IN RE: PETITION FOR ADMIN. VARIANCE \*

S/S Walker Road, 1100' W of the c/l

Eagle Mill Road

(1221 Walker Road)

6<sup>th</sup> Election District

3<sup>rd</sup> Council District

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 06-548-A

Christopher Papesh and Julia A. Delligatti

Petitioners

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Christopher Papesh and his wife, Julia A. Delligatti. The Petitioners request a variance from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 20 feet in lieu of the required 50 feet for a proposed addition (garage). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1A and a revised plan that has been incorporated into the record of this case and marked into evidence as Petitioner's Exhibit 1B.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, any property owner residing within 1,000 feet of the property in question who objects to the relief requested has 15 days from the date of the sign posting to demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate. In this regard, a formal demand for public hearing was made by the adjacent property owner, Michael L. Kramer. Thus, a hearing was scheduled before the undersigned on June 22, 2006.

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Appearing at the public hearing in support of the request were Chris Papesh and his wife, Julia Delligatti, property owners, Bruce Doak, the Surveyor who prepared the site plan for this property, and Frank Purdum, a nearby resident of the area. Appearing as Protestants were the immediately adjacent neighbors to the east, Michael and Debra Kramer. There were no other interested persons present.

Testimony and evidence proffered by Mr. Doak disclosed that the subject property is a rectangular shaped parcel located on the south side of Walker Road, just west of Eagle Mill Road in Freeland. The property contains a gross area of 2.0 acres, more or less, zoned RC-5 and is improved with a small, single family dwelling, a detached garage, and an accessory shed. The Petitioners have owned and resided on the property for the past 5 years and are desirous of making substantial improvements. The Petitioners propose razing the existing garage, and constructing a two-story addition on the east side of the existing home, adjacent to the Kramer property. As shown on Exhibit 1A, the proposed addition will be 44' x 26' in dimension, and attached to the dwelling via a 16' wide breezeway. Due to the location of the existing dwelling, the proposed addition will be located 20 feet from the side property line. Thus, the requested variance relief is necessary.

In support of the request, the Petitioners testified that the addition could not be located on the other side of the house or to the rear, due to the location of the well and septic systems in those areas. Moreover, the proposed location for the addition is the most practical, given the interior layout of the existing dwelling. It was indicated that the dining room and living room are on the east side of the house. Finally, the new garage would be easily serviced by the existing driveway. Further testimony indicated that upon completion of these improvements, the Petitioners intend to remove the roof on the existing one-story dwelling and construct a second story to the home completing the project. Mr. Doak testified that the proposed improvements will be compatible with other homes in the vicinity and that the addition will be constructed with materials to match the existing house. Building elevations of the proposed improvements were submitted into evidence as Petitioner's Exhibits 2A-2C.

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materials to match the existing house. Building elevations of the proposed improvements were submitted into evidence as Petitioner's Exhibits 2A-2C.

As noted above, Michael and Debra Kramer appeared in opposition to the request. They understand the Petitioners' need for more space, but believe that the proposed addition is just too large. Mr. Kramer presented two suggested alternatives to the Petitioners' proposal, as shown on Protestants' Exhibits 3 and 4. Essentially, he suggested turning the proposed addition so that the lengthier portion of the structure would run along their common property line, thereby placing it further away from their property. During a break in the course of these proceedings, the Petitioners and the Protestants further discussed the proposal to determine if a compromise could be reached. When the hearing reconvened, the Petitioners advised that they were modifying their plans in accordance with the agreement reached with their neighbors. Accordingly, they amended their request so as to reduce the variance from a 20-foot setback to a 40-foot setback. Subsequent to the hearing, Mr. Doak submitted a revised plan showing the modifications as set forth above. That plan has been incorporated into the record of this case and marked into evidence as Petitioner's Exhibit 1B. As shown thereon, the addition appears to be 40' x 24' in dimension and features a front-loaded garage facing Walker Road.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested variance as modified. There were no adverse Zoning Advisory Comments (ZAC) submitted by any County reviewing agency and the neighbors support the proposal. I find that the relief requested is appropriate in this instance, and meets the spirit and intent of the zoning regulations. Moreover, I find that there will be no detrimental impact to the health, safety or general welfare of the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of July 2006 that the Petition for Variance seeking relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard



JAMES T. SMITH, JR. County Executive

July 28, 2006

WILLIAM J. WISEMAN III

Zoning Commissioner

Mr. & Mrs. Christopher J. Papesh 1221 Walker Road Freeland, Maryland 21053

RE: **PETITION FOR ADMINISTRATIVE VARIANCE**S/S Walker Road, 1100' W of the c/l Eagle Mill Road
(1221 Walker Road)
6<sup>th</sup> Election District – 3<sup>rd</sup> Council District
Christopher J. Papesh & Julia A. Delligatti - Petitioners
Case No. 06-548-A

Dear Mr. & Mrs. Papesh:

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

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

Zoning Commissioner

for Baltimore County

WJW:bjs

cc: Mr. Bruce E. Doak, Gerhold, Cross & Etzel 320 E. Towsontown Boulevard, Towson, Md. 21286 Mr. & Mrs. Michael Kramer, 1299 Walker Road, Freeland, Md. 21053 Office of Planning; People's Counsel; Case File



### Petition for Administrative Variance

### to the Zoning Commissioner of Baltimore County

for the property located at	1221	WALKER	RD	
which	P.C.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) IAO4、30、3、15、( 60元)

1A00, 3B. 3. (RDP-BILL NO. 100 1970)

1/We do solemnly declare and affirm, under the penalties of

TO PERMIT AN ADDITION (GARAGE) WITH A 20-FOOT SIDE YARD SET BACK IN LIEU OF THE REQUIRED 50-FEET.

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

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

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

perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser/Lessee: CHRISTOPHER Name Type or Print Name - Type or Print Signature DEZLIGATE Telephone No. Name - Type or Print Address Signature Zip Code State City Attorney For Petitioner: Telephone No. Address 2.1053 Zip Code State Name - Type or Print Representative to be Contacted: Signature Name Company Telephone No. Telephone No. Address Ad ress Zip Code Zip Code City State State Rublid Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning day of sementions of Baltimore County and that the property be reposted. Zoning Commissioner of Baltimore County Reviewed By ASE NO. **Estimated Posting Date** 

# Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently reside at	1221 WALKE	TR RD	· <u> </u>
	Address FRIZZANIO	mD	21053
That based upon personal knowledge, the followariance at the above address (indicate hardsh	owing are the facts upon	State which I/we base the req	Zip Code uest for an Administrative
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I HEREBY CERTIFY, this 12th day of of Maryland, in and for the County aforesaid, p	ersonally appeared		Notary Public of the State
the Affiant(s) herein, personally known or satisf	factorily identified to me a	s such Affiant(s).	<u>.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</u>
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	Notary Public	I de Man	
	Mv Commission	AND COMMANDE	SION EXPIRES

# Affidavit in Support of Administrative Variance

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CHRISTOPHER. J. PAPESH  Name - Type or Print	$\sim$	e or Print	
STATE OF MARYLAND, COUNTY OF BALTIMOR	 E, to wit:		
of Maryland, in and for the County aforesaid, person the Affiant(s) herein, personally known or satisfactor	rily identified to me as s	A. DEZLIGATI	Notary Public of the State
AS WITNESS my hand and Notarial Seal			; ;
	Notary Public	el sexhau	CHANGE WARMARES

My Commission Expires \_\_\_\_



### Petition for Administrative Variance

### to the Zoning Commissioner of Baltimore County

for the property located at 1221 WALKER RI) FREELAND, MD which is presently zoned 2005

I/We do solemnly declare and affirm, under the penalties of

perjury, that I/we are the legal owner(s) of the property which

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) 1AOO3B, 3. (RDP-BILL NO. 100 1970)

[AO4.3B.J.b. (BCZE)

TO PERMIT AN ADDITION (GARAGE) WITH A 20-FOOT SIDE YARD SETBACK IN LIEU OF THE REQUIRED 50-FEET.

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

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

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

is the subject of this Petition. Contract Purchaser/Lessee: <u>Legal Owner(s):</u> MRISTOPHER J. PAPESH Name - Type or Print Name - Type or Print Signature DEZLIGAITI Telephone No. Name - Type or Print Address Signature Zip Code City State 1221 WALKER 410 357 8743 Attorney For Petitioner: Address Telephone No. FREZZIMIE 21053 MIS Zip Code State Name - Type or Print Representative to be Contacted: Signature Name Combany Address Telephone No. Address Telephone No. his dearing having been formally demanded and/or for that the subject r. egolitions of Baltimore County and that the property be reposted. City State Zip Code Zip Code A public learing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning Zoning Commissioner of Baltimore County Reviewed By\_ Date Estimated Posting Date \_\_\_\_

Zoning Description for 1221 WALKER RD; FREEZAND, MD; 21053.

Beginning at a point on the south side of Walker Rel, 1100' WEST OF EAGLE MILL RD.

