

IN RE: PETITION FOR VARIANCE
SW/S of Old Frederick Road, SE corner
Garnet Avenue
1st Election District
1st Councilmanic District
(6117 Old Frederick Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*

Herman L. Spivey
Petitioner and Legal Owner
Brian McCloskey, McCloskey Group, LLC
Contract Purchaser

* CASE NO. 06-662-A

* * * * *

IN RE: PETITION FOR VARIANCE
E/S of Garnett Avenue, S of c/l of
Old Frederick Road
1st Election District
1st Councilmanic District
(3 Garnet Avenue)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*

Herman L. Spivey
Petitioner and Legal Owner
Brian McCloskey, McCloskey Group, LLC
Contract Purchaser

* CASE NO. 06-663-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Herman L. Spivey. The Petitioner is requesting the following variance relief:

Case No. 06-662-A: This property is located at 6117 Old Frederick Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a side yard setback of 10 feet, in lieu of 25 feet required and, if necessary, for a lot width of 54 feet in lieu of 55 feet required.

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Case No. 06-663-A: This property is located at 3 Garnet Avenue. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a lot width of 50 feet in lieu of 55 feet required.

The properties were posted with Notice of Hearing on August 3, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief and time and date of the public hearing. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 3, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

Amended Petition

The Petitioner's request for variances in Case No 06-663-A assumed a 10 foot lot line adjustment with the adjacent lot owned by the Petitioner which is the subject of Case No. 06-662-A. However the Planning Office objected to the lot line adjustment indicating that this would create an irregularly shaped lot vis a vis the surrounding community. The Petitioner and all interested citizens at the hearing agreed that having the lot line adjustment was not desirable for the reasons given by the Planning Office. If there was no lot line adjustment, the lot which is involved with Case No. 06-663 would be 5500 square feet and therefore undersized with respect to the small lot table of Section 1B02.3.C.1 which requires 6000 square feet. All agreed that although this specific request for variance had not been advertised, the Petitioner could amend his request for this case to include an under area lot of 5500 square feet.

Applicable Law

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

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances

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[Signature]

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: ZAC comments were received from the Planning Office which indicated the Office's opposition to the lot line adjustment and other restrictions.

Interested Persons

Appearing at the hearing on behalf of the variance request were Herman L. Spivey, Petitioner, and Richard Matz, professional engineer, who prepared the site plan. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case. James Pennington and Mary McLaughlin attended as interested citizens.

Code Enforcement Comments

The matter of Case No. 06-662-A is currently the subject of an active violation case (Case No. 06-5695) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due to high grass on the vacant lot.

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let.

The Petitioner would like to build a single family dwelling on each property. The Petitioner noted that similar requests had been recently approved for lots in the neighborhood including the house on lots 7 and 8 on Garnet Avenue. While the proposed house on Old Frederick Road meets the 10 foot side yard setback requirement of DR 5.5, it does not meet the side street setback of 25 feet. The lot is 54 feet wide while 55 feet is required. The Petitioner indicated that the proposed homes are 30 feet wide on each property but, if the side street setback were strictly enforced, the house on Old Frederick Road would be only 19 feet wide which is essentially a row home. He indicated that he thought such a narrow home would not be compatible with the neighborhood. The citizens at the hearing agreed.

Ms. McLaughlin whose home on Old Frederick Road is bordered by both lots, indicated the her concern was the house proposed on Old Frederick Road would not be aligned with her home. Col. Pennington expressed similar concerns noting the traffic from the nearby shopping center using Old Frederick Road might encounter difficulty if the house along the Road were not aligned. Mr. Matz acknowledged the site plan did not show the new home and Ms. McLaughlin's home aligned but agreed to such an alignment which he said would be required at building permit stage.

Findings of Fact and Conclusions of Law

Regarding zoning merger I see no evidence that these lots ever merged from a zoning perspective. The lots are separately assessed and taxed. They were conveyed by separate deeds. Neither lot has ever been improved except for a garden.

In regard to the variance issues of the amended Petition, I find special circumstances or conditions exist which make these properties unique from a zoning

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standpoint. Each is comprised by lots created many years before the DR zoning regulations were imposed and as such are disproportionately impacted by after imposed zoning regulations as compared to other lots in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. I agree with the Planning Office and community that creating an irregular lot by lot line adjustment as originally proposed is not desirable in these circumstances. Unless relief were granted the Petitioner could not build the proposed houses.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. As long as the new homes are aligned with the exiting homes, the community does not object to the variances. Section 303.1 of the BCZR requires such an alignment in this zone.

