

IN RE: PETITION FOR ADMIN. VARIANCE
E/S of Nanticoke Road, south of
Middleborough Road
15th Election District
6th Councilmanic District
(215 Nanticoke Road)

Carl F. Huggins Jr.
Petitioner

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

* CASE NO. 06-668-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Carl F. Huggins Jr. The variance request is for property located at 215 Nanticoke Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R), to permit an accessory structure (free standing deck) to be located in the front yard in lieu of the required rear yard. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Due to an existing one car garage on the street side of the house, the water side yard is considered the 'front' yard. Petitioner is requesting to construct the deck in the water side yard. The water side yard is too steep for practical use with an approximate 6/12 pitch towards the water. The flat area of the yard from the door to where the grade drops is approximately 12 feet. In order to gain some practical use of the space for living and enjoyment, Petitioner wants to construct a pervious deck to carry the level at grade out 16 feet.

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 letter was received from the Bureau of Development Plans Review dated July 10, 2006 which contains restrictions. A ZAC comment

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8-9-06
PZ

letter was received from the Department of Environmental Planning and Resource Management dated July 13, 2006 which contains restrictions. Copies of which are attached hereto and made a part hereof.

Applicable Law

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

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on July 4, 2006 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits and photographs as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore,

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8-9-06
[Signature]

strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 9th day of August, 2006, that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R), to permit an accessory structure (free standing desk) to be located in the front yard in lieu of the required rear yard be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. In conformance with Federal Flood Insurance requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
3. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
4. The building engineer shall require a permit for this project.
5. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
6. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.
7. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).
8. This property is within the Limited Development Area of the CBCA. Impervious surface area is limited to 25% of the lot and 15% tree cover must be maintained. It is also in a Buffer Management Area of the CBCA which requires mitigation for any disturbance in the 100-foot buffer to tidal waters.



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

August 9, 2006

CARL F. HUGGINS JR.
215 NANTICOKE ROAD
BALTIMORE MD 21221

Re: Petition for Administrative Variance
Case No. 06-668-A
Property: 215 Nanticoke Road

Dear Mr. Huggins:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance has been granted 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: Michael Wilkes, 503-A Philadelphia Road, Joppa, MD 21085

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Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 215 Nanticoke
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)

400.1 to permit an accessory structure (free-standing deck) be located in the front yard in lieu of the required rear yard.

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 bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

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

Legal Owner(s):

Carl F. Huggins, Jr.

Name - Type or Print

Signature

Name - Type or Print

Signature

215 Nanticoke Rd. 410-687-1161

Address

Telephone No.

Baltimore, MD

City

State

21221

Zip Code

Representative to be Contacted:

Michael Wilkes

Name

503-A Philadelphia Rd. 410-444-3325

Address

Telephone No.

Joppa, MD

City

State

21085

Zip Code

Zoning Commissioner of Baltimore County

CASE NO:

06-668-A

Reviewed By

BN

Date

6/26/06

Estimated Posting Date

7/9/06

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

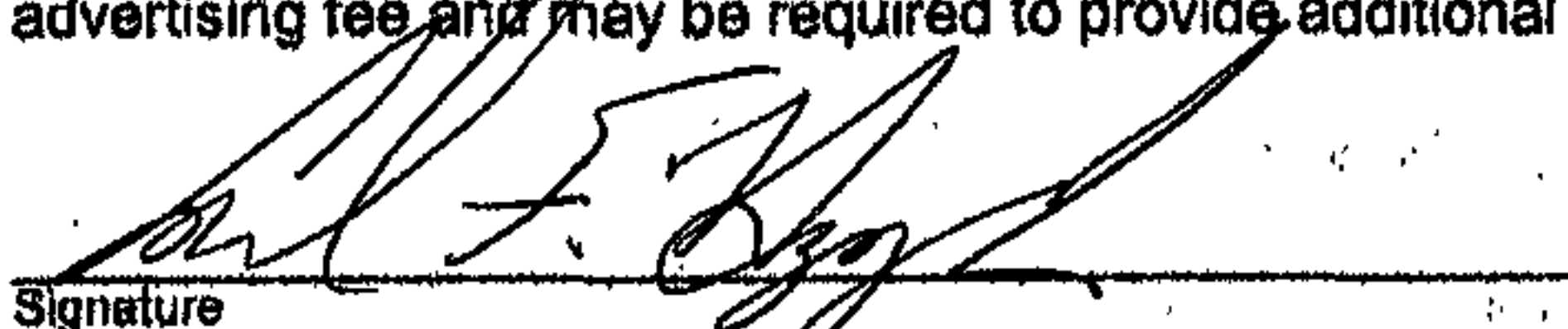
215 Nanticoke Rd.
Address
Baltimore, MD 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The yard on the water side of the house is too steep for practical use. The fall is approximately a 6/12 pitch towards the water, making it difficult to even stand up on. The flat area of the yard from the door to where the grade drops is approximately twelve feet. In order to gain some practical use of the space for living and enjoyment, I would like to construct a pervious deck to carry the level at grade out sixteen feet. (The design has passed DEPRM approval with mitigation in the form of tree planting.)