North 71° 01'26" West for 200.031 to 2 1/26 then

South 17° 58' 03" West for 437.36' to apipe then,

soft 72° 01'57" East for 200' to 2 pipe than

North 17° 58' 63" Est for 433.84' to P.O.13

Lot Number!
Plat Reference, Book 49 page 21
Efection District \*6 Concilmatic Dist 3

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### FORMAL DEMAND FOR HEARING

CASE NUMBER:	06-548	-A
Address: <u>1221</u>	WACKE	C RD_
Petitioner(s): Christop	sherPapesh	4 Julia Dellige
TO THE ZONING COMMISS	SIONER OF BALTI	MORE COUNTY:
Name - Type o (V Legal Owner ANDR	r Print  (V. Resident	of
1299 WACKI Addre	ER RO	
City		? 1053 Zip Code
4/0-324-0 Telep	hone Number	
which is located approximate property, which is the subject formally demand that a particular of the court of	oublic nearing be	e set in this matter.
Must Manuel Signature		5/19/06 Date
Signature Revised 9/18/98 - wcr/scj		Date

BALTIMORE COUNTY, MA OFFICE OF BUDGET & FINANCE SCELLANEOUS RECEIPT	No.
DATE	ACCOUNT Said File ( 1800)
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FOR: - / / / / / / / / / / / / / / / / / /	Hart Hart Hart War
DISTRIBUTION HITE - CASHIER PINK - AGENCY	

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CASHIER'S VALIDATION



### Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

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

### **CERTIFICATE OF POSTING**

RE: CASE# 05-548-A
PETITIONER/DEVELOPER:
Christopher Papesh
DATE OF HEARING: June 22, 2006

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

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

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

(see page 2 for full size photo)

LOCATION:

1221 Walker Road

SIGNATURE OF SIGN POSTER

John Dill

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

POSTED ON: June 6, 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: #06-548-A

1221 Walker Road

South elde of Malker Road, 1100 feet weet of Eagle

South side of Walker Road, 1100 feet west of Eagle

Mill Road

6th Election District — 3rd Councilmanic District Legal Owner(s): Christopher J. Papesh & Julia A. Delligati

Variance: to permit an addition (garage with a 20-foot side yard setback in lieu of the required 50 feet.)
Hearing: Thursday, June 22, 2006 at 10:00 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) 887-3868.

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

JT 6/611 June 6

### CERTIFICATE OF PUBLICATION

6/8,2006
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 66,2006.
☐ The Jeffersonian ☐ Arbutus Times ☐ Catonsville Times ☐ Towson Times ☐ Owings Mills Times ☐ NE Booster/Reporter ☐ North County News

LEGAL ADVERTISING





0/13E##10646/41#A

A PUBLIC HEARING WILL BEHED BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 407 County Courts Building 401 Bosley Avenue, Towson, MD

TIME & DATE: 10:00 am Thursday, June 22:2006

Wattersoe: to permit a addition (garage) with a 20stoot side yard setback in lieu of the required 50 feet.

POSTPONEMENTS DUB TO WEATHER OR OTHER GONDITIONS ARE SOMETIMES RECESSARY TO CONFIRM HEARING CALL TOURS - 3391 THE DAY BEFORE THE SCHEDULED HEARING DATE

TO HOT PEUDLE YOUR SIGNAND FOR THIS BLY OF MEASURE DISEASED ACCESSIBLE.

TO:

PATUXENT PUBLISHING COMPANY

Tuesday, June 6, 2006 Issue - Jeffersonian

Please forward billing to:

Christopher Papesh 1221 Walker Road Freeland, MD 21053

410-357-8743

### 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: 06-548-A

1221 Walker Road
South side of Walker Road, 1100 feet west of Eagle Mill Road
6<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District
Legal Owners: Christopher J. Papesh & Julia A. Delligati

Variance to permit an addition (garage) with a 20-foot side yard setback in lieu of the required 50 feet.

Hearing: Thursday, June 22, 2006 at 10:00 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

(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.

## Department of Permits and Development Management

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



### **Baltimore County**

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

May 24, 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: 06-548-A

1221 Walker Road
South side of Walker Road, 1100 feet west of Eagle Mill Road
6<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District
Legal Owners: Christopher J. Papesh & Julia A. Delligati

Variance to permit an addition (garage) with a 20-foot side yard setback in lieu of the required 50 feet.

Hearing: Thursday, June 22, 2006 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Mr. Papesh/Ms. Delligatti, 1221 Walker Road, Freeland 21053 Mr. Michael Kramer, 1299 Walker Road, Freeland 21053

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 7, 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.



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

### ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

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# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

### **ZONING REVIEW**

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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.

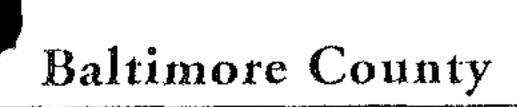
### OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

Item Number	or Case Number: 06-548-A	
Petitioner: _	PAPESH DELLIGATTI	<del></del>
Address or Lo	ocation: 1221 WALKER RD.	<u></u>
PLEASE FOR	RWARD ADVERTISING BILL TO:	
Name:	MR. CHRISTOPHER J. PAPESH	<del>,</del>
Address:	1221 WALKER RD.	<del></del>
, 10010001		

# Department of Permits and Development Management

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





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

'June 15, 2006

Christopher J. Papesh Julia A. Dezligatti 1221 Walker Rd. Freeland, MD 21053

Dear: Mr. Papesh & Ms. Dezligatti,

RE: Case Number: 06-548-A, 1221 Walker Rd.

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 7, 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.

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:sma

Enclosures

c: People's Counsel

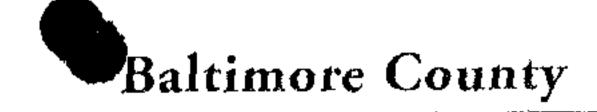


Visit the County's Website at www.baltimorecountyonline.info

### Fire Department

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





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 May 8,2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: May 15,2006

Item Numbers: 537 thru 557

548

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

### BALTIMORE COUNTY, MARYLAND

### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** May 12, 2006

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For May 15, 2006

Item Nos: 441, 537, 538, 539, 540, 542, 544, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, and 557

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

DAK:CEN:elw

cc: File

ZAC-NO COMMENTS-05102006.doc

(a). 5.2.

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 6-548- Administrative Variance

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

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

Prepared By:

**Division Chief:** 

**DATE:** May 16, 2006

MAY 2 : 2006

CM/LL



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

### Maryland Department of Transportation

Date: 5.5.01

RE:

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

Item No.

**Baltimore County** 

548 DT

Dear. Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief

1. 1. Gredh

Engineering Access Permits Division

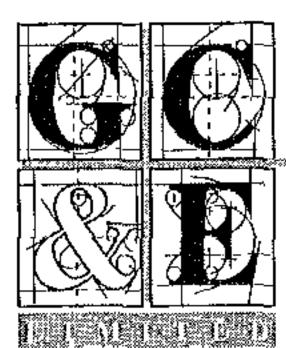
submitted into evidence as Petitioner's Exhibits 2A-2C.

As noted above, Michael and Debra Kramer appeared in opposition to the request. They understand the Petitioners' need for more space, but believe that the proposed addition is just too large. Mr. Kramer presented two suggested alternatives to the Petitioners' proposal, as shown on Protestants' Exhibits 3 and 4. Essentially, he suggested turning the proposed addition so that the lengthier portion of the structure would run along their common property line, thereby placing it further away from their property. During a break in the course of these proceedings, the Petitioners and the Protestants further discussed the proposal to determine if a compromise could be reached. When the hearing reconvened, the Petitioners advised that they were modifying their plans in accordance with the agreement reached with their neighbors. Accordingly, they amended their request so as to reduce the variance from a 20-foot setback to a 40-foot setback. Subsequent to the hearing, Mr. Doak submitted a revised plan showing the modifications as set forth above. That plan has been incorporated into the record of this case and marked into evidence as Petitioner's Exhibit 1B. As shown thereon, the addition appears to be 40' x 24' in dimension and features a FRONT-loaded garage facing WALKER ROAD.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested variance as modified. There were no adverse Zoning Advisory Comments (ZAC) submitted by any County reviewing agency and the neighbors support the proposal. I find that the relief requested is appropriate in this instance, and meets the spirit and intent of the zoning regulations. Moreover, I find that there will be no detrimental impact to the health, safety or general welfare of the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this \_\_\_\_\_ day of July 2006 that the Petition for Variance seeking relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 40 feet in lieu of the required 50 feet for a proposed addition, in accordance with Petitioner's



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		TR	ANSMITTA	LSHEET								
то. Bil	l Wiseman	<del></del>	FROM: Bruce E. Doak									
COMPAN		<del>.</del>	DATE. 7/25/06									
RE	ase #06-548	BA	TOTAL NO. OF PAGES INCLUDING COVER:									
FAX NUM	/BER		PHONE NUMBER:									
☐ ATT	RE TRANS	A MAIL A FAX	X VIA MESSENGER  PROPOSAL  PLEASE REPLY	☐ UNDER SEPARATE COVER ☐ FOR REVIEW ☐ DESCRIPTIONS ☐ LOCATION DRAWING ☐ F.Y.I.								
QTY	DATE	ITEM		DESCRIPTION								
	7/25/06	print	Red lined zonin	g plan showing the revised addition								
		<u> </u>		<u></u>								

### NOTES/COMMENTS:

Mr. Wiseman,

I have enclosed a red lined zoning plan that reflects the agreed upon location of the proposed addition. I have also enclosed a small copy that you can send to the adjoiner for their review. Please feel free to call me with anything else you may need.

Application Chaddist

# AUTHORITY AND PETITIONER'S BURDEN

All requests for zoning residential lot variances and special hearings are handled by the Department of Permits and Development Management (PDM), Bureau of Zoning Review. Applications are obtained from, and filed with, Zoning Review and all hearings are scheduled before the Zoning Commissioner. The enabling legislation that provides the zoning commissioner with the authority is located in Sections 307 & 500 of the BCZR. The Director of PDM interprets and enforces the BCZR. Any disagreement with said interpretation may be taken to the Zoning Commissioner per Section 500.7 (BCZR).

Legal representation is recommended in all cases, but <u>in the case of a corporation</u>, it is a requirement. The information that proceeds is provided to give the petitioner a basic understanding of the legal burden of proof that must be satisified prior to the granting of the petition. It is not a substitute for private legal counsel nor should it be construed as legal advice.

### Variances:

Under the authority of Section 307.1 (BCZR), the Hearing Officer, applying the two-step test set forth in Cromwell v. Ward, 100 Md. App. 691 (1995), has the authority to grant variance from the height, area, parking, and sign regulations.