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

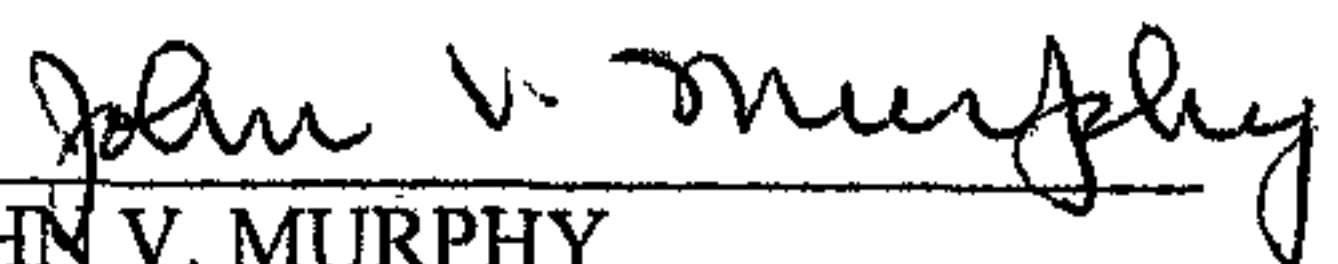
THEREFORE, IT IS ORDERED, this 23rd day of August, 2006, by this Deputy Zoning Commissioner, that variance relief for properties set forth as follows:

Case No. 06-662-A: For the property located at 6117 Old Frederick Road, the variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a side street setback of 10 feet, in lieu of 25 feet required, and a lot width of 54 feet in lieu of 55 feet required is hereby GRANTED; and

Case No. 06-663-A: This property is located at 3 Garnet Avenue. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a lot width of 50 feet in lieu of 55 feet required and a lot area of 5500 square feet in lieu of the 6,000 square feet required is hereby GRANTED subject however to the following conditions precedent to the relief granted herein:

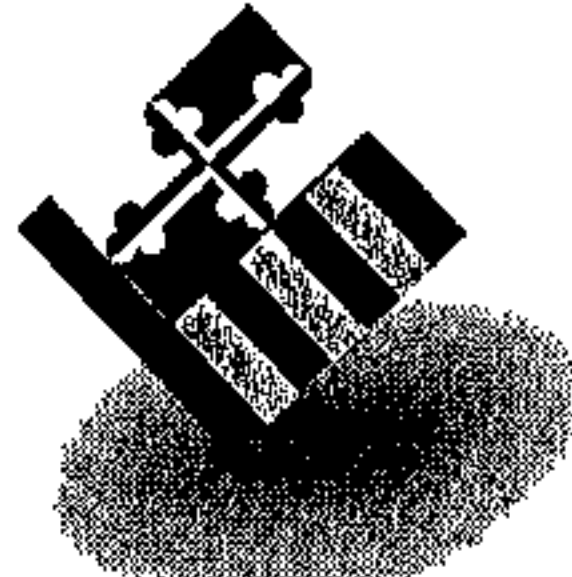
1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and
2. There shall be no lot line adjustment between lots; and
3. The new homes on either lot shall be aligned with the homes on adjoining lots pursuant to Section 303.1 of the BCZR.

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

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8-26-06
pz



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

August 23, 2006

HERMAN L. SPIVEY
10123 FROST WAY
ELLCOTT CITY MD 21042

Re: Petition for Variance
Case No. 06-662-A and 06-663-A
Property: 6117 Old Frederick Road & 3 Garnet Avenue

Dear Mr. Spivey:

Enclosed please find the decision rendered in the above-captioned case. The petition for variances has been denied in accordance with the enclosed Order.

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

JVM:pz

Enclosure

- c: Richard E Matz, PE, Colbert Matz Rosenfelt, Inc., 2835 Smith Avenue, Suite G,
Baltimore MD 21209
Brian McCloskey, McCloskey Group, LLC, 7306 Belair Road, Baltimore MD 21206
Mary McLaughlin, 6115 Old Frederick Road, Catonsville MD 21228
Col. James Pennington, 5915 Old Frederick Road, Catonsville MD 21228



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3 Garnet Avenue
which is presently zoned DR 5.5

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 of thereof, hereby petition for a Variance from Section(s) 1302.3.c.1

for a lot width of 50 feet in lieu of 55 feet required.