Due to an existing one-car garage on the street side of the house, the water side yard is considered the "front" yard. Therefore, we request a variance to construct this deck in the water side yard.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.


Signature

Carl F. Huggins, Jr.
Name - Type or Print

Signature

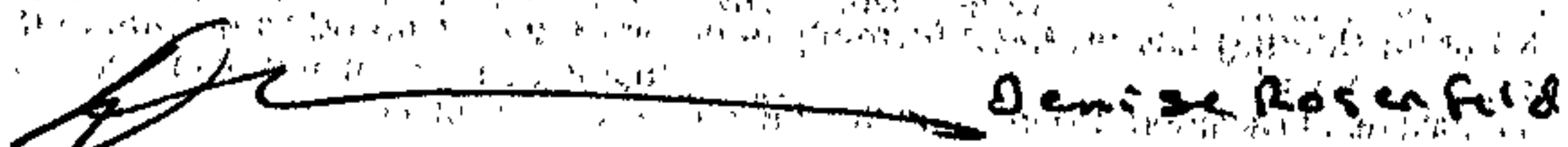
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 26th day of June, 2006, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Carl F. Huggins, Jr.
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal


Notary Public

My Commission Expires 08/01/07

Zoning Description For:

215 Nanticoke Rd, Baltimore, MD 21221.

Beginning at a point on the east side of Nanticoke Road which is 30 feet wide at a distance of .3 miles south of the centerline of the nearest improved intersecting street Middleborough Road which is 50 feet wide. Being lot number 74, ~~Section~~ in the subdivision of Middleborough as recorded in Baltimore County Play Book 4, folio 191, containing 10,920 square feet. Also known as 215 Nanticoke Road and located in the 15th Election District, 6th Councilmanic District.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 7200