- A. The first step requires the petitioner to prove, to the satisfaction of the hearing officer, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.
- B. The second step of the test requires that the petitioner must demonstrate that strict compliance with the BCZR would result in either practical difficulty or unreasonable hardship. The Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, stated:
  - 1. "To prove <u>undue hardship</u> for a use variance, the following three criteria must be met:
    - (i) Applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).
    - (ii) The difficulties or hardship is peculiar to the subject property in contrast with other properties in the zoning district.
    - (iii) Hardship was not the result of applicant's own actions.

- 2. To provide <u>practical difficulty</u> for an area variance, the following criteria must be met:
  - Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unncessarily burdensome.
  - Well as other property owners in district, or whether a lesser relaxation than that applied for would give substantial relief.
  - (iii) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."
- C. No increase in residential density beyond that allowed by the BCZR shall be permitted.
- D. The relief requested must be in strict harmony with the spirit and intent of height, area, parking, or sign regulations.
- E. And only in such manner as to grant relief without substantial injury to the public health, safety, and general welfare.

### Special Hearings:

Under the authority of BCZR Section 500.6, the Zoning Commissioner has the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order regarding this matter.

Under the authority of BCZR Section 500.7, any person can petition the Zoning Commissioner to hold a public hearing to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such a person in any property insofar as they are affected by the BCZR.

### **Use Permits**

Certain uses have singular, individual characteristics which make it necessary, in the public interest (even though other County permits may not be required), to specify regulations for each zoning classification. Under the authority of Section 500.4 (BCZR), the Director of PDM has the power to issue a use permit provided that all of the conditions for that particular use specified in the BCZR are met. Under the authority of Section 500.7 (BCZR), he has the right to require a public hearing whenever he deems it in the public interest.

Case No.: 06-548-A 1221 WALKER PC

### **Exhibit Sheet**

### Petitioner/Developer

### Protestant

No. 1	1 A - Site Plan accompanying letitu	MPLAT - ExistiNG CONDITIONS	
	1B - amended Sitz Plan-for amended Petition	WELL - SEPTIC AREAS DEFINED	
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[ ] 	3 A - 36 - Subject Property	GARAGE ADDITION	
No. 4		FLAT SUGGESTED#2 WITH	
		SIDE Garage Moves Formand with Fu	m
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No. 8			
No. 9			
No. 10			
No. 11			
No. 12			

NTS § 307

### EXCEPTIONS: HEIGHT & AREA REQUIREMENTS

- C. If the Department of Permits and Development Management has not notified the applicant of a determination pursuant to the provisions of this section, or has not notified the applicant pursuant to Section 304.4 above of the intention to require a public hearing, the dwelling shall be considered appropriate for purposes of this section.
- The decision of the Zoning Commissioner or the Director of the Department of Permits and Development Management may be appealed, in which case the hearing shall be scheduled by the Board of Appeals within 45 days from receipt of the request.
- The Director of the Department of Permits and Development Management shall establish appropriate fee schedules.

# Section 305 Replacement of Destroyed or Damaged Dwellings [BCZR 1955; repealed by Bill No. 124-1991; re-enacted by Bill No. 214-1991]

In case of complete or partial casualty loss by fire, windstorm, flood or otherwise of an existing dwelling that does not comply with height or area requirements of the zone in which it is located, such dwelling may be restored, provided area or height deficiencies of the dwelling before the casualty are not increased in any respect, and such restoration is subject to the limitations imposed by Section 104.2 of the Baltimore County Zoning Regulations.

# Section 306 Minor Public Utility Structures [BCZR 1955; Resolution, November 21, 1956; Bill No. 32-2004]

Minimum lot area regulations in any zone shall not apply to:

- A. Repeater, booster or transformer stations;
- B. Bus shelters, Class A or B; or

§ 304

C. Small community dial offices.

# Section 307 Variances [BCZR 1955; Bill Nos. 107-1963; 32-1988; 2-1992; 9-1996]

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 public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

# Section 308 Variances and Special Exceptions for Radiation Fallout Shelters [Bill Nos. 87-1961; 19-1962]

Radiation fallout shelters may be erected and constructed in accordance with specifications published by the Office of Civil and Defense Mobilization of the United States Government for one of the shelter types or designs approved by said agency as being effective for affording protection from radiation fallout, and the Zoning Commissioner may grant variances from area and height regulations and may make special exceptions to the Zoning Regulations where strict compliance with those regulations would result in practical difficulty or unreasonable hardship, and where the owner of the lot does not own sufficient adjoining land to conform strictly to the width and area requirements. However, any such variance or special exception shall be granted by the Zoning Commissioner only if in harmony with the general purpose and intent of the Zoning Regulations. All decisions of the Zoning Commissioner with respect to such matters shall be subject to appeal to the Board of Appeals. Every radiation fallout shelter which may be erected and constructed under this section shall be used only for the purpose of protection from radiation fallout, and not for normal residential, commercial or industrial uses.

3-6 9-15-2004

Editor's Note: Apparently conflicts with certain provisions found in the Baltimore County Code 1988 Edition, as revised, which prescribe requirements with respect to notice and hearing regarding conventional reclassification petitions that differ from those which it prescribes regarding variance petitions. See the Appendices of this volume for excerpts from the Baltimore County Code. See Section 26-127 for authority of the Zoning Commissioner to grant variances, and Section 26-117 for provision regarding conflicts between Title 26 and the Zoning Regulations.

