Stepcich. The Petitioners are requesting confirmation that the zoning in place at the time of the original approval of a vested subdivision continues as the applicable zoning even if the zoning has subsequently changed. In other words, is a vested subdivision subject to the subdivision regulations and zoning in place at the time of the original approval of the subdivision.

Appearing at the requisite public hearing in support of the request were Arnold Jablon, Esq., with the law firm of Venable, LLP, on behalf of the Petitioners, and Brian Dietz, a registered land surveyor and Joseph Stepcich, the property owner. There were no Protestants or any other interested parties in attendance, however, it is to be noted that Nancy C. West, Assistant County Attorney, entered her appearance and filed a Memorandum of Law with this Zoning Commissioner, on April 14, 2006. Ms. West, on behalf of Baltimore County asserts that "the mere fact the Windemere subdivision plat was approved and recorded in 1970 has absolutely nothing to do with whether an owner of a lot in that subdivision is immunized against subsequent changes in zoning."

As the history of this case and the exhibits submitted will demonstrate, the Petitioners have received mixed messages from county agencies. The Department of Permits and Development Management agreed that the RSC zoning was applicable; the Office of Planning disagrees.

From the evidence presented at the hearing, the Office of Law's position as stated in its Memorandum is at best indecisive given the Office's own historic application of what constitutes vesting. Past opinions by County Attorney's as well as Letters of Advice, introduced into evidence, on this very point unequivocally conclude that a vested subdivision is protected from changes in zoning. (See Petitioner's Exhibits 19, 20 and 21) Historically and consistently, the County by statute has recognized that a subdivision or section or parcel of the subdivision is considered vested if a building permit has been issued or substantial construction or required public improvements or private improvements has occurred. Historically, and consistently prior to this Petitioners' request to resubdivide, as the weight of the evidence presented at this hearing confirms, the County concluded that a vested subdivision is governed by the subdivision regulations and the zoning in place at the time of the original approval of the subdivision. Moreover, in January, 2004, the Office of Planning sent out notices during the Comprehensive Zoning Map Process in which it stated in part:

"Existing lots in recorded subdivisions would continue to be regulated by the zoning regulations that were in effect at the time the existing lot was created." (Petitioner's Exhibit 7)

The definition of "vesting" in Baltimore County has been consistently interpreted, from the statutes adopted by the County Council, to mean that a previously approved subdivision is governed not only by the subdivision regulations in effect at the time of the original approval but by the zoning then in place.

103.1 and 103.3 to bolster their argument that the applicable zoning is that in effect at the time of subdivision approval is no longer persuasive. The aforesaid provisions of Bill No. 24-06 effectively neutered that argument.

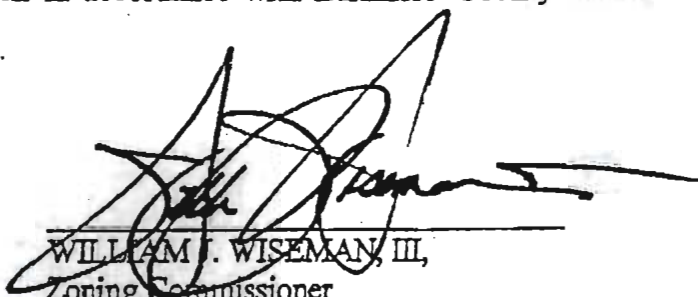
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, it is my opinion that a vested subdivision is governed by the zoning in place at the time of the original approval; specifically, in the instant case, the Petitioners' lot of record is governed by RSC zoning and not the current zoning of R.C.6.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this 16th day of May 2006, that a vested subdivision is governed by the zoning in place at the time of the original approval of the subdivision, and

IT IS FURTHER ORDERED, that any further resubdivision of Petitioners' vested lot of record shall be governed by, and be in compliance with, the present (R.C.6) zoning classification on the property to be developed.

THEREFORE, the Petition for Special Hearing is granted in part and yet denied in part as it relates to any future resubdivision.

Any appeal of this Order shall be taken in accordance with Baltimore County Code Section 32-3-401.



WILLIAM J. WISEMAN, III,
Zoning Commissioner
for Baltimore County

B02.3.B SETBACK REQUIREMENTS - PLANNING COMMISSION/BOARD APPROVED SUBDIVISIONS ONLY

ZONE (1971) (1955) (1945)(HOUSING TYPE)	JAN. 2, 1945 to JULY 1, 1953				JULY 2, 1953 to MARCH 29, 1955				MARCH 30, 1955 to MARCH 30, 1971				MARCH 31, 1971 to PRESENT			
	FRONT	REAR	SIDE	CORNER (SIDE STREET)	FRONT	REAR	SIDE (COMBINED)	CORNER (SIDE STREET)	FRONT	REAR	SIDE (COMBINED)	CORNER (SIDE STREET)	FRONT	REAR	SIDE (COMBINED)	CORNER (SIDE STREET)
DR 1 R 40	/	/	/	/	25	20	7 (17)	40 ℄	50	50	20 (50)	50	50	50	20 (50)	-
DR 2 R 20	/	/	/	/	25	20	7 (17)	40 ℄	40	40	15	40	40	40	15 (40)	-
DR 3.5 R 10 A (1 or 2 FAMILY)	25	15	7	15	25	20	7 (17)	40 ℄	30	30	10 (25)	30	30	30	10 (25)	-
DR 5.5 R 6 B (SEMI-DETACHED)	25	15	7	15	25	20	7 (17)	40 ℄	25	30	8 (20)	25	25	30	10	-
DR 10.5 R.G. D (TOWN HOUSES)	25	25	10 END OF GROUP	25	25	50	15	25	25	50	15	-	10	50	10	-
DR 16 R.A. C (APARTMENTS)	55 TO ℄	20	7	-	25	25	7	15	25	50	15	-	10	30	25	-
* FOR BLDGS. OVER 40 FT. HIGH ADD 4 INCHES FOR EACH FOOT OVER												** ONLY FOR SUBDIVISIONS WITH NO FDP				

1B02.3.B.1 - PARCELLING OR DIVIDING ALREADY DEVELOPED PROPERTY -
Parcelling or dividing developed property that is under one ownership and meets the overall density, would be permitted for mortgage purposes provided that:

- the ownership remains the same, and
- that the existing uses at the time of separation would not change in a way that would increase the overall density.

SECTION

1B02.3.C.1 APPLICABILITY - Any lot, or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission must also comply with this small lot table.

- SIDE STREET SETBACKS when the small lot table applies are the same as the required front yard setback. Averaging is not permitted on a side street setback.

APPROVED MAY 13 1992

**BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION**

IN THE MATTER OF: I.H.Hammerman and Mark Lee Hammerman –Legal Owners /Petitioners
Case No. 06-513-SPHA

DATE : Thursday, March 06, 2008

BOARD /PANEL : Lawrence M. Stahl (LMS)
Wendell H. Grier (WHG)
Robert W. Witt (RWW)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. 06-513-SPHA /Petitions for Special Hearing and Variance

ISSUES RAISED:

- What zoning applies
- Side yard /front yard /is variance needed
- Do they meet burden if variance is needed

- Bill No. 24-06 – If material change, then present zoning would apply.
- Discussed Board's decision In the Matter of Stepcich /Pridgeon and how it applies here.
- Based on that order, decided that present zoning of D.R. does apply – material thing
- Reviewed the Stepcich decision, particularly page 5, confirming that this is not a lapsed plat
- Reviewed 24-06 as to vesting and regarding any material amendment to an approved residential plan or plat – “shall be considered in accordance with this title.”
- The amendment is to be reviewed for compliance with all current law and regulations, including zoning and development regulations

Issue No. 1 decided --- current zoning of D.R. does apply

- Next issue – side yard /front yard
- Old Bosley /Bosley – is Bosley the front or side
- Discussed DZC order – denied special hearing – meaning that he ruled as to front v side
- Read from page 10 of DZC's decision
- When corner lot, side yard comes into play; distance from road to building
- Bosley Road – 40' setback for all existing homes (front yards)
- 15' from Bosley Road ilo of required 30 feet