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

The lot is an existing infill lot in a developed area and cannot be used for building without the requested variance.

Property 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:

Brian McCloskey / McCloskey Group, LLC

Name - Type or Print

Signature

7306 Belair Road

Address.

410-661-4110

Telephone No.

Baltimore

City

MD 21206

State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State Zip Code

Legal Owner(s):

Herman L. Spivey

Name - Type or Print

Signature

Name - Type or Print

Signature

10123 Frost Way

Address.

Ellicott City

City

Contact contact purchaser

Telephone No.

MD 21042

State Zip Code

Representative to be Contacted:

Richard E. Matz, P.E.

COLBERT MATZ ROSENFELT, INC (eve) 484-8757

2835 Smith Avenue, Suite G (day) 410-653-3838

Address

Telephone No.

Baltimore

City

MD 21209

State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

Date 6/22/06

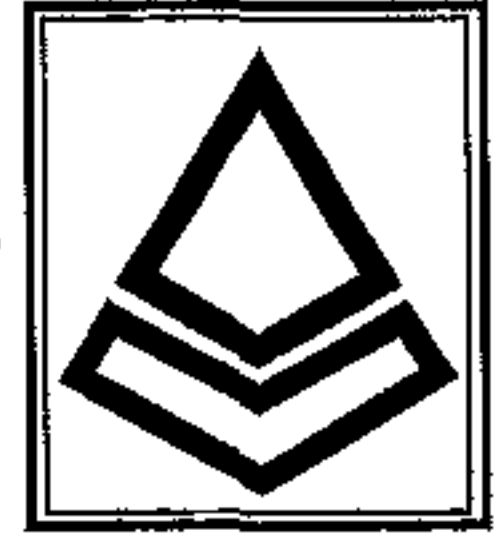
Case No. 06-663-A

8-26-06

By

Colbert Matz Rosenfelt, Inc.