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER 06548 DATE 06:22.0Ce

# PETITIONER'S SICK-IN SHEET

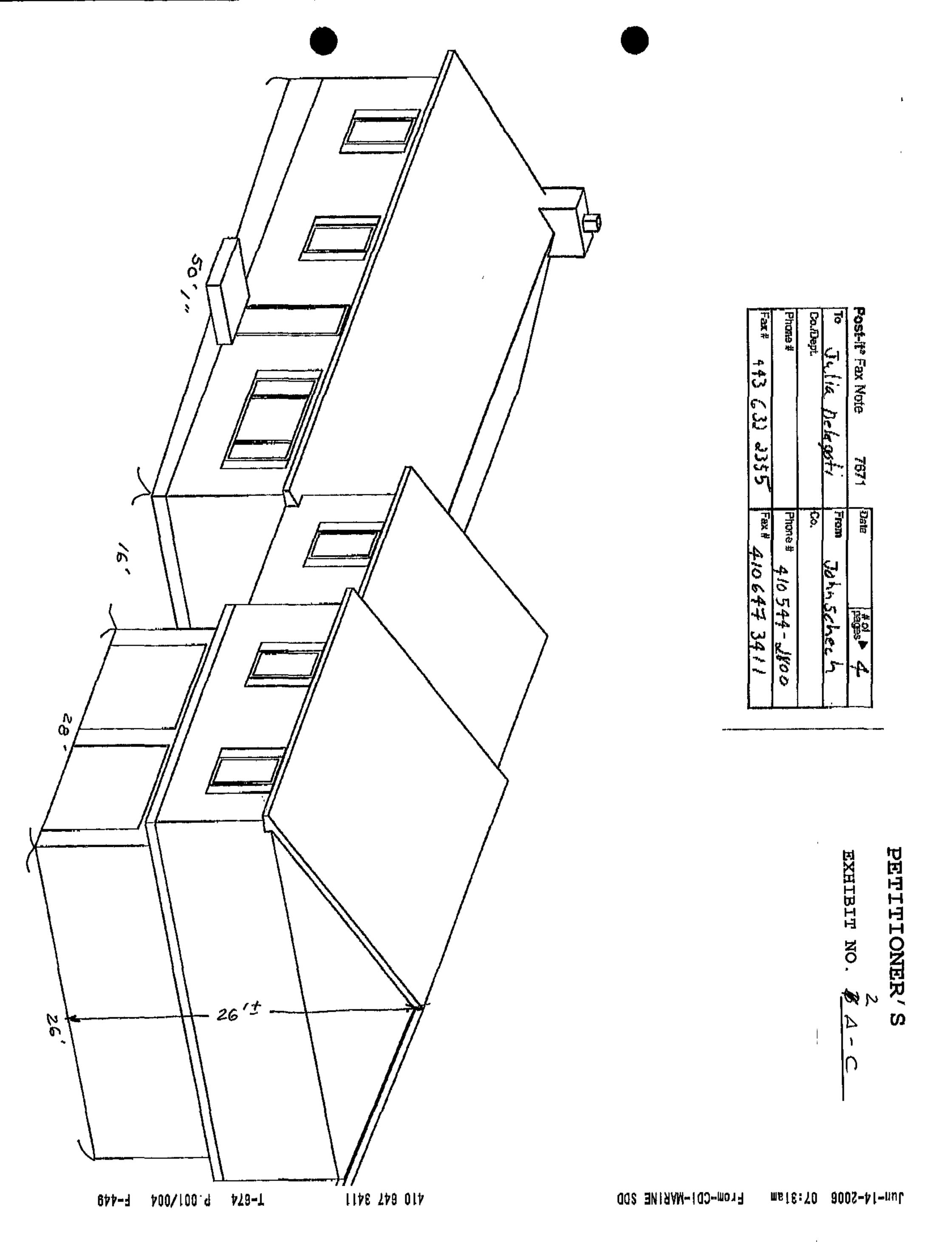
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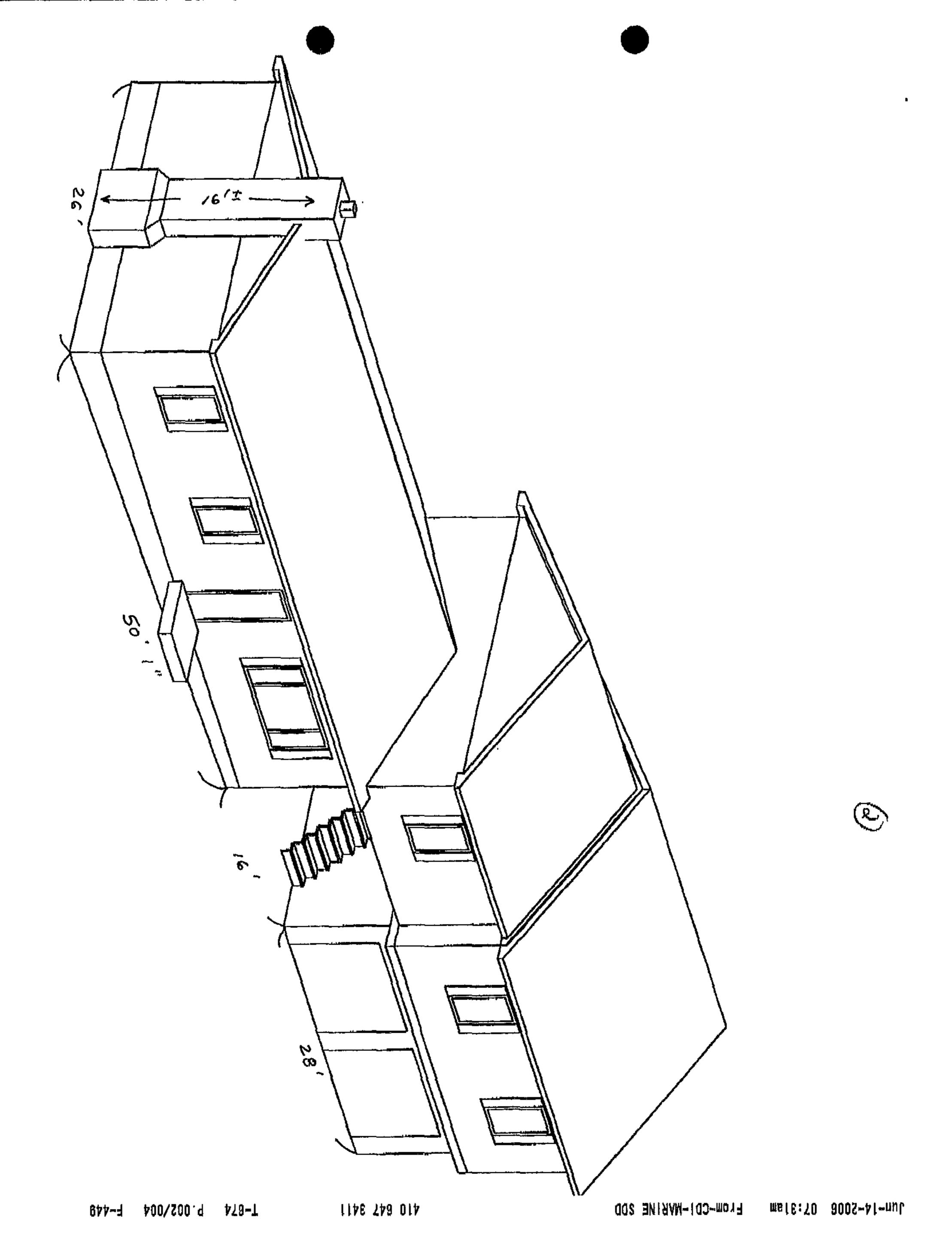
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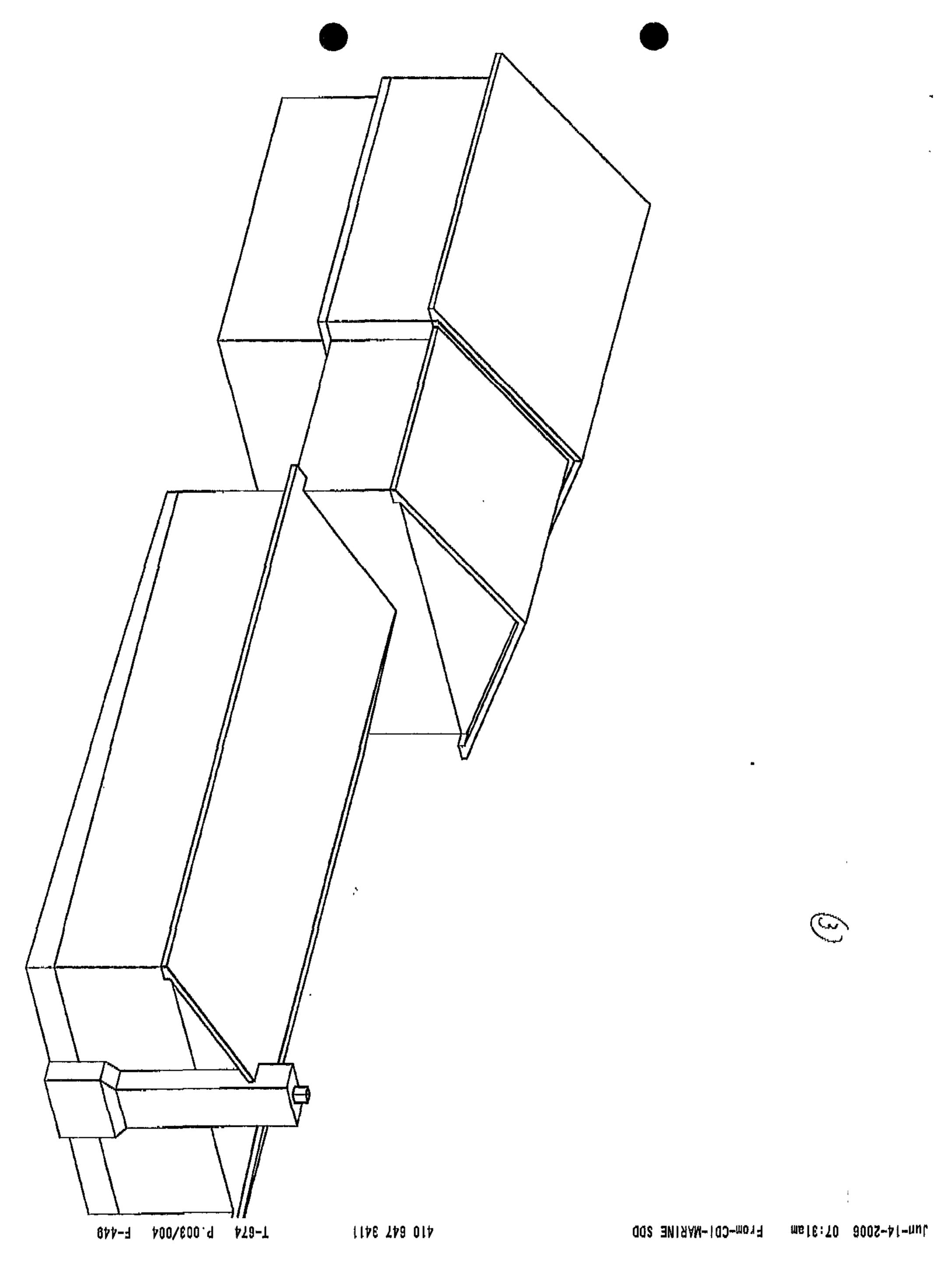
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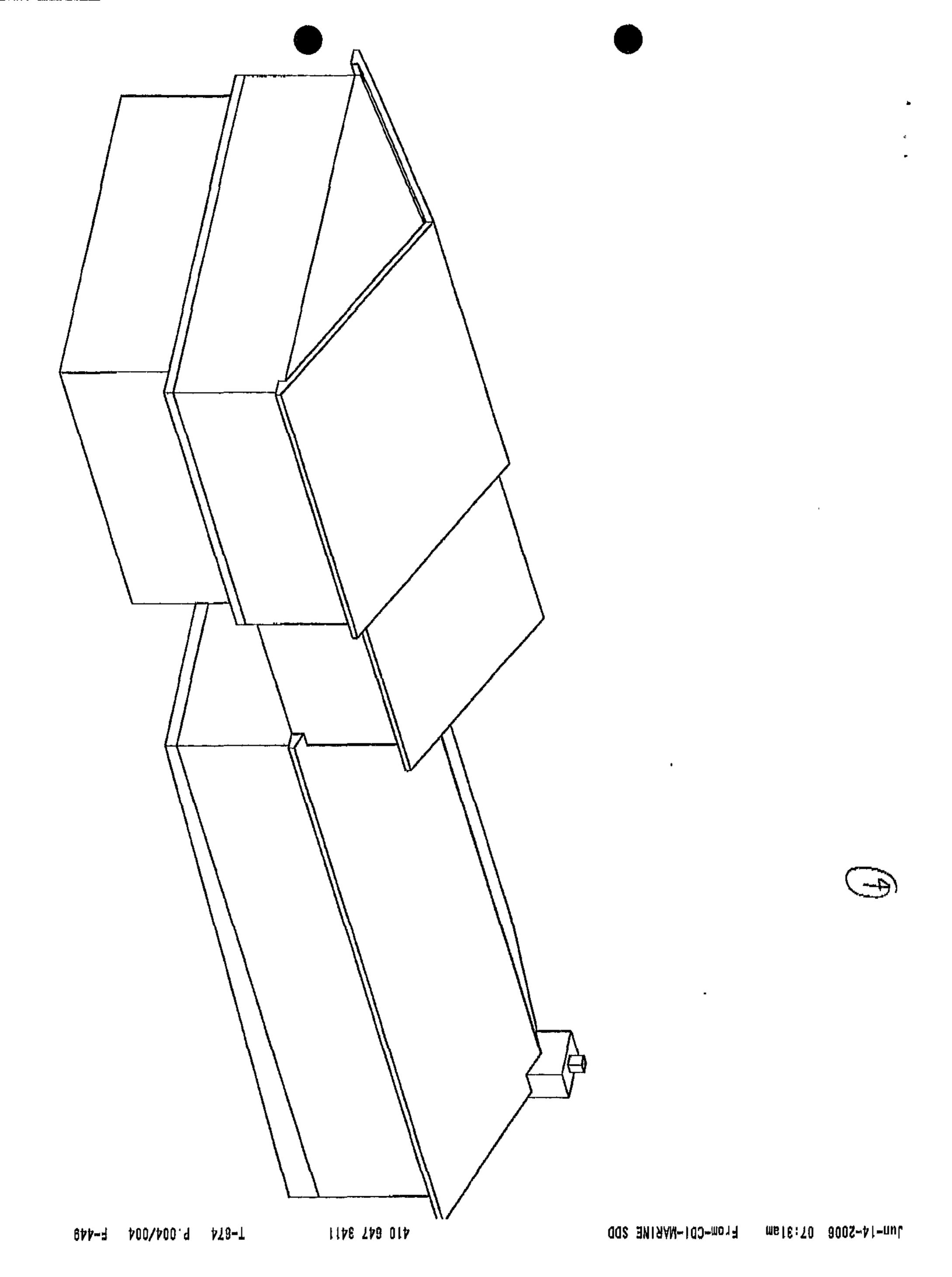
# CITIZEN'S SIGN-IN SHEET