Determination – variance is needed for dwelling fronting on Old Bosley

- Since D.R. zoning applies, the property is now unique; different in relationship to everything else
- Meets Cromwell v. Ward
- Again reiterated that the Developer wants to make Old Bosley the orientation for house; that's not what DZC determined
- Makes more sense to make the front on Old Bosley
- No problems with traffic
- Schools in all neighborhoods

- Kids in all neighborhoods
- Driveways exist in all developments
- Building a house on the property would not impact other residents

Agreed at this point that the property was unique; however, went on to review the history of the zoning for this property:

- Originally R 40
- Creation of this piece of property
- Baltimore County's ownership of property to the rear; maintained by Baltimore County
- In 1970 or 1971, CZMP changed zoning to D.R. 3.5
- Had public hearings, etc.; residents could have protested that zoning of D.R. 3.5 then as they are now for the building of a house
- Since it's now 3.5, Developer want to put a house on it; now that zoning says he can
- Apply Cromwell – uniqueness exists
- On to practical difficulty or unreasonable hardship

Discussed at length practical difficulty /unreasonable hardship:

- Cannot do what others did without getting the variance
- Zoning was changed to D.R. 3.5 – made it a buildable lot
- However, cannot build without the necessary variance
- Lot becomes useless
- Similarities:
 - ✓ House
 - ✓ Single-family
 - ✓ Borders on road
 - ✓ Setback will exist – but not as far
 - ✓ No drastic incompatibility
 - ✓ Still will have a setback; not as large
- Also discussed the possible need for landscaping that would be approved by the County's Landscape Architect to minimize the setback

RWW briefly revisited the history of the property, particularly as it relates to the practical difficulty or unreasonable hardship:

- ✓ No hardship in 1967
- ✓ No hardship in 1971
- ✓ But applying the current law would result in a hardship at this point in time

Summary of findings today:

- ❖ Based on Stepcich – developed per today's zoning and laws
- ❖ Front is on Old Bosley
- ❖ Side yard requires variance – corner lot
- ❖ Meets uniqueness
- ❖ Meets practical difficulty – cannot build without a variance, even though the zoning has been changed to D.R. 3.5 and a residence could be built
- ❖ Separate assessment for this property

- ❖ No negative impact on other residents by the building of a single-family home on this lot

WHG also referenced the issue brought up by protestants regarding the procedure used in making the request; did Developer violate applicable procedures by not going to DRC.

- No requirement in 24-06 that you had to do that
- material amendment – not re-development
- material amendment – while the new rules were better in this case than the old rules, the new zoning applied and Developer followed 24-06 for this material amendment

As to the argument regarding – “won’t be good for the neighborhood – no evidence to support that

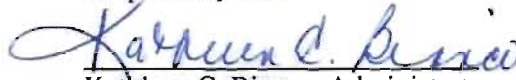
As to issue of back dues – this would be a Circuit Court matter, not for the Board.

DECISION:

Old Bosley is the front yard; current zoning applies; requested variance relief for setback is granted. Written opinion and order to be issued; appellate period runs from date of written Order.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. The Board’s final decision and the facts and findings thereto will be set out in the written Opinion] and Order to be issued by this Board.

Respectfully submitted


Kathleen C. Bianco, Administrator
County Board of Appeals

I.H. HAMMERMAN, II
MARK LEE HAMMERMAN
2005 Old Bosley Road
8th E; 3rd C

06-513-SPHA

Re: Petition for Variance – To request a front yard setback of 15' from the proposed dwelling to Bosley Road in lieu of the required 30' pursuant to § 1B02.3C.1, BCZR.

Special Hearing – (1) To determine whether the distance from the proposed dwelling to Bosley Road is a front yard or side yard; and

(2) If a side yard, to confirm that a setback variance is not required.

April 17, 2006	Petition for Special Hearing and Variance.
Oct. 19, 2006	Special Hearing <i>DENIED</i> w/accordance to order and Variance <i>GRANTED</i> .
Nov. 16, 2006	Notice of Appeal filed by J. Carroll Holzer, Esq.
Jan. 10, 2007	Received file in the Board of Appeals.
Aug 29, 2007	Board convened for Hearing, Day 1
Jan 8, 2008	Board convened for Hearing, Day 2
Mar 6, 2008	Board convened for Public Deliberation
Aug 5, 2008	Opinion and Order issued by Board GRANTING Special Hearing and Variance relief.
Sept 3, 2008	Petition for Judicial Review filed by J. Carroll Holzer, Esquire on behalf of Silver Lake Community Association, et al.
Sept 5, 2008	Board received copy of Petition for Judicial Review from Circuit Court for Baltimore County
Sept 9, 2008	Certificate of Notice filed with Circuit Court for Baltimore County.
10/28/08	Withdrawal of Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire on behalf of Silver Lake Community Association, et al.
1/22/09	File closed and returned to Zoning.

Protestants

Case Name:

Case No.: 06-513-SHA

Date: 8/29/07

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

beck to
testify

check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
	H. Michael Ryan, Jr	10524 Lanespring Way Cockeysville, MD 21030	410-628-0212	hmr@comcast.net	Springdale Community Assn	Safety, Concerns Property Value
	Doug Dunlap	8 Sugar Tree Pl 21030	(410)667-8339		Silverdale	Safety
	JAMES C. PECUNES	10840 SANDRINGHAM 21030	410-916-3655	JIMPECUNES @MRE.COM	VP-Springdale	COVENANTS/RESTRICTION
	ERIC ROCKEL	1610 Ridgewood Dr.	410-252-9498	erockel@tink.com	Mrs. G. Tindrum Community Council	Legal basis
	Ruth P. Krawczyk	10 Sugar Tree Phase 21030	410-667-4780		Self	Safety - Access to Congregation - unsuitable location - interruption to utility connections location of residence Planned is not suitable for dwelling and access across
	SUZANNE B. CROWDER	10 SUGAR TREE PL, 21030	410-683-6537	jandscrowder@comcast.net	Self	
	FRANK B. THOMAS	10517 1013 SAXON HILL, 21030	410-666-8165	thomas49@aol.com		Safety of our CHILDREN + ACCESS
	JAMES CLEMENT	1013 SAXON HILL, 21030	410-667-1219	JIMCLEMENT@COMCAST.NET	SPRINGDALE COMMUNITY PTA	SAFETY OF KIDS
	RENEE G. MILLER	7 SANDRINGHAM 21030	410-683-4845	CLEMENT@VIZIOA	PTA	BACK FEES
	FRANK B. THOMAS	10801 SANDRINGHAM 21030	410-667-1725	F. THOMAS 32. @EXCITE.COM	NET SPRINGDALE HOMES ASSOC	
✓	JIM MULLONEY	10828 SANDRINGHAM 21030	410-666-2892	JAMULLONEY @AOL.COM		SAFETY
	Tanice Barrett	10514 Gateridge Rd. 21030	410-746-5796	WJBarre@Comcast	Resident & Springdale Homes Assoc	Safety of CHILDREN during after school hours, traffic.

DATE 7-24-06

[illegible]

CASE NAME _____
CASE NUMBER 06-513-SPNA
DATE 7-24-06

[illegible]