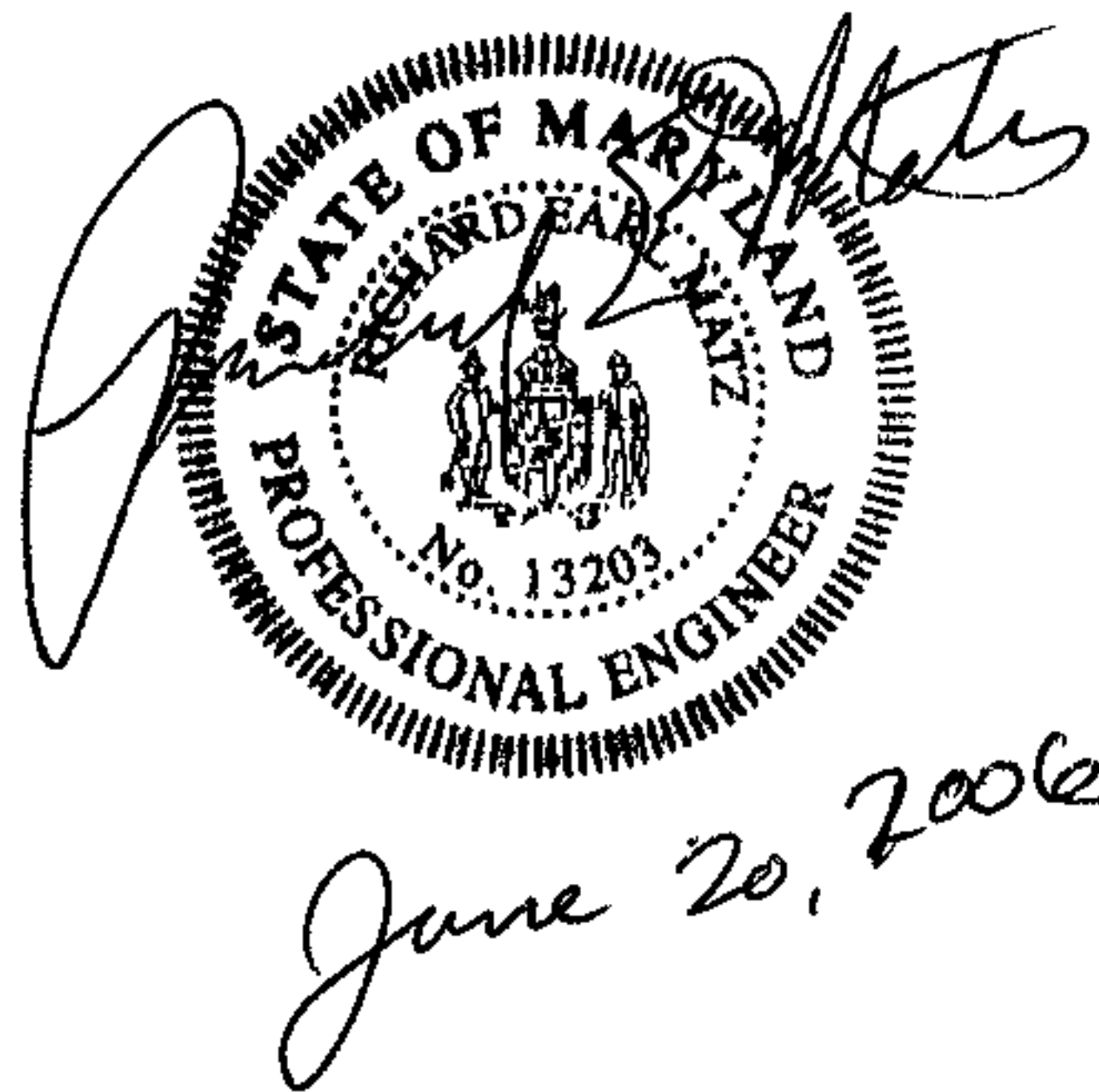
Civil Engineers • Surveyors • Planners



ZONING DESCRIPTION 3 GARNET AVENUE

Beginning at a point on the east side of Garnet Avenue, which is 40 feet wide, at a distance of 211 feet, more or less, south of the centerline of Old Frederick Road, which is 40 feet wide.

Being Lots 5 and 6 in Section C of the Subdivision of Lincoln Park, as recorded in the Baltimore County Plat Book #8, Folio #58. Also known as 3 Garnet Avenue, containing a total of 5,500 square feet (0.13 acre), and located in the 1st Election District, 1st Councilmanic District.



June 20, 2006

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 1235

DATE _____ ACCOUNT _____

AMOUNT \$ _____

RECEIVED FROM _____

FOR _____

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

REMARKS: ATTORNEY

DATE: 6/22/2014 14:24:39

FOR: MED. MAIL 123456

>> RECEIPT # 64818 6/22/2014 14:24:39

NOTE: 5 500 DOLLARS CERTIFICATION

EX. NO. 000000

PERMIT NO. 145-01

145-01 TX 145-01

Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commission 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: #00-663-A

3 Garnet Avenue

Eastside of Garnet Avenue, 211 feet south of centerline of Old Frederick Road

1st Election District

1st Councilmanic District

Legal Owner(s): Herman L. Shivey

Contract Purchaser: Brian McCloskey, McCloskey Group, LLC

Variance: to permit a lot width of 50 feet in lieu of the 55 feet required.

Hearings: Monday, August 21, 2006 at 11:00 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) 887-3888.

(2) For information concerning the file and/or hearing contact the Zoning Review Office at (410) 887-3391.

8/005 Aug. 3

104248

CERTIFICATE OF PUBLICATION

8/3/, 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 8/3/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS

DATE: 8/04/06

Case Number: 06-663-A

Petitioner/Developer: Brian McCloskey~Herman Spivey~Richard Matz

Date of Hearing (Closing): 08/21/06

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 3 GARNET AVENUE

The sign(s) were posted on: 8/03/06

ZONING NOTICE

CASE # 06-663-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

ROOM 407 COUNTY COURTS BLDG.
PLACE: 401 BOSLEY AVENUE, TOWSON 21204

DATE AND TIME: MONDAY, AUGUST 21, 2006
AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT A LOT
WIDTH OF 50 FEET IN LIEU OF THE
55 FEET REQUIRED. 3 GARNET AVENUE

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3351

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley Maryland 21030
(City, State, Zip Code of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)



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

July 11, 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: 06-663-A

3 Garnet Avenue

Eastside of Garnet Avenue, 211 feet south of centerline of Old Frederick Road

1st Election District – 1st Councilmanic District

Legal Owner: Herman L. Spivey

Contract Purchaser: Brian McCloskey, McCloskey Group, LLC

Variance to permit a lot width of 50 feet in lieu of the 55 feet required.