DATE 8/26/06 ACCOUNT 6130

AMOUNT \$ 45.00

RECEIVED FROM WALKIN JRD INC

FOR 5 528 JUDGING & PIFICATION

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME 1

4/27/2006 4/26/2006 11:33:37

REC #214 WALKIN JRD INC

>> RECEIPT # 298372 8/26/2006

Dept. 5 528 JUDGING & PIFICATION

CR NO. 107241

Receipt Tot \$45.00

\$45.00 TX \$1.00 DA

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS

DATE: 07/07/06

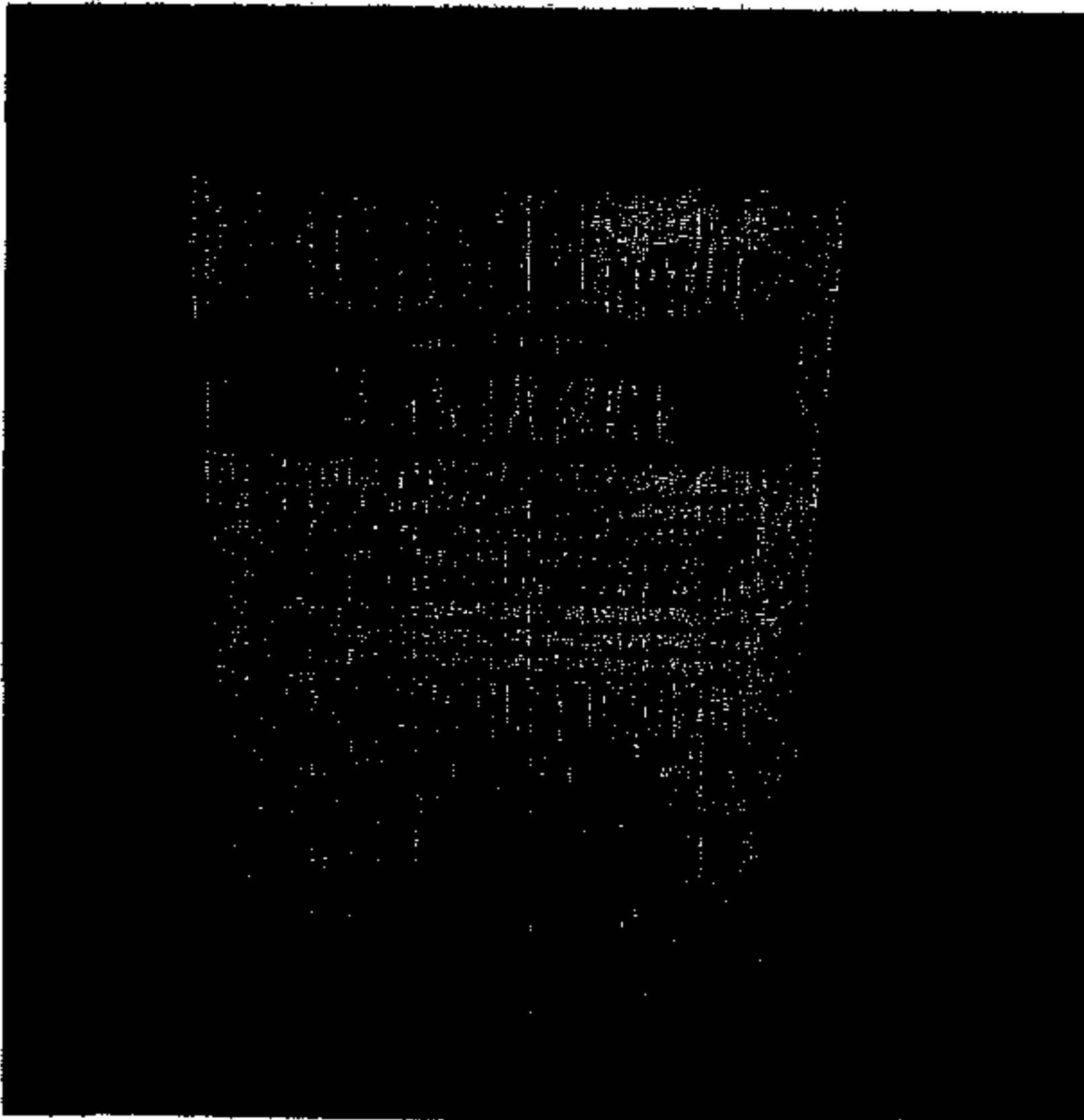
Case Number: 06-668-A

Petitioner/Developer: CARL HIGGINS~ MICHAEL WILKES OF ISLAND DECKS LLC

Date of Hearing (Closing): 07/24/06

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: 215 NANTICOKE ROAD

The sign(s) were posted on: 07/04/06



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)

**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: 06-668-A
Petitioner: Carl Huggins
Address or Location: 215 Nanticoke Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Carl Huggins
Address: 215 Nanticoke Rd.
Baltimore, MD 21221

Telephone Number: 410-687-1161

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 06- 668 -A Address 215 Nanticoke Rd.

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

Filing Date: 6/26/06 Posting Date: 7/9/06 Closing Date: 7/24/06

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

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

(Detach Along Dotted Line)

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

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 06- 668 -A Address 215 Nanticoke Rd.

Petitioner's Name Carl Huggins, Jr. Telephone 410-687-1161

Posting Date: 7/9/06 Closing Date: 7/24/06

Wording for Sign: To Permit an accessory structure (raised deck) in
the front yard in lieu of the required rear yard.

WCR - Revised 6/25/04



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

July 25, 2006

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

Carl F. Huggins, Jr.
215 Nanticoke Road
Baltimore, MD 21221

Dear Mr. Huggins:

RE: Case Number: 06-668-A, 215 Nanticoke Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 26, 2006.