ZONING MAP

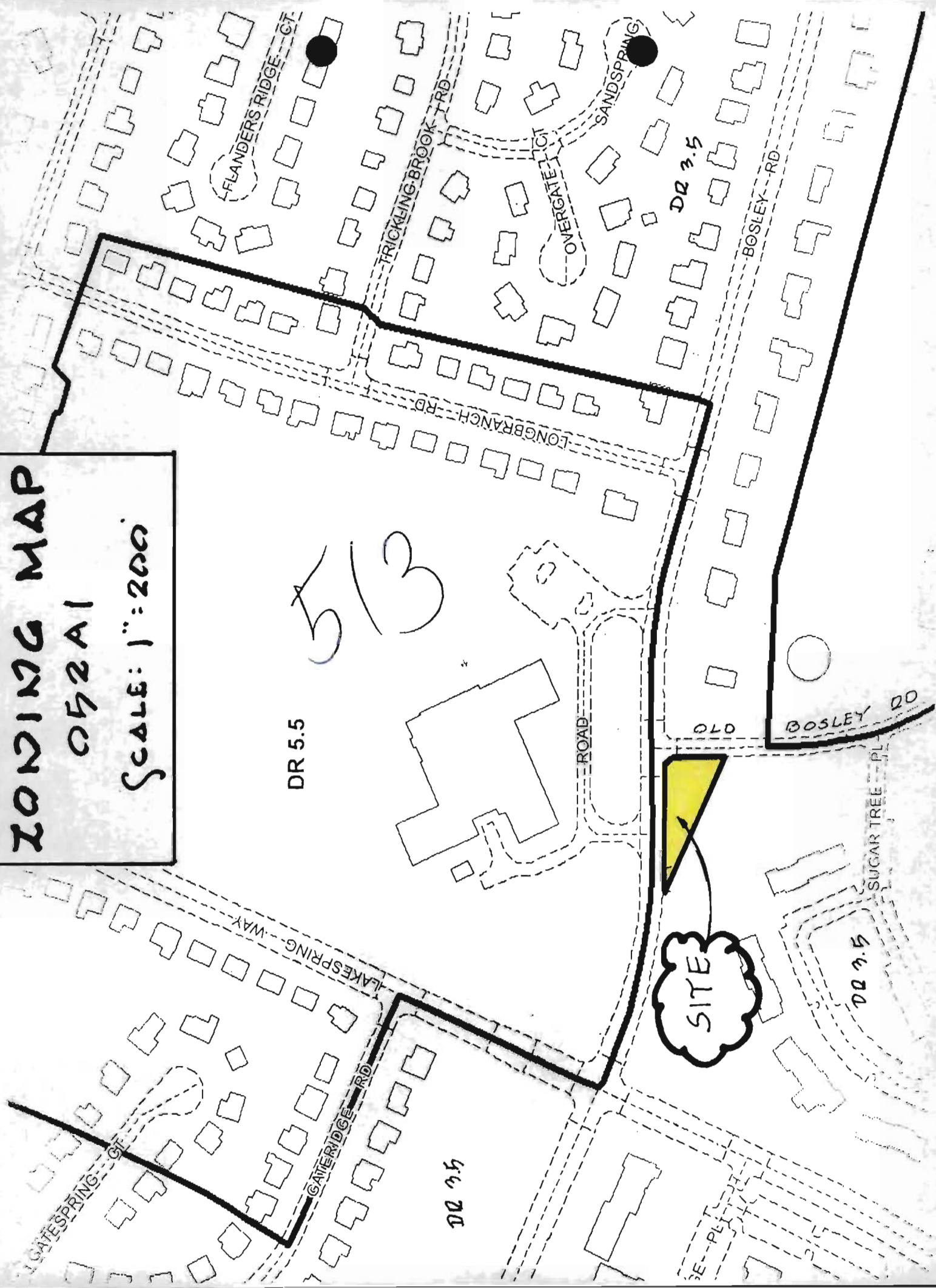
052A1

SCALE: 1" = 200'

513

DR 5.5

SITE



Verified

1. ✓ 1. Handwritten note.
1. ✓ 2. Rule 8 - Frank B. Thomas.
- ✓ 3. Rule 8. James C. Pecorel
- ✓ 4. Letter dated 1/7/08 from H. Michael Ryan, Jr. President
Springdale Community College, Inc.
- ✓ 5. Photo - Sugar Tree Place 380' South of Bosley.
- ✓ 6. Photo - Standing on the front of the School Property looking
down Bosley Rd.
- ✓ 7. ~~Photo~~ Photo - Looking away from the intersection.
- ✓ 8. Photo - Old Bosley and Bosley intersection.
- ✓ 9. Comments of DEPRM as to the Foreman.
- ✓ 10. Engineering Plan for the Power line.

KEEP
IN ARCH
WORK
FILED

P/O
Drop
Policy

06-13-ASPH

4/13/06 CONTACTED
ATTNY

4/17/06 FILED
AT ATTNY'S
REQUEST

PETITION FILING CHECK RVW DROP-OFF

2005 OLD BOSLEY RD

The Plat reference on plan indicates (Exhibit) that this is a parcel in a vested record plat. The zoning map in force at the time of vesting indicates that this parcel was zoned R-40. This parcel designation is made clear by this fact as it was not sufficient in area (40,000 sq ft) to be approved as a lot.

You are requesting the wrong section/setbacks. If you wish to argue material change & therefore current regulations under ~~the~~ Bill # 24-06 you must present your plan to the DRC for determination prior to filing petition. If you want to try to drop the whole thing in the commissioners lap, then present the issue in the special hearing working.

The fee is \$130.00 not \$650.00

STAFF CAN ONLY ASSUME THE

PRO-
EXH
NO. 1

Called Anna D. 4/13/06
MR VABLON DESIRES TO FILE UNDERSTANDING THAT
THIS MEMO WILL BE PLACED IN FILE

RESOLUTIONSpringdale Homes

ASSOCIATION

RESOLVED: That at the position of the Springdale
Homes Association as adopted by the (Board of
Directors) (~~Zoning Committee~~) on the zoning matter known as:

Hammerman & Hammerman 2005 Old Bosley Rd

is that: ALTHOUGH THE PROPERTY IN QUESTION
WAS THOUGHT TO BE OPEN SPACE, NOW THAT
IT APPEARS TO BE PART OF THE SPRINGDALE
COMMUNITY, THE OWNER(S) MAY BE LIABLE
FOR THE PAYMENT, WITH INTEREST, OF SOME
AND POSSIBLY ALL SPRINGDALE HOMES ASSOCIATION
MANDATORY ANNUAL FEES.

AS WITNESS our hands and seal this 21ST day of
AUGUST, 2007.

ATTEST:

Sarah J. Burton
SECRETARY

Springdale
Homes ASSOCIATION
Tom B. [Signature]
PRESIDENT

Plot.
Exit
2

AFFIDAVIT

STATE OF MARYLAND:
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the
(Board of Directors) (~~Zoning Committee~~) of the SPRINGDALE HOMES
Association.

ATTEST:

SARAH J BURTON

Sarah J. Burton
SECRETARY

FRANK B. THOMAS

Frank B. Thomas
PRESIDENT

RESOLUTION

SPRINGDALE HOMES ASSOCIATION
RESOLVED: That at the AUGUST 21ST meeting
of the SPRINGDALE HOMES Association held on
AUGUST 21, 2007, it was decided by the Association that the responsibility for
review and action on all zoning matters for the period AUGUST 2007
THRU JULY 2008 be placed in the (Board of Directors) (Zoning
Committee) consisting of the following members:

FRANK B. THOMAS
WILLIAM GERING

AS WITNESS our hands and seal this 21ST day of AUGUST, 2007

ATTEST:

<u>SARAH J. BURTON</u>	<u>FRANK B. THOMAS</u>
<u>Sarah J. Burton</u>	<u>Frank B. Thomas</u>
SECRETARY	PRESIDENT

RESOLUTION

Springdale Community ASSOCIATION
RESOLVED: That at the December 3, 2007 meeting
of the Springdale Community Association held on
December 3, 2007, it was decided by the Association that the responsibility for
review and action on all zoning matters for the period 2007 & 2008
_____ be placed in the (Board of Directors) (Zoning
Committee) consisting of the following members:

H. Michael Ryan, Jr., President
James C. Peanes, Vice President

AS WITNESS our hands and seal this 3 day of December, 2007.

ATTEST:

Ruth B. Morris

Ruth H. B. Morris

SECRETARY

H. Michael Ryan, Jr.

H. Michael Ryan, Jr.

PRESIDENT

CRA
PRO.
EXH. NO 3

RESOLUTION

Springdale Community ASSOCIATION

RESOLVED: That at the position of the Springdale
Community Association as adopted by the (Board of
Directors) (Zoning Committee) on the zoning matter known as:

Zoning Variance, 2005 Old Bosley Rd

is that:

The Association is unanimously opposed to the
zoning request.

AS WITNESS our hands and seal this 3 day of
December, 192007.

ATTEST:

Ruth B. Morris

Springdale Community ASSOCIATION

Ruth B. Morris

SECRETARY

Michael Ryan, Jr

PRESIDENT

H. Michael Ryan, Jr

AFFIDAVIT

**STATE OF MARYLAND:
BALTIMORE COUNTY, SS:**

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the
(Board of Directors) (Zoning Committee) of the Slainsdale Community Association
Association.