Hearing: Monday, August 21, 2006 at 11:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

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

Timothy Kotroco
Director

TK:klm

C: Brian McCloskey, 7306 Belair Road, Baltimore 21206
Herman Spivey, 10123 Frost Way, Ellicott City 21042
Richard Matz, 2835 Smith Avenue, Ste. G, Baltimore 21209

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 5, 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, August 3, 2006 Issue - Jeffersonian

Please forward billing to:

Brian McCloskey
McCloskey Group, LLC
7306 Belair Road
Baltimore, MD 21206

410-661-4110

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: 06-663-A

3 Garnet Avenue

Eastside of Garnet Avenue, 211 feet south of centerline of Old Frederick Road

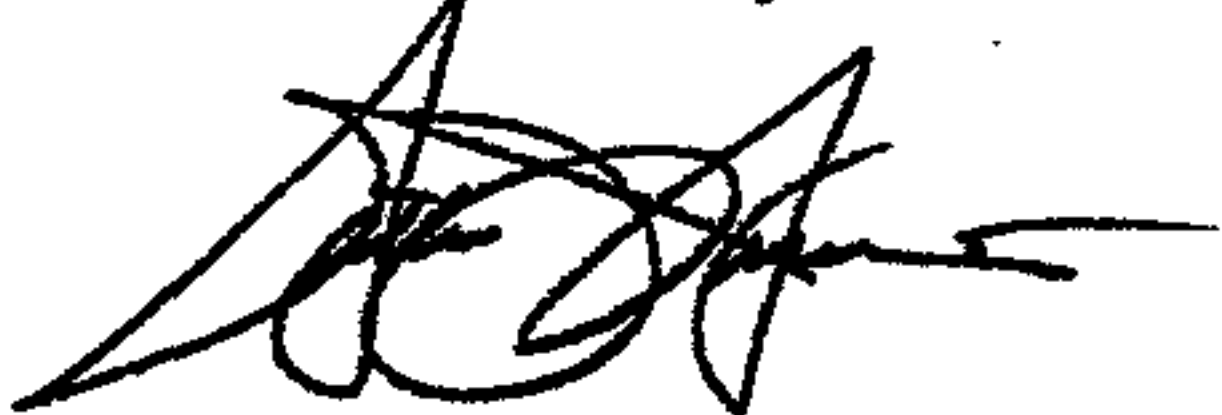
1st Election District – 1st Councilmanic District

Legal Owner: Herman L. Spivey

Contract Purchaser: Brian McCloskey, McCloskey Group, LLC

Variance to permit a lot width of 50 feet in lieu of the 55 feet required.

Hearing: Monday, August 21, 2006 at 11:00 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.

**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.

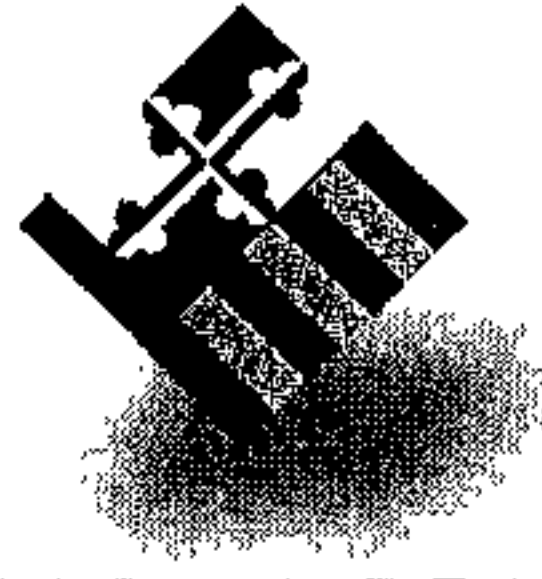
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 06-663-A
Petitioner: Herman L. Spivey
Address or Location: 3 Garnet Ave.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Brian McCloskey
Address: McCloskey Group, LLC
7306 Belair Rd.
Baltimore Md. 21206
Telephone Number: 410-661-4110



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
August 16, 2006

Herman L. Spivey
10123 Frost Way
Ellicott City, MD 21042

Dear Mr. Spivey:

RE: Case Number: 06-663-A, 3 Garnet Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 22, 2006.