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Michael Wilkes 503-A Philadelphia Road Joppa 21085



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): 657 through 673

668

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
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 6-30-06

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

RE: Baltimore County
Item No. 668 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

INTER-OFFICE CORRESPONDENCE

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

DATE: July 17, 2006

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

SUBJECT: Zoning Advisory Petition(s): Case(s) 6-6-668- Administrative Variance

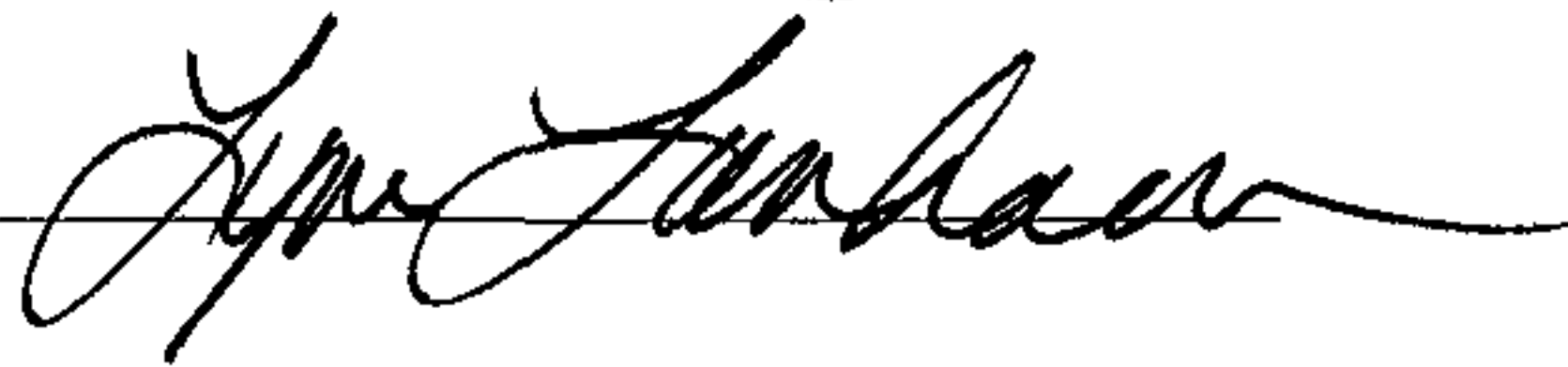
The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By:



Division Chief:



CM/LL

RECEIVED

JUL 26 2006

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 10, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For July 10, 2006
Item No. 668

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

The minimum right-of-way for all public roads in Baltimore County is 40-feet. Show the right-of-way for Nanticoke Road centered on the existing 30-foot right-of-way. Setback shall be adjusted accordingly.

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

The flood protection elevation for this site is 10.4 feet.

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

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

The building engineer shall require a permit for this project.

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

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

DAK:CEN:clw

cc: File

ZAC-ITEM NO 668-07072006.doc

ADDED RECEIVED FOR PLANS

8-9-06

[Signature]

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Jeff Livingston, DEPRM - Development Coordination *JWL*

DATE: July 13, 2006

SUBJECT: Zoning Item # 06-668-A
Address 215 Nanticoke Road
Baltimore, MD 21221

Zoning Advisory Committee Meeting of July 3, 2006

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

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

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

This property is within the Limited Development Area of the CBCA. Impervious surface area is limited to 25% of the lot, and 15% tree cover must be maintained. It also is in a Buffer Management Area of the CBCA, which requires mitigation for any disturbance in the 100-foot buffer to tidal waters.