ATTEST:

Ruth B. Morris

Ruth B. Morris
SECRETARY

Michael Ryan, Jr.

Michael Ryan, Jr.
PRESIDENT

Springdale Community Association, Inc.
P. O. Box 194
Cockeysville, MD 21030

January 7, 2008

County Board of Appeals of Baltimore County
400 Washington Avenue
Towson, Maryland 21204

Ladies and Gentlemen:

As President of The Springdale Community Association I am charged with two primary responsibilities, community safety and the protection of the integrity of covenants and restrictions. Therefore, since the property is legally part of Springdale, I am compelled to express my concerns as to each of these duties as they relate directly with the Board's consideration of a zoning variance for 2005 Old Bosley Road.

First, as has previously been expressed by a number of nearby residents, the intersection of Bosley and Old Bosley Roads is already extremely dangerous. Vehicles turning onto Bosley from Old Bosley have a very difficult time seeing in both directions due to existing obstructions, particularly on the right side of the intersection. Allowing a home to be constructed on the left side of this corner with the added obstruction it would create would make it almost impossible to enter the intersection without extending dangerously onto Bosley, very possibly into oncoming traffic. Obviously, this would add drastically to the potential for serious accidents and alone should be considered adequate reason to deny the variance request.

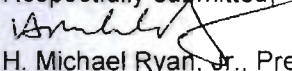
However, when one realizes that the intersection is directly opposite Warren Elementary School, the potential for serious accidents and possibility for disaster is greatly magnified. Dozens of children cross at this intersection twice each school day. They must use the only sidewalk that is directly in front of the property to be able to reach the school crossing guard stationed on that corner. At these times of day traffic often backs up ten to twenty cars deep trying to turn onto Bosley, and frankly, the situation is all but chaotic now. Imagine the increased potential for accidents if the poor visibility at the intersection is made even worse by allowing this structure to further block the view of these vehicles with young children crossing the street added to the mix....certainly a prescription for disaster that I genuinely hope the Board will consider in making its ruling.

Secondly, I must address the issue of Springdale's Covenants as they relate to this variance request and make it be very clear that any structure being considered for this property would have to be approved by The Board of Directors of Springdale Community Association, Inc. And, since there are no other properties in our community that have setback lines of less than 20 feet, and our covenants make no provisions for allowances of distances less than 20 feet, it is apparent that any request to build in our community with a 15 foot setback would be a serious problem. I feel that it is imperative to make this information known at this time to the current property owners and to alert future potential purchasers of this parcel of the strong probability that any request to build a home at this location would not be in compliance with Springdale's covenants and would be denied.

CBA
PRO EXH
NO 4

Finally, I respectfully urge the Board to consider the fact that no one from the surrounding communities has come forward in support of this variance request. Opposition has been and will continue to be unanimous. It is extremely obvious from the testimony provided from many concerned neighbors that allowing a home to be constructed (covenant issues notwithstanding) on this property would be an enormous mistake. The safety and well-being of the community, particularly its children, should certainly take precedence over everything else.

Respectfully submitted,



H. Michael Ryan, Jr., President
Springdale Community Association Inc.

Sugar Tree PL

Fig A
Field

CO 71000

8:30 AM

ADA North, NW S



CBA PLO. EXH. No 6

8:30 AM



8:30 AM

213A Pk. E.H. No 7



TH 88A

Tool College

8:30 AM

CBA-PO EXH. NO. 8

BALTIMORE COUNTY, MARYLAND**SUBJECT:** Development Plan Review Comments
For**DATE:** 05/11/06**FROM:** Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.**PROJECT NAME:****P.D.M. NO.:****LOCATION:****DISTRICT:**

We have reviewed the subject plan dated and have the following comments.

GENERAL COMMENTS:**Paragraph 1**

- ☐ The *State Department of the Environment* construction permits for water and sewer mains that are larger than 15-inches in diameter and for pumped sewer systems (including grinder pumps) will be obtained through the *Baltimore County Department of Public Works* after approval of the construction drawings.

Paragraph 2

- ☐ The proposed private utilities and roads shall be drawn on county standard linens and shall follow county standards for size, materials and construction details, and shall be submitted to the *Department of Permits and Development Management* for review and approval.

Paragraph 3

- ☐ The construction of private utilities shall be inspected by a private inspection firm under the supervision of the *Baltimore County Construction Contracts Administration Division, Department of Public Works*. The construction shall be certified by a Professional Engineer prior to approval for occupancy by the *Department of Permits and Development Management*.

CBA
P.L. EXH
No. 9

Paragraph 18

- ☐ The developer shall be responsible for having all proposed street names in any new development approved by the *Street Name and Address Section* of the *Department of Permits and Development Management* prior to his engineer placing these names on the final record plat and/or construction drawings. All street name changes made after plat recordation must be approved by the *Street Name and Address Section* and the record plat and construction drawings revised accordingly. The method for changing street names after a plat has been recorded will vary by project, and guidance will be provided by the *Street Name and Address Section*.

Paragraph 19

- ☐ Test pits within county roads require a utility cut permit obtained from the *Bureau of Highways and Equipment Maintenance*.

Paragraph 20

- ☐ All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

Paragraph 21

- ☐ All drainage and utility easements containing a sewer or storm drain shall be a minimum of twenty (20) feet wide.

Verified
4-08-08
Verified

CASE 06-513-SPA

PETITIONER'S EXHIBITS

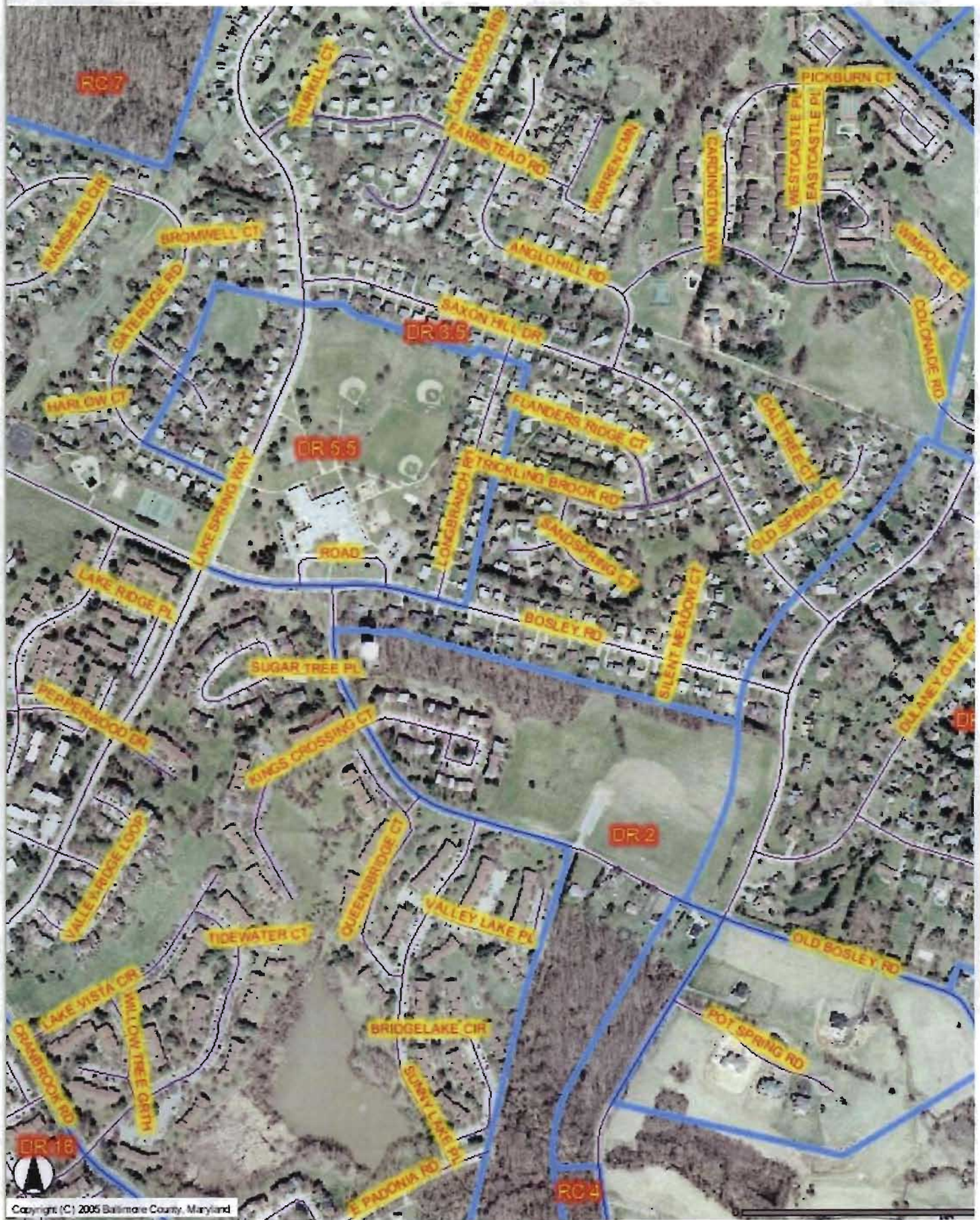
- ✓ 1. Site Plan
- ✓ 2. Plat 9 of Springdale. Parcel Plat
- ✓ 3. 1953 Zoning Map.
- ✓ 4. 1971 Comprehensive Zoning Map.
- ✓ 5. Zoning Map - Aerial Photograph 8/28/07
- ✓ 6. Zoning Map - Aerial Photograph (Smaller Scale)
- ✓ 7. Developments Plans Review dated 4/25/06