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Brian McCloskey McCloskey Group, LLC 7306 Belair Road Baltimore 21206
Richard E. Matz, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G
Baltimore 21209



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

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

July 5, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: July 10, 2006

Item Number(s): 653 through 673

663

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



Printed with Soybean Ink
on Recycled Paper

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

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



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

Maryland Department of Transportation

Date: 6.30.01

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

RE: Baltimore County
Item No. 663 BPR

Dear Ms. Matthews:

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

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

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 10, 2006

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 10, 2006
Item Nos. 231, 657, 658, 659, 661, 662,
663, 664, 666, 670, 671, and 672

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-07072006.doc

BALTIMORE COUNTY, MARYLAND

INTRA-OFFICE CORRESPONDENCE

TO: Curtis Murray

DATE: 8/3/06

FROM: Dennis Wertz

SUBJECT: ZACs 6-662 & 6-663
6117 Old Frederick Road & 3 Garnet Avenue

The petitioner's properties are not being suitably maintained. Both properties are overgrown with tall weeds. The Department of Permits and Development Management should inspect the properties and take appropriate action to correct the situation.

Both properties are undersized lots. The ZAC 662 lot is undersized because of insufficient width. The ZAC 663 lot is undersized because of insufficient width and area. The petitioner should be required to comply with Section 304 (Use of Undersized Single Family Lots).

The plat for ZAC 663 shows a proposed property line adjustment that would make the front half of the subject lot 60 feet wide. This proposal should not be approved because it would make this property an irregular shaped lot.

In any event, if the Zoning Commissioner grants any variances, he should require that the Planning Office approve building elevation drawings prior to the issuance of any building permits to assure that the new dwellings are compatible with the neighborhood.

RE: PETITION FOR VARIANCE
3 Garnet Avenue; E/S Garnet Avenue,
211' S c/line Old Frederick Road
1st Election & 1st Councilmanic Districts
Legal Owner(s): Herman L. Spivey
Contract Purchaser(s): Brian McCloskey,
McCloskey Group, LLC
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 06-663-A

* * * * *

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 and all 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 7th day of July, 2006, a copy of the foregoing Entry of Appearance was mailed to, Richard E. Matz, PE, Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209, Representative for Petitioner(s).