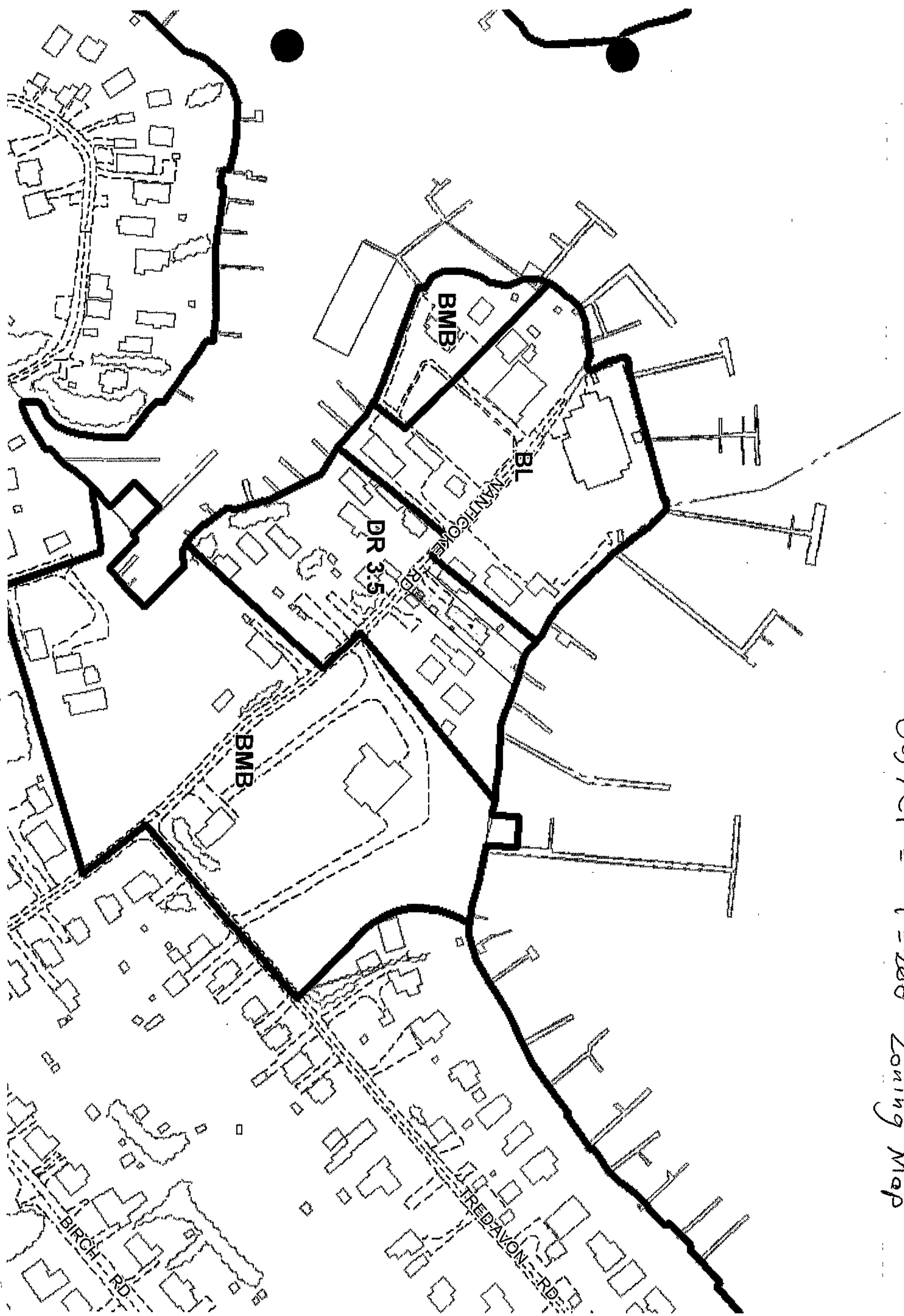
Reviewer: Kevin Brittingham

Date: July 13, 2006

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2006\ZAC 06-668-A.doc

ADJUDICATED FOR PLANNING
8-9-06
[Signature]