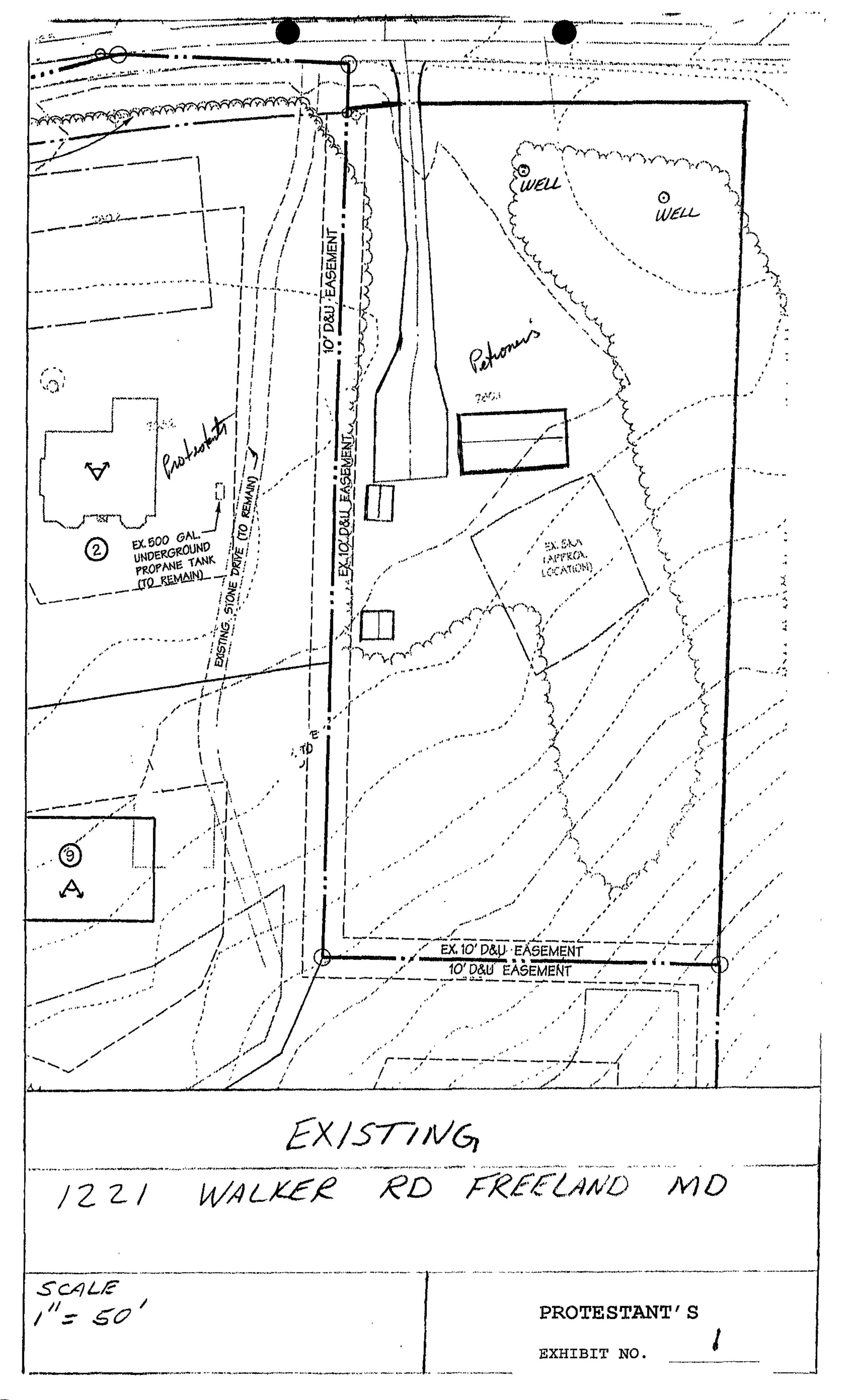
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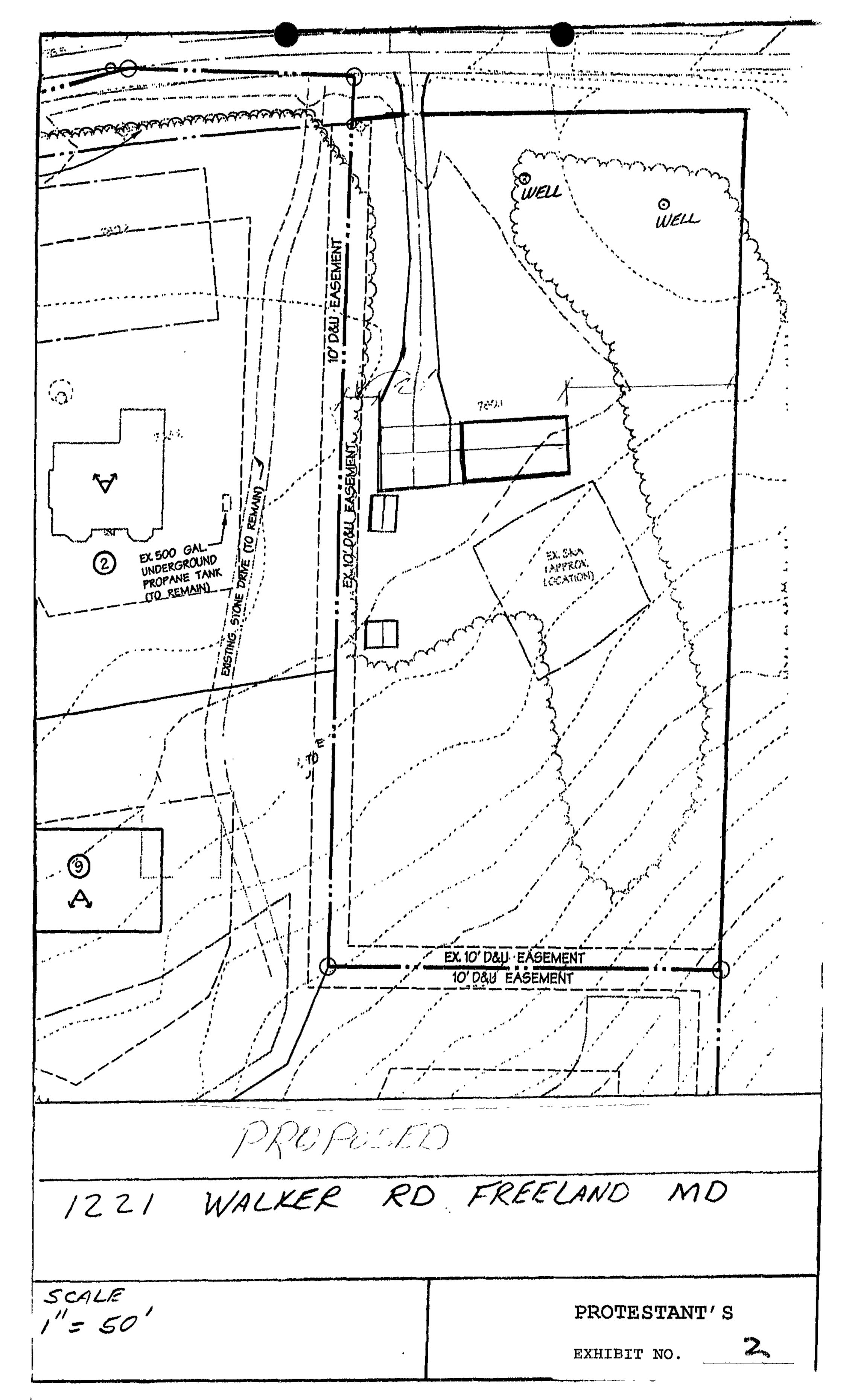