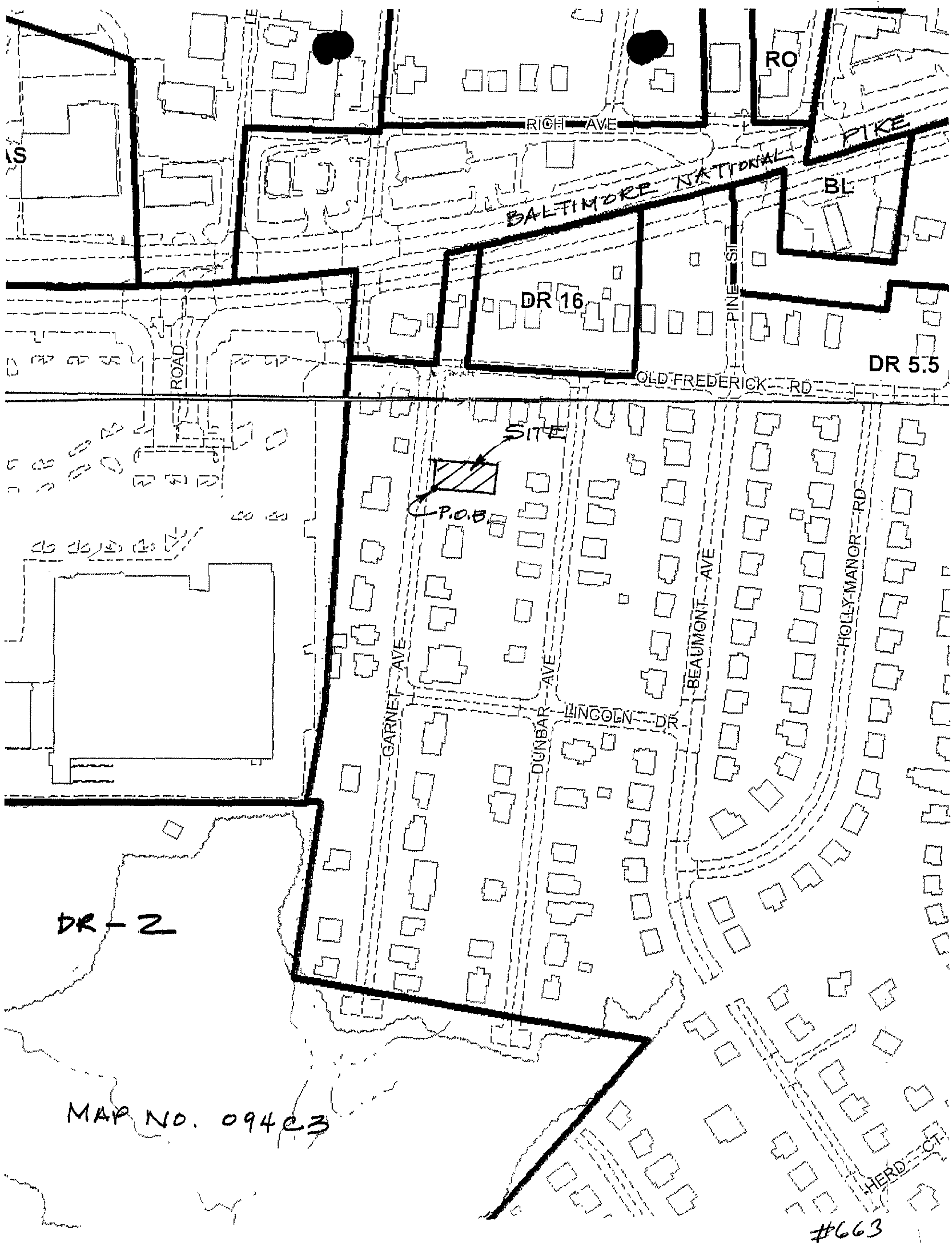
RECEIVED

JUL 07 2006

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioner cannot use the fact that a condition exists to set a precedent in order to allow it to continue. Nor does the fact that a condition may be costly to remedy or modify come into consideration of the zoning case. The reason for this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

Testimony and Evidence

The subject properties are end to side lots as shown on Petitioner's exhibits 1 and 2. The lot involved with Case No. 06-662-A lies at the intersection of Garnet Avenue and Old Frederick Road. This property is comprised of lots 3 and 4 of the Lincoln Park subdivision while the property in Case No. 06-663-A are lots 5 and 6 of the Lincoln Park subdivision which Mr. Matz indicated was recorded in the land records in 1926. As such neither property meets the present DR 5.5 regulations.

In regard to the issue of zoning merger, the Petitioner indicated that these properties are separately taxed as shown on the Plat to Accompany and were conveyed under separate deeds to the Petitioner. Neither has ever been improved and no use made of either other than to cut the grass and have a vegetable garden.

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BALTIMORE COUNTY, MARYLAND

INTRA-OFFICE CORRESPONDENCE

TO: Curtis Murray

DATE: 8/3/06

FROM: Dennis Wertz

SUBJECT: ZACs 6-662 & 6-663
6117 Old Frederick Road & 3 Garnet Avenue

The petitioner's properties are not being suitably maintained. Both properties are overgrown with tall weeds. The Department of Permits and Development Management should inspect the properties and take appropriate action to correct the situation.

Both properties are undersized lots. The ZAC 662 lot is undersized because of insufficient width. The ZAC 663 lot is undersized because of insufficient width and area. The petitioner should be required to comply with Section 304 (Use of Undersized Single Family Lots).

The plat for ZAC 663 shows a proposed property line adjustment that would make the front half of the subject lot 60 feet wide. This proposal should not be approved because it would make this property an irregular shaped lot.

In any event, if the Zoning Commissioner grants any variances, he should require that the Planning Office approve building elevation drawings prior to the issuance of any building permits to assure that the new dwellings are compatible with the neighborhood.