097C1 = 1"=200' Zoning Map



PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

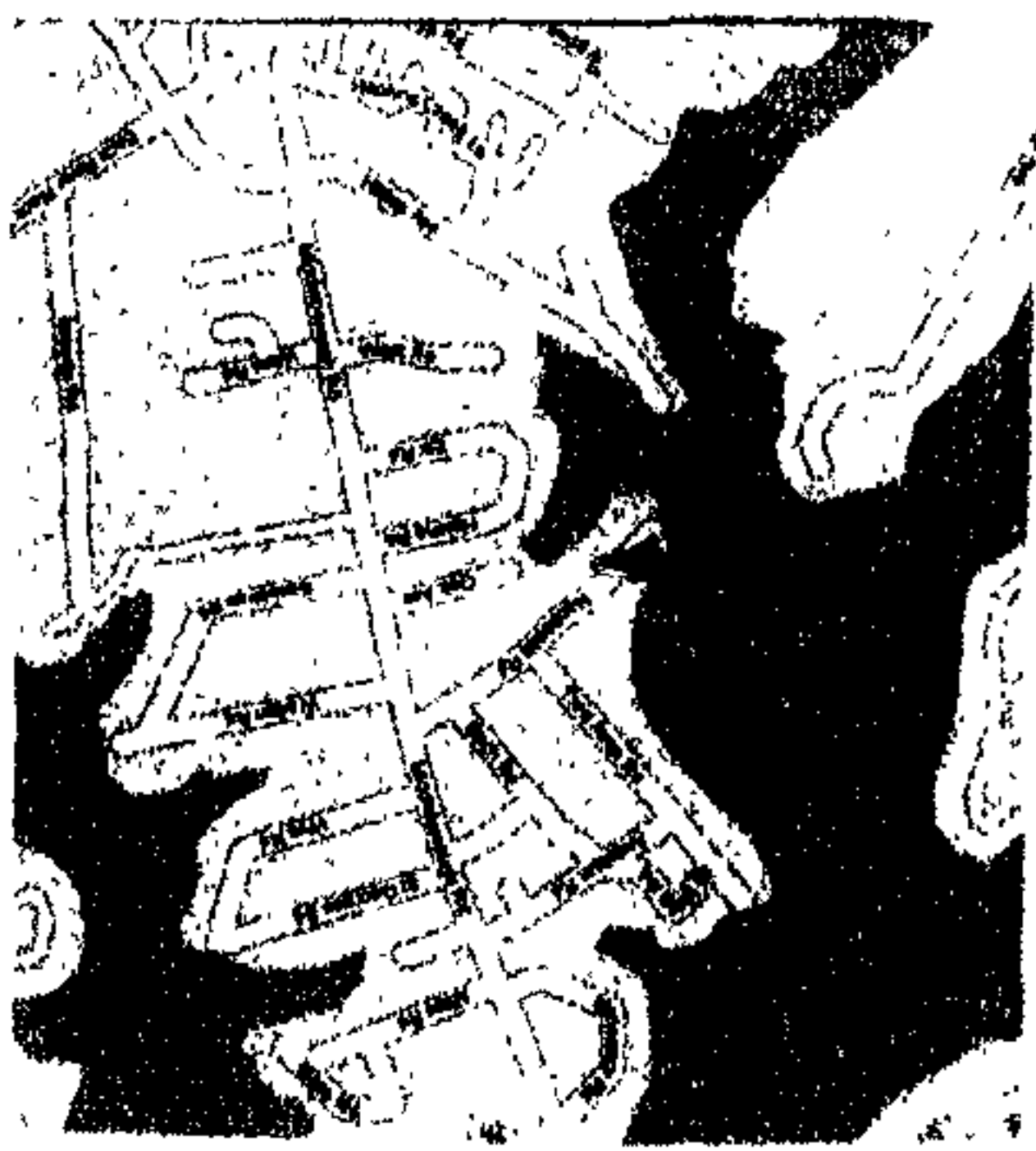
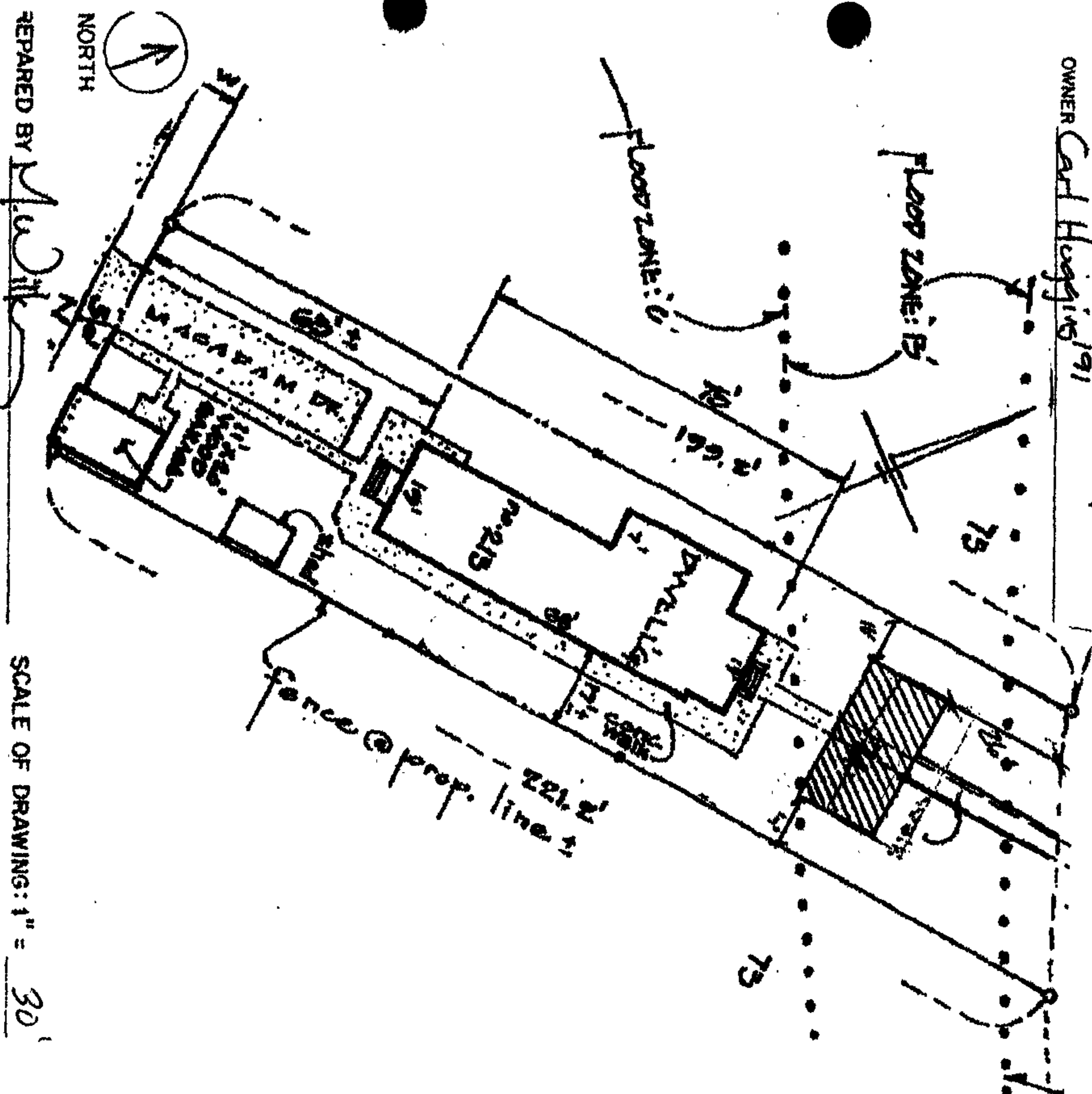
PROPERTY ADDRESS 215 Nanticoke Rd.