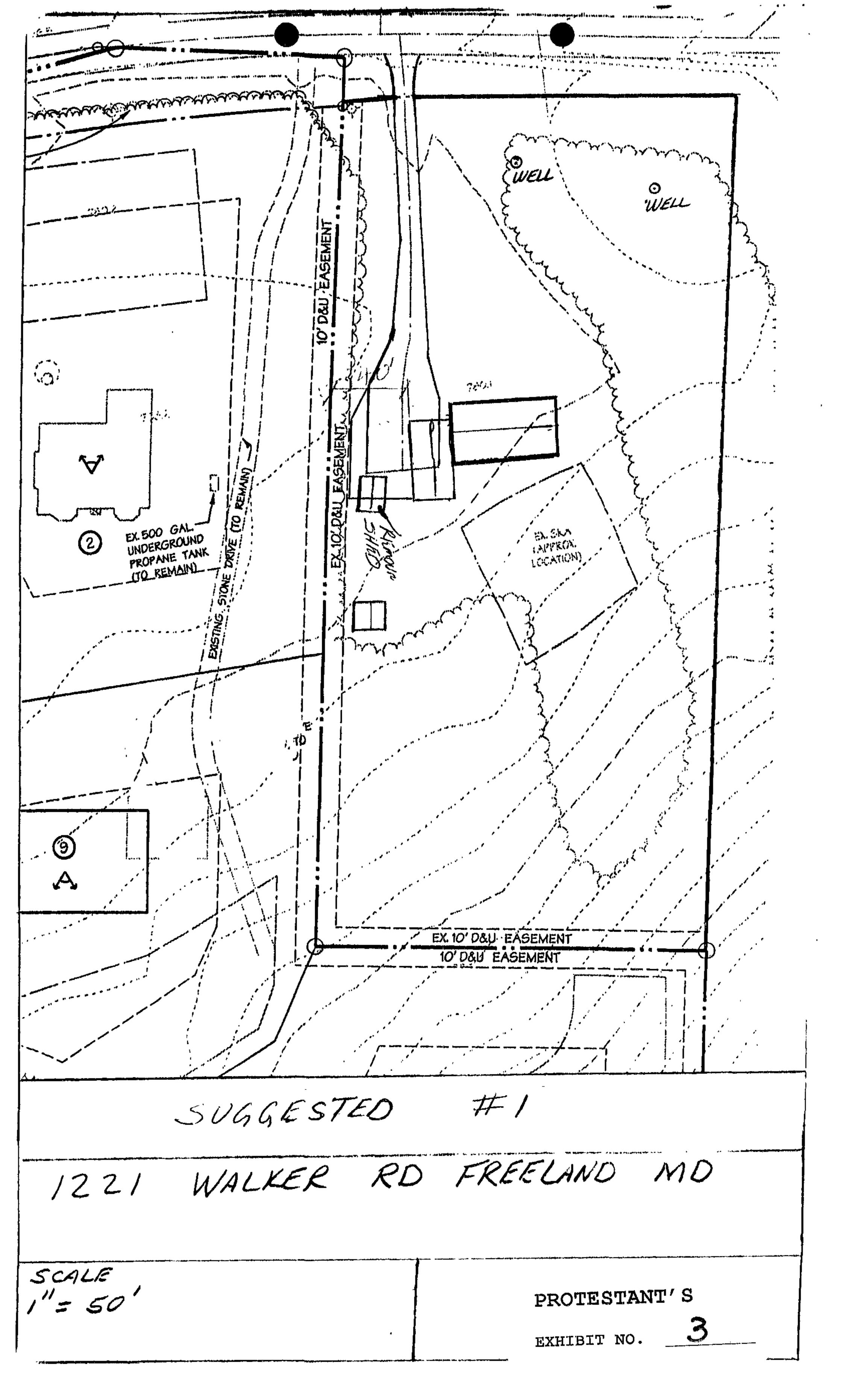


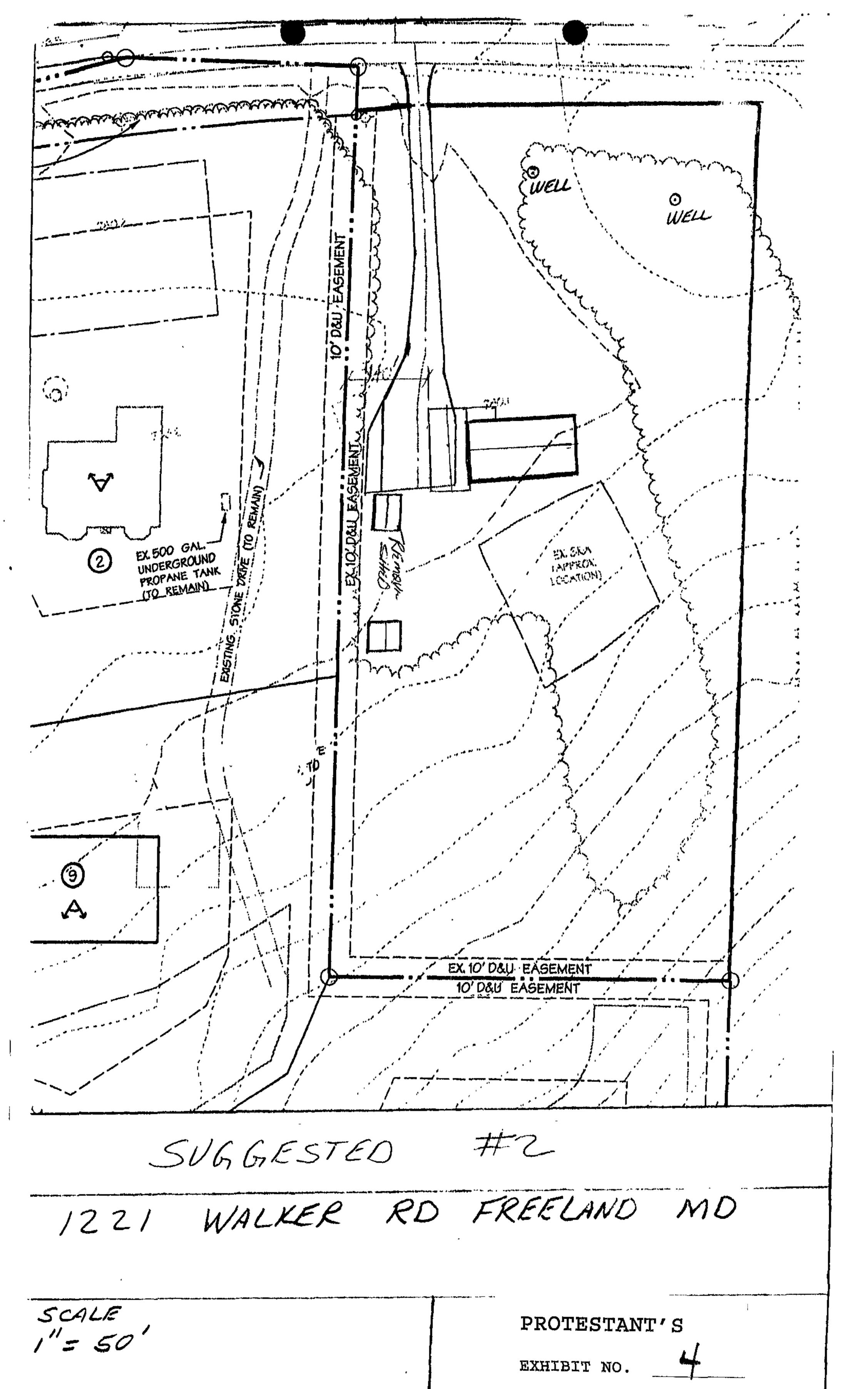


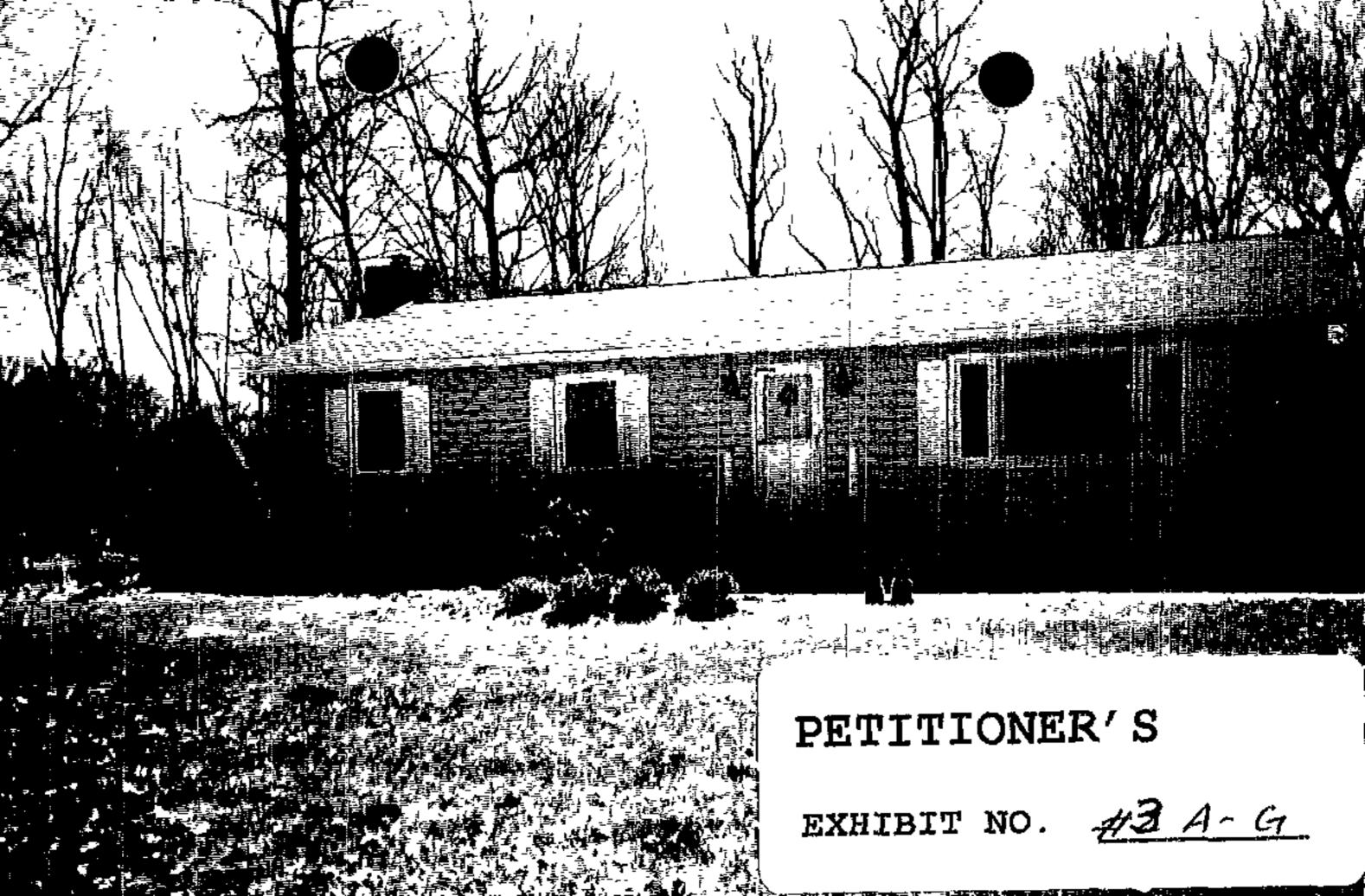






























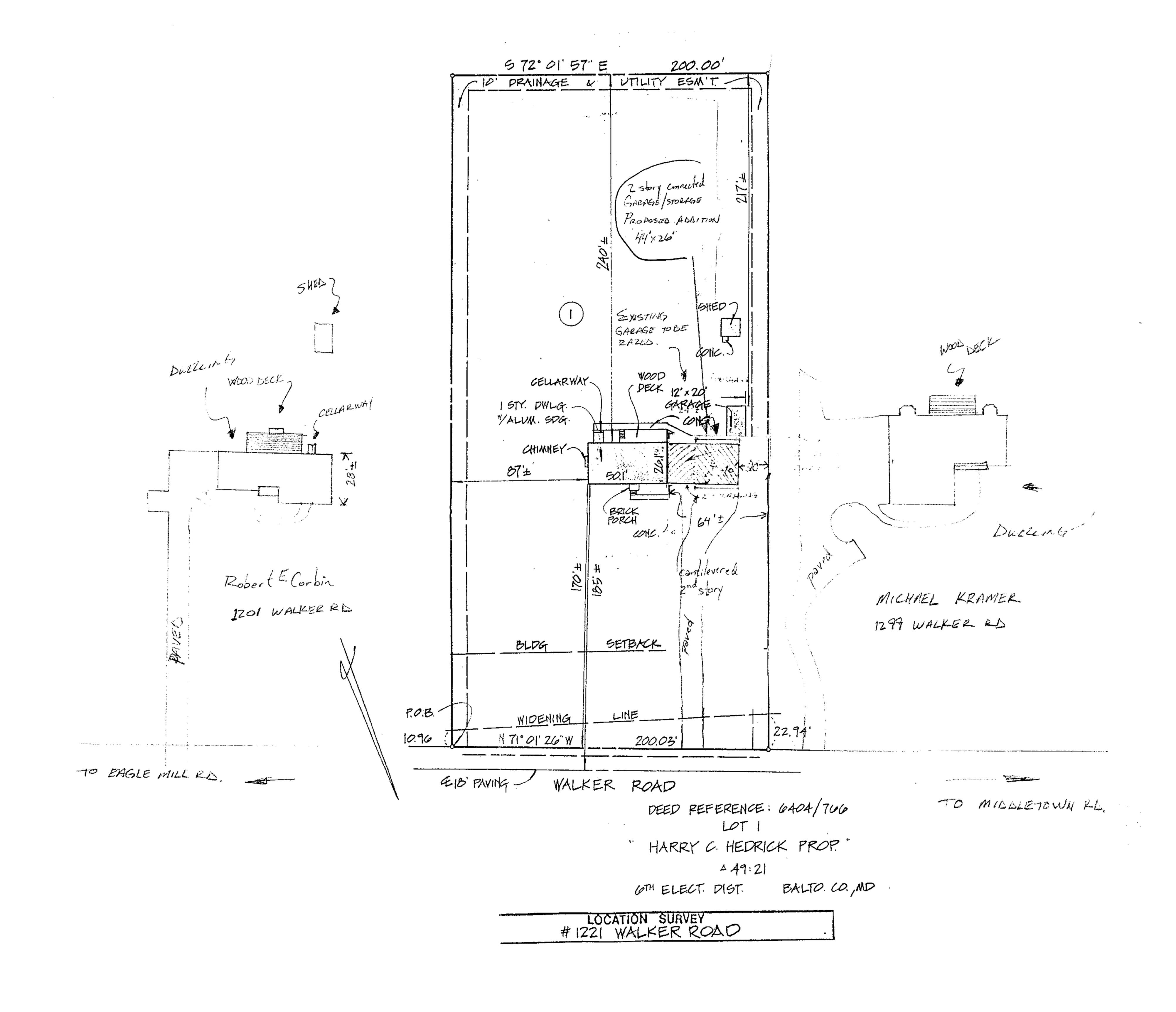


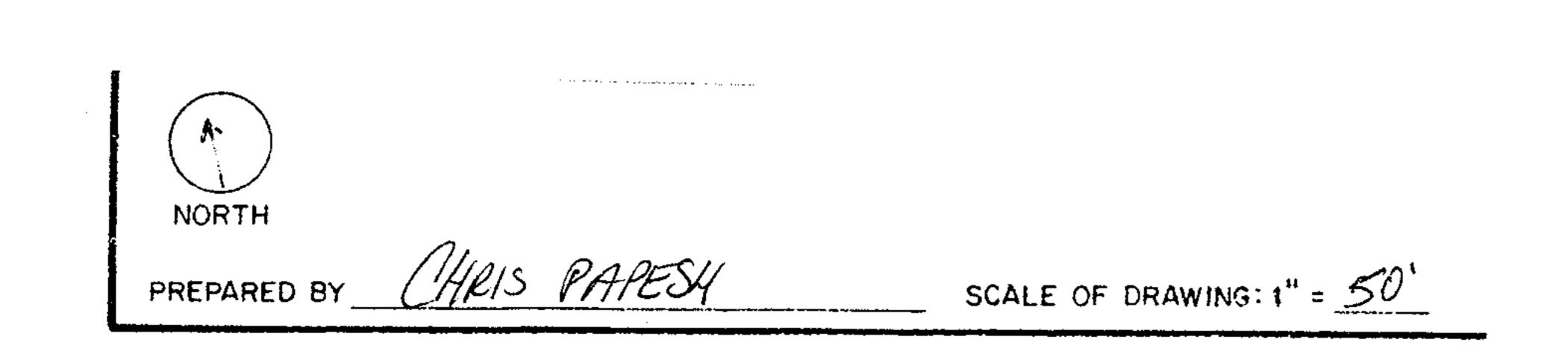