Baltimore County - My Neighborhood



EXH 5

Baltimore County - My Neighborhood



EXH. 6

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 Nos. 491, 492, 493, 494, 495, 498,
499, 500, 502, 504, 505, 507, 508, 509,
511, 513, 514, 515, 516, 517

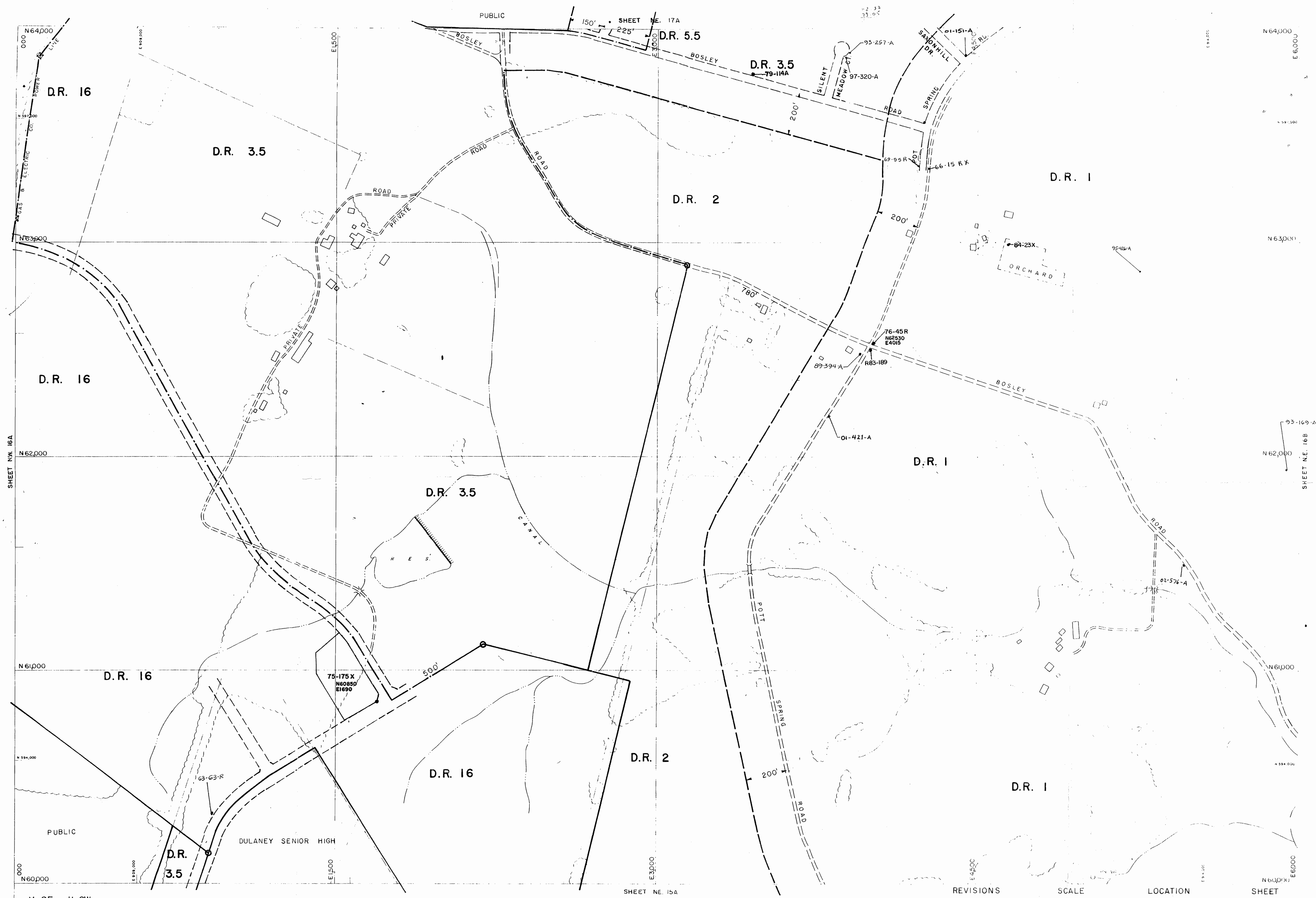
The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

DAK:CEM:clw

cc: File

ZAC-NO COMMENTS-04252006.doc

Pet EXN 7



V-SE U-SW
S-NE R-NW

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

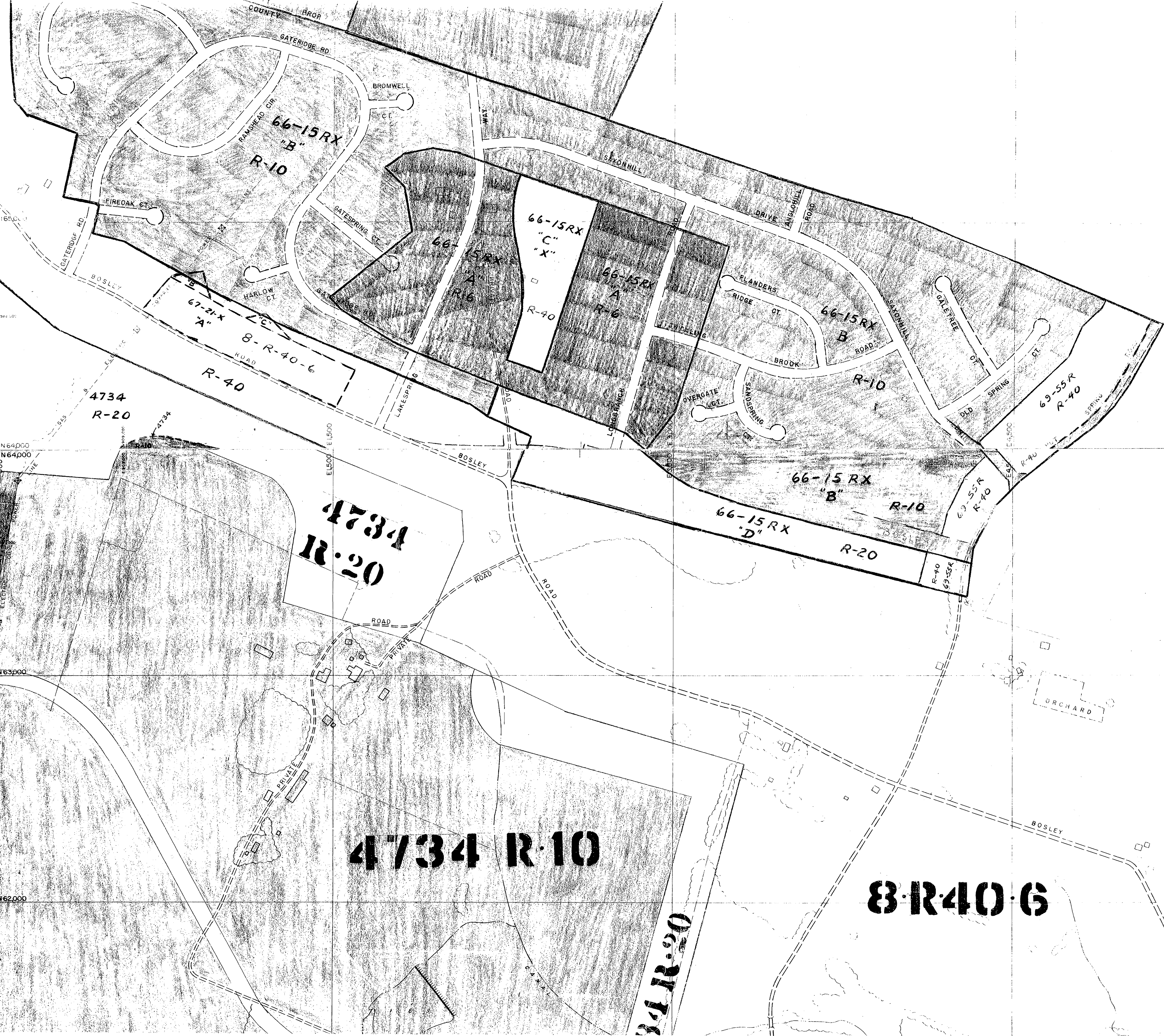
PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA OFFICIAL ZONING MAP