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Middleborough

PLAT BOOK # 4 FOLIO # 191 LOT # 24 SECTION #

OWNER Carl Huggins



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 15

COUNCILMANIC DISTRICT 6

1" = 200' SCALE MAP # 097C1

ZONING DR 3.5

LOT SIZE 10.920 ACREAGE 10.920 SQUARE FEET

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒ ☐

CHESAPEAKE BAY CRITICAL AREA ☒ YES ☐ NO

100 YEAR FLOOD PLAIN ☒ YES ☐ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY
REVIEWED BY ML ITEM # 668 CASE # 0668-A

SCALE OF DRAWING: 1" = 30'

PREPARED BY ML

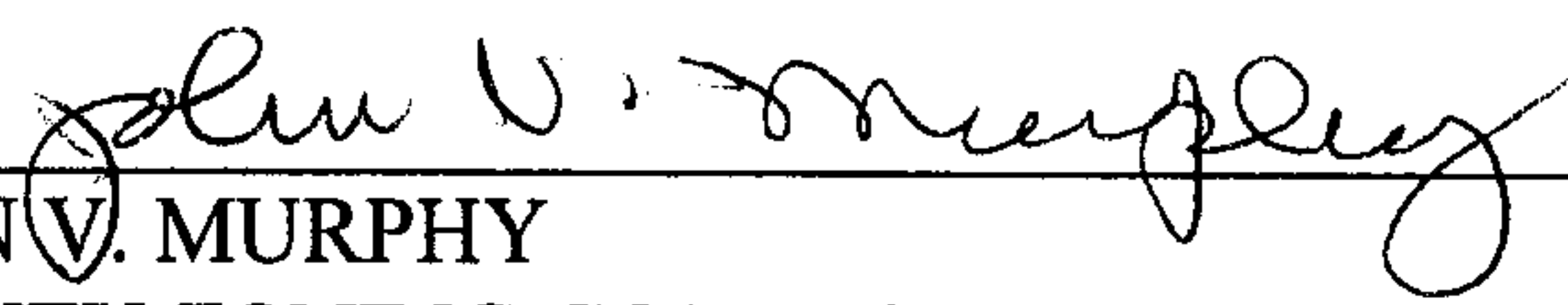








Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

ORDER RECEIVED FOR FILING
At 8-9-06