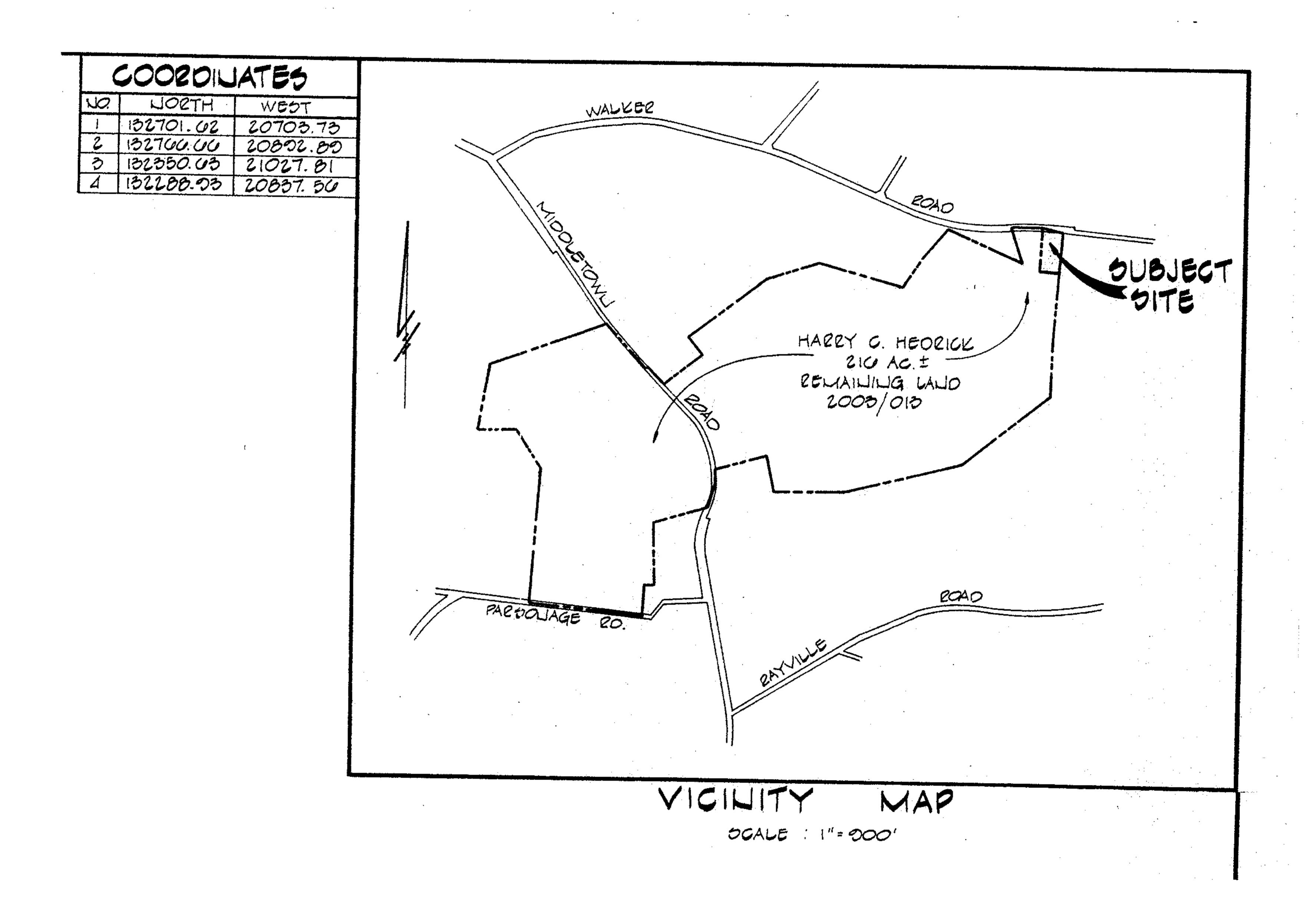




## PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING PROPERTY ADDRESS 1221 WALKER R.D. SUBDIVISION NAME PLAT BOOK # 49 FOLIO # 21 LOT # 1 SECTION # OWNER CHRISTOPHER PAPESH T JULIA DELLIGATTI HUSGANO WIFE