REVISIONS
BY DATE
SCALE
1" = 200'
DATE OF
PHOTOGRAPHY
APRIL 1953
Compiled by Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

LOCATION
LOCH RAVEN
RESERVOIR
AREA

SHEET
NE
16 A

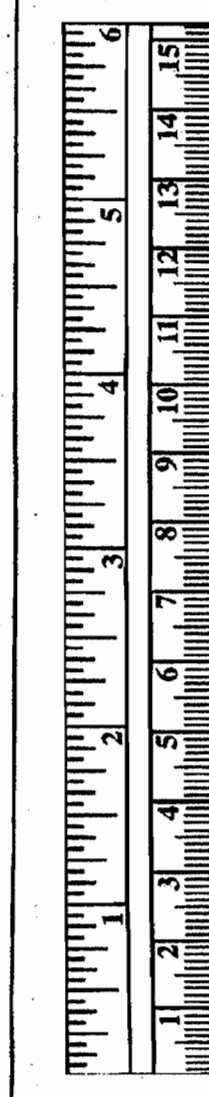
PETITIONER'S EXHIBIT





COORDINATES					
N ^o	EAST	NORTH	N ^o	EAST	NORTH
1	2 021.47	65 027.84	31	3 015.74	64 394.48
2	3 157.15	64 044.46	32	2 233.69	64 702.86
3	3 164.79	64 882.70	33	2 028.54	64 655.03
4	3 139.81	64 878.47	34	2 722.30	63 383.77
5	3 054.66	64 654.76	35	2 710.06	63 376.68
6	3 109.85	64 605.53	36	2 598.93	64 000.24
7	3 222.64	64 575.45	37	3 024.24	63 823.05
8	3 255.43	64 564.03	38	2 777.71	63 253.60
9	3 198.06	64 401.88	39	2 770.62	63 970.92
10	3 189.98	64 404.74	40	2 205.60	64 478.35
11	3 153.92	64 302.81	41	2 017.83	64 485.44
12	3 021.13	64 330.45	42	3 047.06	64 450.82
13	2 064.17	64 303.54	43	3 141.61	64 421.85
14	2 897.30	64 066.01	44	3 214.74	64 440.02
15	2 921.07	64 049.20	45	3 158.20	64 468.95
16	3 056.37	64 013.89	46	3 060.81	64 499.14
17	3 006.24	63 825.45	47	2 230.60	64 538.76
18	2 294.50	63 828.87	48	2 228.00	64 545.95
19	2 259.37	63 679.24	49	2 251.83	64 682.89
20	2 285.35	63 651.48	50	2 280.83	64 745.88
21	2 217.30	64 016.70	51	3 062.88	64 377.81
22	2 069.36	64 000.00	52	2 030.35	64 066.04
23	2 294.74	64 000.00	53	2 009.37	63 965.00
24	2 274.68	63 976.48	54	2 232.74	63 965.00
25	2 589.23	63 978.42	55	2 240.74	63 955.00
26	2 227.20	64 112.55	56	2 249.74	63 867.60
27	2 049.04	64 125.21	57	2 200.74	63 847.82
28	2 814.20	64 746.08	58	2 290.74	63 955.00
29	2 825.67	64 976.36	59	2 300.74	63 965.00
30	2 891.27	65 002.45	60	2 304.74	63 965.00
			61	2 365.60	63 942.65

CURVE DATA									
From	To	RADIUS	LENGTH	CENTRAL ANGLE	TANGENT DISTANCE	CHORD BEARING	DISTANCE		
21	22	700.00	153.20	12° 38' 22"	76.91	N 83° 43' 49" W	152.80		
22	23	700.00	181.90	14° 38' 47"	91.51	N 82° 35' 06" W	181.48		
23	24	1275.00	102.06	04° 35' 11"	51.06	S 17° 11' 22" W	102.03		
42	43	1275.00	98.06	04° 35' 11"	49.06	S 72° 48' 37" E	98.03		
43	44	1275.00	102.06	04° 35' 11"	51.06	N 72° 48' 37" E	102.03		
49	50	1225.00	98.06	04° 35' 11"	49.06	N 17° 11' 22" E	98.03		
52	53	735.00	39.07	23° 02' 44"	19.54	S 66° 28' 38" E	39.06		
60	61	665.00	172.80	14° 53' 47"	86.24	S 82° 35' 06" E	172.41		



APPROVED, BALTIMORE COUNTY PLANNING BOARD

1/9/68 Gery E. Jourd'is DIRECTOR

APPROVED

1-10-68 Daniel J. Keegan DEPUTY STATE & COUNTY HEALTH OFFICER

NOTE:

STREETS and/or ROADS shown hereon and mentioned therein in connection with this description and/or the same are not intended to be dedicated to public use, the fee simple title to the same thereof is expressly reserved in the grantors of the deed to which this plat is attached their heirs and assigns.

NOTE:

COORDINATES and BEARINGS shown on this plat are referred to the system of coordinates established in The Baltimore County Metropolitan District and are based on the following traverse stations.

X-71 W 433.81 N 64° 17' 30"
X-72 W 836.59 N 65° 29' 29"

OWNER'S CERTIFICATE:

The requirements of Section 72-2, Article 17 of the Annotated Code of Maryland as hereby established in The Baltimore County Metropolitan District and as far as they relate to the preparation of this plat have been complied with.

SPRINGDALE INC.

Jefferson 1/5/68
OWNER DATE

SURVEYOR'S CERTIFICATE:

I, JAMES R. MASK, a Registered Land Surveyor of the State of Maryland, do hereby certify that the land shown hereon has been laid out and the plat prepared in accordance with the provisions of the law relating to the distribution of land known as House Bill 445, Chapter 106 of the Acts of 1945 and subsequent amendments.

James R. Mask 1/4/67
REGISTERED LAND SURVEYOR NO. 5036 DATE

PLAT 2
A PART OF SECTION III
SPRINGDALE
ELECTION DISTRICT BALTO. CO. MD.
SCALE: 1" = 30' AUGUST, 1967

OWNER
SPRINGDALE INC.
10 LEGANT ST. BALTO. MD.