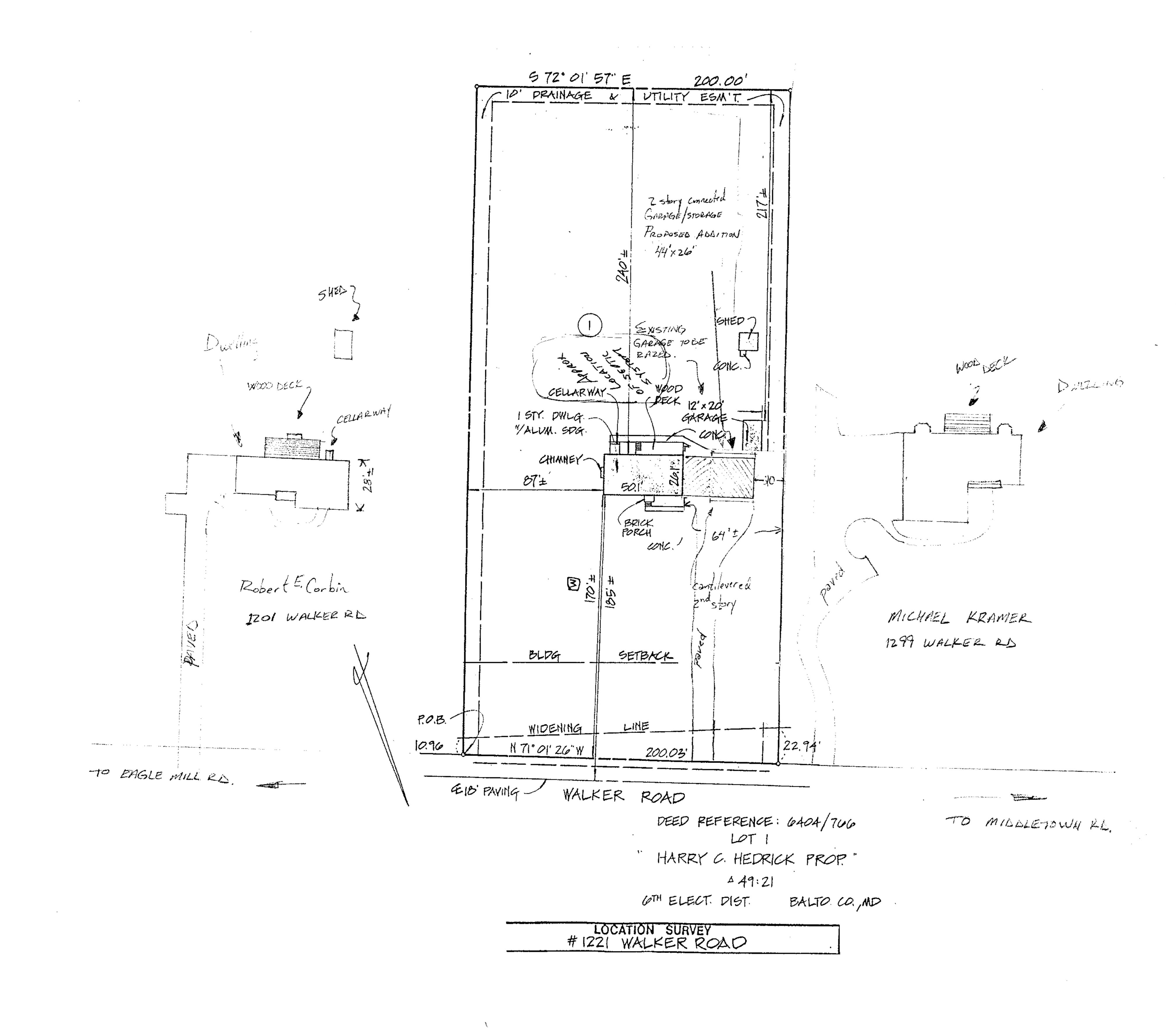
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	ZONING RC-5
	LOT SIZE 2.0 = SQUARE FEET
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	100 YEAR FLOOD PLAIN
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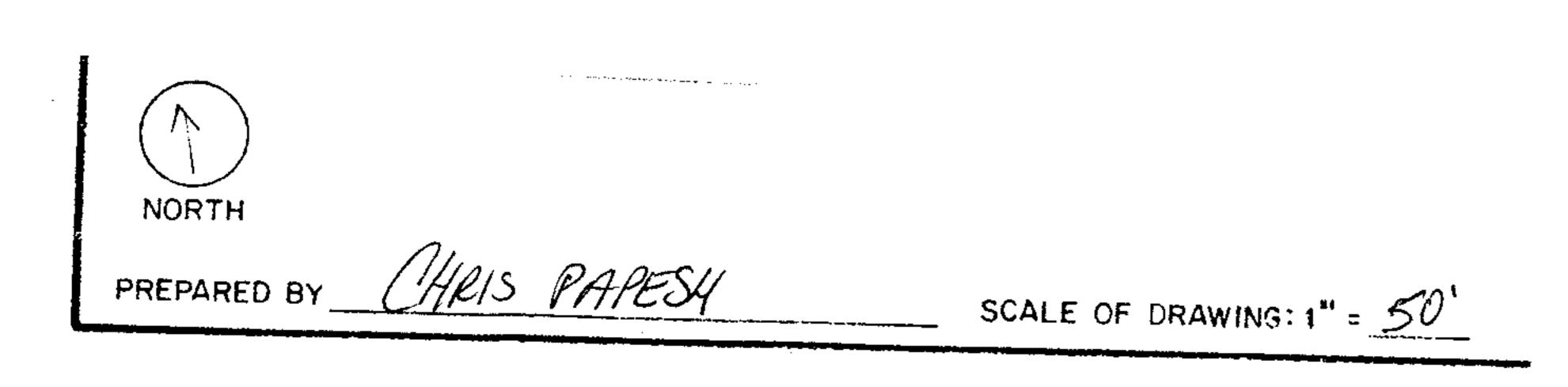
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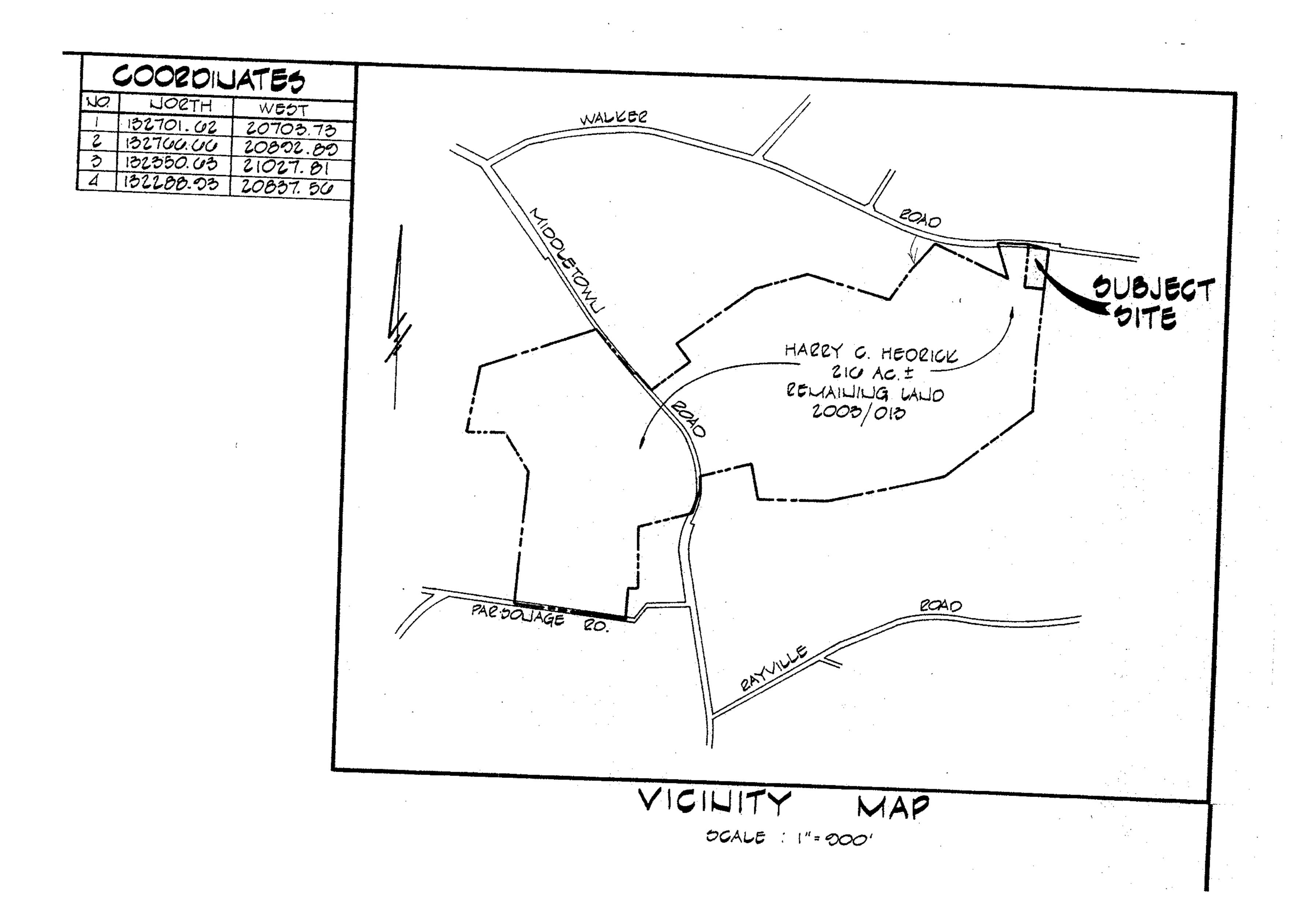
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EXHIBIT NO. 18

## PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING PROPERTY ADDRESS 1221 WALKER R.D. SUBDIVISION NAME PLAT BOOK # 49 FOLIO # 21 LOT # 1 SECTION # OWNER CHRISTOPHER PAPESH T JULIA DELLIGATTI WIFE







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PETITIONER'S

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