WHITEFORD, FALK & MASK
CONSULTING ENGINEERS & LAND SURVEYORS
JEFFERSON BUILDING
TOWSON, MARYLAND, 21204

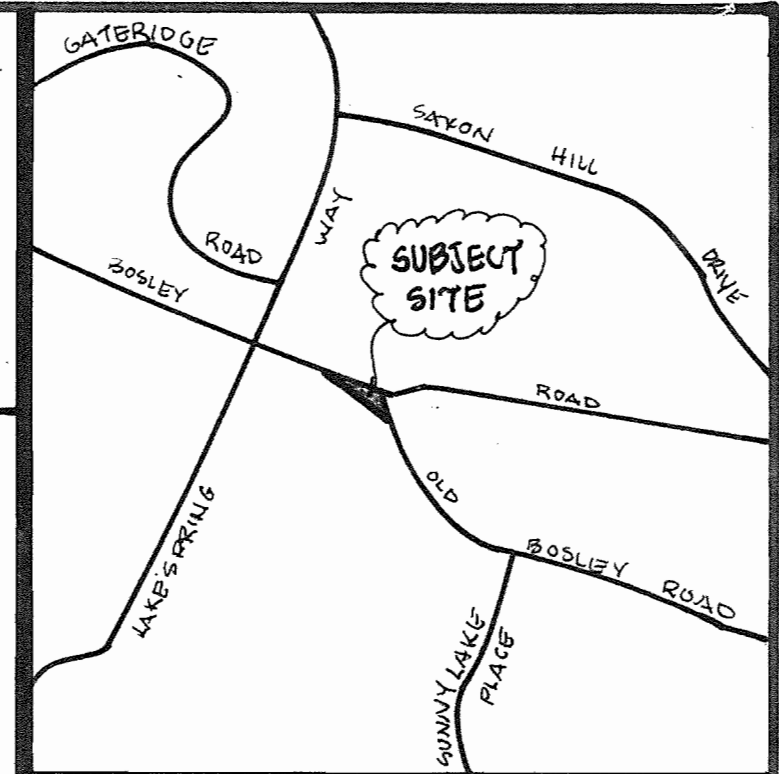
MSA 33A 1230-48 63 32-108

ZONING NOTE

THIS PLAT ACCOMPANIES A ZONING VARIANCE PETITION FOR A FRONT YARD SETBACK (BOSLEY RD.) OF 15' IN LIEU OF THE REQUIRED 30'; AND A SPECIAL HEARING PETITION TO ADDRESS THE BOSLEY RD. FRONT YARD REQUIREMENT.

BOARD OF EDUCATION OF BALTIMORE CO.
4803-492
TAX NO. 0802058281

OWNER INFORMATION
I. H. HAMMERMAN, 2ND
MARK LEE HAMMERMAN ET AL
7704 N. CHARLES STREET
UNIT 1209
BALTIMORE, MD 21218-2329



VICINITY MAP
SCALE: 1" = 1000'

SITE DATA

SITE AREA	0.24 AC.
EXIST ZONING	DR 3.5
COUNCILMANIC DIST	3RD
ZONING MAP	052A1
DEED REFERENCE	7194-22
TAX MAP GRID PARCEL	52 2 110
TAX ACCOUNT NO.	0819066715

MATTHEW D. MIKOLAJCZYK
SHANNON K. THOMPSON
20413-552
TAX NO. 0819066714

DR 3.5

PLAT TO ACCOMPANY ZONING PETITION 2005 OLD BOSLEY RD

SPRINGDALE
32-108

8TH DISTRICT BALTIMORE CO, MD

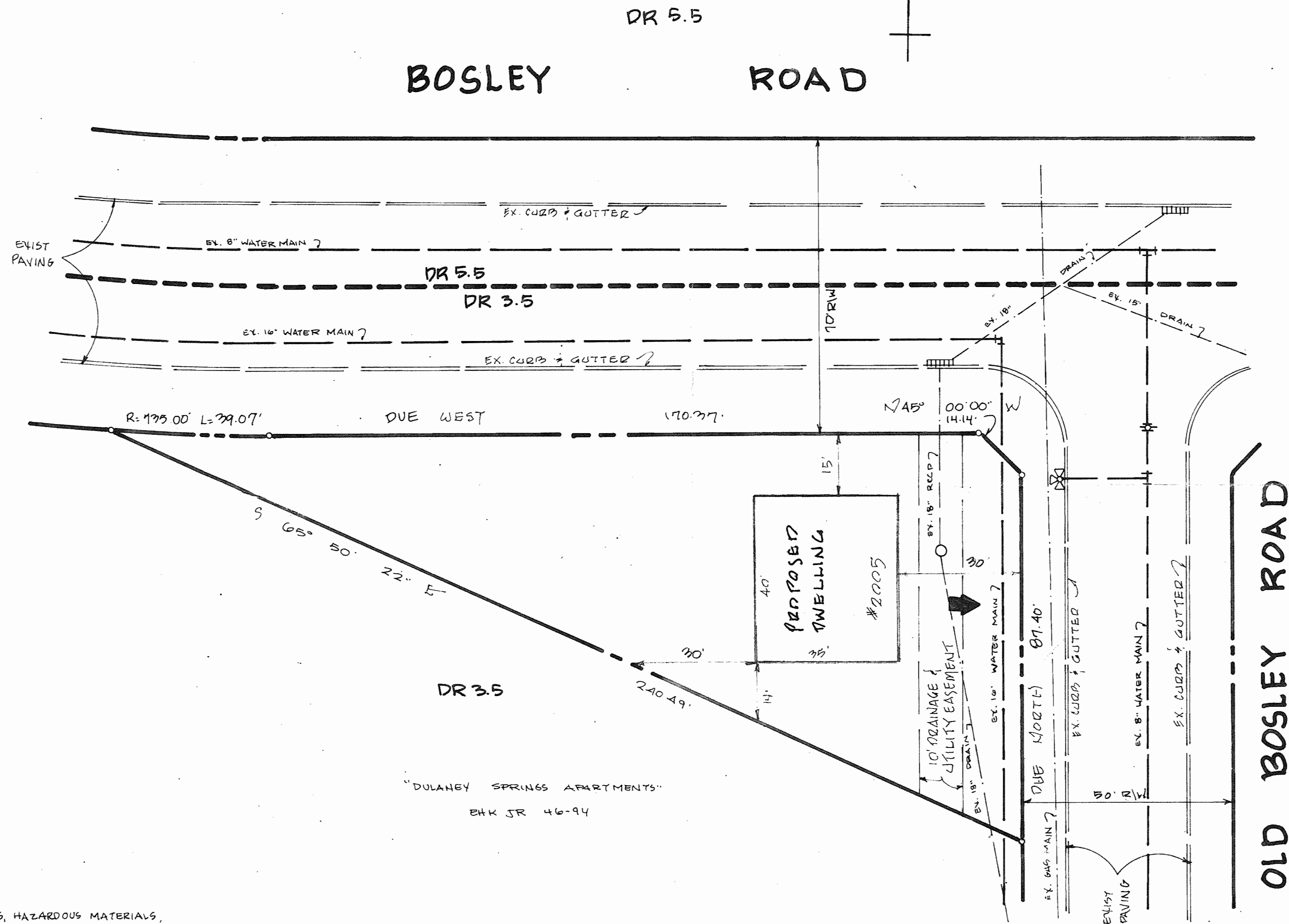
SCALE: 1" = 20' NOVEMBER 3, 2005
REV. MAR. 17, 2006

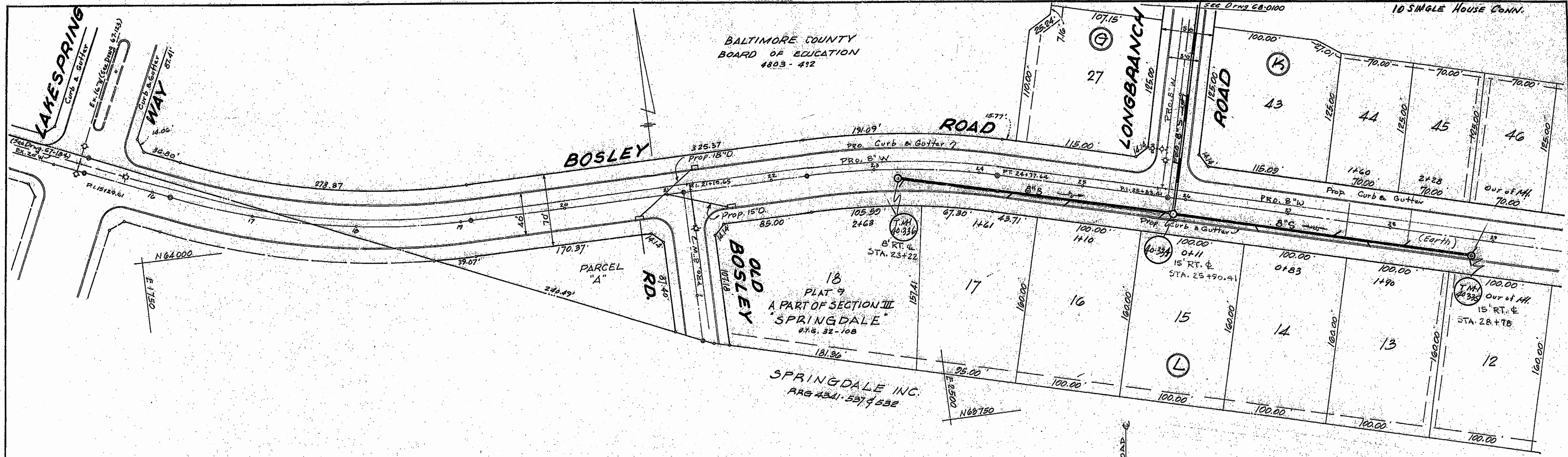
**SPELLMAN, LARSON
& ASSOCIATES, INC.**
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BUILDING
TOWSON, MARYLAND 21204
PHONE: 410-823-3535
FAX: 410-825-5215

GENERAL NOTES

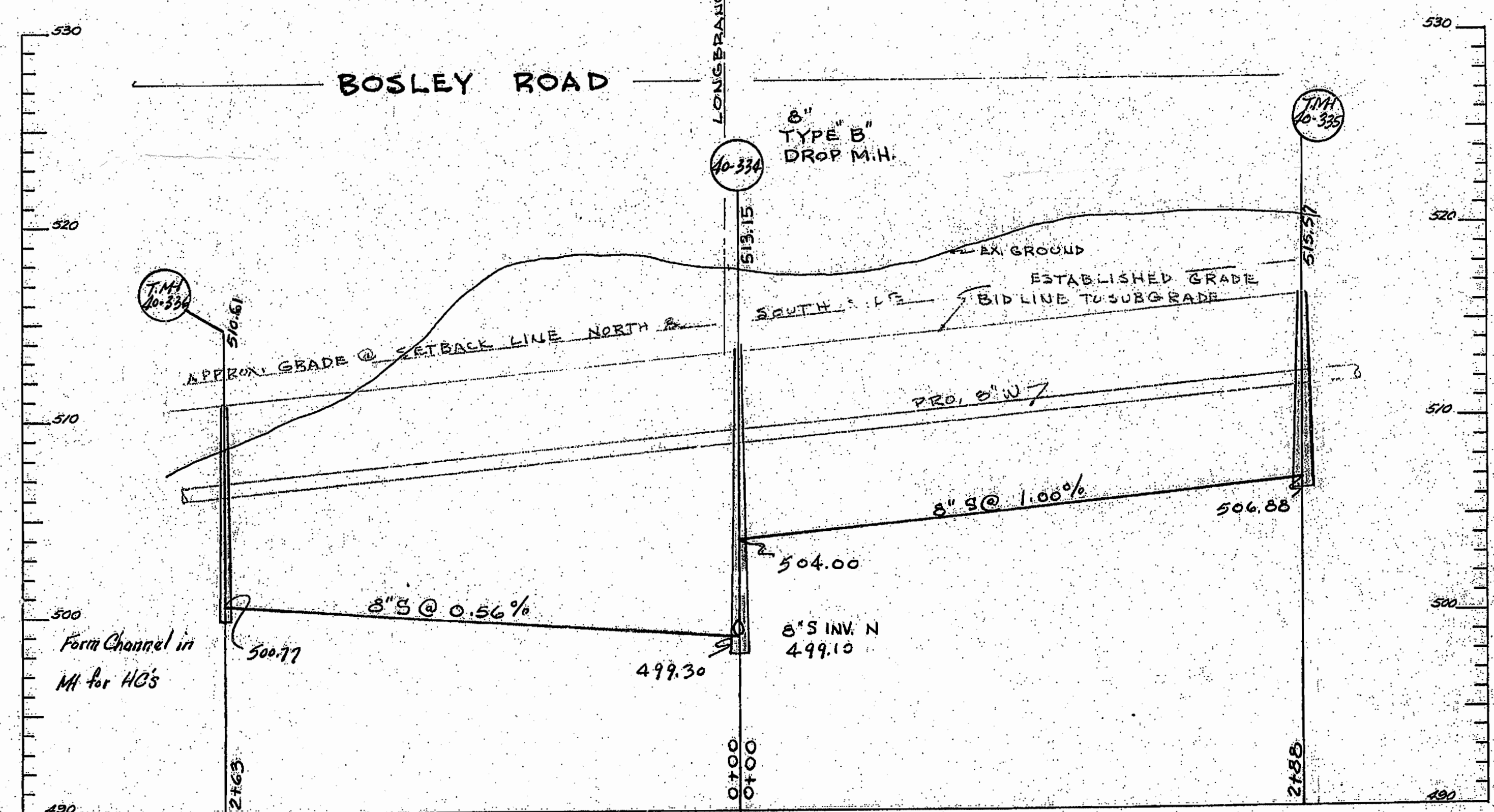
1. THERE ARE NO ARCHEOLOGICAL SITES, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, OR HISTORIC BUILDINGS OR LANDMARKS ON THE SUBJECT SITE.
2. THERE ARE NO STREAMS, BODIES OF WATER, OR SPRINGS ON OR ADJACENT TO THE SUBJECT SITE.
3. THERE ARE NO UNDERGROUND STORAGE TANKS ON THE SUBJECT PROPERTY.
4. THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
5. THE SUBJECT PROPERTY HAS NO PREVIOUS ZONING CASE HISTORY.

PETITIONER'S EXHIBIT 1





PLAN
SCALE: 1"=50'



PROFILE
SCALE: HOR. 1"=30' VERT. 1"=5'

CONTRACTOR - Please notify Baltimore Gas & Electric Co. L.E. 9-8000, Ext. 691 at least three days before starting work shown on this drawing.

DEVELOPER WILL PLACE ROADS TO SUB GRADE FOR THE FULL WIDTH OF THE RIGHT OF WAY BEFORE INSTALLATIONS OF UTILITIES.

SEWER AREA 30-5
CHARGE \$ 475.00
EFFECTIVE DATE FEB. 1, 1964.

CONTRACTOR - NOTIFY THE FOLLOWING UTILITIES BEFORE STARTING WORK SHOWN ON THIS DRAWING.
CALL COLLECT FOR BELL TELEPHONE SYSTEM, CALL 393-3449
CALL COLLECT FOR LONG DISTANCE CARRIER, CALL 393-3449



R.W.A. 86611		APPROVED FOR CITY OF BALTIMORE	
PERMIT REQUESTED	DATE	WATER ENGINEER	DIRECTOR OF PUBLIC WORKS
PERMIT NUMBER			
GRADE ESTABLISHED			
PROFILE NUMBER			
DATE	RIGHT OF WAY REF.	ENGINEER	DEPARTMENT OF PUBLIC WORKS

BUREAU OF ENGINEERING		BUREAU OF ENGINEERING	
STORM DRAINS	WATER	SEWER	HIGHWAYS
STRUCTURES	FIELD LOCATION		
DATE		DATE	

BALTIMORE COUNTY		DEPARTMENT OF PUBLIC WORKS		BUREAU OF ENGINEERING	
8" SEWER					
BOSLEY ROAD					
From Longbranch Rd. to p.l.s. 300' Easterly & 290' Westerly Therefrom					
COCKEYSVILLE ELECTION DISTRICT 8					

KEY SHEET		SHEET	
U-5.11	NO. 8	I.O. 1-1-2307	68-0101
POSITION SHEET	OF 9	FILE	
64NE2			

MICROFILMED 68134-SD2

CBA
PRO. GRA.
NO. 10

